BILL H.R. 2547 | DATE Feb. 25, 1964 | PAGE(S) 3311-3312

ACTION: Introduced.

FEES PAYABLE TO COMMISSIONER OF PATENTS IN CERTAIN CASES

Mr. DODD. Mr. President, I introduce, for appropriate reference, a bill to revise the schedule of fees payable to the Commissioner of Patents, to apply on applications for original patents, the reissue of patents, and in other steps connected with the routine processing of patents.

The objective of this bill is to increase the revenue of the Patent Office so as to make it substantially self-supporting.

These fees have not been increased since the early 1930's, so there is ample justification for raising them to reflect more closely the economics of the 1960's.

The House approved a bill (H.R. 8190) last month, to revise the fee schedule. with the intention of bringing Patent Office revenues up to the point where about three-fourths of its operating costs will come from this source.

My bill has been endorsed by the Connecticut Bar Association, and just about every patent attorney and businessman from whom I have heard has expressed a preference for this proposal over the House bill.

There have been strong objections to one section of the House bill, and this opposition has been uniform among patent attorneys and businessmen representing both large and small enterprises.

This section would institute a new fee, called a maintenance fee, which would be charged over a period of years. The holder of a patent would have to make these payments in order to retain his rights. Should he miss a payment, his patent would lapse.

The maintenance fee is a new concept, a new technique which the Patent Office wants to use in order to obtain operating revenue.

This section of the House bill then is not at all like the other parts of H.R. 8190, which simply would raise the existing fees to a more realistic level.

To start to charge a maintenance fee would be to make a substantive change in our patent procedures, and I do not think that such an important step should be undertaken as a part of a bill of which the primary purpose is to revise the Patent Office's fee schedule.

During the House debate on H.R. 8190, as part of the defense of this new fee, it was said by one of the managers of the bill that the maintenance fee is intended also to discourage big companies from acquiring patent rights and then sitting on and suppressing them. And a second argument that was made in support of the maintenance fee innovation is that it would help the small patent applicant, by deferring some of his payments until he is sure that the patent will pay off or he has received a return from it.

But there are good arguments that can be made in opposition to these points. It could run into a considerable amount of money for a corporation to have to pay a maintenance fee on each of its patents. And I think this would be the case for smaller as well as very large corporations.

My reply to the proposition that the use of a maintenance fee would be helpful to the small applicant is along the same lines. I think it will be much less expensive to the small businessman if only the existing fees are increased, and for this reason my bill is limited to this area.

The House bill increases these routine fees, but in a number of cases not as much as I propose. For example, the House figure for the filing of an application for an original patent is $50, the present fee is $30 and my bill would set the charge at $70. Another example is for the filing of an application for a trademark, where my bill sets a fee of $60, as opposed to the House figure of $35 and the present fee of $25.

These higher charges are intended to make up for the revenue loss caused by my deletion of the maintenance fee section in the House bill.

H.R. 8190 requires the following maintenance fee: $50 the 5th year; $100 the 9th year; and $150 the 13th year. This is a total of $300 that would be charged simply to maintain a patent, whether or not it is marketable and being used.

The bill I have introduced will raise just about the same amount of revenue, slightly over $22 million a year. So the Patent Office will be substantially self-supporting once either measure is signed into law.

But my proposal will accomplish this worthwhile objective without having to rely on a controversial new technique, the use of the maintenance fee.

The Connecticut Bar Association, in addition to endorsing my bill, has requested that I introduce it as an alternative to H.R. 8190. And a New Haven patent attorney, Mr. Anthony DeLio, has done a great deal of work in research, in preparing facts and figures and in helping to work out the details of this legislation.

Both Mr. DeLio and the Connecticut bar deserve commendation for their constructive and thoughtful work in this important and complex field.

I hope the Senate will agree that the approach to raising Patent Office fees that I have introduced today is preferable to the one passed by the House, so that we can substitute this bill for H.R. 8190.

There is general agreement that patent fees should be increased, because of the lapse of time since the present rates were put into effect. Let us accomplish this then by using the tried and traditional way rather than by going into a completely new and controversial area of patent procedures in order to obtain these needed revenues.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2547) to fix certain fees payable to the Commissioner of Patents, and for other purposes, introduced by Mr. DODD, was received, read twice by its title, and referred to the Committee on the Judiciary.