

98TH CONGRESS  
1ST SESSION

# S. 1538

To amend the patent laws of the United States.

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## IN THE SENATE OF THE UNITED STATES

JUNE 23 (legislative day, JUNE 20), 1983

Mr. MATHIAS (for himself and Mr. DOLE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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

1 interference proceeding, to determine compliance with sec-  
2 tion 112 of this title, or to review for formalities required for  
3 printing, if 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 other provision of Federal law, within such time as the  
8 Commissioner specifies, and

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

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

17 (b) The analysis for chapter 14 of title 35, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing:

“156. Issuance of patents without examination.”

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

22 SEC. 4. Section 151 of title 35, United States Code, is  
23 amended—

24 (1) by amending the second sentence in the first  
25 paragraph to read as follows: “The notice shall specify

1 the issue fee which shall be paid within three months  
2 thereafter, or within such shorter time, not less than  
3 one month, as fixed by the Commissioner in such  
4 notice.”; and

5 (2) by striking out the third paragraph.

6 SEC. 5. Section 361(d) of title 35, United States Code,  
7 is amended by inserting “or within one month thereafter”  
8 after “application” in the first sentence.

9 SEC. 6. Section 366 of title 35, United States Code, is  
10 amended—

11 (1) by inserting “after the date of withdrawal,”  
12 after “effect”;

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

19 (3) by inserting “withdrawn” after “such” in the  
20 second sentence.

21 SEC. 7. (a) Section 371(a) of title 35, United States  
22 Code, is amended by—

23 (1) striking out “is” and inserting in lieu thereof  
24 “may be”; and

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

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

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

8           (c) Section 371(c)(2) of title 35, United States Code, is  
9 amended by—

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

12           (2) striking out “verified” before “translation”.

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

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

1 ure to comply was unavoidable. The payment of a surcharge  
2 may be required as a condition for accepting the national fee  
3 referred to in subsection (c)(1) or the oath or declaration re-  
4 ferred to in subsection (c)(4) of this section if these require-  
5 ments are not met by the commencement of the national  
6 stage. The requirements of subsection (c)(3) of this section  
7 shall be complied with by the commencement of the national  
8 stage, and failure to do so shall be regarded as a cancellation  
9 of the amendments to the claims in the international applica-  
10 tion made under article 19 of the treaty.”.

11 SEC. 8. (a) Section 372(b) of title 35, United States  
12 Code, is amended by—

13 (1) striking out the period at the end of paragraph

14 (2) and inserting in lieu thereof a semicolon; and

15 (2) inserting at the end thereof the following:

16 “(3) the Commissioner may require a verification  
17 of the translation of the international application or any  
18 other document pertaining thereto if the application or  
19 other document was filed in a language other than  
20 English.”.

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

23 SEC. 9. Section 376(a) of title 35, United States Code,  
24 is amended by striking out paragraph (5) and redesignating  
25 paragraph (6) as paragraph (5).

1        SEC. 10. Title 35, United States Code, is amended by  
2 striking out "Patent Office" each place it appears and insert-  
3 ing in its place "Patent and Trademark Office".

4        SEC. 11. Notwithstanding section 2 of Public Law 96-  
5 517, no fee shall be collected for maintaining a plant patent  
6 in force.

7        SEC. 12. (a) Sections 10 and 11 of this Act shall take  
8 effect upon the date of enactment.

9        (b) Sections 1 through 9 of this Act shall take effect six  
10 months after the date of enactment.

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