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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

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A BILL

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

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

SECTION 1. EXAMINATION OF PROCESS PATENT APPLICATIONS FOR OBVIOUSNESS.

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

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

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

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

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

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

"(2) A patent issued on a process under paragraph (1)—

"(A) shall also contain the claims to the product used in or made by that process, or

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

SEC. 2. EFFECTIVE DATE.

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

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ent pending on such date of enactment, including (in either case) an application for the reissuance of a patent.

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