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INTENT SERVICE, INC.

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DECLARATION OF JENNY S. LILLGE

I, Jenny S. Lillge, declare:

I am an attorney licensed to practice in California, State Bar No. 265046, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the amendment of sections 171 and 173 of Title 35 of the United States Code by United States Senate Bill No. 3486 of 2012 [hereinafter referred to as S. 3486]. S. 3486 was enacted by Congress as Public Law 112-211, on December 18, 2012, at 126 United States Statutes 1527.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on S. 3486 of 2012 as it relates to Title 35 United States Code sections 171 and 173. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc.

EXHIBIT A - PUBLIC LAW 112-211, S. 3486 (LEAHY-2012):

1. Public Law 112-211, December 18, 2012, 126 United States Statutes 1527;
2. Excerpt regarding Public Law 112-211 from the 2012 *CIS/Index* "Legislative Histories of Public Laws";
3. All available versions of S. 3486 (Leahy-2012);
4. All actions regarding S. 3486 as provided by www.congress.gov;
5. Excerpt regarding S. 3486 from the *Congressional Record Index*, 112th Congress, Second Session, Vol. 158 as provided by www.congress.gov;

6. Excerpt regarding S. 3486 from the *Congressional Record of Proceedings and Debates*, 112th Congress, Second Session as follows:
    a. Senate Debate, August 2, 2012, Vol. 158, No. 117,
    b. Senate Debate, September 10, 2012, Vol. 158, No. 120,
    c. Senate Debate, September 20, 2012, Vol. 158, No. 128,
    d. Senate Debate, September 21, 2012, Vol. 158, No. 129,
    e. House Debate, September 25, 2012, Vol. 158, No. 130,
    f. House Debate, December 5, 2012, Vol. 158, No. 155,
    g. Senate Debate, December 6, 2012, Vol. 158, No. 156,
    h. House Debate, December 7, 2012, Vol. 158, No. 157,
    i. Senate Debate, December 10, 2012, Vol. 158, No. 158;
7. Congressional Research Services Summaries provided by www.congress.gov, as follows:
    a. Introduced in Senate, August 2, 2012,
    b. Reported to Senate with Amendments, September 20, 2012,
    c. Passed Senate Amended, September 22, 2012,
    d. Passed House without Amendment, December 5, 2012,
    e. Public Law 112-211, December 18, 2012;
8. Congressional Budget Office report entitled "Patent Law Treaties Implementation Act of 2012", related to S. 3486, October 15, 2012;
9. Excerpt regarding S. 3486 from the *Congressional Quarterly Almanac*, Vol. 158, 112th Congress, Second Session, 2012;
10. Excerpt regarding Senator or Representative Patrick Leahy from the *Biographical Directory of the United States Congress*, available online at: http://bioguide.congress.gov.

EXHIBIT B – 112TH CONGRESS COMPETITOR BILLS, SECOND SESSION:

1. All available versions of H.R. 6432 (Smith-2012);
2. All actions regarding S. 3486 as provided by www.congress.gov;
3. Excerpt regarding H.R. 6432 from the *Congressional Record Index*, 112th Congress, Second Session, Vol. 158 as provided by www.congress.gov;
4. Excerpt regarding H.R. 6432 from the *Congressional Record of Proceedings and Debates*, House Debate, September 19, 2012, Vol. 158, No. 127;

5. Congressional Research Services Summary, introduced in Senate, August 2, 2012 provided by www.congress.gov;
6. Excerpt regarding Representative Lamar Smith from the *Biographical Directory of the United States Congress*, available online at: http://bioguide.congress.gov.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 8th day of June, 2017 at Woodland, California.

JENNY S. LILLGE

AUTHENTICATED
U.S. GOVERNMENT
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Public Law 112–211
112th Congress

An Act

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Dec. 18, 2012
[S. 3486]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Patent Law Treaties Implementation Act of 2012.
35 USC 1 note.

This Act may be cited as the "Patent Law Treaties Implementation Act of 2012".

TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

"PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

"CHAPTER Sec.
"38. International design applications ..... 381.

"CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

"Sec.
"381. Definitions.
"382. Filing international design applications.
"383. International design application.
"384. Filing date.
"385. Effect of international design application.
"386. Right of priority.
"387. Relief from prescribed time limits.
"388. Withdrawn or abandoned international design application.
"389. Examination of international design application.
"390. Publication of international design application.

"§ 381. Definitions

35 USC 381.

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

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"(2) the term 'regulations'—

"(A) when capitalized, means the Common Regulations under the treaty; and

"(B) when not capitalized, means the regulations established by the Director under this title;

"(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

"(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

"(6) the term 'international design application' means an application for international registration; and

"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

35 USC 382.

"§ 382. Filing international design applications

"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

Fees.

"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

"(1) in a country other than the United States;

"(2) at the International Bureau; or

"(3) with an intergovernmental organization.

35 USC 383.

"§ 383. International design application

"In addition to any requirements pursuant to chapter 16, the international design application shall contain—

"(1) a request for international registration under the treaty;

"(2) an indication of the designated Contracting Parties;

"(3) data concerning the applicant as prescribed in the treaty and the Regulations;

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"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number and manner prescribed in the treaty and the Regulations;

"(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

"(6) the fees prescribed in the treaty and the Regulations; and

"(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date 35 USC 384.

"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application 35 USC 385.

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

"§ 386. Right of priority 35 USC 386.

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States, or a prior international design application designating at least 1 country other than the United States.

"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating

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the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

35 USC 387.

"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

35 USC 388.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

35 USC 389.

"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to

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international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

"§ 390. Publication of international design application 35 USC 390.

"The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(3) in section 111(b)(7)—

(A) by striking "section 119 or 365(a)" and inserting "section 119, 365(a), or 386(a)"; and

(B) by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)";

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)";

(5) in section 120, in the first sentence, by striking "section 363" and inserting "section 363 or 385";

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)"; and

(ii) in paragraph (3), by striking "section 119, 365(a), or 365(b)" and inserting "section 119, 365(a), 365(b), 386(a), or 386(b)"; and

(B) in subsection (d)(1), by inserting "or an international design application filed under the treaty defined

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in section 381(a)(1) designating the United States under Article 5 of such treaty" after "Article 21(2)(a) of such treaty";

(7) in section 173, by striking "fourteen years" and inserting "15 years";

(8) in section 365(c)—

(A) in the first sentence, by striking "or a prior international application designating the United States" and inserting ", a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States"; and

(B) in the second sentence, by inserting "or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States" after "did not originate in the United States"; and

(9) in section 366—

(A) in the first sentence, by striking "unless a claim" and all that follows through "withdrawal." and inserting "unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal."; and

(B) by striking the second sentence and inserting the following: "However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.".

35 USC 100 note.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms "treaty" and "international design application" have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

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(2) the term "international application" has the meaning given that term in section 351(c) of title 35, United States Code; and

(3) the term "national application" means "national application" within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.";

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office."; and

(3) by adding at the end the following:

"(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded

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as abandoned. Such application shall be treated as having never been filed, unless—

"(1) the application is revived under section 27; and

"(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

35 USC 27.

"§ 27. Revival of applications; reinstatement of reexamination proceedings

"The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"27. Revival of applications; reinstatement of reexamination proceedings.".

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking "twelve" and inserting "12"; and

(ii) by adding at the end the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional."; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional."; and

(II) in the last sentence—

(aa) by striking "including the payment of a surcharge" and inserting "including the payment of the fee specified in section 41(a)(7)"; and

(bb) by striking "during the pendency of the application"; and

(ii) in paragraph (3), by adding at the end the following: "For an application for patent filed under

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section 363 in a Receiving Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351."; and

(2) in section 365(b), by adding at the end the following: "The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.".

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: "The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor."; and

(2) in the fourth undesignated paragraph by striking "An assignment" and inserting "An interest that constitutes an assignment".

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) IN GENERAL.—Whoever";

(2) by striking "The provisions" and inserting "(b) APPLICABILITY OF THIS TITLE.—The provisions"; and

(3) by adding at the end the following:

"(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

"(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director"; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may

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require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.";

(2) in section 119(b)(2), in the second sentence, by striking "including the payment of a surcharge" and inserting "including the requirement for payment of the fee specified in section 41(a)(7)";

(3) in section 120, in the fourth sentence, by striking "including the payment of a surcharge" and inserting "including the requirement for payment of the fee specified in section 41(a)(7)";

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking ", unless it is shown" and all that follows through "unintentional";

(5) in section 133, by striking ", unless it be shown" and all that follows through "unavoidable";

(6) by striking section 151 and inserting the following:

35 USC 151.

"§ 151. Issue of patent

Notice.
Fees.
Deadline.

"(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

"(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.";

(7) in section 361, by striking subsection (c) and inserting the following:

"(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.";

(8) in section 364, by striking subsection (b) and inserting the following:

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations."; and

(9) in section 371(d), in the third sentence, by striking ", unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable".

35 USC 27 note.

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

Applicability.

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

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(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1). Applicability.

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

Approved December 18, 2012.

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LEGISLATIVE HISTORY—S. 3486:

CONGRESSIONAL RECORD, Vol. 158 (2012):
Sept. 21, considered and passed Senate.
Dec. 5, considered and passed House.

○

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LEGISLATIVE HISTORIES OF US PUBLIC LAWS

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ProQuest

Patent Law Treaties Implementation Act of 2012

December 18, 2012

Public Law

1.1 **Public Law 112-211, approved Dec. 18, 2012. (S. 3486)**

(CIS12:PL112-211 11 p.)

"To implement the provisions of the Hague Agreement and the Patent Law Treaty."

ELABORATION:

Revises U.S. patent law to implement the Patent Law Treaty and the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs.

Authorizes filing of international design applications with the Patent and Trademark Office.

Extends the term of design patents to 15 years.

Revises patent application filing requirements.

Authorizes procedures to revive unintentionally abandoned patent applications.

P.L. 112-211 Bills

112th Congress

ENACTED BILL

3.1 **S. 3486 as introduced Aug. 2, 2012; as reported by the Senate Judiciary Committee Sept. 21, 2012; as passed by the Senate Sept. 22, 2012.**

COMPANION BILL

3.2 **H.R. 6432 as introduced.**

P.L. 112-211 Debate

158 Congressional Record
112th Congress, 2nd Session - 2012

4.1 **Sept. 21, Senate consideration and passage of S. 3486, p. S6667.**

4.2 **Dec. 5, House consideration and passage of S. 3486, p. H6652.**

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II

112TH CONGRESS
2D SESSION

S. 3486

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2012

Mr. LEAHY (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patent Law Treaties Implementation Act of 2012''.

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TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

"PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

"CHAPTER Sec.
"38. International design applications ..... 381.

"CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

"Sec.
"381. Definitions.
"382. Filing international design applications.
"383. International design application.
"384. Filing date.
"385. Effect of international design application.
"386. Right of priority.
"387. Relief from prescribed time limits.
"388. Withdrawn or abandoned international design application.
"389. Examination of international design application.
"390. Publication of international design application.

"§ 381. Definitions

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

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"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

"(2) the term 'regulations'—

"(A) when capitalized, means the Common Regulations under the treaty; and

"(B) when not capitalized, means the regulations established by the Director under this title;

"(3) the term 'designation' means a request that an international registration have effect in a Contracting Party to the treaty;

"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

"(5) the term 'effective registration date' means the date of international registration indicated by the International Bureau under the treaty;

"(6) the term 'international design application' means an application for international registration; and

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"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"§ 382. Filing international design applications

"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17 of this title, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 of this title shall apply.

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"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title if the international design application is filed—

"(1) in a country other than the United States;

"(2) at the International Bureau; or

"(3) with an intergovernmental organization.

"§ 383. International design application

"In addition to any requirements pursuant to chapter 16 of this title, the international design application shall contain—

"(1) a request for international registration under the treaty;

"(2) an indication of the designated Contracting Parties;

"(3) data concerning the applicant as prescribed in the treaty and the Regulations;

"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international application, presented in the number and manner prescribed in the treaty and the Regulations;

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"(5) an indication of the product or products which constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

"(6) the fees prescribed in the treaty and the Regulations; and

"(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date

"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 of this title may be treated as a design application under chapter 16 of this title.

"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in

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a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384 of this part, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16 of this title.

"§ 386. Right of priority

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 of this title and section 172 of this title, a national application shall be entitled to the right of priority based on a prior international design application which designated at least one country other than the United States.

"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 of this title and section 172 of this title and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) of this title designating at least

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one country other than the United States, or a prior international design application designating at least one country other than the United States.

"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120 of this title, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) of this title designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) of this title which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

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"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7) of this title, as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387 of this part, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) of this part was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or aban-

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donment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance, and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16 of this title.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application des-

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ignating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16 of this title.

"§ 390. Publication of international design application

"The publication under the treaty defined in section 381(a)(1) of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2), by striking "to claim a right of priority under section 119, 365(a), or

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365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)''; and

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(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)''; and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'';

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'';

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) of this title designating the United States''; and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) of this title which designated but did not originate in the United

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States'' after ''did not originate in the United States''; and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawl.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall be effective on the later of—

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(1) the date that is 1 year after the date of enactment of this Act, or

(2) the date of entry into force of the treaty, as defined in section 381 of title 35, as amended by this Act, with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications as defined in section 351(c) of title 35, United States Code, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

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(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.";

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the

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fee within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office."; and

(3) by adding at the end the following:

"(c) PRIOR FILED APPLICATION.—The Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in application being regarded as abandoned and treated as having never been filed.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

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(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"§ 27. Revival of applications; reinstatement of reexamination proceedings

"(a) IN GENERAL.—The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"27. Revival of applications; reinstatement of reexamination proceedings.".

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a), by adding at the end the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in

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this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional.''; and

(II) in the last sentence—

(aa) by striking ''including the payment of a surcharge'' and inserting ''including the payment of the fee specified in section 41(a)(7)''; and

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(bb) by striking ''during the pendency of the application''; and

(ii) in paragraph (3), by adding at the end the following: ''For an application for patent filed under section 363 in a foreign Receiving Office, the 12-month and additional 2 month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.''; and

(2) in section 365(b), by adding at the end the following: ''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim where such priority claim pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.''.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: ''The Patent and

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Trademark Office shall maintain a register of interests in applications for patents and patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended by adding at the end the following:

''The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking subsection (7) and inserting the following:

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the

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patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director''; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in paragraph (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'';

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge''

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and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following:

''§ 151. Issue of patent

''If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 361, by striking subsection (c) and inserting the following:

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''(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.'';

(8) in section 364, by striking subsection (b) and inserting the following:

''(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.''; and

(9) in section 371(d), in the third sentence, by striking '', unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable''.

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall be effective on the date that is 1 year after the date of enactment of this Act and shall apply to all patents and to all applications for patent pending on or filed after the date that is 1 year after the date of enactment of this Act.

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications

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filed on or after the date that is 1 year after the date of enactment of this Act.

(2) PATENT THAT IS SUBJECT OF LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the date that is 1 year after the date of enactment of this Act.

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Calendar No. 532

112TH CONGRESS
2D SESSION

S. 3486

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2012

Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

SEPTEMBER 20, 2012

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~**SECTION 1. SHORT TITLE.**~~

~~This Act may be cited as the "Patent Law Treaties Implementation Act of 2012".~~

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TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

"PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

"CHAPTER Sec.
"38. International design applications ..... 381.

"CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

"Sec.
"381. Definitions.
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"388. Withdrawn or abandoned international design application.
"389. Examination of international design application.
"390. Publication of international design application.

"§ 381. Definitions

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

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~~"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;~~

~~"(2) the term 'regulations'—~~

~~"(A) when capitalized, means the Common Regulations under the treaty; and~~

~~"(B) when not capitalized, means the regulations established by the Director under this title;~~

~~"(3) the term 'designation' means a request that an international registration have effect in a Contracting Party to the treaty;~~

~~"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;~~

~~"(5) the term 'effective registration date' means the date of international registration indicated by the International Bureau under the treaty;~~

~~"(6) the term 'international design application' means an application for international registration; and~~

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~~"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.~~

~~"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.~~

~~"§ 382. Filing international design applications~~

~~"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.~~

~~"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17 of this title, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.~~

~~"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 of this title shall apply.~~

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~~"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title if the international design application is filed—~~

~~"(1) in a country other than the United States;~~

~~"(2) at the International Bureau; or~~

~~"(3) with an intergovernmental organization.~~

~~"§ 383. International design application~~

~~"In addition to any requirements pursuant to chapter 16 of this title, the international design application shall contain—~~

~~"(1) a request for international registration under the treaty;~~

~~"(2) an indication of the designated Contracting Parties;~~

~~"(3) data concerning the applicant as prescribed in the treaty and the Regulations;~~

~~"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international application, presented in the number and manner prescribed in the treaty and the Regulations;~~

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~~"(5) an indication of the product or products which constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;~~

~~"(6) the fees prescribed in the treaty and the Regulations; and~~

~~"(7) any other particulars prescribed in the Regulations.~~

~~"§ 384. Filing date~~

~~"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 of this title may be treated as a design application under chapter 16 of this title.~~

~~"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in~~

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a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384 of this part, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16 of this title.

"§ 386. Right of priority

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 of this title and section 172 of this title, a national application shall be entitled to the right of priority based on a prior international design application which designated at least one country other than the United States.

"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 of this title and section 172 of this title and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) of this title designating at least

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one country other than the United States, or a prior international design application designating at least one country other than the United States.

"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120 of this title, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) of this title designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) of this title which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

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"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7) of this title, as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387 of this part, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) of this part was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or aban-

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donment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance, and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16 of this title.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application des-

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ignating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16 of this title.

"§ 390. Publication of international design application

"The publication under the treaty defined in section 381(a)(1) of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2), by striking "to claim a right of priority under section 119, 365(a), or

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365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'', and

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(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)'', and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'',

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'',

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) of this title designating the United States'', and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) of this title which designated but did not originate in the United

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States'' after ''did not originate in the United States'', and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawl.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall be effective on the later of—

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(1) the date that is 1 year after the date of enactment of this Act, or

(2) the date of entry into force of the treaty, as defined in section 381 of title 35, as amended by this Act, with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications as defined in section 251(c) of title 35, United States Code, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

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(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.",

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the

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fee within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.", and

(3) by adding at the end the following:

"(e) PRIOR FILED APPLICATION.—The Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in application being regarded as abandoned and treated as having never been filed.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

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(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"§ 27. Revival of applications; reinstatement of reexamination proceedings

"(a) IN GENERAL.—The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"27. Revival of applications; reinstatement of reexamination proceedings.".

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a), by adding at the end the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in

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this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional.''; and

(II) in the last sentence—

(aa) by striking ''including the payment of a surcharge'' and inserting ''including the payment of the fee specified in section 41(a)(7)''; and

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(bb) by striking "during the pendency of the application"; and

(ii) in paragraph (3), by adding at the end the following: "For an application for patent filed under section 363 in a foreign Receiving Office, the 12-month and additional 2 month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 251."; and

(2) in section 365(b), by adding at the end the following: "The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim where such priority claim pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.".

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: "The Patent and

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Trademark Office shall maintain a register of interests in applications for patents and patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended by adding at the end the following.

''The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking subsection (7) and inserting the following.

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the

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patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director'', and

(B) in subsection (c), by striking paragraph (1) and inserting the following.

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in paragraph (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'',

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge''

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and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following.

''§151. Issue of patent

''If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 261, by striking subsection (c) and inserting the following.

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''(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.'';

(8) in section 364, by striking subsection (b) and inserting the following.

''(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.'', and

(9) in section 371(d), in the third sentence, by striking '', unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable''.

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall be effective on the date that is 1 year after the date of enactment of this Act and shall apply to all patents and to all applications for patent pending on or filed after the date that is 1 year after the date of enactment of this Act.

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications

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~~filed on or after the date that is 1 year after the date of enactment of this Act.~~

~~(2) PATENT THAT IS SUBJECT OF LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the date that is 1 year after the date of enactment of this Act.~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Law Treaties Implementation Act of 2012".

TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

"PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

"CHAPTER *Sec.*
"38. International design applications ..... *381.*

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"CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

"Sec.
"381. Definitions.
"382. Filing international design applications.
"383. International design application.
"384. Filing date.
"385. Effect of international design application.
"386. Right of priority.
"387. Relief from prescribed time limits.
"388. Withdrawn or abandoned international design application.
"389. Examination of international design application.
"390. Publication of international design application.

"§ 381. Definitions

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

"(2) the term 'regulations'—

"(A) when capitalized, means the Common Regulations under the treaty; and

"(B) when not capitalized, means the regulations established by the Director under this title;

"(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

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"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

"(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

"(6) the term 'international design application' means an application for international registration; and

"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"§ 382. Filing international design applications

"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

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"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

"(1) in a country other than the United States;

"(2) at the International Bureau; or

"(3) with an intergovernmental organization.

"§383. International design application

"In addition to any requirements pursuant to chapter 16, the international design application shall contain—

"(1) a request for international registration under the treaty;

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"(2) an indication of the designated Contracting Parties;

"(3) data concerning the applicant as prescribed in the treaty and the Regulations;

"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number and manner prescribed in the treaty and the Regulations;

"(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

"(6) the fees prescribed in the treaty and the Regulations; and

"(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date

"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that other-

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wise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

"§ 386. Right of priority

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

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"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States, or a prior international design application designating at least 1 country other than the United States.

"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the

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Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United

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States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and

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may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

"§ 390. Publication of international design application

"The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section

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119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(3) in section 111(b)(7)—

(A) by striking "section 119 or 365(a)" and inserting "section 119, 365(a), or 386(a)"; and

(B) by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)";

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)";

(5) in section 120, in the first sentence, by striking "section 363" and inserting "section 363 or 385";

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(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)"; and

(ii) in paragraph (3), by striking "section 119, 365(a), or 365(b)" and inserting "section 119, 365(a), 365(b), 386(a), or 386(b)"; and

(B) in subsection (d)(1), by inserting "or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty" after "Article 21(2)(a) of such treaty";

(7) in section 173, by striking "fourteen years" and inserting "15 years";

(8) in section 365(c)—

(A) in the first sentence, by striking "or a prior international application designating the United States" and inserting ", a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States"; and

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(B) in the second sentence, by inserting "or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States" after "did not originate in the United States"; and

(9) in section 366—

(A) in the first sentence, by striking "unless a claim" and all that follows through "withdrawal." and inserting "unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal."; and

(B) by striking the second sentence and inserting the following: "However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.".

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SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms "treaty" and "international design application" have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

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(2) the term "international application" has the meaning given that term in section 351(c) of title 35, United States Code; and

(3) the term "national application" means "national application" within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

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"(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.";

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office."; and

(3) by adding at the end the following:

"(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application num-

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ber and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. Such application shall be treated as having never been filed, unless—

"(1) the application is revived under section 27; and

"(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

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"§27. Revival of applications; reinstatement of reexamination proceedings

"The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"27. Revival of applications; reinstatement of reexamination proceedings.".

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking "twelve" and inserting "12"; and

(ii) by adding at the end the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an

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additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional."; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional."; and

(II) in the last sentence—

(aa) by striking "including the payment of a surcharge" and inserting "including the payment of the fee specified in section 41(a)(7)"; and

(bb) by striking "during the pendency of the application"; and

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(ii) in paragraph (3), by adding at the end the following: "For an application for patent filed under section 363 in a Receiving Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351."; and

(2) in section 365(b), by adding at the end the following: "The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.".

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: "The Patent and Trademark Office shall maintain a register of interests in

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patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor."; and

(2) in the fourth undesignated paragraph by striking "An assignment" and inserting "An interest that constitutes an assignment".

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) IN GENERAL.—Whoever";

(2) by striking "The provisions" and inserting "(b) APPLICABILITY OF THIS TITLE.—The provisions"; and

(3) by adding at the end the following:

"(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

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"(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director"; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.";

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(2) in section 119(b)(2), in the second sentence, by striking "including the payment of a surcharge" and inserting "including the requirement for payment of the fee specified in section 41(a)(7)";

(3) in section 120, in the fourth sentence, by striking "including the payment of a surcharge" and inserting "including the requirement for payment of the fee specified in section 41(a)(7)";

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking ", unless it is shown" and all that follows through "unintentional";

(5) in section 133, by striking ", unless it be shown" and all that follows through "unavoidable";

(6) by striking section 151 and inserting the following:

"§ 151. Issue of patent

"(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

"(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.";

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(7) in section 361, by striking subsection (c) and inserting the following:

"(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.";

(8) in section 364, by striking subsection (b) and inserting the following:

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations."; and

(9) in section 371(d), in the third sentence, by striking ", unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable".

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

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(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1).

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

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Calendar No. 532

112TH CONGRESS
2D SESSION

S. 3486

A BILL

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

SEPTEMBER 20, 2012

Reported with an amendment

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

112TH CONGRESS
2D SESSION

S. 3486

AN ACT

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patent Law Treaties Implementation Act of 2012''.

TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

''PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

''CHAPTER Sec.
''38. International design applications ..... 381.

''CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

''Sec.
''381. Definitions.
''382. Filing international design applications.
''383. International design application.
''384. Filing date.
''385. Effect of international design application.
''386. Right of priority.
''387. Relief from prescribed time limits.
''388. Withdrawn or abandoned international design application.
''389. Examination of international design application.
''390. Publication of international design application.

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"§ 381. Definitions

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

"(2) the term 'regulations'—

"(A) when capitalized, means the Common Regulations under the treaty; and

"(B) when not capitalized, means the regulations established by the Director under this title;

"(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

"(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

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"(6) the term 'international design application' means an application for international registration; and

"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"§ 382. Filing international design applications

"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

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"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

"(1) in a country other than the United States;

"(2) at the International Bureau; or

"(3) with an intergovernmental organization.

"§ 383. International design application

"In addition to any requirements pursuant to chapter 16, the international design application shall contain—

"(1) a request for international registration under the treaty;

"(2) an indication of the designated Contracting Parties;

"(3) data concerning the applicant as prescribed in the treaty and the Regulations;

"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number

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and manner prescribed in the treaty and the Regulations;

"(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

"(6) the fees prescribed in the treaty and the Regulations; and

"(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date

"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the

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filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

"§ 386. Right of priority

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States,

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or a prior international design application designating at least 1 country other than the United States.

"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the

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United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section

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386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

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"§ 390. Publication of international design application

"The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under sec-

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tion 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)''; and

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(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)''; and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'';

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'';

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States''; and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States''

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after ''did not originate in the United States''; and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawal.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

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(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms ''treaty'' and ''international design application'' have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

(2) the term ''international application'' has the meaning given that term in section 351(c) of title 35, United States Code; and

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(3) the term ''national application'' means ''national application'' within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of an application shall be the date on which a specification,

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with or without claims, is received in the United States Patent and Trademark Office.'';

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.''; and

(3) by adding at the end the following:

''(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall con-

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stitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. Such application shall be treated as having never been filed, unless—

"(1) the application is revived under section 27; and

"(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"§ 27. Revival of applications; reinstatement of reexamination proceedings

"The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned applica-

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tion for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''27. Revival of applications; reinstatement of reexamination proceedings.''.

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking ''twelve'' and inserting ''12''; and

(ii) by adding at the end the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

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(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional."; and

(II) in the last sentence—

(aa) by striking "including the payment of a surcharge" and inserting "including the payment of the fee specified in section 41(a)(7)"; and

(bb) by striking "during the pendency of the application"; and

(ii) in paragraph (3), by adding at the end the following: "For an application for patent filed under section 363 in a Receiv-

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ing Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.''; and

(2) in section 365(b), by adding at the end the following: ''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.''.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: ''The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

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(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking ''Whoever'' and inserting ''(a) IN GENERAL.—Whoever'';

(2) by striking ''The provisions'' and inserting ''(b) APPLICABILITY OF THIS TITLE.—The provisions''; and

(3) by adding at the end the following:

''(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for

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issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director''; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'';

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge''

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and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following:

''§ 151. Issue of patent

''(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 361, by striking subsection (c) and inserting the following:

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"(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.";

(8) in section 364, by striking subsection (b) and inserting the following:

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations."; and

(9) in section 371(d), in the third sentence, by striking ", unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable".

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

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(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1).

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

Passed the Senate September 22 (legislative day, September 21), 2012.

Attest:

Secretary.

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112TH CONGRESS
2D SESSION

S. 3486

AN ACT

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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112TH CONGRESS
2D SESSION

S. 3486

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2012
Referred to the Committee on the Judiciary

AN ACT

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patent Law Treaties Implementation Act of 2012''.

TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

''PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

''CHAPTER Sec.
''38. International design applications ..... 381.

''CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

''Sec.
''381. Definitions.
''382. Filing international design applications.
''383. International design application.
''384. Filing date.
''385. Effect of international design application.
''386. Right of priority.
''387. Relief from prescribed time limits.
''388. Withdrawn or abandoned international design application.
''389. Examination of international design application.
''390. Publication of international design application.

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"§ 381. Definitions

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

"(2) the term 'regulations'—

"(A) when capitalized, means the Common Regulations under the treaty; and

"(B) when not capitalized, means the regulations established by the Director under this title;

"(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

"(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

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"(6) the term 'international design application' means an application for international registration; and

"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"§ 382. Filing international design applications

"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

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"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

"(1) in a country other than the United States;

"(2) at the International Bureau; or

"(3) with an intergovernmental organization.

"§ 383. International design application

"In addition to any requirements pursuant to chapter 16, the international design application shall contain—

"(1) a request for international registration under the treaty;

"(2) an indication of the designated Contracting Parties;

"(3) data concerning the applicant as prescribed in the treaty and the Regulations;

"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number

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and manner prescribed in the treaty and the Regulations;

"(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

"(6) the fees prescribed in the treaty and the Regulations; and

"(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date

"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the

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filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

"§ 386. Right of priority

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States,

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or a prior international design application designating at least 1 country other than the United States.

"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the

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United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section

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386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

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"§ 390. Publication of international design application

"The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under sec-

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tion 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)''; and

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(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)''; and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'';

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'';

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States''; and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States''

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after ''did not originate in the United States''; and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawal.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

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(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms ''treaty'' and ''international design application'' have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

(2) the term ''international application'' has the meaning given that term in section 351(c) of title 35, United States Code; and

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(3) the term ''national application'' means ''national application'' within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of an application shall be the date on which a specification,

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with or without claims, is received in the United States Patent and Trademark Office.'';

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.''; and

(3) by adding at the end the following:

''(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall con-

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stitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. Such application shall be treated as having never been filed, unless—

"(1) the application is revived under section 27; and

"(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"§ 27. Revival of applications; reinstatement of reexamination proceedings

"The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned applica-

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tion for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''27. Revival of applications; reinstatement of reexamination proceedings.''.

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking ''twelve'' and inserting ''12''; and

(ii) by adding at the end the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

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(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional."; and

(II) in the last sentence—

(aa) by striking "including the payment of a surcharge" and inserting "including the payment of the fee specified in section 41(a)(7)"; and

(bb) by striking "during the pendency of the application"; and

(ii) in paragraph (3), by adding at the end the following: "For an application for patent filed under section 363 in a Receiv-

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ing Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.''; and

(2) in section 365(b), by adding at the end the following: ''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.''.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: ''The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

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(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking ''Whoever'' and inserting ''(a) IN GENERAL.—Whoever'';

(2) by striking ''The provisions'' and inserting ''(b) APPLICABILITY OF THIS TITLE.—The provisions''; and

(3) by adding at the end the following:

''(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for

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issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director''; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'';

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge''

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and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following:

''§ 151. Issue of patent

''(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 361, by striking subsection (c) and inserting the following:

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"(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.";

(8) in section 364, by striking subsection (b) and inserting the following:

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations."; and

(9) in section 371(d), in the third sentence, by striking ", unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable".

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

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(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1).

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

Passed the Senate September 22 (legislative day, September 21), 2012.

Attest: NANCY ERICKSON,

Secretary.

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S. 3486

One Hundred Twelfth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the third day of January, two thousand and twelve

An Act

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Law Treaties Implementation Act of 2012".

TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

"PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

"CHAPTER Sec.
"38. International design applications ..... 381.

"CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

"Sec.
"381. Definitions.
"382. Filing international design applications.
"383. International design application.
"384. Filing date.
"385. Effect of international design application.
"386. Right of priority.
"387. Relief from prescribed time limits.
"388. Withdrawn or abandoned international design application.
"389. Examination of international design application.
"390. Publication of international design application.

"§ 381. Definitions

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

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"(2) the term 'regulations'—

"(A) when capitalized, means the Common Regulations under the treaty; and

"(B) when not capitalized, means the regulations established by the Director under this title;

"(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

"(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

"(6) the term 'international design application' means an application for international registration; and

"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"§ 382. Filing international design applications

"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

"(1) in a country other than the United States;

"(2) at the International Bureau; or

"(3) with an intergovernmental organization.

"§ 383. International design application

"In addition to any requirements pursuant to chapter 16, the international design application shall contain—

"(1) a request for international registration under the treaty;

"(2) an indication of the designated Contracting Parties;

"(3) data concerning the applicant as prescribed in the treaty and the Regulations;

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"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number and manner prescribed in the treaty and the Regulations;

"(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

"(6) the fees prescribed in the treaty and the Regulations; and

"(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date

"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

"§ 386. Right of priority

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States, or a prior international design application designating at least 1 country other than the United States.

"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating

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the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to

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international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

"§ 390. Publication of international design application

"The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(3) in section 111(b)(7)—

(A) by striking "section 119 or 365(a)" and inserting "section 119, 365(a), or 386(a)"; and

(B) by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)";

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)";

(5) in section 120, in the first sentence, by striking "section 363" and inserting "section 363 or 385";

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking "section 120, 121, or 365(c)" and inserting "section 120, 121, 365(c), or 386(c)"; and

(ii) in paragraph (3), by striking "section 119, 365(a), or 365(b)" and inserting "section 119, 365(a), 365(b), 386(a), or 386(b)"; and

(B) in subsection (d)(1), by inserting "or an international design application filed under the treaty defined

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in section 381(a)(1) designating the United States under Article 5 of such treaty" after "Article 21(2)(a) of such treaty";

(7) in section 173, by striking "fourteen years" and inserting "15 years";

(8) in section 365(c)—

(A) in the first sentence, by striking "or a prior international application designating the United States" and inserting ", a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States"; and

(B) in the second sentence, by inserting "or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States" after "did not originate in the United States"; and

(9) in section 366—

(A) in the first sentence, by striking "unless a claim" and all that follows through "withdrawal." and inserting "unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal."; and

(B) by striking the second sentence and inserting the following: "However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.".

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms "treaty" and "international design application" have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

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(2) the term "international application" has the meaning given that term in section 351(c) of title 35, United States Code; and

(3) the term "national application" means "national application" within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.";

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

"(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office."; and

(3) by adding at the end the following:

"(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded

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as abandoned. Such application shall be treated as having never been filed, unless—

"(1) the application is revived under section 27; and

"(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"§ 27. Revival of applications; reinstatement of reexamination proceedings

"The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"27. Revival of applications; reinstatement of reexamination proceedings.".

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking "twelve" and inserting "12"; and

(ii) by adding at the end the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional."; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional."; and

(II) in the last sentence—

(aa) by striking "including the payment of a surcharge" and inserting "including the payment of the fee specified in section 41(a)(7)"; and

(bb) by striking "during the pendency of the application"; and

(ii) in paragraph (3), by adding at the end the following: "For an application for patent filed under

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section 363 in a Receiving Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351."; and

(2) in section 365(b), by adding at the end the following: "The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.".

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: "The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor."; and

(2) in the fourth undesignated paragraph by striking "An assignment" and inserting "An interest that constitutes an assignment".

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) IN GENERAL.—Whoever";

(2) by striking "The provisions" and inserting "(b) APPLICABILITY OF THIS TITLE.—The provisions"; and

(3) by adding at the end the following:

"(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

"(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director"; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may

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require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.";

(2) in section 119(b)(2), in the second sentence, by striking "including the payment of a surcharge" and inserting "including the requirement for payment of the fee specified in section 41(a)(7)";

(3) in section 120, in the fourth sentence, by striking "including the payment of a surcharge" and inserting "including the requirement for payment of the fee specified in section 41(a)(7)";

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking ", unless it is shown" and all that follows through "unintentional";

(5) in section 133, by striking ", unless it be shown" and all that follows through "unavoidable";

(6) by striking section 151 and inserting the following:

"§ 151. Issue of patent

"(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

"(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.";

(7) in section 361, by striking subsection (c) and inserting the following:

"(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.";

(8) in section 364, by striking subsection (b) and inserting the following:

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations."; and

(9) in section 371(d), in the third sentence, by striking ", unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable".

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

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(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1).

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

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ALL ACTIONS: S. 3486 – 112th Congress (2011-2012)

Date	Chamber	All Actions
08/02/2012	Senate	Sponsor introductory remarks on measure. (CR S5980)
08/02/2012	Senate	Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S5980-5983)
09/20/2012	Senate	Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably. Markup report CQ Action By: Senate Judiciary
09/20/2012	Senate	Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report. Action By: Senate Judiciary
09/20/2012	Senate	Placed on Senate Legislative Calendar under General Orders. Calendar No. 532.
09/22/2012	Senate	Passed Senate with an amendment by Unanimous Consent. (consideration: CR 9/21/2012 S6667-6670; text as passed Senate: CR 9/21/2012 S6667-6670)
09/24/2012	Senate	Message on Senate action sent to the House.
09/25/2012-10:07am	House	Received in the House.
09/25/2012	House	Referred to the House Committee on the Judiciary.
12/05/2012-10:37am	House	Mr. Smith (TX) moved to suspend the rules and pass the bill.
12/05/2012-10:37am	House	Considered under suspension of the rules. (consideration: CR H6552-6556)
12/05/2012-10:38am	House	DEBATE - The House proceeded with forty minutes of debate on S. 3486.

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Date	Chamber	All Actions
12/05/2012-10:44am	House	On motion to suspend the rules and pass the bill Agreed to by voice vote. (text: CR H6552-6555)
12/05/2012-10:44am	House	Motion to reconsider laid on the table Agreed to without objection.
12/10/2012	Senate	Presented to President.
12/18/2012		Signed by President.
12/18/2012		Became Public Law No: 112-211. (TXT | PDF)

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CONGRESSIONAL RECORD INDEX: S. 3486 – 112th Congress (2011-2012)

From the Congressional Record, Volume 158 (2012)

S. 3486--A bill to implement the provisions of the Hague Agreement and the Patent Law Treaty; to the Committee on the Judiciary.

By Mr. LEAHY (for himself and Mr. Grassley), S5977 [2AU]

Text, S5980 [2AU]
Cosponsors added, S6064 [10SE]
Reported with amendment (no written report), S6545 [20SE]
Debated, S6667 [21SE]
Amendments, S6667 [21SE]
Passed Senate amended, S6670 [21SE]
Message from the Senate, H6282 [25SE]
Referred to the Committee on the Judiciary, H6283 [25SE]
Debated, H6652 [5DE]
Text, H6652 [5DE]
Rules suspended. Passed House, H6656 [5DE]
Message from the House, S7683 [6DE]
Examined and signed in the House, H6678 [7DE]
Examined and signed in the Senate, S7701 [10DE]
Presented to the President (December 10, 2012), S7701 [10DE]
Approved [Public Law 112-211] (signed December 18, 2012)

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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, THURSDAY, AUGUST 2, 2012 No. 117

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord, You have given us a world full of rich resources. Make us responsible stewards of Your generous gifts. Help us to remember that to whom much is given, much is expected.

May our accountability to You guide the choices our lawmakers make as they seek to serve You and country today. Lord, fill their minds with wisdom and their hearts with hope so they will believe all things are possible with You. Open their minds to the inflow of Your spirit to prepare them for the decisions they must make this day.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 2, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

VETERANS JOBS CORPS ACT OF 2012—MOTION TO PROCEED

Mr. REID. Mr. President, I now move to proceed to Calendar No. 476, S. 3457, which is the Veterans Jobs Corps Act.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 476, S. 3457, a bill to require the Secretary of Veterans Affairs to establish a Veterans Jobs Corps, and for other purposes.

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. REID. Mr. President, the next half hour will be for debate on the Coburn amendment on the AGOA-Burma sanctions bill. Following that debate, the time until 11 a.m. will be equally divided and controlled between the two leaders or their designees. At 11 a.m. there will be two votes. The first vote will be a cloture vote on the cyber security bill, followed by a vote in relation to the Coburn amendment to the AGOA-Burma sanctions bill. The filing deadline for second-degree amendments to the cyber security bill is 10 a.m. today. Additional votes are possible today, and we will notify Senators when and if they are scheduled. We will vote at 11 o'clock, so those people debating the cloture motion may not get the full hour. They should understand that.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

CYBER SECURITY

Mr. MCCONNELL. Mr. President, I would like to start this morning with a word about cyber security. No one doubts the need to strengthen our Nation's cyber security defenses. Open source reporting clearly shows that our defense industrial base, financial sector, and government networks are all under attack by nation states as well as independent hackers. The U.S. Cyber Command, the NSA, and the FBI are working hard to counter these threats. So we all recognize the problem. That is really not the issue. The issue is the manner in which the Democratic leadership has tried to steamroll a bill that would address it.

Members on both sides of the aisle have recommendations for improving our cyber defenses, and some of them thought this bill would provide an opportunity to propose those ideas through amendments, especially since Democrats did not allow for an opportunity to do so in committee. Yet, despite preventing Members from amending the bill in committee, the anticipated open amendment process, once this new bill got to the Senate floor, never happened. It just never happened. Despite being on the bill now for the third day, no Senator from either party has been allowed to vote on any amendment.

Look, this is a big, complicated, far-reaching bill that involves several committees of jurisdiction. Democratic leaders have not allowed any of those committees to improve the bill or even vote on it. Frankly, I was a little surprised the majority leader decided to file cloture and end debate before it even started. An issue of this importance deserves serious consideration and open debate. Instead, the majority

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Leader of the United States House of Representatives, and the President Pro Tempore, Majority Leader, and Minority Leader of the United States Senate.

POM–130. A resolution adopted by the House of Representatives of the State of Illinois urging the President and Congress to begin an expedited withdrawal of forces from Afghanistan; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 824

Whereas, the United States of America was attacked in a well-coordinated operation by a group of terrorists on September 11, 2001; and

Whereas, almost 3,000 innocent men, women, and children were killed as a result of the airplanes that were hijacked by the terrorists and subsequently crashed into the World Trade Center, the Pentagon, and an open field in Shanksville, Pennsylvania; and

Whereas, the terrorists were proven to be members of the terrorist organization known as al-Qaeda, which was led by Osama bin Laden; and

Whereas, the al-Qaeda terrorist organization had operated for years from sanctuary locations based in Afghanistan; the group conducted numerous acts of terror over the years against U.S. targets both on the U.S. mainland and in other locations throughout the world, which had been planned in those sanctuary locations; and

Whereas, in order to disrupt and destroy the al-Qaeda terrorist organization and capture or eliminate its leaders, it was necessary to attack the organization's sanctuary bases; and

Whereas, in October of 2001, the United States military, acting under orders issued by Commander-in-Chief President George W. Bush, attacked al-Qaeda sanctuary bases in Afghanistan in conjunction with local Afghan forces opposed to the terrorist organization operating in their country; and

Whereas, the United States military, in the finest traditions of America's fighting forces, had great success in disrupting, dispersing, and destroying al-Qaeda operations and eliminating many of its senior leaders; and

Whereas, President Barack Obama, succeeding President Bush as Commander-in-Chief, did continue and strengthen the efforts to completely destroy al-Qaeda; such efforts resulted in the killing of Osama bin Laden, the leader of al-Qaeda, bringing the world's leading terrorist to justice for the many acts of murder which he and his organization carried out; and

Whereas, the United States, having joined forces with nations from around the world, led an effort to stabilize Afghanistan by supporting infrastructure projects beneficial to all Afghans and by helping the Afghans understand the positive benefits of equal rights for all, judicial due process, and the rule of law; and

Whereas, after more than a decade of extended military operations to enhance security and with contributions of hundreds of billions of dollars of nation-building resources having been put into the country to foster development, much progress has been made toward the goals of a free and secure society within Afghanistan; and

Whereas, while this progress has come at a high financial cost, it has also cost the lives of more than 1,500 brave American service members and dozens of fighting forces of other nations, all of whom made the ultimate sacrifice in service to their country; and

Whereas, despite this progress, it appears from recent events involving all the International Security Assistance Forces (ISAF) that the presence of the United States military and that of other countries, as well as the civilian consultants that are working to help the Afghan people, has not been accepted by a broad spectrum of the Afghanistan population; and

Whereas, this lack of acceptance places all foreign military and civilian consultant personnel in grave danger, which results in an inability for those personnel to properly conduct the types of operations in which they are engaged; and

Whereas, there is already in place a plan to withdraw most forces from Afghanistan in the 2014 time frame; therefore, be it

Resolved, by the House of Representatives of the Ninety-Seventh General Assembly of the State of Illinois, That we urge the President and Congress to begin an expedited withdrawal of forces from Afghanistan, to the fullest extent possible consistent with strategic military objectives, thus accelerating the current withdrawal plan set in place; and be it further

Resolved, That suitable copies of this resolution be sent to the President, the Speaker of the United States House of Representatives, and the President pro tempore of the United States Senate.

POM–131. A resolution adopted by the Pecos River Commission requesting that Congress fully fund the National Streamflow Information Program (NSIP) gages associated with the Pecos River Basin and the U.S. Geological Survey place a priority on funding these gages under NSIP; to the Committee on Environment and Public Works.

POM–132. A resolution adopted by the Pecos River Commission requesting that Congress reauthorize the Water Resources Development Act of 2007, Section 5056, and to appropriate sufficient funds to carry out work related to that legislation; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1956. A bill to prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, and for other purposes (Rept. No. 112–195).

By Mr. INOUYE, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 5856. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2013, and for other purposes (Rept. No. 112–196).

By Mr. NELSON of Nebraska, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 5882. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2013, and for other purposes (Rept. No. 112–197).

By Mr. AKAKA, from the Committee on Indian Affairs, without amendment:

S. 546. A bill to extend the Federal recognition to the Little Shell Tribe of Chippewa Indians of Montana, and for other purposes (Rept. No. 112–198).

By Mr. AKAKA, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1065. A bill to settle land claims within the Fort Hall Reservation (Rept. No. 112–199).

By Mr. AKAKA, from the Committee on Indian Affairs, without amendment:

S. 1218. A bill to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes (Rept. No. 112–200).

S. 379. A bill to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe (Rept. No. 112–201).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment:

S. 772. A bill to protect Federal employees and visitors, improve the security of Federal facilities and authorize and modernize the Federal Protective Service (Rept. No. 112–202).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 225. A bill to permit the disclosure of certain information for the purpose of missing child investigations.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S.J. Res. 44. A joint resolution granting the consent of Congress to the State and Province Emergency Management Assistance Memorandum of Understanding.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Thomas M. Durkin, of Illinois, to be United States District Judge for the Northern District of Illinois.

William H. Orrick, III, of the District of Columbia, to be United States District Judge for the Northern District of California.

Jon S. Tigar, of California, to be United States District Judge for the Northern District of California.

By Mrs. MURRAY for the Committee on Veterans' Affairs.

*Thomas Skerik Sowers II, of Missouri, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs).

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MCCASKILL (for herself and Ms. AYOTTE):

S. 3481. A bill to appropriately limit the authority to award bonuses to employees and to require approval of high cost Government conferences and reporting regarding Government conferences; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEE (for himself, Mr. PAUL, Mr. DEMINT, Mr. COBURN, Mr. BLUNT, Mr. RISCH, Mr. TOOMEY, Mr. GRAHAM, Mr. ISAKSON, Mr. VITTER, Mr. RUBIO, Mr. CORNYN, Mr. CRAPO, Mr. JOHNSON of Wisconsin, Mr. ALEXANDER, Mr.

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CHAMBLISS, Mr. BARRASSO, Mr. HATCH, Mr. THUNE, Mr. BOOZMAN, Mr. INHOFE, Mr. WICKER, and Mr. PORTMAN):

S. 3482. A bill to cut, cap, and balance the Federal budget; to the Committee on the Budget.

By Mr. MERKLEY (for himself and Mr. WYDEN):

S. 3483. A bill to amend the Wild and Scenic Rivers Act to adjust the Crooked River boundary, to provide water certainty for the City of Prineville, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN of Ohio:

S. 3484. A bill to amend the S.A.F.E. Mortgage Licensing Act of 2008 to provide an exception from the definition of loan originator for certain loans made with respect to manufactured homes, to amend the Truth in Lending Act to modify the definition of a high-cost mortgage, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN of Ohio:

S. 3485. A bill to limit the authority of States to tax certain income of employees for employment duties performed in other States; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 3486. A bill to implement the provisions of the Hague Agreement and the Patent Law Treaty; to the Committee on the Judiciary.

By Mr. COBURN (for himself, Mr. MANCHIN, Ms. AYOTTE, Mrs. MCCASKILL, Mr. CORNYN, Mr. GRASSLEY, Mr. JOHNSON of Wisconsin, and Mr. PAUL):

S. 3487. A bill to provide for auditable financial statements for the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Mr. BROWN of Ohio:

S. 3488. A bill to amend title 38, United States Code, to provide additional educational assistance under Post-9/11 Educational Assistance to veterans pursuing a degree in science, technology, engineering, or math, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROWN of Massachusetts:

S. 3489. A bill to protect senior citizens, disabled persons, veterans, and other beneficiaries and customers of the Social Security Administration by performing the process for closure of field offices; to the Committee on Finance.

By Mr. BROWN of Massachusetts (for himself and Mr. LIEBERMAN):

S. 3490. A bill to dedicate funds from the Crime Victims Fund to victims of elder abuse, and for other purposes; to the Committee on the Judiciary.

By Ms. STABENOW:

S. 3491. A bill to cut taxes for innovative businesses that produce renewable chemicals; to the Committee on Finance.

By Mr. TOOMEY (for himself, Mr. CARPER, Mr. MORAN, and Mrs. MCCASKILL):

S. 3492. A bill to provide for exemptions from municipal advisor registration requirements; to the Committee on Banking, Housing, and UrbanAffairs.

By Mr. KYL:

S. 3493. A bill to protect first amendment rights of journalists and internet service providers by preventing States and the United States from allowing meritless lawsuits arising from acts in furtherance of those rights, commonly called ''Strategic Lawsuits Against Public Participation'' or ''SLAPPs'', and for other purposes; to the Committee on the Judiciary.

By Mr. FRANKEN (for himself, Mrs. MURRAY, and Mr. MENENDEZ):

S. 3494. A bill to amend the Internal Revenue Code of 1986 to qualify formerly homeless individuals who are full-time students for purposes of low income housing tax credit; to the Committee on Finance.

By Mr. ISAKSON (for himself and Mr. RUBIO):

S. 3495. A bill to direct the President to establish an interagency mechanism to coordinate United States development programs and private sector investment activities, and for other purposes; to the Committee on Foreign Relations.

By Mr. COCHRAN (for himself and Mr. WICKER):

S. 3496. A bill to amend title XVIII of the Social Security Act to permit direct payment to pharmacies for certain compounded drugs that are prepared by the pharmacies for a specific beneficiary for use through an implanted infusion pump; to the Committee on Finance.

By Mr. VITTER:

S. 3497. A bill to amend the Financial Stability Act of 2010 to repeal certain designation authority of the Financial Stability Oversight Council, to repeal the Payment, Clearing, and Settlement Supervision Act of 2010, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CASEY:

S. 3498. A bill to provide humanitarian assistance and support a democratic transition in Syria, and for other purposes; to the Committee on Foreign Relations.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 3499. A bill to amend the Interstate Land Sales Full Disclosure Act to clarify how the Act applies to condominiums; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORNYN (for himself, Mr. BARRASSO, Mr. COBURN, Mr. INHOFE, Mr. LEE, Ms. MURKOWSKI, Mr. ROBERTS, Mr. VITTER, and Mr. WICKER):

S. 3500. A bill to amend the Endangered Species Act of 1973 to establish a procedure for approval of certain settlements; to the Committee on Environment and Public Works.

By Mr. WYDEN (for himself, Mr. PAUL, Mr. MERKLEY, and Mr. SANDERS):

S. 3501. A bill to amend the Controlled Substances Act to exclude industrial hemp from the definition of marihuana, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 3502. A bill to amend title 49, United States Code, to prohibit rental of motor vehicles under a safety recall because of a defect related to motor vehicle safety or noncompliance with an applicable motor vehicle safety standard until the defect or noncompliance is remedied, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN of Ohio (for himself and Mr. WYDEN):

S. 3503. A bill to amend title 38, United States Code, to improve the provision of work-study allowances by the Secretary of Veterans Affairs to individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BENNET (for himself, Mr. UDALL of Colorado, Mr. FRANKEN, Mr. AKAKA, Mr. BEGICH, and Ms. KLOBUCHAR):

S. 3504. A bill to help fulfill the Federal mandate to provide higher educational opportunities for Native Americans; to the Committee on Indian Affairs.

By Mrs. SHAHEEN (for herself and Mr. RISCH):

S. 3505. A bill to ensure the efficient use of taxpayer dollars in construction-related contracts for reconstruction efforts in Afghanistan by requiring reporting to Congress by Federal agencies that refuse to implement, or only partially concur with, SIGAR recommendations to seek reimbursement for failure by a contractor or subcontractor to successfullycomplete a contract due to poor contractor performance, cost overruns, or other reasons; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SANDERS:

S. 3506. A bill to eliminate requirements to undertake duplicative clinical testing of new pharmaceutical drugs, vaccines, biological products, or medical devices, when such duplication is inconsistent with relevant ethical norms; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HAGAN:

S. 3507. A bill to renew the temporary suspension of duty on ceiling fans for permanent installation; to the Committee on Finance.

By Ms. LANDRIEU (for herself, Mrs. SHAHEEN, and Mr. COONS):

S. 3508. A bill to strengthen resources for entrepreneurs by improving the SCORE program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. NELSON of Florida:

S. 3509. A bill to amend the Water Resources Development Act of 2000 to provide for expedited project implementation relating to the comprehensive Everglades restoration plan; to the Committee on Environment and Public Works.

By Mr. REID (for himself and Mr. MCCONNELL):

S. 3510. A bill to prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes; considered and passed.

By Mr. TESTER (for himself, Mr. BEGICH, and Mr. BROWN of Ohio):

S. 3511. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to transport individuals to and from facilities of the Department of Veterans Affairs in connection with rehabilitation, counseling, examination, treatment, and care, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HOEVEN (for himself, Mr. CONRAD, Mr. BAUCUS, Mr. MCCONNELL, Mr. KOHL, Mr. PORTMAN, Ms. LANDRIEU, Mr. BOOZMAN, Mr. MANCHIN, Mr. BLUNT, Mr. WARNER, Mr. JOHNSON of Wisconsin, Mr. PRYOR, Mr. MORAN, Mrs. MCCASKILL, Mr. ALEXANDER, Mr. NELSON of Nebraska, Mr. TOOMEY, Mr. NELSON of Florida, Mr. GRAHAM, Mr. CASEY, Mr. THUNE, Mr. WEBB, and Mr. HATCH):

S. 3512. A bill to amend subtitle D of the Solid Waste Disposal Act to facilitate recovery and beneficial use, and provide for the proper management and disposal, of materials generated by the combustion of coal and other fossil fuels; to the Committee on Environment and Public Works.

By Mr. REED:

S. 3513. A bill to promote the development of local strategies to coordinate use of assistance under sections 8 and 9 of the United States Housing Act of 1937 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENZI (for himself, Mr. BARRASSO, Mr. ROCKEFELLER, Mr. CASEY, and Mr. MANCHIN):

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S. 3514. A bill to repeal a limitation on annual payments under the Surface Mining Control and Reclamation Act of 1977; to the Committee on Energy and Natural Resources.

By Mr. MERKLEY (for himself, Mr. WYDEN, and Mr. TESTER):

S. 3515. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional protections for privacy and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE:

S. 3516. A bill to encourage spectrum licenses to make unused spectrum available for use by rural and smaller carriers in order to expand wireless coverage; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 3517. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Panama-Pacific International Exposition and the Panama Canal; to the Committee on Banking , Housing, and Urban Affairs.

By Mr. WYDEN:

S. 3518. A bill to make it a principal negotiating objective of the United States in trade negotiations to eliminate government fisheries subsidies, and for other purposes; to the Committee on Finance.

By Mr. DEMINT (for himself, Mr. COBURN, Mr. CORKER, Mr. JOHNSON of Wisconsin, Mr. LEE, Mrs. MCCASKILL, Mr. PAUL, Mr. RISCH, Mr. SESSIONS, and Mr. TOOMEY):

S. 3519. A bill to require sponsoring Senators to pay the printing costs of ceremonial and commemorative Senate resolutions; read the first time.

By Mr. MERKLEY (for himself, Mr. AKAKA, Mr. BEGICH, Mr. BLUMENTHAL, Mr. FRANKEN, Ms. LANDRIEU, Mr. LAUTENBERG, and Mr. LEVIN):

S. 3520. A bill to require a portion of closing costs to be paid by the enterprises with respect to certain refinanced mortgage loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORNYN (for himself, Mrs. BOXER, Mr. BOOZMAN, and Mr. DURBIN):

S. Res. 541. A resolution condemning the Government of Vietnam for human rights violations; to the Committee on Foreign Relations.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. Res. 542. A resolution expressing the sense of the Senate that the United States Government should continue to support democracy and human rights in Taiwan following the January 2012 presidential and legislative elections in Taiwan; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself, Mr. LAUTENBERG, Mr. KERRY, Mr. LUGAR, Mr. INHOFE, Mr. CARDIN, Ms. MIKULSKI, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. LANDRIEU, Mr. MERKLEY, Mrs. MURRAY, Mr. RUBIO, Mr. LEAHY, and Mr. KIRK):

S. Res. 543. A resolution to express the sense of the Senate on international parental child abduction; to the Committee on Foreign Relations.

By Mr. MANCHIN (for himself and Mr. COBURN):

S. Res. 544. A resolution congratulating the Navy Dental Corps on its 100th anniversary; considered and agreed to.

By Mr. JOHANNS (for himself and Mr. NELSON of Nebraska):

S. Res. 545. A resolution commemorating the 75th Anniversary of Air Force Weather; considered and agreed to.

By Mrs. MURRAY (for herself, Mr. ALEXANDER, Mr. SANDERS, Mr. WEBB, Mr. WHITEHOUSE, Mr. CARDIN, Mr. JOHNSON of South Dakota, Ms. MURKOWSKI, and Mr. ENZI):

S. Res. 546. A resolution designating the week of September 10, 2012, as ''National Adult Education and Family Literacy Week''; considered and agreed to.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, Ms. SNOWE, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. BOOZMAN, and Mr. COONS):

S. Res. 547. A resolution honoring the life of pioneering astronaut Dr. Sally Ride and expressing the condolences of the Senate on her death; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Con. Res. 56. A concurrent resolution providing for a conditional adjournment or recess of the Senate and an adjournment of the House of Representatives; considered and agreed to.

By Mr. ROCKEFELLER:

S. Con. Res. 57. A concurrent resolution expressing the sense of Congress that the census surveys and the information derived from those surveys are crucial to the national welfare; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KERRY:

S. Con. Res. 58. A concurrent resolution directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 4240; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Con. Res. 59. A concurrent resolution providing for a conditional adjournment or recess of the Senate and an adjournment of the House of Representatives; considered and agreed to.

ADDITIONAL COSPONSORS

S. 202

At the request of Mr. PAUL, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 202, a bill to require a full audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks by the Comptroller General of the United States before the end of 2012, and for other purposes.

S. 225

At the request of Ms. KLOBUCHAR, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 225, a bill to permit the disclosure of certain information for the purpose of missing child investigations.

S. 227

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 227, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 645

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 645, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 672

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 672, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 847

At the request of Mr. LAUTENBERG, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 847, a bill to amend the Toxic Substances Control Act to ensure that risks from chemicals are adequately understood and managed, and for other purposes.

S. 1045

At the request of Ms. LANDRIEU, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1045, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, burns, infection, tumor, or disease.

S. 1061

At the request of Mr. BARRASSO, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1061, a bill to amend title 5 and 28, United States Code, with respect to the award of fees and other expenses in cases brought against agencies of the United States, to require the Administrative Conference of the United States to compile, and make publically available, certain data relating to the Equal Access to Justice Act, and for other purposes.

S. 1265

At the request of Mr. BINGAMAN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1265, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 1385

At the request of Mr. VITTER, the names of the Senator from Kansas (Mr. MORAN) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 1385, a bill to terminate the $1 presidential coin program.

S. 1454

At the request of Mr. DURBIN, the name of the Senator from California

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S. 3457

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 3457, a bill to require the Secretary of Veterans Affairs to establish a veterans jobs corps, and for other purposes.

S. 3463

At the request of Mr. FRANKEN, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 3463, a bill to amend title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries.

S. 3471

At the request of Mr. RUBIO, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Georgia (Mr. ISAKSON), the Senator from Louisiana (Mr. VITTER), the Senator from Utah (Mr. LEE) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of S. 3471, a bill to amend the Internal Revenue Code of 1986 to eliminate the tax on Olympic medals won by United States athletes.

S. 3474

At the request of Mr. MERKLEY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3474, a bill to provide consumer protection for students.

S. 3480

At the request of Mr. JOHANNS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3480, a bill to provide end user exemptions from certain provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934.

S.J. RES. 29

At the request of Mr. UDALL of New Mexico, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S.J. Res. 29, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. CON. RES. 47

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 47, a concurrent resolution expressing the sense of Congress on the sovereignty of the Republic of Cyprus over all of the territory of the island of Cypress.

S. CON. RES. 50

At the request of Mr. RUBIO, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. Con. Res. 50, a concurrent resolution expressing the sense of Congress regarding actions to preserve and advance the multistakeholder governance model under which the Internet has thrived.

S. RES. 392

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. Res. 392, a resolution urging the Republic of Turkey to safeguard its Christian heritage and to return confiscated church properties.

AMENDMENT NO. 2653

At the request of Mr. GRAHAM, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of amendment No. 2653 intended to be proposed to S. 3414, a bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

AMENDMENT NO. 2732

At the request of Mr. FRANKEN, the names of the Senator from Kentucky (Mr. PAUL), the Senator from Oregon (Mr. WYDEN), the Senator from New York (Mr. SCHUMER), the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. COONS), the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from Vermont (Mr. SANDERS), the Senator from New Mexico (Mr. UDALL), the Senator from Oregon (Mr. MERKLEY), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Washington (Ms. CANTWELL), the Senator from Alaska (Mr. BEGICH), the Senator from Iowa (Mr. HARKIN), the Senator from Illinois (Mr. DURBIN), the Senator from Montana (Mr. TESTER), the Senator from Virginia (Mr. WEBB) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 2732 proposed to S. 3414, a bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 3486. A bill to implement the provisions of the Hague Agreement and the Patent Law Treaty; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce today legislation that will help American businesses and inventors by reducing obstacles for obtaining patent protection overseas. This bipartisan measure implements two patent law treaties that were signed under President Clinton and submitted for the Senate's advice and consent by President George W. Bush. The Senate voted to ratify the treaties in 2007 without a single Senator in dissent. With this implementing legislation, Congress will complete its work so that the treaties at last can be ratified and go into effect.

Our patent system plays a key role in encouraging innovation and bringing new products to market. The discoveries made by American inventors and research institutions, commercialized by our companies, and protected and promoted by our patent laws, have made our system the envy of the world. But in this global economy, it is not enough to have an effective domestic patent system; we must also help American inventors and businesses to protect their inventions and thrive in markets around the world. Consistent with last year's landmark patent reform legislation, the Leahy-Smith America Invents Act, this legislation will benefit American inventors by implementing two measures to reduce application barriers around the world.

The Hague Agreement Concerning International Registration of Industrial Designs provides a simplified application system for U.S. creators of industrial designs who, by filing a single standardized application for a design patent at the U.S. Patent and Trademark Office, can apply for design protection in each country that has ratified the Treaty. American design patent applicants who previously had to file separate applications in numerous countries may now file a single, English-language application at the U.S. Patent Office, reducing the costs and burdens of obtaining international protections. The U.S. Patent Office may also receive applications that have been filed internationally, but its substantive examination process remains unchanged. The standard for obtaining a design patent is not affected. By simplifying the process for American businesses to obtain design patents overseas, the Hague Agreement will reduce barriers for small and midsize companies to expand into foreign markets.

The Patent Law Treaty also streamlines the process for American businesses seeking patent protection overseas. It limits the formalities different countries can require in patent applications, which are often used to disadvantage American applications in foreign jurisdictions. American businesses and inventors will benefit from harmonized applications, reducing the cost of doing business and encouraging U.S. innovators to protect and export their products internationally.

In June, Director Kappos of the U.S. Patent and Trademark Office testified before the Judiciary Committee about the important need for this implementing legislation, stating that the treaties are ''pro-American innovation, pro-global innovation, pro-jobs, pro-opportunity.'' I agree. I urge the Senate to act quickly on this final step so that the treaties can at last be ratified, and American innovators and businesses can benefit from them as U.S. products continue to thrive on the global stage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patent Law Treaties Implementation Act of 2012''.

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TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

"PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

''CHAPTER Sec.
''38. International design applications 381.

"CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

''Sec.
''381. Definitions.
''382. Filing international design applications.
''383. International design application.
''384. Filing date.
''385. Effect of international design application.
''386. Right of priority.
''387. Relief from prescribed time limits.
''388. Withdrawn or abandoned international design application.
''389. Examination of international design application.
''390. Publication of international design application.

"§ 381. Definitions

''(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

''(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

''(2) the term 'regulations'—

''(A) when capitalized, means the Common Regulations under the treaty; and

''(B) when not capitalized, means the regulations established by the Director under this title;

''(3) the term 'designation' means a request that an international registration have effect in a Contracting Party to the treaty;

''(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

''(5) the term 'effective registration date' means the date of international registration indicated by the International Bureau under the treaty;

''(6) the term 'international design application' means an application for international registration; and

''(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

''(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"§ 382. Filing international design applications

''(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

''(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17 of this title, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

''(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 of this title shall apply.

''(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title if the international design application is filed—

''(1) in a country other than the United States;

''(2) at the International Bureau; or

''(3) with an intergovernmental organization.

"§ 383. International design application

''In addition to any requirements pursuant to chapter 16 of this title, the international design application shall contain—

''(1) a request for international registration under the treaty;

''(2) an indication of the designated Contracting Parties;

''(3) data concerning the applicant as prescribed in the treaty and the Regulations;

''(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international application, presented in the number and manner prescribed in the treaty and the Regulations;

''(5) an indication of the product or products which constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

''(6) the fees prescribed in the treaty and the Regulations; and

''(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date

''(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 of this title may be treated as a design application under chapter 16 of this title.

''(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

"§ 385. Effect of international design application

''An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384 of this part, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16 of this title.

"§ 386. Right of priority

''(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 of this title and section 172 of this title, a national application shall be entitled to the right of priority based on a prior international design application which designated at least one country other than the United States.

''(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 of this title and section 172 of this title and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) of this title designating at least one country other than the United States, or a prior international design application designating at least one country other than the United States.

''(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120 of this title, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) of this title designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) of this title which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 387. Relief from prescribed time limits

''An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7) of this title, as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

''Subject to sections 384 and 387 of this part, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) of this part was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

"§ 389. Examination of international design application

''(a) IN GENERAL.—The Director shall cause an examination pursuant to this title of an international design application designating the United States.

''(b) APPLICABILITY OF CHAPTER 16.—All questions of substance, and, unless otherwise

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required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16 of this title.

''(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

''(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16 of this title.

''§ 390. Publication of international design application

''The publication under the treaty defined in section 381(a)(1) of an international design application designating the United States shall be deemed a publication under section 122(b).''.

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

''V. The Hague Agreement concerning international registration of industrial designs ..... 401''.

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B), by striking ''right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(2) in section 102(d)(2), by striking ''to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)''; and

(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)''; and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'';

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'';

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) of this title designating the United States''; and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) of this title which designated but did not originate in the United States'' after ''did not originate in the United States''; and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawl.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall be effective on the later of—

(1) the date that is 1 year after the date of enactment of this Act, or

(2) the date of entry into force of the treaty, as defined in section 381 of title 35, as amended by this Act, with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications as defined in section 351(c) of title 35, United States Code, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.'';

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.''; and

(3) by adding at the end the following:

''(c) PRIOR FILED APPLICATION.—The Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in application being regarded as abandoned and treated as having never been filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''§ 27. Revival of applications; reinstatement of reexamination proceedings

''(a) IN GENERAL.—The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''27. Revival of applications; reinstatement of reexamination proceedings.''.

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a), by adding at the end the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional.''; and

(II) in the last sentence—

(aa) by striking ''including the payment of a surcharge'' and inserting ''including the payment of the fee specified in section 41(a)(7)''; and

(bb) by striking ''during the pendency of the application''; and

(ii) in paragraph (3), by adding at the end the following: ''For an application for patent filed under section 363 in a foreign Receiving Office, the 12-month and additional 2 month

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period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.''; and

(2) in section 365(b), by adding at the end the following: ''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim where such priority claim pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.''.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: ''The Patent and Trademark Office shall maintain a register of interests in applications for patents and patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended by adding at the end the following:

''The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking subsection (7) and inserting the following:

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director''; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in paragraph (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'';

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following:

''§ 151. Issue of patent

''If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 361, by striking subsection (c) and inserting the following:

''(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.'';

(8) in section 364, by striking subsection (b) and inserting the following:

''(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.''; and

(9) in section 371(d), in the third sentence, by striking '', unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable''.

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall be effective on the date that is 1 year after the date of enactment of this Act and shall apply to all patents and to all applications for patent pending on or filed after the date that is 1 year after the date of enactment of this Act.

(b) EXCEPTIONS.—

(1) SECTION 201(A).—The amendments made by section 201(a) shall apply only to applications filed on or after the date that is 1 year after the date of enactment of this Act.

(2) PATENT THAT IS SUBJECT OF LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the date that is 1 year after the date of enactment of this Act.

By Mr. KYL:

S. 3493. A bill to protect first amendment rights of journalists and internet service providers by preventing States and the United States from allowing meritless lawsuits arising from acts in furtherance of those rights, commonly called ''Strategic Lawsuits Against Public Participation'' or ''SLAPPs'', and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Free Press Act. The FPA would create a Federal anti-SLAPP statute for journalists, bloggers, and other news media, authorizing them to bring a special motion to dismiss lawsuits brought against them that arise out of their speech on public issues. Once the special motion to dismiss is brought, the nonmoving party must present a prima facie case supporting the lawsuit; if the nonmovant fails to do so, the lawsuit is dismissed and fees and costs are awarded to the movant.

Anti-SLAPP laws effectively make it impossible for frivolous or marginal libel lawsuits arising out of protected speech to advance beyond an initial stage of litigation. Such laws thereby protect journalists and bloggers from the financial impact of defending against such suits. Approximately 30 States have anti-SLAPP laws, though their coverage varies. There is no federal law. The FPA would create a federal anti-SLAPP law, and allow parties to remove some state SLAPP claims to Federal court.

At the conclusion of my remarks today, I will submit for the record a section-by-section summary of the FPA. I will first, however, comment on several features of the bill, including the meaning of some of the language that is used, and Congress' authority to enact such legislation.

The FPA's special motion to dismiss requires the plaintiff to present ''prima facie evidence'' supporting his cause of action. The standard definition of ''prima facie evidence,'' which is employed by the FPA, is that given by Justice Story in his opinion for the court in *Kelly* v. *Jackson*, 31 U.S. 622, 632, 1832: ''What is prima facie evidence of a fact? It is such as, in judgment of law, is sufficient to establish a fact; and, if not rebutted, remains sufficient for that purpose.'' For similar statements, see *Bailey* v. *Alabama*, 219 S.Ct. 219, 234, 1911, quoting *Kelly* v. *Jackson*; and *Neely* v. *United States*, 150 F.2d 977, 978, D.C. Cir. 1945, which notes ''Justice Story's often quoted definition of prima facie evidence.''

This definition is also employed by Black's Law Dictionary, which defines ''prima facie evidence'' as:

> Such evidence as, in the judgment of the law, is sufficient to establish a given fact and which if not rebutted or contradicted, will remain sufficient. [Prima facie evidence], if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but [it] may be contradicted by other evidence.

In a recent concurring and dissenting opinion, Justice Scalia went so far as to describe this definition of ''prima facie evidence'' as ''canonical.'' He also stated:

> The established meaning in Virginia, then, of the term ''prima facie evidence'' appears to be perfectly orthodox: It is evidence that suffices, on its own, to establish a particular fact. But it is hornbook law that this is true only to the extent that the evidence goes unrebutted. ''Prima facie evidence of a fact is such evidence as, in judgment of law, is sufficient to establish the fact; and, if not rebutted, remains sufficient for the purpose.'' 7B Michie's Jurisprudence of Virginia and West Virginia § 32, 1998, (emphasis added).

Virginia v. *Black*, 538 U.S. 343, 369–70, 2003, Scalia, J., concurring in part, concurring in judgment in part, and dissenting in part.

Other Federal courts continue to use this definition of ''prima facie evidence:''

> ''A prima facie showing simply means evidence of such nature as is sufficient to establish a fact and which, if unrebutted, remains sufficient for that purpose.'' *Cumulus Media, Inc.* v. *Clear Channel Communications, Inc.*, 304 F.3d 1167, 1176 n.13, 11th Cir. 2002.

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''Under [the prima facie evidence] standard, it is plaintiff's burden to demonstrate the existence of every fact required to satisfy both the forum's long-arm statute and the Due Process Clause of the Constitution. The prima facie showing must be based upon evidence of specific facts set forth in the record. To meet this requirement, the plaintiff must go beyond the pleadings and make affirmative proof. However, in evaluating whether the prima facie standard has been satisfied, the district court is not acting as a factfinder; rather, it accepts properly supported proffers of evidence by a plaintiff as true and makes its ruling as a matter of law. When the district court employs the prima facie standard appellate review is de novo.'' *United States* v. *Swiss American Bank, Ltd.*, 274 F.3d 610, 618–19, 1st Cir. 2001, citations and quotations omitted.

''Prima facie evidence consists of specific factual information which, in the absence of rebuttal, is sufficient to show that a fairness doctrine violation exists. * * * * In general terms, prima facie evidence is evidence which is sufficient in law to sustain a finding in favor of a claim, but which may be contradicted.'' *American Security Council Education Foundation* v. *F.C.C.*, 607 F.2d 438, 445–46 & n.24, D.C. Cir. 1979.

''A prima facie case is established by evidence adduced by the plaintiff in support of his case up to the time such evidence stands unexplained and uncontradicted. The words 'prima facie,' when used to describe evidence, *ex vi termini* imply that such evidence may be rebutted by competent testimony. The term prima facie evidence' implies evidence which may be rebutted and overcome, and simply means that in the absence of explanatory or contradictory evidence the finding shall be in accordance with the proof establishing the prima facie case.'' *In re Chicago Rys. Co*, 175 F.2d 282, 289–90, 7th Cir. 1949, citations and quotations omitted.

''The term prima facie evidence means * * * [e]vidence good and sufficient on its face; such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. Prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence.''' *Gibson* v. *Zant*, 547 F.Supp. 1270, 1276, M.D. Ga. 1982, quoting Black's Law Dictionary, 5th Edition.

'Prima facie evidence' is evidence which, if unrebutted or unexplained, is sufficient to establish the fact to which it is related. It proves the fact until other proof contradicts or overcomes the factual hypothesis initially set up by the presumption.'' *DAL Int'l Trading Co.* v. *The SS Milton J. Foreman*, 171 F.Supp. 794, 798, E.D.N.Y. 1959.

The FPA makes its special motion to dismiss available in cases arising out of speech on matters of public concern. It bears emphasis that ''matters of public concern'' include commentary on consumer products. As the Pennsylvania intermediate court of appeals recently noted, in *American Future Systems, Inc.* v. *Better Business Bureau of Eastern Pennsylvania*, 872 A.2d 1202, 1211, Pa. Super. 2005, a ''statement regarding the effectiveness of a consumer product addresses a matter of public concern.'' Similarly, the U.S. Court of Appeals for the Ninth Circuit, in *Unelko Corp.* v. *Rooney*, 912 F.2d 1049, 1056, 9th Cir. 1990, concluded that ''statements about product effectiveness'' address matters of public concern. And the Second Circuit, in *Flamm* v. *American Assoc. of University Women*, 201 F.3d 144, 150, 2d Cir. 2000, has held that a negative evaluation of an attorney's services, directed to potential customers, addresses a matter of public concern.

The following quotation from a New Jersey Supreme Court opinion, citing other courts' decisions, illustrates the breadth of support for the proposition that commentary on products or services offered to consumers is a matter of public concern. That court noted, in *Dairy Stores, Inc.* v. *Sentinel Publishing Co., Inc.*, 104 N.J. 125, 144–45, 516 A.2d 220, 230, 1986, that:

Some courts have developed criteria for determining whether the activities and products of corporations constitute matters of public interest. As previously indicated, matters of public interest include such essentials of life as food and water. See *Steaks Unlimited, Inc.* v. *Deaner*, supra, 623 F.2d 264; *All Diet Foods Distribs., Inc.* v. *Time, Inc.*, supra, 56 Misc.2d 821, 290 N.Y.S.2d 445; *Exner* v. *American Medical Ass'n*, supra, 12 Wash.App. 215, 529 P.2d 863. Widespread effects of a product are yet another indicator that statements about the product are in the public interest. *Robinson* v. *American Broadcasting Cos.*, 441 F.2d 1396 (6th Cir.1971) (possible causes of cancer are a matter of public concern); *Lewis* v. *Reader's Digest Ass'n*, supra, 366 F.Supp. at 156, article on an arthritis cure is in public interest because significant portion of population is afflicted with arthritis; *American Broadcasting Cos., Inc.* v. *Smith Cabinet Mfg. Co., Inc.*, 160 Ind.App. 367,——, 312 N.E.2d 85, 90, 1974, flammability of 25,000 baby cribs held to be matter of public interest; *Krebiozen Research Found.* v. *Beacon Press, Inc.*, 334 Mass. 86, ——, 134 N.E.2d 1, 6–9, cert. denied, 352 U.S. 848, 77 S.Ct. 65, 1 L.Ed.2d 58, 1956, possible cures for cancer are matter of public concern. Still another criterion is substantial government regulation of business activities and products.

The FPA thus protects speech consisting of consumer commentary that focuses solely on the quality, reliability, or effectiveness of a consumer product, regardless of whether such commentary addresses broader social issues. The quality of goods and services offered to the public is itself a matter of public concern. The FPA protects the dissemination of any information about a product that would be of interest to potential consumers.

Finally, the FPA allows removal to Federal court to be sought by a defendant. Although current law only allows removal when the Federal question appears on the face of a well-pleaded complaint, this rule is only statutory. Congress is well within its power to allow removal of cases that raise a colorable Federal defense.

Two current Federal statutes clearly allow removal by defendants based only on the assertion of a Federal defense. One is 28 U.S.C. § 1442(a), which allows Federal officers, among others, to remove a state civil action or prosecution to federal court. The other is 9 U.S.C. § 205, which allows removal of disputes that appear to be covered by an international arbitration agreement.

Although such a limitation is not stated on the face of section 1442, the Supreme Court has long held that ''federal officer removal must be predicated on the allegation of a colorable federal defense.'' *Mesa* v. *California*, 489 U.S. 121, 129, 1989. *See also id.* at 133–34, which notes that ''an unbroken line of this Court's decisions extending back nearly a century and a quarter have understood all the various incarnations of the federal officer removal statute to require the averment of a federal defense.''

The most recent Supreme Court pronouncements confirm that 'Article III 'arising under' jurisdiction is broader than federal question jurisdiction under § 1331,'' *Verlinden B.V.* v. *Central Bank of Nigeria*, 461 U.S. 480, 495 (1983), and note that Article III federal-question jurisdiction ''has been construed as permitting Congress to extend federal jurisdiction to any case of which federal law potentially forms an ingredient,'' *Franchise Tax Board* v. *Construction Laborers Vacation Trust*, 463 U.S. 1, 8 n.8 (quoting *Osborn* v. *Bank of the United States*, 9 What. 738, 823 (1824)).

In *Martin* v. *Hunter's Lessee*, 1 Wheat. 304, 348–49, 1816, the Supreme Court also noted that

''[t]he judicial power * * * * was not to be exercised exclusively for the benefit of parties who might be plaintiffs, and would elect the national forum, but also for the protection of defendants who might be entitled to try their rights, or assert their privileges, in the same forum,'' and further noting that ''we are referred to the power which it is admitted congress possess to remove suits from state courts to the national courts.''

The Federal-defense-based removal authorized by the FPA is thus well within Congress's constitutional authority.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 3493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Free Press Act of 2012''.

SEC. 2. SPECIAL MOTION TO DISMISS.

Part VI of title 28, United States Code, is amended by adding at the end the following:

''CHAPTER 182—SPECIAL MOTION TO DISMISS

''Sec.
''4201. Special motion to dismiss.
''4202. Stay of discovery.
''4203. Exceptions for governmental litigation and commercial speech.
''4204. Interlocutory appeal.
''4205. Special motion to quash.
''4206. Removal.
''4207. Fees, costs, and sanctions.

''§ 4201. Special motion to dismiss

''(a) IN GENERAL.—A representative of the news media (as defined in section 552(a)(4) of title 5) may file a special motion to dismiss

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any claim asserted against the representative of the news media in a civil action if the claim arises in whole or in part from an oral or written statement or other expression that is on a matter of public concern or that relates to a public official or figure.

''(b) TIME LIMIT.—Unless the court grants an extension, a special motion to dismiss under this section shall be filed—

''(1) not later than 45 days after the date of service of the claim, if the claim is filed in Federal court; or

''(2) not later than 30 days after the date of removal, if the claim is removed to Federal court under section 4206.

''(c) AMENDMENTS.—If a special motion to dismiss is filed under this section as to a claim, the claim may not be amended or supplemented until a final and unappealable order is entered denying the special motion to dismiss.

''(d) BURDENS OF PROOF.—

''(1) MOVING PARTY.—A representative of the news media filing a special motion to dismiss under this section as to a claim shall have the burden of making a prima facie showing that the claim is a claim described in subsection (a).

''(2) NONMOVING PARTY.—If the movant meets the burden described in paragraph (1) for a claim, the party asserting the claim shall bear the burden of proving that the claim is—

''(A) legally sufficient; and

''(B) supported by a prima facie showing, based on admissible evidence, of facts sufficient to sustain a favorable judgment.

''(3) FAILURE TO MEET BURDEN.—If the nonmoving party fails to meet the burden required for a claim under paragraph (2), the claim shall be dismissed with prejudice.

''§ 4202. Stay of discovery

''(a) IN GENERAL.—Except as provided in subsection (b), upon the filing of a special motion to dismiss under section 4201, discovery proceedings in the action shall be stayed until a final and unappealable order is entered on the special motion to dismiss.

''(b) LIMITATION AND EXCEPTION.—

''(1) LIMITATION.—A stay issued under subsection (a) based on the filing of a special motion to dismiss that only seeks dismissal of a third-party claim or a cross claim asserted by a defendant shall only stay discovery that—

''(A) is requested by the party asserting the third-party claim or cross claim; or

''(B) relates solely to the third-party claim or cross claim.

''(2) EXCEPTION.—Upon motion and for good cause shown, a court may order that specified discovery be conducted.

''§ 4203. Exceptions for governmental litigation and commercial speech

''A special motion to dismiss under section 4201 may not be filed as to a claim that—

''(1) is brought by the Federal Government or the attorney general of a State; or

''(2) arises out of a statement offering or promoting the sale of the goods or services of the person making the statement.

''§ 4204. Interlocutory appeal

''An aggrieved party may take an immediate interlocutory appeal from an order granting or denying in whole or in part a special motion to dismiss under section 4201.

''§ 4205. Special motion to quash

''(a) IN GENERAL.—A person whose personally identifying information is sought in connection with a claim that arises in whole or in part from an oral or written statement or other expression that is on a matter of public concern or that relates to a public official or figure, or a person from whom such information is sought in connection with such a claim, may file a special motion to quash the request or order to produce the information.

''(b) BURDENS OF PROOF.—

''(1) MOVING PARTY.—A person filing a special motion to quash a request or order under this section shall have the burden of making a prima facie showing that the request or order is a request or order described in subsection (a).

''(2) NONMOVING PARTY.—If the movant meets the burden described in paragraph (1), the party who made the request or sought the order shall bear the burden of showing that the claim described in subsection (a) is—

''(A) legally sufficient; and

''(B) supported by a prima facie showing, based on admissible evidence, of facts sufficient to sustain a favorable judgment.

''(3) FAILURE TO MEET BURDEN.—If the nonmoving party fails to meet the burden required for a claim under paragraph (2), the request or order to produce the personally identifying information shall be quashed.

''§ 4206. Removal

''(a) SPECIAL MOTION TO DISMISS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a civil action in a State court that raises a claim that colorably appears to be a claim described in section 4201(a) may be removed to the district court of the United States for the district and division embracing the place where the civil action is pending by a party who may file and who seeks to file a special motion to dismiss under section 4201 that asserts a colorable defense based on the Constitution or laws of the United States.

''(2) EXCEPTION.—Removal may not be requested under paragraph (1) on the basis of a third-party claim or a cross claim asserted by a defendant.

''(3) REMAND.—If a civil action is removed under paragraph (1), and a final and unappealable order is entered denying the special motion to dismiss filed under section 4201, the court may remand the remaining claims to the State court from which the civil action was removed.

''(b) SPECIAL MOTION TO QUASH.—

''(1) IN GENERAL.—A proceeding in a State court in which a request or order that colorably appears to be a request or order described in section 4205(a) is sought, issued, or sought to be enforced may be removed to the district court of the United States for the district and division embracing the place where the civil action is pending by a person who may file and who seeks to file a special motion to quash under section 4205 that asserts a colorable defense based on the Constitution or laws of the United States.

''(2) LIMITATION.—If removal is requested under paragraph (1) for a proceeding in which a request or order described in section 4205(a) is sought, issued, or sought to be enforced, and there is no basis for removal of the remainder of the civil action in connection with which the proceeding is brought, or no party has requested removal of the remainder of the civil action, only the proceeding in which the request or order described is section 4205(a) is sought, issued, or sought to be enforced may be removed.

''§ 4207. Fees, costs, and sanctions

''(a) ATTORNEY'S FEES AND COSTS.—Except as provided in subsection (c), a court shall award a person who files and prevails on a special motion to dismiss under section 4201 or a special motion to quash under section 4205 litigation costs, expert witness fees, and reasonable attorney's fees.

''(b) FRIVOLOUS MOTIONS OR PETITIONS.—Except as provided in subsection (c)(1), if a court finds that a special motion to dismiss under section 4201, a special motion to quash under section 4205, or a notice of removal under section 4206 is frivolous or is solely intended to cause unnecessary delay, the court may award litigation costs, expert witness fees, and reasonable attorney's fees to the party that responded to the motion or notice.

''(c) EXCEPTIONS.—

''(1) GOVERNMENTAL ENTITIES.—The Federal Government and the government of a State, or political subdivision thereof, may not recover litigation costs, expert witness fees, or attorney's fees under this section.

''(2) NOVEL LEGAL QUESTIONS.—A court may not award litigation costs, expert witness fees, or attorney's fees under subsection (a) if the grant of the special motion to dismiss under section 4201 or the special motion to quash under section 4205 depended on the resolution of a novel or unsettled legal question in favor of the movant.''.

SEC. 3. RELATIONSHIP TO OTHER LAWS.

Nothing in this Act or the amendments made by this Act shall preempt or supersede any Federal or State statutory, constitutional, case, or common law that provides the equivalent or greater protection for persons engaging in activities protected by the First Amendment to the Constitution of the United States.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CHAPTERS.—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

''182. Special motion to dismiss ..... 4201''.

(b) INTERLOCUTORY APPEALS.—Section 1292(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(4) Interlocutory orders granting or denying in whole or in part special motions to dismiss under section 4201.''.

(c) NONDISCHARGABILITY OF FEES AND COSTS.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (19) the following:

''(20) for litigation costs, expert witness fees, or reasonable attorney's fees awarded by a court under chapter 182 of title 28 or under comparable State laws.''.

SEC. 5. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to a claim filed on or after the date of enactment of this Act.

(b) CLAIMS FILED BEFORE ENACTMENT.—For a claim that was filed before and is pending on the date of enactment of this Act—

(1) this Act and the amendments made by this Act shall apply to the claim if the court with original jurisdiction of the claim has not entered a judgment on the merits as to the claim as of the date of enactment of this Act; and

(2) for a claim described in paragraph (1), the periods under sections 4201 and 1446 of title 28, United States Code, as amended by this Act, shall begin on the date of enactment of this Act.

FREE PRESS ACT: SECTION-BY-SECTION SUMMARY

Section 4201. Special Motion to Dismiss. A ''representative of the news media'' (as defined in FOIA) may file a special motion to dismiss a legal claim arising out of speech on

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a matter of public concern or that relates a public official or figure. Once the motion is properly brought, the nonmovant must show that the lawsuit is supported by a prima facie showing of facts sufficient to sustain a favorable judgment. If the nonmovant fails to meet this burden, the lawsuit is dismissed with prejudice.

Section 4202. Stay of Discovery. Upon filing of the special motion to dismiss, discovery is stayed absent good cause shown. If the motion is filed with respect to a cross claim or third-party claim, discovery is stayed only with respect to that claim. (This exception is made to prevent defendants from using the special motion to dismiss to affect litigation in which the complaint does not assert claims arising out of speech on public issues.)

Section 4203. Governmental Litigation and Commercial Speech Exceptions. A special motion to dismiss may not be brought against a claim that is brought by the Federal government or a State Attorney General, or that arises out of speech offering or promoting the sale of the speaker's goods or services.

Section 4204. Interlocutory Appeal. Either side may bring an immediate appeal of the denial or grant of a special motion to dismiss.

Section 4205. Special Motion to Quash. A party may move to quash a request to obtain the personally identifying information of a person that is made in relation to a legal claim arising out of speech on public issues. (E.g., a company seeks discovery from an ISP of the identity of persons posting unfavorable comments about the company's goods or services on a blog.) If the motion to quash is properly brought, the nonmovant must show that the legal claim is supported by a prima facie showing of facts sufficient to sustain a favorable judgment. If the nonmovant fails to meet this burden, the request for personally identifying information is quashed.

Section 4206. Removal. A state-court claim arising out of speech on public issues may be removed to federal court by a party that intends to file a special motion to dismiss the claim. Removal may not be requested on the basis of a cross claim or third-party claim. (This exception is made to prevent defendants from removing cases in which the complaint does not assert claims arising out of speech on public issues.) A proceeding to enforce discovery requesting personally identifying information may also be removed, but removal is limited to the discovery-enforcement proceeding.

Section 4207. Fees, Costs, and Sanctions. A party that prevails on a special motion to dismiss or quash shall be entitled to reasonable attorneys fees and costs. Frivolous motions to dismiss or quash or remove shall be subject to sanctions. Fees may not be recovered by the government, or in cases that turn on the resolution of a novel legal question.

By Mr. COCHRAN (for himself and Mr. WICKER):

S. 3496. A bill to amend title XVIII of the Social Security Act to permit direct payment to pharmacies for certain compounded drugs that are prepared by the pharmacies for a specific beneficiary for use through an implanted infusion pump; to the Committee on Finance.

Mr. COCHRAN. Mr. President, on May 13, 2011, the Centers for Medicare and Medicaid Services issued Change Request 7397 to stop compounding pharmacies that prepare medications used in implanted infusion pumps from billing Medicare directly for these services. This was an attempt to reverse a policy that has been permissible in several States for over 20 years. Since then, I have worked with Senator WICKER and other Members of Congress to delay the implementation of this change until its effects have been fully considered.

This policy change has been met with opposition from pharmacies, physicians, and patients. In Mississippi, pharmacies are prohibited from selling infused pain medications to physicians, which would result in decreased access to effective treatments for chronic pain disorders. While this is a particular issue in my State, this policy change will have serious implications across the Nation.

The Centers for Medicare and Medicaid Services has worked with us over the past year to delay this policy change and to propose a rule that is now receiving comments. However, CMS officials have continued to demonstrate a lack of understanding about the potential consequences of changing payment policy. We should protect practices that have been effective in treating patients and support those who supply drugs necessary for the well-being of patients. This bill would explicitly allow compounding pharmacies to bill Medicare directly for their services in the interest of helping patients continue to receive the quality care they deserve.

By Mr. REID (for himself and Mr. MCCONNELL):

S. 3510. A bill to prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes; considered and passed.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD as follows:

S. 3510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EFFECTIVE DATE DELAY.

The STOCK Act (Public Law 112–105) is amended—

(1) in section 8(a)(1), by striking ''August 31, 2012'' and inserting ''September 30, 2012''; and

(2) in section 11(a)(1), by striking ''August 31, 2012'' and inserting ''September 30, 2012''.

SEC. 2. IMPLEMENTATION OF PTR REQUIREMENTS UNDER STOCK ACT.

Effective September 30, 2012, for purposes of implementing subsection (l) of section 103 of the Ethics in Government Act of 1978 (as added by section 6 of the STOCK Act, Public Law 112–105) for reporting individuals whose reports under section 101 of such Act (5 U.S.C. App. 101) are required to be filed with the Clerk of the House of Representatives, section 102(e) of such Act (5 U.S.C. App. 102(e)) shall apply as if the report under such subsection (l) were a report under such section 101 but only with respect to the transaction information required under such subsection (l).

By Mr. HOEVEN (for himself, Mr. CONRAD, Mr. BAUCUS, Mr. MCCONNELL, Mr. KOHL, Mr. PORTMAN, Ms. LANDRIEU, Mr. BOOZMAN, Mr. MANCHIN, Mr. BLUNT, Mr. WARNER, Mr. JOHNSON of Wisconsin, Mr. PRYOR, Mr. MORAN, Mrs. MCCASKILL, Mr. ALEXANDER, Mr. NELSON of Nebraska, Mr. TOOMEY, Mr. NELSON of Florida, Mr. GRAHAM, Mr. CASEY, Mr. THUNE, Mr. WEBB, and Mr. HATCH):

S. 3512. A bill to amend subtitle D of the Solid Waste Disposal Act to facilitate recovery and beneficial use, and provide for the proper management and disposal, of materials generated by the combustion of coal and other fossil fuels; to the Committee on Environment and Public Works.

Mr. HOEVEN. Mr. President, I rise today to introduce legislation on another matter, important energy legislation for our country. I am today introducing the Hoeven-Conrad-Baucus Coal Ash Recycling and Oversight Act of 2012.

In my home State of North Dakota there is a large powerplant just north of the State capital in Bismarck. It is a coal creek power station. Now this power station generates 1,100 megawatts of electricity every year. There are two 550 megawatt plants. It has the latest, greatest technology emission control and clean coal technology. They capture the steam that was formally exhausted from the plant. They capture that steam and use it to run an ethanol plant. They produce transportation fuel with steam, a by-product of the electric generation process.

One of the other things they do, instead of land filling the coal ash, fly ash, or coal residuals, they recycle. So, in essence, they take that coal ash—they work with a natural resource company, Headwaters, based out of Utah, and they turn the coal ash into a concrete product, FlexCrete. It is used to make roads, bridges, buildings, and also products like shingles. They make building materials.

So whereas they used to take about 600,000 tons a year of coal residuals and coal ash flash and landfill it, and it costs $6 a ton or so to landfill it, now they take that 600,000 tons a year of fly ash and residuals and turn it into building products.

The difference instead of paying to dispose of something and now being paid to recycle something is about a $16 million a year revenue item for that plant. That means lower cost for electricity for businesses in States such as the great State of North Dakota and the great State of Minnesota and other States as well. It truly benefits our consumers, our families, and our economy. It benefits small businesses throughout the upper Midwest. So it is truly a great example of American ingenuity and innovation.

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In fact, I have a picture right here. This is the North Dakota Heritage Center. Right now there is a $50 million expansion being constructed in that Heritage Center which is located on the capital grounds in Bismarck. It is a $50 million expansion. They are using building materials made of coal ash for this facility. That is what it is going to look like after they do this $50 million expansion.

Let me give another example. This is the National Energy Center of Excellence at Bismarck State College. It is a 2-year college that trains people for the energy industry. It is located right above the Missouri River. This beautiful window overlooks the Missouri River. Again this is a building constructed with building materials made of fly ash. We can see how this product is being used and how effectively this is being used.

As a matter of fact, if we look nationwide, by recycling coal ash we reduce energy consumption by 162 trillion Btus every year. That is the amount of energy we would use to 1.7 million homes in a year. It is pretty substantial energy savings. Or measure it in terms of water use. By recycling coal ash, we reduce water usage by 32 billion gallons annually. That is about one-third of the total amount of water that the State of California uses in a year.

Why do I tell the story? Because right now the EPA is looking at changing the regulation of coal ash. They are looking at changing the regulation of coal ash to doing it under subtitle C of the Resource Conservation and Recovery Act. The problem is that is the hazardous waste section. Right now coal ash is regulated under subtitle D of the Resource Conservation and Recovery Act, which is the nonhazardous waste section. The EPA is looking at making that change in spite of the fact that the Department of Energy, the Federal Highway Administration, State regulatory agencies, and the EPA itself have done studies, and those studies have shown that is not a toxic waste.

The EPA first proposed this new regulation in June of 2010. This regulation would truly undermine the industry, drive up costs, and eliminate jobs when our economy can least afford it. In fact, according to industry estimates, it would increase electricity costs by up to almost $50 billion annually and eliminate 300,000 American jobs.

Let me elaborate. Meeting the regulatory disposal requirements under the EPA's subtitle C proposal would cost between $250 and $450 per ton as opposed to about $100 per ton under the current system. That would translate into $47 billion in terms of burden on electricity generators that use coal and, of course, most importantly, their customers who would see their bills increased. As I said, overall it would cost about 300,000 American jobs for our economy.

That is why I am introducing the Hoeven-Conrad-Baucus Recycling and Oversight Act, which is S. 3512, and it has very strong bipartisan support. It is truly a bipartisan bill, including 12 Republican sponsors and 12 Democratic sponsors. The Republican sponsors include myself, Senator MCCONNELL, Senator PORTMAN, Senator BOOZMAN, Senator BLUNT, Senator RON JOHNSON, Senator MORAN, Senator ALEXANDER, Senator TOOMEY, Senator GRAHAM, Senator THUNE, and Senator HATCH. The Democratic cosponsors include Senator CONRAD, Senator BAUCUS, Senator KOHL, Senator LANDRIEU, Senator MANCHIN, Senator WARNER, Senator PRYOR, Senator MCCASKILL, Senator BEN NELSON, Senator BILL NELSON, Senator CASEY, and Senator WEBB. I wish to thank them for their willingness to join together in a bipartisan way—12 Republicans, 12 Democrats—coming together to provide the kind of energy legislation that is going to truly help move this country forward, empowering not only more energy development but better environmental stewardship.

This legislation is similar to H.R. 2273, which was sponsored by Representative DAVID MCKINLEY of West Virginia in the House, and it passed the House with strong bipartisan support. This legislation is very similar. We have made some enhancements, but it is very similar.

The bill not only preserves coal ash recycling by preventing these by-products from being treated as hazardous, it also establishes—and this is important because it is also about good environmental stewardship—it also establishes comprehensive Federal standards for coal ash disposal. Under this legislation, States can set up their own permitting program for the management and the disposal of coal ash. These programs would be required to be based on existing EPA regulations that protect human health and the environment. If a State does not implement an acceptable permitting program, then EPA regulates the program for the State. As a result, States and industry will know where they stand under the bill, since the benchmarks for what constitutes a successful State program will be set in statute. EPA can say yes, the State does meet those standards, or no, it does not, but the EPA cannot move the goalposts.

This is a States-first approach that provides regulatory certainty. Let me repeat that. This is a States-first approach that provides regulatory certainty, and it is that regulatory certainty we need to stimulate private investment that will deploy the new technologies that will not only produce more energy but will produce better environmental stewardship.

What is certain is that under this bill, coal ash disposal sites will be required to meet established standards. Those established standards include groundwater detection and monitoring, liners, corrective action when environmental damage occurs, structural stability criteria, and the financial assurance and recordkeeping needed to protect the public.

This legislation is needed to protect jobs and help reduce the cost of homes and roads as well as to help reduce electric bills.

I wish to thank both Republicans and Democrats who have taken a leadership role in this effort as original sponsors of the legislation. I especially wish to express thanks to my fellow Senator from North Dakota, Mr. CONRAD, as well as Senator BAUCUS of Montana and their staffs for the hard work that has gone into this legislation. I urge our colleagues to join us in this important energy legislation.

By Mr. REED:

S. 3513. A bill to promote the development of local strategies to coordinate use of assistance under sections 8 and 9 of the United States Housing Act of 1937 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, today I introduce the Family Self-Sufficiency Act.

The Family Self Sufficiency, FSS, program is an existing employment and savings incentive initiative for families that have section 8 vouchers or live in public housing. The FSS program provides two key tools for its participants: first, it provides access to the resources and training that help participants pursue employment opportunities and meet financial goals, and second, it encourages FSS families to save by establishing an interest-bearing escrow account for them. Upon graduation from the FSS program, the family can use these savings to pay for job-related expenses, such as the purchase or maintenance of a car or for additional workforce training.

My legislation seeks to enhance the FSS program by streamlining the administration of this program, by broadening the supportive services that can be provided to a participant, and by extending the FSS program to tenants who live in privately-owned properties with project-based assistance.

First, to streamline the FSS program, my bill would combine the two separate FSS programs into one. Currently, HUD operates one FSS program for those families being served by the Housing Choice Voucher Program and another for those families being served by the Public Housing program, even though the core purpose of each FSS program, to increase economic independence and self-sufficiency, is the same for both. As a result, Public Housing Agencies, PHAs, have to operate essentially two programs to achieve the same goal. With my bill, PHAs would be relieved of this unnecessary burden.

Second, my legislation broadens the scope of the supportive services that may be offered to include attainment

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of a GED, education in pursuit of a post-secondary degree or certification, and training in financial literacy. Providing families in need with affordable rental housing is critical, but coupling it with the support and services to help families get ahead is more effective. This legislation makes it easier for FSS participants to obtain the training necessary to secure employment and the education to make prudent financial decisions to better safeguard their earnings.

Lastly, this bill opens up the FSS program to families who live in privately-owned properties subsidized with project-based rental assistance. It shouldn't matter what kind of housing assistance a family gets, and families seeking to achieve self-sufficiency shouldn't be held back by this sort of technicality.

I urge my colleagues to support this bill, which will help give those receiving housing assistance a better chance to build their skills and achieve economic independence.

By Ms. SNOWE:

S. 3516. A bill to encourage spectrum licenses to make unused spectrum available for use by rural and smaller carriers in order to expand wireless coverage; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce legislation to help expand wireless broadband to rural areas. Specifically, the Rural Spectrum Accessibility Act would direct the Federal Communications Commission, FCC, establish a program that would provide an incentive, a three year extension to a spectrum license, to wireless carriers that make available, through partitioning and disaggregation, unused spectrum to smaller carriers or carriers serving rural areas.

As the FCC National Broadband Plan reports ''most areas without mobile broadband coverage are in rural or remote areas.'' This legislation would provide an additional incentive to increase wireless broadband to these areas and make more spectrum available to smaller and rural wireless carriers through secondary market mechanisms.

This bill is loosely based on a wireless carrier's existing program, which creates a partnership with rural carriers to build and operate Long Term Evolution, LTE, wireless networks in rural areas. Through the cooperation the carrier provides spectrum and core network equipment and the rural carrier supplies the cell towers and backhaul.

The Rural Spectrum Accessibility Act is an effort to get other large carriers to implement similar initiatives to create more opportunities for the smaller and rural carriers. It should be noted the FCC actually already has partitioning and disaggregation rules, see 47 C.F.R. 22.948, this legislative proposal just provides a simple but attractive incentive for carriers to utilize them.

The main goal of this legislation is to provide another catalyst to expand next generation, 4G, Wireless broadband service to rural areas, which will mean more reliable service, more innovation, and more choice to rural consumers and businesses.

The increasing importance of wireless communications and broadband has a direct correlation to our Nation's competitiveness, economy, and national security. We must reform existing spectrum policy and management to ensure that all Americans continue to realize the boundless benefits of wireless broadband. Congress has taken some steps but more can and must be done. That is why I sincerely hope that my colleagues join me in supporting this important legislation.

By Mr. WYDEN:

S. 3518. A bill to make it a principal negotiating objective of the United States in trade negotiations to eliminate government fisheries subsidies, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today to introduce the Fair Trade in Seafood Act.

Right now, our country is proud to be a world leader in the fishing and seafood processing industries. We rank among the world's top five exporters of seafood, and its largest importer. However, the U.S. seafood industry faces many challenges on the global stage from unfair competition. The Congress should be doing everything it can to make sure we retain our status as global leader. That is why I am introducing the Fair Trade in Seafood Act. This bill will establish this issue as a Principal Negotiating Objective of the United States in the ongoing Trans-Pacific Partnership and World Trade Organization talks.

Why is this bill important? According to the United Nations Food and Agricultural Organization, 85 percent of the world's fisheries are fully exploited, overexploited, depleted, or recovering from depletion—the highest percentage since the Food and Agricultural Organization began keeping records.

Many governments continue to provide significant subsidies that push their fleets to fish longer, more intensively, and farther away than otherwise would be possible. These destructive fisheries subsidies are estimated to be at least $16 billion annually, an amount equivalent to approximately 20 percent of the value of the world catch. The detrimental effects of these illegal subsidies are so significant that eliminating them is the single greatest action that can be taken to protect the world's oceans.

In contrast to these nefarious actors, the U.S. does not just talk about the importance of sustainable fishing practices and marine conservation. We are practicing what we preach. That means enforcing regulations and changing old, counterproductive, destructive habits. Our seafood industry is stronger because of it. At the same time, our market is open. In my view, this is the way every country ought to run its seafood industry. Our foreign trading partners, as I mentioned, often support practices that can cause long-term harm to marine habitat. In addition, our trading partners put up trade barriers that prevent sustainably caught U.S. seafood from reaching foreign consumers. These are practices that skew the playing field in a competitive marketplace. They skew the playing field against American fishers and give foreign competitors a huge advantage in an industry that depends on global trade. Forty percent of global fishery products are traded internationally, and seafood is more globally sourced than coffee, rice, and tea combined.

These harmful foreign trade barriers and practices that encourage overfishing are top priorities that need to be addressed. These foreign trade barriers harm our country's ability to create good-paying jobs. Preserving the wealth of the world's marine environment is of paramount importance. The U.S. seafood industry represents a major portion of our economy, employing over 1.5 million workers in the commercial sector alone. The commercial seafood industry has a significant presence in over 23 States and is an industry and, in fact, a way of life, a way of life that binds communities and stitches together the regions of our country. The seafood sector employs more people than the mining or oil industries.

It is also a foundation of our economy because, without fish, there are no jobs. Preserving the wealth of our oceans and rivers is an economic imperative as much as a moral one. That is why I urge my colleagues to cosponsor the Fair Trade in Seafood Act.

In short, this Act will codify an official trade negotiating objective of the United States with respect to government fisheries subsidies. More specifically, the negotiating objective will be to eliminate fisheries subsidies provided by governments that unfairly destroy markets to the detriment of the United States commercial fishing interests and that perpetuate unsustainable fishing practices. The bill aims to ensure that any commitments with respect to such subsidies are enforceable under appropriate trade laws. This negotiating objective will apply to any trade agreement that includes any negotiations relating to the elimination or reduction of government fisheries subsidies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Trade in Seafood Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Food and Agriculture Organization of the United Nations, 85 percent of the world's fisheries are overexploited, fully exploited, significantly depleted, or recovering from overexploitation, the highest percentage ever on record.

(2) A primary reason for the global fisheries crisis is government subsidies that create perverse incentives for continued fishing in the face of declining catches.

(3) Despite the dire conditions of the world's marine resources, some of the countries that engage in the most fishing continue to provide significant subsidies to their fishing fleets.

(4) Fisheries subsidies are estimated to be approximately 20 percent of the value of the world catch and have helped create a global fishing fleet that is up to 250 percent larger than that needed to fish sustainably.

(5) Many long-range foreign fleets are supported by government subsidies for fuel, other operational expenses, and vessel construction that allow their fleets to fish longer, at greater distances, and more intensively than is commercially or environmentally warranted. Those fleets would not be viable without the support of government subsidies.

(6) Many developing countries are particularly affected by fisheries subsidies provided by other governments because the developing countries are unable to compete against subsidized industrial fleets.

(7) Fisheries subsidies offered by the governments of other countries give the fleets of those countries an unfair advantage over United States fishermen by reducing the costs of operations and increasing the number, size, and power of vessels competing for fish. Foreign fisheries subsidies also undermine opportunities for United States fishermen in potential export markets.

(8) Without committed global leadership to reduce ''overfishing subsidies'', there is a significant risk that the oceans will become too depleted to fish, resulting in a catastrophic blow to the world economy and environment.

(9) As one of the world's largest importers of seafood and one of the top five exporters of seafood, the United States has a particular responsibility to lead trade negotiations to address fisheries subsidies and make the establishment of strong new rules on fisheries subsidies a core priority in United States trade negotiations.

(10) Paragraphs 28 and 31 of the Ministerial Declaration of the World Trade Organization adopted at Doha November 14, 2001, which launched the Doha Development Agenda, called for negotiations to clarify and improve disciplines on trade-distorting government fisheries subsidies.

(11) Paragraphs 9 through 11 of Annex D of the Ministerial Declaration of the World Trade Organization adopted at Hong Kong December 18, 2005, reinforced the Doha fisheries subsidies mandate, noting that ''there is broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and overfishing'' and calling on ''Participants promptly to undertake further detailed work to, *inter alia*, establish the nature and extent of those disciplines, including transparency and enforceability''.

(12) The negotiations on fisheries subsidies in the World Trade Organization and negotiations for the Trans-Pacific Partnership Agreement are two of the most important, and promising, international efforts to stop global overfishing and represent meaningful efforts to directly address a key environmental issue that directly impacts international trade.

(13) On November 12, 2011, the leaders of the 9 countries in negotiations for the Trans-Pacific Partnership Agreement—Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam, and the United States—announced the achievement of the broad outlines of an ambitious, 21st-century agreement. According to a statement released by those leaders, the agreed outline calls for ''[a] meaningful outcome on environment [that] will ensure that the agreement appropriately addresses important trade and environment challenges and enhances the mutual supportiveness of trade and environment. The TPP countries share the view that the environment text should include effective provisions on trade-related issues that would help to reinforce environmental protection and are discussing an effective institutional arrangement to oversee implementation and a specific cooperation framework for addressing capacity building needs.''. Various proposals, including a proposal by the United States, to bring disciplines to government-subsidized fishing are under active discussion as part of the negotiations on the environment chapter of the Trans-Pacific Partnership Agreement.

(14) The United States continues to make achievement of an agreement on disciplines on government fisheries subsidies a priority in negotiations in the World Trade Organization and for the Trans-Pacific Partnership Agreement. On December 16, 2011, at the Eighth Ministerial Conference of the World Trade Organization in Geneva, the United States Trade Representative issued a statement urging ''continued work toward an ambitious outcome on fisheries subsidies under the WTO''. Noting the acute impact of declining catches on developing countries, the Trade Representative further stated, ''We stand ready to explore new negotiating approaches that can move us towards the elimination of harmful subsidies that contribute to overcapacity and overfishing. . . . WTO Members have a duty to address one of the root causes of overfishing and overcapacity—the fisheries subsidies that encourage fishing enterprises to fish longer, harder, and farther than would otherwise be sustainable without subsidy aid. . . . The United States is ready to continue this work in the WTO and in other appropriate fora—including free trade agreements such as the Trans-Pacific Partnership and other bilateral, regional and multilateral initiatives.''.

(15) A strong fisheries subsidies agreement by the World Trade Organization and in the Trans-Pacific Partnership Agreement would set an historic precedent by showing that international trade can directly benefit the environment while promoting exports and open markets.

SEC. 3. TRADE NEGOTIATING OBJECTIVES OF THE UNITED STATES WITH RESPECT TO GOVERNMENT FISHERIES SUBSIDIES.

It shall be a principal negotiating objective of the United States in negotiations for a trade agreement—

(1) to eliminate fisheries subsidies provided by governments that unfairly distort markets to the detriment of United States commercial fishing interests and that perpetuate unsustainable fishing practices; and

(2) to ensure that any commitments with respect to such subsidies are enforceable under appropriate trade laws.

SEC. 4. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act and applies with respect to negotiations for a trade agreement that—

(1) include any negotiations relating to the elimination or reduction of government fisheries subsidies; and

(2) are entered into—

(A) on or after such date of enactment; or

(B) before such date of enactment if the negotiations continue on or after such date of enactment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 541—CONDEMNING THE GOVERNMENT OF VIETNAM FOR HUMAN RIGHTS VIOLATIONS

Mr. CORNYN (for himself, Mrs. BOXER, Mr. BOOZMAN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 541

Whereas Vietnam is an authoritarian state ruled by the Communist Party of Vietnam, which continues to deny the right of the people of Vietnam to participate in free and fair elections;

Whereas, according to the 2012 annual report of the United States Commission on International Religious Freedom, ''Vietnam's overall human rights record remains poor, and has deteriorated since Vietnam was removed from the CPC [countries of particular concern] list and joined the World Trade Organization in 2007.'';

Whereas, according to the Department of State's most recent Country Reports on Human Rights Practices, published on May 24, 2012 (in this resolution, the ''DOS Human Rights Report''), the most significant human rights issues in Vietnam ''were severe government restrictions on citizens' political rights, particularly their right to change their government; increased measures to limit citizens' civil liberties; and corruption in the judicial system and police'';

Whereas, according to the DOS Human Rights Report, the Government of Vietnam ''reportedly held more than 100 political detainees at year's end, although some international observers claimed there were more. . . Diplomatic sources reported the existence of four reeducation centers in the country holding approximately 4,000 prisoners'';

Whereas, according to the DOS Human Rights Report, Vietnam's Ministry of Public Security ''maintains a system of household registration and block wardens to monitor the population,'' while ''credible reports suggested that local police used 'contract thugs' and 'citizen brigades' to harass and beat political activists and others, including religious worshippers, perceived as undesirable or a threat to public security'';

Whereas, on April 8, 2006, the pro-democracy movement Bloc 8406 was founded in Vietnam, and it has since attracted thousands of supporters calling for respect for basic human rights, the establishment of a multiparty political system, and guarantees of freedom of religion and political association;

Whereas, according to the DOS Human Rights Report, the Government of Vietnam ''continued to restrict public debate and criticism severely. No public challenge to the legitimacy of the one-party state was permitted,'' and ''the government continued to crack down on the small, opposition political groups established in 2006, and group members faced arrests and arbitrary detentions'';

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Senate

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, Your presence fills us with reverential awe for we find a light in Your commands. Even in darkness, your light dawns for those who love You. And so, Lord, as we begin the next phase of the work of the Senate, give us greater confidence in the power of Your providential purposes. Remind our lawmakers that the hearts of governmental leaders are in Your hands, yielding to the wisdom of Your sovereign will. Help us, Lord, to get to know You and love You so we can serve You as we should.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 10, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. BLUMENTHAL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

WELCOME BACK

Mr. REID. Mr. President, I welcome everyone back, the staff and Presiding Officer. I hope everyone had a restful and productive month. I look forward to this work period, which will be very short and exact, and I hope we can accomplish a few things.

CLEAR PICTURES

Mr. REID. Mr. President, I wish to take a minute to talk about Congressman PAUL RYAN's arithmetic. It is very interesting. He said he ran a marathon. A marathon is 26.2 miles long. While being questioned by the press, he said he ran it in about 2 hours and 50 minutes. Now, that is pretty fast. I would like to take a minute and apply the Ryan math to my marathon times. I will pick just one marathon time.

I ran the Boston Marathon, and using the Ryan math my time would not have been a world record but within minutes of a world record. I could have made the Olympic team. By using Ryan math, I would have been superb. Well, the Ryan math doesn't work in marathons. As we all know, we can always check someone's math, and his math doesn't work for running a marathon or anything else.

The Ryan math doesn't work with his budgets, it doesn't work with Medicare, and it doesn't work with his tax plan. It doesn't work with anything he has suggested and opined. It is no more than his little assertion that I guess he thought no one would check. When people run these races, they keep records. For all of my marathons, they have kept records. So as much as I would like to have the Ryan math apply to my marathons, it doesn't work.

The Senate is going to resume its work in a few minutes on the heels of the two conventions. One was in Florida and one in North Carolina. The Republicans used their virtually fact-free convention to showcase the richest style economic policies.

The Democrats took a different approach. I am sure we all had our favorites. I thought Congressman CLEAVER's speech was so terrific. I don't know how many were able to see it, but it was great. He was up there marching. He was just outstanding.

Gov. Jennifer Granholm from Michigan was so good as she explained to everyone about jobs and why Detroit should not have gone bankrupt.

I thought JOE BIDEN's speech was typical for JOE BIDEN. It was wonderful. I admire him so much. I served with him for a quarter of a century. What a good man. He has contributed such valuable service to his country. While talking about his life story, we saw when his son introduced him. Tears were coming from his eyes.

The President's and Mrs. Obama's messages were very clear. They did so well.

In Charlotte Democrats presented Americans with a clear and honest assessment of the challenges we face as a nation and a concrete plan to overcome the problems we have together. That is why President Obama has seen a significant rise in the polls since that convention and all of those speeches—not just his speech but all of them. Even the Republican-skewed Rasmussen poll had him ahead by 5 points.

In fact, we presented Americans with clear choices. It was not a choice between two candidates or two parties; it

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 1882

At the request of Mr. BINGAMAN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1882, a bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that valid generic drugs may enter the market.

S. 1910

At the request of Mr. LIEBERMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1910, a bill to provide benefits to domestic partners of Federal employees.

S. 1983

At the request of Mr. SCHUMER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1983, a bill to amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

S. 2160

At the request of Mr. MORAN, the names of the Senator from Ohio (Mr. PORTMAN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2160, a bill to improve the examination of depository institutions, and for other purposes.

S. 2234

At the request of Mr. BLUMENTHAL, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2234, a bill to prevent human trafficking in government contracting.

S. 2246

At the request of Mr. BOOZMAN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2246, a bill to direct the Secretary of Labor to provide off-base transition training, and for other purposes.

S. 2346

At the request of Mr. PRYOR, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2346, a bill to amend the Farm Security and Rural Investment Act of 2002 to modify the definition of the term ''biobased product''.

S. 2364

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2364, a bill to extend the availability of low-interest refinancing under the local development business loan program of the Small Business Administration.

S. 2374

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2374, a bill to amend the Helium Act to ensure the expedient and responsible draw-down of the Federal Helium Reserve in a manner that protects the interests of private industry, the scientific, medical, and industrial communities, commercial users, and Federal agencies, and for other purposes.

S. 2620

At the request of Mr. SCHUMER, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Kansas (Mr. MORAN) were added as cosponsors of S. 2620, a bill to amend title XVIII of the Social Security Act to provide for an extension of the Medicare-dependent hospital (MDH) program and the increased payments under the Medicare low-volume hospital program.

S. 3192

At the request of Mr. ALEXANDER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3192, a bill to amend the Immigration and Nationality Act by establishing an F–4 nonimmigrant visa for aliens pursuing an advanced degree in mathematics, engineering, technology, or the physical sciences in the United States, to authorize such aliens to become permanent residents if they obtain employment in the United States related to their field of study, and for other purposes.

S. 3235

At the request of Mr. PRYOR, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 3235, a bill to amend title 38, United States Code, to require, as a condition on the receipt by a State of certain funds for veterans employment and training, that the State ensures that training received by a veteran while on active duty is taken into consideration in granting certain State certifications or licenses, and for other purposes.

S. 3243

At the request of Mrs. GILLIBRAND, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 3243, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the low-income housing credit that may be allocated in States damaged in 2011 by Hurricane Irene or Tropical Storm Lee.

S. 3378

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3378, a bill to establish scientific standards and protocols across forensic disciplines, and for other purposes.

S. 3391

At the request of Ms. KLOBUCHAR, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of S. 3391, a bill to amend section 353 of the Public Health Service Act with respect to suspension, revocation, and limitation of laboratory certification.

S. 3394

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3394, a bill to address fee disclosure requirements under the Electronic Fund Transfer Act, to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection, and for other purposes.

S. 3442

At the request of Ms. LANDRIEU, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3442, a bill to provide tax incentives for small businesses, improve programs of the Small Business Administration, and for other purposes.

S. 3452

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 3452, a bill to amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions.

S. 3457

At the request of Mr. NELSON of Florida, the names of the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from Michigan (Ms. STABENOW), the Senator from Oregon (Mr. MERKLEY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 3457, a bill to require the Secretary of Veterans Affairs to establish a veterans jobs corps, and for other purposes.

S. 3463

At the request of Mr. FRANKEN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 3463, a bill to amend title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries.

S. 3472

At the request of Ms. LANDRIEU, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3472, a bill to amend the Family Educational Rights and Privacy Act of 1974 to provide improvements to such Act.

S. 3486

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 3486, a bill to implement the provisions of the Hague Agreement and the Patent Law Treaty.

S. 3498

At the request of Mr. CASEY, the names of the Senator from Delaware (Mr. COONS), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 3498, a bill to provide humanitarian assistance and support a democratic transition in Syria, and for other purposes.

S. 3516

At the request of Ms. SNOWE, the name of the Senator from Minnesota

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PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, THURSDAY, SEPTEMBER 20, 2012 *No. 128*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by the Reverend Dr. Douglas Gerdts, Senior Pastor of First and Central Presbyterian Church in Wilmington, DE.

The guest Chaplain offered the following prayer:

Would you pray with me, please.

Holy God, little can be said that doesn't add to the cacophony of prayer that arises from humanity. Surely from this august Chamber the volume and intensity is at times deafening. Yet these, O God, are the servants of the people and of You. So like Solomon we pray, ''Here's what we want: Give us a God-listening heart so we can lead Your people well, discerning the difference between good and evil. For who on their own is capable of leading Your good people?''

Who indeed, O God.

Our prayer this morning is quiet and simple: Instill wisdom and compassion, the quest for peace and the drive for justice, the humility to recognize our ignorance and the grace to welcome another's point of view, and the awe of the responsibility conveyed upon us and the gratitude to relish our part in shaping the future. Most of all, let us never think that we travel this road alone, for who on their own is capable of leading Your good people?

Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 20, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I yield to my friend from Delaware and ask that I be recognized when he finishes his remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Delaware is recognized.

WELCOMING THE GUEST CHAPLAIN

Mr. COONS. Mr. President, I rise today to express my gratitude to Leader REID and to Chaplain Black, to all of us in the Chamber, and my gratitude to the Reverend Dr. Douglas Gerdts. It is my honor and privilege to welcome him to our Chamber this morning as one of Delaware's strongest and finest faith leaders.

Reverend Gerdts leads the congregation at First and Central Presbyterian Church in Wilmington. Each time I join with him on Sunday mornings, I am uplifted by the stirring music, I am challenged by his passionate sermons, and I leave engaged for the week, rooted in my faith and moved forward by his words and by his leadership.

But Reverend Gerdts' leadership extends far beyond the walls of his church. It touches those most in need in our community. The church literally opens its doors every Saturday, welcoming in homeless Delawareans as well as welcoming in schoolchildren who need smaller class sizes and better instruction to succeed.

I have had the pleasure of knowing Reverend Gerdts for more than a dozen years. In my own service in county government I knew him as chair of the Diversity Commission, and he helped lead the charge for equality and civil unions in Delaware last year. He has made a real and lasting contribution to our community. He and his wonderful wife Walle are part of what makes Delaware a great place.

As he shared with us in his prayer, he is exactly the sort of person who, through a listening heart, has become a powerful and effective servant leader of faith in my home community.

My thanks to the Chaplain for allowing guest Chaplains, and my thanks to Rev. Doug Gerdts for his friendship, his faith, and his leadership.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, the Senator from Delaware has been such a great addition to the Senate. He is well respected on both sides of the aisle, and he is a man of spiritual quality. Among his other attributes, he has a divinity degree from Yale University. Without elaborating, I am just so pleased he is my friend and a Member of the Senate.

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Intermarried Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund'' ((RIN3060–AF85) (DA 12–870)) received during adjournment of the Senate in the Office of the President of the Senate on August 22, 2012; to the Committee on Commerce, Science, and Transportation.

EC–7696. A communication from the Assistant Chief, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Foreign Ownership Policies, First Report and Order on Forbearance'' (FCC 12–93) received during adjournment of the Senate in the Office of the President of the Senate on August 22, 2012; to the Committee on Commerce, Science, and Transportation.

EC–7697. A communication from the Associate Bureau Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Special Access for Price Cap Local Exchange Carriers; AT and T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services'' ((RIN3060–AJ80) (FCC 12–92)) received in the Office of the President of the Senate on September 10, 2012; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARKIN, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 3578. An original bill to amend the Elementary and Secondary Education Act of 1965 (Rept. No. 112–221).

By Mr. BAUCUS, from the Committee on Finance:

Report to accompany S. 1641, a bill to implement the United States-Colombia Trade Promotion Agreement (Rept. No. 112–222).

Report to accompany S. 1642, a bill to implement the United States-Korea Free Trade Agreement (Rept. No. 112–223).

Report to accompany S. 1643, a bill to implement the United States-Panama Trade Promotion Agreement (Rept. No. 112–224).

Report to accompany S. 3326, a bill to amend the African Growth and Opportunity Act to extend the third-country fabric program and to add South Sudan to the list of countries eligible for designation under that Act, to make technical corrections to the Harmonized Tariff Schedule of the United States relating to the textile and apparel rules of origin for the Dominican Republic-Central America-United States Free Trade Agreement, to approve the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes (Rept. No. 112–225).

Report to accompany S. 3406, An original bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to products of the Russian Federation and Moldova, to require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organization, and to impose sanctions on persons responsible for gross violations of human rights, and for other purposes (Rept. No. 112–226).

Report to accompany S. 3568, An original bill to create a Citrus Disease Research and Development Trust Fund to support research on diseases impacting the citrus industry, to renew and modify the temporary duty suspensions on certain cotton shirting fabrics, and to modify and extend the Wool Apparel Manufacturers Trust Fund, and for other purposes (Rept. No. 112–227).

By Mr. AKAKA, from the Committee on Indian Affairs:

Report to accompany S. 2389, a bill to deem the submission of certain claims to an Indian Health Service contracting officer as timely (Rept. No. 112–228).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 3276, An original bill to extend certain amendments made by the FISA Amendments Act of 2008, and for other purposes (Rept. No. 112–229).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 3486. A bill to implement the provisions of the Hague Agreement and the Patent Law Treaty.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. AKAKA for the Committee on Indian Affairs.

*Kevin K. Washburn, of New Mexico, to be an Assistant Secretary of the Interior.

By Mr. LEAHY for the Committee on the Judiciary.

William Joseph Baer, of Maryland, to be an Assistant Attorney General.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HARKIN:

S. 3578. An original bill to amend the Elementary and Secondary Education Act of 1965; from the Committee on Health, Education, Labor, and Pensions; placed on the calendar.

By Mr. VITTER:

S. 3579. A bill to amend the Immigration and Nationality Act to make voting in a Federal election by an unlawfully present alien an aggravated felony and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself and Mr. PORTMAN):

S. 3580. A bill to require the Corps of Engineers to preserve the historical integrity of Zoar, Ohio, while carrying out any study relating to or construction of flood damage reduction measures, including levees, in Zoar, Ohio; to the Committee on Environment and Public Works.

By Mr. CONRAD (for himself, Mr. ENZI, and Mr. ROCKEFELLER):

S. 3581. A bill to amend the Internal Revenue Code of 1986 to modify the credit for carbon dioxide sequestration; to the Committee on Finance.

By Mr. REED:

S. 3582. A bill to improve quality and accountability for educator preparation programs; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HAGAN (for herself, Mr. KERRY, and Mrs. GILLIBRAND):

S. 3583. A bill to authorize the Secretary of Housing and Urban Development to establish and carry out a community revitalization program to provide Federal grants to communities for the rehabilitation of critically needed parks, recreational areas, and facilities, the development of improved recreational programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRYOR (for himself and Mr. MORAN):

S. 3584. A bill to reauthorize the National Integrated Drought Information System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. TESTER:

S. 3585. A bill to provide authorities for the appropriate conversion of temporary seasonal wildland firefighters and other temporary seasonal employees in Federal land management agencies who perform regularly recurring seasonal work to permanent seasonal positions; to the Committee on Homeland Security and Governmental Affairs.

By Mr. FRANKEN (for himself and Mr. LEAHY):

S. 3586. A bill to provide reimbursement under the Medicaid program to individuals and entities that provide voluntary nonemergency medical transportation to Medicaid beneficiaries for expenses related to noload travel; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 3587. A bill to include the Point Arena-Stornetta Public Lands in the California Coastal National Monument as a part of the National Landscape Conservation System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. KIRK, Ms. STABENOW, Mr. DURBIN, Mr. CASEY, Mr. SCHUMER, Mr. BROWN of Ohio, and Mrs. GILLIBRAND):

S. 3588. A bill to amend the Federal Water Pollution Control Act to protect and restore the Great Lakes; to the Committee on Environment and Public Works.

By Mr. REED:

S. 3589. A bill to require the Comptroller of the Currency to establish a pilot program to facilitate communication between borrowers and servicers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BEGICH (for himself and Ms. MURKOWSKI):

S. 3590. A bill to amend the Denali Commission Act of 1998 to reauthorize and modify the membership of the Denali Commission, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, and Mr. CARDIN):

S. 3591. A bill to amend the Internal Revenue Code of 1986 to improve and extend the deduction for new and existing energy-efficient commercial buildings, and for other purposes; to the Committee on Finance.

By Mr. BENNET:

S. 3592. A bill to amend the Older Americans Act of 1965 to encourage the use of locally grown food in meal programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNET:

S. 3593. A bill to amend the Older Americans Act of 1965 to strengthen programming, services, and outreach for diverse elders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Ms. KLOBUCHAR):

S. 3594. A bill to amend the Internal Revenue Code of 1986 to increase the alternative tax liability limitation for small property and casualty insurance companies; to the Committee on Finance.

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PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, FRIDAY, SEPTEMBER 21, 2012 No. 129

Senate

The Senate met at 12 noon and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and everlasting God, we praise Your Name for all those who answer the call to serve You and country. We confess that we often pay honor to people who labored for liberty long ago, but we sometimes neglect to appreciate those who sacrifice for freedom today. Forgive us when we resist those in our own time and in our own associations who, for our own good and for the good of the Nation, challenge our rigid ideas of thought and patterns of action.

Make our lawmakers, this day, open to greater creativity in their convictions so that they may become partners with You in these challenging times by paying the price for unity.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 21, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. BLUMENTHAL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SPORTSMEN'S ACT OF 2012—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 504.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 504, S. 3525, a bill to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes.

SCHEDULE

Mr. REID. Mr. President, the next hour will be equally divided between the two leaders or their designees. The majority will control the first half and the Republicans the final half.

As I think we should know, and I am happy to restate it, the next rollcall vote will occur about 1 a.m. this morning, an hour after we come in. I am, of course, hopeful we can work something out in order to complete our work. We can either do it all tonight, tomorrow, or, if that doesn't work out, as the Presiding Officer knows, under the rules of the Senate we will have that vote at 1 a.m., and then we would have another vote on the CR. Final passage of that would be around 7:30, 8 o'clock in the morning on Sunday. Then we would immediately follow to the motion to proceed on the sportsmen's package.

We continue to have discussions. We are working to see if we can schedule these votes at a more convenient time for Senators. Everyone should know we would finish by Sunday morning. We are not going to go into next week.

MEASURE PLACED ON THE CALENDAR—S. 3607

Mr. REID. Mr. President, S. 3607 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 3607) to approve the Keystone XL Pipeline.

Mr. REID. I object to any further proceedings with regard to this bill.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. Mr. President, over the past week I have listened to my Republican colleagues come to the floor and lament how little the Senate has accomplished during the 112th Congress. I, above all, share that concern. In fact, it is a wonder we have gotten anything done at all, considering the lack of cooperation Democrats have gotten from Republican colleagues.

I have said before, and it bears repeating: In my time as the majority leader, I have faced 382 Republican filibusters. That is 381 more filibusters than Lyndon Johnson faced during his 6 years as majority leader.

Time and time again my Republican colleagues have stalled or blocked perfectly good pieces of legislation to score points with the tea party, and they have done nothing but hurt the middle class in this process. Even the most noncontroversial, consensus matters—items that would have passed by unanimous consent in the past—have been obstructed or stalled.

Take, for example, the bipartisan sportsmen's bill. The junior Senator from Montana, Mr. TESTER, has assembled a broad package to support the needs of sportsmen across the country. Just so everyone understands I am not making this up, there are more than 50 groups—50 organizations in this country—who support this legislation. It is

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proceed to the immediate consideration of H.R. 4347, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4347) to designate the United States courthouse located at 709 West 9th Street in Juneau, Alaska, as the ''Robert Boochever United States Courthouse.''

There being no objection, the Senate proceeded to consider the bill.

Mr. PRYOR. Mr. President, I further ask that the bill be read three times and passed, the motion to reconsider be laid on the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4347) was ordered to a third reading, was read the third time, and passed.

JAMES F. BATTIN COURTHOUSE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 444, S. 3311.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3311) to designate the United States courthouse located at 2601 2nd Avenue North, Billings, Montana, as the ''James F. Battin United States Courthouse.''

There being no objection, the Senate proceeded to consider the bill.

Mr. PRYOR. Mr. President, I further ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3311) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JAMES F. BATTIN UNITED STATES COURTHOUSE.

(a) IN GENERAL.—

(1) DESIGNATION.—The United States courthouse located at 2601 2nd Avenue North, Billings, Montana, shall be known and designated as the ''James F. Battin United States Courthouse''.

(2) TECHNICAL AMENDMENT.—The ''James F. Battin United States Courthouse'' located at 315 North 26th Street, Billings, Montana, shall no longer be known and designated as the ''James F. Battin United States Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a)(1) shall be deemed to be a reference to the ''James F. Battin United States Courthouse''.

MULTISTAKEHOLDER GOVERNANCE MODEL

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 529, S. Con. Res. 50.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 50) expressing the sense of Congress regarding actions to preserve and advance the multistakeholder governance model under which the Internet has thrived.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. PRYOR. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 50) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 50

Whereas given the importance of the Internet to the global economy, it is essential that the Internet remain stable, secure, and free from government control;

Whereas the world deserves the access to knowledge, services, commerce, and communication, the accompanying benefits to economic development, education, and health care, and the informed discussion that is the bedrock of democratic self-government that the Internet provides;

Whereas the structure of Internet governance has profound implications for competition and trade, democratization, free expression, and access to information;

Whereas countries have obligations to protect human rights, which are advanced by online activity as well as offline activity;

Whereas the ability to innovate, develop technical capacity, grasp economic opportunities, and promote freedom of expression online is best realized in cooperation with all stakeholders;

Whereas proposals have been put forward for consideration at the 2012 World Conference on International Telecommunications that would fundamentally alter the governance and operation of the Internet;

Whereas the proposals, in international bodies such as the United Nations General Assembly, the United Nations Commission on Science and Technology for Development, and the International Telecommunication Union, would attempt to justify increased government control over the Internet and would undermine the current multistakeholder model that has enabled the Internet to flourish and under which the private sector, civil society, academia, and individual users play an important role in charting its direction;

Whereas the proposals would diminish the freedom of expression on the Internet in favor of government control over content;

Whereas the position of the United States Government has been and is to advocate for the flow of information free from government control; and

Whereas this and past Administrations have made a strong commitment to the multistakeholder model of Internet governance and the promotion of the global benefits of the Internet: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Secretary of State, in consultation with the Secretary of Commerce, should continue working to implement the position of the United States on Internet governance that clearly articulates the consistent and unequivocal policy of the United States to promote a global Internet free from government control and preserve and advance the successful multistakeholder model that governs the Internet today.

PATENT LAW TREATIES IMPLEMENTATION ACT OF 2012

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 532, S. 3486.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3486) to implement the provisions of the Hague Agreement and the Patent Law Treaty.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patent Law Treaties Implementation Act of 2012''.

TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

''PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

''CHAPTER Sec.
''38. International design applications .. 381.

''CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

''Sec.
''381. Definitions.
''382. Filing international design applications.
''383. International design application.
''384. Filing date.
''385. Effect of international design application.
''386. Right of priority.
''387. Relief from prescribed time limits.
''388. Withdrawn or abandoned international design application.
''389. Examination of international design application.
''390. Publication of international design application.

''§ 381. Definitions

''(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

''(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

''(2) the term 'regulations'—

''(A) when capitalized, means the Common Regulations under the treaty; and

''(B) when not capitalized, means the regulations established by the Director under this title;

''(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

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''(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

''(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

''(6) the term 'international design application' means an application for international registration; and

''(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

''(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

''§ 382. Filing international design applications

''(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

''(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

''(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

''(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

''(1) in a country other than the United States;

''(2) at the International Bureau; or

''(3) with an intergovernmental organization.

''§ 383. International design application

''In addition to any requirements pursuant to chapter 16, the international design application shall contain—

''(1) a request for international registration under the treaty;

''(2) an indication of the designated Contracting Parties;

''(3) data concerning the applicant as prescribed in the treaty and the Regulations;

''(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number and manner prescribed in the treaty and the Regulations;

''(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

''(6) the fees prescribed in the treaty and the Regulations; and

''(7) any other particulars prescribed in the Regulations.

''§ 384. Filing date

''(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

''(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

''§ 385. Effect of international design application

''An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

''§ 386. Right of priority

''(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

''(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States, or a prior international design application designating at least 1 country other than the United States.

''(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

''§ 387. Relief from prescribed time limits

''An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

''§ 388. Withdrawn or abandoned international design application

''Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

''§ 389. Examination of international design application

''(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

''(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

''(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

''(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

''§ 390. Publication of international design application

''The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).''.

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

''V. The Hague Agreement concerning international registration of industrial designs ..... 401''.

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

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(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)''; and

(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)''; and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'';

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'';

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States''; and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States'' after ''did not originate in the United States''; and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawal.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms ''treaty'' and ''international design application'' have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

(2) the term ''international application'' has the meaning given that term in section 351(c) of title 35, United States Code; and

(3) the term ''national application'' means ''national application'' within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.'';

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.''; and

(3) by adding at the end the following:

''(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. Such application shall be treated as having never been filed, unless—

''(1) the application is revived under section 27; and

''(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''§ 27. Revival of applications; reinstatement of reexamination proceedings

''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''27. Revival of applications; reinstatement of reexamination proceedings.''.

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking ''twelve'' and inserting ''12''; and

(ii) by adding at the end the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional.''; and

(II) in the last sentence—

(aa) by striking ''including the payment of a surcharge'' and inserting ''including the payment of the fee specified in section 41(a)(7)''; and

(bb) by striking ''during the pendency of the application''; and

(ii) in paragraph (3), by adding at the end the following: ''For an application for patent filed under section 363 in a Receiving Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.''; and

(2) in section 365(b), by adding at the end the following: ''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.''.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: ''The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking ''Whoever'' and inserting ''(a) IN GENERAL.—Whoever'';

(2) by striking ''The provisions'' and inserting ''(b) APPLICABILITY OF THIS TITLE.—The provisions''; and

(3) by adding at the end the following:

''(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed

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submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director''; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'';

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following:

''§ 151. Issue of patent

''(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 361, by striking subsection (c) and inserting the following:

''(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.'';

(8) in section 364, by striking subsection (b) and inserting the following:

''(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.''; and

(9) in section 371(d), in the third sentence, by striking '', unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable''.

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1).

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

Mr. PRYOR. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendment in the nature of a substitute was agreed to.

The bill (S. 3486), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

MAKING TECHNICAL CORRECTIONS TO LEGAL DESCRIPTION OF CERTAIN LAND

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 498, S. 3193.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3193) to make technical corrections to the legal description of certain land, to be held in trust for the Barona Band of Mission Indians, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Akaka amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any related statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2864) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Barona Band of Mission Indians Land Transfer Clarification Act of 2012''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the legal description of land previously taken into trust by the United States for the benefit of the Barona Band of Mission Indians may be interpreted to refer to private, nontribal land;

(2) there is a continued, unresolved disagreement between the Barona Band of Mission Indians and certain off-reservation property owners relating to the causes of diminishing native groundwater;

(3) Congress expresses no opinion, nor should an opinion of Congress be inferred, relating to the disagreement described in paragraph (2); and

(4) it is the intent of Congress that, if the land described in section 121(b) of the Native American Technical Corrections Act of 2004 (118 Stat. 544) (as amended by section 3) is used to bring water to the Barona Indian Reservation, the effort is authorized only if the effort also addresses water availability for neighboring off-reservation land located along Old Barona Road that is occupied as of the date of enactment of this Act by providing guaranteed access to that water supply at a mutually agreeable site on the southwest boundary of the Barona Indian Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to clarify the legal description of the land placed into trust for the Barona Band of Mission Indians in 2004; and

(2) to remove all doubt relating to the specific parcels of land that Congress has placed into trust for the Barona Band of Mission Indians.

SEC. 3. LAND TRANSFER.

Section 121 of the Native American Technical Corrections Act of 2004 (Public Law 108–204; 118 Stat. 544) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land comprising approximately 86.87 acres in T. 14 S., R. 1 E., San Bernardino Meridian, San Diego County, California, and described more particularly as follows:

''(1) The approximately 69.85 acres located in Section 21 and described as—

''(A) SW¼ SW¼, excepting the north 475 feet;

''(B) W½ SE¼ SW¼, excepting the north 475 feet;

''(C) E½ SE¼ SW¼, excepting the north 350 feet; and

''(D) the portion of W½ SE¼ that lies southwesterly of the following line: Beginning at the intersection of the southerly line of said SE¼ of Section 21 with the westerly boundary of Rancho Canada De San Vicente Y Mesa Del Padre Barona as shown on United States Government Resurvey approved January 21, 1939, and thence northwesterly along said boundary to an intersection with the westerly line of said SE¼.

''(2) The approximately 17.02 acres located in Section 28 and described as NW¼ NW¼, excepting the east 750 feet.''; and

(2) by adding at the end the following:

''(d) CLARIFICATIONS.—

''(1) EFFECT ON SECTION.—The provisions of subsection (c) shall apply to the land described in subsection (b), as in effect on the day after the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012.

''(2) EFFECT ON PRIVATE LAND.—The parcel of private, non-Indian land referenced in subsection (a) and described in subsection (b), as in effect on the day before the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012, but excluded from the revised description of the land in subsection (b) was not intended to be—

''(A) held in trust by the United States for the benefit of the Band; or

''(B) considered to be a part of the reservation of the Band.''.

The bill (S. 3193), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

FINANCIAL ASSISTANCE FOR BURMA

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6431, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LATOURETTE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 25, 2012.

I hereby appoint the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

PRAYER

Reverend Patrick Riffle, St. Peter's Catholic Church, Washington, D.C., offered the following prayer:

God, our Father, You guide everything in wisdom and love. ''You are good and forgiving, full of love to all who call upon You.''

We now praise You for that love and rejoice in Your abundant blessings. You call us today to grow in the knowledge of that love and invite us to receive Your blessing.

Accept the prayers we offer for our beloved Nation. Protect it and keep it ever in Your sight.

Fill this House of Representatives with Your holy wisdom. Strengthen these Representatives and their staffs as they labor for what is good and just.

May true harmony, lasting freedom, and justice be secured for all so that there may be lasting peace.

We ask this in Your most holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to section 3(a) of House Resolution 788, the Journal of the last day's proceedings is approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Maryland (Ms. EDWARDS) come forward and lead the House in the Pledge of Allegiance.

Ms. EDWARDS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the following enrolled bills and joint resolution were signed by Speaker pro tempore LEWIS on Monday, September 24, 2012:

H.R. 1272, to provide for the use and distribution of the funds awarded to the Minnesota Chippewa Tribe, et al., by the United States Court of Federal Claims in Docket Numbers 19 and 188, and for other purposes;

H.R. 1791, to designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida as the ''Alto Lee Adams, Sr., United States Courthouse'';

H.R. 2139, to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International;

H.R. 2240, to authorize the exchange of land or interest in land between Lowell National Historical Park and the city of Lowell in the Commonwealth of Massachusetts, and for other purposes;

H.R. 2706, to prohibit the sale of billfish;

H.R. 3556, to designate the new United States courthouse in Buffalo, New York, as the ''Robert H. Jackson United States Courthouse'';

H.R. 4158, to confirm full ownership rights for certain United States astronauts to artifacts from the astronauts' space missions;

H.R. 4223, to amend title 18, United States Code, to prohibit theft of medical products, and for other purposes;

H.R. 4347, to designate the United States courthouse located at 709 West 9th Street in Juneau, Alaska, as the ''Robert Boochever United States Courthouse'';

H.R. 5512, to amend title 28, United States Code, to realign divisions within two judicial districts;

H.R. 6189, to eliminate unnecessary reporting requirements for unfunded programs under the Office of Justice Programs;

H.R. 6215, to amend the Trademark Act of 1946 to correct an error in the provisions relating to remedies for dilution;

H.R. 6375, to authorize certain Departments of Veterans Affairs major medical facility projects, to amend title 38, United States Code, to extend certain authorities of the Secretary of Veterans Affairs, and for other purposes;

H.R. 6431, to provide flexibility with respect to United States support for assistance provided by international financial institutions for Burma, and for other purposes;

H.R. 6433, to make corrections with respect to Food and Drug Administration user fees;

H.J. Res. 117, making continuing appropriations for fiscal year 2013, and for other purposes;

S. 300, to prevent abuse of Government charge cards;

S. 710, to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system.

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COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 21, 2012.

Hon. JOHN A. BOEHNER,
Speaker, U.S. Capitol, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 21, 2012 at 4:21 p.m.:

Appointments:

Public Safety Officer Medal of Valor Review Board.

With best wishes, I am

Sincerely,

KAREN L. HAAS.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 24, 2012.

Hon. JOHN A. BOEHNER, *Speaker,*
U.S. Capitol, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 24, 2012 at 12:26 p.m.:

That the Senate concurs in the House amendment S. 300.

That the Senate concurs in the House amendment S. 710.

That the Senate passed S. 3311.

That the Senate passed S. 3193.

That the Senate passed S. 3341.

That the Senate passed S. 3486.

That the Senate passed S. 3625.

That the Senate passed S. 3624.

That the Senate passed S. 3315.

That the Senate passed S. 1956.

That the Senate agreed to S. Con. Res. 50.

With best wishes, I am

Sincerely,

KAREN L. HAAS,
Clerk.

PARLIAMENTARY INQUIRIES

Ms. EDWARDS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state her inquiry.

Ms. EDWARDS. Thank you, Mr. Speaker. I rise for the purpose of a parliamentary inquiry to inquire as to whether it is not the case that during these pro forma sessions legislation may be considered by unanimous consent.

The SPEAKER pro tempore. The gentlewoman has put forward a hypothetical upon which the Chair cannot opine.

Ms. EDWARDS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state her inquiry.

Ms. EDWARDS. Mr. Speaker, should it not be possible to consider legislation and to complete work on behalf of the American people including middle class tax cuts, which we all agree upon should be extended, jobs legislation, the Violence Against Women Act, the farm bill, and the fiscal cliff looming causing individuals and businesses uncertainty? For the purposes of a parliamentary inquiry, the list goes on and on.

Should it not be possible to consider legislation that the Republican leadership has decided instead to schedule only 8 days of votes between August 3 and November 13?

Should it not be possible to consider legislation given the fact that the Republican leadership has left town for 7 weeks, the earliest Congress has recessed for an election in over 50 years?

Mr. Speaker, for the purposes of a parliamentary inquiry, the American people deserve answers and they deserve action. They deserve more than simply a pro forma session and a do-nothing Congress and Republican obstructionism.

Mr. Speaker, for the purposes of a parliamentary inquiry, Democrats are committed to return to Washington to continue the work of the people, and I would ask my Republican colleagues to join us.

Mr. Speaker, is it possible for us to return to work and do the business of the people rather than this pro forma session?

The SPEAKER pro tempore. Sadly, the gentlewoman has not put forward a proper parliamentary inquiry.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for not more than 15 minutes.

Accordingly (at 10 o'clock and 10 minutes a.m.), the House stood in recess.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATOURETTE) at 10 o'clock and 11 minutes a.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 24, 2012.

Hon. JOHN A. BOEHNER, *Speaker,*
U.S. Capitol, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 24, 2012 at 12:26 p.m.:

That the Senate passed without amendment H.R. 6433.

That the Senate passed without amendment H.R. 6431.

That the Senate passed without amendment H.R. 6375.

That the Senate passed without amendment H.R. 6215.

That the Senate passed without amendment H.R. 6189.

That the Senate passed without amendment H.R. 5512.

That the Senate passed without amendment H.R. 4347.

That the Senate passed without amendment H.R. 4223.

That the Senate passed without amendment H.R. 4158.

That the Senate passed without amendment H.R. 3556.

That the Senate passed without amendment H.R. 2706.

That the Senate passed without amendment H.R. 2240.

That the Senate passed without amendment H.R. 2139.

That the Senate passed without amendment H.R. 1791.

That the Senate passed without amendment H.R. 1272.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

SEPTEMBER 24, 2012.

Hon. JOHN A. BOEHNER,
Speaker, U.S. Capitol, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 24, 2012 at 12:26 p.m.:

That the Senate passed with an amendment H.R. 915.

That the Senate passed with amendments H.R. 2606.

That the Senate passed with an amendment H.R. 4850.

That the Senate passed with amendments H.R. 2453.

That the Senate passed with amendments H.R. 2838.

With best wishes, I am

Sincerely,

KAREN L. HAAS,
Clerk.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 24, 2012.

Hon. JOHN A. BOEHNER, *Speaker,*
U.S. Capitol, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 24, 2012 at 9:13 a.m.:

That the Senate passed S.J. Res. 41.

That the Senate agreed to without amendment H.J. Res. 117.

With best wishes, I am

Sincerely,

KAREN L. HAAS,
Clerk.

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SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3193. An act to make technical corrections to the legal description of certain land to be held in trust for the Barona Band of Mission Indians, and for other purposes; to the Committee on Natural Resources.

S. 3311. An act to designate the United States courthouse located at 2601 2nd Avenue North, Billings, Montana, as the ''James F. Battin United States Courthouse''; to the Committee on Transportation and Infrastructure.

S. 3341. An act to require a quadrennial diplomacy and development review, and for other purposes; to the Committee on Foreign Affairs.

S. 3486. An act to implement the provisions of the Hague Agreement and the Patent Law Treaty; to the Committee on the Judiciary.

S. 3624. An act to amend section 31311 of title 49, United States Code, to permit States to issue commercial driver's licenses to members of the Armed Forces whose duty station is located in the State; to the Committee on Transportation and Infrastructure.

S.J. Res. 41. Joint resolution expressing the sense of Congress regarding the nuclear program of the Government of the Islamic Republic of Iran; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Karen L. Haas, Clerk of the House, reported and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1272. An act to provide for the use and distribution of the funds awarded to the Minnesota Chippewa Tribe, et al., by the United States Court of Federal Claims in Docket Numbers 19 and 188, and for other purposes.

H.R. 1791. An act to designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, as the ''Alto Lee Adams, Sr., United States Courthouse''.

H.R. 2139. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

H.R. 2240. An act to authorize the exchange of land or interest in land between Lowell National Historical Park and the city of Lowell in the Commonwealth of Massachusetts, and for other purposes.

H.R. 2706. An act to prohibit the sale of billfish.

H.R. 3556. An act to designate the new United States courthouse in Buffalo, New York, as the ''Robert H. Jackson United States Courthouse''.

H.R. 4158. An act to confirm full ownership rights for certain United States astronauts to artifacts from the astronauts' space missions.

H.R. 4223. An act to amend title 18, United States Code, to prohibit theft of medical products, and for other purposes.

H.R. 4347. An act to designate the United States courthouse located at 709 West 9th Street in Juneau, Alaska, as the ''Robert Boochever United States Courthouse''.

H.R. 5512. An act to amend title 28, United States Code, to realign divisions within two judicial districts.

H.R. 6189. An act to eliminate unnecessary reporting requirements for unfunded programs under the Office of Justice Programs.

H.R. 6215. An act to amend the Trademark Act of 1946 to correct an error in the provisions relating to remedies for dilution.

H.R. 6375. An act to authorize certain Department of Veterans Affairs major medical facility projects, to amend title 38, United States Code, to extend certain authorities of the Secretary of Veterans Affairs, and for other purposes.

H.R. 6431. An act to provide flexibility with respect to United States support for assistance provided by international financial institutions for Burma, and for other purposes.

H.R. 6433. An act to make corrections with respect to Food and Drug Administration user fees.

H.J. Res. 117. Joint resolution making continuing appropriations for fiscal year 2013, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 300. An act to prevent abuse of Government charge cards.

S. 710. An act to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system.

ADJOURNMENT

The SPEAKER pro tempore. Pursuant to section 3(b) of House Resolution 788, the House stands adjourned until 11 a.m. on Friday, September 28, 2012.

Accordingly (at 10 o'clock and 14 minutes a.m.), the House adjourned until Friday, September 28, 2012, at 11 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for Official Foreign Travel during the third quarter of 2012 pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JENNIFER M. STEWART, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 13 AND AUG. 17, 2012

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Jennifer M. Stewart	8/14	8/15	United Arab Emirates		338.00		9,713.00				10,051.00
	8/15	8/16	Afghanistan		56.00						56.00
Committee total											10,107.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. JOHN A. BOEHNER, Sept. 7, 2012.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HAITI, HOUSE OF REPRESENTATIVES, EXPENDED ON AUG. 14, 2012

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Eric Cantor	8/14	8/14	Haiti								
Kristi Way	8/14	8/14	Haiti								
Committee total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. ERIC CANTOR, Sept. 14, 2012.

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United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, WEDNESDAY, DECEMBER 5, 2012 *No. 155*

House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. DOLD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 5, 2012.

I hereby appoint the Honorable ROBERT J. DOLD to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer:

Loving and gracious God, we give You thanks for giving us another day.

We ask today that You bless the Members of the people's House to be the best and most faithful servants of the people they serve.

May they be filled with gratitude at the opportunity they have to serve in this place. We thank You for the abilities they have been given to do their work to contribute to the common good. May they use their talent as good stewards of Your many gifts and thereby be true servants of justice and partners in peace.

As this second session of the 112th Congress draws near its end and pressing legislative business once again weighs heavily on this Hill and throughout our land, withhold not Your spirit of wisdom and truth from this assembly. Give each Member clarity of thought and purity of motive so that they may render their service as their best selves.

May all that is done this day in the people's House be for Your greater honor and glory.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Tennessee (Mr. FLEISCHMANN) come forward and lead the House in the Pledge of Allegiance.

Mr. FLEISCHMANN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

REMEMBERING CALEB LOGAN COOKE

(Mr. FLEISCHMANN asked and was given permission to address the House for 1 minute.)

Mr. FLEISCHMANN. Mr. Speaker, I rise today in remembrance of Caleb Logan Cooke. Caleb was born January 22, 1997, and passed away Saturday, December 1, 2012, at the age of 15. Caleb was a blessing to his parents and entire family from the day God placed him on His Earth. Though life was often a struggle for Caleb, he met every challenge head-on and always with a thoughtful and caring disposition. He was an accomplished Boy Scout, earned his black belt in tae kwon do, and was recognized for having the highest GPA in his freshman class.

In addition to all of his high school and extracurricular accomplishments, Caleb was engaged politically and always ready to discuss the day's news. A civically active young man, he was truly a shining example of our youth. Most of all, Caleb was a good friend to my son, Jeffrey, a delightful son to his parents, a loving sibling to his sister and brothers, a blessing to his entire family.

Caleb will be missed by all and always remembered.

AMERICANS WANT JOBS, NOT UNEMPLOYMENT CHECKS

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Nearly 50 million Americans—over 10 million children—live in poverty and 46 million Americans on food stamps. According to the Census Bureau, without Social Security over 50 percent of people 65 and older would live and die in poverty. Why do we accept poverty? Why do we accept massive unemployment? Over 20 million Americans are without work. You cannot escape poverty without a job. Americans want jobs, not unemployment checks. If you don't have a source of income, you can't own a home.

The middle class is disappearing. An unfair tax system is causing wealth to accelerate upwards, which is why I oppose the Bush tax cuts. But more tax increases and no massive jobs program are a prescription for disaster. We need more taxpayers, not more tax increases. You can't rebuild America by retaxing America. Poverty and joblessness constitute a national emergency. The private sector is not creating sufficient jobs. Congress has a constitutional obligation and power to coin or create money. We can use our power to put millions back to work rebuilding our infrastructure.

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that we have to use legislation to address this, but that's the situation we find ourselves in.

In September, the world watched as a violent raid on our embassy in Benghazi, Libya, took the life of Ambassador Chris Stevens and three other brave Americans, two of whom have served as diplomatic security officers. Committed to serving our Nation, these men gave their lives to provide security for American diplomats in an unstable country, struggling in the midst of historic change.

There is a real enemy working to, at the very least, threaten American ideals and our way of life. Let's ensure the policies shaping our immigration laws do not create a greater hindrance to us in this fight.

With this bill under consideration today, we have the opportunity to recognize the legal permanent residents who have proven their commitment to our Nation's ideals and missions, should they be working with the State Department as executive-level security personnel, interpreter, or translator, regarding their continuous residence and physical presence requirements.

I ask the House to support this commonsense, reasonable legislation to make sure that we recognize individuals who are serving our country, legal residents who are serving in very dangerous places, serving in our State Department, that they be given the recognition they deserve and a proper pathway to citizenship.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6223, a bill that would expand upon a small, but important provision in our immigration laws and alleviate one barrier often faced by certain persons applying for naturalization.

Under our immigration laws, a lawful permanent resident who is applying to become a U.S. citizen generally must reside continuously in the United States for 5 years. Persons who are naturalizing by virtue of their marriage to a U.S. citizen or battered spouses or children may naturalize after a 3-year period of residence. A person must also be physically present in the United States for at least one-half of that time.

In 2007, Congress enacted a law to ensure that when a person works as an interpreter or translator in Iraq or Afghanistan for the U.S. chief of mission or the Armed Forces—either directly or by contract—that time should count toward the ''continuous residence'' requirement for naturalization.

This makes sense. Why should we penalize a lawful permanent resident for choosing to provide critical translation or interpretative services in Iraq or Afghanistan by saying that the person failed to reside continuously in the United States?

Today's bill builds on that commonsense provision in law in three ways:

First, it eliminates the geographical restriction in current law and says that time spent providing qualifying services to the U.S. chief of mission or Armed Forces anywhere in the world should be considered for naturalization purposes. Lawful permanent residents provide important services to our government all around the world, and it makes little sense to limit the provision only to service in those two countries.

Second, the current law applies only to the work of translators or interpreters, but lawful permanent residents assist our chiefs of mission and Armed Forces in a variety of important ways. To the current list of qualifying jobs, this bill adds certain high-level security-related work.

Finally, although the provision in current law only allows the time abroad not to count as a break in the ''continuous residence'' requirement for naturalization, this bill would allow the time also to count toward the ''physical presence'' requirement.

I thank the gentleman from Pennsylvania for his work on the bill. I urge my colleagues to support the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 6223, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: ''A bill to amend section 1059(e) of the National Defense Authorization Act for Fiscal Year 2006 to clarify that a period of employment abroad by the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity is to be counted as a period of residence and physical presence in the United States for purposes of qualifying for naturalization, and for other purposes.''

A motion to reconsider was laid on the table.

PATENT LAW TREATIES IMPLEMENTATION ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3486) to implement the provisions of the Hague Agreement and the Patent Law Treaty.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patent Law Treaties Implementation Act of 2012''.

TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

''PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

''CHAPTER Sec.
''38. International design applications 381.

''CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

''Sec.
''381. Definitions.
''382. Filing international design applications.
''383. International design application.
''384. Filing date.
''385. Effect of international design application.
''386. Right of priority.
''387. Relief from prescribed time limits.
''388. Withdrawn or abandoned international design application.
''389. Examination of international design application.
''390. Publication of international design application.

''§ 381. Definitions

''(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

''(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

''(2) the term 'regulations'—

''(A) when capitalized, means the Common Regulations under the treaty; and

''(B) when not capitalized, means the regulations established by the Director under this title;

''(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

''(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

''(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

''(6) the term 'international design application' means an application for international registration; and

''(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

''(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

''§ 382. Filing international design applications

''(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

''(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

''(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

''(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of

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an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

''(1) in a country other than the United States;

''(2) at the International Bureau; or

''(3) with an intergovernmental organization.

''§ 383. International design application

''In addition to any requirements pursuant to chapter 16, the international design application shall contain—

''(1) a request for international registration under the treaty;

''(2) an indication of the designated Contracting Parties;

''(3) data concerning the applicant as prescribed in the treaty and the Regulations;

''(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number and manner prescribed in the treaty and the Regulations;

''(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

''(6) the fees prescribed in the treaty and the Regulations; and

''(7) any other particulars prescribed in the Regulations.

''§ 384. Filing date

''(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

''(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

''§ 385. Effect of international design application

''An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

''§ 386. Right of priority

''(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

''(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States, or a prior international design application designating at least 1 country other than the United States.

''(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

''§ 387. Relief from prescribed time limits

''An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

''§ 388. Withdrawn or abandoned international design application

''Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

''§ 389. Examination of international design application

''(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

''(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

''(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

''(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

''§ 390. Publication of international design application

''The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).''.

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

''V. The Hague Agreement concerning international registration of industrial designs ..... 401''.

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)''; and

(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)''; and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'';

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'';

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States''; and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States''

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after ''did not originate in the United States''; and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawal.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms ''treaty'' and ''international design application'' have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

(2) the term ''international application'' has the meaning given that term in section 351(c) of title 35, United States Code; and

(3) the term ''national application'' means ''national application'' within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.'';

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.''; and

(3) by adding at the end the following:

''(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. Such application shall be treated as having never been filed, unless—

''(1) the application is revived under section 27; and

''(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''§ 27. Revival of applications; reinstatement of reexamination proceedings

''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''27. Revival of applications; reinstatement of reexamination proceedings.''.

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking ''twelve'' and inserting ''12''; and

(ii) by adding at the end the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional.''; and

(II) in the last sentence—

(aa) by striking ''including the payment of a surcharge'' and inserting ''including the payment of the fee specified in section 41(a)(7)''; and

(bb) by striking ''during the pendency of the application''; and

(ii) in paragraph (3), by adding at the end the following: ''For an application for patent filed under section 363 in a Receiving Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.''; and

(2) in section 365(b), by adding at the end the following: ''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.''.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: ''The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking ''Whoever'' and inserting ''(a) IN GENERAL.—Whoever'';

(2) by striking ''The provisions'' and inserting ''(b) APPLICABILITY OF THIS TITLE.—The provisions''; and

(3) by adding at the end the following:

''(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director''; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a

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maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'';

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following:

''§ 151. Issue of patent

''(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 361, by striking subsection (c) and inserting the following:

''(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.'';

(8) in section 364, by striking subsection (b) and inserting the following:

''(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.''; and

(9) in section 371(d), in the third sentence, by striking '', unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable''.

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1).

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on S. 3486, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Senate ratified both The Hague Agreement on Industrial Designs and the Patent Law Treaty in December of 2007. Each treaty is noncontroversial and helps American inventors who need overseas patent protection.

However, the treaties cannot take effect until we amend our national patent law to cohere with our new obligations. Now that patent reform is behind us, we turn to implement both treaties through S. 3486. And I thank Ranking Member CONYERS, Senator LEAHY, Senator GRASSLEY, and PTO Director Kappos for their work on this bill.

The Hague Agreement makes the process of registering industrial designs in other countries much easier for American applicants. Its signature provision allows a design owner to apply for protection in a number of African, Asian, and European nations through a single filing.

Currently, an American design applicant must file separate applications for design protection in each country or intergovernmental organization. The centralized registration procedure under the agreement will bring substantial cost savings to American industrial design owners.

In addition, the filing of a single application that is accepted by a centralized office will lead to fewer processing mistakes and delays by the applicant and foreign patent offices.

□ 1040

The Hague Agreement also specifies administrative procedures to be followed by design patent applicants seeking multinational registration under the act. This allows us to provide the United States with the administrative benefits of a multinational design protection system and still retain our own substantive system.

The Patent Law Treaty, or PLT, also simplifies the formal obligations imposed on inventors and reduces cost for patent applicants and owners. The PLT furthers our policy of strong and intellectual property protection. It simplifies national and international formal requirements associated with patent applications and patents. This makes it easier for American patent applicants and owners to obtain and maintain patents throughout the world, as well as in the United States.

The drafting of S. 3486 was a collaborative effort that included the bipartisan and bicameral participation of the House and Senate Judiciary Committees, the Patent and Trademark Office, and the House legislative counsel. I again want to thank Ranking Member CONYERS, Senator LEAHY, Senator GRASSLEY, and PTO Director Kappos for their contributions to the project.

S. 3486 saves American inventors money and expands their patent protection outside the United States. I urge my colleagues to support the bill, and I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 3486 because it will decrease the barriers that U.S. innovators and businesses confront when they pursue patent protection in foreign countries. Specifically, the legislation will standardize the application procedures of the U.S. Patent and Trademark Office and will make them consistent with The Hague Agreement concerning the international registration of industrial designs known as The Hague Treaty and the Patent Law Treaty.

The bill implements The Hague Treaty and Patent Law Treaty, which were ratified by the Senate unanimously on December 7, 2007. Unfortunately, neither of these treaties have yet to take effect in the United States because we have not passed implementing legislation. This bill addresses this problem in the following respects.

To begin with, the bill standardizes the application procedures so they're consistent with the procedures in other countries that are signatories to the treaties. Under current law, U.S. designers must file separate applications in each jurisdiction where they want to receive rights. This procedure is burdensome, complicated, and often involves several languages. Under this measure, the U.S. creators of industrial designs will be able to use a simplified application system by filing a single English language international design application with the Patent and Trademark Office. This modification will not affect the standard for attaining a design patent, but it will aid small companies in seeking to expand their businesses overseas by streamlining the application process. Additionally, the bill will extend the term of the design patent from 14 years to 15 years, which will benefit U.S. patent holders.

Second, the bill implements provisions under the Patent Law Treaty that revive applications which have been unintentionally abandoned.

Finally, by implementing the Patent Law Treaty, several hurdles which disadvantage American businesses will be removed. Implementing the Patent Law Treaty will amend patent application procedures for filing dates, fees, surcharges for fees, as well as for oaths, declarations, and claims submitted after the filing date. These modifications should save innovators precious resources.

In conclusion, the bill would benefit our Nation's economy by helping

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American innovators and businesses better protect their inventions overseas.

I urge my colleagues to support the legislation, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, we have no other speakers on this side, and I yield back the balance of my time, as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, S. 3486.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

21ST CENTURY LANGUAGE ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2367) to strike the word ''lunatic'' from Federal law, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 2367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''21st Century Language Act of 2012''.

SEC. 2. MODERNIZATION OF LANGUAGE REFERRING TO PERSONS WHO ARE MENTALLY ILL.

(a) WORDS DENOTING NUMBER, GENDER, AND SO FORTH.—Section 1 of title 1, United States Code, is amended—

(1) by striking ''and 'lunatic' ''; and

(2) by striking ''lunatic,''.

(b) BANKING LAW PROVISIONS.—

(1) TRUST POWERS.—The first section of the Act entitled ''An Act to place authority over the trust powers of national banks in the Comptroller of the Currency'', approved September 28, 1962 (12 U.S.C. 92a), is amended—

(A) in subsection (a), by striking ''committee of estates of lunatics,''; and

(B) in subsection (b), by striking ''committee of estates of lunatics''.

(2) CONSOLIDATION AND MERGERS OF BANKS.—The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended—

(A) in section 2 (12 U.S.C. 215)—

(i) in subsection (e), by striking ''receiver, and committee of estates of lunatics'' and inserting ''and receiver''; and

(ii) in subsection (f), by striking ''receiver, or committee of estates of lunatics'' and inserting ''or receiver''; and

(B) in section 3 (12 U.S.C. 215a)—

(i) in subsection (e), by striking ''receiver, and committee of estates of lunatics'' and inserting ''and receiver''; and

(ii) in subsection (f), by striking ''receiver, or committee of estates of lunatics'' and inserting ''or receiver''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on S. 2367, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the 21st Century Language Act is a relatively simple bill. It strikes the word ''lunatic'' from the United States Code.

The term ''lunatic'' derives from the Latin word for ''moon.'' Before the modern era, it was used to describe a person who suffers from mental disease because of the belief that lunar cycles had an impact on brain function. But as science and medicine have progressed, society has come to understand mental illness with more clarity.

Senator CONRAD and Senator CRAPO introduced the legislation under consideration to strike the word ''lunatic'' from the United States Code. I thank them for their effort, and I encourage my colleagues to join me in support of this bill to modernize our codified law to reflect a 21st-century understanding of mental illness.

With that, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill eliminates outdated references in the U.S. Code that stigmatize individuals with mental illness issues. This legislation easily passed the Senate with strong bipartisan support.

The bill eliminates the word ''lunatic'' from several sections of the United States Code in order for our Code to reflect meanings which are much more appropriate and up to date in the 21st century.

In the past, Members of Congress from both sides of the aisle have worked together to address similar terms in the Code which negatively describe individuals with mental health issues. For example, in 2010, Rosa's Law passed in Congress with bipartisan support and was later signed into law. The law replaced parts of the Code containing the phrase ''having mental retardation'' with the phrase ''having intellectual disabilities.''

The term ''lunatic'' holds a place in antiquity and should no longer have a prominent place in our U.S. Code. Although the bill does not replace the word with another term, it follows the precedence of Congress to study semantics and continuously improves the status and appropriateness of our Nation's laws by addressing pejorative terms.

I applaud the bipartisan group of Senators—Senators CONRAD, CRAPO, and JOHANNS—for their work on this legislation. In addition, the bill shares strong support among our Nation's leading mental health advocates.

I urge my colleagues to support the legislation, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time, as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, S. 2367.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SCOTT of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 48 minutes a.m.), the House stood in recess.

□ 1117

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 11 o'clock and 17 minutes a.m.

ELIMINATE PRIVACY NOTICE CONFUSION ACT

Mrs. CAPITO. Mr. Speaker, I ask unanimous consent to withdraw my motion that the House suspend the rules with regard to H.R. 5817.

The SPEAKER pro tempore. The motion is withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

S. Con. Res. 50, H.R. 6602, and S. 2367, in each case by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

SENSE OF CONGRESS ON GOVERNANCE OF THE INTERNET

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and concur in

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PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, THURSDAY, DECEMBER 6, 2012 *No. 156*

House of Representatives

The House was not in session today. Its next meeting will be held on Friday, December 7, 2012, at 11 a.m.

Senate

THURSDAY, DECEMBER 6, 2012

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of wonder, beyond all majesty, You alone are worthy of our praise. Stay with us, bringing Your grace and gladness to brighten our lives. Lord, remove our sins from us and cleanse us with Your spirit, emancipating us from fears about what tomorrow may hold.

Continue to direct the steps of our lawmakers, keeping them from eleventh-hour decisions that bring unintended negative consequences. Remind them that the cost of indecision may be much higher than they anticipate.

Purge them of the things that increase discord, that in unity they may serve You with faithfulness. We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 6, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business until 11:45 today. During that period of time, Senators will be allowed to speak up to 10 minutes each. It is certainly not mandatory, but we would like that time to be used for speeches of our retiring Senators.

At 11:45 a.m., the Senate will move to executive session to consider the Walker and Berg nominations, both district judges from Florida and Michigan, respectively.

At approximately 12:10 p.m., there will be up to three rollcall votes: first on passage of the Russia trade bill, and then on confirmation of the Walker and Berg nominations. We expect only two rollcall votes as we hope the Berg nomination will be confirmed by voice.

MIDDLE-CLASS TAX CUT

Mr. REID. Mr. President, we Democrats have been saying for more than 4 months it is time for the House to pass a middle-class tax cut, which we approved here in the Senate in July. As the days until the country goes over the fiscal cliff tick by, more and more Republicans have joined our chorus. They realize the Republican leaders' unwillingness to compromise sooner has put them in a real bind. So reasonable Republicans are asking their House leadership to allow a vote on the Senate-passed legislation. What was once a trickle has become more of a flood.

Last week, Republican Representative TOM COLE said it was time to give middle-class families certainty that taxes won't go up by $2,200, on average, on January 1.

Then TIM SCOTT, Republican, a conservative Republican from South Carolina, admitted the Senate's middle-class tax cut would surely pass the House since it will take only 26 moderate Republican votes to ensure passage.

I don't agree with columnist David Brooks—on occasion I don't agree with him, perhaps most of the time I don't agree with him—but no one can ever dispute the brilliance in writing of this columnist for the New York Times. He is a great journalist. He writes so well

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serves on the Arkansas Association of Counties Risk Management Trustees Board.

I congratulate Sheriff Danny Hickman for his successes in law enforcement and keeping Arkansas citizens safe. I wish him continued success in the future. We are all grateful for his years of service and leadership in Boone County.●

TRIBUTE TO SERGEANT FIRST CLASS TOMMY SHOEMAKER

● Mr. VITTER. Mr. President, I rise today to honor a true American hero. During a parade honoring our veterans on November 15, 2012, in Midland, TX, four of veterans lost their lives when their float was tragically struck by an oncoming train. Sixteen other veterans were also injured.

That day, SFC Tommy Shoemaker was among the veterans being honored for their service, and his float was directly ahead of the one struck. Upon witnessing this tragedy, SFC Shoemaker jumped from his float that was traveling 40MPH. He, his fellow veterans, and other soldiers began immediately assisting those injured. Prior to ambulances arriving, they provided CPR and life-saving aid to stabilize those injured. SFC Shoemaker's selfless act of heroism not only saved lives but also is a testament to the special forces training he received.

SFC Shoemaker entered the military in 1986 and later served in the Army Reserves in Monroe, LA, and also the Mississippi National Guard. In 2004, he was deployed to Afghanistan as part of an Embedded Transition Team. Unfortunately, his convoy unit was attacked twice in 2005 and again in 2006, the last a combination of road side bombs and an ambush. The incident left SFC Shoemaker severely injured and forced him to return home.

Since, SFC Shoemaker has been working as an Associate Administrator at the Northeast Louisiana War Veterans Home, a position he held prior to deployment. He also lends his time at the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the Office of Public Health. He does all of this with permanent disabilities to 90 percent of his body, as a loving husband to his wife Pam, and their four daughters, Malissa, Kayla, Suzie, and Sierra.

It is my privilege and honor to recognize SFC Tommy Shoemaker for his bravery and courage and for his service to the United States of America.●

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

S. 2367. An act to strike the word ''lunatic'' from Federal law, and for other purposes.

S. 3486. An act to implement the provisions of the Hague Agreement and the Patent Law Treaty.

H.R. 6223. An act to amend section 1059(e) of the National Defense Authorization Act for Fiscal Year 2006 to clarify that a period of employment abroad by the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity is to be counted as a period of residence and physical presence in the United States for purposes of qualifying for naturalization, and for other purposes.

H.R. 6602. An act to make revisions in title 36, United States Code, as necessary to keep the title current and make technical corrections and improvements.

H.R. 6605. An act to eliminate an unnecessary reporting requirement for an unfunded DNA Identification grant program.

H.R. 6620. An act to amend title 18, United States Code, to eliminate certain limitations on the length of Secret Service Protection for former Presidents and for the children of former Presidents.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2838) to authorize appropriations for the Coast Guard for fiscal years 2012 through 2015, and for other purposes, with an amendment, and agrees to the amendment of the Senate to the title of the bill.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 50. Concurrent resolution expressing the sense of Congress regarding actions to preserve and advance the multistakeholder governance model under which the Internet has thrived.

ENROLLED BILLS SIGNED

At 4:34 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2367. An act to strike the word ''lunatic'' from Federal law, and for other purposes.

S. 3486. An act to implement the provisions of the Hague Agreement and the Patent Law Treaty.

H.R. 6634. An act to change the effective date for the Internet publication of certain financial disclosure forms.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 6602. An act to make revisions in title 36, United States Code, as necessary to keep the title current and make technical corrections and improvements; to the Committee on the Judiciary.

H.R. 6605. An act to eliminate an unnecessary reporting requirement for an unfunded DNA Identification grant program; to the Committee on the Judiciary.

H.R. 6620. An act to amend title 18, United States Code, to eliminate certain limitations on the length of Secret Service Protection for former Presidents and for the children of former Presidents; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3664. A bill to provide for debt limit extensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8448. A communication from the Acting Deputy Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2012–2013 Accountability Measure and Closure for Gulf King Mackerel in Northern Florida West Coast Subzone'' (RIN0648–XC273) received in the Office of the President of the Senate on November 30, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8449. A communication from the Deputy Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska'' (RIN0648–XC113) received in the Office of the President of the Senate on December 3, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8450. A communication from the Deputy Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the State of New York'' (RIN0648–XC294) received during adjournment of the Senate in the Office of the President of the Senate on November 8, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8451. A communication from the Deputy Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XC288) received in the Office of the President of the Senate on December 3, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8452. A communication from the Attorney-Advisor for the Department of Legislation and Regulations, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Retrospective Review Under E.O. 13563: Seamen's Claims; and Admiralty Claims'' (RIN2133–AB79) received in the Office of the President of the Senate on December 4, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8453. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Lewistown, MT'' ((RIN2120–AA66) (Docket No. FAA–2012–0538)) received in the Office of the President of the Senate on December 4, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8454. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Bozeman, MT'' ((RIN2120–AA66) (Docket No. FAA–2012–0519)) received in the Office of the President of the Senate on December 4, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8455. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation,

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PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, FRIDAY, DECEMBER 7, 2012 *No. 157*

Senate

The Senate was not in session today. Its next meeting will be held on Monday, December 10, 2012, at 2 p.m.

House of Representatives

FRIDAY, DECEMBER 7, 2012

The House met at 11 a.m. and was called to order by the Speaker pro tempore (Mr. HARRIS).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 7, 2012.

I hereby appoint the Honorable ANDY HARRIS to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer:

Gracious God, we give You thanks for giving us another day.

You have blessed us with all good gifts, and with thankful hearts we express our gratitude. You have created us with opportunities to serve other people in their need, to share together in respect and affection, and to be faithful in the responsibilities we have been given.

In this moment of prayer, please grant to the Members of this people's House the gifts of wisdom and discernment that, in their words and actions, they will do justice, love with mercy, and walk humbly with You.

May all that is done this day be for Your greater honor and glory.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 6, 2012.

Hon. JOHN A. BOEHNER,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 6, 2012 at 9:42 a.m.:

That the Senate passed S. 1947.
That the Senate passed S. 3254.
With best wishes, I am
Sincerely,

KAREN L. HAAS.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 6, 2012.

Hon. JOHN A. BOEHNER,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 6, 2012 at 5:22 p.m.:

That the Senate passed without amendment H.R. 6582.
That the Senate passed S. 3666.
With best wishes, I am
Sincerely,

KAREN L. HAAS.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 6, 2012.

Hon. JOHN A. BOEHNER,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 6, 2012 at 3:46 p.m.:

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That the Senate passed without amendment H.R. 6634.

With best wishes, I am

Sincerely,

KAREN L. HAAS.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 6, 2012.

Hon. JOHN A. BOEHNER,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 6, 2012 at 12:42 p.m.:

That the Senate passed with an amendment H.R. 4310.

That the Senate requests a conference with the House and appoints conferees.

That the Senate passed S. 3331.

That the Senate passed without amendment H.R. 6156.

With best wishes, I am

Sincerely,

KAREN L. HAAS.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the following enrolled bills were signed by the Speaker on Thursday, December 6, 2012:

H.R. 6634, to change the effective date for the Internet publication of certain financial disclosure forms;

S. 2367, to strike the word ''lunatic'' from Federal law, and for other purposes;

S. 3486, to implement the provisions of the Hague Agreement and the Patent Law Treaty.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KLINE (at the request of Mr. CANTOR) for December 4 and 5 on account of the passing of his mother, Litta Kline.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1947. An act to prohibit attendance of an animal fighting venture, and for other purposes; to the Committee on Agriculture; in addition to the Committee on the Judiciary 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.

S. 3331. An act to provide for universal intercountry adoption accreditation standards, and for other purposes; to the Committee on Foreign Affairs.

S. 3666. An act to amend the Animal Welfare Act to modify the definition of ''exhibitor''; to the Committee on Agriculture.

ENROLLED BILL SIGNED

Karen L. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6634. An act to change the effective date for the Internet publication of certain financial disclosure forms.

SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 2367. An act to strike the word ''lunatic'' from Federal law, and for other purposes.

S. 3486. An act to implement the provisions of the Hague Agreement and the Patent Law Treaty.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until noon on Tuesday, December 11, 2012, for morning-hour debate.

There was no objection.

Accordingly (at 11 o'clock and 5 minutes a.m.), under its previous order, the House adjourned until Tuesday, December 11, 2012, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

8629. A letter from the Acting Principal Deputy, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral David J. Venlet, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

8630. A letter from the Acting Principal Deputy, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral John T. Blake, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

8631. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to United Arab Emirates pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

8632. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to South Korea and China pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

8633. A letter from the Acting Chairman, Federal Deposit Insurance Corporation, transmitting a report entitled, ''Merger Decisions 2011'', in accordance with Section 18(c)(9) of the Federal Deposit Insurance Act; to the Committee on Financial Services.

8634. A letter from the Assistant General Counsel Regulatory Affairs, Consumer Product Safety Commission, transmitting the Commission's final rule — Safety Standard for Infant Swings [CPSC Docket No.: CPSC-2012-0011] (RIN: 3041-AC90) received November 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8635. A letter from the Secretary, Department of Health and Human Services, transmitting the fourth annual report on the Prevention and Reduction of Underage Drinking; to the Committee on Energy and Commerce.

8636. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting report prepared by the Department of State concerning international agreements other than treaties entered into by the United States to be transmitted to the Congress within the sixty-day period specified in the Case-Zablocki Act; to the Committee on Foreign Affairs.

8637. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting the Commission's Performance and Accountability Report for Fiscal Year 2012; to the Committee on Oversight and Government Reform.

8638. A letter from the Administrator, Agency for International Development, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2012, through September 30, 2012, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

8639. A letter from the Director of Management, Commission on Civil Rights, transmitting the Commission's Performance and Accountability Report for fiscal year 2012; to the Committee on Oversight and Government Reform.

8640. A letter from the Chief Executive Officer, Corporation for National and Community Service, transmitting the Inspector General's semiannual report to Congress for the reporting period April 1, 2012 through September 30, 2012; to the Committee on Oversight and Government Reform.

8641. A letter from the Chairman, Defense Nuclear Safety Board, transmitting the Board's Performance and Accountability Report for Fiscal Year 2012; to the Committee on Oversight and Government Reform.

8642. A letter from the Secretary, Department of Agriculture, transmitting the Inspector General's semiannual report to Congress for the reporting period ending September 30, 2012; to the Committee on Oversight and Government Reform.

8643. A letter from the Secretary, Department of Energy, transmitting the Department's Fiscal Year 2012 Agency Financial Report; to the Committee on Oversight and Government Reform.

8644. A letter from the Secretary, Department of Labor, transmitting the Semiannual Report of the Inspector General for the period April 1, 2012 through September 30, 2012, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

8645. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's Performance and Accountability Report for Fiscal Year 2012; to the Committee on Oversight and Government Reform.

8646. A letter from the Chief, Branch of Permits and Regulations, Division of Migratory Bird Management, Department of the Interior, transmitting the Department's final rule — Migratory Bird Permits; Delegating Falconry Permitting Authority to Seven States [FWS-HQ-MB-2012-0084; 91200-1231-9BPP] (RIN: 1018-AZ16) received November 29, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

8647. A letter from the Chief, Branch of Listing, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Southern Selkirk Mountains Population of Woodland Caribou [Docket No.: FWS-R1-ES-2011-0096] (RIN: 1018-AX38) received November 29, 2012, pursuant to 5 U.S.C.

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PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, MONDAY, DECEMBER 10, 2012 *No. 158*

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, December 11, 2012, at 12 p.m.

Senate

MONDAY, DECEMBER 10, 2012

The Senate met at 2 p.m. and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and everlasting God, who forgives the sins of the penitent, create in us contrite hearts and renew a right spirit within us. Give our Senators this day, O God, peace with You that banishes fear. Help them to believe in Your power so they may be certain You are able to do for them more than they can ask or imagine. When the tasks are beyond their powers and duty calls for more than they have to give, may they find their strength in You. Make them willing to do what is painful in the short term to avoid even greater pain in the long term. Lord, give them confidence that You will protect them in the future even as You have sustained them in the past.

We pray in your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PATRICK J. LEAHY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 10, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

LONGEST SERVING SENATOR FROM VERMONT

Mr. REID. Mr. President, first of all, it is very unusual to have one of the most senior Members of the Senate presiding and especially at this time of the day. I would say to my friend, this is how the Senator has conducted himself all the time he has been in the Senate. We had a little emergency here today. The Senator who was expected to be here was unable to make it due to the fog we have around the eastern part of the United States, and so the Senator from Vermont agreed to preside.

I say to everyone, the people of Vermont are so fortunate to have the longest serving Senator from Vermont, a man of such quality. Those of us who work with the chairman of the Judiciary Committee, Senator LEAHY of Vermont, consider it an honor to be able to talk to him—speaking for myself, but I am sure we all feel this way—and to learn from him. I am the majority leader in the Senate, but I talk to my friend from Vermont often to get ideas as to how we handle the difficult issues of the day.

For me, as a person, I will always remember, as long as I am on this Earth, the kindness Senator LEAHY and his lovely wife Marcelle extended to my wife. As most of my colleagues know, she was in a violent car accident. Her neck was broken in a couple places and her back was broken and so she had a lot of surgery. When that was over, she learned she had breast cancer, and so she has been fighting that. Marcelle, who is a nurse, has been so thoughtful and kind to my wife, calling her often to help her work through the sickness that comes with breast cancer. So this is an opportunity for me to say something about my friend from Vermont.

I can still remember the first day we met, the first night we met in Florida. He was running for reelection and I was running for the Senate. I want the RECORD spread with the fact that I have so much confidence and appreciation for this good man who, on a minute's notice, came over to make the Senate work again. I thank our Acting President pro tempore very much.

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It was also my honor to present the Bronze Service Star for the National Defense Service Medal, the Republic of Vietnam Gallantry Cross with Palm Ribbon, and the Bronze Service Star for the Vietnam Service Medal.

These decorations are small tokens, but they are powerful symbols of true heroism, sacrifice, and dedication to service.

They are presented on behalf of a nation that will never forget Donald Singer's heroism.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of December 6, 2012, the following enrolled bills, previously signed by the Speaker of the House, were signed on December 6, 2012, during the adjournment of the Senate, by the Acting President pro tempore (Mr. REID).

S. 3486. An act to implement the provisions of the Hague Agreement and the Patent Law Treaty.

H.R. 6634. An act to change the effective date for the Internet publication of certain financial disclosure forms.

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 5, 2011, the Secretary of the Senate, on December 7, 2012, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 6156. An act to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to products of the Russian Federation and Moldova and to require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organization, and for other purposes.

Under the authority of the order of the Senate of December 6, 2012, the enrolled bill was signed on December 7, 2012, during the adjournment of the Senate, by the Acting President pro tempore (Mr. REID).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3664. A bill to provide for debt limit extensions.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 10, 2012, she had presented to the President of the United States the following enrolled bill:

S. 3486. An act to implement the provisions of the Hague Agreement and the Patent Law Treaty.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8509. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Creation of a Low Power Radio Service'' (MM Docket No. 99–25; FCC 12–144) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8510. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Shipping and Transportation; Technical, Organizational, and Conforming Amendments'' (RIN1625–AB87) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8511. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Schuylkill River, Philadelphia, PA'' ((RIN1625–AA09) (Docket No. USCG–2012–0625)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8512. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), Newport River, Morehead City, NC'' ((RIN1625–AA09) (Docket No. USCG–2012–0628)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8513. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Palm Beach World Championship, Atlantic Ocean; Jupiter, FL'' ((RIN1625–AA08) (Docket No. USCG–2012–0721)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8514. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation Clearwater Super Boat National Championship Race, Gulf of Mexico; Clearwater, FL'' ((RIN1625–AA08) (Docket No. USCG–2012–0452)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8515. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Red Bull Flugtag Miami, Biscayne Bay; Miami, FL'' ((RIN1625–AA08) (Docket No. USCG–2012–0728)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8516. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; 2012 Ironman 70.3 Miami, Biscayne Bay, Miami, FL'' ((RIN1625–AA08) (Docket No. USCG–2012–0559)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8517. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Columbus Day Weekend, Biscayne Bay, Miami, FL'' ((RIN1625–AA11) (Docket No. USCG–2012–0191)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8518. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Thames River Degaussing Range Replacement Operations; New London, CT'' ((RIN1625–AA11) (Docket No. USCG–2012–0623)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8519. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; East River, Flushing and Gowanus Bays, and Red Hook and Buttermilk Channels; New York, NY'' ((RIN1625–AA11) (Docket No. USCG–2012–0950)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8520. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Inland Waterways Navigation Regulations'' ((RIN1625–AB84) (Docket No. USCG–2011–1086)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8521. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Cruise Ships, Santa Barbara Harbor, Santa Barbara, California'' ((RIN1625–AA87) (Docket No. USCG–2011–0906)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8522. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones; USCGC WILLIAM FLORES Commissioning Ceremony, Ybor Channel; Tampa, FL'' ((RIN1625–AA87) (Docket No. USCG–2012–0885)) received in the Office of the President of the Senate on December 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–8523. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; James River, Kingsmill Resort,

LEGISLATIVE INTENT SERVICE (800) 666-1917

BILL SUMMARY: S. 3486 – 112th Congress (2011-2012)

Authored by: Congressional Research Service

Introduced in Senate (08/02/2012)

Patent Law Treaties Implementation Act of 2012 - Amends federal patent law to implement the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the Patent Law Treaty. (Both treaties were ratified by the Senate on December 7, 2007.)

Allows any person who is a U.S. national, or has a domicile, habitual residence, or real and effective industrial or commercial establishment in the United States, to file an international design application for international registration with the U.S. Patent and Trademark Office (USPTO) (thereby enabling U.S. applicants to file a single application with USPTO instead of separate applications in multiple countries).

Directs the USPTO to transmit international fees and forward international design applications to the international intergovernmental coordinating body.

Requires an international design application on an industrial design made in the United States to constitute the filing of an application in a foreign country if such application is filed: (1) in a country other than the United States, (2) at the international intergovernmental coordinating body recognized under the Hague Agreement, or (3) with an intergovernmental organization.

Sets forth the priorities of national and prior foreign and national applications.

Standardizes application procedures to be consistent with other member countries.

Extends the term for design patents from 14 to 15 years from the date of grant.

LEGISLATIVE INTENT SERVICE (800) 666-1917

BILL SUMMARY: S. 3486 – 112th Congress (2011-2012)

Authored by: Congressional Research Service

Reported to Senate with amendment(s) (09/20/2012)

Patent Law Treaties Implementation Act of 2012 - Amends federal patent law to implement the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Treaty) and the Patent Law Treaty. (Both treaties were ratified by the Senate on December 7, 2007.)

Standardizes application procedures to be consistent with other member countries.

Title I: Hague Agreement Concerning International Registration of Industrial Designs - (Sec. 101) Allows any person who is a U.S. national, or has a domicile, habitual residence, or real and effective industrial or commercial establishment in the United States, to file an international design application for international registration with the U.S. Patent and Trademark Office (USPTO) (thereby enabling U.S. applicants to file a single application with USPTO instead of separate applications in multiple countries).

Directs the USPTO to collect and transmit international fees and forward international design applications to the intergovernmental International Bureau recognized as the coordinating body under the Hague Treaty and its common regulations.

Requires an international design application on an industrial design made in the United States to constitute the filing of an application in a foreign country if such application is filed: (1) in a country other than the United States, (2) at the International Bureau, or (3) with an intergovernmental organization.

Requires the filing date of an international design application in the United States to be the effective registration date, except that any international design application designating the United States that otherwise meets the requirements of federal patent law (notwithstanding the implementation of the treaty) may be treated as a design application under existing federal laws applicable to design patents.

Permits applicants to request a review of the filing date of an international design application in the United States. Authorizes the USPTO Director to determine that such filing date is a date other than the effective registration date.

Sets forth requirements for determining the right of priority of national applications and prior foreign and national applications with earlier filing dates.

Directs the Director to provide for the examination of international design applications designating the United States. Authorizes the Director to issue patents based on such applications.

(Sec. 102) Extends provisional rights (the right to obtain royalties from persons who sell or engage in certain activities involving the invention during the period beginning on the date the application is published and ending on the date the patent is issued) to such international design applications filed under the treaty that designate the United States.

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Extends the term for design patents from 14 to 15 years from the date of grant.

Title II: Patent Law Treaty Implementation - (Sec. 201) Revises patent application procedures with respect to filing dates, fees, and surcharges for fees, oaths, or declarations and claims submitted after the filing date. Authorizes the Director to prescribe conditions on references to previously filed applications.

Permits the Director to establish procedures to revive an unintentionally abandoned patent application, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant or patent owner.

Authorizes the Director to: (1) prescribe regulations and fees for the extension of application periods for inventors who previously filed provisional applications or applications for the same invention in a foreign country, (2) establish procedures to accept an unintentionally delayed claim for priority under the Patent Cooperation Treaty and to accept a priority claim that pertains to an application that was not filed within the specified priority period but was filed within the extended application period.

Directs the USPTO to maintain a register of interests in patents and applications for patents. Applies patent assignment requirements to interests that constitute an assignment, grant, or conveyance.

LEGISLATIVE INTENT SERVICE (800) 666-1917

BILL SUMMARY: S. 3486 – 112th Congress (2011-2012)

Authored by: Congressional Research Service

Passed Senate amended (09/22/2012)

(This measure has not been amended since it was reported to the Senate on September 20, 2012. The summary of that version is repeated here.)

Patent Law Treaties Implementation Act of 2012 - Amends federal patent law to implement the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Treaty) and the Patent Law Treaty. (Both treaties were ratified by the Senate on December 7, 2007.)

Standardizes application procedures to be consistent with other member countries.

Title I: Hague Agreement Concerning International Registration of Industrial Designs - (Sec. 101) Allows any person who is a U.S. national, or has a domicile, habitual residence, or real and effective industrial or commercial establishment in the United States, to file an international design application for international registration with the U.S. Patent and Trademark Office (USPTO) (thereby enabling U.S. applicants to file a single application with USPTO instead of separate applications in multiple countries).

Directs the USPTO to collect and transmit international fees and forward international design applications to the intergovernmental International Bureau recognized as the coordinating body under the Hague Treaty and its common regulations.

Requires an international design application on an industrial design made in the United States to constitute the filing of an application in a foreign country if such application is filed: (1) in a country other than the United States, (2) at the International Bureau, or (3) with an intergovernmental organization.

Requires the filing date of an international design application in the United States to be the effective registration date, except that any international design application designating the United States that otherwise meets the requirements of federal patent law (notwithstanding the implementation of the treaty) may be treated as a design application under existing federal laws applicable to design patents.

Permits applicants to request a review of the filing date of an international design application in the United States. Authorizes the USPTO Director to determine that such filing date is a date other than the effective registration date.

Sets forth requirements for determining the right of priority of national applications and prior foreign and national applications with earlier filing dates.

Directs the Director to provide for the examination of international design applications designating the United States. Authorizes the Director to issue patents based on such applications.

(Sec. 102) Extends provisional rights (the right to obtain royalties from persons who sell or engage in certain activities involving the invention during the period beginning on the date the

LEGISLATIVE INTENT SERVICE (800) 666-1917

application is published and ending on the date the patent is issued) to such international design applications filed under the treaty that designate the United States.

Extends the term for design patents from 14 to 15 years from the date of grant.

Title II: Patent Law Treaty Implementation - (Sec. 201) Revises patent application procedures with respect to filing dates, fees, and surcharges for fees, oaths, or declarations and claims submitted after the filing date. Authorizes the Director to prescribe conditions on references to previously filed applications.

Permits the Director to establish procedures to revive an unintentionally abandoned patent application, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant or patent owner.

Authorizes the Director to: (1) prescribe regulations and fees for the extension of application periods for inventors who previously filed provisional applications or applications for the same invention in a foreign country, (2) establish procedures to accept an unintentionally delayed claim for priority under the Patent Cooperation Treaty and to accept a priority claim that pertains to an application that was not filed within the specified priority period but was filed within the extended application period.

Directs the USPTO to maintain a register of interests in patents and applications for patents. Applies patent assignment requirements to interests that constitute an assignment, grant, or conveyance.

LEGISLATIVE INTENT SERVICE (800) 666-1917

BILL SUMMARY: S. 3486 – 112th Congress (2011-2012)

Authored by: Congressional Research Service

Passed House without amendment (12/05/2012)

(This measure has not been amended since it was reported to the Senate on September 20, 2012. The summary of that version is repeated here.)

Patent Law Treaties Implementation Act of 2012 - Amends federal patent law to implement the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Treaty) and the Patent Law Treaty. (Both treaties were ratified by the Senate on December 7, 2007.)

Standardizes application procedures to be consistent with other member countries.

Title I: Hague Agreement Concerning International Registration of Industrial Designs - (Sec. 101) Allows any person who is a U.S. national, or has a domicile, habitual residence, or real and effective industrial or commercial establishment in the United States, to file an international design application for international registration with the U.S. Patent and Trademark Office (USPTO) (thereby enabling U.S. applicants to file a single application with USPTO instead of separate applications in multiple countries).

Directs the USPTO to collect and transmit international fees and forward international design applications to the intergovernmental International Bureau recognized as the coordinating body under the Hague Treaty and its common regulations.

Requires an international design application on an industrial design made in the United States to constitute the filing of an application in a foreign country if such application is filed: (1) in a country other than the United States, (2) at the International Bureau, or (3) with an intergovernmental organization.

Requires the filing date of an international design application in the United States to be the effective registration date, except that any international design application designating the United States that otherwise meets the requirements of federal patent law (notwithstanding the implementation of the treaty) may be treated as a design application under existing federal laws applicable to design patents.

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(Sec. 102) Extends provisional rights (the right to obtain royalties from persons who sell or engage in certain activities involving the invention during the period beginning on the date the

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application is published and ending on the date the patent is issued) to such international design applications filed under the treaty that designate the United States.

Extends the term for design patents from 14 to 15 years from the date of grant.

Title II: Patent Law Treaty Implementation - (Sec. 201) Revises patent application procedures with respect to filing dates, fees, and surcharges for fees, oaths, or declarations and claims submitted after the filing date. Authorizes the Director to prescribe conditions on references to previously filed applications.

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Authorizes the Director to: (1) prescribe regulations and fees for the extension of application periods for inventors who previously filed provisional applications or applications for the same invention in a foreign country, (2) establish procedures to accept an unintentionally delayed claim for priority under the Patent Cooperation Treaty and to accept a priority claim that pertains to an application that was not filed within the specified priority period but was filed within the extended application period.

Directs the USPTO to maintain a register of interests in patents and applications for patents. Applies patent assignment requirements to interests that constitute an assignment, grant, or conveyance.

LEGISLATIVE INTENT SERVICE (800) 666-1917

BILL SUMMARY: S. 3486 – 112th Congress (2011-2012)

Authored by: Congressional Research Service

Public Law No: 112-211 (12/18/2012)

(This measure has not been amended since it was reported to the Senate on September 20, 2012. The summary of that version is repeated here.)

Patent Law Treaties Implementation Act of 2012 - Amends federal patent law to implement the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Treaty) and the Patent Law Treaty. (Both treaties were ratified by the Senate on December 7, 2007.)

Standardizes application procedures to be consistent with other member countries.

Title I: Hague Agreement Concerning International Registration of Industrial Designs - (Sec. 101) Allows any person who is a U.S. national, or has a domicile, habitual residence, or real and effective industrial or commercial establishment in the United States, to file an international design application for international registration with the U.S. Patent and Trademark Office (USPTO) (thereby enabling U.S. applicants to file a single application with USPTO instead of separate applications in multiple countries).

Directs the USPTO to collect and transmit international fees and forward international design applications to the intergovernmental International Bureau recognized as the coordinating body under the Hague Treaty and its common regulations.

Requires an international design application on an industrial design made in the United States to constitute the filing of an application in a foreign country if such application is filed: (1) in a country other than the United States, (2) at the International Bureau, or (3) with an intergovernmental organization.

Requires the filing date of an international design application in the United States to be the effective registration date, except that any international design application designating the United States that otherwise meets the requirements of federal patent law (notwithstanding the implementation of the treaty) may be treated as a design application under existing federal laws applicable to design patents.

Permits applicants to request a review of the filing date of an international design application in the United States. Authorizes the USPTO Director to determine that such filing date is a date other than the effective registration date.

Sets forth requirements for determining the right of priority of national applications and prior foreign and national applications with earlier filing dates.

Directs the Director to provide for the examination of international design applications designating the United States. Authorizes the Director to issue patents based on such applications.

(Sec. 102) Extends provisional rights (the right to obtain royalties from persons who sell or engage in certain activities involving the invention during the period beginning on the date the

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application is published and ending on the date the patent is issued) to such international design applications filed under the treaty that designate the United States.

Extends the term for design patents from 14 to 15 years from the date of grant.

Title II: Patent Law Treaty Implementation - (Sec. 201) Revises patent application procedures with respect to filing dates, fees, and surcharges for fees, oaths, or declarations and claims submitted after the filing date. Authorizes the Director to prescribe conditions on references to previously filed applications.

Permits the Director to establish procedures to revive an unintentionally abandoned patent application, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant or patent owner.

Authorizes the Director to: (1) prescribe regulations and fees for the extension of application periods for inventors who previously filed provisional applications or applications for the same invention in a foreign country, (2) establish procedures to accept an unintentionally delayed claim for priority under the Patent Cooperation Treaty and to accept a priority claim that pertains to an application that was not filed within the specified priority period but was filed within the extended application period.

Directs the USPTO to maintain a register of interests in patents and applications for patents. Applies patent assignment requirements to interests that constitute an assignment, grant, or conveyance.

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CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 15, 2012

S. 3486
Patent Law Treaties Implementation Act of 2012

As passed by the Senate on September 22,2012

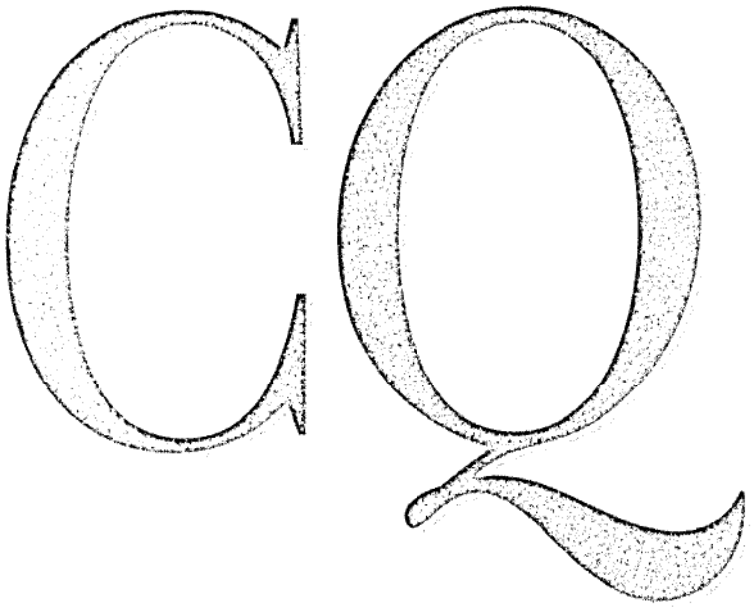
CBO estimates that implementing S. 3486 would not have a significant effect on the federal budget. Enacting S. 3486 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. The act would make changes to sections of current law that relate to certain application and review procedures of the Patent and Trademark Office (PTO) in order to be compatible with two treaties, the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the Patent Law Treaty. Both agreements were ratified by the Senate on December 7, 2007.

S. 3486 would, among other things, extend the period of coverage for a design patent from 14 to 15 years, standardize application procedures with other participants in the treaties, and establish procedures to revive an application that had been unintentionally abandoned. Based on information from PTO, CBO expects that the agency would likely receive more international applications for design patents and more requests to revive abandoned applications as a result of the changes required by the act. However, based on historical trends for similar activities, such as international applications for nondesign patents, CBO estimates that the increased volume would not have a significant effect on the agency's workload. Further, under current law, PTO is authorized to set fee rates in order to collect amounts sufficient to offset its operating expenses each year. Assuming appropriation actions consistent with that authority, CBO estimates that implementing S. 3486 would not have a significant effect on discretionary spending.

CBO has not reviewed S. 3486 for intergovernmental or private-sector mandates because section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that the bill falls within that exclusion.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

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Appendix E

Public Laws

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to make technical corrections to existing federal energy efficiency laws to allow American manufacturers to remain competitive. Introduced by ADERHOLT, R-Ala., on Nov. 2, 2012. House passed, under suspension of the rules, Dec. 4. Senate passed Dec. 6. President signed Dec. 12, 2012.

PL 112-211 (S 3486) Implement the provisions of the Hague Agreement and the Patent Law Treaty. Introduced by LEAHY, D-Vt., on Aug. 2, 2012. Senate Judiciary reported, amended, Sept. 20, 2012 (no written report). Senate passed, amended, Sept. 22. House passed, under suspension of the rules, Dec. 5. President signed Dec. 10, 2012.

PL 112-212 (HR 2467) Take certain federal lands in Mono County, Calif., into trust for the benefit of the Bridgeport Indian Colony. Introduced by MCKEON, R-Calif., on July 8, 2011. House Natural Resources reported, amended, July 19, 2012 (H Rept 112-611). House passed, under suspension of the rules, July 23. Senate Indian Affairs reported Sept. 21 (no written report). Senate passed Dec. 11. President signed Dec. 20, 2012.

PL 112-213 (HR 2838) Authorize appropriations for the Coast Guard for fiscal 2013 and 2014. Introduced by LOBIONDO, R-N.J., on Sept. 2, 2011. House Transportation and Infrastructure reported, amended, Oct. 3 (H Rept 112-229). House passed Nov. 15. Senate Commerce, Science and Transportation discharged. Senate passed, amended, Sept. 22, 2012. House agreed to Senate amendments, with an amendment, Dec. 5. Senate agreed to House amendment Dec. 12. President signed Dec. 20, 2012.

PL 112-214 (HR 3319) Allow the Pascua Yaqui Tribe to determine the requirements for membership in that tribe. Introduced by GRIJALVA, D-Ariz., on Nov. 2, 2011. House Natural Resources reported, amended, Sept. 18, 2012 (H Rept 112-675). House passed, under suspension of the rules, Sept. 19. Senate Indian Affairs discharged. Senate passed Dec. 11. President signed Dec. 20, 2012.

PL 112-215 (HR 4014) Amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection. Introduced by HUIZENGA, R-Mich., on Feb. 13, 2012. House Financial Services reported March 20 (H Rept 112-417). House passed, under suspension of the rules, March 26. Senate passed Dec. 11. President signed Dec. 20, 2012.

PL 112-216 (HR 4367) Amend the Electronic Fund Transfer Act to limit the fee disclosure requirement for an automatic-teller machine to the screen of that machine. Introduced by LUETKEMEYER, R-Mo., on April 17, 2012. House Financial Services reported June 29 (H Rept 112-576). House passed, under suspension of the rules, July 9. Senate passed Dec. 11. President signed Dec. 20, 2012.

PL 112-217 (S 1998) Obtain an unqualified audit opinion and improve financial accountability and management at the Department of Homeland Security. Introduced by BROWN, R-Mass., on Dec. 15, 2011. Senate Homeland Security and Governmental Affairs reported, amended, Nov. 2, 2012 (S Rept 112-230). Senate passed, amended, Nov. 28. House passed, under suspension of the rules, Dec. 12. President signed Dec. 20, 2012.

PL 112-218 (S 3542) Authorize the assistant secretary of Homeland Security (Transportation Security Administration) to modify screening requirements for checked baggage arriving from preclearance airports. Introduced by KLOBUCHAR, D-Minn., on Sept. 13, 2012. Senate Commerce, Science and Transportation discharged. Senate passed, amended, Nov. 29. House passed, under suspension of the rules, Dec. 12. President signed Dec. 20, 2012.

PL 112-219 (HR 3477) Designate the facility of the U.S. Postal Service located at 133 Hare Road in Crosby, Texas, as the "Army 1st Sgt. David McNerney Post Office Building." Introduced by POE, R-Texas, on Nov. 8, 2011. House passed, under suspension of the rules, July 3, 2012. Senate Homeland Security and Governmental Affairs discharged. Senate passed Dec. 19. President signed Dec. 28, 2012.

PL 112-220 (HR 3783) Provide for a comprehensive strategy to counter Iran's growing hostile presence and activity in the Western Hemisphere. Introduced by DUNCAN, R-S.C., on Jan. 18, 2012. House passed, under suspension of the rules, Sept. 19. Senate passed, amended, Dec. 12. House agreed to Senate amendment, under suspension of the rules, Dec. 18. President signed Dec. 28, 2012.

PL 112-221 (HR 3870) Designate the facility of the U.S. Postal Service located at 6083 Highway 36 West in Rose Bud, Ark., as the "Nicky 'Nick' Daniel Bacon Post Office." Introduced by GRIFFIN, R-Ark., on Feb. 1, 2012. House passed, under suspension of the rules, July 23. Senate Homeland Security and Governmental Affairs discharged. Senate passed Dec. 19. President signed Dec. 28, 2012.

PL 112-222 (HR 3912) Designate the facility of the U.S. Postal Service located at 110 Mastic Road in Mastic Beach, N.Y., as the "Brig. Gen. Nathaniel Woodhull Post Office Building." Introduced by BISHOP, D-N.Y., on Feb. 7, 2012. House passed, under suspension of the rules, Nov. 28. Senate Homeland Security and Governmental Affairs discharged. Senate passed Dec. 19. President signed Dec. 28, 2012.

PL 112-223 (HR 5738) Designate the facility of the U.S. Postal Service located at 15285 Samohin Drive in Macomb, Mich., as the "Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex." Introduced by MILLER, R-Mich., on May 11, 2012. House passed, under suspension of the rules, Nov. 28. Senate Homeland Security and Governmental Affairs discharged. Senate passed Dec. 19. President signed Dec. 28, 2012.

PL 112-224 (HR 5837) Designate the facility of the U.S. Postal Service located at 26 East Genesee St. in Baldwinsville, N.Y., as the "Cpl. Kyle Schneider Post Office Building." Introduced by BUERKLE, R-N.Y., on May 18, 2012. House passed, under suspension of the rules, July 23. Senate Homeland Security and Governmental Affairs discharged. Senate passed Dec. 19. President signed Dec. 28, 2012.

PL 112-225 (HR 5954) Designate the facility of the U.S. Postal Service located at 320 7th St. in Ellwood City, Pa., as the "Sgt. Leslie H. Sabo Jr. Post Office Building." Introduced by ALTMIRE, D-Pa., on June 18, 2012. House passed, under suspension of the rules, Nov. 28. Senate Homeland Security and Governmental

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Senate History Page
Copyright Information

LEAHY, Patrick Joseph, (1940 -)

Senate Years of Service: 1975-
Party: Democrat



Courtesy U.S. Senate Historical Office

LEAHY, Patrick Joseph, a Senator from Vermont; born in Montpelier, Washington County, Vt., March 31, 1940; graduated, St. Michael's College, Winooski, Vt., 1961; received J.D. degree from Georgetown University 1964; admitted to the Vermont bar in 1964 and commenced practice in Burlington; State's attorney, Chittenden County, Vt., 1966-1974; elected as a Democrat to the United States Senate in 1974; reelected in 1980, 1986, 1992,1998, 2004, 2010, and again in 2016 for the term ending January 3, 2023; president pro tempore (December 17, 2012-January 3, 2015); chair, Committee on Agriculture, Nutrition and Forestry (One Hundredth through One Hundred Third Congresses), Committee on the Judiciary (One Hundred Seventh Congress [January 3-20, 2001; June 6, 2001-January 3, 2003], One Hundred Tenth to One Hundred Thirteenth Congresses).

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I

112TH CONGRESS
2D SESSION

H. R. 6432

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2012

Mr. SMITH of Texas (for himself, Mr. CONYERS, Mr. GOODLATTE, and Mr. WATT) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Law Treaties Implementation Act of 2012".

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TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

"PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

"CHAPTER Sec.
"38. International design applications ..... 381.

"CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

"Sec.
"381. Definitions.
"382. Filing international design applications.
"383. International design application.
"384. Filing date.
"385. Effect of international design application.
"386. Right of priority.
"387. Relief from prescribed time limits.
"388. Withdrawn or abandoned international design application.
"389. Examination of international design application.
"390. Publication of international design application.

"§ 381. Definitions

"(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

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"(1) the term 'treaty' means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

"(2) the term 'regulations'—

"(A) when capitalized, means the Common Regulations under the treaty; and

"(B) when not capitalized, means the regulations established by the Director under this title;

"(3) the terms 'designation', 'designating', and 'designate' refer to a request that an international registration have effect in a Contracting Party to the treaty;

"(4) the term 'International Bureau' means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

"(5) the term 'effective registration date' means the date of international registration determined by the International Bureau under the treaty;

"(6) the term 'international design application' means an application for international registration; and

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"(7) the term 'international registration' means the international registration of an industrial design filed under the treaty.

"(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"§ 382. Filing international design applications

"(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

"(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

"(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

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"(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

"(1) in a country other than the United States;

"(2) at the International Bureau; or

"(3) with an intergovernmental organization.

"§ 383. International design application

"In addition to any requirements pursuant to chapter 16, the international design application shall contain—

"(1) a request for international registration under the treaty;

"(2) an indication of the designated Contracting Parties;

"(3) data concerning the applicant as prescribed in the treaty and the Regulations;

"(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number and manner prescribed in the treaty and the Regulations;

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"(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

"(6) the fees prescribed in the treaty and the Regulations; and

"(7) any other particulars prescribed in the Regulations.

"§ 384. Filing date

"(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

"(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in

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the United States other than the effective registration date.

"§ 385. Effect of international design application

"An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

"§ 386. Right of priority

"(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

"(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States, or a prior international design application designating at least 1 country other than the United States.

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"(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 387. Relief from prescribed time limits

"An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, includ-

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ing a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

"§ 388. Withdrawn or abandoned international design application

"Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

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"§ 389. Examination of international design application

"(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

"(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

"(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

"(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

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"§ 390. Publication of international design application

"The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).".

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

"V. The Hague Agreement concerning international registration of industrial designs ..... 401.".

SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)" and inserting "right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)";

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking "to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under sec-

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tion 120, 121, or 365(c)'' and inserting ''to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)'';

(3) in section 111(b)(7)—

(A) by striking ''section 119 or 365(a)'' and inserting ''section 119, 365(a), or 386(a)''; and

(B) by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)'';

(5) in section 120, in the first sentence, by striking ''section 363'' and inserting ''section 363 or 385'';

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''section 120, 121, or 365(c)'' and inserting ''section 120, 121, 365(c), or 386(c)''; and

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(ii) in paragraph (3), by striking ''section 119, 365(a), or 365(b)'' and inserting ''section 119, 365(a), 365(b), 386(a), or 386(b)''; and

(B) in subsection (d)(1), by inserting ''or an international design application filed under the treaty defined in section 381(a)(1) designating the United States under Article 5 of such treaty'' after ''Article 21(2)(a) of such treaty'';

(7) in section 173, by striking ''fourteen years'' and inserting ''15 years'';

(8) in section 365(c)—

(A) in the first sentence, by striking ''or a prior international application designating the United States'' and inserting '', a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States''; and

(B) in the second sentence, by inserting ''or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States''

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after ''did not originate in the United States''; and

(9) in section 366—

(A) in the first sentence, by striking ''unless a claim'' and all that follows through ''withdrawal.'' and inserting ''unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.''; and

(B) by striking the second sentence and inserting the following: ''However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.''.

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

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(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms ''treaty'' and ''international design application'' have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

(2) the term ''international application'' has the meaning given that term in section 351(c) of title 35, United States Code; and

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(3) the term ''national application'' means ''national application'' within the meaning of chapter 38 of title 35, United States Code, as added by this title.

TITLE II—PATENT LAW TREATY IMPLEMENTATION

SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of an application shall be the date on which a specification,

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with or without claims, is received in the United States Patent and Trademark Office.'';

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

''(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

''(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.''; and

(3) by adding at the end the following:

''(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall con-

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stitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. Such application shall be treated as having never been filed, unless—

"(1) the application is revived under section 27; and

"(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.".

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

"§ 27. Revival of applications; reinstatement of reexamination proceedings

"The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned applica-

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tion for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

''27. Revival of applications; reinstatement of reexamination proceedings.''.

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking ''twelve'' and inserting ''12''; and

(ii) by adding at the end the following: ''The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.''; and

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(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: "The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional."; and

(II) in the last sentence—

(aa) by striking "including the payment of a surcharge" and inserting "including the payment of the fee specified in section 41(a)(7)"; and

(bb) by striking "during the pendency of the application"; and

(ii) in paragraph (3), by adding at the end the following: "For an application for patent filed under section 363 in a Receiv-

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ing Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.''; and

(2) in section 365(b), by adding at the end the following: ''The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.''.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: ''The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.''; and

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(2) in the fourth undesignated paragraph by striking ''An assignment'' and inserting ''An interest that constitutes an assignment''.

SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking ''Whoever'' and inserting ''(a) IN GENERAL.—Whoever'';

(2) by striking ''The provisions'' and inserting ''(b) APPLICABILITY OF THIS TITLE.—The provisions''; and

(3) by adding at the end the following:

''(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.''.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

''(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for

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issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, $1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director''; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.'';

(2) in section 119(b)(2), in the second sentence, by striking ''including the payment of a surcharge''

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and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(3) in section 120, in the fourth sentence, by striking ''including the payment of a surcharge'' and inserting ''including the requirement for payment of the fee specified in section 41(a)(7)'';

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking '', unless it is shown'' and all that follows through ''unintentional'';

(5) in section 133, by striking '', unless it be shown'' and all that follows through ''unavoidable'';

(6) by striking section 151 and inserting the following:

''§ 151. Issue of patent

''(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

''(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'';

(7) in section 361, by striking subsection (c) and inserting the following:

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''(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.'';

(8) in section 364, by striking subsection (b) and inserting the following:

''(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.''; and

(9) in section 371(d), in the third sentence, by striking '', unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable''.

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

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(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1).

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

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ALL ACTIONS: H.R. 6432 – 112th Congress (2011-2012)

Date	All Actions
09/19/2012	Introduced in House Action By: House of Representatives
09/19/2012	Referred to the House Committee on the Judiciary. Action By: House of Representatives

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CONGRESSIONAL RECORD INDEX: H.R. 6432 – 112th Congress (2011-2012)

From the Congressional Record, Volume 158 (2012)

H.R. 6432--A bill to implement the provisions of the Hague Agreement and the Patent Law Treaty; to the Committee on the Judiciary.

By Mr. SMITH of Texas (for himself, Mr. Conyers, Mr. Goodlatte, and Mr. Watt), H6150 [19SE]

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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, WEDNESDAY, SEPTEMBER 19, 2012 No. 127

House of Representatives

The House met at noon and was called to order by the Speaker pro tempore (Mr. WOMACK).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 19, 2012.

I hereby appoint the Honorable STEVE WOMACK to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 1:50 p.m.

END THE WAR IN AFGHANISTAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN) for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, for several years now I have come to the floor of the House and called for an end to the war in Afghanistan, the longest war in the history of the United States. I have been joined by others—some Democrats, some Republicans, some liberals, some conservatives—who have consistently raised their voices in opposition to the war.

Today, once again, I stand here in the aftermath of more senseless killings of Americans, not only by Taliban forces, but by forces associated with the Afghan Government—a government we support and are told to trust.

It is hard to believe that in the midst of a Presidential campaign so little is being said about the war. During the Republican National Convention, nominee Mitt Romney never once mentioned the war or the troops in his acceptance speech—not even a sentence, not a phrase, nothing. As one who has been to Afghanistan twice, met with our troops, talked to returning veterans and been to visit them in the hospital, I find that silence shocking and offensive.

I also find offensive the fact that this House of Representatives has refused to even debate this issue. When the Department of Defense authorization bill came to the floor earlier this year, the Republican leadership of this House refused to allow a bipartisan amendment that I and WALTER JONES of North Carolina offered. That amendment called for an accelerated withdrawal of American forces from Afghanistan. The chairman of the Rules Committee at the time said there were a lot of other important issues to be debated on the defense bill. My question is: What in the world is more important than this war?

The Afghan Government is one of the most corrupt in the world. Our troops have already accomplished their mission, not only ridding Afghanistan of al Qaeda, but killing Osama bin Laden. By the way, they got him in Pakistan, not Afghanistan. So why are we still there?

There is a culture in Washington that engulfs both Republicans and Democrats; it is a culture that makes it easy to go to war but impossible to get out.

There is no question that ending the war in Afghanistan will be messy; there is no nice, neat way to do it. There will be no signing of a peace treaty, no grand parade.

The President tells us that we will turn over control of security operations to the Afghans by 2014, but it is unclear how many U.S. forces will remain or what their role will be.

And Mitt Romney says nothing.

Mr. Speaker, there ought to be a major portion of this Presidential campaign dedicated to the issue of Afghanistan. Vague deadlines or generalities no longer suffice. Too many brave American service men and women have paid with their lives. And while candidates talk about the debt our government carries, no one points out that we borrow the billions to pay for this war. We don't even pay for it; it goes on the credit card. And we've been doing this for over a decade in this Congress. We can't spend one additional penny to feed hungry children or create a single job or build a single bridge without finding an offset; yet when it comes to war, there are no offsets, no new revenue, just another blank check. Something is terribly wrong with this picture.

Finally, I would remind my colleagues here in the House that we are all responsible for this war, and we are complicit in the silence, lack of debate, and lack of oversight. That is wrong. We owe our service men and women so much better. We owe this country better.

End the war and bring our troops home now.

CONGRATULATING NATIONAL HISPANA LEADERSHIP INSTITUTE ON THE CELEBRATION OF 25TH ANNIVERSARY

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. ROYBAL-ALLARD) for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, as we celebrate Hispanic Heritage

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7886. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting the Section 508 Report to the President and Congress: Accessibility of Federal Electronic and Information Technology; to the Committee on the Judiciary.

7887. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a report entitled, ''Debt Collection Recovery Activities of the Department of Justice for Debts Referred to the Department for Collection Annual Report for 2011''; to the Committee on the Judiciary.

7888. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting notification that funding under Title V, subsection 503(b)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, has exceeded $5 million for the cost of response and recovery efforts for FEMA-3345-EM in the State of West Virginia, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

7889. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Detroit Symphony Orchestra at Ford House Fireworks, Lake St. Clair, Grosse Pointe Shores, MI [Docket No.: USCG-2012-0600] (RIN: 1625-AA00) received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7890. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Mentor Harbor Yachting Club Fireworks, Lake Erie, Mentor, OH [Docket No.: USCG-2012-0356] (RIN: 1625-AA00) received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7891. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Air Traffic Service (ATS) Routes in the Vicinity of Vero Beach, FL [Docket No.: FAA-2012-0621; Airspace Docket No. 12-ASO-24] (RIN: 2120-AA66) received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7892. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Bar Harbor, ME [Docket No.: FAA-2011-1366; Airspace Docket No. 11-ANE-13] received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7893. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Quakertown, PA [Docket No.: FAA-2011-0386; Airspace Docket No. 12-AEA-6] received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7894. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Roundup, MT [Docket No.: FAA-2012-0274; Airspace Docket No. 12-ANM-4] received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7895. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Apopka, FL [Docket No.: FAA-2011-0249; Airspace Docket No. 12-ASO-16] received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7896. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class D and Class E Airspace; Fort Rucker, AL [Docket No.: FAA-2012-0635; Airspace Docket No. 12-ASO-30] received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7897. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Revocation of Class E Airspace; Lloydsville, PA, and Amendment of Class D and E Airspace; Latrobe, PA [Docket No.: FAA-2012-0301; Airspace Docket No. 12-AEA-3] received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7898. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Jet Routes and VOR Federal Airways; Northeastern United States [Docket No.: FAA-2012-0622; Airspace Docket No. 12-ANE-11] (RIN: 2120-AA66) received August 28, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7899. A letter from the Assistant Secretary of the Army, Civil Works, Department of Defense, transmitting reconstruction proposal for the Ohio River Shoreline, Paducah, Kentucky; (H. Doc. No. 112–142); to the Committee on Transportation and Infrastructure and ordered to be printed.

7900. A letter from the Assistant Secretary of the Army, Civil Works, Department of Defense, transmitting the final report for the San Clemente Shoreline Feasibility Study; (H. Doc. No. 112–143); to the Committee on Transportation and Infrastructure and ordered to be printed.

7901. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, ''Assets for Independence Program — Status at the Conclusion of the Eleventh Year''; to the Committee on Ways and Means.

7902. A letter from the Secretary, Department of Energy, transmitting the Department's report to Congress concerning the Mixed Oxide (MOX) Fuel Fabrication Facility being constructed at the Department's Savannah River Site near Aiken, South Carolina; jointly to the Committees on Armed Services and Energy and Commerce.

7903. A letter from the Chair, Federal Election Commission, transmitting the Commission's FY 2014 budget request, pursuant to 2 U.S.C. 437d(d)(1); jointly to the Committees on House Administration, Appropriations, and Oversight and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of Florida: Committee on Veterans' Affairs. H.R. 5948. A bill to amend title 38, United States Code, to improve the supervision of fiduciaries of veterans under the laws administered by the Secretary of Veterans Affairs, and for other purposes; with an amendment (Rept. 112–678). Referred to the Committee of the Whole House on the state of the Union.

Mr. UPTON: Committee on Energy and Commerce. H.R. 6194. A bill to ensure the viability and competitiveness of the United States agricultural sector (Rept. 112–679). Referred to the Committee of the Whole House on the state of the Union.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 788. Resolution providing for consideration of the joint resolution (H.J Res. 118) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the Temporary Assistance for Needy Families program; providing for consideration of the bill (H.R. 3409) to limit the authority of the Secretary of the Interior to issue regulations before December 31, 2013, under the Surface Mining Control and Reclamation Act of 1977; and providing for proceedings during the period from September 22, 2012, through November 12, 2012 (Rept. 112–680). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. MICA (for himself and Mr. DENHAM):

H.R. 6430. A bill to amend title 40, United States Code, to improve the functioning of the General Services Administration; to the Committee on Transportation and Infrastructure.

By Mr. ROYCE:

H.R. 6431. A bill to provide flexibility with respect to United States support for assistance provided by international financial institutions for Burma, and for other purposes; to the Committee on Financial Services. considered and passed. considered and passed.

By Mr. SMITH of Texas (for himself, Mr. CONYERS, Mr. GOODLATTE, and Mr. WATT):

H.R. 6432. A bill to implement the provisions of the Hague Agreement and the Patent Law Treaty; to the Committee on the Judiciary.

By Mr. UPTON (for himself and Mr. WAXMAN):

H.R. 6433. A bill to make corrections with respect to Food and Drug Administration user fees; to the Committee on Energy and Commerce. considered and passed. considered and passed.

By Ms. EDWARDS:

H.R. 6434. A bill to direct the Secretary of Education to award grants to States that enact State laws that will make school attendance compulsory through the age of 17; to the Committee on Education and the Workforce.

By Mr. STARK (for himself and Mr. RANGEL):

H.R. 6435. A bill to amend title XVIII of the Social Security Act to clarify the application of Medicare special enrollment periods and secondary payer rules to employer coverage of family members of employees; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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.

By Mr. SMITH of New Jersey:

H.R. 6436. A bill to eliminate conditions in foreign prisons and other detention facilities that do not meet primary indicators of health, sanitation, and safety, and for other purposes; to the Committee on Foreign Affairs.

By Mr. POE of Texas (for himself and Mr. THOMPSON of California):

H.R. 6437. A bill to amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy

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BILL SUMMARY: H.R. 6432 – 112th Congress (2011-2012)

Authored by: Congressional Research Service

Introduced in House (09/19/2012)

Patent Law Treaties Implementation Act of 2012 - Amends federal patent law to implement the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the Patent Law Treaty. (Both treaties were ratified by the Senate on December 7, 2007.)

Allows any person who is a U.S. national, or has a domicile, habitual residence, or real and effective industrial or commercial establishment in the United States, to file an international design application for international registration with the U.S. Patent and Trademark Office (USPTO) (thereby enabling U.S. applicants to file a single application with USPTO instead of separate applications in multiple countries).

Directs the USPTO to transmit international fees and forward international design applications to the international intergovernmental coordinating body.

Requires an international design application on an industrial design made in the United States to constitute the filing of an application in a foreign country if such application is filed: (1) in a country other than the United States, (2) at the international intergovernmental coordinating body recognized under the Hague Agreement, or (3) with an intergovernmental organization.

Sets forth the priorities of national and prior foreign and national applications.

Standardizes application procedures to be consistent with other member countries.

Extends the term for design patents from 14 to 15 years from the date of grant.

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SMITH, Lamar Seeligson, (1947 -)



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About this object

SMITH, Lamar Seeligson, a Representative from Texas; born in San Antonio, Bexar County, Tex., November 19, 1947; graduated from Texas Military Institute, San Antonio, Tex., 1965; B.A., Yale University, New Haven, Conn., 1969; J.D., Southern Methodist University School of Law, Dallas, Tex., 1975; journalist; lawyer, private practice; member of the Texas state house of representatives, 1981-1982; Bexar County, Tex., commissioner, 1982-1985; elected as a Republican to the One Hundredth and to the fifteen succeeding Congresses (January 3, 1987-present); chair, Committee on Standards of Official Conduct (One Hundred Sixth Congress); chair, Committee on the Judiciary (One Hundred Twelfth Congress); chair, Committee on Science, Space, and Technology (One Hundred Thirteenth through One Hundred Fifteenth Congresses).

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