



98TH CONGRESS  
2D SESSION

# H. R. 6286

To amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes.

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 1984

Mr. KASTENMEIER (for himself, Mr. MAZZOLI, Mrs. SCHROEDER, Mr. GLICKMAN, Mr. FRANK, Mr. BERMAN, Mr. MOORHEAD, Mr. HYDE, Mr. DEWINE, Mr. KINDNESS, and Mr. SAWYER) introduced the following bill; which was referred to the Committee on the Judiciary

## A BILL

To amend title 35, United States Code, to increase the effectiveness of the patent laws, 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,*

### SHORT TITLE

4 SECTION 1. This Act may be cited as the "Patent Law  
5 Amendments Act of 1984".

## 1 TITLE I—PATENT IMPROVEMENT PROVISIONS

## 2 USE OF PATENTED INVENTIONS OUTSIDE THE UNITED

## 3 STATES

4 SEC. 101. (a) Section 271 of title 35, United States  
5 Code, is amended by adding at the end thereof the following  
6 new subsections:

7 “(e) Whoever without authority imports into or sells or  
8 uses within the United States a product which is made in  
9 another country by a process patented in the United States  
10 shall be liable as an infringer, if the importation, sale, or use  
11 of the product occurs during the term of such process patent.

12 “(f)(1) Whoever without authority supplies or causes to  
13 be supplied in or from the United States all or a substantial  
14 portion of the components of a patented invention, where  
15 such components are uncombined in whole or in part, in such  
16 manner as to actively induce the combination of such compo-  
17 nents outside of the United States in a manner that would  
18 infringe the patent if such combination occurred within the  
19 United States, shall be liable as an infringer.

20 “(2) Whoever without authority supplies or causes to be  
21 supplied in or from the United States any component of a  
22 patented invention that is especially made or especially  
23 adapted for use in the invention and not a staple article or  
24 commodity of commerce suitable for substantial noninfringing  
25 use, where such component is uncombined in whole or in

1 part, knowing that such component is so made or adapted  
2 and intending that such component will be combined outside  
3 of the United States in a manner that would infringe the  
4 patent if such combination occurred within the United States,  
5 shall be liable as an infringer.”

6 (b) Section 287 of title 35, United States Code, is  
7 amended by adding at the end thereof the following: “No  
8 damages may be recovered for an infringement under section  
9 271(e) of this title unless the infringer was on notice that the  
10 product was made by a process patented in the United  
11 States.”

12 STATUTORY INVENTION REGISTRATION

13 SEC. 102. (a) Chapter 14 of title 35, United States  
14 Code, is amended by adding at the end thereof the following  
15 new section:

16 “§ 156. Statutory invention registration

17 “(a) Notwithstanding any other provision of this title,  
18 the Commissioner is authorized to publish a statutory inven-  
19 tion registration containing the specification and drawings of  
20 a regularly filed application for a patent without examination  
21 if the applicant—

22 “(1) meets the requirements of section 112 of this  
23 title;

24 “(2) has complied with the requirements for print-  
25 ing, as set forth in regulations of the Commissioner;

1           “(3) waives the right to receive a patent on the  
2           invention within such period as may be prescribed by  
3           the Commissioner; and

4           “(4) pays application, publication, and other proc-  
5           essing fees established by the Commissioner.

6           If an interference is declared with respect to such an applica-  
7           tion, a statutory invention registration may not be published  
8           unless the issue of priority of invention is finally determined  
9           in favor of the applicant.

10          “(b) The waiver under subsection (a)(3) of this section  
11          by an applicant shall take effect upon publication of the statu-  
12          tory invention registration.

13          “(c) A statutory invention registration published pursu-  
14          ant to this section shall have all of the attributes specified for  
15          patents in this title except those specified in section 183 and  
16          sections 271 through 289 of this title. A statutory invention  
17          registration shall not have any of the attributes specified for  
18          patents in any other provision of law other than this title. A  
19          statutory invention registration published pursuant to this  
20          section shall give appropriate notice to the public, pursuant  
21          to regulations which the Commissioner shall issue, of the pre-  
22          ceding provisions of this subsection. The invention with re-  
23          spect to which a statutory invention certificate is published is  
24          not a patented invention for purposes of section 292 of this  
25          title.”

1 (b) The table of sections at the beginning of chapter 14  
2 of title 35, United States Code, is amended by adding at the  
3 end thereof the following:

“156. Statutory invention registration.”

4 (c) The amendments made by this section shall take  
5 effect six months after the date of the enactment of this Act.

6 FILING OF APPLICATIONS IN FOREIGN COUNTRIES

7 SEC. 103. (a) Section 184 of title 35, United States  
8 Code, is amended—

9 (1) in the third sentence—

10 (A) by striking out “inadvertently”; and

11 (B) by inserting “through error and without  
12 deceptive intent” after “filed abroad”; and

13 (2) by adding at the end thereof the following new  
14 paragraph:

15 “Subject to such conditions as the Commissioner may  
16 set by regulations, the scope of a license shall permit subse-  
17 quent modifications, amendments, and supplements contain-  
18 ing additional subject matter when the application upon  
19 which the request for the license is based is not required to be  
20 made available for inspection under section 181 of this title.”

21 (b) Section 185 of title 35, United States Code, is  
22 amended by inserting immediately before the period in the  
23 last sentence the following: “, unless the failure to procure  
24 such license was through error and without deceptive intent,

1 and the patent does not disclose subject matter within the  
2 scope of section 181 of this title”.

3 (c) Section 186 of title 35, United States Code, is  
4 amended by inserting “willfully” after “whoever”, the  
5 second place it appears.

#### 6 PRIOR ART

7 SEC. 104. Section 103 of title 35, United States Code,  
8 is amended by adding at the end thereof the following:

9 “Subject matter developed by another person, which  
10 qualifies as prior art only under subsection (f) or (g) of section  
11 102 of this title, shall not preclude patentability under this  
12 section where the subject matter and the claimed invention  
13 were, at the time the invention was made, owned by the  
14 same person or subject to an obligation of assignment to the  
15 same person.”.

#### 16 JOINT INVENTORS

17 SEC. 105. (a) Section 116 of title 35, United States  
18 Code, is amended by amending the first paragraph to read as  
19 follows:

20 “When an invention is made by two or more persons  
21 jointly, they shall apply for patent jointly and each make the  
22 required oath, except as otherwise provided in this title. In-  
23 ventors may apply for a patent jointly even though (1) they  
24 did not physically work together or at the same time, (2) each  
25 did not make the same type or amount of contribution, or (3)

1 each did not make a contribution to the subject matter of  
 2 every claim of the patent.”

3 (b) Section 120 of title 35, United States Code, is  
 4 amended by striking out “by the same inventor” and insert-  
 5 ing in lieu thereof “which is filed by an inventor or inventors  
 6 named in the previously filed application”.

7

#### ARBITRATION OF INTERFERENCES

8 SEC. 106. Section 135 of title 35, United States Code,  
 9 is amended by adding at the end thereof the following new  
 10 subsection:

11 “(d) Parties to a patent interference, within such time as  
 12 may be specified by the Commissioner by regulation, may  
 13 determine such contest or any aspect thereof by arbitration.  
 14 Such arbitration shall be governed by the provisions of title 9  
 15 to the extent such title is not inconsistent with this section.  
 16 The parties shall give notice of any arbitration award to the  
 17 Commissioner, and such award shall, as between the parties  
 18 to the arbitration, be dispositive of the issues to which it re-  
 19 lates. The arbitration award shall be unenforceable until such  
 20 notice is given. Nothing in this subsection shall preclude the  
 21 Commissioner from determining patentability of the invention  
 22 involved in the interference.”

23

#### EFFECTIVE DATE

24 SEC. 107. (a) Except as provided in section 102(c) of  
 25 this Act and subsection (b) of this section, the amendments

1 made by this Act shall apply to any United States patent  
2 granted on or after the date of the enactment of this Act.

3 (b)(1) The amendment made by section 106 of this Act  
4 shall apply to any United States patent granted before, on, or  
5 after the date of the enactment of this Act, and to all applica-  
6 tions for United States patents pending on or filed after such  
7 date of enactment.

8 (2) The amendment made by section 106 of this Act  
9 shall not affect any final decision made by a court or the  
10 Patent and Trademark Office before the date of the enact-  
11 ment of this Act with respect to a patent or application for  
12 patent, if no appeal from such decision is pending and the  
13 time for filing an appeal has expired.

## 14 TITLE II—PATENT AND TRADEMARK OFFICE

### 15 PROCEDURES

#### 16 BOARD OF PATENT APPEALS AND INTERFERENCES

17 SEC. 201. (a) Section 7 of title 35, United States Code,  
18 is amended to read as follows:

#### 19 "§7. Board of Patent Appeals and Interferences

20 "(a) The examiners-in-chief shall be persons of compe-  
21 tent legal knowledge and scientific ability, who shall be ap-  
22 pointed to the competitive service. The Commissioner, the  
23 Deputy Commissioner, the Assistant Commissioners, and the  
24 examiners-in-chief shall constitute the Board of Patent Ap-  
25 peals and Interferences.



1       “(b) The Board of Patent Appeals and Interferences  
2 shall, on written appeal of an applicant, review adverse deci-  
3 sions of examiners upon applications for patents and shall  
4 determine priority and patentability of invention in interfer-  
5 ences declared under section 135(a) of this title. Each appeal  
6 and interference shall be heard by at least three members of  
7 the Board of Patent Appeals and Interferences, who shall be  
8 designated by the Commissioner. Only the Board of Patent  
9 Appeals and Interferences has the authority to grant  
10 rehearings.

11       “(c) Whenever the Commissioner considers it necessary,  
12 in order to keep current the work of the Board of Patent  
13 Appeals and Interferences, the Commissioner may designate  
14 any patent examiner of the primary examiner grade or  
15 higher, having the requisite ability, to serve as examiner-in-  
16 chief for periods not exceeding six months each. An examiner  
17 so designated shall be qualified to act as a member of the  
18 Board of Patent Appeals and Interferences. Not more than  
19 one of the members of the Board of Patent Appeals and  
20 Interferences hearing an appeal or determining an interfer-  
21 ence may be an examiner so designated. The Secretary of  
22 Commerce is authorized to fix the pay of each designated  
23 examiner-in-chief in the Patent and Trademark Office at not  
24 to exceed the maximum rate of basic pay payable for grade  
25 GS-16 of the General Schedule under section 5332 of title 5.

1 The rate of basic pay of each individual designated examiner-  
 2 in-chief shall be adjusted, at the close of the period for which  
 3 that individual was designated to act as examiner-in-chief, to  
 4 the rate of basic pay which that individual would have been  
 5 receiving at the close of such period if such designation had  
 6 not been made."

7 (b) The item relating to section 7 in the table of sections  
 8 at the beginning of chapter 1 of title 35, United States Code,  
 9 is amended by striking out "Appeals" and inserting in lieu  
 10 thereof "Patent Appeals and Interferences".

11 **INTERFERENCES**

12 **SEC. 202.** Section 135(a) of title 35, United States  
 13 Code, is amended to read as follows:

14 "(a) Whenever an application is made for a patent  
 15 which, in the opinion of the Commissioner, would interfere  
 16 with any pending application, or with any unexpired patent,  
 17 an interference may be declared and the Commissioner shall  
 18 give notice of such declaration to the applicants, or applicant  
 19 and patentee, as the case may be. The Board of Patent Ap-  
 20 peals and Interferences shall determine questions of priority  
 21 of the inventions and may determine questions of patentabil-  
 22 ity. Any final decision, if adverse to the claim of an applicant,  
 23 shall constitute the final refusal by the Patent and Trademark  
 24 Office of the claims involved, and the Commissioner may  
 25 issue a patent to the applicant who is adjudged the prior  
 26 inventor. A final judgment adverse to a patentee from which

1 no appeal or other review has been or can be taken or had  
2 shall constitute cancellation of the claims involved in the  
3 patent, and notice of such cancellation shall be endorsed on  
4 copies of the patent distributed after such cancellation by the  
5 Patent and Trademark Office.”

6 APPEALS AND CIVIL ACTIONS

7 SEC. 203. (a) Section 141 of title 35, United States  
8 Code, is amended—

9 (1) in the first sentence—  
10 (A) by striking out “of the Board of Patent  
11 Appeals may appeal” and inserting in lieu thereof  
12 “in an appeal to the Board of Patent Appeals and  
13 Interferences under section 134 of this title may  
14 appeal the decision”; and

15 (B) by striking out “, thereby waiving his  
16 right” and inserting in lieu thereof “. By filing  
17 such an appeal the applicant waives his or her  
18 right”;

19 (2) in the second sentence—  
20 (A) by striking out “board of patent interfer-  
21 ences on the question of priority may appeal” and  
22 inserting in lieu thereof “Board of Patent Appeals  
23 and Interferences on the interference may appeal  
24 the decision”;

25 (B) by striking out “according to” and insert-  
26 ing in lieu thereof “in accordance with”; and

1 (C) by striking out "he" and inserting in lieu  
2 thereof "the party"; and

3 (3) by amending the last sentence to read as  
4 follows:

5 "If the appellant does not, within thirty days after the filing  
6 of such notice by the adverse party, file a civil action under  
7 section 146, the decision appealed from shall govern the fur-  
8 ther proceedings in the case."

9 (b) Section 145 of title 35, United States Code, is  
10 amended—

11 (1) in the first sentence by striking out "Appeals  
12 may" and inserting in lieu thereof "Patent Appeals  
13 and Interferences in an appeal under section 134 of  
14 this title may,"; and

15 (2) in the second sentence by striking out "Ap-  
16 peals" and inserting in lieu thereof "Patent Appeals  
17 and Interferences".

18 (c) Section 146 of title 35, United States Code, is  
19 amended by striking out "board of patent interferences on the  
20 question of priority" and inserting in lieu thereof "Board of  
21 Patent Appeals and Interferences on the interference".

22 **TECHNICAL AND CONFORMING AMENDMENTS**

23 **SEC. 204.** (a) Section 41(a)(6) of title 35, United States  
24 Code, is amended—

1 (1) by striking out "Appeals" each place it ap-  
 2 pears and inserting in lieu thereof "Patent Appeals and  
 3 Interferences"; and

4 (2) by inserting "in the appeal" after "oral  
 5 hearing".

6 (b)(1) Section 134 of title 35, United States Code, is  
 7 amended—

8 (A) in the section caption by striking out "AP-  
 9 PEALS" and inserting in lieu thereof "PATENT AP-  
 10 PEALS AND INTERFERENCES"; and

11 (B) by striking out "Appeals" and inserting in lieu  
 12 thereof "Patent Appeals and Interferences".

13 (2) The item relating to section 134 in the table of sec-  
 14 tions at the beginning of chapter 12 of title 35, United States  
 15 Code, is amended by striking out "Appeals" and inserting in  
 16 lieu thereof "Patent Appeals and Interferences".

17 (c) Section 305 of title 35, United States Code, is  
 18 amended by striking out "Appeals" and inserting in lieu  
 19 thereof "Patent Appeals and Interferences".

20 AMENDMENTS TO OTHER PROVISIONS OF LAW

21 SEC. 205. (a) Section 1295(a)(4)(A) of title 28, United  
 22 States Code, is amended by striking out "Appeals or the  
 23 Board of Patent" and inserting in lieu thereof "Patent Ap-  
 24 peals and".

25 (b) Section 152 of the Atomic Energy Act of 1954 (42  
 26 U.S.C. 2182) is amended in the third paragraph—

1 (1) by striking out "a Board of Patent Interfer-  
 2 ences" and inserting in lieu thereof "the Board of  
 3 Patent Appeals and Interferences"; and

4 (2) by striking out "the Board of Patent Interfer-  
 5 ences" and inserting in lieu thereof "the Board of  
 6 Patent Appeals and Interferences".

7 (c)(1) Section 305(d) of the National Aeronautics and  
 8 Space Act of 1958 (42 U.S.C. 2457(d)) is amended—

9 (A) by striking out "a Board of Patent Interfer-  
 10 ences" and inserting in lieu thereof "the Board of  
 11 Patent Appeals and Interferences"; and

12 (B) by striking out "the Board of Patent Interfer-  
 13 ences" and inserting in lieu thereof "the Board of  
 14 Patent Appeals and Interferences".

15 (2) Section 305(e) of the National Aeronautics and  
 16 Space Act of 1958 (42 U.S.C. 2457(e)) is amended by strik-  
 17 ing out "a Board of Patent Interferences" and inserting in  
 18 lieu thereof "the Board of Patent Appeals and Interfer-  
 19 ences".

20 **SAVINGS PROVISION**

21 **SEC. 206.** Any individual who, on the effective date of  
 22 this title, is an examiner-in-chief of the Board of Patent Ap-  
 23 peals of the Patent and Trademark Office or an examiner of  
 24 interferences of the Board of Patent Interferences of such  
 25 office shall be entitled to continue in office as a member of

1 the Board of Patent Appeals and Interferences of the Patent  
2 and Trademark Office as of such effective date.

3 EFFECTIVE DATE

4 SEC. 207. Section 206 of this Act and the amendments  
5 made by this title shall take effect three months after the date  
6 of the enactment of this Act.

### 7 TITLE III—NATIONAL COMMISSION ON

### 8 INNOVATION AND PRODUCTIVITY

#### 9 ESTABLISHMENT

10 SEC. 301. There is hereby established a National Com-  
11 mission on Innovation and Productivity (hereinafter in this  
12 title referred to as the "Commission").

#### 13 MEMBERSHIP OF COMMISSION

14 SEC. 302. (a) The Commission shall be composed of—

15 (1) three Members of the Senate appointed by the  
16 President of the Senate;

17 (2) three Members of the House of Representa-  
18 tives appointed by the Speaker of the House of Repre-  
19 sentatives; and

20 (3) three members appointed by the President of  
21 the United States, one of whom the President shall  
22 designate as Chairman.

23 Of the members appointed by the President, one member  
24 should be an appropriate officer or employee of the United  
25 States, one member should be an employer who employs in-  
26 ventors, and one member should be an employed inventor.

1 (b) At no time shall more than two of the members ap-  
2 pointed under paragraph (1), (2), or (3) of subsection (a) be  
3 persons who are members of the same political party.

4 (c) Any vacancy in the Commission shall not affect its  
5 powers but shall be filled in the same manner in which the  
6 original appointment was made, and subject to the limitation  
7 set forth in subsection (b) with respect to the original  
8 appointment.

9 (d) Six members of the Commission shall constitute a  
10 quorum, but a lesser number may conduct hearings.

11 **DUTIES OF THE COMMISSION**

12 **SEC. 303.** The Commission shall make a full and com-  
13 plete review and study of the level of innovation and produc-  
14 tivity of employed inventors. Such study shall include an  
15 analysis of the various methods available to inspire or stimu-  
16 late individual and corporate innovation and productivity, in-  
17 cluding an assessment of the techniques used in other coun-  
18 tries to achieve this objective. Such study may include an  
19 assessment of those aspects of other areas of intellectual  
20 property law that inspire or stimulate such innovation and  
21 productivity. The Commission shall make recommendations  
22 for such revisions of the laws of the United States, including  
23 the repeal of unnecessary or undesirable statutes, and such  
24 other changes as the Commission considers will better foster  
25 innovation and productivity.



## 1       COMPENSATION OF MEMBERS OF THE COMMISSION

2       SEC. 304. (a) A member of the Commission who is a  
3 Member of Congress or a full-time officer or employee of the  
4 United States shall receive no additional compensation by  
5 reason of his or her service on the Commission.

6       (b) A member of the Commission from private life shall  
7 receive the daily equivalent of the annual rate of basic pay  
8 payable for level III of the Executive Schedule for each day  
9 (including traveltime) during which such member is engaged  
10 in the actual performance of duties vested in the Commission,  
11 plus reimbursement for travel, subsistence, and other neces-  
12 sary expenses incurred in the performance of such duties, in  
13 accordance with subchapter I of chapter 57 of title 5, United  
14 States Code.

## 15                                   DIRECTOR AND STAFF

16       SEC. 305. (a) The Commission shall have a Director  
17 who shall be appointed by the Commission and who shall be  
18 paid at a rate not to exceed the rate of basic pay payable for  
19 level IV of the Executive Schedule. The Director, subject to  
20 the direction of the Commission, shall supervise the activities  
21 of persons employed by the Commission and the preparation  
22 of the reports of the Commission and shall perform such  
23 other duties as may be assigned to the Director by the Com-  
24 mission.

25       (b) The Commission may appoint and fix the pay of such  
26 additional personnel as it considers appropriate.

1 (c) The staff of the Commission may be appointed with-  
2 out regard to the provisions of title 5, United States Code,  
3 governing appointments in the competitive service, and may  
4 be paid without regard to the provisions of chapter 51 and  
5 subchapter III of chapter 53 of such title relating to classifi-  
6 cation and General Schedule pay rates, except that no indi-  
7 vidual so appointed may receive pay in excess of the maxi-  
8 mum annual rate of basic pay payable for GS-16 of the Gen-  
9 eral Schedule.

10 (d) The Chairman of the Commission may procure tem-  
11 porary and intermittent services under section 3109(b) of title  
12 5, United States Code.

### 13 GOVERNMENT AGENCY COOPERATION

14 SEC. 306. The Commission is authorized to request  
15 from any department, agency, or independent instrumentality  
16 of the Government any information and assistance it consid-  
17 ers necessary to carry out its functions under this title. Each  
18 such department, agency, and instrumentality is authorized  
19 to cooperate with the Commission and, to the extent permit-  
20 ted by law, to furnish such information and assistance to the  
21 Commission.

### 22 REPORT OF THE COMMISSION; TERMINATION

23 SEC. 307. The Commission shall submit interim reports  
24 on its activities to the President and the Congress at such  
25 times as the Commission considers appropriate, except that  
26 at least one such report shall be so submitted within one year

1 after the date of the enactment of this Act. The Commission  
 2 shall submit its final report on its activities to the President  
 3 and the Congress within two years after such date of enact-  
 4 ment. The Commission shall cease to exist sixty days after  
 5 the date of the submission of its final report.

6 ADMINISTRATIVE SERVICES

7 SEC. 308. The General Services Administration shall  
 8 provide administrative services for the Commission on a re-  
 9 imburseable basis.

10 AUTHORIZATION OF APPROPRIATIONS

11 SEC. 309. There is authorized to be appropriated  
 12 \$1,000,000 to carry out this title.

13 EFFECTIVE DATE

14 SEC. 310. This title shall take effect on January 21,  
 15 1985.

16 TITLE IV—MISCELLANEOUS PROVISIONS

17 INTERNATIONAL STAGE

18 SEC. 401. (a) Section 361(d) of title 35, United States  
 19 Code, is amended in the first sentence by inserting “or within  
 20 one month after the date of such filing” after “application”.

21 (b) Section 366 of title 35, United States Code, is  
 22 amended—

23 (1) in the first sentence—

24 (A) by inserting “after the date of withdraw-  
 25 al,” after “effect”; and

1 (B) by inserting before the period the follow-  
 2 ing: “, unless a claim for the benefit of a prior  
 3 filing date under section 365(c) of this part was  
 4 made in a national application, or an international  
 5 application designating the United States, filed  
 6 before the date of such withdrawal”; and

7 (2) in the second sentence by inserting “with-  
 8 drawn” after “such”.

9 NATIONAL STAGE

10 SEC. 402. (a) Section 371(a) of title 35, United States  
 11 Code, is amended—

12 (1) by striking out “is” and inserting in lieu there-  
 13 of “may be”; and

14 (2) by striking out “, except those filed in the  
 15 Patent Office”.

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

18 “(b) Subject to subsection (f) of this section, the national  
 19 stage shall commence with the expiration of the applicable  
 20 time limit under article 22 (1) or (2) of the treaty.”

21 (c) Section 371(c)(2) of title 35, United States Code, is  
 22 amended—

23 (1) by striking out “received from” and inserting  
 24 in lieu thereof “communicated by”; and

25 (2) by striking out “verified” before “translation”.

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

3 “(d) The requirements with respect to the national fee  
4 referred to in subsection (c)(1), the translation referred to in  
5 subsection (c)(2), and the oath or declaration referred to in  
6 subsection (c)(4) of this section shall be complied with by the  
7 date of the commencement of the national stage or by such  
8 later time as may be fixed by the Commissioner. The copy of  
9 the international application referred to in subsection (c)(2)  
10 shall be submitted by the date of the commencement of the  
11 national stage. Failure to comply with these requirements  
12 shall be regarded as abandonment of the application by the  
13 parties thereof, unless it be shown to the satisfaction of the  
14 Commissioner that such failure to comply was unavoidable.  
15 The payment of a surcharge may be required as a condition  
16 of accepting the national fee referred to in subsection (c)(1) or  
17 the oath or declaration referred to in subsection (c)(4) of this  
18 section if these requirements are not met by the date of the  
19 commencement of the national stage. The requirements of  
20 subsection (c)(3) of this section shall be complied with by the  
21 date of the commencement of the national stage, and failure  
22 to do so shall be regarded as a cancellation of the amend-  
23 ments to the claims in the international application made  
24 under article 19 of the treaty.”

1 (e) Section 372(b) of title 35, United States Code, is  
2 amended—

3 (1) by striking out the period at the end of para-  
4 graph (2) and inserting in lieu thereof “; and”; and

5 (2) by adding at the end thereof the following:

6 “(3) the Commissioner may require a verification  
7 of the translation of the international application or any  
8 other document pertaining to the application if the ap-  
9 plication or other document was filed in a language  
10 other than English.”.

11 (f) Section 372 of title 35, United States Code, is  
12 amended by striking out subsection (c).

13 (g) Section 376(a) of title 35, United States Code, is  
14 amended by striking out paragraph (5) and redesignating  
15 paragraph (6) as paragraph (5).

16 TECHNICAL AMENDMENTS

17 SEC. 403. (a) Title 35, United States Code, is amended  
18 by striking out “Patent Office” each place it appears and  
19 inserting in lieu thereof “Patent and Trademark Office”.

20 (b) The table of parts at the beginning of title 35, United  
21 States Code, is amended by adding at the end thereof the  
22 following:

“IV. Patent Cooperation Treaty..... 351”.

23 PATENT FEES

24 SEC. 404. (a) Notwithstanding section 41 of title 35,  
25 United States Code, as in effect before the enactment of

1 Public Law 97-247 (96 Stat. 317), no fee shall be collected  
2 for maintaining a plant patent in force.

3 (b) Notwithstanding section 41(c) of title 35, United  
4 States Code, as in effect before the enactment of Public Law  
5 97-247 (96 Stat. 317), the Commissioner of Patents and  
6 Trademarks may accept, after the six-month grace period re-  
7 ferred to in such section 41(c), the payment of any mainte-  
8 nance fee due on any patent based on an application filed in  
9 the Patent and Trademark Office on or after December 12,  
10 1980, and before August 27, 1982, to the same extent as in  
11 the case of patents based on applications filed in the Patent  
12 and Trademark Office on or after August 27, 1982.

13 **TRADEMARK TRIAL AND APPEAL BOARD**

14 **SEC. 405.** Section 3 of title 35, United States Code, is  
15 amended by adding at the end thereof the following:

16 “(e) The members of the Trademark Trial and Appeal  
17 Board of the Patent and Trademark Office shall each be paid  
18 at a rate not to exceed the maximum rate of basic pay pay-  
19 able for GS-16 of the General Schedule under section 5332  
20 of title 5.”

21 **EFFECTIVE DATE**

22 **SEC. 406.** (a) Section 404 of this Act and the amend-  
23 ments made by section 403 of this Act shall take effect on  
24 the date of the enactment of this Act.

(b) The amendments made by sections 401, 402, and  
 2 405 of this Act shall take effect six months after the date of  
 3 the enactment of this Act.

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