

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

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

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.

1 *Resolved*, That, upon the adoption of this resolution, the
2 House shall be considered to have taken from the Speaker's
3 table the bill H.R. 4972, Patent and Trademark Office Au-
4 thorization, with the Senate amendment thereto, and con-
5 curred in the Senate amendment to the text with an amend-
6 ment, as follows:

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

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

3 **TITLE I—PATENT AND TRADEMARK OFFICE**
4 **AUTHORIZATIONS**

5 **SEC 101 AUTHORIZATION OF APPROPRIATIONS.**

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

8 (1) for salaries and necessary expenses,
9 \$117,504,000 for fiscal year 1989, \$125,210,000 for
10 fiscal year 1990, and \$111,984,000 for fiscal year
11 1991; and

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

16 **SEC 102. APPROPRIATIONS AUTHORIZED TO BE CARRIED**
17 **OVER.**

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

22 **SEC. 103. OVERSIGHT OF AND ADJUSTMENTS TO TRADEMARK**
23 **AND PATENT FEES.**

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

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

8 (b) PATENT FEES.—The Commissioner of Patents and
9 Trademarks may not, during fiscal years 1989, 1990, and
10 1991, increase fees established under section 41(d) of title 35,
11 United States Code, except for purposes of making adjust-
12 ments which in the aggregate do not exceed fluctuations
13 during the previous three years in the Consumer Price Index,
14 as determined by the Secretary of Labor. The Commissioner
15 also may not establish additional fees under such section
16 during such fiscal years.

17 (c) REPORT TO CONGRESS.—The Secretary of Com-
18 merce shall, on the day on which the President submits the
19 annual budget to the Congress, provide to the Committees on
20 the Judiciary of the Senate and the House of Representa-
21 tives—

22 (1) a list of patent and trademark fee collections
23 by the Patent and Trademark Office during the preced-
24 ing fiscal year;

1 (2) a list of activities of the Patent and Trade-
2 mark Office during the preceding fiscal year which
3 were supported by patent fee expenditures, trademark
4 fee expenditures, and appropriations;

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

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

10 (5) such other information as the committees con-
11 sider necessary.

12 **SEC. 104 PUBLIC ACCESS TO PATENT AND TRADEMARK**
13 **OFFICE INFORMATION.**

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

16 (b) **MAINTENANCE OF COLLECTIONS.**—The Commis-
17 sioner of Patents and Trademarks shall maintain, for use by
18 the public, paper or microform collections of United States
19 patents, foreign patent documents, and United States trade-
20 mark registrations arranged to permit search for and retrieval
21 of information. The Commissioner may not impose fees for
22 use of such collections, or for use of public patent or trade-
23 mark search rooms or libraries. Funds appropriated to the
24 Patent and Trademark Office shall be used to maintain such
25 collections, search rooms, and libraries.

1 (c) FEES FOR ACCESS TO SEARCH SYSTEMS.—Subject
2 to section 105(a), the Commissioner of Patents and Trade-
3 marks may establish reasonable fees for access by the public
4 to automated search systems of the Patent and Trademark
5 Office in accordance with section 41 of title 35, United States
6 Code, and section 31 of the Trademark Act of 1946 (15
7 U.S.C. 1113). If such fees are established, a limited amount
8 of free access shall be made available to all users of the sys-
9 tems for purposes of education and training. The Commis-
10 sioner may waive the payment by an individual of fees au-
11 thorized by this subsection upon a showing of need or hard-
12 ship, and if such waiver is in the public interest.

13 SEC. 105. FUNDING OF AUTOMATED DATA PROCESSING
14 RESOURCES.

15 (a) ALLOCATIONS.—Of amounts available to the Patent
16 and Trademark Office for automatic data processing re-
17 sources for fiscal years 1989, 1990, and 1991, not more than
18 30 percent of such amounts in each such fiscal year may be
19 from fees collected under section 31 of the Trademark Act of
20 1946 (15 U.S.C. 1113) and section 41 of title 35, United
21 States Code. The Commissioner of Patents and Trademarks
22 shall notify the Committees on the Judiciary of the Senate
23 and the House of Representatives of any proposed repro-
24 grammings which would increase or decrease the amount of

1 appropriations expended for automatic data processing
2 resources.

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

9 **SEC. 106 USE OF EXCHANGE AGREEMENTS RELATING TO**
10 **AUTOMATIC DATA PROCESSING RESOURCES**
11 **PROHIBITED.**

12 The Commissioner of Patents and Trademarks may not,
13 during fiscal years 1989, 1990, and 1991, enter into any
14 agreement for the exchange of items or services (as author-
15 ized under section 6(a) of title 35, United States Code) relat-
16 ing to automatic data processing resources (including hard-
17 ware, software and related services, and machine readable
18 data), and the Commissioner may not, on or after the date of
19 the enactment of this Act, continue existing agreements for
20 the exchange of such items or services. The preceding sen-
21 tence shall not apply to an agreement relating to data for
22 automation programs which is entered into with a foreign
23 government or with an international intergovernmental
24 organization.

1 **TITLE II—PATENT MISUSE REFORM**

2 **SEC. 201. PERMISSIBLE ACTS BY PATENT OWNER.**

3 Section 271(d) of title 35, United States Code, is
4 amended by striking out the period at the end thereof and
5 inserting in lieu thereof the following: “; (4) refused to license
6 or use any rights to the patent; or (5) conditioned the license
7 of any rights to the patent or the sale of the patented product
8 on the acquisition of a license to rights in another patent or
9 purchase of a separate product, unless, in view of the circum-
10 stances, the patent owner has market power in the relevant
11 market for the patent or patented product on which the li-
12 cense or sale is conditioned.”.

13 **SEC. 202. EFFECTIVE DATE.**

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

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