

88TH CONGRESS
1ST SESSION

H. R. 7370

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1963

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

A BILL

To fix the fees payable to the Patent Office 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 That the items numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10,
4 respectively, in subsection (a) of section 41, title 35, United
5 States Code, are amended to read as follows:

6 "1. On filing each application for an original patent,
7 except in design cases, \$50; in addition, on filing or on
8 presentation at any other time, \$10 for each claim in in-
9 dependent form which is in excess of one, and \$2 for each
10 claim (whether independent or dependent) which is in
11 excess of ten.

1 “2. For issuing each original or reissue patent, except
2 in design cases, \$75; in addition, \$10 for each page (or
3 portion thereof) of specification as printed, and \$2 for each
4 sheet of drawing.

5 “3. In design cases:

6 “a. On filing each design application, \$20.

7 “b. On issuing each design patent: For three years
8 and six months, \$10; for seven years, \$20; and for
9 fourteen years, \$30.

10 “4. On filing each application for the reissue of a patent,
11 \$50; in addition, on filing or on presentation at any other
12 time, \$10 for each claim in independent form which is in
13 excess of the number of independent claims of the original
14 patent, and \$2 for each claim (whether independent or de-
15 pendent) which is in excess of ten and also in excess of the
16 number of claims of the original patent.

17 “5. On filing each disclaimer, \$15.

18 “6. On an appeal for the first time from the examiner
19 to the Board of Appeals, \$100. If an oral hearing is not
20 requested prior to any consideration by the Board, \$50 of
21 the \$100 fee will be refunded; or, alternatively, if the appeal
22 is withdrawn prior to any consideration by the Board, all of
23 the fee over \$25 will be refunded.

1 “7. On filing each petition for the revival of an aban-
2 doned application for a patent or for the delayed payment
3 of the fee for issuing each patent, \$15.

4 “8. For certificate under section 255 or under section
5 256 of this title, \$15.

6 “9. As available and if in print: For uncertified printed
7 copies of specifications and drawings of patents (except de-
8 sign patents), 25 cents per copy; for design patents, 10 cents
9 per copy; the Commissioner may establish a charge not to
10 exceed \$1 per copy for patents in excess of twenty-five pages
11 of drawings and specifications and for plant patents printed
12 in color; special rates for libraries specified in section 13 of
13 this title, \$50 for patents issued in one year.

14 “10. For recording each assignment of an application
15 or a patent, \$20; for recording any other paper, \$20.”

16 SEC. 2. Section 41 of title 35, United States Code, is
17 further amended by adding the following subsection:

18 “(c) The fees prescribed by or under this section shall
19 apply to any other Government department or agency, or
20 officer thereof, except that the Commissioner may waive
21 the payment of any fee for services or materials in cases
22 of occasional or incidental requests by a Government depart-
23 ment or agency, or officer thereof.”

1 SEC. 3. Section 31 of the Act approved July 5, 1946
2 (ch. 540, 60 Stat. 427; U.S.C., title 15, sec. 1113), as
3 amended, is amended to read as follows:

4 “(a) The following fees shall be paid to the Patent
5 Office under this Act:

6 “1. On filing each original application for registration
7 of a mark in each class, \$35.

8 “2. On filing each application for renewal in each class,
9 \$25; and on filing each application for renewal in each class
10 after expiration of the registration, an additional fee of \$5.

11 “3. On filing an affidavit under section 8 (a) or section
12 8 (b), \$10.

13 “4. On filing each petition for the revival of an aban-
14 doned application, \$15.

15 “5. On filing notice of opposition or application for
16 cancellation, \$25.

17 “6. On appeal from an examiner in charge of the regis-
18 tration of marks to the Trademark Trial and Appeal Board,
19 \$25.

20 “7. For issuance of a new certificate of registration
21 following change of ownership of a mark or correction of a
22 registrant's mistake, \$15.

23 “8. For certificate of correction of registrant's mistake
24 or amendment after registration, \$15.

25 “9. For certifying in any case, \$1.

1 "10. For filing each disclaimer after registration, \$15.

2 "11. For printed copy of registered mark, 10 cents.

3 "12. For recording each assignment of a registration,
4 \$20; for recording any other paper, \$20.

5 "13. On filing notice of claim of benefits of this Act
6 for a mark to be published under section 12 (c) hereof,
7 \$10.

8 "(b) The Commissioner may establish charges for
9 copies of records, publications, or services furnished by the
10 Patent Office, not specified above.

11 "(c) The Commissioner may refund any sum paid by
12 mistake or in excess."

13 SEC. 4. Section 151 of title 35, United States Code, is
14 amended to read as follows:

15 "**§ 151. Issue of Patent**

16 "If it appears that applicant is entitled to a patent
17 under the law, a written notice of allowance of the appli-
18 cation shall be given or mailed to the applicant, and the
19 Commissioner shall thereafter issue the patent.

20 "The issue fee, as specified in item 2 of section 41 (a)
21 of this title, shall be paid within three months after the
22 date of the issue of the patent. However, at the time of
23 giving notice of allowance, the Commissioner may require a
24 sum, constituting a portion of the issue fee, to be paid within

1 three months after the date of the notice of allowance. If
2 payment of this sum is not timely made, the application
3 shall be regarded as abandoned.

4 “If the issue fee is not fully paid within three months
5 after the date of the issue of the patent, the patent shall
6 lapse as of the date the issue fee was due.

7 “If any payment called for herein is not timely sub-
8 mitted, but is submitted with the fee for delayed payment
9 within three months after the due date and sufficient cause
10 is shown for the late payment, it may be accepted by the
11 Commissioner as though no abandonment or lapse had
12 ever occurred.”

13 SEC. 5. Section 154 of title 35, United States Code,
14 is amended by inserting the words “subject to the payment
15 of issue and maintenance fees as provided for in this title,”
16 after the words “seventeen years,”.

17 SEC. 6. Title 35, United States Code, is amended by
18 adding the following new section after section 154:

19 **“§ 155. Maintenance fees**

20 “(a) During the term of a patent, other than for a
21 design, the following fees shall be due:

22 “(1) a first maintenance fee on or before the fifth
23 anniversary of the issue date of the patent;

1 “(2) a second maintenance fee on or before the
2 ninth anniversary of the issue date of the patent; and

3 “(3) a third maintenance fee on or before the
4 thirteenth anniversary of the issue date of the patent.

5 In the case of a reissue patent the times specified herein
6 shall run from the date of the original patent.

7 “(b) A grace period of six months will be allowed in
8 which to pay any maintenance fee, provided it is accom-
9 panied by the fee prescribed for delayed payment.

10 “(c) The first and second maintenance fees may be
11 deferred in accordance with subsection (f) of this section.

12 “(d) A patent will terminate on the due date for any
13 maintenance fee unless, as provided for in this section, the
14 fee due (including any fees previously deferred) is paid or
15 a statement in accordance with subsection (f) of this section
16 requesting deferment is filed. Such termination or lapsing
17 shall be without prejudice to rights existing under any other
18 patent.

19 “(e) Notice of the requirement for the payment of the
20 maintenance fees and the filing of statements in compliance
21 with this section shall be attached to or be embodied in the
22 patent. Approximately thirty days before a maintenance
23 fee is due, the Commissioner shall send a separate notice

1 thereof to the patentee and all other parties having an in-
2 terest of record at the addresses last furnished to the Patent
3 Office. Irrespective of any other provision of this section,
4 a maintenance fee may be paid within thirty days after the
5 date of such separate notice.

6 “(f) Any inventor to whom a patent issued (or his
7 heirs) and who owns the patent may within six months of
8 the fifth anniversary of the issue date of the patent (by a
9 statement under oath) request deferment of the first main-
10 tenance fee if the total benefit received by the inventor or
11 any other party having or having had any interest in the
12 subject matter of the patent, from, under, or by virtue of
13 the patent or from the manufacture, use, or sale of the in-
14 vention, was less in value than the amount of the fee, and
15 the statement so specifies. The fee shall thereupon be de-
16 ferred until the time the second maintenance fee is due and
17 shall be paid in addition to the second maintenance fee.

18 “Any inventor to whom a patent issued (or his heirs)
19 and who owns the patent may within six months of the
20 ninth anniversary of the issue date of the patent (by a
21 statement under oath) request deferment of the second main-
22 tenance fee (and further deferment of the first maintenance

1 fee if such fee has been deferred) if the total benefit received
2 by the inventor or any other party having or having had
3 any interest in the subject matter of the patent during the
4 preceding four years, from, under, or by virtue of the patent
5 or from the manufacture, use, or sale of the invention, was
6 less in value than the amount of the second fee, and the
7 statement so specifies. The second fee, or the first and
8 second fees, as the case may be, shall thereupon be deferred
9 until the time the third maintenance fee is due and shall be
10 paid in addition to the third maintenance fee and with the
11 same result if not paid. No deferment of any of the fees
12 beyond the thirteenth anniversary of the issue date of the
13 patent shall be permitted and the patent will terminate at
14 the end of the thirteenth anniversary of the issue date unless
15 all maintenance fees are paid in accordance with the pro-
16 visions of this section.”

17 SEC. 7. The analysis of chapter 14 of title 35, United
18 States Code, immediately preceding section 151, is amended
19 to read as follows:

“Sec.

“151. Issue of patent.

“152. Issue of patent to assignee.

“153. How issued.

“154. Contents and term of patent.

“155. Maintenance fees.”

1 SEC. 8. Subsection (a) of section 41 of title 35, United
2 States Code, is further amended by adding the following:

3 “12. For maintaining a patent (other than for a design)
4 in force:

5 “a. beyond the fifth anniversary of the issue date
6 of the patent, \$50;

7 “b. beyond the ninth anniversary of the issue date
8 of the patent, \$100; and

9 “c. beyond the thirteenth anniversary of the issue
10 date of the patent, \$150.

11 “13. For delayed payment of maintenance fee, \$25.”

12 SEC. 9. (a) This Act shall take effect three months
13 after its enactment.

14 (b) Items 1, 3, and 4 of section 41 (a) of title 35,
15 United States Code, as amended by section 1 of this Act,
16 do not apply in further proceedings in applications filed
17 prior to the effective date of this Act.

18 (c) Item 2 of section 41 (a), as amended by section 1
19 of this Act, and sections 4, 6, and 8 of this Act do not
20 apply in cases in which the notice of allowance of the appli-
21 cation was sent, or in which a patent issued, prior to the
22 effective date; and, in such cases, the fee due is the fee
23 specified in this title prior to the effective date of this
24 Act.

25 (d) Item 3 of section 31 of the Trademark Act, as

1 amended by section 3 of this Act, applies only in the case
2 of registrations issued and registrations published under the
3 provisions of section 12 (c) of the Trademark Act on or
4 after the effective date of this Act.

5 SEC. 10. Section 266 of title 35, United States Code,
6 is repealed.

7 The chapter analysis of chapter 27 of title 35, United
8 State Code, is amended by striking out the following item:
“266. Issue of patents without fees to Government employees.”

9 SEC. 11. Section 112 of title 35, United States Code,
10 is amended by adding to the second paragraph thereof the
11 following sentence: “A claim may be written in independ-
12 ent or dependent form, and if in dependent form, it shall be
13 construed to include all the limitations of the claim incor-
14 porated by reference into the dependent claim.”

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