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IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on the Judiciary

OCTOBER 4 (legislative day, SEPTEMBER 24), 1984

Ordered to be placed on the calendar

AN ACT

To amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the “Patent Law
5 Amendments Act of 1984”.

6 TITLE I—PATENT IMPROVEMENT PROVISIONS

7 USE OF PATENTED INVENTIONS OUTSIDE THE UNITED
8 STATES

9 SEC. 101. (a) Section 271 of title 35, United States
10 Code, is amended by adding at the end thereof the following
11 new subsections:

1 “(e) Whoever without authority imports into or sells or
2 uses within the United States a product which is made in
3 another country by a process patented in the United States
4 shall be liable as an infringer, if the importation, sale, or use
5 of the product occurs during the term of such process patent.

6 “(f)(1) Whoever without authority supplies or causes to
7 be supplied in or from the United States all or a substantial
8 portion of the components of a patented invention, where
9 such components are uncombined in whole or in part, in such
10 manner as to actively induce the combination of such compo-
11 nents outside of the United States in a manner that would
12 infringe the patent if such combination occurred within the
13 United States, shall be liable as an infringer.

14 “(2) Whoever without authority supplies or causes to be
15 supplied in or from the United States any component of a
16 patented invention that is especially made or especially
17 adapted for use in the invention and not a staple article or
18 commodity of commerce suitable for substantial noninfringing
19 use, where such component is uncombined in whole or in
20 part, knowing that such component is so made or adapted
21 and intending that such component will be combined outside
22 of the United States in a manner that would infringe the
23 patent if such combination occurred within the United States,
24 shall be liable as an infringer.”.

1 (b) Section 287 of title 35, United States Code, is
2 amended by adding at the end thereof the following: “No
3 damages may be recovered for an infringement under section
4 271(e) of this title unless the infringer was on notice that the
5 product was made by a process patented in the United
6 States.”.

7 STATUTORY INVENTION REGISTRATION

8 SEC. 102. (a) Chapter 14 of title 35, United States
9 Code, is amended by adding at the end thereof the following
10 new section:

11 “§ 156. Statutory invention registration

12 “(a) Notwithstanding any other provision of this title,
13 the Commissioner is authorized to publish a statutory inven-
14 tion registration containing the specification and drawings of
15 a regularly filed application for a patent without examination
16 if the applicant—

17 “(1) meets the requirements of section 112 of this
18 title;

19 “(2) has complied with the requirements for print-
20 ing, as set forth in regulations of the Commissioner;

21 “(3) waives the right to receive a patent on the
22 invention within such period as may be prescribed by
23 the Commissioner; and

24 “(4) pays application, publication, and other proc-
25 essing fees established by the Commissioner.

1 If an interference is declared with respect to such an applica-
2 tion, a statutory invention registration may not be published
3 unless the issue of priority of invention is finally determined
4 in favor of the applicant.

5 “(b) The waiver under subsection (a)(3) of this section
6 by an applicant shall take effect upon publication of the statu-
7 tory invention registration.

8 “(c) A statutory invention registration published pursu-
9 ant to this section shall have all of the attributes specified for
10 patents in this title except those specified in section 183 and
11 sections 271 through 289 of this title. A statutory invention
12 registration shall not have any of the attributes specified for
13 patents in any other provision of law other than this title. A
14 statutory invention registration published pursuant to this
15 section shall give appropriate notice to the public, pursuant
16 to regulations which the Commissioner shall issue, of the pre-
17 ceding provisions of this subsection. The invention with re-
18 spect to which a statutory invention certificate is published is
19 not a patented invention for purposes of section 292 of this
20 title.”.

21 (b) The table of sections at the beginning of chapter 14
22 of title 35, United States Code, is amended by adding at the
23 end thereof the following:

“156. Statutory invention registration.”.

24 (c) The amendments made by this section shall take
25 effect six months after the date of the enactment of this Act.

1 FILING OF APPLICATIONS IN FOREIGN COUNTRIES

2 SEC. 103. (a) Section 184 of title 35, United States
3 Code, is amended—

4 (1) in the third sentence—

5 (A) by striking out “inadvertently”; and

6 (B) by inserting “through error and without
7 deceptive intent” after “filed abroad”; and

8 (2) by adding at the end thereof the following new
9 paragraph:

10 “Subject to such conditions as the Commissioner may
11 set by regulations, the scope of a license shall permit subse-
12 quent modifications, amendments, and supplements contain-
13 ing additional subject matter when the application upon
14 which the request for the license is based is not required to be
15 made available for inspection under section 181 of this title.”

16 (b) Section 185 of title 35, United States Code, is
17 amended by inserting immediately before the period in the
18 last sentence the following: “, unless the failure to procure
19 such license was through error and without deceptive intent,
20 and the patent does not disclose subject matter within the
21 scope of section 181 of this title”.

22 (c) Section 186 of title 35, United States Code, is
23 amended by inserting “willfully” after “whoever”, the
24 second place it appears.

PRIOR ART

1
2 SEC. 104. Section 103 of title 35, United States Code,
3 is amended by adding at the end thereof the following:

4 "Subject matter developed by another person, which
5 qualifies as prior art only under subsection (f) or (g) of section
6 102 of this title, shall not preclude patentability under this
7 section where the subject matter and the claimed invention
8 were, at the time the invention was made, owned by the
9 same person or subject to an obligation of assignment to the
10 same person."

JOINT INVENTORS

11
12 SEC. 105. (a) Section 116 of title 35, United States
13 Code, is amended by amending the first paragraph to read as
14 follows:

15 "When an invention is made by two or more persons
16 jointly, they shall apply for patent jointly and each make the
17 required oath, except as otherwise provided in this title. In-
18 ventors may apply for a patent jointly even though (1) they
19 did not physically work together or at the same time, (2) each
20 did not make the same type or amount of contribution, or (3)
21 each did not make a contribution to the subject matter of
22 every claim of the patent."

23 (b) Section 120 of title 35, United States Code, is
24 amended by striking out "by the same inventor" and insert-
25 ing in lieu thereof "which is filed by an inventor or inventors
26 named in the previously filed application".

1 **ARBITRATION OF INTERFERENCES**

2 **SEC. 106.** Section 135 of title 35, United States Code,
3 is amended by adding at the end thereof the following new
4 subsection:

5 “(d) Parties to a patent interference, within such time as
6 may be specified by the Commissioner by regulation, may
7 determine such contest or any aspect thereof by arbitration.
8 Such arbitration shall be governed by the provisions of title 9
9 to the extent such title is not inconsistent with this section.
10 The parties shall give notice of any arbitration award to the
11 Commissioner, and such award shall, as between the parties
12 to the arbitration, be dispositive of the issues to which it re-
13 lates. The arbitration award shall be unenforceable until such
14 notice is given. Nothing in this subsection shall preclude the
15 Commissioner from determining patentability of the invention
16 involved in the interference.”

17 **EFFECTIVE DATE**

18 **SEC. 107.** (a) Subject to subsections (b), (c), (d), and (e)
19 of this section, the amendments made by this Act shall apply
20 to all United States patents granted before, on, or after the
21 date of enactment of this Act, and to all applications for
22 United States patents pending on or filed after the date of
23 enactment, except that part of the amendment made by sec-
24 tion 101 which adds section 271(e) to title 35 shall only
25 apply to patents granted after the date of enactment.

1 (b) The amendments made by this Act shall not affect
2 any final decision made by the court or the Patent and
3 Trademark Office before the date of enactment of this Act
4 with respect to a patent or application for patent, if no appeal
5 from such decision is pending and the time for filing an
6 appeal has expired.

7 (c) Section 271(f) of title 35, United States Code, added
8 by section 101 of this Act shall apply only to the supplying,
9 or causing to be supplied, or any component or components
10 of a patented invention after the date of enactment of this
11 Act.

12 (d) No United States patent granted before the date of
13 enactment of this Act shall abridge or affect the right of any
14 person or his successors in business who made, purchased, or
15 used prior to such effective date anything protected by the
16 patent, to continue the use of, or to sell to others to be used
17 or sold, the specific thing so made, purchased, or used, if the
18 patent claims were invalid or otherwise unenforceable on a
19 ground obviated by section 103, 104, or 105 of this Act and
20 the person made, purchased, or used the specific thing in rea-
21 sonable reliance on such invalidity or unenforceability. If a
22 person reasonably relied on such invalidity or unenforceabil-
23 ity, the court before which such matter is in question may
24 provide for the continued manufacture, use, or sale of the
25 thing made, purchased, or used as specified, or for the manu-

1 facture, use, or sale of which substantial preparation was
2 made before the date of enactment of this Act, and it may
3 also provide for the continued practice of any process prac-
4 ticed, or for the practice of which substantial preparation was
5 made, prior to the date of enactment, to the extent and under
6 such terms as the court deems equitable for the protection of
7 investments made or business commenced before the date of
8 enactment.

9 (e) The amendments made by this Act shall not affect
10 the right of any party in any case pending in court on the
11 date of enactment to have their rights determined on the
12 basis of the substantive law in effect prior to the date of
13 enactment.

14 TITLE II—PATENT AND TRADEMARK OFFICE

15 PROCEDURES

16 BOARD OF PATENT APPEALS AND INTERFERENCES

17 SEC. 201. (a) Section 7 of title 35, United States Code,
18 is amended to read as follows:

19 “§ 7. Board of Patent Appeals and Interferences

20 “(a) The examiners-in-chief shall be persons of compe-
21 tent legal knowledge and scientific ability, who shall be ap-
22 pointed to the competitive service. The Commissioner, the
23 Deputy Commissioner, the Assistant Commissioners, and the
24 examiners-in-chief shall constitute the Board of Patent Ap-
25 peals and Interferences.

1 “(b) The Board of Patent Appeals and Interferences
2 shall, on written appeal of an applicant, review adverse deci-
3 sions of examiners upon applications for patents and shall
4 determine priority and patentability of invention in interfer-
5 ences declared under section 135(a) of this title. Each appeal
6 and interference shall be heard by at least three members of
7 the Board of Patent Appeals and Interferences, who shall be
8 designated by the Commissioner. Only the Board of Patent
9 Appeals and Interferences has the authority to grant
10 rehearings.

11 “(c) Whenever the Commissioner considers it necessary,
12 in order to keep current the work of the Board of Patent
13 Appeals and Interferences, the Commissioner may designate
14 any patent examiner of the primary examiner grade or
15 higher, having the requisite ability, to serve as examiner-in-
16 chief for periods not exceeding six months each. An examiner
17 so designated shall be qualified to act as a member of the
18 Board of Patent Appeals and Interferences. Not more than
19 one of the members of the Board of Patent Appeals and
20 Interferences hearing an appeal or determining an interfer-
21 ence may be an examiner so designated. The Secretary of
22 Commerce is authorized to fix the pay of each designated
23 examiner-in-chief in the Patent and Trademark Office at not
24 to exceed the maximum rate of basic pay payable for grade
25 GS-16 of the General Schedule under section 5332 of title 5.

1 The rate of basic pay of each individual designated examiner-
2 in-chief shall be adjusted, at the close of the period for which
3 that individual was designated to act as examiner-in-chief, to
4 the rate of basic pay which that individual would have been
5 receiving at the close of such period if such designation had
6 not been made.”.

7 (b) The item relating to section 7 in the table of sections
8 at the beginning of chapter 1 of title 35, United States Code,
9 is amended by striking out “Appeals” and inserting in lieu
10 thereof “Patent Appeals and Interferences”.

11 INTERFERENCES

12 SEC. 202. Section 135(a) of title 35, United States
13 Code, is amended to read as follows:

14 “(a) Whenever an application is made for a patent
15 which, in the opinion of the Commissioner, would interfere
16 with any pending application, or with any unexpired patent,
17 an interference may be declared and the Commissioner shall
18 give notice of such declaration to the applicants, or applicant
19 and patentee, as the case may be. The Board of Patent Ap-
20 peals and Interferences shall determine questions of priority
21 of the inventions and may determine questions of patentabil-
22 ity. Any final decision, if adverse to the claim of an applicant,
23 shall constitute the final refusal by the Patent and Trademark
24 Office of the claims involved, and the Commissioner may
25 issue a patent to the applicant who is adjudged the prior
26 inventor. A final judgment adverse to a patentee from which

1 no appeal or other review has been or can be taken or had
 2 shall constitute cancellation of the claims involved in the
 3 patent, and notice of such cancellation shall be endorsed on
 4 copies of the patent distributed after such cancellation by the
 5 Patent and Trademark Office.”.

6

APPEALS AND CIVIL ACTIONS

7

SEC. 203. (a) Section 141 of title 35, United States

8 Code, is amended—

9

(1) in the first sentence—

10

(A) by striking out “of the Board of Patent

11

Appeals may appeal” and inserting in lieu thereof

12

“in an appeal to the Board of Patent Appeals and

13

Interferences under section 134 of this title may

14

appeal the decision”; and

15

(B) by striking out “, thereby waiving his

16

right” and inserting in lieu thereof “. By filing

17

such an appeal the applicant waives his or her

18

right”;

19

(2) in the second sentence—

20

(A) by striking out “board of patent interfer-

21

ences on the question of priority may appeal” and

22

inserting in lieu thereof “Board of Patent Appeals

23

and Interferences on the interference may appeal

24

the decision”;

25

(B) by striking out “according to” and insert-

26

ing in lieu thereof “in accordance with”; and

1 (C) by striking out “he” and inserting in lieu
2 thereof “the party”; and

3 (3) by amending the last sentence to read as
4 follows:

5 “If the appellant does not, within thirty days after the filing
6 of such notice by the adverse party, file a civil action under
7 section 146, the decision appealed from shall govern the fur-
8 ther proceedings in the case.”.

9 (b) Section 145 of title 35, United States Code, is
10 amended—

11 (1) in the first sentence by striking out “Appeals
12 may” and inserting in lieu thereof “Patent Appeals
13 and Interferences in an appeal under section 134 of
14 this title may,”; and

15 (2) in the second sentence by striking out “Ap-
16 peals” and inserting in lieu thereof “Patent Appeals
17 and Interferences”.

18 (c) Section 146 of title 35, United States Code, is
19 amended by striking out “board of patent interferences on the
20 question of priority” and inserting in lieu thereof “Board of
21 Patent Appeals and Interferences on the interference”.

22 TECHNICAL AND CONFORMING AMENDMENTS

23 SEC. 204. (a) Section 41(a)(6) of title 35, United States
24 Code, is amended—

1 (1) by striking out “Appeals” each place it ap-
2 pears and inserting in lieu thereof “Patent Appeals and
3 Interferences”; and

4 (2) by inserting “in the appeal” after “oral
5 hearing”.

6 (b)(1) Section 134 of title 35, United States Code, is
7 amended—

8 (A) in the section caption by striking out “AP-
9 PEALS” and inserting in lieu thereof “PATENT AP-
10 PEALS AND INTERFERENCES”; and

11 (B) by striking out “Appeals” and inserting in lieu
12 thereof “Patent Appeals and Interferences”.

13 (2) The item relating to section 134 in the table of sec-
14 tions at the beginning of chapter 12 of title 35, United States
15 Code, is amended by striking out “Appeals” and inserting in
16 lieu thereof “Patent Appeals and Interferences”.

17 (c) Section 305 of title 35, United States Code, is
18 amended by striking out “Appeals” and inserting in lieu
19 thereof “Patent Appeals and Interferences”.

20 **AMENDMENTS TO OTHER PROVISIONS OF LAW**

21 **SEC. 205.** (a) Section 1295(a)(4)(A) of title 28, United
22 States Code, is amended by striking out “Appeals or the
23 Board of Patent” and inserting in lieu thereof “Patent Ap-
24 peals and”.

25 (b) Section 152 of the Atomic Energy Act of 1954 (42
26 U.S.C. 2182) is amended in the third paragraph—

1 (1) by striking out “a Board of Patent Interfer-
2 ences” and inserting in lieu thereof “the Board of
3 Patent Appeals and Interferences”; and

4 (2) by striking out “the Board of Patent Interfer-
5 ences” and inserting in lieu thereof “the Board of
6 Patent Appeals and Interferences”.

7 (c)(1) Section 305(d) of the National Aeronautics and
8 Space Act of 1958 (42 U.S.C. 2457(d)) is amended—

9 (A) by striking out “a Board of Patent Interfer-
10 ences” and inserting in lieu thereof “the Board of
11 Patent Appeals and Interferences”; and

12 (B) by striking out “the Board of Patent Interfer-
13 ences” and inserting in lieu thereof “the Board of
14 Patent Appeals and Interferences”.

15 (2) Section 305(e) of the National Aeronautics and
16 Space Act of 1958 (42 U.S.C. 2457(e)) is amended by strik-
17 ing out “a Board of Patent Interferences” and inserting in
18 lieu thereof “the Board of Patent Appeals and Interfer-
19 ences”.

20 **SAVINGS PROVISION**

21 **SEC. 206.** Any individual who, on the effective date of
22 this title, is an examiner-in-chief of the Board of Patent Ap-
23 peals of the Patent and Trademark Office or an examiner of
24 interferences of the Board of Patent Interferences of such
25 office shall be entitled to continue in office as a member of

1 the Board of Patent Appeals and Interferences of the Patent
2 and Trademark Office as of such effective date.

3 EFFECTIVE DATE

4 SEC. 207. Section 206 of this Act and the amendments
5 made by this title shall take effect three months after the date
6 of the enactment of this Act.

7 TITLE III—NATIONAL COMMISSION ON
8 INNOVATION AND PRODUCTIVITY

9 ESTABLISHMENT

10 SEC. 301. There is hereby established a National Com-
11 mission on Innovation and Productivity (hereinafter in this
12 title referred to as the "Commission").

13 MEMBERSHIP OF COMMISSION

14 SEC. 302. (a) The Commission shall be composed of—

15 (1) three Members of the Senate appointed by the
16 President of the Senate;

17 (2) three Members of the House of Representa-
18 tives appointed by the Speaker of the House of Repre-
19 sentatives; and

20 (3) three members appointed by the President of
21 the United States, one of whom the President shall
22 designate as Chairman.

23 Of the members appointed by the President, one member
24 should be an appropriate officer or employee of the United
25 States, one member should be an employer who employs in-
26 ventors, and one member should be an employed inventor.

1 (b) At no time shall more than two of the members ap-
2 pointed under paragraph (1), (2), or (3) of subsection (a) be
3 persons who are members of the same political party.

4 (c) Any vacancy in the Commission shall not affect its
5 powers but shall be filled in the same manner in which the
6 original appointment was made, and subject to the limitation
7 set forth in subsection (b) with respect to the original
8 appointment.

9 (d) Six members of the Commission shall constitute a
10 quorum, but a lesser number may conduct hearings.

11 DUTIES OF THE COMMISSION

12 SEC. 303. The Commission shall make a full and com-
13 plete review and study of the level of innovation and produc-
14 tivity of employed inventors. Such study shall include an
15 analysis of the various methods available to inspire or stimu-
16 late individual and corporate innovation and productivity,
17 including an assessment of the techniques used in other coun-
18 tries to achieve this objective. Such study may include an
19 assessment of those aspects of other areas of intellectual
20 property law that inspire or stimulate such innovation and
21 productivity. The Commission shall make recommendations
22 for such revisions of the laws of the United States, including
23 the repeal of unnecessary or undesirable statutes, and such
24 other changes as the Commission considers will better foster
25 innovation and productivity.

1 COMPENSATION OF MEMBERS OF THE COMMISSION

2 SEC. 304. (a) A member of the Commission who is a
3 Member of Congress or a full-time officer or employee of the
4 United States shall receive no additional compensation by
5 reason of his or her service on the Commission.

6 (b) Subject to amounts provided in advance in appro-
7 priations Acts, a member of the Commission from private life
8 shall receive the daily equivalent of the annual rate of basic
9 pay payable for level III of the Executive Schedule for each
10 day (including traveltime) during which such member is en-
11 gaged in the actual performance of duties vested in the Com-
12 mission, plus reimbursement for travel, subsistence, and other
13 necessary expenses incurred in the performance of such
14 duties, in accordance with subchapter I of chapter 57 of title
15 5, United States Code.

16 DIRECTOR AND STAFF

17 SEC. 305. (a) The Commission shall have a Director
18 who shall be appointed by the Commission and who shall be
19 paid at a rate not to exceed the rate of basic pay payable for
20 level IV of the Executive Schedule. The Director, subject to
21 the direction of the Commission, shall supervise the activities
22 of persons employed by the Commission and the preparation
23 of the reports of the Commission and shall perform such
24 other duties as may be assigned to the Director by the Com-
25 mission.

1 (b) The Commission may appoint and fix the pay of such
2 additional personnel as it considers appropriate.

3 (c) The staff of the Commission may be appointed with-
4 out regard to the provisions of title 5, United States Code,
5 governing appointments in the competitive service, and may
6 be paid without regard to the provisions of chapter 51 and
7 subchapter III of chapter 53 of such title relating to classifi-
8 cation and General Schedule pay rates, except that no indi-
9 vidual so appointed may receive pay in excess of the maxi-
10 mum annual rate of basic pay payable for GS-16 of the Gen-
11 eral Schedule.

12 (d) The Chairman of the Commission may procure tem-
13 porary and intermittent services under section 3109(b) of title
14 5, United States Code.

15 GOVERNMENT AGENCY COOPERATION

16 SEC. 306. The Commission is authorized to request
17 from any department, agency, or independent instrumentality
18 of the Government any information and assistance it consid-
19 ers necessary to carry out its functions under this title. Each
20 such department, agency, and instrumentality is authorized
21 to cooperate with the Commission and, to the extent permit-
22 ted by law, to furnish such information and assistance to the
23 Commission.

24 REPORT OF THE COMMISSION; TERMINATION

25 SEC. 307. The Commission shall submit interim reports
26 on its activities to the President and the Congress at such

1 times as the Commission considers appropriate, except that
2 at least one such report shall be so submitted within one year
3 after the date of the enactment of this Act. The Commission
4 shall submit its final report on its activities to the President
5 and the Congress within two years after such date of enact-
6 ment. The Commission shall cease to exist sixty days after
7 the date of the submission of its final report.

8 ADMINISTRATIVE SERVICES

9 SEC. 308. The General Services Administration shall
10 provide administrative services for the Commission on a re-
11 imburseable basis.

12 AUTHORIZATION OF APPROPRIATIONS

13 SEC. 309. There is authorized to be appropriated
14 \$1,000,000 to carry out this title.

15 EFFECTIVE DATE

16 SEC. 310. This title shall take effect on January 21,
17 1985.

18 TITLE IV—MISCELLANEOUS PROVISIONS

19 INTERNATIONAL STAGE

20 SEC. 401. (a) Section 361(d) of title 35, United States
21 Code, is amended in the first sentence by inserting “or within
22 one month after the date of such filing” after “application”.

23 (b) Section 366 of title 35, United States Code, is
24 amended—

25 (1) in the first sentence—

1 (A) by inserting “after the date of with-
2 drawal,” after “effect”; and

3 (B) by inserting before the period the follow-
4 ing: “, unless a claim for the benefit of a prior
5 filing date under section 365(c) of this part was
6 made in a national application, or an international
7 application designating the United States, filed
8 before the date of such withdrawal”; and

9 (2) in the second sentence by inserting “with-
10 drawn” after “such”.

11 NATIONAL STAGE

12 SEC. 402. (a) Section 371(a) of title 35, United States
13 Code, is amended—

14 (1) by striking out “is” and inserting in lieu there-
15 of “may be”; and

16 (2) by striking out “, except those filed in the
17 Patent Office”.

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

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

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

25 (1) by striking out “received from” and inserting
26 in lieu thereof “communicated by”; and

1 (2) by striking out “verified” before “translation”.

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

4 “(d) The requirements with respect to the national fee
5 referred to in subsection (c)(1), the translation referred to in
6 subsection (c)(2), and the oath or declaration referred to in
7 subsection (c)(4) of this section shall be complied with by the
8 date of the commencement of the national stage or by such
9 later time as may be fixed by the Commissioner. The copy of
10 the international application referred to in subsection (c)(2)
11 shall be submitted by the date of the commencement of the
12 national stage. Failure to comply with these requirements
13 shall be regarded as abandonment of the application by the
14 parties thereof, unless it be shown to the satisfaction of the
15 Commissioner that such failure to comply was unavoidable.
16 The payment of a surcharge may be required as a condition
17 of accepting the national fee referred to in subsection (c)(1) or
18 the oath or declaration referred to in subsection (c)(4) of this
19 section if these requirements are not met by the date of the
20 commencement of the national stage. The requirements of
21 subsection (c)(3) of this section shall be complied with by the
22 date of the commencement of the national stage, and failure
23 to do so shall be regarded as a cancellation of the amend-
24 ments to the claims in the international application made
25 under article 19 of the treaty.”.

1 (e) Section 372(b) of title 35, United States Code, is
2 amended—

3 (1) by striking out the period at the end of para-
4 graph (2) and inserting in lieu thereof “; and”; and

5 (2) by adding at the end thereof the following:

6 “(3) the Commissioner may require a verification
7 of the translation of the international application or any
8 other document pertaining to the application if the ap-
9 plication or other document was filed in a language
10 other than English.”.

11 (f) Section 372 of title 35, United States Code, is
12 amended by striking out subsection (c).

13 (g) Section 376(a) of title 35, United States Code, is
14 amended by striking out paragraph (5) and redesignating
15 paragraph (6) as paragraph (5).

16 TECHNICAL AMENDMENTS

17 SEC. 403. (a) Title 35, United States Code, is amended
18 by striking out “Patent Office” each place it appears and
19 inserting in lieu thereof “Patent and Trademark Office”.

20 (b) The table of parts at the beginning of title 35, United
21 States Code, is amended by adding at the end thereof the
22 following:

“IV. Patent Cooperation Treaty..... 351”.

23 PATENT FEES

24 SEC. 404. (a) Notwithstanding section 41 of title 35,
25 United States Code, as in effect before the enactment of

1 Public Law 97-247 (96 Stat. 317), no fee shall be collected
2 for maintaining a plant patent in force.

3 (b) Notwithstanding section 41(c) of title 35, United
4 States Code, as in effect before the enactment of Public Law
5 97-247 (96 Stat. 317), the Commissioner of Patents and
6 Trademarks may accept, after the six-month grace period re-
7 ferred to in such section 41(c), the payment of any mainte-
8 nance fee due on any patent based on an application filed in
9 the Patent and Trademark Office on or after December 12,
10 1980, and before August 27, 1982, to the same extent as in
11 the case of patents based on applications filed in the Patent
12 and Trademark Office on or after August 27, 1982.

13 **TRADEMARK TRIAL AND APPEAL BOARD**

14 **SEC. 405.** Section 3 of title 35, United States Code, is
15 amended by adding at the end thereof the following:

16 “(e) The members of the Trademark Trial and Appeal
17 Board of the Patent and Trademark Office shall each be paid
18 at a rate not to exceed the maximum rate of basic pay pay-
19 able for GS-16 of the General Schedule under section 5332
20 of title 5.”

21 **EFFECTIVE DATE**

22 **SEC. 406.** (a) Section 404 of this Act and the amend-
23 ments made by section 403 of this Act shall take effect on
24 the date of the enactment of this Act.

1 (b) The amendments made by sections 401, 402, and
2 405 of this Act shall take effect six months after the date of
3 the enactment of this Act.

Passed the House of Representatives October 1, 1984.

Attest: BENJAMIN J. GUTHRIE,
Clerk.

By W. RAYMOND COLLEY,
Deputy Clerk.

Calendar No. 1324

98TH CONGRESS
2D SESSION

H. R. 6286

AN ACT

To amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes.

OCTOBER 4 (legislative day, SEPTEMBER 24), 1984

Committee discharged; ordered to be placed on the calendar