97TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
No. 97-389

TECHNICAL AMENDMENTS TO THE PATENT AND TRADEMARK LAWS AND THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

DECEMBER 11, 1981.—Referred to the House Calendar and ordered to be printed

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

REPORT

[To accompany H.R. 3345]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3345) to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The bill makes technical and conforming changes in title 35, United States Code, "Patents", Public Law 96-517, the Trademark Act of 1946, and the Civil Rights of Institutionalized Persons Act. The bill makes no change in the substance of existing law.

COMMITTEE VOTE

At a meeting of the Committee on the Judiciary on November 17, 1981, a quorum being present, H.R. 3345 was approved by a unanimous vote and ordered reported.

STATEMENTS UNDER CLAUSE 2(l) AND (4) OF RULE XI

Since the purpose of H.R. 3345 is to make technical and conform changes in the law without making any substantive change in the law, no oversight findings or recommendations have been made with respect to the bill.

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The bill does not provide new budget authority or new or increased tax expenditures.

The enactment of this bill will have no inflationary impact on prices or cost in the operation of the national economy.

The Director of the Congressional Budget Office has submitted the following letter reporting on the bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 19, 1981.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 3345, a bill to make technical and conforming changes in the patents and trademark laws and in the Civil Rights of Institutionalized Persons Act, as ordered reported by the House Committee on the Judiciary, November 17, 1981.

This bill makes no change in the substance of existing law. Therefore, there will be no additional cost to the government as a result of enactment of this legislation.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

SECTION-BY-SECTION SUMMARY

Section 101 amends title 35, United States Code, "Patents", to correct an error in the numbering of sections in title 35 that resulted from an amendment to title 35 made by Public Law 96-517. Section 101 also makes minor technical and conforming changes in title 35.

Section 102 repeals section 6(b) of Public Law 96-517 and the amendment made by section 6(b) that erroneously numbered sections in title 35.

Section 103 makes a minor technical change in section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)).

Section 201 corrects an erroneous cross-reference in the Civil Rights of Institutionalized Persons Act and clarifies a reference to the Attorney General in that Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

I. AMENDMENTS TO TITLE 35, UNITED STATES CODE (SECTION 101 OF THE BILL)

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§41. Patent fees

(a) The Commissioner [of Patents] will establish fees for the processing of an application for a patent, from filing through disposition by issuance or abandonment, for maintaining a patent in force, and for providing all other services and materials related to patents. No fee will be established for maintaining a design patent in force.

(b) By [the first day of the first fiscal year beginning on or after one calendar year after enactment of this Act,] *October 1, 1982,* fees for the actual processing of an application for a patent, other than for a design patent, from filing through disposition by issuance or abandonment, will recover in aggregate 25 per centum of the estimated average cost to the Office of such processing. By [the first day of the first fiscal year beginning on or after one calendar year after enactment,] *October 1, 1982,* fees for the processing of an application for a design patent, from filing through disposition by issuance or abandonment, will recover in aggregate 50 per centum of the estimated average cost to the Office of such processing.

(c) By [the fifteenth fiscal year following the date of enactment of this Act,] *October 1, 1996,* fees for maintaining patents in force will recover 25 per centum of the estimated cost to the Office, for the year in which such maintenance fees are received, of the actual processing all applications for patents, other than for design patents, from filing through disposition by issuance or abandonment. Fees for maintaining a patent in force will be due three years and six months, seven years and six months, and eleven years and six months after the grant of the patent. Unless payment of the applicable maintenance fee is recovered in the Patent and Trademark Office on or before the date the fee is due or within a grace period of six months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such six-month grace period the late payment of an applicable maintenance fee.

(d) By [the first day of the first fiscal year beginning on or after one calendar year after enactment,] *October 1, 1982,* fees for all other services or materials related to patents will recover the estimated average cost to the Office of performing the service or furnishing the material. The yearly fee for providing a library specified in section 13 of this title with uncertified printed copies of the specifications and drawings of all patents issued in that year will be $50.

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[CHAPTER 38—PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE]

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II. AMENDMENT TO SECTION 6 OF PUBLIC LAW 96-517 (SECTION 102 OF THE BILL)

SEC. 6. (a) Title 35 of the United States Code, entitled "Patents", is amended by adding after chapter 37 the following new chapter 38:

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[(b) The table of chapters for title 35, United States Code, is amended by adding immediately after the item relating to chapter 37 the following:

["38. Patent rights in inventions made with Federal assistance".]

III. AMENDMENT TO SECTION 31(a) OF THE TRADEMARK ACT OF 1946 (SECTION 103 OF THE BILL)

§ 31. Fees

(a) The Commissioner [of Patents] will establish fees for the filing and processing of an application for the registration of a trademark or other mark and for all other services performed by and materials furnished by the Patent and Trademark Office related to trademarks and other marks. Fees will be set and adjusted by the Commissioner to recover in aggregate 50 percentum of the estimated average cost to the Office of such processing. Fees for all other services or materials related to trademarks and other marks will recover the estimated average cost to the Office of performing the service or furnishing the material. However, no fee for the

filing or processing of an application for the registration of a trademark or other mark or for the renewal or assignment of a trademark or other mark will be adjusted more than once every three years. No fee established under this section will take effect prior to sixty days following notice in the Federal Register.

IV. AMENDMENTS TO SECTIONS 4 AND 8 OF THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT (SECTION 201 OF THE BILL)

SEC. 4. CERTIFICATION REQUIREMENTS.

(a) At the time of the commencement of an action under [section 2] *section 3* the Attorney General shall certify to the court—

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SEC. 8. REPORT TO CONGRESS.

The [Attorney] *Attorney General* shall include in his report to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, United States Code—

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