

110TH CONGRESS
1ST SESSION

H. R. 1778

To amend title 35, United States Code, to allow the Director of the United States Patent and Trademark Office to accept late filings in certain cases of unintentional delay.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2007

Mr. DELAHUNT (for himself, Mr. DUNCAN, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 35, United States Code, to allow the Director of the United States Patent and Trademark Office to accept late filings in certain cases of unintentional delay.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AUTHORITY OF DIRECTOR OF PTO TO ACCEPT**
4 **LATE FILINGS.**

5 (a) **AUTHORITY.**—Section 2 of title 35, United States
6 Code, is amended by adding at the end the following new
7 subsection:

8 “(e) **DISCRETION TO ACCEPT LATE FILINGS IN CER-**
9 **TAIN CASES OF UNINTENTIONAL DELAY.**—

1 “(1) IN GENERAL.—The Director may accept
2 any application or other filing made by—

3 “(A) an applicant for, or owner of, a pat-
4 ent after the applicable deadline set forth in
5 this title with respect to the application or pat-
6 ent, or

7 “(B) an applicant for, or owner of, a mark
8 after the applicable deadline under the Trade-
9 mark Act of 1946 with respect to the registra-
10 tion or other filing of the mark,

11 to the extent that the Director considers appro-
12 priate, if the applicant or owner files a petition with-
13 in 30 days after such deadline showing, to the satis-
14 faction of the Director, that the delay was uninten-
15 tional.

16 “(2) TREATMENT OF DIRECTOR’S ACTIONS ON
17 PETITION.—If the Director has not made a deter-
18 mination on a petition filed under paragraph (1)
19 within 60 days after the date on which the petition
20 is filed, the petition shall be deemed to be denied. A
21 decision by the Director not to exercise, or a failure
22 to exercise, the discretion provided by this subsection
23 shall not be subject to judicial review.

24 “(3) OTHER PROVISIONS NOT AFFECTED.—
25 This subsection shall not apply to any other provi-

1 sion of this title, or to any provision of the Trade-
2 mark Act of 1946, that authorizes the Director to
3 accept, under certain circumstances, applications or
4 other filings made after a statutory deadline or to
5 statutory deadlines that are required by reason of
6 the obligations of the United States under any trea-
7 ty.

8 “(4) DEFINITION.—For purposes of this sub-
9 section, the ‘Trademark Act of 1946’ refers to the
10 Act entitled ‘An Act to provide for the registration
11 and protection of trademarks used in commerce, to
12 carry out the provisions of certain international con-
13 ventions, and for other purposes.’, approved July 5,
14 1946 (15 U.S.C. 1051 et seq.).”.

15 (b) APPLICABILITY.—

16 (1) IN GENERAL.—The amendment made by
17 subsection (a) shall apply to any application or other
18 filing—

19 (A) that is made on or after the date of
20 the enactment of this Act; or

21 (B) that, on such date of enactment, is
22 pending before the Director or is subject to ju-
23 dicial review.

24 (2) TREATMENT OF PENDING APPLICATIONS
25 AND FILINGS.—In the case of any application or fil-

1 ing described in paragraph (1)(B), the 30-day period
2 prescribed in section 2(e)(1) of title 35, United
3 States Code, as added by subsection (a) of this sec-
4 tion, shall be deemed to be the 30-day period begin-
5 ning on the date of the enactment of this Act.

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