Public Law 89-83
89th Congress, H. R. 4185
July 24, 1965

An Act

To fix the fees payable to the Patent Office, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the items numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, respectively, in subsection (a) of section 41, title 35, United States Code, are amended to read as follows: Patent fees. 66 Stat. 796.

"1. On filing each application for an original patent, except in design cases, $65; in addition, on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of one, and $2 for each claim (whether independent or dependent) which is in excess of ten. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

"2. For issuing each original or reissue patent, except in design cases, $100; in addition, $10 for each page (or portion thereof) of specification as printed, and $2 for each sheet of drawing.

"3. In design cases:

"a. On filing each design application, $20.

"b. On issuing each design patent: For three years and six months, $10; for seven years, $20; and for fourteen years, $30.

"4. On filing each application for the reissue of a patent, $65; in addition, on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $2 for each claim (whether independent or dependent) which is in excess of ten and also in excess of the number of claims of the original patent. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

"5. On filing each disclaimer, $15.

"6. On appeal for the first time from the examiner to the Board of Appeals, $50; in addition, on filing a brief in support of the appeal, $50.

"7. On filing each petition for the revival of an abandoned application for a patent or for the delayed payment of the fee for issuing each patent, $15.

"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), 50 cents per copy; for design patents, 20 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 rates for libraries specified in section 13 of this title, $50 for patents issued in one year. The Commissioner may, without charge, provide applicants with copies of specifications and drawings of patents when referred to in a notice under section 132.

"10. For recording every assignment, agreement, or other paper relating to the property in a patent or application, $20; where the document relates to more than one patent or application, $3 for each additional item."

SEC. 2. Section 41 of title 35, United States Code, 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 occasional or incidental requests by a Government department or agency, or officer thereof."

SEC. 3. Section 31 of the Act approved July 5, 1946 (ch. 540, 60 Stat. 427; U.S.C., title 15, sec. 1113), as amended, is amended to read as follows:

"(a) The following fees shall be paid to the Patent Office 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.

15 USC 1058. "3. On filing an affidavit under section 8(a) or section 8(b) for each class, $10.

"4. On filing each petition for the revival of an abandoned application, $15.

"5. On filing opposition or application for cancellation for each class, $25.

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

"7. For issuance of a new certificate of registration following change of ownership of a mark or correction of a registrant's mistake, $15.

"8. For certificate of correction of registrant's mistake or amendment after registration, $15.

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

"10. For filing each disclaimer after registration, $15.

"11. For printed copy of registered mark, 20 cents.

"12. For recording every assignment, agreement, or other paper relating to the property in a registration or application, $20; where the document relates to more than one application or registration, $3 for each additional item.

"13. On filing notice of claim of benefits of this Act for a mark to
15 USC 1062. 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."

66 Stat. 803. SEC. 4. Section 151 of title 35, United States Code, is amended to read as follows:

"§ 151. Issue of patent

"If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

"Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

"Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

"If any payment required by this section is not timely made, but is submitted with the fee for delayed payment within three months after the due date and sufficient cause is shown for the late payment, it may be accepted by the Commissioner as though no abandonment or lapse had ever occurred."

SEC. 5. Section 154 of title 35, United States Code, is amended by inserting the words "subject to the payment of issue fees as provided for in this title," after the words "seventeen years,". 66 Stat. 804.

SEC. 6. The analysis of chapter 14 of title 35, United States Code, immediately preceding section 151, is amended in the first item thereof by striking out the words "Time of issue of patent" and inserting in lieu thereof "Issue of patent".

SEC. 7. (a) This Act shall take effect three months after its enactment. Effective date.

(b) Items 1, 3, and 4 of section 41(a) of title 35, United States Code, as amended by section 1 of this Act, do not apply in further proceedings in applications filed prior to the effective date of this Act.

(c) Item 2 of section 41(a), as amended by section 1 of this Act, and section 4 of this Act do not apply in cases in which the notice of allowance of the application was sent, or in which a patent issued, prior to the effective date; and, in such cases, the fee due is the fee specified in this title prior to the effective date of this Act.

(d) Item 3 of section 31 of the Trademark Act, as amended by section 3 of this Act, applies only in the case of registrations issued and registrations published under the provisions of section 12(c) of the Trademark Act on or after the effective date of this Act. 60 Stat. 432.

SEC. 8. Section 266 of title 35, United States Code, is repealed. 15 USC 1062.

The chapter analysis of chapter 27 of title 35, United States Code, is amended by striking out the following item: Repeal. 66 Stat. 811.

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

SEC. 9. 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. 10. Section 282 of title 35, United States Code, is amended by deletion of the first paragraph thereof and substituting therefor the following paragraph: Patents, validity.

"A patent shall be presumed valid. Each claim of a patent (whether in independent or dependent form) shall be presumed valid independently of the validity of other claims; dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting it."

Approved July 24, 1965.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 113 (Comm. on the Judiciary).
SENATE REPORT No. 301 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 111 (1965):
Mar. 17: Considered and passed House.
June 15: Considered and passed Senate, amended.
July 12: House concurred in Senate amendments.

GPO 50-139