

92^D CONGRESS
1ST SESSION

H. R. 4564

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1971

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

A BILL

To provide relief in patent and trademark cases affected by the emergency situation in the United States Postal Service which began on March 18, 1970.

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

3 SECTION 1. A patent or trademark application shall
4 be considered as having been filed in the United States Patent
5 Office on the date that it would have been received by the
6 Patent Office except for the delay caused by the emergency
7 situation affecting postal service which began on March 18,
8 1970, and ended on or about March 30, 1970, if a claim is
9 made for the benefit of an earlier date in accordance with
10 subsections (b) and (c) of this section. Patents issue with

1 earlier filing dates afforded by this section shall not be ef-
2 fective as prior art under subsection 102 (e) of title 35 of the
3 United States Code as of such earlier filing dates.

4 (b) No patent or trademark application, patent, or
5 trademark registration shall be entitled to an earlier filing
6 date under this section unless a verified statement by the
7 applicant or owner of record claiming the filing date to which
8 the application is believed to be entitled is filed in the Patent
9 Office within six months after enactment of this Act. Such
10 statement shall be maintained in the file of the application in
11 the Patent Office and shall be referred to in the patent or
12 trademark registration when practicable.

13 (c) When a statement filed under subsection (b) of this
14 section appears unreasonable or defective on its face, or when
15 the filing date of the patent or trademark application, patent,
16 or trademark registration is called into question or is material
17 in any inter partes proceeding in the Patent Office or any
18 proceeding in the courts, the applicant or owner of such
19 application, patent, or trademark registration may be re-
20 quired to present evidence establishing the filing date to
21 which the application is entitled. The filing date to which the
22 application is entitled shall be determined on the basis of such
23 evidence and any evidence introduced by an opposing party.
24 The evidence shall be presented as directed by the Com-

1 commissioner of Patents in proceedings in the Patent Office or
2 as directed by the courts in proceedings in the courts.

3 SEC. 2. (a) Except for the filing of a patent or trade-
4 mark application, if any action is taken or any fee is paid
5 in the United States Patent Office later than the end of a
6 time period specified in the statutes set forth in subsection
7 (b) of this section for taking such action or paying such fee,
8 and no provision exists in law for excusing such delay, the
9 delay may be excused if it is determined that it was caused
10 by the emergency situation affecting postal service which
11 began on March 18, 1970, and ended on or about March 30,
12 1970. Relief under this section must be requested by a veri-
13 fied statement filed in the Patent Office by the patent or
14 trademark applicant or owner within six months after en-
15 actment of this Act.

16 (b) This section is applicable to title 35, United States
17 Code, "Patents"; the Trademark Act of 1946 (ch. 540, 60
18 Stat. 427, as amended); the Atomic Energy Act of 1954
19 (Public Law 83-703, 68 Stat. 919, as amended); and the
20 National Aeronautics and Space Act (Public Law 85-568,
21 72 Stat. 426 (1958), as amended). In cases involving the
22 Atomic Energy Act of 1954 or the National Aeronautics
23 and Space Act, determinations of relief shall be made by a

1 Board of Patent Interferences. In other cases determinations
2 shall be made by the Commissioner of Patents.

3 SEC. 3. The Commissioner of Patents may establish reg-
4 ulations for administering this Act.

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