OISS FORM 51 (12/80)

CONGRESSIONAL RECORD
PROCEEDINGS AND DEBATES OF THE 97TH CONGRESS

SENATE

BILL	DATE	PAGE(S)
H.R. 6260	Aug. 12, 1982	S10293-94

Action:

Passed

AUTHORIZATION OF APPROPRIATIONS TO THE PATENT AND TRADEMARK OFFICE

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6260, which is the accompanying bill to the budget resolution just adopted.

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

The assistant legislative clerk read as follows:

A bill (H.R. 6260) to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, 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.

Mr. WEICKER. Mr. President, I am pleased that the Senate is today considering H.R. 6260, a bill to amend Public Law 96-517, the University and Small Business Patent Procedures Act. This is the House-passed version of S. 2326, which I introduced 3 months ago with Senators THURMOND, DECONCINI, HATCH, and KENNEDY.

S. 2326 was originally introduced as a substitute to S. 2211, the administration's proposed amendment to Public Law 96-517, which would have required all recipients of U.S. patents to pay 100 percent of the cost of patent user fees to be set by the Patent Commissioner.

While I generally support the concept of user fees in this time of budgetary restraint, as a way of making the Patent and Trademark Office (PTO) more self-sufficient, I am concerned that the 100-percent recovery fees being proposed by the administration would have a strong chilling effect on those who have been demonstrated to be the most innovative, job producing, sector of our economy—small businesses and independent inventors.

Under the administration's proposal, all patent recipients would be required to pay a minimum of $800 in filing and issuance fees, and a minimum of $2,400 in maintenance fees. While these costs are not likely to pose a significant financial burden for large firms, they could discourage small businesses and independent inventors from applying for patents.

Mr. President, we cannot allow this to happen. It is a well-known fact that small businesses account for a far greater number of inventions and innovations than do large firms. Moreover, small firms have been shown to have a faster growth rate, to create more jobs, and to create them more rapidly, and to contribute substantially more to the U.S. economy in terms of taxes paid.

Imposing the kind of user fees proposed by the administration could be just the thing to bring the innovative sector of this marvelous small business economic engine to a halt. And I do not need to tell any of you who have been reading the business pages that this is not the time to present any sector of the small business community with more hurdles to surmount.

On the contrary, this is the time when we should be doing everything in our power to encourage the development of new ideas and small innovative businesses.

S. 2326, the bill which we are considering today in the amended version of H.R. 6260, was designed to recognize the particular economic needs and circumstances of innovative small businesses, as well as those of universities and independent inventors.

Mr. President, I do not believe the right to protect the exclusivity of an idea should be determined solely by the ability to pay. My bill would allow small businesses and inventors to continue to exercise their full innovative capacity, while at the same time allowing them the uncontestable right of ownership of their ideas. That right, as well as the overall state of innovation in this country, would be seriously jeopardized, in my opinion, if small firms and independent inventors were required to pay fees at the 100-percent level.

My bill would establish a two-tier system for the payment of patent user fees. Simply stated, it requires that large firms pay at the 100-percent level, while smaller firms, independent inventors, and nonprofit organizations would pay at a 50-percent level.

I believe this two-tier approach is both reasonable and feasible. In fact, I have been assured by the PTO that no undue difficulty in administering such a system is anticipated.

The House Judiciary Committee incorporated the main provisions of S. 2326 in H.R. 6260 and added a section permitting arbitration of patent disputes when agreeable to both parties involved in the controversy. In addition, while the Senate measure would have allowed one consumer price indexing adjustment of the fees specified in the bill, H.R. 6260, makes such adjustments automatic every 3 years. The House version was unanimously approved by the House Judiciary Committee on May 11 and passed the full House by a voice vote on June 8.

H.R. 6260, the amended version of S. 2326, is a good bill and I strongly urge the Senate to adopt it.

I should like to take this opportunity to thank my colleagues, Senators THURMOND, DECONCINI, HATCH, and KENNEDY for their help in promoting this legislation.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.