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Legal Scholars Oppose Bill That Would Prevent Reuse of Information From Databases

By ANDREA L. FOSTER

As a committee of the House of Representatives approved a bill last month that would make it illegal to reuse data from someone else's database without permission, eight professors who teach intellectual-property law urged the committee's chairman to reject the measure, saying that no one should be able to claim ownership of facts.

The bill, [HR 3261](#), is called the Database and Collections of Information Misappropriation Act. The professors said it could increase the costs of using data and could stifle research and innovation. They wrote a letter describing their concerns last month to Rep. F. James Sensenbrenner Jr., a Wisconsin Republican who heads the Committee on the Judiciary.

The legislation is supported by publishers because it would make it easier for them to collect damages from people convicted of stealing information from databases. Scientists and groups representing colleges and academic libraries, however, say the bill could impede research, since they routinely reuse database information.

"It is a fundamental principle of U.S. intellectual property law, reemphasized by the Supreme Court ... that facts generally should be available for public use," the professors' letter said.

It went on to say the legislation provides "no meaningful guidance" to a start-up business or a researcher who compiles a database of information from various sources. Entrepreneurs and researchers "would be forced to choose between risking protracted, expensive litigation" and giving up their projects.

Colleges Shielded

The scholars who signed the letter were Keith Aoki, a professor at the University of Oregon; Ann Bartow, an assistant professor at the University of South Carolina; Dan L. Burk, a professor at the University of Minnesota-Twin Cities; Julie E. Cohen, a professor at Georgetown University Law Center; Peter A. Jaszi, a professor at American University's Washington College of Law; David L. Lange, a professor at Duke University; Lawrence Lessig, a professor at Stanford University; and Pamela Samuelson, a professor at the University of California at Berkeley who is co-director of the Berkeley Center for Law & Technology.

Before the Judiciary Committee approved the bill, by a vote of 16 to 7, it adopted an amendment to shield from liability Internet-service providers that act only as conduits for the transmission of data.

Another amendment would shield nonprofit research laboratories and accredited nonprofit colleges, their employees, and students from liability. But they would not be shielded if they disseminated "nearly all" the data from another's database, creating direct competition for the database owner.

The bill could next face a vote before the House Energy and Commerce Committee, whose members are considerably more critical of the legislation than the members of the Judiciary Committee, Congressional sources say.

The Coalition Against Database Piracy, a group of 85 international and U.S.-based publishers and trade groups, is pushing the bill. The coalition says database piracy is rampant and that existing laws do nothing to stop the problem.

The professors' letter disputed that and also raised the issue of whether the bill is unconstitutional.

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