

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

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## 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

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## 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 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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