

98TH CONGRESS
2D SESSION

S. 3085

To amend the patent laws implementing the Patent Cooperation Treaty.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10 (legislative day, SEPTEMBER 24), 1984

Mr. MATHIAS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the patent laws implementing the Patent Cooperation Treaty.

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 "Act to Authorize the
4 United States to Participate in Chapter II of the Patent Co-
5 operation Treaty."

6 SEC. 2. (a) Section 351(a) of title 35, United States
7 Code, is amended by striking out ", excluding chapter II
8 thereof".

9 (b) Section 351(b) of title 35, United States Code, is
10 amended by striking out "excluding part C thereof".

1 (c) Section 351(g) of title 35, United States Code, is
2 amended by—

3 (1) striking out “term” and inserting in lieu there-
4 of “terms”;

5 (2) inserting “and ‘International Preliminary Ex-
6 amining Authority’ ” after “Authority”; and

7 (3) striking out “means” and inserting in lieu
8 thereof “mean”.

9 SEC. 3. The item relating to section 362 in the analysis
10 for chapter 36 of title 35, United States Code, is amended to
11 read as follows:

“362. International Searching Authority and International Preliminary Examining
Authority.”

12 SEC. 4. Section 362 of title 35, United States Code, is
13 amended to read as follows:

14 **“§ 362. International Searching Authority and Interna-
15 tional Preliminary Examining Authority**

16 “(a) The Patent and Trademark Office may act as an
17 International Searching Authority and International Prelimi-
18 nary Examining Authority with respect to international ap-
19 plications in accordance with the terms and conditions of an
20 agreement which may be concluded with the International
21 Bureau, and may discharge all duties required of such Au-
22 thorities, including the collection of handling fees and their
23 transmittal to the International Bureau.

1 “(b) The handling fee, preliminary examination fee, and
2 any additional fees due for international preliminary examina-
3 tion shall be paid within such time as may be fixed by the
4 Commissioner.”

5 SEC. 5. Section 364(a) of title 35, United States Code,
6 is amended by—

7 (a) striking out “or”, first occurrence and insert-
8 ing in lieu thereof “,”;

9 (b) inserting “International Preliminary Examin-
10 ing Authority” after “Authority, or”; and

11 (c) striking out “both”.

12 SEC. 6. Section 368(c) of title 35, United States Code,
13 is amended by—

14 (a) striking out the second occurrence of “or” and
15 inserting in lieu thereof “,”; and

16 (b) striking out “both” and inserting in lieu there-
17 of “International Preliminary Examining Authority”.

18 SEC. 7. (a) Section 371(a) of title 35, United States
19 Code, is amended to read as follows:

20 “(a) Receipt from the International Bureau of copies of
21 international applications with any amendments to the
22 claims, international search reports, and international prelim-
23 inary examination reports including any annexes thereto may
24 be required in the case of international applications designat-
25 ing or electing the United States.”

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

3 “(b) Subject to subsection (f) of this section, the national
4 stage shall commence with the expiration of the applicable
5 time limit under article 22 (1) or (2), or under article 39(1)(a)
6 of the treaty.”

7 (c) Section 371(c)(4) of title 35, United States Code, is
8 amended by striking the “.” and inserting in lieu thereof “;”.

9 (d) Section 371(c) of title 35, United States Code, is
10 amended by adding at the end thereof the following new
11 paragraph (5):

12 “(5) a translation into the English language of
13 any annexes to the international preliminary examina-
14 tion report, if such annexes were made in another lan-
15 guage.”.

16 (e) Section 371(d) of title 35, United States Code, is
17 amended by adding at the end thereof the following sentence:
18 “The requirements of subsection (c)(5) shall be complied with
19 at such time as may be fixed by the Commissioner and failure
20 to do so shall be regarded as cancellation of the amendments
21 made under article 34(2)(b) of the treaty.”.

22 (f) Section 371(e) of title 35, United States Code, is
23 amended by inserting “or article 41” after “28”.

24 SEC. 8. (a) Section 376(a) of title 35, United States
25 Code, is amended by—

1 (1) inserting “and the handling fee” after the first
2 occurrence of “fee”;

3 (2) striking “amount is” and inserting in lieu
4 thereof “amounts are”;

5 (3) redesignating paragraph (5) as paragraph (6);
6 and

7 (4) inserting the following new paragraph (5):

8 “(5) A preliminary examination fee and any addi-
9 tional fees (see section 362(b)).”

10 (b) Section 376(b) of title 35, United States Code, is
11 amended by—

12 (1) inserting “and the handling fee” after the first
13 occurrence of “fee” in the first sentence; and

14 (2) inserting “the preliminary examination fee and
15 any additional fees,” after “fee,” in the third sentence.

16 SEC. 9. Sections 2 through 8 of this Act shall come into
17 force on the same day as the effective date of entry into force
18 of chapter II of the Patent Cooperation Treaty with respect
19 to the United States, by virtue of the withdrawal of the dec-
20 laration under article 64(1)(a) of the Patent Cooperation
21 Treaty. It shall apply to all international applications pending
22 before or after its effective date.

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