98TH CONGRESS
1ST SESSION

S. 1538

To amend the patent laws of the United States.

IN THE SENATE OF THE UNITED STATES

JUNE 23 (legislative day, JUNE 20), 1983

Mr. MATHIAS (for himself and Mr. DOLE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To amend the patent laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Patent Law Amendments of 1983".

SEC. 2. (a) Chapter 14 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 156. Issuance of patents without examination.

"(a) Notwithstanding any other provisions of this title, the Commissioner is authorized to issue a patent on an invention without the examination required by sections 131 and 132 of this title, except as may be required to conduct an

interference proceeding, to determine compliance with section 112 of this title, or to review for formalities required for printing, if the applicant—

"(1) waives all remedies with respect to the patent and any reissue thereof, arising under sections 183 and 271 through 289 of this title and under any other provision of Federal law, within such time as the Commissioner specifies, and

"(2) pays fees, which may be less than those specified in section 41 of this title, established by the Commissioner for the filing and issuance of such a patent.

"(b) The waiver under this section shall take effect upon issuance of the patent. No maintenance fees shall be required with respect to patents issued under this section.".

(b) The analysis for chapter 14 of title 35, United States Code, is amended by adding at the end the following:

"156. Issuance of patents without examination.".

SEC. 3. Section 134 of title 35, United States Code, is amended by striking out "primary".

SEC. 4. Section 151 of title 35, United States Code, is amended—

(1) by amending the second sentence in the first paragraph to read as follows: "The notice shall specify

the issue fee which shall be paid within three months thereafter, or within such shorter time, not less than one month, as fixed by the Commissioner in such notice."; and

(2) by striking out the third paragraph.

SEC. 5. Section 361(d) of title 35, United States Code, is amended by inserting "or within one month thereafter" after "application" in the first sentence.

SEC. 6. Section 366 of title 35, United States Code, is amended—

(1) by inserting "after the date of withdrawal," after "effect";

(2) by inserting ", unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal" before the period at the end of the first sentence; and

(3) by inserting "withdrawn" after "such" in the second sentence.

SEC. 7. (a) Section 371(a) of title 35, United States Code, is amended by—

(1) striking out "is" and inserting in lieu thereof "may be"; and

(2) striking out ", except those filed in the Patent Office".

(b) Section 371(b) of title 35, United States Code, is amended to read as follows:

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) of the treaty.".

(c) Section 371(c)(2) of title 35, United States Code, is amended by—

(1) striking out "received from" and inserting in lieu thereof "communicated by"; and

(2) striking out "verified" before "translation".

(d) Section 371(d) of title 35, United States Code, is amended to read as follows:

"(d) The requirements with respect to the national fee referred to in subsection (c)(1), the translation referred to in subsection (c)(2), and the oath or declaration referred to in subsection (c)(4) of this section shall be complied with by the commencement of the national stage or by such later time as may be fixed by the Commissioner. The copy of the international application referred to in subsection (c)(2) shall be submitted by the commencement of the national stage. Failure to comply with these requirements shall be regarded as abandonment of the application by the parties thereof, unless it be shown to the satisfaction of the Commissioner that such fail-

ure to comply was unavoidable. The payment of a surcharge may be required as a condition for accepting the national fee referred to in subsection (c)(1) or the oath or declaration referred to in subsection (c)(4) of this section if these requirements are not met by the commencement of the national stage. The requirements of subsection (c)(3) of this section shall be complied with by the commencement of the national stage, and failure to do so shall be regarded as a cancellation of the amendments to the claims in the international application made under article 19 of the treaty.".

SEC. 8. (a) Section 372(b) of title 35, United States Code, is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(2) inserting at the end thereof the following:

"(3) the Commissioner may require a verification of the translation of the international application or any other document pertaining thereto if the application or other document was filed in a language other than English.".

(b) Section 372 of title 35, United States Code, is amended by deleting subsection (c).

SEC. 9. Section 376(a) of title 35, United States Code, is amended by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5).

SEC. 10. Title 35, United States Code, is amended by striking out "Patent Office" each place it appears and inserting in its place "Patent and Trademark Office".

SEC. 11. Notwithstanding section 2 of Public Law 96-517, no fee shall be collected for maintaining a plant patent in force.

SEC. 12. (a) Sections 10 and 11 of this Act shall take effect upon the date of enactment.

(b) Sections 1 through 9 of this Act shall take effect six months after the date of enactment.

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