CONGRESSIONAL RECORD SENATE
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BILL	DATE	PAGE(S)
H.R. 4185	*6/15/65*	*13095-96*

ACTION: *Amended and Passed.*

FIXING OF FEES PAYABLE TO PATENT OFFICE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 289, H.R. 4185. The consideration of this bill has been cleared with the minority.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 4185) to fix the fees payable to the Patent Office, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments on page 1, line 7, after the word "cases", to strike out "$50" and insert "$65"; on page 2, line 4, after the word "cases", to strike out "$75" and insert "$100"; at the beginning of line 13, to strike out "$50" and insert "$65"; in line 23, after the word "Appeals", to strike out "$25" and insert "$50"; on page 6, line 7, after the word "period.", to insert "In calculating the amount of a remaining balance, charges for a page or less may be disregarded."; in line 18, after the word "issue", to strike out "and maintenance"; after line 19, to strike out:

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

"§ 155. Maintenance fees

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

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

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

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

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

"(b) A grace period of six months will be allowed in which to pay any maintenance fee, provided it is accompanied by the fee prescribed for delayed payment. When a response is not received to the notice provided by subsection (e) of this section, a subsequent notice shall be sent approximately sixty days after the due date of any maintenance fee.

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

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

"(e) Notice of the requirement for the payment of the maintenance fees and the filing of statements in compliance with this section shall be attached to or be embodied in the patent. Approximately thirty days before a maintenance fee is due, the Commissioner shall send an initial notice thereof to the patentee and all other parties having an interest of record at the addresses last furnished to the Patent Office. Irrespective of any other provision of this section, a maintenance fee may be paid within thirty days after the date of such initial notice.

"(f) Any inventor to whom a patent issued (or his heirs) and who owns the patent may within six months of the fifth anniversary of the issue date of the patent by a statement to the Commissioner request deferment of the first maintenance fee if the gross benefit received by the inventor or any other party having or having had any interest in the subject matter of the patent, from, under, or by virtue of the patent or from the manufacture, use, or sale of the invention, was less in value than the amount of the fee, and the statement so specifies. The fee shall thereupon be deferred until the time the second maintenance fee is due and shall be paid in addition to the second maintenance fee.

"Any inventor to whom a patent issued (or his heirs) and who owns the patent may within six months of the ninth anniversary

of the issue date of the ptaent by a statement to the Commissioner request deferment of the second maintenance fee (and further deferment of the first maintenance fee if such fee has been deferred) if the gross benefit received by the inventor or any other party having or having had any interest in the subject matter of the patent during the preceding four years, from, under, or by virtue of the patent or from the manufacture, use, or sale of the invention, was less in value than the amount of the second fee, and the statement so specifies. The second fee, or the first and second fees, as the case may be, shall thereupon be deferred until the time the third maintenance fee is due and shall be paid in addition to the third maintenance fee and with the same result if not paid. No deferment of any of the fees beyond the thirteenth anniversary of the issue date of the patent shall be permitted and the patent will terminate at the end of the thirteenth anniversary of the issue date unless all maintenance fees are paid in accordance with the provisions of this section.

"(g) An applicant or his assignee may elect, on or before the time of payment of the sum specified in the notice of allowance provided in section 151 of this chapter, to pay a fee of $75 and such payment shall constittue a complete satisfaction of the maintenance fees provided for in this section."

At the top of page 10, to strike out:

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

"151. Issue of patent.
"152. Issue of patent to assignee.
"153. How issued.
"154. Contents and term of patent.
"155. Maintenance of fees."

After line 3, to strike out:

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

"12. For maintaining a patent (other than for a design) in force:

"a. beyond the fifth anniversary of the issue date of the patient, $50;

"b. beyond the ninth anniversary of the issue date of the patent, $100; and

"c. beyond the thirteenth anniversary of the issue date of the patent, $150.

"13. For delayed payment of maintenance fee, $25."

After line 14, to insert:

SEC. 6. The analysis of chapter 14 of title 35, United States Code, immediately preceding section 151, is amended in the first itsem thereof by striking out the words "Time of issue of patent" and inserting in lieu thereof "Issue of patent".

At the beginning of line 20, to change the section number from "9" to "7"; on page 11, line 6, after the word "and", to strike out "sections 4, 6, and 8" and "section 4"; at the beginning of line 16, to change the section number from "10" to "8"; at the beginning of line 20, to change the section number from "11" to "9"; and on page 12, at the beginning of line 4, to change the section number from "12" to "10".

The amendments were agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 301), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 4185, as amended, is to increase the fees payable to the Patent Office so that a reasonable part of Patent Office costs may be recovered. The bill also seeks to expedite the prosecution of patent applications and thus make new technology available to the public at an earlier date.

The fees payable to the Patent Office are determined by statute and have not revised since 1932. The income of the Patent Office has declined during this period from 90 percent recovery of costs down to an estimated recovery of 28.3 percent during the present fiscal year. If the fees provided for in this bill are approved, when these fees become fully effective, the Patent Office would then be recovering approximately 74 percent of its costs.

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