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SENATE

BILL	DATE	PAGE(S)
S. 1215	June 13, 1979	S 7591-94

ACTION Remarks by Mr. Schmitt

Little can be ... GOLDWATER has ... f such legislation ...

I have always ... ing an earning limit ... t program was ... are not dealing with ... money. Instead, we ... rs that individuals ... eir own retirement. ... or for anyone, to ... nitation on how much ... an earn on the side.

This law is ... e senior citizens in our ... courages their productive ... eir own retirement ... em. It is astonishing ... still on the books.

As Senator ... pointed out in the ... r argument against ... the cost factor, and ... ble. Revenue offsets ... into the Treasury as ... elderly people working ... make up for the loss ... his legislation constantly ... This. can no longer be ... ial argument by the ...

I have talked ... ple from across my State ... s legislation. All they ask ... e to work past the age ... ing their retirement ... nk that it is an unfair ... naire can earn $1 million ... n investments and ... security benefits. But ... rner loses social security.

Mr. President, ... my colleagues give ... eir favorable consideration ... months ahead.●

REGU... RM

● Mr. CULVER. ... nt, we are all aware of ... for a regulatory process ... e efficient, more effective ... en to those who have interests ... ns. Almost every day I ... d of communications ... nt who perceives he or she ... imized by a delay, an ... iency, or a needless expense ... directly or indirectly from ... inaction of a Government ...

At the same ... ne is more aware now than ... of the role Government must play ... ist play in protecting the ... food, water, workplaces, and ... itiveness of our marketplace ... state, people are realizing ... where they are and what ... tion touches them personally ... ze that they may need, at ... become involved in the ... ocess. Many fear and dread ... ement.

The Administrative ... ice and Regulatory Conference ... 79 addresses both the substance ... ocess of Federal regulation ... ould require that agencies ... ther the regulations they ... ting are the best way to ... atutory goal and would ... ncompromising reassessment ... les and effectiveness of more ... vernment agencies ... run throughout a ... owing enactment of ... would also be directed ... mpetitive impact of ...

The bill would ... e administrative process ... rticipation by providing ... venor funds to those ... on in rulemaking is ... d not be possible without ...

The bill would ... notices of proposed rule ... e that interested parties ... he information they ... nderstand arguments ... process and responses ... ments. Also, the bill would ... l communications to ... y persons outside the ... ederal Register publication ... rule be summarized and ... y, the bill would open ... agency functions to public ...

I am confident ... provisions I have described ... tive in improving the quality ... nistrative process, making ... s more efficient and more ... e public. I have some ... owever, about two of the ... visions.

First of all, the ... agency the option, in the ... nificant rule, of holding an ... c hearing, creating an ad ... ommittee, and/or such other ... t might deem appropriate ... ed that this layer-type or ... making procedure, while ... d flexibility to the process ... in fact improve the overall ... scheme but may simply ... lication and delay. I will ... portunities to modify ... hybrid rulemaking idea ... ation of the bill progresses.

Secondly, the ... ncies to consider the cost ... of proposed regulations ... he least anticompetitive ... m concerned about the ... rovision on long-range ... he agricultural sector. ... ompetitive effects in ... he farm set-aside programs ... ng-term competitive benefits ... amining this provision very ... ure that our long range ... agricultural goods ... price is protected.

Despite my ... pleased with the direction ... aken and I am optimistic ... entation, in the improved ... ll doubtless emerge after ... deliberations, can substantially ... the way our agencies work ... ople help them work. A ... efficient Federal regulatory ... ld surely be an achievement ... Members of this body could ...

I must stress, ... t regulatory reform will ... egulatory reform does not ... n air and water standards. ... Regulatory reform does ... at workplaces will be ... safe. Regulatory reform does not mean that our protection ... iveness of our marketplace ...

The Administrative ... tice and Regulatory Conference ... means simply that our agencies ... brought into closer touch ... atutory mandates and ... ng the most effective and ... s of achieving those mandates, ... that individuals, groups ... ses and large companies ... find many of the barriers ... volvement in agency process ... r removed. It means that ... ts which take place within ... official rulemaking will ... each of the 1979 would ... dministrative Practice and ... ontrol Act of 1979 would ... lministrative processes will ... ill remain so important ...

I commend ... NNEDY for the leadership ... has given to the issue of ... form, both in the past as ... e Subcommittee on Adm... tice and Procedure, and ... s chairman of the Judicia... The diligent and thoughtful ... he and his staff has ... mportant new initiative.

The Judiciary ... has a crucial role to play ... he regulatory process. The ... on Administrative Pra... edure understands the ... s mandate to seriously ... ral proposals for regulatory ...

Senator ... S. 262, and the administrative ... 755, have provided the ... the debate on improving ... process. The Regulatory ... S. 299, which I have introduced ... s to alleviate the document ... ation against small business ... ment, resulting from ... tion of Federal regulations ...

These bills ... the Administrative Practice ... atory Control Act, and ... posals will be the subject ... dy and hearings before ... tee beginning in mid-June ... to reporting back to the ... Committee on this important ...

THE U.S. PATENT OFFICE AND AMERICA'S FUTURE

● Mr. SCHMITT. Mr. President, as I am sure my colleagues are well aware, the United States is currently suffering from a declining rate of industrial innovation and economic growth, a growing international trade deficit and ever increasing threats to our world technological leadership. The causes of this downward trend in our traditional technological preeminence are varied and complex—overburdensome and costly regulations, lack of an overall trade policy, counterproductive tax policies, and inadequate funding of basic research, to name just a few. To overcome some of these problems, I introduced S. 1215, the Science and Technology Research and Development Utilization Policy Act.

But today, Mr. President, I would like

to bring to the attention of my colleagues a related matter which has equally serious implications for the economic development of our country—the operation of the U.S. Patent and Trademark Office. For the past two centuries, the U.S. patent system has served this country well in fulfilling its constitutional mandate to "* * * promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries." It has provided this Nation with a voluntary incentive system for the investment of research and development funds so essential to the identification and diffusion of new products and processes to the marketplace.

The Patent and Trademark Office plays a critical role in the operation of the patent system through the granting of patents for inventions and the registration of trademarks. By the issuance of patents the risks attendant to commercializing inventions can be reduced and the disclosure of inventions encouraged.

Despite the obvious significance of the Patent and Trademark Office to the innovation process and national productivity, real dollar funding for the Office has been steadily declining over the past 3 years. The President's fiscal year 1980 budget request of $97.6 million represents a $1.1 million program reduction from the previous fiscal year.

The effect of these budget cuts has been a reduction in the size, efficiency, and capability of the Office. The pendency time for the issuance of patents—a variable critical to the rapid development of an invention—has been steadily increasing. Equally distressing is evidence that the patents, once issued, are frequently found to be invalid when challenged in court. The result is additional cost to all parties involved and further delay in the commercialization of the subject invention.

Mr. President, I am now convinced that many of the problems confronting the Patent and Trademarks Office are directly traceable to the lack of adequate funding. The Department of Commerce has initiated its own budgetary and management investigation of the operations of the Office. I am hopeful these efforts will provide sufficient insight as to the deficiencies of the Office to permit the Congress to take appropriate action necessary to insure the integrity of the U.S. patent system and the efficient administration of the Patent and Trademark Office.

Mr. President, the response from the Department of Commerce to my recent inquiries provides some valuable insight as to the nature and scope of the problems facing the Patent and Trademark Office and I would ask that the text of the response be printed in full in the RECORD. I would also ask that a letter from the Patent Office Society containing the views of its members regarding the fiscal year 1980 budget of the Patent and Trademark Office be printed at this point in the RECORD.

The material is as follows:

[Response from the Department of Commerce]

DEPARTMENT OF COMMERCE: PATENT AND TRADEMARK OFFICE

How important is the Patent and Trademark Office to the entire process of industrial innovation and the utilization of technology?

The Patent and Trademark Office is extremely important to the entire process of industrial innovation and the utilization of technology. The existence of a patent, which can be relied upon to a high degree as valid, reduces the risks involved in decisions to commercialize inventions and thereby encourages innovation. The patent system is particularly useful to further high risk innovation requiring long term payoff, one of the areas of innovation especially identified as deficient in this country in recent years. The publication and dissemination of patented technology, provides a building block for others to build further upon.

The patent system's positive influence on and usefulness to the industrial innovation process is widely recognized. The Presidents Commission on the Patent System recognized the systems effect in its Report issued in 1966. Dr. Edwin H. Land, Chairman and Chief Executive Officer of Polaroid Corporation and an inventor in over 500 U.S. patents, has said, "I must emphasize that the kind of company I believe in cannot continue its existence except with the full support of the patent system," and on another occasion before Polaroid Stockholders stated: "The only thing that keeps us alive is our brilliance. The only way to protect our brilliance is our patents."

Irving Shapiro, Chairman of the Board of Dupont, recently noted in reference to the development of nylon:

"Now 40 years later, nylon is made all over the world. . . . More than three million people have jobs in the production of nylon textile and plastic products, and all of this traces back to a handful of key patents behind the invention and development of this one product."

In addition to DuPont's nylon and Edwin Land's Polaroid Corporation, American history is replete with examples of the independent inventor or small business as well as big business successfully penetrating an existing market or creating a new one with patented new technology. Clarence Birdseye—frozen food, Samuel Rueben—batteries, Chester Carlson—xerography, Leo Baekeland—bakelite, Plank and Rosinski of Mobil Oil—zeolite catalyst for astoundingly more efficient catalytic cracking of hydrocarbons, and so on.

In addition, most recently the essential role of the patent system in industrial innovation was indicated in the reports on Patent and Information Policy of the Advisory Committee on Industrial Innovation established as part of President Carter's Domestic Policy Review.

How important is it that patents issue as promptly as possible?

It is especially important that patents issue as promptly as possible so that patented technology becomes available to the public as soon as possible. Studies indicate that some 94% of patents contain technology not disclosed by other publications. Some of the more specific reasons for prompt handling of patents and disclosure of patented technology include the following:

1. An inventor of small means is generally anxious to have his application acted on as soon as possible so that the inventor can obtain financing or licensees.

2. Long pendency makes it possible for competitors to infringe for lucratively long periods before the patent issues.

3. Delay in granting of a patent can effectively extend the term of the patent long after it should have expired and entered the public domain.

4. Research and development is slowed if patent protection is not obtained early enough to protect investment of time and money.

5. Early dissemination of new technology through issuance of patents permits development of improvements on the patented invention or development of different ways of achieving the same result, thereby benefiting the public by expansion of technology and industrial capability.

6. Early issuance of patents prevents needless duplication of research and development efforts.

7. Early issuance apprises entrepreneurs of the area within which operations might be held to infringe the rights of patentees and therefore permits earlier investment and development by a competitor to the patentee.

8. Early issuance in the United States prevents the issuance of patents in other countries to foreigners which would block the U.S. patentee from going into such other countries.

9. Early issuance of a United States patent prevents foreigners from using the disclosure of corresponding foreign patents as a basis for importing the subject matter of the patent to the U.S. with impunity.

10. Prompt issuance of patents is also related to the strict processing time requirements under the Patent Cooperation Treaty. If pendency increases significantly, the PTO will be giving applicants using the Patent Cooperation Treaty preferred treatment, because of the time requirements of the Treaty, over other applicants, a highly undesirable result which especially prejudices the small inventor.

If efficiency of operation is a potential benefit to stimulate innovation in the private sector, why is the Office production being slowed down?

Production, in the sense of total output, is being de-emphasized in order to concentrate on improving quality of patents and on balancing total operations of the Office.

Wouldn't it be good public policy to speed production up?

It would be good policy to speed up production but not at the expense of quality.

What is the Patent and Trademark Office doing to increase the quality and dependability of the patents that it issues?

The amount of examiner training time has been increased and search file maintenance improved some in the FY 1980 budget.

I note in the budget request that the Office recognizes that the quality of patents must be improved upon. I also understand, however, that the number of patent examiners is being constantly reduced and that this current year the reduction will be continued. How does this meaningful reduction in the number of patent examiners fit in with the Office's desire to increase the quality of patents?

Reductions in the number of patent examiners do not fit in to the need to increase the quality of patents. The FY 1980 Patent Examiners budget is the same as in FY 1979 and average examining staff will be essentially the same as in FY 1979.

What other functions of the Patent and Trademark Office can be made either more efficient or more effective in a way that will stimulate industrial innovations?

In addition to the prompt issuance of valid patents, the dissemination of technical information and prompt registration of trademarks will stimulate industrial innovation. The dissemination of technical information and the trademark functions are both areas

that also ought to be enhanced along with the patent examining function.

What new levels of funding are required to make the Patent and Trademark Office of the United States as efficient and as effective as possible?

One estimate we have made of the additional funding required to meet such goals totals over $14 million. This estimate reflects a first year start-up of a long range program designed to meet stated objectives over a period of years, particularly in the case of achieving average patent application pendency of about 18 months. Funding in addition to the first year start-up costs identified above would be required in subsequent years. It is assumed that patent application receipts would rise slightly each year and that trademark application receipts would continue to increase at a conservative 7 percent rate.

PATENT OFFICE SOCIETY,
Arlington, Va.

Senator HARRISON SCHMITT,
U.S. Senate, Washington, D.C.

DEAR SENATOR SCHMITT: Attached hereto is a copy of the views of the Patent Office Society regarding the FY 1980 budget of the Patent and Trademark Office. The Society is sending you these comments since you expressed an interest in the Patent and Trademark Office budget during the recent Senate Hearings and directed written questions to the Department of Commerce concerning the need for more funding of the Patent and Trademark Office.

If the Society can be of any further assistance, please feel free to contact us.

Sincerely,

C. FRED ROSENBAUM,
Co-Chairman, Legislative Committee.

VIEWS OF PATENT OFFICE SOCIETY

The Patent Office Society (POS) was founded in 1917 and is devoted to the improvement of the patent system.

The Society membership includes the professional employees of The Patent and Trademark Office (PTO), as well as, Patent and Trademark attorneys and agents.

The Society is gravely concerned with the present level of funding of the PTO and the effects of such lack of adequate funding on the U.S. patent system. For the past several years and to a greater degree, beginning in 1977, the PTO budget has had a "program decrease" in funding level in relation to what was proposed. Each of these "program decreases" has amounted to approximately 1.6 million dollars and in the proposed 1980 budget the proposed "program decrease" is 1.633 million dollars. This consistent year-after-year slashing of the budget has resulted in the PTO being held to older policies and procedures—unable to change to meet current demands.

Industry, the Patent Bar and the PTO itself, have two criteria by which the performance and product of the PTO are judged. Above all else, the patent or mark must be reliable and, as stated in the trade, carry a presumption of validity. In his prepared testimony to your Committee, upon presentation of the 1980 PTO budget, Dr. Baruch, Assistant Secretary of Commerce for Science and Technology stated that, "in fostering innovation, the reliability of patents is a primary concern." In a memorandum prepared for Dr. Baruch dated October 13, 1978, it was stated, "Unless the inventor can have reasonable certainty that, once granted, his patent is (1) valid and (2) enforceable, then the rights conveyed by a patent are illusory, the government has defaulted on its responsibilities and, ultimately, the patent system becomes a cruel hoax."

The other of the two criteria is the amount of time (or pendency) it takes to issue a patent or mark before the public. In the case of an application for a patent, this pendency period includes the time for the date the application is received in the PTO until the application is published as a patent which is approximately 20 months, now, but is increasing. The importance of this criteria is shown by the Appendix, Budget of the United States Government, Fiscal Year 1980, under the Department of Commerce, Patent and Trademark Office, page 253, it stated that, "Although one goal of the Office is to maintain the average pendency for patent applications at approximately 18 months, the pendency period will increase slightly in 1979 and 1980 due to greater emphasis on improving the quality of patent review." At page 254 of this document total pendency is shown to be 18.9 months in 1977, 19.9 months in 1978, projected to be 21.7 months in 1979 and 22.8 months in 1980.

Unfortunately, it appears that the product and performance of the PTO, when measured by each of these criteria, is not what it should be. As stated by Mr. Eric P. Schellin, Esq., Vice Chairman of the Board of Trustees of the National Small Business Association (NSB), in prepared testimony on March 27, 1979, before your Committee regarding the proposed 1980 PTO budget, "Should a patent get into litigation, the party opposing the patent holder will usually authorize a very extensive search to redo what the Examiner has done in an attempt to obtain better prior art. It is sad to note that most of the time better art will be discovered. At the district court level, fully 50% of the patents will be declared invalid based on prior art not previously found by the Examiner." Under such circumstances, the reliability and the presumption of validity of patents is severely damaged.

There are many causes of this deteriorated condition of the PTO, not the least of which is that the PTO long ago started a crash program to bring the pendency time of applications down to 18 months. The wisdom of the decision to reduce the pendency and the particular significance of 18 months pendency is immaterial now. For the decade of the 70's the PTO has been engaged in this drive.

During this period the PTO changed the examining procedures and established quota production for its professionals and clerical personnel as a means to insure that the number of patents and trademarks issued would exceed the number of applications projected to be filed, thereby reducing the backlog and pendency time of applications. For example, procedures were developed which made it easier for the patent examiner to restrict the subject matter of a patent application. This resulted in a narrower search in the examiners' assigned art which could be accomplished in a shorter time. A myriad of forms were introduced to shorten the examiner's time in communicating with the applicant and shorten typing time for such actions. Also, the period in which an inventor must reply to a PTO action was shortened.

A quota production system was initially introduced as a work standard but was quickly institutionalized as a productivity requirement. In its current form, the quota demands that a specific number of applications must be acted upon by a particular exminer in a specific number of hours. This quota is expressed as the average number of hours of time an examiner may spend on an application before it is disposed of, i.e., matures as a patent or proceedings are otherwise terminated before the PTO. The quota for the PTO, as a whole, is about 15 hours of examining time per disposal of a patent application. It is significant that this figure of 15 hours per disposal has not materially changed in several years, even though the number of examiners has been reduced, the number of new applications filed has increased, and the volume of art to be searched has increased.

As another result of this production drive, training, educational programs, field trips and time for reading trade journals and other publications has been drastically curtailed.

For several years, the PTO has been supplying, as enclosures, copies of the patents and other materials, cited by the examiner, along with the examiner's action in the envelope which is mailed to the applicant. At one time, these patent copies were supplied from stocks of printed patents maintained for this purpose by the PTO. For one reason or another, this procedure has been stopped and replaced with a system which requires the examiner to use his search file patents cited in an action to make xerographic copies. During the period of time it takes for all clerical chores to be completed and xerographic copies to be made, the patents, attached to the application, are not available in the search files of the PTO. It has been estimated that, at any given time, up to 30% of the patents in an active art may not be in the examiner's search files. But this does not tell the whole story of the lack of integrity of the examiner's search files. Because of the lack of clerical personnel, a patent may be out of the search file for a week to 10 days each time it is cited in an application. This situation is compounded by the fact that in most arts there are "key" patents which are used much more often than other patents. These "key" patents are out of the search file much more often than others. Each time a xerographic copy of a patent is made it must be disassembled and reassembled, providing the possibility of lost or torn pages.

All of these changes mentioned were done in a conscientious and dedicated effort to accomplish what had been determined as an overriding requirement. These administrative methods appeared to be successful through 1977 when pendency reached 18.9 months.

However, the results of this effort have not been exactly what was intended when the crash program was started. One direct result of this increased PTO production—which was meeting or exceeding the number of new applications filed during the years of the late 60's and the 70's—was a vast increase in the number of new patents swelling the search files. Approximately 70% of the applications examined matured into new patents. Concurrently, there was a huge increase in the amount of published data. The PTO, itself, could not swallow all these patents, other published data and new technologies represented therein. New technology made the older classification system inadequate. Lack of a good current classification system made the new art very difficult to locate within the PTO. In the face of all these dramatic changes the number of examiners was reduced and the quota of 15 hours per disposal stayed relatively the same.

As early as 1975 the effect of this production program upon quality was being reported. Former Commissioner Dann requested in 1975 a study of the production goals system used in the PTO, "particularly with respect to the incentives and disincentives in that system for quality examination." The draft report of this study was forwarded to the Commissioner December 31, 1975. At this time the 1977 budget request was being prepared.

The findings of the study recommended that the goals system not be eliminated but "does recommend increased emphasis and pressure for quality examination." Other recommendations included adding "at least one hour" to the base quota; allowing extra time for "review of technological literature, professional field trips and examina-

tion of extraordinary cases," and treating the quota as a "norm" or work standard rather than "expectancy."

Unfortunately, most of the recommendations developed in this 1975 study ended up costing more money and when the fiscal 1977 budget was submitted it was reduced 1.497 million dollars. The PTO budget has suffered similar reductions every year since then.

From this cursory review of the crash program for reducing pendency which has lasted from the 1960's through the 70's, it can be seen that the patent system has been greatly expanded through the dedicated efforts of the PTO while the PTO has remained virtually the same size and the corps of examiners has been significantly reduced. Now the measuring sticks show the quality of the patents issued by the PTO to be suspect and the length of time it takes to get a patent increasing. The only method of halting these undesirable trends in our current patent system is to match the PTO to this expanded state. Such action, will require, not a decrease in funding, but an allocation of more funding to the PTO.

Specifically, the PTO needs to increase the number of examiners and commensurate clerical support. This would have a beneficial effect on the quality of the patents issued by allowing all examiners to have more hours to examine each application. More hours could be allotted for educational needs, training, field trips, etc. An increased number of examiners would also operate to halt the increasing pendency period.

The PTO needs to increase the level of non-professional or clerical support to the examiners so that the integrity of the search files would be disrupted as little as possible. With regard to quality of issued patents, this would be probably the most important improvement.

The PTO needs to increase its level of effort in the documentation area to provide the examiner and the public with better search tools. Along with this, a better method of providing copies included in PTO actions must be found so that the integrity of the search file is not destroyed as a function of normal operating procedure.

Each of these proposals requires allocation of funds over and above those available in the proposed FY 1980 PTO budget. But in this setting of critical need for more funds, the Department of Commerce presents a PTO budget to Congress which provides less funds to the PTO than it has requested.

It is blatantly clear that the Department of Commerce is aware of the problems of the PTO as shown by the answer to a written question posed by Senator Bayh to Dr. Baruch during hearings on the FY 1980 budget, as follows:

Q. Provide any other information that you think would be helpful in my better understanding PTO related problems that are negatively impacted by inadequate funding and headcount resources. In providing such information, specify in detail the resources needed to meet a stated objective to be reached by way of a specified plan of action.

A. The Patent and Trademark Office budget needs relate to four goals (and problem) areas.

(1) The issuance of quality patents that will instill confidence in their validity by the patentee, the investor, the courts, etc., so that the subject of the patent will be developed and commercialized where warranted (confidence in the validity of patents is declining).

(2) The prompt issuance of patents (within an average of 18 months of filing) to speed the development of the technology and enable others to build upon it, pendency is 20 months and rising at the rate of 2 months/year) and:

(3) Adequate dissemination of new technology to users (dissemination is presently limited and of limited effectiveness).

(4) The prompt issuance of trademark registrations (within an average of 13 months of filing) to stimulate industrial innovation and facilitate the marketing of products and services (pendency is over 17 months and is projected to double by the end of FY 1980; applications filed increased 50% over the 3 year period 1975 to 1978 and are continuing to increase at the rate of 9% per year).

We are studying a variety of plans and programs to achieve the above objectives in an optimum manner with due consideration for timeliness and priorities. While we do not now have a totally integrated overall plan, we would expect to include in our FY 1981 budget request the first increment of a multi-year program to achieve these objectives. One estimate of the additional first year costs totals over $14 million.

In the answer, Dr. Baruch states that the pendency time for Trademarks is expected to double by the end of FY 1980, the pendency of patent applications is increasing at a rate of 2 months per year, and that confidence in the validity of patents is declining. There is an estimated cost of correcting these problems, along with others, of an additional 14 million dollars but maybe—just maybe—a budget increase will be included in FY 1981. In the meantime, the Department of Commerce is requesting a PTO program decrease for FY 1980 of 1.633 million dollars.

Dr. Baruch also states, in answer to another question by Senator Bayh, that in order to reduce pendency to 18 months by FY 1987 additional funding would be required which would include an estimated 5.5 million dollars in FY 1980. The text of the question and answer are as follows:

Q. Your statement says the goal of the Patent and Trademark Office is to allow patent applications to pend only 18 months. You are not meeting that goal. How many examiners are needed to meet the 18 month goal? How much additional funding would be required? How much would it cost in this regard to stabilize pendency time at 20 months?

A. In order to reduce pendency to 18 months by FY 1987, we estimate we would need to:

1. hire about 360 additional examiners in the FY 1980–81 time period,

2. provide a full overtime program in FY 80–81,

3. hire slightly more examiners than we lose through attrition each year.

The additional costs—including additional clerical support and patent print costs—of such a program are estimated to be about $5.5 million in FY 1980, another $3.1 million in FY 1981 and an additional $1.7 in 1982 and beyond. Holding this level of funding through 1985 would result in 20 month pendency in that year, with a reduced level of funding in subsequent years to hold 20 month pendency; without reducing funding, pendency of 18 months in 1987 will result.

Regardless of the inconsistency present between the Department of Commerce's budget request for the PTO and the testimony of the Department with regard to that budget, it appears that the Department of Commerce now says that the PTO requires an estimated additional 5.5 million dollars in FY 1980 and an additional 14 million dollars in FY 1981.

The Patent Office Society endorses the position taken by the Department of Commerce in its written answers to Senator Bayh's questions.

The Patent Office Society greatly appreciates the opportunity given to it by Senator Hollings to express its views regarding the Patent and Trademark Office budget.●

MX MISSILE AND BASING MODES

● Mr. DURENBERGER. Mr. President, the United States is facing a serious problem of increased
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