89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 897

EXTENDING DESIGN PATENT OF INSIGNIA OF MASSACHUSETTS DEPARTMENT OF THE UNITED AMERICAN VETERANS OF THE UNITED STATES OF AMERICA, INC.

AUGUST 31, 1965.—Referred to the House Calendar and ordered to be printed

Mr. WILLIS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 7888]

The Committee on the Judiciary, to whom was referred the bill (H.R. 7888) providing for the extension of patent No. D–119,187, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

On page 1, line 6, after "United" insert "American Veterans of the United".

PURPOSE OF THE AMENDMENT

The amendment corrects a typographical error.

PURPOSE OF H.R. 7888

The purpose of H.R. 7888 is to renew an expired design patent, No. D–119,187, constituting the insignia of the Massachusetts Department of the United American Veterans of the United States of America, Inc., for a period of 14 years.

STATEMENT

The subject design patent was issued on February 27, 1940, for a period of 14 years. The patent expired by its terms on February 27, 1954. Measures with the same objective as H.R. 7888 were introduced in the 83d, 84th, and 86th Congresses, but were not acted on.

The committee notes that section (b) of H.R. 7888 provides that no person who has manufactured the design of the patent between February 27, 1954, when the patent expired, and the date of the

enactment of the bill, shall be liable for infringement by reason of the continued manufacture and sale thereof.

The committee recommends enactment of H.R. 7888. Attached hereto is a letter from the Commissioner of Patents to the Honorable Torbert H. Macdonald, author of H.R. 7888, discussing the history of the patent in question.

U.S. DEPARTMENT OF COMMERCE,
PATENT OFFICE,
Washington, November 10, 1964.

Hon. TORBERT H. MACDONALD,
House of Representatives,
Washington, D.C.

DEAR MR. MACDONALD: This is in reply to your communication of November 9, 1964, submitting a letter your received from Mr. George H. Fyler, Department Adjutant, United American Veterans of the United States of America, Inc., 39 Webber Street, Malden, Mass., 02148, who writes with respect to the expiration of the patent rights on our patch insignia.

Mr. Fyler does not identify the particular patent to which he has reference. However, it may be stated that the term of an invention patent is 17 years, and the term of a design patent is 3½, seven, or 14 years at the option of the applicant. If the term of the patent about which Mr. Fyler writes has in fact expired, there is no provision in the law for repatenting, for revival, or for extension of the term. The only way the term of a patent can be extended is by a special act of Congress.

In the 83d Congress there was introduced by Representative Lane of Massachusetts on February 3, 1954, a bill, H.R. 7721, providing for the extension of patent No. 119,187. The patent sought to be extended was a design patent, granted February 27, 1940, No. D–119,187, issued to Francis X. Phelan, Medford, Mass., for a design for a badge. The legislation was intended for the benefit of the United American Veterans in Massachusetts.

In the 84th Congress the bill was reintroduced by Representative Lane on January 20, 1955, H.R. 2748. Similarly, another bill, H.R. 5289, was introduced by Representative Lane in the 86th Congress on March 4, 1959. All these bills were referred to the Committee on the Judiciary, House of Representatives, but no action was taken on any of them.

If the patent sought to be extended by the aforementioned bills is the patent about which Mr. Fyler makes inquiry, he may be advised it was issued for a term of 14 years. The term accordingly would have expired in 1954.

I hope this information will be of assistance to you in replying to your constituent's letter, which is returned herewith, as you requested.

Respectfully,

EDWARD J. BRENNER, *Commissioner.*

O