

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 1908  
OFFERED BY MS. BALDWIN OF WISCONSIN**

Page 29, strike line 1 and all that follows through the matter following line 22 on page 30 and insert the following:

1           (b) REPORT TO CONGRESSIONAL COMMITTEES.—Not  
2 later than June 30, 2009, the Under Secretary of Com-  
3 merce for Intellectual Property and Director of the United  
4 States Patent and Trademark Office (in this subsection  
5 referred to as the “Director”) shall report to the Com-  
6 mittee on the Judiciary of the House of Representatives  
7 and the Committee on the Judiciary of the Senate the  
8 findings and recommendations of the Director on the oper-  
9 ation of prior user rights in selected countries in the in-  
10 dustrialized world. The report shall include the following:

11           (1) A comparison between the patent laws of  
12 the United States and the laws of other industri-  
13 alized countries, including the European Union,  
14 Japan, Canada, and Australia.

15           (2) An analysis of the effect of prior user rights  
16 on innovation rates in the selected countries.

1           (3) An analysis of the correlation, if any, be-  
2           tween prior user rights and start-up enterprises and  
3           the ability to attract venture capital to start new  
4           companies.

5           (4) An analysis of the effect of prior user  
6           rights, if any, on small businesses, universities, and  
7           individual inventors.

8           (5) An analysis of any legal or constitutional  
9           issues that arise from placing elements of trade se-  
10          cret law, in the form of prior user rights, in patent  
11          law.

12 In preparing the report, the Director shall consult with  
13 the Secretary of State and the Attorney General of the  
14 United States.

Page 30, line 23, strike “(d)” and insert “(c)”.