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Public Law 104–308
104th Congress

An Act

Oct. 19, 1996
[H.R. 632]

To enhance fairness in compensating owners of patents used by the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUST COMPENSATION.

(a) AMENDMENT.—Section 1498(a) of title 28, United States Code, is amended by adding at the end of the first paragraph the following: "Reasonable and entire compensation shall include the owner's reasonable costs, including reasonable fees for expert witnesses and attorneys, in pursuing the action if the owner is an independent inventor, a nonprofit organization, or an entity that had no more than 500 employees at any time during the 5-year period preceding the use or manufacture of the patented invention by or for the United States. Nothwithstanding the preceding sentences, unless the action has been pending for more than 10 years from the time of filing to the time that the owner applies for such costs and fees, reasonable and entire compensation shall not include such costs and fees if the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.".

28 USC 1498 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions under section 1498(a) of title 28, United States Code, that are pending on, or brought on or after, the date of the enactment of this Act.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 632:

HOUSE REPORTS: No. 104–373 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 12, considered and passed House.
Vol. 142 (1996): Oct. 3, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

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