Authorizing the Speaker of the House of Representatives to initiate or intervene in a civil action regarding the compliance of the executive branch with the provision of law prohibiting relinquishment of the responsibility of the National Telecommunications and Information Administration with respect to Internet domain name system functions.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2016

Mr. KELLY of Pennsylvania submitted the following resolution; which was referred to the Committee on Rules, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Authorizing the Speaker of the House of Representatives to initiate or intervene in a civil action regarding the compliance of the executive branch with the provision of law prohibiting relinquishment of the responsibility of the National Telecommunications and Information Administration with respect to Internet domain name system functions.

Whereas Lawrence E. Strickling, the Assistant Secretary of Commerce for Communications and Information and Administrator of the National Telecommunications and Information Administration (NTIA), announced on August
16, 2016, that NTIA will allow the contract between the United States Government and the Internet Corporation for Assigned Names and Numbers (ICANN) to lapse by September 30, 2016;

Whereas NTIA’s decision necessarily used appropriated funds through payment of the salaries of NTIA staff whose time was used to make the decision and other expenditures for evaluating ICANN’s proposed reforms, in violation of section 539 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2016 (Public Law 114–113; 129 Stat. 2332);

Whereas NTIA’s decision was made before the Government Accountability Office answered the question asked of it by Congress regarding whether the Internet Assigned Numbers Authority (IANA) functions are a Government asset, the transfer of which requires congressional authorization under clause 2 of section 3 of article IV of the Constitution of the United States (commonly known as the “Property Clause”); and

Whereas NTIA’s decision, in light of the foregoing, raises serious constitutional concerns regarding the separation of powers and the rule of law: Now, therefore, be it

1 Resolved,
SECTION 1. AUTHORIZATION OF CIVIL ACTION REGARDING COMPLIANCE OF EXECUTIVE BRANCH WITH LAW PROHIBITING RELINQUISHMENT OF RESPONSIBILITY OF NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION WITH RESPECT TO INTERNET DOMAIN NAME SYSTEM FUNCTIONS.

The Speaker of the House of Representatives is authorized to initiate or intervene in one or more civil actions on behalf of the House in a Federal court of competent jurisdiction to seek any appropriate relief regarding the failure of the President, the head of any department or agency, or any other officer or employee of the executive branch to act in a manner consistent with that official’s duties under the Constitution and laws of the United States with respect to the implementation of section 539 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2016 (Public Law 114–113; 129 Stat. 2332) or any other related provision of law, including a failure to implement such section or any such provision.

SEC. 2. NOTIFICATION.

The Speaker shall notify the House of Representatives of any decision to initiate or intervene in any civil action pursuant to this resolution.
SEC. 3. PROCESS FOR CIVIL ACTION.

(a) REPRESENTATION BY GENERAL COUNSEL.—The Office of the General Counsel of the House of Representatives, at the direction of the Speaker, shall represent the House in any civil action initiated, or in which the House intervenes, pursuant to this resolution and may employ the services of outside counsel and other experts for this purpose.

(b) STATEMENT OF COSTS OF OUTSIDE COUNSEL AND EXPERTS.—Not later than 30 days after the expiration of each calendar quarter, the chair of the Committee on House Administration shall cause to be printed in the Congressional Record a statement setting forth the aggregate amounts expended by the Office of General Counsel on outside counsel and other experts pursuant to subsection (a) during that quarter.