100TH CONGRESS
2D SESSION

H. R. 4972

IN THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 26), 1988
Received

OCTOBER 6, 1988
Read twice and referred to the Committee on the Judiciary

OCTOBER 14 (legislative day, OCTOBER 12), 1988
Committee discharged

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

There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $117,504,000 for fiscal year 1989, $125,210,000 for fiscal year 1990, and $111,984,000 for fiscal year 1991, 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

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 OF AND ADJUSTMENTS TO TRADEMARK AND PATENT FEES

(a) TRADEMARK FEES —The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, 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 1989, 1990, and 1991, increase fees established under section 41(d) of title 35, United States Code, 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

(c) REPORT TO CONGRESS —The Secretary of Commerce shall, on the day 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 4 PUBLIC ACCESS TO PATENT AND TRADEMARK OFFICE INFORMATION

(a) REPEAL.—Section 4 of Public Law 99–607 (35 U.S C 41 note) is repealed

(b) MAINTENANCE OF COLLECTIONS —The Commissioner of Patents and Trademarks 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 for use of such collections, or for use of public patent or trademark search rooms or libraries Funds appropriated to the Patent and Trademark Office shall be used to maintain such collections, search rooms, and libraries

(c) FEES FOR ACCESS TO SEARCH SYSTEMS.—Subject to section 5(a), the Commissioner of Patents and Trademarks may establish reasonable fees for access by the public to automated search systems of the Patent and Trademark Office in accordance with section 41 of title 35, United States Code, and section 31 of the Trademark Act of 1946 (15 U.S C 1113) If such fees are established, a limited amount of free access shall be made available to all 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 waiver is in the public interest

SEC 5 FUNDING OF AUTOMATED DATA PROCESSING RESOURCES

(a) ALLOCATIONS —Of amounts available to the Patent and Trademark Office for automatic data processing resources for fiscal years 1989, 1990, and 1991, not more than 30 percent of such amounts in each such fiscal year may be from 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. The Commissioner of Patents and Trademarks shall notify the Committees on the Judiciary of the Senate and the House of Representatives of any proposed reprogrammings which would increase or decrease the amount of appropriations expended for automatic data processing resources.

(b) USE OF REVENUES BY PATENT AND TRADEMARK OFFICE —Except as otherwise specifically provided in this Act, Public Law 99-607, and section 42(c) of title 35, United States Code, the Patent and Trademark Office is authorized to use appropriated or apportioned fee revenues for any of its operations or activities

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

The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, enter into any agreement for the exchange of items or services (as author-

ized 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), and the Commissioner may not, on or after the date of the enactment of this Act, continue existing agreements for the exchange of such items or services 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

Passed the House of Representatives October 5, 1988

Attest DONNALD K ANDERSON,

Clerk