

105TH CONGRESS
1ST SESSION

H. R. 812

To amend title 35, United States Code, to enable the Patent and Trademark Office to improve the integrity of the United States patent system and to further ensure the validity of United States patents, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1997

Mr. HUNTER (for himself, Mr. ROHRABACHER, and Mr. TRAFICANT) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 35, United States Code, to enable the Patent and Trademark Office to improve the integrity of the United States patent system and to further ensure the validity of United States patents, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Patent Sovereignty Act
5 of 1997”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) the quality of United States letters patent
2 is essential for preserving the technological lead and
3 economic well-being of the United States in the next
4 century;

5 (2) the quality of United States letters patent
6 is highly dependent upon the maintenance and the
7 comprehensiveness of patent examiners' search files;
8 and

9 (3) the quality of United States letters patent
10 is inextricably linked to the professionalism of patent
11 examiners and the quality of the training of patent
12 examiners.

13 **SEC. 3. SECURE PATENT EXAMINATION.**

14 Section 3 of title 35, United States Code, is amended
15 by adding at the end thereof the following:

16 “(f) All examination and search duties for the grant
17 of United States letters patent are sovereign functions
18 which shall be performed within the United States by
19 United States citizens who are employees of the United
20 States Government.”.

21 **SEC. 4. MAINTENANCE OF EXAMINERS' SEARCH FILES.**

22 Section 9 of title 35, United States Code, is amend-
23 ed—

24 (1) by striking “may revise and maintain” and
25 inserting “shall maintain and revise”; and

1 (2) by adding at the end thereof the following:
2 “United States letters patent, and all such other
3 patents and printed publications shall be maintained
4 in the examiners’ search files under the United
5 States Patent Classification System.”.

6 **SEC. 5. PATENT EXAMINER TRAINING.**

7 (a) IN GENERAL.—Chapter 1 of title 35, United
8 States Code, is amended by adding at the end the follow-
9 ing new section:

10 **“§ 15. Patent examiner training**

11 “(a) IN GENERAL.—All patent examiners shall spend
12 at least 5 percent of their duty time per annum in training
13 to maintain and develop the legal and technological skills
14 useful for patent examination.

15 “(b) TRAINERS OF EXAMINERS.—The Patent and
16 Trademark Office shall develop an incentive program to
17 retain as employees patent examiners of the primary ex-
18 aminer grade or higher who are eligible for retirement, for
19 the sole purpose of training patent examiners who have
20 not achieved the grade of primary examiner.”.

21 **SEC. 6. ADMINISTRATIVE MATTERS.**

22 (a) LIMITATIONS ON PERSONNEL.—Section 3(a) of
23 title 35, United States Code, is amended by adding at the
24 end thereof the following: “The Office shall not be subject
25 to any administratively or statutorily imposed limitation

1 on positions or personnel, and no positions or personnel
2 of the Office shall be taken into account for purposes of
3 applying any such limitation.”.

4 (b) RETENTION OF FEES.—(1) Section 255(g)(1)(A)
5 of the Balanced Budget and Emergency Deficit Control
6 Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by insert-
7 ing after the item relating to the National Credit Union
8 Administration, credit union share insurance fund, the fol-
9 lowing new item:

10 “Patent and Trademark Office”.

11 (2) Section 10101(b)(2)(B) of the Omnibus Budget
12 Reconciliation Act of 1990 (35 U.S.C. 41 note) is amend-
13 ed by striking “, to the extent provided in appropriation
14 Acts,” and inserting “without appropriation”.

15 (3) Section 42(e) of title 35, United States Code, is
16 amended by amending by striking first sentence and in-
17 serting the following: “Revenues from fees shall be avail-
18 able to the Commissioner to carry out the activities of the
19 Patent and Trademark Office, in such allocations as are
20 approved by Act of Congress. Such revenues shall not be
21 made available for any purpose other than that authorized
22 for the Patent and Trademark Office.”.

23 (c) COMPENSATION OF COMMISSIONER.—(1) Section
24 5314 of title 5, United States Code, is amended by adding
25 at the end the following:

1 “Under Secretary of Commerce and Commis-
2 sioner of Patents and Trademarks.”.

3 (2) Section 3(d) of title 35, United States Code, is
4 amended to read as follows:

5 “(d) The Commissioner of Patents and Trademarks
6 shall be an Under Secretary of Commerce.”.

7 (3) Section 5316 of title 5, United States Code, is
8 amended by striking “Commissioner of Patents, Depart-
9 ment of Commerce.”.

10 (d) USE OF FEES.—Section 42(c) of title 35, United
11 States Code, is amended by adding at the end thereof the
12 following: “All patent application fees collected under
13 paragraphs (1), (3)(A), (3)(B), and (4) through (8) of sec-
14 tion 41(a), and all other fees collected under section 41
15 for services or the extension of services to be provided by
16 patent examiners shall be used only for the pay and train-
17 ing of patent examiners.”.

18 (e) PUBLICATIONS.—Section 11 of title 35, United
19 States Code, is amended by adding at the end thereof the
20 following:

21 “(c) The Patent and Trademark Office shall make
22 available for public inspection during regular business
23 hours all solicitations issued by the Office for contracts
24 for goods or services, and all contracts for goods or serv-
25 ices entered into by the Office.

1 “(d) Notice of a proposal to change United States
2 patent law that will be made on behalf of the United
3 States to a foreign country or international body shall be
4 published in the Federal Register before, or at the same
5 time as, the proposal is transmitted.”.

6 **SEC. 7. EFFECTIVE DATE.**

7 This Act shall take effect 30 days after the date of
8 the enactment of this Act.

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