

## Calendar No. 377

102D CONGRESS  
1ST SESSION**S. 793****[Report No. 102-245]**

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes.

## IN THE SENATE OF THE UNITED STATES

APRIL 9, 1991

Mr. DECONCINI (for himself and Mr. HATCH) (by request) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

NOVEMBER 26 (legislative day NOVEMBER 23), 1991

Reported by Mr. BIDEN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

**A BILL**

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, 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 **SECTION 1. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) ~~IN GENERAL.~~—There are authorized to be appro-  
5 priated to the Patent and Trademark Office for salaries

1 and \$102,300,000 for fiscal year 1993. Of such amounts,  
2 \$95,000,000 for fiscal year 1992 and \$99,000,000 for fis-  
3 cal year 1993 shall be derived from deposits in the Patent  
4 and Trademark Office Fee Surcharge Fund as established  
5 under section 10101 of the Omnibus Budget Rec-  
6 onciliation Act of 1990 (Public Law 101-508).

7 (b) CREDIT OF CERTAIN REVENUES.—Not-  
8 withstanding the provisions of section 10101 of the Omni-  
9 bus Budget Reconciliation Act of 1990 (Public Law 101-  
10 508), revenues from Patent and Trademark Office sur-  
11 charges in excess of \$88,000,000 in fiscal year 1991,  
12 \$95,000,000 in fiscal year 1992, and \$99,000,000 in fiscal  
13 year 1993, shall be credited to Salaries and Expenses,  
14 Patent and Trademark Office, without further appropria-  
15 tions actions in the same manner as fees authorized under  
16 subsections (a) and (b) of section 41 of title 35, United  
17 States Code.

18 (c) NO REVISION OF SURCHARGE.—Notwithstanding  
19 section 10101(e) of the Omnibus Budget Reconciliation  
20 Act of 1990 (Public Law 101-508), the Commissioner of  
21 Patents and Trademarks shall not revise the surcharge set  
22 under section 10101(a) of such Act in fiscal years 1992  
23 and 1993.

24 (d) APPROPRIATIONS TO REMAIN AVAILABLE UNTIL  
25 EXPENDED.—Amounts appropriated pursuant to this Act

1 and such fees as may be collected under chapter 4 of title  
 2 35, United States Code, and the Trademark Act of 1946  
 3 (15 U.S.C. 1051 et seq.) shall remain available until ex-  
 4 pended.

5 **SEC. 2. OVERSIGHT OF PATENT AND TRADEMARK FEES.**

6 On the date each year that the President submits the  
 7 budget to the Congress under section 1105 of title 31,  
 8 United States Code, the Secretary of Commerce shall sub-  
 9 mit to the Committees on the Judiciary of the Senate and  
 10 the House of Representatives—

11 (1) a list of patent and trademark fee collec-  
 12 tions by the Patent and Trademark Office during  
 13 the preceding fiscal year;

14 (2) a list of activities of the Patent and Trade-  
 15 mark Office during the preceding fiscal year which  
 16 were supported by patent fee expenditures, trade-  
 17 mark fee expenditures, and appropriations;

18 (3) budget plans for significant programs,  
 19 projects, and activities of the Patent and Trademark  
 20 Office, including out-year funding estimates;

21 (4) any proposed disposition of surplus fees by  
 22 the Patent and Trademark Office; and

23 (5) such other information as the Committees  
 24 consider necessary.

1 **SEC. 3. PATENT AND TRADEMARK FEES.**

2 (a) **PATENT FEES.**—Section 41 of title 35, United  
3 States Code, is amended—

4 (1) by amending subsection (d) to read as fol-  
5 lows:

6 “(d) The Commissioner will establish fees for all  
7 other processing, services, or materials related to patents  
8 not specified above or authorized elsewhere to recover, in  
9 the aggregate with other revenues, the estimated cost of  
10 the operations of the Patent and Trademark Office. The  
11 yearly fee for providing a library specified in section 13  
12 of this title with uncertified printed copies of the specifica-  
13 tions and drawings for all patents issued in that year will  
14 be \$50.”;

15 (2) by amending subsections (f) and (g) to read  
16 as follows:

17 “(f) The fees established in subsections (a) and (b)  
18 of this section may be adjusted by the Commissioner on  
19 October 1, 1993, and every second year thereafter, to re-  
20 flect any fluctuations occurring during the previous 2  
21 years in the Consumer Price Index, as determined by the  
22 Secretary of Labor. Changes of less than 1 percent may  
23 be ignored.

24 “(g) No fee established by the Commissioner under  
25 this section will take effect prior to 30 days following no-  
26 tice in the Federal Register.”;

1           ~~(3)~~ in subsection ~~(h)~~ by amending paragraph  
2       ~~(1)~~ to read as follows:

3       “~~(h)~~~~(1)~~ Fees charged under subsection ~~(a)~~ on filing  
4 any application for a patent shall be reduced by 50 percent  
5 with respect to their application to any small business con-  
6 cern as defined under section 3 of the Small Business Act,  
7 and to any independent inventor or nonprofit organization  
8 as defined in regulations issued by the Commissioner of  
9 Patents and Trademarks.”; and

10           ~~(4)~~ by adding at the end thereof the following  
11 new subsection:

12       “~~(i)~~~~(1)~~ The Commissioner of Patents and Trade-  
13 marks shall maintain, for use by the public, paper or  
14 microform collections of United States patents, foreign  
15 patent documents, and United States trademark reg-  
16 istrations arranged to permit search for and retrieval of  
17 information. The Commissioner may not impose fees di-  
18 rectly for use of such collections, or for use of the public  
19 patent or trademark search rooms or libraries.

20       “~~(2)~~ The Commissioner of Patents and Trademarks  
21 may establish reasonable fees for access by the public to  
22 automated search systems of the Patent and Trademark  
23 Office. If such fees are established, a limited amount of  
24 free access shall be made available to all users of the sys-  
25 tems for purposes of education and training. The Commis-

1 sioner may waive the payment by an individual of fees au-  
 2 thorized by this subsection upon a showing of need or  
 3 hardship, and if such a waiver is in the public interest.”.

4 (b) PATENT AND TRADEMARK OFFICE FUNDING.—  
 5 Section 42(e) of title 35, United States Code, is amended  
 6 to read as follows:

7 “(e) Revenues from fees will be available to the Com-  
 8 missioner of Patents and Trademarks to carry out, to the  
 9 extent provided for in appropriations Acts, the activities  
 10 of the Patent and Trademark Office. Fees available to the  
 11 Commissioner under section 31 of the Trademark Act of  
 12 1946, as amended, shall be used for the processing of  
 13 trademark registrations and for other activities, services  
 14 and materials relating to trademarks. Trademark fees col-  
 15 lected may only be reprogrammed for other purposes sub-  
 16 ject to the procedures for reprogramming set forth in the  
 17 Department of Commerce’s annual appropriations Act.”.

18 (c) TRADEMARK FEES.—Section 31(a) of the Trade-  
 19 mark Act of 1946 (15 U.S.C. 1113), is amended to read  
 20 as follows:

21 “(a) The Commissioner will establish fees for the fil-  
 22 ing and processing of an application for the registration  
 23 of a trademark or other mark and for all other services  
 24 performed by and materials furnished by the Patent and  
 25 Trademark Office related to trademarks and other marks.

1 However, no fee for the filing or processing of an applica-  
 2 tion for the registration of a trademark or other mark or  
 3 for the renewal or assignment of a trademark or other  
 4 mark will be adjusted more than once every 2 years. No  
 5 fee established under this section will take effect prior to  
 6 30 days following notice in the Federal Register.”.

7 **SEC. 4. USE OF EXCHANGE AGREEMENTS RELATING TO**  
 8 **AUTOMATIC DATA PROCESSING RESOURCES**  
 9 **PROHIBITED.**

10 During fiscal years 1992 and 1993, the Commis-  
 11 sioner of Patents and Trademarks may not enter into any  
 12 agreement for the exchange of items or services (as au-  
 13 thorized under section 6(a) of title 35, United States  
 14 Code) relating to automatic data processing resources (in-  
 15 cluding hardware, software and related services, and ma-  
 16 chine readable data). The preceding sentence shall not  
 17 apply to an agreement relating to data for automation pro-  
 18 grams which is entered into with a foreign government or  
 19 with an international intergovernmental organization.

20 **SEC. 5. REPEAL OF MISCELLANEOUS FEE PROVISIONS.**

21 Subsections (b) and (c) of section 104 of the Act enti-  
 22 tled “An Act to authorize appropriations for the Patent  
 23 and Trademark Office in the Department of Commerce,  
 24 and for other purposes”, approved November 19, 1988 (35

1 U.S.C. 41 note, Public Law 100-703, 102 Stat. 4675) are  
2 repealed.

3 **SEC. 6. EFFECTIVE DATE.**

4 The provisions of this Act and the amendments made  
5 by this Act shall be effective on and after October 1, 1991,  
6 and shall apply to all payments of fees made on or after  
7 such date.

8 **SECTION 1. SHORT TITLE.**

9 This Act may be cited as the "Patent and Trademark  
10 Office Authorization Act of 1991".

11 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) *AUTHORIZATION.*—There are authorized to be ap-  
13 propriated to the Patent and Trademark Office for fiscal  
14 year 1992—

15 (1) \$95,000,000 for salaries and necessary ex-  
16 penses, which shall be derived from deposits in the  
17 Patent and Trademark Office Fee Surcharge Fund es-  
18 tablished under section 10101 of the Omnibus Rec-  
19 onciliation Act of 1990 (Public Law 101-508);

20 (2) such sums, other than the amount described  
21 under paragraph (1), as are equal to the amount col-  
22 lected during that year from fees under title 35, Unit-  
23 ed States Code, and the Trademark Act of 1946 (15  
24 U.S.C. 1051 et seq.); and

1           (3) \$3,300,000 for administrative capital, or  
2           other expenditures not provided for under paragraphs  
3           (1) and (2).

4           (b) *AMENDMENTS TO BUDGET RECONCILIATION*  
5 *ACT.*—Section 10101 of the Omnibus Reconciliation Act of  
6 1990 (Public Law 101–508) is amended by striking out sub-  
7 sections (a), (b), and (c) and inserting in lieu thereof the  
8 following:

9           “(a) *FEES.*—(1) Of the fees authorized under title 35,  
10 United States Code, and the Trademark Act of 1946 (15  
11 U.S.C. 1051 et seq.), the following amounts shall be depos-  
12 ited in a separate account established in the Treasury and  
13 ascribed to the Patent and Trademark Office activities in  
14 the Department of Commerce, and of these amounts, the fol-  
15 lowing shall be available only to the Patent and Trademark  
16 Office, to the extent provided in appropriation Acts, for all  
17 authorized activities and operations of the Office, including  
18 all direct and indirect costs of services provided by the Of-  
19 fice:

20           “(A) \$95,000,000 in fiscal year 1992.

21           “(B) \$99,000,000 in fiscal year 1993.

22           “(C) \$103,000,000 in fiscal year 1994.

23           “(D) \$107,000,000 in fiscal year 1995.

24           “(2) All other amounts generated by the fees established  
25 under title 35, United States Code, and the Trademark Act

1 of 1946 (15 U.S.C. 1051 et seq.) shall be credited to the  
2 appropriations for the Patent and Trademark Office.”.

3 **SEC. 3. APPROPRIATIONS AUTHORIZED TO BE CARRIED**  
4 **OVER.**

5 Amounts appropriated under this Act and such fees  
6 as may be collected under title 35, United States Code, and  
7 the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) may  
8 remain available until expended.

9 **SEC. 4. OVERSIGHT OF PATENT AND TRADEMARK FEES.**

10 Section 42 of title 35, United States Code, is amended  
11 by adding at the end the following:

12 “(e) The Secretary of Commerce shall, on the day each  
13 year on which the President submits the annual budget to  
14 the Congress, provide to the Committee on the Judiciary  
15 of the Senate and the Committee on the Judiciary of the  
16 House of Representatives—

17 “(1) a list of patent and trademark fee collec-  
18 tions by the Patent and Trademark Office during the  
19 preceding fiscal year;

20 “(2) a list of activities of the Patent and Trade-  
21 mark Office during the preceding fiscal year which  
22 were supported by patent fee expenditures, trademark  
23 fee expenditures, and appropriations;

1           “(3) budget plans for significant programs,  
2 projects, and activities of the Office, including out-  
3 year funding estimates;

4           “(4) any proposed disposition of surplus fees by  
5 the Office; and

6           “(5) such other information as the committees  
7 consider necessary.”.

8 **SEC. 5. PATENT AND TRADEMARK FEES.**

9           (a) *FEE SCHEDULES.*—(1) Section 41(a) of title 35,  
10 United States Code, is amended to read as follows:

11           “(a) The Commissioner shall charge the following fees:

12           “(1)(A) On filing each application for an origi-  
13 nal patent, except in design or plant cases, \$670.

14           “(B) In addition, on filing or on presentation at  
15 any other time, \$60 for each claim in independent  
16 form which is in excess of 3, \$20 for each claim  
17 (whether independent or dependent) which is in excess  
18 of 20, and \$210 for each application containing a  
19 multiple dependent claim.

20           “(2) For issuing each original or reissue patent,  
21 except in design or plant cases, \$1,120.

22           “(3) In design and plant cases—

23           “(A) on filing each design application,  
24 \$270;

25           “(B) on filing each plant application, \$450;

1                   “(C) on issuing each design patent, \$400;

2                   and

3                   “(D) on issuing each plant patent, \$560.

4                   “(4)(A) On filing each application for the reissue  
5 of a patent, \$670.

6                   “(B) In addition, on filing or on presentation at  
7 any other time, \$60 for each claim in independent  
8 form which is in excess of the number of independent  
9 claims of the original patent, and \$20 for each claim  
10 (whether independent or dependent) which is in excess  
11 of 20 and also in excess of the number of claims of  
12 the original patent.

13                   “(5) On filing each disclaimer, \$110.

14                   “(6)(A) On filing an appeal from the examiner  
15 to the Board of Patent Appeals and Interferences,  
16 \$260.

17                   “(B) In addition, on filing a brief in support of  
18 the appeal, \$260, and on requesting an oral hearing  
19 in the appeal before the Board of Patent Appeals and  
20 Interferences, \$210.

21                   “(7) On filing each petition for the revival of an  
22 unintentionally abandoned application for a patent  
23 or for the unintentionally delayed payment of the fee  
24 for issuing each patent, \$1,120, unless the petition is

1 *filed under section 133 or 151 of this title, in which*  
2 *case the fee shall be \$110.*

3 *“(8) For petitions for 1-month extensions of time*  
4 *to take actions required by the Commissioner in an*  
5 *application—*

6 *“(A) on filing a first petition, \$110;*

7 *“(B) on filing a second petition, \$210; and*

8 *“(C) on filing a third petition or subsequent*  
9 *petition, \$460.*

10 *“(9)(A) A basic national fee for an international*  
11 *application where the Patent and Trademark Office*  
12 *was the International Preliminary Examining Au-*  
13 *thority and the International Searching Authority,*  
14 *\$600.*

15 *“(B) A basic national fee for an international*  
16 *application where the Patent and Trademark Office*  
17 *was the International Searching Authority but not*  
18 *the International Preliminary Examining Authority,*  
19 *\$670.*

20 *“(C) A basic national fee for an international*  
21 *application where the Patent and Trademark Office*  
22 *was neither the International Searching Authority*  
23 *nor the International Preliminary Examining Au-*  
24 *thority, \$900.*

1           “(D) A basic national fee for an international  
2           application where the international preliminary ex-  
3           amination fee has been paid to the United States Pat-  
4           ent and Trademark Office, and the international pre-  
5           liminary examination report states that the provi-  
6           sions of the Patent Cooperation Treaty Article 33 (2),  
7           (3), and (4) have been satisfied for all claims pre-  
8           sented in the application entering the national stage,  
9           \$90.

10           “(E) For filing or later presentation of each  
11           independent claim in the national stage of an inter-  
12           national application in excess of 3, \$60.

13           “(F) For filing or later presentation of each  
14           claim (whether independent or dependent) in a na-  
15           tional stage of an international application in excess  
16           of 20, \$20.

17           “(G) For each national stage of an international  
18           application containing a multiple dependent claim,  
19           \$210.

20           For the purpose of computing fees, a multiple dependent  
21           claim as referred to in section 112 of this title or any claim  
22           depending therefrom shall be considered as separate depend-  
23           ent claims in accordance with the number of claims to  
24           which reference is made. Errors in payment of the addi-

1 tional fees may be rectified in accordance with regulations  
2 of the Commissioner.”.

3 (2) Subsection (b) of section 41 of title 35, United  
4 States Code, is amended by striking out all beginning with  
5 “(b)” through paragraph 3. and inserting in lieu thereof  
6 the following:

7 “(b) The Commissioner shall charge the following fees  
8 for maintaining in force all patents based on applications  
9 filed on or after December 12, 1980:

10 “(1) Three years and six months after grant,  
11 \$890.

12 “(2) Seven years and six months after grant,  
13 \$1,790.

14 “(3) Eleven years and six months after grant,  
15 \$2,680.”.

16 (b) SERVICE FEES.—Section 41(d) of title 35, United  
17 States Code, is amended to read as follows:

18 “(d) The Commissioner shall establish fees for all other  
19 processing, services, or materials relating to patents not  
20 specified in this section to recover in the aggregate (with  
21 the exception of the fees described in this subsection) the  
22 estimated average cost to the Office of such processing, serv-  
23 ices, or materials, except that the Commissioner shall charge  
24 the following fees for the following services:

1           “(1) For recording each document affecting title  
2 of a patent, \$40.

3           “(2) For each photocopy, per page, \$0.25.

4           “(3) For each black and white copy of a patent,  
5       \$3.

6 The yearly fee for providing a library specified in section  
7 13 of this title with uncertified printed copies of the speci-  
8 fications and drawings for all patents in that year shall  
9 be \$50.”.

10       (c) *AUTHORITY TO INCREASE FEES.*—Section 41(f) of  
11 title 35, United States Code, is amended by striking “1985”  
12 and inserting “1994”.

13       (d) *NOTICE OF FEES.*—Section 41(g) of title 35, Unit-  
14 ed States Code, is amended to read as follows:

15       “(g) No fee established by the Commissioner under this  
16 section shall take effect until at least 30 days after notice  
17 of the fee has been published in the Federal Register and  
18 in the Official Gazette of the Patent and Trademark Of-  
19 fice.”.

20       (e) *PATENT AND TRADEMARK COLLECTIONS; PUBLIC*  
21 *ACCESS.*—(1) Section 41 of title 35, United States Code,  
22 is amended by adding at the end the following new sub-  
23 section:

24       “(i)(1) The Commissioner shall maintain, for use by  
25 the public, paper or microform collections of United States

1 *patents, foreign patent documents, and United States trade-*  
2 *mark registrations arranged to permit search for and re-*  
3 *trieval of information. The Commissioner may not impose*  
4 *fees directly for the use of such collections, or for the use*  
5 *of the public patent or trademark search rooms or libraries.*

6       “(2) *The Commissioner may establish reasonable fees*  
7 *for access by the public to the automated search systems*  
8 *of the Patent and Trademark Office. If such fees are estab-*  
9 *lished, a limited amount of free access shall be made avail-*  
10 *able to users of the systems for purposes of education and*  
11 *training. The Commissioner may waive the payment by an*  
12 *individual of fees authorized by this subsection upon a*  
13 *showing of need or hardship, and if such a waiver is in*  
14 *the public interest.*

15       “(3) *The Commissioner shall submit to the Congress*  
16 *an annual report on the automated search systems of the*  
17 *Patent and Trademark Office and the access by the public*  
18 *to such systems. The Commissioner shall also publish such*  
19 *report in the Federal Register. The Commissioner shall pro-*  
20 *vide an opportunity for the submission of comments by in-*  
21 *terested persons on each such report.”.*

22       (2)(A) *The section heading for section 41 of title 35,*  
23 *United States Code, is amended to read as follows:*

1 **“§ 41. Patent fees; patent and trademark search sys-**  
 2 **tems”.**

3 (B) *The table of sections at the beginning of chapter*  
 4 *4 of title 35, United States Code, is amended to read as*  
 5 *follows:*

“41. Patent fees; patent and trademark search systems.

“42. Patent and trademark office funding.”.

6 (C) *The chapter heading for chapter 4 of title 35, Unit-*  
 7 *ed States Code, is amended to read as follows:*

8 **“CHAPTER 4—PATENT FEES; FUNDING; SEARCH**  
 9 **SYSTEMS”.**

10 (D) *The items relating to chapters 3 and 4 in the table*  
 11 *of chapters for part I of title 35, United States Code, are*  
 12 *amended to read as follows:*

“3. *Practice Before Patent and Trademark Office* ..... 31

“4. *Patent Fees; Funding; Search Systems* ..... 41”.

13 (f) *USE OF FEES.—Section 42(c) of title 35, United*  
 14 *States Code, is amended to read as follows:*

15 “(c) *Revenues from fees shall be available to the Com-*  
 16 *missioner to carry out, to the extent provided in appropria-*  
 17 *tion Acts, the activities of the Patent and Trademark Office.*  
 18 *Fees available to the Commissioner under section 31 of the*  
 19 *Trademark Act of 1946 may be used only for the processing*  
 20 *of trademark registrations and for other activities, services,*  
 21 *and materials relating to trademarks and to cover a propor-*  
 22 *tionate share of the administrative costs of the Patent and*  
 23 *Trademark Office.”.*

1       (g) *TRADEMARK FEES.*—During fiscal year 1992, the  
2 Commissioner of Patents and Trademarks may, not-  
3 withstanding the second and third sentences of section 31(a)  
4 of the Trademark Act of 1946 (15 U.S.C. 1113(a)) increase  
5 fees established under such section, but only for purposes  
6 of making adjustments which in the aggregate do not exceed  
7 fluctuations during the previous 3 years in the Consumer  
8 Price Index, as determined by the Secretary of Labor. The  
9 Commissioner may not establish additional fees under such  
10 section during fiscal year 1992.

11       (h) *CONFORMING AMENDMENTS RELATING TO INTER-*  
12 *NATIONAL FEES.*—(1) Section 376 of title 35, United States  
13 Code, is amended—

14               (A) by amending subsection (a) to read as fol-  
15 lows:

16       “(a) The required payment of the international fee and  
17 the handling fee shall be paid in United States currency.  
18 The Patent and Trademark Office shall charge a national  
19 fee as provided in section 41(a) and may also charge the  
20 following fees:

21               “(1) A transmittal fee (referred to in section  
22 361(d));

23               “(2) A search fee (referred to in section 361(d));

24               “(3) A supplemental search fee (to be paid when  
25 required);

1           “(4) A preliminary examination fee and any ad-  
2           ditional fees (referred to in section 262(b)); and

3           “(5) Such other fees as established by the Com-  
4           missioner.”; and

5           (B) in the third sentence of subsection (b) by in-  
6           serting “, national fee,” after “examination fee”.

7           (2) Section 371(c)(1) of title 35, United States Code,  
8           is amended by striking “prescribed under section 376(a)(4)  
9           of this part” and inserting “provided in section 41(a) of  
10          this title”.

11   **SEC. 6. USE OF EXCHANGE AGREEMENTS RELATING TO**  
12                           **AUTOMATIC DATA PROCESSING RESOURCES**  
13                           **PROHIBITED.**

14          *The Commissioner of Patents and Trademarks may*  
15          *not, during fiscal years 1992, enter into any agreement for*  
16          *the exchange of items or services (as authorized under sec-*  
17          *tion 6(a) of title 35, United States Code) relating to auto-*  
18          *matic data processing resources (including hardware, soft-*  
19          *ware and related services, and machine readable data). The*  
20          *preceding sentence shall not apply to an agreement relating*  
21          *to data for automation programs which is entered into with*  
22          *a foreign government or with an international intergovern-*  
23          *mental organization.*

1 **SEC. 7. INDEMNIFICATION OF EMPLOYEES.**

2 *The Commissioner of Patents and Trademarks is au-*  
3 *thorized to indemnify any officer or employee of the Patent*  
4 *and Trademark Office who participated in the Law School*  
5 *Tuition Assistance Program of the Patent and Trademark*  
6 *Office, against tax liability incurred as a result of pay-*  
7 *ments made to law schools under that program in tax years*  
8 *1988, 1989, and 1990.*

9 **SEC. 8. DUTIES OF COMMISSIONER.**

10 *Section 6(a) of title 35, United States Code, is amend-*  
11 *ed by striking “; and” and inserting “, including programs*  
12 *to recognize, identify, assess and forecast the technology of*  
13 *patented inventions and their utility to industry; and”.*

14 **SEC. 9. REPEAL OF PRIOR AUTHORIZATION ACTS.**

15 *Subsections (b) and (c) of section 104 of Public Law*  
16 *100–703 are repealed.*

17 **SEC. 10. GAO REPORTING REQUIREMENT.**

18 *Section 202(b)(3) of title 35, United States Code, is*  
19 *amended by striking “each year” and inserting “every 5*  
20 *years”.*

21 **SEC. 11. PATENT INFORMATION DISSEMINATION.**

22 *(a) DEFINITIONS.—For purposes of this section—*

23 *(1) the term “CD-ROMs” means compact discs*  
24 *formatted with read-only memory, including such*  
25 *discs that make use of advanced optical storage tech-*  
26 *nology;*

1           (2) the term “classified patent information”  
2           means patent information organized by the subject  
3           matter of the claimed invention according to the  
4           United States Patent Classification System or the  
5           classification system used by the country or authority  
6           that issues a patent;

7           (3) the term “Commissioner” means the Assist-  
8           ant Secretary of Commerce and Commissioner of Pat-  
9           ents and Trademarks; and

10          (4) the term “patent information” means a com-  
11          plete and exact facsimile of a patent or patent appli-  
12          cation including the text and all images contained  
13          therein, including drawings, diagrams, formulas, and  
14          tables.

15          (b) *INFORMATION DISSEMINATION PROGRAM.*—No  
16          later than January 1, 1992, the Commissioner shall estab-  
17          lish a demonstration program which shall make patent in-  
18          formation available in accordance with the provisions of  
19          this section, through October 1, 1992. The Commissioner  
20          shall produce master CD-ROMs containing classified pat-  
21          ent information and provide copies of them to the public  
22          for purchase.

23          (c) *INFORMATION TO BE DISSEMINATED.*—The patent  
24          information that shall be disseminated pursuant to this sec-  
25          tion shall be patent information in the possession of the

1 *Commissioner in computer readable form, including infor-*  
2 *mation on selected subclasses of United States patents, as*  
3 *determined by the Commissioner.*

4 (d) *FEEES.*—*The Commissioner shall establish fees for*  
5 *the purchase of CD-ROMs, at a rate sufficient to recover*  
6 *the estimated average marginal cost of producing and proc-*  
7 *essing purchase orders for copies of master CD-ROMs.*

8 (e) *REPORT.*—*On the date that is 1 year after the date*  
9 *of enactment of this Act the Commissioner shall submit to*  
10 *Congress a report on the implementation of this section.*

11 **SEC. 12. REFERENCE.**

12 *The term “Trademark Act of 1946” as used in this*  
13 *Act refers to “An Act to provide for the registration and*  
14 *protection of trademarks used in commerce, to carry out*  
15 *the provision of certain international conventions, and for*  
16 *other purposes,” approved July 5, 1946 (15 U.S.C. 1051*  
17 *et seq.), as most recently amended by title I of the “Trade-*  
18 *mark Law Revision Act of 1988”, approved November 16,*  
19 *1988 (Public Law No. 100–667, 102 Stat. 3935).*

20 **SEC. 13. EFFECTIVE DATE.**

21 (a) *IN GENERAL.*—*Except as provided under sub-*  
22 *section (b), the provisions of this Act and the amendments*  
23 *made by this Act shall be effective on and after the date*  
24 *of the enactment of this Act.*

1       (b) *EFFECTIVE DATE OF FEES.*—Notwithstanding any  
2 other provision of law, the Commissioner may adjust the  
3 fees under subsection 41(d) and section 376 of title 35, Unit-  
4 ed States Code, and section 31 of the Trademark Act of  
5 1946, after the date of enactment of this Act and these ad-  
6 justed fees shall take effect the day after their publication  
7 in the Federal Register.

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Calendar No. 377

102<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 793**

[Report No. 102-245]

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**A BILL**

To authorize appropriations for the Patent and  
Trademark Office in the Department of Com-  
merce, and for other purposes.

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NOVEMBER 26 (legislative day, NOVEMBER 23), 1991

Reported with an amendment