

102D CONGRESS
1ST SESSION

H. R. 1613

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 1991

Mr. HUGHES (for himself and Mr. MOORHEAD) (both by request) introduced the following bill; which was referred to the Committee on the Judiciary

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) AUTHORIZATION.—There are authorized to be ap-
5 propriated to the Patent and Trademark Office for sala-
6 ries and necessary expenses, \$98,300,000 for fiscal year
7 1992, and \$102,300,000 for fiscal year 1993. Of those
8 amounts, \$95,000,000 and \$99,000,000, respectively,
9 shall be derived from deposits in the Patent and Trade-
10 mark Office Fee Surcharge Fund established under sec-

1 tion 10101 of the Omnibus Budget Reconciliation Act of
2 1990 (Public Law 101-508).

3 (b) CREDITING OF SURCHARGES.—Notwithstanding
4 the provisions of section 10101 of the Omnibus Budget
5 Reconciliation Act of 1990 (Public Law 101-508), reve-
6 nues from Patent and Trademark Office surcharges in ex-
7 cess of \$88,000,000 in fiscal year 1991, \$95,000,000 in
8 fiscal year 1992, and \$99,000,000 in fiscal year 1993,
9 shall be credited to Salaries and Expenses, Patent and
10 Trademark Office, without further appropriations actions
11 in the same manner as fees authorized by subsections (a)
12 and (b) of section 41 of title 35, United States Code.

13 (c) REVISION OF SURCHARGES.—Notwithstanding
14 section 10101(c) of the Omnibus Budget Reconciliation
15 Act of 1990 (Public Law 101-508), the Commissioner of
16 Patents and Trademarks shall not revise the surcharge set
17 in section 10101(a) of that Act in fiscal years 1992 and
18 1993.

19 **SEC. 2. APPROPRIATIONS AUTHORIZED TO BE CARRIED**
20 **OVER.**

21 Amounts appropriated under this Act and such fees
22 as may be collected under title 35, United States Code,
23 and the Trademark Act of 1946 (15 U.S.C. 1051 and fol-
24 lowing) may remain available until expended.

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

2 The Secretary of Commerce shall, on the day on
3 which the President submits the annual budget to the
4 Congress, provide to the Committees on the Judiciary of
5 the Senate and the House of Representatives—

6 (1) a list of patent and trademark fee collec-
7 tions by the Patent and Trademark Office during
8 the preceding fiscal year;

9 (2) a list of activities of the Patent and Trade-
10 mark Office during the preceding fiscal year which
11 were supported by patent fee expenditures, trade-
12 mark fee expenditures, and appropriations;

13 (3) budget plans for significant programs,
14 projects, and activities of the Office, including out-
15 year funding estimates;

16 (4) any proposed disposition of surplus fees by
17 the Office; and

18 (5) such other information as the committees
19 consider necessary.

20 **SEC. 4. PATENT AND TRADEMARK FEES.**

21 (a) **ESTABLISHMENT OF UNSPECIFIED FEES.**—Sub-
22 section 41(d) of title 35, United States Code, is amended
23 to read as follows:

24 “(d) The Commissioner shall establish fees for all
25 other processing, services, or materials related to patents
26 not specified above or authorized elsewhere to recover, in

1 the aggregate with other revenues, the estimated cost of
2 the operations of the Patent and Trademark Office. The
3 yearly fee for providing a library specified in section 13
4 of this title with uncertified printed copies of the specifica-
5 tions and drawings for all patents issued in that year shall
6 be \$50.”.

7 (b) ADJUSTMENT OF SPECIFIED FEES.—Subsection
8 41(f) of title 35, United States Code, is amended to read
9 as follows:

10 “(f) The fees established in subsections (a) and (b)
11 of this section may be adjusted by the Commissioner on
12 October 1, 1993, and every second year thereafter, to re-
13 flect any fluctuations occurring during the previous 2
14 years in the Consumer Price Index, as determined by the
15 Secretary of Labor. Changes of less than 1 percent may
16 be ignored.”.

17 (c) NOTICE OF FEES.—Subsection 41(g) of title 35,
18 United States Code, is amended as follows:

19 “(g) No fee established by the Commissioner under
20 this section shall take effect prior to 30 days following
21 notice in the Federal Register.”.

22 (d) REDUCTION OF CERTAIN FEES.—Subsection
23 41(h)(1) of title 35, United States Code, is amended to
24 read as follows:

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

8 (e) PATENT AND TRADEMARK COLLECTIONS; PUBLIC
9 ACCESS.—Section 41 of title 35, United States Code, is
10 amended by adding at the end the following new sub-
11 section:

12 “(i)(1) The Commissioner shall maintain, for use by
13 the public, paper or microform collections of United States
14 patents, foreign patent documents, and United States
15 trademark registrations arranged to permit search for and
16 retrieval of information. The Commissioner may not im-
17 pose fees directly for use of such collections, or for use
18 of the public patent or trademark search rooms or
19 libraries.

20 “(2) The Commissioner may establish reasonable fees
21 for access by the public to automated search systems of
22 the Patent and Trademark Office. If such fees are estab-
23 lished, a limited amount of free access shall be made avail-
24 able to all users of the systems for purposes of education
25 and training. The Commissioner may waive the payment

1 by an individual of fees authorized by this subsection upon
2 a showing of need or hardship, and if such a waiver is
3 in the public interest.”.

4 (f) USE OF FEES.—Subsection 42(c) of title 35,
5 United States Code, is amended to read as follows:

6 “(c) Revenues from fees shall be available to the
7 Commissioner to carry out, to the extent provided for in
8 appropriation Acts, the activities of the Patent and Trade-
9 mark Office. Fees available to the Commissioner under
10 section 31 of the Trademark Act of 1946 shall be used
11 for the processing of trademark registrations and for other
12 activities, services, and materials relating to trademarks.
13 Trademark fees collected may only be reprogrammed for
14 other purposes subject to the procedures for
15 reprogramming set forth in the Department of Com-
16 merce’s annual appropriations Act.”.

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

20 “(a) The Commissioner shall establish fees for the fil-
21 ing and processing of an application for the registration
22 of a trademark or other mark and for all other services
23 performed by and materials furnished by the Patent and
24 Trademark Office related to trademarks and other marks.
25 However, no fee for the filing or processing of an applica-

1 tion for the registration of a trademark or other mark or
2 for the renewal or assignment of a trademark or other
3 mark shall be adjusted more than once every two years.
4 No fee established under this section shall take effect prior
5 to 30 days following notice in the Federal Register.”.

6 **SEC. 5. USE OF EXCHANGE AGREEMENTS RELATING TO**
7 **AUTOMATIC DATA PROCESSING RESOURCES**
8 **PROHIBITED.**

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

19 **SEC. 6. REPEAL OF PRIOR AUTHORIZATION ACTS.**

20 Subsections (b) and (c) of section 104 of Public Law
21 100-703 are repealed.

22 **SEC. 7. EFFECTIVE DATE.**

23 This Act takes effect on October 1, 1991, and shall
24 apply to all payments made on or after that date.

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