**Calendar No. 656**

99TH CONGRESS
2D SESSION

# H. R. 2434

**[Report No. 99–305]**

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IN THE SENATE OF THE UNITED STATES

JUNE 25 (legislative day, JUNE 3), 1985
Received; read twice and referred to the Committee on the Judiciary

MAY 20 (legislative day, MAY 19), 1986
Reported by Mr. THURMOND, with amendments
[Omit the part struck through and insert the part printed in italic]

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# AN ACT

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes.

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

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS.**

(a) PURPOSES AND AMOUNTS.—There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $101,631,000 for fiscal year 1986, $110,400,000 for

fiscal year 1987, and $111,900,000 for fiscal year 1988; and

(2) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(b) REDUCTION OF PATENT FEES.—Amounts appropriated under subsection (a)~~(1)~~ shall be used to reduce by 50 per centum each fee paid *on or after October 1, 1985,* under section 41(a) or 41(b) of title 35, United States Code, by—

(1) an independent inventor or nonprofit organization as defined in regulations prescribed by the Commissioner of Patents and Trademarks, or

(2) a small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

**SEC. 2. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.**

Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following) may remain available until expended.

**SEC. 3. *OVERSIGHT AND* INCREASES OF TRADEMARK AND CERTAIN PATENT FEES ~~PROHIBITED~~.**

(a) TRADEMARK FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1986, 1987, and 1988, increase fees established under section 31 of the

Trademark Act of 1946 (15 U.S.C. 1113) except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

(b) PATENT FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1986, 1987, and 1988, increase fees established under section 41(d) of title 35, United States Code, except for purposes of making adjustments ~~as described in section 41(f) of such title.~~ *which in the aggregate do not exceed fluctuations during the previous 3 years in the Consumer Price Index, as determined by the Secretary of Labor.* The Commissioner also may not establish additional fees under such section during such fiscal years.

*(c) REPORT TO CONGRESS.—The Commissioner of the Patent and Trademark Office shall, at the time of the President's annual budget submission to the Congress, provide the Committees on the Judiciary of the Senate and the House of Representatives a list of patent fee collections; a list of activities supported by patent fee expenditures, trademark fee expenditures, and appropriations; significant planning assumptions including out-year funding estimates, and any proposed*

*disposition of surplus fees as well as any other information the Committees deem necessary.*

**SEC. 4. FEES FOR USE OF SEARCH ROOMS AND LIBRARIES PROHIBITED.**

The Commissioner of Patents and Trademarks may not impose a fee for use of public patent or trademark search rooms and libraries. The costs of such rooms and libraries shall come from amounts appropriated by Congress.

~~**SEC. 5. USE OF PATENT AND TRADEMARK FEES PROHIBITED FOR PROCUREMENT OF AUTOMATIC DATA PROCESSING RESOURCES.**~~

~~Fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) and section 41 of title 35, United States Code, may not be used during fiscal years 1986, 1987, and 1988 to procure by purchase, lease, transfer, or otherwise automatic data processing resources (including hardware, software and related services, and machine readable data) for the Patent and Trademark Office.~~

***SEC. 5. CONGRESSIONAL REVIEW OF PROPOSED PURCHASE OF AUTOMATED DATA PROCESSING SYSTEMS.***

*(a)(1) SUBMISSION OF AUTOMATION PLAN.—The Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the Senate and the House of Representatives the revised master automation plan (including a detailed cost benefit analysis), approved by the Secre-*

*tary of Commerce and the Director of the Office of Management and Budget, by February 28, 1986. Such revised plan shall specify the key deployment decision to be made in implementing the plan, as well as such other information as the appropriate Committees may deem necessary.*

*(2) REPORT BY COMMISSIONER.—The Commissioner shall report to the Committees on the Judiciary of the Senate and the House of Representatives, at least 90 calendar days in advance of the date of implementation of each key deployment decision provided for the revised master automation plan. Each pre-deployment decision shall be approved by the Department of Commerce's designated Senior Official for Information Resources Management prior to submission. Reports of such decisions shall include the cost and method of financing the deployment decision proposed to be implemented including, where appropriate, a comparison with the cost benefit analysis contained in the revised automation master plan, as well as such other information as the committees may consider necessary to carry out such oversight authority.*

*(b) PROHIBITIONS ON NEW OBLIGATIONS.—The Patent and Trademark Office may not enter into any new contract nor obligate any funds to implement a key deployment decision involving automated data processing systems as specified in subsection (a) prior to the expiration of the 90*

*calendar days following the submission of each of the applicable reports required in such subsection.*

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

The Commissioner of Patents and Trademarks may not *enter into new agreements 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) during fiscal years 1986, 1987, and 1988, *nor continue existing agreements for the exchange of such items or services after April 1, 1987.* This section shall not apply to any agreement relating to data for automation programs entered into with a foreign government or with ~~a bilateral or~~ *an* international intergovernmental organization.

Passed the House of Representatives June 24, 1985.

Attest: BENJAMIN J. GUTHRIE,

*Clerk.*

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