

98TH CONGRESS
1ST SESSION

H. R. 2610

To amend the patent laws of the United States.

IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 1983

Mr. KASTENMEIER (for himself and Mr. MOORHEAD) (by request) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the patent laws of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Patent Law Amendments
4 of 1983".

5 SEC. 2. (a) Chapter 14 of title 35, United States Code,
6 is amended by adding at the end thereof the following new
7 section:

8 "**§ 156. Issuance of patents without examination**

9 "Notwithstanding any other provisions of this title, the
10 Commissioner is authorized to issue a patent on an invention
11 without the examination required by sections 131 and 132 of
12 this title, except as may be required to conduct an interfer-

1 ence proceeding, to determine compliance with section 112 of
2 this title, or to review for formalities required for printing, if
3 the applicant—

4 “(1) waives all remedies with respect to the
5 patent and any reissue thereof, arising under sections
6 183 and 271 through 289 of this title and under any
7 section of any other title of the United States Code,
8 within such time as the Commissioner specifies; and

9 “(2) pays fees established by the Commissioner
10 for the filing and issuance of such a patent, which fees
11 may be less than those specified in section 41 of this
12 title.

13 The waiver under this section shall take effect upon issuance
14 of the patent. No maintenance fees shall be required with
15 respect to patents issued under this section.”

16 (b) The analysis for chapter 14 of title 35, United States
17 Code, is amended by adding at the end thereof the following:

“156. Issuance of patents without examination.”

18 SEC. 3. Section 134 of title 35, United States Code, is
19 amended by striking out “primary”.

20 *Am.* SEC. 4. Section 151 of title 35, United States Code, is
21 amended—

22 (1) by striking out the second sentence in the first
23 paragraph and inserting in lieu thereof the following:

24 “The notice shall specify the issue fee which shall be
25 paid within three months thereafter, or within such

1 shorter time, not less than one month, as fixed by the
2 Commissioner in such notice.”; and

3 (2) by striking out the third paragraph.

4 **SEC. 5.** The first sentence of section 361(d) of title 35,
5 United States Code, is amended by inserting “or within one
6 month thereafter” immediately after “application”.

7 **SEC. 6.** Section 366 of title 35, United States Code, is
8 amended—

9 (1) by inserting “after the date of withdrawal,”
10 immediately after “effect” in the first sentence;

11 (2) by inserting “, unless a claim for the benefit of
12 a prior filing date under section 365(c) of this part was
13 made in a national application, or an international ap-
14 plication designating the United States, filed before the
15 date of such withdrawal” before the period at the end
16 of the first sentence; and

17 (3) by inserting “withdrawn” immediately after
18 “such” in the second sentence.

19 **SEC. 7. (a)** Section 371(a) of title 35, United States
20 Code, is amended by striking out “is” and inserting in lieu
21 thereof “may be” and by striking out “, except those filed in
22 the Patent Office”.

23 (b) Section 371(b) of title 35, United States Code, is
24 amended to read as follows:

1 “(b) Subject to subsection (f) of this section, the national
2 stage shall commence with the expiration of the applicable
3 time limit under article 22(1) or (2) of the treaty.”

4 (c) Section 371(c)(2) of title 35, United States Code, is
5 amended—

6 (1) by striking out “received from” and inserting
7 in lieu thereof “communicated by” and

8 (2) by striking out the word “verified” immediate-
9 ly before “translation”.

10 (d) Section 371(d) of title 35, United States Code, is
11 amended to read as follows:

12 “(d) The requirements with respect to the national fee
13 referred to in subsection (c)(1), the translation referred to in
14 subsection (c)(2), and the oath or declaration referred to in
15 subsection (c)(4) of this section shall be complied with by the
16 commencement of the national stage or by such later times as
17 may be fixed by the Commissioner. The copy of the interna-
18 tional application referred to in subsection (c)(2) shall be sub-
19 mitted by the commencement of the national stage. Failure to
20 comply with these requirements shall be regarded as aban-
21 donment of the application by the parties thereof, unless it be
22 shown to the satisfaction of the Commissioner that such fail-
23 ure to comply was unavoidable. The payment of a surcharge
24 may be required as a condition for accepting the national fee
25 referred to in subsection (c)(1) or the oath or declaration re-

1 ferred to in subsection (c)(4) of this section if these require-
2 ments are not met by the commencement of the national
3 stage. The requirements of subsection (c)(3) of this section
4 shall be complied with by the commencement of the national
5 stage, and failure to do so shall be regarded as a cancellation
6 of the amendments to the claims in the international applica-
7 tion made under article 19 of the treaty.”

8 **SEC. 8.** (a) Section 372(b) of title 35, United States
9 Code, is amended by striking out the period at the end of
10 paragraph (2) and inserting in lieu thereof “; and” and by
11 inserting at the end thereof the following new paragraph: 1157

12 “(3) the Commissioner may require a verification
13 of the translation of the international application or any
14 other document pertaining thereto if the application or
15 other document was filed in a language other than
16 English.”

17 (b) Section 372 of title 35, United States Code, is
18 amended by deleting subsection (c).

19 **SEC. 9.** Section 376(a) of title 35, United States Code,
20 is amended by (1) deleting paragraph (5); and (2) redesh-
21 ignating paragraph (6) as paragraph (5).

22 **SEC. 10.** Title 35, United States Code, is amended by
23 deleting “Patent Office” wherever it appears and inserting in
24 its place “Patent and Trademark Office”.

1 **SEC. 11.** Notwithstanding section 2 of Public Law 96-
2 517, no fee shall be collected for maintaining a plant patent
3 in force.

4 **SEC. 12. (a)** Sections 10 and 11 of this Act shall take
5 effect upon enactment.

6 **(b)** Sections 1-9 of this Act shall take effect six months
7 after enactment.

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