CONGRESSIONAL RECORD

103RD CONGRESS

SENATE

Bill	Date	Page(s)
H.R. 2632	Nov. 10, 1993	S15633-34

Action:

Patent and Trademark Authorization: Senate passed H.R. 2632, to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994, after agreeing to the following amendment proposed thereto:

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Ford (for Glenn) Amendment No. 1161, to extend a patent term for Olestra and the American Legion.

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PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 240, H.R. 2632, a bill to authorize appropriations for the Patent and Trademark Office.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2632) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. DECONCINI. Mr. President, I rise in support of H.R. 2632, the Patent and Trademark Office Authorization Act of 1993. H.R. 2632 authorizes appropria-

tions for the Patent and Trademark Office [PTO] for fiscal year 1994 and authorizes an increase in the trademark application fee.

The bill authorizes $103,000,000 in appropriations for PTO from the PTO surcharge fund created by section 10101 of the Omnibus Budget Reconciliation Act of 1990. PTO is a completely user fee funded agency and the bill authorizes the expenditure of all fees collected, subject to appropriations. I would like to inform the Congress at this time that I do intend to continue my pursuit of legislation to insure that the full amount of fees collected by the Office are available to the Office.

Trademark application fees will be increased $35, from $210 to $245. The Congressional Budget Office [CBO] estimates this will raise approximately $4 million for the Office. The PTO needs statutory authority for any fee increase over a cost-of-living increase. For many years the Trademark Office of the PTO operated at a surplus. However, a recent relocation of the trademark legal offices and the need to pay a percentage of office overhead justifies the need for this increase. The increase was worked out with interested individuals and associations, including the International Trademark Association, formerly the U.S. Trademark Association.

Senator GLENN is offering an amendment to this bill that would extend the patents for olestra and the design patents for the American Legion. The amendment is identical to legislation that passed the Senate by unanimous consent on July 14 (S. 409). The contents of this amendment have been thoroughly reviewed and debated for two Congresses. Over that time it has been the subject of three congressional hearings and a General Accounting Office report. Therefore, I urge the Senate to support the bill and the Glenn amendment.

AMENDMENT NO. 1161

(Purpose: To extend the terms of various patents and for other purposes)

Mr. FORD. Mr. President on behalf of Senator GLENN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. GLENN, proposes an amendment numbered 1161.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

SECTION 1. PATENT TERM EXTENSION FOR OLESTRA.

(a) IN GENERAL.—The terms of United States patents numbered 4,005,195, 4,005,196, and 4,034,083 (and any reissues of such patents) shall each be extended for a period beginning on the date of its expiration through December 31, 1997.

(b) POST-MARKET SURVEILLANCE.—The holders of the patents extended under this section shall, following the first permission for marketing olestra, undertake a post-market program that shall provide data regarding the influence of olestra-containing products upon the overall dietary intake of fats. Such data shall be subject to the usual standards of professional peer review. At the end of the study period, such data shall be submitted to the Food and Drug Administration for review. Such study data shall be in a format which shall be made available to Congress for public review. The requirements of this subsection shall not in any manner preempt the authority of the Food and Drug Administration to request and to receive any other information it determines necessary in the course of its ongoing regulatory activities.

SEC. 2. PATENT TERM EXTENSIONS FOR AMERICAN LEGION.

(a) BADGE OF AMERICAN LEGION.—The term of a certain design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(b) BADGE OF AMERICAN LEGION WOMEN'S AUXILIARY.—The term of a certain design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(c) BADGE OF SONS OF THE AMERICAN LEGION.—The term of a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

SEC. 3. INTERVENING RIGHTS.

The renewals and extensions of the patents under section 2 shall not result in infringement of any such patent on account of any use of the subject matter of the patent, or substantial preparation for such use, which began after the patent expired, but before the date of the enactment of this Act.

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1161) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

H.R. 2632

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 1993".

SEC. 2. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Patent and Trademark Office for salaries and necessary expenses the sum of $103,000,000 for fiscal year 1994, to 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 (35 U.S.C. note).

(b) FEES.—There are also authorized to be made available to the Patent and Trademark Office for fiscal year 1994, to the extent provided in advance in appropriation Acts, such sums as are equal to the amount collected during such fiscal year from fees under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following).

SEC. 3. AMOUNTS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated or made available pursuant to this Act may remain available until expended.

SEC. 4. ADJUSTMENT OF TRADEMARK FEES.

Effective on the date of the enactment of this Act, the fee under section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) for filing an application for the registration of a trademark shall be $245. Any adjustment of such fee under the second sentence of such section may not be effective before October 1, 1994.

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

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.