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to Patents on Biotechnological Processes Pub. L.
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103D CONGRESS
2D SESSION

H. R. 4307

To amend title 35, United States Code, with respect to applications for process patents.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 1994

Mr. HUGHES (for himself, Mr. MOORHEAD, Mr. FRANK of Massachusetts, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. FISH, and Mr. COBLE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 35, United States Code, with respect to applications for process patents.

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. EXAMINATION OF PROCESS PATENT APPLICA-**
4 **TIONS FOR OBVIOUSNESS.**

5 Section 103 of title 35, United States Code, is
6 amended—

7 (1) by designating the first paragraph as sub-
8 section (a);

9 (2) by designating the second paragraph as
10 subsection (e); and

1 (3) by inserting after the first paragraph the
2 following:

3 “(b)(1) Notwithstanding subsection (a), a process
4 using or resulting in a product that is novel under section
5 102 and nonobvious under subsection (a) of this section,
6 shall be considered nonobvious if—

7 “(A) claims to the process and the product are
8 contained in either the same application for patent
9 or in separate applications having the same effective
10 filing date; and

11 “(B) the product, and the process at the time
12 it was invented, were owned by the same person or
13 subject to an obligation of assignment to the same
14 person.

15 “(2) A patent issued on a process under paragraph
16 (1)—

17 “(A) shall also contain the claims to the prod-
18 uct used in or made by that process, or

19 “(B) shall, if such product is claimed in another
20 patent, be set to expire on the same date as such
21 other patent.”.

22 **SEC. 2. EFFECTIVE DATE.**

23 The amendments made by section 1 shall apply to
24 any application for patent filed on or after the date of
25 the enactment of this Act and to any application for pat-

1 ent pending on such date of enactment, including (in ei-
2 ther case) an application for the reissuance of a patent.

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