

87TH CONGRESS
1ST SESSION

H. R. 7731

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 1961

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To fix the fees payable to the Patent Office 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 That items numbered 1, 2, 3, 4, 6, 8, and 9, respectively, in
4 subsection (a) of section 41 of title 35, United States Code,
5 are amended to read as follows:

6 “1. On filing each application for an original patent, ex-
7 cept in design cases, \$40; and \$2 for each claim in excess of
8 ten.

9 “2. On issuing each original patent, except in design
10 cases, \$50, and \$2 for each claim in excess of ten.

1 “3. In design cases: For three years and six months,
2 \$20; for seven years, \$30; for fourteen years, \$40.

3 “4. On every application for the reissue of a patent,
4 \$40, and \$2 for each claim in excess of ten which is also
5 over and above the number of claims of the original patent.

6 “6. On an appeal for the first time from the examiner
7 to the Board of Appeals, \$50.

8 “8. For certificate of correction of applicant's mistake
9 under section 225 or certificate under section 256 of this
10 title, \$15.

11 “9. As available and if in print: For uncertified printed
12 copies of specifications and drawings of patents (except de-
13 sign patents), 25 cents per copy; for design patents, 10
14 cents per copy; the Commissioner may establish a charge not
15 to exceed \$1 per copy for patents in excess of twenty-five
16 pages of drawings and specifications and for plant patents
17 printed in color; special rate for libraries specified in section
18 13 of this title, \$50 for patents issued in one year.”

19 SEC. 2. Section 41 of title 35, United States Code, is
20 amended by adding the following subsection:

21 “(c) The fees prescribed by or under this section apply
22 to any other Government department or agency, or officer
23 thereof, except that the Commissioner may waive the pay-
24 ment of any fee for services or materials in cases of occasional

1 or incidental requests by a Government department or
2 agency, or officer thereof.”

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

6 “(a) The following fees shall be paid to the Patent
7 Office under this Act:

8 “1. On filing each original application for registra-
9 tion of a mark in each class, \$35.

10 “2. On filing each application for renewal in each
11 class, \$25; and on filing each application for renewal
12 in each class after expiration of the registration, an addi-
13 tional fee of \$5.

14 “3. On filing an affidavit under section 8 (a) or sec-
15 tion 8 (b), \$10.

16 “4. On filing each petition for the revival of an
17 abandoned application, \$10.

18 “5. On filing notice of opposition or application for
19 cancellation, \$25.

20 “6. On appeal from an examiner in charge of the
21 registration of marks to the Trademark Trial and Ap-
22 peal Board, \$25.

23 “7. For issuance of a new certificate of registration

1 following change of ownership of a mark or correction of
2 a registrant's mistake, \$15.

3 "8. For certificate of correction of registrant's mis-
4 take or amendment after registration, \$15.

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

6 "10. For filing each disclaimer after registration,
7 \$15.

8 "11. For printed copy of registered mark, 10 cents.

9 "12. For recording every assignment or other paper
10 not exceeding six pages, \$3; for each additional two
11 pages or less, \$1; for each additional registration or
12 application included, or involved in one writing where
13 more than one is so included or involved, additional,
14 \$1.

15 "13. On filing notice of claim of benefits of this Act
16 for a mark to be published under section 12(c) hereof,
17 \$10.

18 "(b) The Commissioner may establish charges for
19 copies of records, publications, or services furnished by the
20 Patent Office, not specified above.

21 "(c) The Commissioner may refund any sum paid by
22 mistake or in excess."

23 SEC. 4. Section 154 of title 35, United States Code, is
24 amended by inserting the words "subject to the payment of
25 maintenance fees," after the words "seventeen years,".

1 SEC. 5. Title 35, United States Code, is amended by
2 adding the following new section after section 154:

3 “§ 155. Maintenance fees

4 “(a) During the term of a patent (other than a de-
5 sign patent) a first maintenance fee shall be due prior to the
6 end of the fifth year from the date of the patent, a second
7 maintenance fee prior to the end of the ninth year from
8 the date of the patent if the patent is then still in effect, and
9 a third maintenance fee prior to the end of the thirteenth
10 year from the date of the patent, if the patent is then still
11 in effect; said fees may be paid within six months after
12 the due date, namely the end of the fifth, ninth, or thirteenth
13 years, respectively, or as otherwise provided in subsection
14 (b) of this section, upon payment of the additional fee pre-
15 scribed for delayed payment. On failure to pay a mainte-
16 nance fee before the expiration of the time provided there-
17 for the right conferred by the patent shall terminate at the
18 end of the fifth, ninth, or thirteenth year, as the case may
19 be, or as otherwise provided in subsection (c) of this
20 section. Such termination or lapsing shall be without preju-
21 dice to rights existing under any other patent.

22 “In the case of a reissued patent, the times specified
23 herein shall run from the date of the original patent.

24 “(b) Notice of the requirement for the payment of the

1 maintenance fees shall be attached to or embodied in the
2 patent. The Commissioner shall send a separate notice of
3 the requirement for the fee, without unreasonable delay,
4 after the due date has passed without the fee having been
5 paid, to the patentee and any other party having an interest
6 in the patent as shown by the records of the office on the
7 due date, at the address shown by the record of the patent,
8 and the fee, together with the additional fee prescribed for
9 delayed payment, may be paid within thirty days from the
10 date of such notice or within six months from the due date,
11 whichever period expires later.

12 “(c) Any inventor to whom a patent was issued (or
13 his heirs if the inventor is deceased) and who owns the
14 patent may, at a time not earlier than six months prior to
15 the due date and not later than the final date provided in
16 subsection (b) of this section, request deferment of the
17 first maintenance fee if the total sum received by anyone,
18 since the date of the patent, from or under or by virtue of
19 the patent, or from manufacture, use, or sale under the
20 patent of the invention, was less than the amount of the
21 fee due, and a statement under oath to this effect accom-
22 panies the request. The fee shall thereupon be deferred
23 until the time the second maintenance fee is due and shall
24 be payable within the same time as and in addition to such
25 second maintenance fee and with the same result if not paid.

1 “Any inventor to whom a patent was issued (or his
2 heirs if the inventor is deceased) and who owns the patent
3 may, at a time not earlier than six months prior to the due
4 date and not later than the final date provided in subsection
5 (b) of this section, request deferment of the second mainte-
6 nance fee, and further deferment of the first maintenance
7 fee (if such fee has been deferred under the first paragraph
8 of this subsection), if the total sum received by anyone,
9 during the preceding four years, from or under or by virtue
10 of the patent, or from the manufacture, use, or sale under
11 the patent of the invention, was less than the amount of
12 the fee or fees due, and a statement under oath to this effect
13 accompanies the request. The fee or fees due shall thereupon
14 be deferred until the time the third maintenance fee is due
15 and shall be payable within the same time as and in addition
16 to such third maintenance fee and with the same result if
17 not paid.”

18 The analysis of chapter 14 of title 35, United States
19 Code, immediately preceding section 151, is amended by
20 adding thereto:

“155. Maintenance fees.”

21 SEC. 6. Subsection (a) of section 41 of title 35, United
22 States Code, is amended by adding the following:

23 “12. a. First maintenance fee, due on the expiration of
24 the fifth year of the patent, other than a design patent, \$100.

1 “b. Second maintenance fee, due on the expiration of
2 the ninth year of the patent, other than a design patent,
3 \$300.

4 “c. Third maintenance fee, due on the expiration of
5 the thirteenth year of the patent, other than a design patent,
6 \$500.

7 “d. On delayed payment of a maintenance fee, \$25.”

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

10 (b) Item 1 of section 41 (a) of title 35, as amended by
11 section 1 of this Act, does not apply in further proceedings
12 in applications filed prior to the effective date.

13 (c) The amendment of item 2 of section 41 (a) of title
14 35 by section 1 of this Act does not apply in cases in which
15 the notice of allowance of the application was sent prior to
16 the effective date and in such cases the fee due is the fee
17 specified by item 2 prior to its amendment.

18 (d) The amendment of item 3 of section 41 (a) of title
19 35 by section 1 of this Act applies in the case of applications
20 for design patents filed prior to the effective date for one of
21 the lower terms and which are amended after the effective
22 date to one of the higher terms.

23 (e) Item 4 of section 41 (a) of title 35, as amended
24 by section 1 of this Act, does not apply in further proceed-

1 ings in applications for reissues filed prior to the effective
2 date.

3 (f) Item 3 of section 31 of the Trademark Act, as
4 amended by section 3 of this Act, applies only in the case
5 of registrations issued and registrations published under the
6 provisions of section 12 (c) of the Trademark Act on or
7 after the effective date.

8 (g) Section 155 and item 12 of section 41 (a), enacted
9 by sections 5 and 6 of this Act, do not apply to patents is-
10 sued prior to the effective date.

11 SEC. 8. Section 266 of title 35, United States Code is
12 repealed.

13 The chapter analysis of chapter 27 of title 35, United
14 States Code, is amended by striking out the following item:

“266. Issue of patents without fees to Government employees.”

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