88TH CONGRESS
1ST SESSION

H. R. 8420

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 1963

Mr. LAIRD (by request) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To fix certain fees payable to the Commissioner of Patents, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the items numbered 1, 2, 3, 4, 6, 8, and 9 in subsection (a) of section 41, title 35, United States Code, are respectively amended to read as follows:

"1. On filing each application for an original patent, except in design cases, $75; in addition, on filing or on presentation at any other time, $5 for each claim in independent form which is in excess of five such claims, and $2 for each claim (whether independent or dependent) which is in excess of ten. No application shall be denied a filing date and

FINAL ACTION

no amendment shall be denied entry solely due to a mistake in calculation of a fee, if such mistake is rectified within thirty days of notice thereof by the Commissioner of Patents.

"2. On issuing each original or reissue patent, except in design cases, $100; in addition, $5 for each claim in independent form which is in excess of five such claims, and $2 for each claim (whether independent or dependent) which is in excess of ten. No application shall be held to have become abandoned solely because of a mistake in calculating the issue fee, if such mistake is rectified within thirty days of notice thereof by the Commissioner of Patents, but no application shall be issued as a patent until the issue fee is paid in full.

"3. In design cases:

"(A) on filing each design application, $40.

"(B) on issuing each design patent: for three years and six months, $10; for seven years, $15; and for fourteen years, $25.

"4. On filing each application for the reissue of a patent, $100; in addition, on filing or on presentation at any other time, $5 for each new claim in independent form which is in excess of five such claims, and $2 for each new claim (whether independent or dependent) which is in excess of ten such claims. No application shall be denied a filing date and no amendment shall be denied entry solely because of a mistake in calculation of a fee, if such mistake is rectified

within thirty days of notice thereof by the Commissioner of Patents."

"6. On an appeal for the first time from the Examiner to the Board of Appeals, $25; in addition, on filing a brief in support of the appeal, $25 if the appeal is submitted on brief and $75 if an oral hearing is requested, but the additional fee shall be refunded if the Commissioner shall terminate the appeal proceeding prior to decision by the Board of Appeals."

"8. For certificate under section 255 or under section 256 of this title, $15.

"9. As available and if in print: for uncertified printed copies of specifications and drawings of patents (except design patents), 25 cents per copy; for design patents, 10 cents per copy; the Commissioner may establish a charge not to exceed $1 per copy for patents in excess of twenty-five pages of drawings and specifications and for plant patents printed in color; special rate for libraries specified in section 13 of this title, $50 for patents issued in one year."

(b) Such section is further amended by adding the following subsection:

"(c) The fees prescribed by or under this section shall apply to any other Government department or agency, or officer thereof, except that the Commissioner may waive the payment of any fee for services or materials in cases of oc-

casional or incidental requests by a Government department or agency, or officer thereof."

SEC. 2. Section 31 of the Act of July 5, 1946, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" (15 U.S.C. 1113) is amended to read as follows:

"(a) The following fees shall be paid to the Commissioner of Patents under this Act:

"1. On filing each original application for registration of a mark in each class, $35.

"2. On filing each application for renewal in each class, $25; and on filing each application for renewal in each class after expiration of the registration, an additional fee of $5.

"3. On filing an affidavit under section 8(a) or section 8(b), $10.

"4. On filing each petition for the revival of an abandoned application, $10.

"5. On filing notice of opposition or application for cancellation, $25.

"6. On appeal from an examiner in charge of the registration of marks to the Trademark Trial and Appeal Board, $25.

"7. For issuance of a new certificate of registration following change of ownership of a mark or correction of a registrant's mistake, $10.

"8. For certificate of correction of registrant's mistake or amendment after registration, $10.

"9. For certifying in any case, $1.

"10. For filing each disclaimer after registration, $10.

"11. For printed copy of registered mark, 10 cents.

"12. For recording every assignment or other paper not exceeding six pages, $3; for each additional two pages or less, $1; for each additional registration or application included, or involved in one writing where more than one is so included or involved, additional, 50 cents.

"13. On filing notice of claim of benefits of this Act for a mark to be published under section 12(c) hereof, $10.

"(b) The Commissioner may establish charges for copies of records, publications, or services furnished by the Patent Office, not specified above.

"(c) The Commissioner may refund any sum paid by mistake or in excess."

SEC. 3. (a) Section 266 of title 35, United States Code, is repealed.

(b) The chapter analysis of chapter 27 of title 35, United States Code, is amended by striking out the following item:

"266. Issue of patents without fees to Government employees."

SEC. 4. Section 112 of title 35, United States Code, is amended by adding to the second paragraph thereof the following sentence: "A claim may be written in independent or dependent form, and if in dependent form, it shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim."

SEC. 5. (a) Except as provided in the succeeding subsections of this section, the amendments and repeal made by this Act shall take effect three months after the date of enactment.

(b) The amendments to items 1, 3, and 4 of section 41 (a) of title 35 of the United States Code shall not apply in further proceedings in applications filed prior to the effective date of such amendments.

(c) The amendment to item 2 of such section shall not apply in cases in which the notice of allowance of the application was sent, or in which a patent was issued, prior to the effective date of such amendment.

(d) The fee prescribed in paragraph 13 of section 31 (a) of the Act of July 5, 1946 (15 U.S.C. 1113), as amended

by this Act shall apply only in the case of registrations issued and registrations published under the provisions of section 12(c) of that Act (15 U.S.C. 1062(c)) on or after the effective date of such amendment.

88TH CONGRESS
1ST SESSION

H. R. 8420

A BILL

To fix certain fees payable to the Commissioner of Patents, and for other purposes.

By Mr. LAIRD

SEPTEMBER 12, 1963

Referred to the Committee on the Judiciary

295