□ 1608

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 4 o'clock and 8 minutes p.m.

GENERAL LEAVE

Mr. LINDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2136.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

MAKING IN ORDER AMENDMENT IN LIEU OF AMENDMENT PRINTED IN HOUSE REPORT 108–431 DURING CONSIDERATION OF H.R. 1561, UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

Mr. LINDER. Mr. Speaker, I ask unanimous consent that the amendment that I have placed at the desk be considered as the amendment printed in House Report 108–431 and numbered 1 and that the amendment be considered as read for purposes of this unanimous consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The text of the amendment is as follows:

AMENDMENT TO H.R. 1561, AS REPORTED, OFFERED BY MR. SENSENBRENNER OF WISCONSIN

Strike section 5 and insert the following:

SEC. 5. PATENT AND TRADEMARK FUNDING.

Section 42(c) of title 35, United States Code, is amended—

(1) by striking ''(c)'' and inserting ''(c)(1)''; and

(2) by adding at the end the following new paragraph:

''(2) There is established in the Treasury a Patent and Trademark Fee Reserve Fund. If fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, fees collected in excess of the appropriated amount shall be deposited in the Patent and Trademark Fee Reserve Fund. After the end of each fiscal year, the Director shall make a finding as to whether the fees collected for that fiscal year exceed the amount appropriated to the Patent and Trademark Office for that fiscal year. If the amount collected exceeds the amount appropriated, the Director shall, if the Director determines that there are sufficient funds in the Reserve Fund, make payments from the Reserve Fund to persons who paid patent or trademark fees during that fiscal year. The Director shall by regulation determine which persons receive such payments and the amount of such payments, except that such payments in the aggregate shall equal the amount of funds deposited in the Reserve Fund during that fiscal year, less the cost of administering the provisions of this paragraph.''.

In section 6(a), strike ''Except as'' and all that follows through the end of the sentence and insert ''Except as otherwise provided in this Act and this section, this Act and the amendments made by this Act shall take effect on October 1, 2004, or on the date of the enactment of this Act, whichever occurs later.''.

Page 12, strike lines 17 through 20 and insert the following:

(d) ADJUSTMENTS.—

(1) IN GENERAL.—Section 41(f) of title 35, United States Code, shall apply to the fees established under the amendments made by this section, beginning in fiscal year 2005.

(2) CONFORMING AMENDMENT.—Effective October 1, 2004, section 41(f) of title 35, United States Code, is amended by striking ''(a) and (b)'' and inserting ''(a), (b), and (d)''.

Page 11, add the following after line 24:

''(F) The Director shall require that any search by a qualified search authority that is a commercial entity is conducted in the United States by persons that—

''(i) if individuals, are United States citizens; and

''(ii) if business concerns, are organized under the laws of the United States or any State and employ United States citizens to perform the searches.

''(G) A search of an application that is the subject of a secrecy order under section 181 or otherwise involves classified information may only be conducted by Office personnel.

''(H) A qualified search authority that is a commercial entity may not conduct a search of a patent application if the entity has any direct or indirect financial interest in any patent or in any pending or imminent application for patent filed or to be filed in the Patent and Trademark Office.

Page 12, insert the following after line 20 and redesignate the succeeding subsection accordingly:

(e) FEES FOR SMALL ENTITIES.—Section 41(h) of title 35, United States Code, is amended—

(1) in paragraph (1), by striking ''Fees charged under subsection (a) or (b)'' and inserting ''Subject to paragraph (3), fees charged under subsections (a), (b), and (d)(1)''; and

(2) by adding at the end the following new paragraph:

''(3) The fee charged under subsection (a)(1)(A) shall be reduced by 75 percent with respect to its application to any entity to which paragraph (1) applies, if the application is filed by electronic means as prescribed by the Director.''.

(f) SIZE STANDARDS FOR SMALL ENTITIES.—

(1) STUDY.—The Director, in conjunction with the Administrator of the Small Business Administration and the Chief Counsel for Advocacy of the Small Business Administration, shall conduct a study on the effect of patent fees on the ability of small entity inventors to file patent applications. Such study shall examine whether a separate category of reduced patent fees is necessary to ensure adequate development of new technology by small entity inventors.

(2) REPORT.—The Director shall, not later than 6 months after the date of the enactment of this Act, submit a report on the results of the study under paragraph (1) to the Committee on the Judiciary and the Committee on Small Business of the House of Representatives and the Committee on the Judiciary and the Committee on Small Business and Entrepreneurship of the Senate.

Page 8, line 3, add the following after the period: ''For the 3-year period beginning on October 1, 2004, the fee for a search by a qualified search authority of a patent application described in clause (i), (iv), or (v) of subparagraph (B) may not exceed $500, of a patent application described in clause (ii) of subparagraph (B) may not exceed $100, and of a patent application described in clause (iii) of subparagraph (B) may not exceed $300. The Director may not increase any such fee by more than 20 percent in each of the next 3 1-year periods, and the Director may not increase any such fee thereafter.''.

PROVIDING FOR CONSIDERATION OF H.R. 1561, UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 547 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 547

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 547 is a fair, structured rule that provides for the consideration of H.R. 1561, the U.S. Patent and Trademark Fee Modernization Act. This rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

H. Res. 547 provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment, and shall be considered as read. The rule waives all points of order against the Committee amendment in the nature of a substitute.

H. Res. 547 makes in order only those amendments to the Committee amendment in the nature of a substitute which are printed in the Committee on Rules report accompanying the resolution.

The rule provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

H. Res. 547 waives all points of order against the amendments printed in the report and provides one motion to recommit with or without instructions.

With respect to the underlying legislation, H.R. 1561, the U.S. Patent and Trademark Fee Modernization Act, represents the beginning of the implementation of the revised Strategic Business Plan to transform the Patent and Trademark Office's operations by improving patent and trademark quality and reducing application backlogs and delays. The bill incorporates a revised fee schedule previously submitted by the PTO that would generate an additional $201 million in revenue. Specifically, H.R. 1561 amends Federal patent law to lower patent filing and basic national fees; increase appeal, excess claims, disclaimer, extension, revival, and maintenance fees; and add new fees for application examination, patent search, and patent issuance.

As our former colleague and former director of the PTO, Jim Rogan, noted, the implementation of the revised Strategic Plan hinges on the passage of H.R. 1561. He stated, ''Without the ability to hire and train new examiners and also improve infrastructure, our hands will be tied . . . The consequences of failing to enact the fee bill and giving the (PTO) access to those fees will mean quality and pendency will continue to suffer. We will be unable to hire needed examiners, and over 140,000 patents will not issue over the next 5 years. The inventory of unexamined patent applications will skyrocket to a backlog of over 1 million applications by 2008, more than double the current amount, and pendency (as measured from the time of filing) will jump to over 40 months average in the next few years. This would represent the highest pendency rates in decades.''

I agree with former Director Rogan's account, and I believe that H.R. 1561 will benefit our Nation in the processing of patent and trademark applications. I have always supported the rights of independent inventors to seek protections under Federal patent laws.

Undoubtedly, some of the world's greatest innovations have come from America's great independent inventors, including Thomas Edison and Alexander Graham Bell.

□ 1615

Nevertheless, it is also necessary to expedite patent applications to help protect small independent inventors.

Mr. Speaker, this rule was approved by the Committee on Rules last night. I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Georgia (Mr. LINDER) for yielding me the time.

Mr. Speaker, I rise today in opposition to the U.S. Patent and Trademark Fee Modernization Act of 2003, as well as the rule providing for its consideration.

As the majority member of the committee previously mentioned, I agree that the premise of our patent system lies in its mutual benefit to both the inventor and our country. With the constant evolution of science and technology, spurred by the monetary incentive the U.S. patent system offers to inventors, new inventions have led to new technologies, job creation and improvements to our quality of life. Indeed, Congress should be creating legislation that fosters and nurtures the relationship between the United States Patent Office and the entrepreneur and business communities.

The underlying legislation, however, does nothing of the sort, and the rule which the majority is asking us to approve today stifles debate and limits our ability to improve this legislation.

I really find it outrageous that the bill in its current state hurts aspiring small businesses by inflicting additional fees on their patent and trademark applications. It should be our mission to build an enterprise society in which small firms of all kinds thrive and achieve their potential. We should not allow small businesses to fail before they even get started.

An amendment will be offered later today by our colleague the gentlewoman from Texas (Ms. JACKSON-LEE) that I strongly support. This amendment will aid in the promotion of enterprise across society, particularly in underrepresented and disadvantaged groups. I urge my colleagues to support this amendment.

In examining the underlying legislation, it is becoming increasingly clear that we should not call this bill the U.S. Patent and Trademark Fee Modernization Act. Instead, we should call it what it really is, the Increased Fees on Small Businesses Act of Fiscal Year 2003.

To make a bad bill worse, the majority is once again seeking to outsource the jobs of Federal employees. Simply put, the patent examining and processing are core governmental functions and should be performed by Federal employees. Yet, my friends in the majority are using the bill as another opportunity to fail Federal employees by outsourcing their jobs.

Mr. Speaker, Congress must protect the jobs of Federal employees. Like any workforce, the primary interests of Federal employees lie in opportunities for reward, professional development and job satisfaction. The United States Government trails behind the private sector when it comes to investing in its employees. When I see bills such as the underlying legislation, it seems unrealistic to think that change will occur under this leadership. Perhaps it will take their jobs to be on the line before we institute change.

Mr. Speaker, this bill has many glaring problems, and as I previously mentioned, I oppose the underlying legislation, and I will oppose the rule, and I urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman from Georgia for yielding me the time. I appreciate that.

Mr. Speaker, this bill implements the revised Strategic Business Plan proposed by Director Rogan when he was at the Patent and Trademark Office to update the services and structure of the office. The Strategic Business Plan will enhance the quality of the patent and trademark examining operations, accelerating the application pendency period, making it more consumer friendly and efficient.

The manager's amendment to the bill addresses the fee diversion problem and prevents the PTO funds from being used to fund general revenue programs throughout the Federal Government.

Under the agreement reached between the gentleman from Wisconsin (Chairman SENSENBRENNER) and the Committee on Appropriations, PTO fees collected in a given fiscal year that exceed the appropriation to PTO for that year would be placed in what will be known as a PTO reserve fund. At the end of that fiscal year, the Director of the Patent and Trademark Office may determine if, and how, these funds should be allocated back to the eligible applicants.

Mr. Speaker, I have been a proponent of modernizing the patent and trademark fee structure and have fought on this floor year after year to protect these dollars from being used to fund non-PTO programs, as have my chairman the gentleman from Wisconsin and other Members of the Committee on the Judiciary. They have fought equally diligently to this end.

A fully funded United States Patent and Trademark Office is vital to sustaining the strength and growth of United States companies, inventors and innovations, and this legislation is integral to preserving the United States' worldwide leadership in the intellectual property industry.

I say to my friend from Georgia, who yielded to me, I was at the PTO office about 5 years ago for an event. I was invited to take part in an event there, and I said to those people, from the Director to all the patent examiners who were there and trademark examiners, I said I want to send a message to Capitol Hill and I want to tell everybody up there to keep their grubby paws out of the PTO coffers. Now that may have been an indelicate way of saying it, but I wanted to make clear to everyone up here that these funds should not be removed from PTO custody and control.

The opponents of such a proposal indicate that some sort of unjust enrichment will ensue if the PTO gets to keep these funds. That is poppycock. That is nonsense. These funds belong to the PTO, and I am confident that with the passage of this legislation, the diversion anathema that has plagued us for so long hopefully will finally be resolved.

I again thank the gentleman from Georgia for yielding me time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 7 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Florida for yielding me time.

Mr. Speaker, I would like to strongly oppose this bill, H.R. 1561, and I do so because it is based on our good old Constitution, which says the Congress shall have power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries, and from the very founding of the republic that knowledge has been housed in the U.S. Patent Office where inventors around our country had confidence that those inventions belonged to them, protected by the Constitution of our Nation. So important patents are listed, patents inventors, congressional protection.

Today, we have a bill before us, H.R. 1561, that really is another episode in the outsourcing of American jobs. Yes, the outsourcing craze continues. It is like a virus that cannot be stopped. The American people cannot understand why their officials in Washington do not step in and put an end to this nonsense, but guess what, now the Federal Government is getting into the act and the outsourcing of jobs from our government, in this case the U.S. Patent Office, has infected the heart of American ingenuity.

Mr. Speaker, the bill before us authorizes the Patent and Trademark Office to outsource work. There is some palliative, feel-good language about companies being organized under the laws of the United States in the bill, but under U.S. law Honda is a U.S. company, Toshiba is a U.S. company. Saudi companies, if they operate on U.S. soils, are U.S. companies. That does not give me a lot of comfort. This is an insult to the entrepreneurs and inventors of this country.

As someone who comes from the State of Ohio, home of Thomas Edison and Charles Kettering, the thought of outsourcing patent application reviews from the U.S. Patent and Trademark Office is inconceivable. One might think that with this outsourcing, well, the price is going to go down to inventors. Are they going to get anything out of this? That is the way the free trade fundamentalists try to tell the story, send the work overseas if it can be done, send it out of the government, but guess what. They are going to raise the cost to patent holders. So the same old bankrupt theory is at work.

Patent application reviews will be outsourced, but the price to the small inventor or the small entrepreneur would not decrease. In fact, they put an additional fee, an additional tax on them. Currently, a small entity pays $385. The proposed fee would be $675 with an e-file and $750 without an e-file. Total fees for the life of a patent currently are $4,160, which is a lot of money for a small inventor. The proposed fee with an e-file would raise it to $4,875.

Call it what you want, fee increase, user fee adjustment, search fee. I will tell my colleagues what it really is. It is another tax, and a tough one, on the very people who are trying to invent America's future, the very people on whom we are counting for the intellectual moxie to fuel the information-based economy or knowledge-based economy that the experts say are supposed to lead us out of the doldrums that this economy is in.

The people in this country who tinker with objects and machines and ideas, why should they be taxed and why should we want to outsource anything from the U.S. Patent and Trademark Office?

If my colleagues vote for this bill, they are voting for a tax increase, and a rather large increase at that, on the best and brightest minds of our country. It is bad enough they want to outsource such an important function such as patent application search and examination. This is so important that it still remains right here in the Constitution of our country, and now we are talking about outsourcing constitutional responsibility. That in itself is an outrage, but to raise taxes on our inventors and our bright minds actually, in this environment, verges on insanity.

Where does it stop? Where does it stop? I urge my colleagues to vote against H.R. 1561.

Mr. BERMAN. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I thank the gentlewoman for yielding and appreciate her comments.

At this time I will not get into the issue of the restricted nature under which outsourcing is permitted, but I think the gentlewoman accurately described the base bill. The chairman of the Committee on the Judiciary will be offering an amendment with respect to outsourcing outside the United States that restricts even the limited outsourcing that is allowed under this bill to companies organized under the laws of the United States. As the gentlewoman mentioned, that in and of itself does not protect against international outsourcing, or any State, and employ U.S. citizens to perform the searches.

So there will be an amendment to the base bill at the time that once the rule is adopted, if it is adopted, that will deal with that specific issue very specifically and prohibit that kind of outsourcing that the gentlewoman was concerned about.

Ms. KAPTUR. Mr. Speaker, this is a very important point, and I respect my dear colleague from California (Mr. BERMAN), but the facts are we are outsourcing patent review procedures from the U.S. Patent and Trademark Office. In other words, it is going to go to private companies, not the government of the United States, protected by what the Constitution demands. It is going to be outsourced to companies.

The question is what is a U.S. company? If we look into the law, a U.S. company operating within the boundaries of the United States, even if it is Honda Motor Corporation, is a U.S. company. Foreign corporations operating within the United States are defined as U.S. corporations because they operate within our soil.

□ 1630

But they are not U.S. corporations, because their profits are booked back to their home country. So I have a real problem with this.

Number one, we should not be outsourcing the jobs from the Patent Office. That is the most important line that we are breaching here. Never before in the history of this country has this been done. It has never been done. And then we are saying, well, you know, it will be a U.S. company. But then look to the law. How do we define what a U.S. company is? Any company operating within the boundaries of the United States? It could be Honda, it could be Toshiba, it could be Daemler, it could be any company.

Mr. BERMAN. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I take the gentlewoman's point about U.S. companies and who might be called a U.S. company. I simply wanted to point out that the chairman of the Committee on the Judiciary has a manager's amendment that will not simply limit this to U.S. companies, but limit it to searches only by companies employing U.S. citizens to perform the searches. So there is that as an additional element.

Ms. KAPTUR. Mr. Speaker, reclaiming my time, and I thank the gentleman from California for those comments, but it is interesting because our submarine technology happened to end up in the hands of the former Soviet Union through a subsidiary of a company operating here and also in Europe. It does not matter if U.S. citizens are in those jobs; what matters is who owns the company. And beyond that, why should we be outsourcing anything from the Patent and Trademark Office?

I totally oppose this bill. At least I want on the record that there was one Member standing to say that the constitutional protections to America's patent holders and inventors should not be breached. It has been working. Why change it?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would appreciate Members' abiding by the time limits.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill H.R. 1561, soon to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 547 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1561.

□ 1633

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1561 will help implement the Patent and Trademark Office's Strategic Business Plan to transform the agency's operations. The bill incorporates a revised fee schedule previously submitted by the PTO that will generate much-needed additional revenue. The plan also includes a true structural reform of the office, which demonstrates that the PTO is not simply saying give us more money and we will solve the problem. The implementation of the strategic plan is the first step forward toward improving patent and trademark quality while reducing application backlogs and pendency at the agency.

These goals are critical to the health of cutting-edge industries in particular and our economy in general. Americans lead the world in the production and export of intellectual property and related goods and services. Time is money in the intellectual property world. If the PTO cannot issue quality patents and trademarks in a timely manner, then inventors and trademark filers are the losers.

By granting patents and registering trademarks, the PTO affects the vitality of businesses and entrepreneurs, paving the way for investment in research and development. Industries based on intellectual property, like biotechnology and motion pictures, represent the largest single sector of the United States economy. Approximately 50 percent of American exports depend upon some form of IP protection.

While intellectual property protection is increasing in importance, the PTO is collapsing under an increasingly complex and massive workload. Patent pendency, the amount of time of patent application is pending before a patent is issued, now averages over 2 years. Without fundamental changes in the way the PTO operates, average pendency in these areas will likely more than double to 6 to 8 years in the next few years.

I would point out that the patent term is 20 years from the date of filing. So if it takes 6 to 8 years before the PTO can decide whether or not an application is indeed patentable and grants a patent, that will be that much less time that the patent is actually good, and, thus, that much less valuable to the person who has successfully invented a new technology or product and patented it.

Moreover, the backlog of applications awaiting a first review by an examiner will grow from the current level of 475,000 to over a million. These delays pose a grave threat to American businesses and entrepreneurs. The nature of technology and the nature of the marketplace make these delays unacceptable and unsustainable.

And what I would point out to the gentlewoman from Ohio and others who complain about this bill and the fee increases that are contained to modernize the system is that if our competitors in an increasingly globalized economy, in Europe and in Japan and elsewhere, are able to obtain more prompt decisions from their patent offices, that will put American inventors at a disadvantage considerably.

To fund the initiatives set forth in the strategic plan, the administration has proposed in H.R. 1561 an increase in patent and trademark fees. The proposed fee changes accurately reflect the PTO's cost of doing business. They will benefit the PTO's customers by reducing application filing fees and allowing applicants to evaluate the commercial value of their inventions and recover the cost of search and examination as the situation warrants. Most importantly, the new fee structure will enable the PTO to reduce pendency time, improve quality and customer service through electronic processing, and pursue greater enforcement of intellectual property rights abroad.

For example, the additional revenue provided by the fee bill will allow the PTO to hire an additional 2,900 patent examiners, these are Federal employees, not outsourced employees, and move to full electronic processing of patent and trademark applications.

The Committee on the Judiciary unanimously approved this bill on July 9, 2003. The administration and private sector strongly advocated the adoption of the fee bill as a necessary means to address the workload crisis at the PTO. Failure to pass the restructuring contained in H.R. 1561 will result in further degrading of PTO operations and increasing the already unacceptable delays to patent and trademark applicants.

Mr. Chairman, I will soon offer a bipartisan compromise amendment on section 5 of this bill. This portion of the bill, as reported, would essentially have taken the PTO off budget, a result that our friends at the Committee on Appropriations strongly opposed. My amendment, developed with their input, as well as that of the majority leader's office, the Congressional Budget Office, and the Committee on the