

# H. R. 10966

[Report No. 1850]

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 1962

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

JUNE 20, 1962

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## 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 the items numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10,

4 respectively, in subsection (a) of section 41, title 35, United

5 States Code, are amended to read as follows:

6 "1. On filing each application for an original patent,

7 except in design cases, \$40; in addition, on filing or on pres-

8 entation at any other time, \$10 for each claim in independ-

9 ent form which is in excess of one, and \$2 for each claim

10 (whether independent or dependent) which is in excess of

11 ten.

1       “2. For issuing each original or reissue patent, except  
2 in design cases, \$40; in addition, \$10 for each page (or  
3 portion thereof) of specification as printed, and \$2 for each  
4 sheet of drawing.

5       “3. In design cases:

6           “a. On filing each design application, \$20.

7           “b. On issuing each design patent: For three years  
8 and six months, \$10; for seven years, \$20; and for  
9 fourteen years, \$30.

10       “4. On filing each application for the reissue of a patent,  
11 \$40; in addition, on filing or on presentation at any other  
12 time, \$10 for each claim in independent form which is in  
13 excess of the number of independent claims of the original  
14 patent, and \$2 for each claim (whether independent or de-  
15 pendent) which is in excess of ten and also in excess of the  
16 number of claims of the original patent.

17       “5. On filing each disclaimer, \$15.

18       “6. On an appeal for the first time from the examiner  
19 to the Board of Appeals, \$100. If an oral hearing is not  
20 requested prior to any consideration by the Board, \$50 of  
21 the \$100 fee will be refunded; or, alternatively, if the appeal  
22 is withdrawn prior to any consideration by the Board, all  
23 of the fee over \$25 will be refunded.

1       “7. On filing each petition for the revival of an abandoned  
2 application for a patent or for the delayed payment of the  
3 fee for issuing each patent, \$15.

4       “8. For certificate under section 255 or under section  
5 256 of this title, \$15.

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

14       “10. For recording each assignment of an application or  
15 a patent, \$20; for recording any other paper, \$20.”

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

18       “(c) The fees prescribed by or under this section shall  
19 apply to any other Government department or agency, or  
20 officer thereof, except that the Commissioner may waive the  
21 payment of any fee for services or materials in cases of oc-  
22 casional or incidental requests by a Government department  
23 or agency, or officer thereof.”

1        SEC. 3. Section 31 of the Act approved July 5, 1946 (ch.  
2        540, 60 Stat. 427; U.S.C., title 15, sec. 1113), as amended,  
3        is amended to read as follows:

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

6        “1. On filing each original application for registration of  
7        a mark in each class, \$35.

8        “2. On filing each application for renewal in each class,  
9        \$25; and on filing each application for renewal in each class  
10       after expiration of the registration, an additional fee of \$5.

11       “3. On filing an affidavit under section 8 (a) or section  
12       8 (b), \$10.

13       “4. On filing each petition for the revival of an aban-  
14       doned application, \$15.

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

17       “6. On appeal from an examiner in charge of the regis-  
18       tration of marks to the Trademark Trial and Appeal Board,  
19       \$25.

20       “7. For issuance of a new certificate of registration fol-  
21       lowing change of ownership of a mark or correction of a  
22       registrant’s mistake, \$15.

23       “8. For certificate of correction of registrant’s mistake  
24       or amendment after registration, \$15.

25       “9. For certifying in any case, \$1.

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

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

3 "12. For recording each assignment of a registration,  
4 \$20; for recording any other paper, \$20.

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

7 "(b) The Commissioner may establish charges for  
8 copies of records, publication, or services furnished by the  
9 Patent Office, not specified above.

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

12 SEC. 4. Section 151 of title 35, United States Code,  
13 is amended to read as follows:

14 "**§ 151. Issue of patent**

15 "If it appears that applicant is entitled to a patent  
16 under the law, a written notice of allowance of the appli-  
17 cation shall be given or mailed to the applicant, and the  
18 Commissioner shall thereafter issue the patent.

19 "The issue fee, as specified in item 2 of section 41 (a)  
20 of this title, shall be paid within three months after the  
21 date of the issue of the patent. However, at the time of  
22 giving notice of allowance, the Commissioner may require a  
23 sum, constituting a portion of the issue fee, to be paid  
24 within three months after the date of the notice of allow-

1 ance. If payment of this sum is not timely made, the  
2 application shall be regarded as abandoned.

3 “If the issue fee is not fully paid within three months  
4 after the date of the issue of the patent, the patent shall  
5 lapse as of the date the issue fee was due.

6 “If any payment called for herein is not timely sub-  
7 mitted, but is submitted with the fee for delayed payment  
8 within three months after the due date and sufficient cause  
9 is shown for the late payment, it may be accepted by the  
10 Commissioner as though no abandonment or lapse had ever  
11 occurred.”

12 SEC. 5. Section 154 of title 35, United States Code,  
13 is amended by inserting the words “subject to the payment  
14 of issue and maintenance fees as provided for in this title,”  
15 after the words “seventeen years,”.

16 SEC. 6. Title 35, United States Code, is amended by  
17 adding the following new section after section 154:

18 **“§ 155. Maintenance fees**

19 “(a) During the term of a patent, other than for a de-  
20 sign, the following fees shall be due:

21 “(1) a first maintenance fee on or before the fifth  
22 anniversary of the issue date of the patent;

23 “(2) a second maintenance fee on or before the  
24 ninth anniversary of the issue date of the patent; and

1           “(3) a third maintenance fee on or before the  
2           thirteenth anniversary of the issue date of the patent.

3           In the case of a reissue patent the times specified herein  
4           shall run from the date of the original patent.

5           “(b) A grace period of six months will be allowed in  
6           which to pay any maintenance fee, provided it is accom-  
7           panied by the fee prescribed for delayed payment.

8           “(c) The first and second maintenance fees may be  
9           deferred in accordance with subsection (f) of this section.

10          “(d) A patent will terminate on the due date for any  
11          maintenance fee unless, as provided for in this section, the  
12          fee due (including any fees previously deferred) is paid or a  
13          statement in accordance with subsection (f) of this section  
14          requesting deferment is filed. Such termination or lapsing  
15          shall be without prejudice to rights existing under any other  
16          patent.

17          “(e) Notice of the requirement for the payment of  
18          the maintenance fees and the filing of statements in com-  
19          pliance with this section shall be attached to or be embodied  
20          in the patent, and the Commissioner shall not be required to  
21          give further notice thereof.

22          “(f) Any inventor to whom a patent issued (or his  
23          heirs) and who owns the patent may within six months of  
24          the fifth anniversary of the issue date of the patent (by a

1 statement under oath) request deferment of the first mainte-  
2 nance fee if the total benefit received by the inventor or  
3 any other party having or having had any interest in the  
4 subject matter of the patent, from, under, or by virtue of  
5 the patent or from the manufacture, use, or sale of the inven-  
6 tion, was less in value than the amount of the fee, and the  
7 statement so specifies. The fee shall thereupon be deferred  
8 until the time the second maintenance fee is due and shall  
9 be paid in addition to the second maintenance fee.

10 “Any inventor to whom a patent issued (or his heirs)  
11 and who owns the patent may within six months of the ninth  
12 anniversary of the issue date of the patent (by a statement  
13 under oath) request deferment of the second maintenance fee  
14 (and further deferment of the first maintenance fee if such  
15 fee has been deferred) if the total benefit received by the  
16 inventor or any other party having or having had any inter-  
17 est in the subject matter of the patent during the preceding  
18 four years, from, under, or by virtue of the patent or from  
19 the manufacture, use, or sale of the invention, was less in  
20 value than the amount of the second fee, and the statement  
21 so specifies. The second fee, or the first and second fees, as  
22 the case may be, shall thereupon be deferred until the time  
23 the third maintenance fee is due and shall be paid in addition  
24 to the third maintenance fee and with the same result if not  
25 paid. No deferment of any of the fees beyond the thirteenth



1 anniversary of the issue date of the patent shall be permitted  
2 and the patent will terminate at the end of the thirteenth  
3 anniversary of the issue date unless all maintenance fees are  
4 paid in accordance with the provisions of this section.”

5 SEC. 7. The analysis of chapter 14 of title 35, United  
6 States Code, immediately preceding section 151, is amended  
7 to read as follows:

“Sec.

“151. Issue of patent.

“152. Issue of patent to assignee.

“153. How issued.

“154. Contents and term of patent.

“155. Maintenance of fees.”

8 SEC. 8. Subsection (a) of section 41 of title 35, United  
9 States Code, is further amended by adding the following:

10 “12. For maintaining a patent (other than for a design)  
11 in force

12 “a. beyond the fifth anniversary of the issue date of  
13 the patent, \$100;

14 “b. beyond the ninth anniversary of the issue date of  
15 the patent, \$200; and

16 “c. beyond the thirteenth anniversary of the issue  
17 date of the patent, \$300.

18 “13. For delayed payment of a maintenance fee, \$25.”

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

21 (b) Items 1, 3, and 4 of section 41 (a) of title 35, United

1 States Code, as amended by section 1 of this Act, do not  
2 apply in further proceedings in applications filed prior to the  
3 effective date of this Act.

4 (c) Item 2 of section 41 (a), as amended by section  
5 1 of this Act, and sections 4, 6, and 8 of this Act do not  
6 apply in cases in which the notice of allowance of the appli-  
7 cation was sent, or in which a patent issued, prior to the  
8 effective date; and, in such cases, the fee due is the fee  
9 specified in this title prior to the effective date of this Act.

10 (d) Item 3 of section 31 of the Trademark Act, as  
11 amended by section 3 of this Act, applies only in the case of  
12 registrations issued and registrations published under the  
13 provisions of section 12 (c) of the Trademark Act on or  
14 after the effective date of this Act.

15 SEC. 10. Section 266 of title 35, United States Code, is  
16 repealed.

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

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

Union Calendar No. 780

87TH CONGRESS  
2D SESSION

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By Mr. **CELLER**

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