BILL	DATE	PAGE(S)
S. 24	Nov. 3, 1975	H10559-10563 H10564-10565

ACTION

Passed under suspension of rules

Patent cooperation: S. 24, to carry into effect certain provisions of the Patent Cooperation Treaty (passed by a yea-and-nay vote of 349 yeas to 5 nays, with 1 voting "present"). Pages H10559–H10563, H10564–H10565

IMPLEMENTING PATENT CO-OPERATION TREATY

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 24) to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes.

The Clerk read as follows:

S. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 35, United States Code, entitled "Patents", be amended by adding at the end thereof a new part IV to read as follows:

"PART IV.—PATENT COOPERATION TREATY

"Chapter 35.—DEFINITIONS

"Sec.
"§ 351. Definitions

"When used in this part unless the context otherwise indicates—

"(a) The term 'treaty' means the Patent Cooperation Treaty done at Washington, on June 19, 1970, excluding chapter II thereof.

"(b) The term 'Regulations', when capitalized, means the Regulations under the treaty excluding part C thereof, done at Washington on the same date as the treaty. The term 'regulations', when not capitalized, means the regulations established by the Commissioner under this title.

"(c) The term 'international application' means an application filed under the treaty.

"(d) The term 'international application originating in the United States' means an international application filed in the Patent Office when it is acting as a Receiving Office under the treaty, irrespective of whether or not the United States has been designated in that international application.

"(e) The term 'international application designating the United States' means an international application specifying the United States as a country in which a patent is sought, regardless where such international application is filed.

"(f) The term 'Receiving Office' means a national patent office or intergovernmental organization which receives and- processes international applications as prescribed by the treaty and the Regulations.

"(g) The term 'International Searching Authority' means a national patent office or intergovernmental organization as appointed under the treaty which processes international applications as prescribed by the treaty and the Regulations.

"(h) The term 'International Bureau' means the international intergovernmental organization which is recognized as the coordinating body under the treaty and the Regulations.

"(i) Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"Chapter 36.—INTERNATIONAL STAGE

'Sec.
"361. Receiving Office.
"362. International Searching Authority.

"363. International application designating the United States; Effect.
"364. International stage: Procedure.
"365. Right of priority; benefit of the filing date of a prior application.
"366. Withdrawn international application.
"367. Actions of other authorities: Review.
"368. Secrecy of certain inventions; filing international applications in foreign countries.

"§361. Receiving Office

"(a) The Patent Office shall act as a Receiving Office for international applications filed by nationals or residents of the United States. In accordance with any agreement made between the United States and another country, the Patent Office may also act as a Receiving Office for international applications filed by residents or nationals of such country who are entitled to file international applications.

"(b) The Patent Office shall perform all acts connected with the discharge of duties required of a Receiving Office, including the collection of international fees and their transmittal to the International Bureau.

"(c) International applications filed in the Patent Office shall be in the English language.

"(d) The basic fee portion of the international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall be paid on filing of an international application. Payment of designation fees may be made on filing and shall be made not later than one year from the priority date of the international application.

"§362. International Searching Authority

"The Patent Office may act as an International Searching Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau.

"§363. International application designating the United States: Effect

"An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent Office except as otherwise provided in section 102 (e) of this title.

"§ 364. International stage: Procedure

"(a) International applications shall be processed by the Patent Office when acting as a Receiving Office or International Searching Authority, or both, in accordance with the applicable provisions of the treaty, the Regulations, and this title.

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to a pending international application may be excused upon a showing satisfactory to the Commissioner of unavoidable delay, to the extent not precluded by the treaty and the Regulations, and provided the conditions imposed by the treaty and the Regulations regarding the excuse of such failure to act are complied with.

"§ 365. Right of priority; benefit of the filing date of a prior application

"(a) In accordance with the conditions and requirements of section 119 of this title, a national application shall be entitled to the right of priority based on a prior filed international application which designated at least one country other than the United States.

"(b) In accordance with the conditions and requirement of the first paragraph of section 119 of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

"(c) In accordance with the conditions and requirements of section 120 of this title, an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior international application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international application designatnig the United States. If any claim for the benefit of an earlier filing date is based on a prior international application which designated but did not originate in the United States, the Commissioner may require the filing in the Patent Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 366. Withdrawn international application

"Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect and shall be considered as not having been made. However, such international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

"§ 367. Actions of other authorities: Review

"(a) Where a Receiving Officer other than the Patent Officer has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Commissioner, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

"(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to a finding by the International Bureau under article 12(3)

"§ 368. Secrecy of certain inventions; filing international applications in foreign countries

"(a) International applications filed in the Patent Office shall be subject to the provisions of chapter 17 of this title.

"(b) In accordance with article 27(8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title, whether or not the United States is designated in that international application.

"(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Patent Office when acting as a Receiving Office or International Searching Authority, or both, may not disclose the contents of such application to anyone not authorized to receive such disclosure.

"CHAPTER 37.—NATIONAL STAGE

Sec.
"371. National stage: Commencement.
"372. National stage: Requirements and procedure.
"373. Improper applicant.
"374. Publication of international application: Effect.
"375. Patent issued on international application: Effect.
"376. Fees.

"§ 371. National stage: Commencement

"(a) Receipt from the International Bureau of copies of international applications with amendments to the claims, if any, and international search reports is required in the case of all international applications designating the United States, except those filed in the Patent Office.

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) of the treaty, at which time the applicant shall have complied with the applicable requirements specified in subsection (c) of this section.

"(c) The applicant shall file in the Patent Office—

"(1) the national fee prescribed under section 376(a)(4) of this part;

"(2) a copy of the international application, unless not required under subsection (a) of this section or already received from the International Bureau, and a verified translation into the English language of the international application, if it was filed in another language;

"(3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent Office by the International Bureau, and a translation into the English language if such amendments were made in another language;

"(4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants.

"(d) Failure to comply with any of the requirements of subsection (c) of this section, within the time limit provided by article 22 (1) or (2) of the treaty shall result in abandonment of the international application.

"(e) After an international application has entered the national stage, no patent may be granted or refused thereon before the expiration of the applicable time limit under article 28 of the treaty, except with the express consent of the applicant. The applicant may present amendments to the specification, claims, and drawings of the application after the national stage has commenced.

"(f) At the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with.

"§ 372. National stage: Requirements and procedure

"(a) All questions of substance and, within the scope of the requirements of the treaty and Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Patent Office.

"(b) In case of international applications designating but not originating in the United States—

"(1) the Commissioner may cause to be reexamined questions relating to form and contents of the application in accordance with the requirements of the treaty and the Regulations;

"(2) the Commissioner may cause the question of unity of invention to be reexamined under section 121 of this title, within the scope of the requirements of the treaty and the Regulations.

"(c) Any claim not searched in the international stage in view of a holding, found to be justified by the Commissioner upon review, that the international application did not comply with the requirement for unity

of invention under the treaty and the Regulations, shall be considered canceled, unless payment of a special fee is made by the applicant. Such special fee shall be paid with respect to each claim not searched in the international stage and shall be submitted not later than one month after a notice was sent to the applicant informing him that the said holding was deemed to be justified. The payment of the special fee shall not prevent the Commissioner from requiring that the international application be restricted to one of the inventions claimed therein under section 121 of this title, and within the scope of the requirements of the treaty and the Regulations.

"§ 373. Improper applicant

"An international application designating the United States, shall not be accepted by the Patent Office for the national stage if it was filed by anyone not qualified under chapter 11 of this title to be an applicant for the purpose of filing a national application in the United States. Such international applications shall not serve as the basis for the benefit of an earlier filing date under section 120 of this title in a subsequently filed application, but may serve as the basis for a claim of the right of priority under section 119 of this title, if the United States was not the sole country designated in such international application.

"§ 374. Publication of international application: Effect

"The publication under the treaty of an international application shall confer no rights and shall have no effect under this title other than that of a printed publication.

"§ 375. Patent issued on international application: Effect

"(a) A patent may be issued by the Commissioner based on an international application designating the United States, in accordance with the provisions of this title. Subject to section 102(e) of this title, such patent shall have the force and effect of a patent issued on a national application filed under the provisions of chapter 11 of this title.

"(b) Where due to incorrect translation the scope of a patent granted on an international application designating the United States, which was not originally filed in the English language, exceeds the scope of the international application in its original language, a court of competent jurisdiction may retroactively limit the scope of the patent, by declaring it unenforceable to the extent that it exceeds the scope of the international application in its original language.

"§ 376. Fees

"(a) The required payment of the international fee, which amount is specified in the Regulations, shall be paid in United States currency. The Patent Office may also charge the following fees:

"(1) A transmittal fee (see section 361(d));

"(2) A search fee (see section 361(d));

"(3) A supplemental search fee (to be paid when required);

"(4) A national fee (see section 371(c));

"(5) A special fee (to be paid when required; see section 372(c));

"(6) Such other fees as established by the Commissioner.

"(b) The amounts of fees specified in subsection (a) of this section, except the international fee, shall be prescribed by the Commissioner. He may refund any sum paid by mistake or in excess of the fees so specified, or if required under the treaty and the Regulations. The Commissioner may also refund any part of the search fee, where he determines such refund to be warranted.".

SEC. 2. Section 6 of title 35, United States Code, is amended by adding a paragraph (d) to read as follows:

"§ 6. Duties of Commissioner

* * * * * *

"(d) The Commissioner, under the direction of the Secretary of Commerce, may, with the concurrence of the Secretary of State, allocate funds appropriated to the Patent Office, to the Department of State for the purpose of payment of the share on the part of the United States to the working capital fund established under the Patent Cooperation Treaty. Contributions to cover the share on the part of the United States of any operating deficits of the International Bureau under the Patent Cooperation Treaty shall be included in the annual budget of the Patent Office and may be transferred by the Commissioner, under the direction of the Secretary of Commerce, to the Department of State for the purpose of making payments thereof to the International Bureau.".

SEC. 3. Item 1 of section 41(a) of title 35, United States Code, is amended to read as follows:

"§ 41. Patent fees

"(a) The Commissioner shall charge the following fees:

"1. On filing each application for an original patent, except in design cases, $65; in addition on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of one, and $2, for each claim (whether independent or dependent) which is in excess of ten. For the purpose of computing fees, a multiple dependent claim as referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.".

SEC. 4. Section 42 of title 35, United States Code, is amended to read as follows:

"§ 42. Payment of patent fees; return of excess amounts

"All patent fees shall be paid to the Commissioner who, except as provided in sections 361(b) and 376(b) of this title, shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury directs, and the Commissioner may refund any sum paid by mistake or in excess of the fee required by law."

SEC. 5. Paragraph (e) of section 102 of title 35, United States Code, is amended to read as follows:

"§ 102. Conditions for patentability; novelty and loss of right to patent

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"(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or".

SEC. 6. The first sentence of section 104 of title 35, United States Code, is amended to read as follows:

"§ 104. Invention made abroad

"In proceedings in the Patent Office and in the courts, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country, except as provided in sections 119 and 365 of this title.".

SEC. 7. The second sentence of the second paragraph of section 112 of title 35, United States Code, is amended to read as follows:

"§ 112. Specification

* * * * * *

"A claim may be written in independent or, if the nature of the case admits, in dependent or multiple dependent form.

"Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

"A claim in multiple dependent form shall contain a reference, in the alternative only, to more than one claim previously set forth and then specify a further limitation of the subject matter claimed. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of the particular claim in relation to which it is being considered.".

SEC. 8. Section 113 of title 35, United States Code, is amended to read as follows:

"§ 113. Drawings

"The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Commissioner may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.".

SEC. 9. Section 120 of title 35, United States Code, is amended to read as follows:

"§ 120. Benefit of earlier filing date in the United States

"An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, by the same inventor shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.".

SEC. 10. The first paragraph of section 282 of title 35, United States Code, is amended to read as follows:

"§ 282. Presumption of validity; defenses

"A patent shall be presumed valid. Each claim of a patent (whether in independent, dependent, or multiple dependent form) shall be presumed valid independently of the validity of other claims; dependent or multiple dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity.".

SEC. 11. (a) Section 1 of this Act shall come into force on the same day as the entry into force of the Patent Cooperation Treaty with respect to the United States. It shall apply to international and national applications filed on and after this effective date, even though entitled to the benefit of an earlier filing date, and to patents issued on such applications.

(b) Sections 2 to 10 of this Act shall take effect on the same day as section 1 of this Act and shall apply to all applications for patent actually filed in the United States

on and after this effective date, as well as to international applications where applicable.

(c) Applications for patent on file in the Patent Office on the effective date of this Act, and patents issued on such applications, shall be governed by the provisions of title 35, United States Code, in effect immediately prior to the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Judiciary Committee recommends that the House pass without amendment the bill S. 24, to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes.

ORIGIN AND PURPOSE OF S. 24

S. 24 passed the Senate on June 21. Its purpose is to implement the Patent Cooperation Treaty, a treaty to which the Senate gave its advice and consent on October 30, 1973.

The treaty itself resulted from a U.S. initiative in 1966, requesting a study of means for reducing the duplication of effort involved in the filing and processing of a patent application on an invention in each of two or more countries.

In recommending that the Senate give its advice and consent to the ratification of the Patent Cooperation Treaty, the Senate Committee on Foreign Relations indicated (Ex. Rept. 93-20, p. 4) that the administration has agreed that the executive would withhold filing the instrument of ratification until the implementing legislation—that is, S. 24—is enacted.

ADVANTAGES OF PCT

Important advantages are claimed for the treaty. It simplifies the filing of a patent application on a single invention in different countries by providing, among other things, for centralized filing procedures and a standardized application format. It lengthens to 20 months the present 12-month period within which an applicant must commit himself to translation, filing fees, and prosecution. Also, it facilitates the examining process in member countries which examine applications for patents.

OPERATION OF CHAPTER I OF PCT

Under chapter I of the Patent Cooperation Treaty the applicant would file an international application with a receiving officer—usually the Patent Office of his own country—in a specified language—English for U.S. applicants—in a standard format. The application would include designation of member countries in which protection is desired.

An international search report would be prepared by an international searching authority—usually the Patent Office of the country of origin—and would be sent to the applicant, to the World Intellectual Property Organization, WIPO, and to the designed countries in which patent protection is desired. Although an international fee would be payable at the time of filing, the payment of national filing fees and translation expenses in each of the designated countries will usually be deferrable until as late as 20 months from the priority date of the international application. In the ensuing national stage, domestic search, examination and processing are to be completed.

PROVISIONS OF S. 24

The first section of S. 24—comprising new part IV and chapter 35, 36, and 37 of title 35, United States Code—enacts chapter I of the treaty into U.S. law. Beyond this, in sections 2 through 10, S. 24 would amend title 35—patents—of the U.S. Code by adding new international procedures in applying for patent protection. However, substantive law is unaffected and the new procedures are optional and do not replace existing procedures or diminish the rights of priority and national treatment.

Chapter II of the treaty provides optionally for new international procedures whereunder an applicant may demand an international preliminary report with respect to one or more designated countries. The United States has concluded that adherence to chapter II is impracticable at this time and the bill does not contain any proposals implementing this chapter.

PCT ENTRY INTO FORCE

The treaty will enter into force 3 months after eight governments ratify it—including four nations considered "major" in terms of patent activity. The six leading patent issuing countries are the United States, the U.S.S.R., Japan, West Germany, United Kingdom, and France. To date 35 nations have become signatories but only five countries with minor patent activity have ratified or acceded to it—the Central African Republic, Senegal, Madagascar, Malawi, and Cameroon.

U.S SUPPORTERS OF PCT

The following U.S. agencies and organizations favor the Patent Cooperation Treaty: Department of State, Justice, Commerce, American Bar Association, American Patent Law Association, U.S. Group of the AIPPI—International Association for the Protection of Industrial Property, National Association of Manufacturers, U.S. Chamber of Commerce, Pacific Industrial Property Association, Association for the Advancement of Invention and Innovation, Chicago Patent Law Association, Milwaukee Patent Law Association.

HEARING

On July 31, the subcommittee held a public hearing on S. 24 at which representatives of the Department of State, Justice and Commerce appeared in support of S. 24. It was indicated that the European countries are moving ahead on two European patent conventions and it was urged that entry into force of the European conventions without concurrent entry into force of the PCT would be to the disadvantage of American

COST TO THE UNITED STATES

The Commerce Department has submitted the following estimate of additional costs of the Patent and Trademark Office operating under the Patent Cooperation Treaty:

Fiscal year:	
1976	$0
1977	530,100
1978	750,800
1979	993,500
1980	1,225,500
1981	1,479,800

At the subcommittee's hearing on S. 24, the Justice Department's witness state his understanding that the Antitrust Division has no reservations about the treaty and the State Department witness testified, "We have no indication of any opposition to S. 24. In fact the committee knows of no objection to the bill.

As recently as October 16, moreover, Thomas E. Kauper, Assistant Attorney General in charge of the Antitrust Division of the Department of Justice reconfirmed to Chairman RODINO that the testimony given at the hearing in favor of S. 24 by Assistant Attorney General Lee accurately reflects the Department's support of the bill.

By the same communication, moreover, Mr. Kauper on behalf of the Department rejected the suggstion that implementation of the PCT should be deferred.

The committee notes that the proposal for a Patent Cooperation Treaty has been under active consideration as a product of U.S. initiative for nearly 10 years and, so far as the subcommittee knows, no antitrust based criticism has been heard. In these circumstances the subcommittee believes that enactment of S. 24 should no longer be delayed.

Mr. Speaker, I urge that S. 24 be enacted by the House without amendment.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

(Mr. RAILSBACK asked and was given permission to revise and extend his remarks.)

Mr. RAILSBACK. Mr. Speaker, I rise in support of S. 24. Mr. Speaker, I know of no opposition to this legislation. It has the support of the Departments of State, Justice, and Commerce. This is widespread support for the Patent Cooperation Treaty from the American industry and the Patent BAR. In addition, it has the endorsement of the American Bar Association, the U.S. Group of the International Association for the Protection of Industrial Property, the American Patent Law Association, the Association for the Advancement of Invention and Innovation, and the Chicago and Milwaukee Patent Law Associations, among many others.

The Senate gave its advice and consent to the treaty October 30, 1973. The treaty, however, is not self-executing. The other body passed this implementing legislation (S. 24) June 21, 1975. There are a number of significant advantages offered by S. 24, all of which are procedural in nature:

First. It would simplify the filing of patent applications on the same invention in different countries by providin

procedures and standardized applications;

Second, it lengthens the present 12-month period to 20 months within which an applicant must commit himself by undertaking translation, filing fees and other measures necessary to perfect such a patent, and

Third. It would reduce duplication of effort for patent applicants with respect to the filing and processing for the same invention in different countries.

Mr. Speaker, I would like to emphasize that the international advantages which would result from this legislation would not affect domestic operation of present patent law. In other words, no change would be made by this act in the present law insofar as the substantive requirements for obtaining patents are concerned. And use of the procedures established by this act are entirely optional. Applicants may continue to file individual patent applications in each country in which they seek protection.

Mr. Speaker, I urge my colleagues to support this worthy bill.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

(Mr. DRINAN asked and was given permission to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding.

As a member of the subcommittee that developed this legislation, I want to endorse it and to state that the Department of Commerce made a very persuasive case for the necessity of having machinery to permit the filing of a patent in one place in such a way that it will have multinational effect.

This will be less costly and much more efficient than the present arrangement.

There is no opposition to this, as the chairman said, not merely within the United States, but in the developing nations. They are very enthusiastic about this particular bill.

My particular congressional district specializes in high-technology industry, in electronics, in computer science, and in optics.

This bill would be needed and is strongly endorsed by corporations in the high-technology area.

The example of the United States ratifying this treaty will give a signal to other highly industrialized nations so that worldwide cooperation in this area will, hopefully, follow very soon.

Mr. Speaker, I urge an affirmative vote on S. 24.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

Mr. RAILSBACK. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. MILLER).

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, I would like to ask the chairman of the committee this question: What will this legislation accomplish that we don't already have? Our Patent Office at the present time will cross-file with other patent offices for reference in other countries. How will it affect us any differently if we would have an international patent system? For instance, if a patent is filed in this country, we also would find that it would be necessary to refer to patents in France or Britain, as an example. How would we be affected differently from what we are doing right now?

Mr. KASTENMEIER. If the gentleman will yield, this provides machinery for those member nations whereby, for example, in this country an individual or corporation could file an initial application here, and it would be processed as though it would have been made in a number of other member nations abroad which could be specially designated.

A 20-month period is established in which priority would be given to that applicant with a single application. At a later stage, not later than 20 months, that patent could be perfected in the other countries but prior to that there would be no necessity for the applicant for moving beyond Washington in terms of filing those applications.

Mr. MILLER of Ohio. If a patent application is filed in the United States under this new program, is it necessary to file separate applications in the other countries. Now if they would file one application does that mean they would automatically be filed for a patent in every member country?

Mr. KASTENMEIER. They would automatically be filed for a patent in so-called designated countries, those countries which are designated on the original application in this country, in which you have designated an interest. That is all you would be required to do. It would therefore obviate the necessity of making filings in other countries in which you might have an interest.

Mr. MILLER of Ohio. Then is the gentleman saying that you would receive one patent, or you would receive a patent from each one of the member countries?

Mr. KASTENMEIER. In due course patents would have to be perfected and would have to be completed, and these would have to be filed in each of the countries, but you would have an extended period of time from having to undergo the rather expensive translations in other countries in perfecting that particular application. You would have to obtain patents in those countries. But the initial filing and the initial fee paid, and, in fact, the regulations under this bill for individual filing for a U.S. patent application, interested in international filings, would be very susbtantially reduced, so that really one filing process would be sufficient rather than a series of duplicative processes.

Mr. MILLER of Ohio. When an American citizen files for a patent that application would indicate exactly the technology that they were covering. Would this mean that we would then give that information to other people in other countries?

We perhaps have the highest amount of patent applications filed for, right in this country, and we are moving along fast in new technologies. Will this, in turn, turn over our corporate and our individual ideas to people in other countries and create additional foreign competition because of that?

Mr. KASTENMEIER. The gentleman from Ohio has a very good question. I am not an expert in patent law but I would say to the gentleman that the United States has three reservations under the treaty. One of them has to do with publication, that is international publication. I think that goes to the gentleman's question. Presumably the purpose of that reservation is to withhold that sort of information that the original patent applicant desires to withhold. We have reserved this under the treaty. In other words, present American substantive law in that regard is not changed.

Mr. MILLER of Ohio. What about patents that would affect our international security, or our military? And some of those ideas are patented, would that automatically fall into the hands of all of the member nations?

Mr. KASTENMEIER. If the gentleman will yield further, I think the same answer applies, that is to say, this reveals nothing internationally which is not now revealed or is not now protected.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding.

I think section 17 of the bill is relevant to this in that every contracting State can take steps to preserve its own national security, and there are elaborate provisions made so that no secret thing developed in the interest of national security need be revealed to any foreign power.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

Mr. RAILSBACK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the Senate bill S. 24.

The question was taken.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentleman from Ohio withdraw his point of order of no quorum?

Mr. LATTA. I do, Mr. Speaker.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debat has been concluded on all motions t suspend the rules.

Pursuant to clause 3, rule XXVII, th

IMPLEMENTING PATENT COOPERATION TREATY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 24.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the Senate bill S. 24.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. Two hundred seventy-five Members are present, a quorum.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 349, nays 5, answered "present" 1, not voting 78, as follows:

[Roll No. 661]

YEAS—349

Abdnor	Archer	Baucus
Adams	Armstrong	Bauman
Alexander	Ashbrook	Beard, R.I.
Ambro	Ashley	Beard, Tenn.
Anderson, Calif.	Aspin	Bedell
	AuCoin	Bennett
Anderson, Ill.	Badillo	Bergland
Andrews, N. Dak.	Bafalis	Bevill
	Baldus	Biester

Bingham	Hall	Moorhead, Calif.
Blanchard	Hamilton	Moorhead, Pa.
Blouin	Hammer-schmidt	Mosher
Boggs	Hanley	Moss
Bolling	Hannaford	Myers, Ind.
Bowen	Hansen	Myers, Pa.
Brademas	Harris	Natcher
Breaux	Harsha	Neal
Breckinridge	Hastings	Nedzi
Brinkley	Hawkins	Nichols
Brooks	Hayes, Ind.	Nowak
Broomfield	Hays, Ohio	Oberstar
Brown, Calif.	Hechler, W. Va.	Obey
Brown, Mich.	Heckler, Mass.	O'Brien
Brown, Ohio	Hefner	O'Hara
Broyhill	Heinz	Ottinger
Buchanan	Henderson	Passman
Burgener	Hicks	Patman, Tex.
Burke, Calif.	Hightower	Patterson, Calif.
Burke, Mass.	Hillis	Pattison, N.Y.
Burleson, Tex.	Hinshaw	Pepper
Burlison, Mo.	Holland	Pettis
Burton, John	Holt	Pike
Burton, Phillip	Horton	Poage
Butler	Howard	Pressler
Byron	Howe	Preyer
Carr	Hubbard	Price
Carter	Hughes	Pritchard
Casey	Hungate	Quie
Cederberg	Hutchinson	Quillen
Chappell	Hyde	Railsback
Clancy	Ichord	Randall
Clausen, Don H.	Jacobs	Rangel
Clawson, Del	Jeffords	Rees
Clay	Jenrette	Regula
Cochran	Johnson, Calif.	Reuss
Cohen	Johnson, Colo.	Rhodes
Collins, Ill.	Johnson, Pa.	Riegle
Collins, Tex.	Jones, Ala.	Rinaldo
Conable	Jones, N.C.	Roberts
Conlan	Jones, Okla.	Robinson
Conte	Jones, Tenn.	Rodino
Cornell	Jordan	Roe
Crane	Karth	Rogers
D'Amours	Kasten	Roncalio
Daniel, Dan	Kastenmeier	Rooney
Daniel, R. W.	Kazen	Roush
Daniels, N.J.	Kelly	Roybal
Danielson	Kemp	Runnels
Davis	Ketchum	Russo
de la Garza	Keys	Ryan
Delaney	Kindness	St Germain
Dellums	Krebs	Santini
Derrick	Krueger	Sarasin
Derwinski	LaFalce	Sarbanes
Devine	Lagomarsino	Schneebeli
Dickinson	Landrum	Schroeder
Diggs	Leggett	Schulze
Dingell	Lehman	Sebelius
Dodd	Levitas	Selberling
Downey, N.Y.	Lloyd, Calif.	Sharp
Downing, Va.	Lloyd, Tenn.	Shipley
Drinan	Long, La.	Shriver
Duncan, Oreg.	Long, Md.	Sikes
Duncan, Tenn.	Lott	Simon
du Pont	Lujan	Sisk
Eckhardt	McClory	Skubitz
Edgar	McCloskey	Slack
Edwards, Ala.	McCollister	Smith, Nebr.
Edwards, Calif.	McCormack	Solarz
Emery	McDade	Spellman
English	McDonald	Spence
Erlenborn	McFall	Staggers
Evans, Colo.	McHugh	Stanton, J. William
Evans, Ind.	McKay	Stark
Evins, Tenn.	McKinney	Steed
Fascell	Macdonald	Steiger, Ariz.
Fenwick	Madden	Steiger, Wis.
Findley	Madigan	Stephens
Fisher	Maguire	Stokes
Fithian	Mahon	Stratton
Florio	Mann	Studds
Flynt	Martin	Sullivan
Foley	Mathis	Symington
Ford, Mich.	Matsunaga	Talcott
Ford, Tenn.	Meeds	Taylor, Mo.
Forsythe	Metcalfe	Taylor, N.C.
Frenzel	Meyner	Thompson
Fuqua	Mezvinsky	Thone
Gaydos	Michel	Thornton
Giaimo	Mikva	Traxler
Gibbons	Miller, Calif.	Treen
Gilman	Mills	Tsongas
Ginn	Mineta	Udall
Goldwater	Minish	Van Deerlin
Goodling	Mink	Vander Jagt
Gradison	Mitchell, Md.	Vander Veen
Grassley	Mitchell, N.Y.	Vanik
Green	Moakley	Vigorito
Gude	Moffett	Waggonner
Guyer	Mollohan	Wampler
Hagedorn	Montgomery	Watkins
Haley	Moore	Waxman
		Weaver
		Whalen
		White
		Whitehurst
		Wiggins
		Wilson, Bob
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wirth
		Wright
		Wylie
		Yates
		Young, Alaska
		Young, Tex.
		Zablocki

NAYS—5

Gonzalez	Miller, Ohio	Young, Fla.
Latta	Symms	

ANSWERED "PRESENT"—1

Nolan

NOT VOTING—78

Abzug	Fountain	Richmond
Addabbo	Fraser	Risenhoover
Andrews, N.C.	Frey	Rose
Annunzio	Harkin	Rosenthal
Barrett	Harrington	Rostenkowski
Bell	Hébert	Rousselot
Biaggi	Helstoski	Ruppe
Boland	Holtzman	Satterfield
Bonker	Jarman	Scheuer
Brodhead	Koch	Shuster
Burke, Fla.	Lent	Smith, Iowa
Carney	Litton	Snyder
Chisholm	McEwen	Stanton, James V.
Cleveland	Mazzoli	Steelman
Conyers	Melcher	Stuckey
Corman	Milford	Teague
Cotter	Morgan	Ullman
Coughlin	Mottl	Walsh
Dent	Murphy, Ill.	Whitten
Early	Murphy, N.Y.	Wolff
Eilberg	Murtha	Wydler
Esch	Nix	Yatron
Eshleman	O'Neill	Young, Ga.
Fary	Patten, N.J.	Zeferetti
Fish	Perkins	
Flood	Peyser	
Flowers	Pickle	

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Early.
Mr. Addabbo with Mr. Flowers.
Mr. Hébert with Mr. Fraser.
Mr. Zeferetti with Mr. Litton.
Mr. Eilberg with Mr. Richmond.
Mr. Patten with Mr. Scheuer.
Mr. Fountain with Mr. Smith of Iowa.
Mr. Barrett with Mr. Whitten.
Mr. Biaggi with Mr. Yatron.
Mr. Cotter with Mr. Eshleman.
Mr. Murphy of New York with Mr. Esch.
Mr. Mottl with Mr. Bell.
Mr. Morgan with Mr. Rousselot.
Mr. Murtha with Mr. Andrews of North Carolina.
Mr. Nix with Mr. Ruppe.
Mr. Boland with Mr. Lent.
Mr. Rosenthal with Mr. Ullman.
Mr. Rostenkowski with Mr. Fish.
Mr. James V. Stanton with Mr. Burke of Florida.
Mr. Mazzoli with Mr. Shuster.
Mr. Koch with Mr. Stuckey.
Ms. Holtzman with Mr. Milford.
Mr. Flood with Mr. Cleveland.
Mr. Melcher with Mr. McEwen.
Mr. Carney with Mr. Snyder.
Mr. Conyers with Mr. Harkin.
Mr. Dent with Mr. Frey.
Mr. Harrington with Mr. Coughlin.
Mr. Rose with Mr. Walsh.
Mr. Brodhead with Mr. Wydler.
Mr. Corman with Mr. Young of Georgia.
Mr. Fary with Mr. Jarman.
Ms. Abzug with Mr. Helstoski.
Mr. Murphy of Illinois with Mr. Wolff.
Mrs. Chisholm with Mr. Bonker.
Mr. Pickle with Mr. Peyser.
Mr. Teague with Mr. Satterfield.
Mr. Risenhoover with Mr. Steelman.

Mrs. SMITH of Nebraska, Mr. ASHLEY, and Mrs. FENWICK changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.