PATENT AND TRADEMARK OFFICE AUTHORIZATIONS

29139 0 - 88 (703)

Public Law 100-703
100th Congress

An Act

Nov 19, 1988
[H R 4972]

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes

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

TITLE I—PATENT AND TRADEMARK OFFICE AUTHORIZATIONS

SECTION 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

35 USC 42 note

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

15 USC 1113 note

(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

35 USC 41 note

(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

35 USC 14 note

(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 35 USC 41 note

(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 35 USC 41 note

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 Act, 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 35 USC 6 note

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"

35 USC 271 note

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

Approved November 19, 1988

LEGISLATIVE HISTORY—H R 4972

CONGRESSIONAL RECORD, Vol 134 (1988)
Oct 5, considered and passed House
Oct 14, considered and passed Senate, amended
Oct 20, House concurred in Senate amendment with an amendment
Oct 21, Senate concurred in House amendment

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