100TH CONGRESS
2D SESSION

H. RES. 597

Providing for agreeing, with an amendment, to the Senate amendment to H R 4972, to authorize appropriations for the Patent and Trademark Office in the Department of Commerce—returning H R 4972 to the Senate

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 1988

Mr KASTENMEIER submitted the following resolution, which was considered under suspension of the rules and agreed to

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RESOLUTION

Providing for agreeing, with an amendment, to the Senate amendment to H.R. 4972, to authorize appropriations for the Patent and Trademark Office in the Department of Commerce—returning H.R. 4972 to the Senate.

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 4972, Patent and Trademark Office Authorization, with the Senate amendment thereto, and concurred in the Senate amendment to the text with an amendment, as follows:

In lieu of the Senate amendment to H.R. 4972 insert the following.

Strike out all after the enacting clause and insert the following:

TITLE I—PATENT AND TRADEMARK OFFICE AUTHORIZATIONS

SEC 101 AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $117,504,000 for fiscal year 1989, $125,210,000 for fiscal year 1990, and $111,984,000 for fiscal year 1991; and

(2) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

SEC 102. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following) may remain available until expended.

SEC. 103. OVERSIGHT OF AND ADJUSTMENTS TO TRADEMARK AND PATENT FEES.

(a) TRADEMARK FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990,

and 1991, increase fees established under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

(b) PATENT FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, increase fees established under section 41(d) of title 35, United States Code, except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

(c) REPORT TO CONGRESS.—The Secretary of Commerce shall, on the day on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates,

(4) any proposed disposition of surplus fees by the Office; and

(5) such other information as the committees consider necessary.

SEC. 104 PUBLIC ACCESS TO PATENT AND TRADEMARK OFFICE INFORMATION.

(a) REPEAL.—Section 4 of Public Law 99–607 (35 U.S.C. 41 note) is repealed.

(b) MAINTENANCE OF COLLECTIONS.—The Commissioner of Patents and Trademarks shall maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees for use of such collections, or for use of public patent or trademark search rooms or libraries. Funds appropriated to the Patent and Trademark Office shall be used to maintain such collections, search rooms, and libraries.

(c) FEES FOR ACCESS TO SEARCH SYSTEMS.—Subject to section 105(a), the Commissioner of Patents and Trademarks may establish reasonable fees for access by the public to automated search systems of the Patent and Trademark Office in accordance with section 41 of title 35, United States Code, and section 31 of the Trademark Act of 1946 (15 U.S C 1113). If such fees are established, a limited amount of free access shall be made available to all users of the systems for purposes of education and training The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such waiver is in the public interest.

SEC. 105. FUNDING OF AUTOMATED DATA PROCESSING RESOURCES.

(a) ALLOCATIONS.—Of amounts available to the Patent and Trademark Office for automatic data processing resources for fiscal years 1989, 1990, and 1991, not more than 30 percent of such amounts in each such fiscal year may be from fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) and section 41 of title 35, United States Code. The Commissioner of Patents and Trademarks shall notify the Committees on the Judiciary of the Senate and the House of Representatives of any proposed reprogrammings which would increase or decrease the amount of

appropriations expended for automatic data processing resources.

(b) USE OF REVENUES BY PATENT AND TRADEMARK OFFICE.—Except as otherwise specifically provided in this title, Public Law 99-607, and section 42(c) of title 35, United States Code, the Patent and Trademark Office is authorized to use appropriated or apportioned fee revenues for any of its operations or activities.

SEC. 106 USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED.

The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, enter into any agreement for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data), and the Commissioner may not, on or after the date of the enactment of this Act, continue existing agreements for the exchange of such items or services. The preceding sentence shall not apply to an agreement relating to data for automation programs which is entered into with a foreign government or with an international intergovernmental organization.

TITLE II—PATENT MISUSE REFORM

SEC. 201. PERMISSIBLE ACTS BY PATENT OWNER.

Section 271(d) of title 35, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; (4) refused to license or use any rights to the patent; or (5) conditioned the license of any rights to the patent or the sale of the patented product on the acquisition of a license to rights in another patent or purchase of a separate product, unless, in view of the circumstances, the patent owner has market power in the relevant market for the patent or patented product on which the license or sale is conditioned.".

SEC. 202. EFFECTIVE DATE.

The amendment made by this title shall apply only to cases filed on or after the date of the enactment of this Act.

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