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H.R.3531	Nov 25, 1991 (176)	H11254-57

4. Action:

Patent and Trademark Office authorization: Passed H.R. 3531, amended, to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992;

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PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3531) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3531

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Trademark Office Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Patent and Trademark Office for fiscal year 1992—

(1) $95,000,000 for salaries and necessary expenses, which shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund established under section 10101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508);

(2) such sums as are equal to the amount collected during that year from fees under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following); and

(3) $24,000,000 for administrative, capital, or other expenditures not provided for under paragraphs (1) and (2).

(b) AMENDMENTS TO BUDGET RECONCILIATION ACT.—Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "of 69 percent, rounded by standard arithmetic rules,"; and

(B) by inserting before the period ", in order to ensure that the amounts specified in subsection (c) are collected".

(2) Subsection (b)(1)(B) is amended by inserting "of these surcharges," after "(B)".

(3) Subsection (c) is amended—

(A) by striking "REVISIONS" and inserting "ESTABLISHMENT OF SURCHARGES"; and

(B) by striking "surcharges" and all that follows through "Trademarks" and inserting "the Commissioner of Patents and Trademarks shall establish surcharges under subsection (a)".

(c) WAIVER OF CERTAIN RESTRICTIONS.—Surcharges established for fiscal year 1992 under section 10101(c) of the Omnibus Budget Reconciliation Act of 1990 may take effect on or after 1 day after such surcharges are published in the Federal Register. Section 553 of title 5, United States Code, shall not apply to the establishment of such surcharges for fiscal year 1992.

SEC. 3. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act may remain available until expended.

SEC. 4. OVERSIGHT OF PATENT AND TRADEMARK FEES.

Section 42 of title 35, United States Code, is amended by adding at the end the following:

"(e) The Secretary of Commerce shall, on the day each year on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

"(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

"(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

"(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

"(4) any proposed disposition of surplus fees by the Office; and

"(5) such other information as the committees consider necessary.".

SEC. 5. PATENT AND TRADEMARK FEES.

"(a) FEE SCHEDULES.—(1) Section 41(a) of title 35, United States Code, is amended to read as follows:

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

"(1)(A) On filing each application for an original patent, except in design or plant cases, $500.

"(B) In addition, on filing or on presentation at any other time, $52 for each claim in independent form which is in excess of 3, $14 for each claim (whether independent or dependent) which is in excess of 20, and $160 for each application containing a multiple dependent claim.

"(2) For issuing each original or reissue patent, except in design or plant cases, $820.

"(3) In design and plant cases—

"(A) on filing each design application, $200;

"(B) on filing each plant application, $330;

"(C) on issuing each design patent, $290; and

"(D) on issuing each plant patent, $410.

"(4)(A) On filing each application for the reissue of a patent, $500.

"(B) In addition, on filing or on presentation at any other time, $52 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $14 for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.

"(5) On filing each disclaimer, $78.

"(6)(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, $190.

"(B) In addition, on filing a brief in support of the appeal, $190, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, $160.

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, $820, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $78.

"(8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application—

"(A) on filing a first petition, $78;

"(B) on filing a second petition, $172; and

"(C) on filing a third petition or subsequent petition, $340.

"(9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, $450.

"(10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, $500.

"(11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, $670.

"(12) Basic national fee for an international application where the international preliminary examination has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33(2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, $166.

"(13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, $52.

"(14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, $14.

"(15) For each national stage of an international application containing a multiple dependent claim, $160.

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.".

(2) Subsection (b) of section 41 of title 35, United States Code, is amended by striking "a patent in force" and all that follows through the end of paragraph 3, and inserting the following: "in force all patents based on applications filed on or after December 12, 1980:

"(1) 3 years and 6 months after grant, $650.

"(2) 7 years and 6 months after grant, $1,310.

"(3) 11 years and 6 months after grant, $1,980.".

(3) Subsection (d) of section 41 of title 35, United States Code, is amended to read as follows:

"(d) The Commissioner shall establish fees for all other processing, services, or materials relating to patents not specified in this section to recover the estimated average cost to the Office of such processing, services, or materials, except that the Com-

missioner shall charge the following fees for the following services:

"(1) For recording a document affecting title, $40 per property.

"(2) For each photocopy, $.25 per page.

"(3) For each black and white copy of a patent, $3. The yearly fee for providing a library specified in section 13 of this title with uncertified printed copies of the specifications and drawings for all patents in that year shall be $50.".

(b) AUTHORITY TO INCREASE FEES.—Section 41(f) of title 35, United States Code, is amended by striking "on October 1, 1985, and every third year thereafter, to reflect any fluctuations occurring during the previous three years" and inserting "on October 1, 1992, and every year thereafter, to reflect any fluctuations occurring during the previous 12 months".

(c) NOTICE OF FEES.—(1) Section 41(g) of title 35, United States Code, is amended to read as follows:

"(g) No fee established by the Commissioner under this section shall take effect until at least 30 days after notice of the fee has been published in the Federal Register and in the Official Gazette of the Patent and Trademark Office.".

(2) Fees established by the Commissioner of Patents and Trademarks under section 41(d) of title 35, United States Code, during fiscal year 1992 may take effect on or after 1 day after such fees are published in the Federal Register. Section 41(g) of title 35, United States Code, and section 553 of title 5, United States Code, shall not apply to the establishment of such fees during fiscal year 1992.

(d) PATENT AND TRADEMARK COLLECTIONS; PUBLIC ACCESS.—(1) Section 41 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Commissioner shall maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees directly for the use of such collections, or for the use of the public patent or trademark search rooms or libraries.

"(2) The Commissioner shall provide for the full deployment of the automated search systems of the Patent and Trademark Office so that such systems are available for use by the public, and shall assure full access by the public to, and dissemination of, patent and trademark information, using a variety of automated methods, including electronic bulletin boards and remote access by users to mass storage and retrieval systems.

"(3) The Commissioner may establish reasonable fees for access by the public to the automated search systems of the Patent and Trademark Office. If such fees are established, a limited amount of free access shall be made available to users of the systems for purposes of education and training. The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such a waiver is in the public interest.

"(4) The Commissioner shall submit to the Congress an annual report on the automated search systems of the Patent and Trademark Office and the access by the public to such systems. The Commissioner shall also publish such report in the Federal Register. The Commissioner shall provide an opportunity for the submission of comments by interested persons on each such report.".

(2)(A) The section heading for section 41 of title 35, United States Code, is amended to read as follows:

"§ 41. Patent fees; patent and trademark search systems".

(B) The items in the table of sections at the beginning of chapter 4 of title 35, United States Code, are amended to read as follows:

"41. Patent fees; patent and trademark search systems.

"42. Patent and Trademark Office funding.".

(C) The chapter heading for chapter 4 of title 35, United States Code, is amended to read as follows:

CHAPTER 4—PATENT FEES; FUNDING; SEARCH SYSTEMS".

(D) The items relating to chapters 3 and 4 in the table of chapters for part I of title 35, United States Code, are amended to read as follows:

"3. Practice Before Patent and Trademark Office 31

"4. Patent Fees; Funding; Search Systems ..... 41".

(e) USE OF FEES.—Subsection 42(c) of title 35, United States Code, is amended to read as follows:

"(c) Revenues from fees shall be available to the commissioner to carry out, to the extent provided in appropriation Acts, the activities of the Patent and Trademark Office. Fees available to the Commissioner under section 31 of the Trademark Act of 1946 may be used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Patent and Trademark Office.".

(f) TRADEMARK FEES.—(1) Section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) is amended to read as follows:

"(a) The Commissioner shall establish fees for the filing and processing of an application for the registration of a trademark or other mark and for all other services performed by and materials furnished by the Patent and Trademark Office related to trademarks and other marks. Fees established under this subsection may be adjusted by the Commissioner once each year to reflect, in the aggregate, any fluctuations during the preceding 12 months in the Consumer Price Index, as determined by the Secretary of Labor. Changes of less than 1 percent may be ignored. No fee established under this section shall take effect until at least 30 days after notice of the fee has been published in the Federal Register and in the Official Gazette of the Patent and Trademark Office."

(2) Fees established by the Commissioner of Patents and Trademarks under section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) during fiscal year 1992—

(A) may, notwithstanding the second sentence of such section 31(a), reflect fluctuations during the preceding 3 years in the Consumer Price Index; and

(B) may take effect on or after 1 day after such fees are published in the Federal Register.

The last sentence of section 31(a) of the Trademark Act of 1946 and section 553 of title 5, United States Code, shall not apply to the establishment of such fees during fiscal year 1992.

(g) INTERNATIONAL APPLICATION FEES.—(1) Section 376 of title 35, United States Code, is amended—

(A) in subsection (a)—

(i) in the second sentence by inserting after "Office" the following: "shall charge a national fee as provided in section 41(a), and"; and

(ii) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(B) in subsection (b) in the last sentence by striking "the preliminary examination fee" and inserting "the national fee, the preliminary examination fee,".

(2) Section 371(c)(1) of title 35, United States Code, is amended by striking "prescribed under section 376(a)(4) of this part" and inserting "provided in section 41(a) of this title".

SEC. 6. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED.

The Commissioner of Patents and Trademarks may not, during fiscal year 1992, enter into any agreement for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data). The preceding sentence shall not apply to an agreement relating to data for automation programs which is entered into with a foreign government or with an international intergovernmental organization.

SEC. 7. INDEMNIFICATION OF EMPLOYEES.

The Commissioner of Patents and Trademarks is authorized to indemnify any officer or employee of the Patent and Trademark Office who participated in the Law School Tuition Assistance Program of the Patent and Trademark Office, against tax liability incurred as a result of payments made to law schools under the program in tax years 1988, 1989, and 1990.

SEC. 8. DUTIES OF COMMISSIONER.

Section 6(a) of title 35, United States code, is amended by striking "and shall have" and inserting ", including programs to recognize, identify, assess and forecast the technology of patented inventions and their utility to industry; and shall have".

SEC. 9. REPEAL OF PRIOR AUTHORIZATION ACTS.

Subsections (b) and (c) of section 104 of Public Law 100-703 are repealed.

SEC. 10. GAO REPORTING REQUIREMENT.

Section 202(b)(3) of title 35, United States Code, is amended by striking "each year" and inserting "every 5 years".

SEC. 11. PATENT INFORMATION DISSEMINATION.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "CD-ROMs" means compact discs formatted with read-only memory, including such discs that make use of advanced optical storage technology;

(2) the term "classified patent information" means patent information organized by the subject matter of the claimed invention according to the United States Patent Classification System or the classification system used by the country or authority that issues a patent;

(3) the term "Commissioner" means the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks; and

(4) the term "patent information" means a complete and exact facsimile of a patent or patent application, including the text and all images contained therein (such as drawings, diagrams, formulas, and tables).

(b) INFORMATION DISSEMINATION PROGRAM.—No later than January 1, 1992, the Commissioner shall establish a demonstration program which shall make patent information available in accordance with the provisions of this section, through October 1, 1992. The Commissioner shall produce master CD-ROMs containing classified patent information and provide copies of them to the public for purchase.

(c) INFORMATION TO BE DISSEMINATED.—The patent information that shall be dis-

seminated pursuant to this section shall be patent information in the possession of the Commissioner in computer readable form, including information on selected subclasses of United States patents, as determined by the Commissioner.

(d) FEES.—The Commissioner shall establish fees for the purchase of CD-ROMs, at a rate sufficient to recover the estimated average marginal cost of producing and processing purchase orders for copies of master CD-ROMs.

(e) REPORT.—On the date that is 1 year after the date of the enactment of this Act the Commissioner shall submit to Congress a report on the implementation of this section.

SEC. 12. DEFINITION.

For purposes of this Act, the "Trademark Act of 1946" refers to the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provision of certain international conventions, and for other purposes", approved July 5, 1945 (15 U.S.C. 1051 and following).

SEC. 13. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, except that the fees established by the amendment made by section 5(a) shall take effect on or after 1 day after such fees are published in the Federal Register.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

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

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

Mr. HUGHES. Mr. Speaker, H.R. 3531 authorizes the Patent and Trademark Office for a period of 1 year. The Patent and Trademark Office was last authorized in 1988, and that authorization expired on September 30, 1991. The Committee on the Judiciary favorably reported H.R. 3531, with minor amendments, and I urge my colleagues to support this legislation today.

The efficient and proper functioning of the Patent and Trademark Office is essential to maintain a strong intellectual property system in the United States. H.R. 3531 will assure that PTO has adequate funding for fiscal year 1992. At the same time, we have tried to keep patent and trademark fees as low as possible.

H.R. 3531 contains the following key features:

First, it retains the small entity fee structure to encourage innovation by America's independent inventors, small businesses, and university researchers.

Second, it sets new patent processing fees to reflect a Patent and Trademark Office operating budget of $426 million in fiscal year 1991.

Third, it limits authorization to 1 year so that the Congress can closely monitor progress in the automation system and other aspects of PTO operations.

Fourth, it retains the fence between trademark fees and other agency funds, but authorizes use of trademark fees to pay a proportion of PTO administrative costs.

Fifth, it increases patent and trademark fees across the board, and follows the mandate of the omnibus budget reconciliation to raise the targeted $95 million in deficit savings from a surcharge on user fees.

Finally, it authorizes $26 million in public funds, in an effort to restore partial public funding for PTO operations.

The bill contains two additional provisions to improve the dissemination of information to the public through the use of CD-ROMS and public education.

I am very grateful to the ranking minority member of my subcommittee the gentleman from California [Mr. MOORHEAD] for working with me to achieve the solution that we have reached today. I also thank the chairman and my colleagues on the Judiciary Committee for supporting this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from New Jersey [Mr. HUGHES] for yielding this time to me. I salute him for the bill, and of course I very strongly support it. I have enjoyed working with the gentleman for many years.

I have one question. I have a friend, Ralph Brick, who has practiced in the area of patent law.

Ralph has been sending me information over the last few months and probably over a few years in which he as a practitioner and a skilled person in that area feels that the Patent Office, both because of sometimes its archaic practices and because of the fee structures and because of the length of time it might take to get patents, really puts American businesses at somewhat of a disadvantage.

In the current Business Week—the gentleman may have seen it—there is a fairly long piece on this question of whether we are at a competitive disadvantage in America with our companies because of the Patent Office. I just want to ask the gentleman, who is the leader and expert in that field, does the gentleman, as part of his reauthorization hearings next year, intend to perhaps get into the question of competitiveness and advantage and disadvantage as the Patent Office is involved?

Mr. HUGHES. Mr. Speaker, the gentleman's constituent, Ralph, I think, probably has some legitimate criticism of the present process. We are trying to automate the system, as my colleague, who works with us very closely on intellectual property issues, knows. The turnaround time, the pendency time, is around 18 months. It is much higher than that on biotechnology applications. It is much too long. Automation will enable us to do a far better job.

We have tried to address a number of other problems that have been brought to our attention, such as the small fee entity, for instance. The universities turn out a great many inventions, as the gentleman knows, and that small fee entity enables them to do that. The gentleman is very closely allied with Notre Dame University, I know. That is important to them. We maintain that in this legislation. We try to keep the fees low. We have seen an escalation of fees in the last few years, and that does hurt a lot of our small inventors.

So we do have a lot of work to do, and we do intend to have oversight hearings in the next Congress on these and other issues.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield further.

Mr. HUGHES. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I will go back to the office and get the copy of the article and perhaps send it to the gentleman.0

My recollection, having scanned the article, was that essentially the Japanese function differently on the granting of patents and the whole patent process than we do, and the premise of the story, whether it is correct or not, is that this advantages Japanese companies in securing patents and perhaps protecting their patent process, and it concomitantly gives them an advantage over our companies.

I would ask the gentleman if part of his oversight hearings will deal with the subject of whether there is a competitive aspect to the patent process. We certainly want not to put our companies to any major disadvantage.

Mr. HUGHES. Mr. Speaker, both our colleague, the gentleman from California [Mr. MOORHEAD] and I are working with Carla Hills in connection with her negotiations in GATT, the General Agreement on Tariffs and Trade, to try to basically reach some accords. There is a lot of unfairness in many aspects of our international relationships. There is a tremendous disparity between our patent laws or our regime and the Japanese in many respects, as well as with the European Common Market and, I might say, Mexico, where we are developing the North American Free-Trade Agreement.

Patent harmonization is one of the goals really worldwide that we have so we can, in fact, protect the creators of American property, not just in this country but overseas. One of the great problems we have had as a country, as my colleague well knows, is that we have not always done the best we can do in protecting America's creativity. We have to do a far better job in the years ahead. That has been one of our strong points, and I can tell the gen-

tleman that is one of this subcommittee's main priorities. We look forward to working with the gentleman from Kentucky on this issue.

Mr. MAZZOLI. Mr. Speaker, if the gentleman will yield for just another moment, first, if there are two people in the world who could pull off the miracle of understanding the patent laws in a way that the whole issue can be harmonized, the gentleman from New Jersey and the gentleman from California are those two people.

Last but not least, if the gentleman does conduct hearings next year, I wonder if it would be possible for Mr. Brick to testify, or perhaps if not to give his personal testimony, perhaps his written testimony could be made a part of the record. If that could be accomplished, I would feel confident that it would add to our understanding.

Mr. HUGHES. Mr. Speaker, we would be very happy to work with our distinguished colleague, the gentleman from Kentucky [Mr. MAZZOLI] on that score.

Mr. Speaker, I reserve the balance of my time.

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

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

Mr. MOORHEAD. Mr. Speaker, I would like to commend our committee chairman for quickly bringing this legislation to the floor. I would also like to commend our subcommittee chairman and his staff for the good job they have done in developing the compromise for this important legislation. The Budget Reconciliation Act of last year delivered a bit of a shock to the Judiciary Committee and to the patent community by making the PTO almost entirely user-fee funded. The Budget Act also required a 69 percent increase in user fees to make up for the loss in taxpayer money. The PTO has made tremendous improvements over the last 6 or 7 years to a point where that office rivals any office in the world. Our task is to keep this office moving forward during this difficult financial period. I believe this legislation does that and urge a favorable vote.

Mr. Speaker, we have had to make a substantial adjustment over the past decade from a primarily taxpayer funded, outdated, declining patent system, to an almost 100 percent user-fee funded, updated, modernized, and effective patent system. Although, in the early eighties, I believe we did the right thing for the betterment of the system, it has not been easy. Users and practicers have resisted this evolution all the way. When, in the early eighties, we directed the PTO to modernize and computerize its 25 million documents and come into the 20th century, no body supported that directive. When we substantially increased the fees in the early eighties very few supported that directive.

But if we hadn't taken those steps a decade ago we would be so far behind the European and the Japanese Patent Offices we would never be able to catch up. But that's not the case today. Although we have our problems and we have plenty of work to do, I believe we are about to surpass all other patent offices, in the quality of patents issued. This turnaround was accomplished through the efforts of many people, including the private patent bar and other users of the system and also the House Judiciary Committee.

If we are to continue our progress and stay ahead of the European Patent Office and the Japanese Patent Office we must continue to move forward with automation. During the hearings on the authorization of the U.S. Patent and Trademark Office, some private sector witnesses stated that the Office's automation activities should be funded from taxpayer revenues, not user fees. When they were asked about what course of action to take if taxpayer funds were not available, a few witnesses responded that work on the automation projects, including deployment of the Automated Patent System and trademark system improvements, should be discontinued, or at least significantly curtailed. In essence, these individuals would elect short-term savings in fees charged by the Office instead of investing in automation systems that may increase efficiency, increase quality, and decrease costs in the long term.

I believe the committee strongly disagrees with this approach and believes that it is necessary to take advantage of the improved automated systems that are ready for deployment and to continue to invest in improvements. To this end the committee added a new subsection 2 to 35 U.S.C. 41. This subsection is intended to mandate the deployment of automated systems developed by the Office to the work force at the Office and to the public, and to require the Office to continue to develop improvements to these systems in this and future fiscal years.

The committee recognizes that taxpayer funds are not available to underwrite the costs of automating the Patent and Trademark Office and that user fees will have to be used. Furthermore, we are aware that the level of funding provided by this act will not enable the Office to accomplish as much as it requested or as much as some members of the public may want. It will, however, enable the Office to take significant steps forward. The committee does not intend to dictate which systems are deployed this fiscal year or in future fiscal years, or to dictate to whom the systems are deployed in any given fiscal year. Decisions such as these depend heavily on costs, technical capabilities, and the amount of fee income available at the time of deployment. As such, these decisions should remain with the Commissioner.

This does not mean that the committee will not carefully scrutinize the Office's automation program. We will review this program carefully during the authorization process next year and in following years. Furthermore, the chairman of our Subcommittee on Intellectual Property and the Administration of Justice and his counterpart in the other body have requested that the Government Accounting Office review the Office's automation efforts. The committee will carefully review their findings.

Mr. Speaker, I believe that we are coming close to achieving the goal we announced back in 1980 of making our patent system a model for the world. However, today we are at an important crossroads, as to whether to continue to move forward or do we stop or do we begin the slide backward? Mr. Speaker, I believe that with H.R. 3531 we are moving forward and I urge its adoption.

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

Mr. Speaker, before I yield back the balance of my time, I want to not only thank my colleague for his work on the Subcommittee on Intellectual Property and Judicial Administration issues in this session of Congress, but a very fine professional staff, both the majority staff and minority staff that worked well together in a bipartisan fashion. The work product that comes out of that subcommittee is outstanding because of the professionalism that inheres in our professional staff.

Mr. MOORHEAD. Mr. Speaker, I certainly second the comments about our staff. I think we have one of the finest staffs on the Hill. They do a remarkable job.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3531, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.