

Public Law 105-358  
105th Congress

An Act

Nov. 10, 1998  
[H.R. 3723]

To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States  
Patent and  
Trademark Office  
Reauthorization  
Act, Fiscal Year  
1999.  
35 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States Patent and Trademark Office Reauthorization Act, Fiscal Year 1999".

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be made available for the payment of salaries and necessary expenses of the Patent and Trademark Office in fiscal year 1999, \$66,000,000 from fees collected in fiscal year 1998 and such fees as are collected in fiscal year 1999, pursuant to title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.). Amounts made available pursuant to this section shall remain available until expended.

**SEC. 3. LEVEL OF FEES FOR PATENT SERVICES.**

(a) **GENERAL PATENT FEES.**—Section 41 of title 35, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) The Commissioner shall charge the following fees:

"(1)(A) On filing each application for an original patent, except in design or plant cases, \$760.

"(B) In addition, on filing or on presentation at any other time, \$78 for each claim in independent form which is in excess of 3, \$18 for each claim (whether independent or dependent) which is in excess of 20, and \$260 for each application containing a multiple dependent claim.

"(C) On filing each provisional application for an original patent, \$150.

"(2) For issuing each original or reissue patent, except in design or plant cases, \$1,210.

"(3) In design and plant cases—

"(A) on filing each design application, \$310;

"(B) on filing each plant application, \$480;

"(C) on issuing each design patent, \$430; and

"(D) on issuing each plant patent, \$580.

"(4)(A) On filing each application for the reissue of a patent, \$760.

"(B) In addition, on filing or on presentation at any other time, \$78 for each claim in independent form which is in excess of the number of independent claims of the original

patent, and \$18 for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.

“(5) On filing each disclaimer, \$110.

“(6)(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, \$300.

“(B) In addition, on filing a brief in support of the appeal, \$300, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, \$260.

“(7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, \$1,210, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be \$110.

“(8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application—

“(A) on filing a first petition, \$110;

“(B) on filing a second petition, \$270; and

“(C) on filing a third petition or subsequent petition, \$490.

“(9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, \$670.

“(10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, \$760.

“(11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, \$970.

“(12) Basic national fee for an international application where the international preliminary examination fee has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33(2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, \$96.

“(13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, \$78.

“(14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, \$18.

“(15) For each national stage of an international application containing a multiple dependent claim, \$260.

For the purpose of computing fees, a multiple dependent claim referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.”.

(b) PATENT MAINTENANCE FEES.—Section 41 of title 35, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) The Commissioner shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

“(1) 3 years and 6 months after grant, \$940.

“(2) 7 years and 6 months after grant, \$1,900.

“(3) 11 years and 6 months after grant, \$2,910.

Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee. No fee may be established for maintaining a design or plant patent in force.”.

#### **SEC. 4. AUTHORIZATION OF COLLECTION AND EXPENDITURE.**

Section 42(c) of title 35, United States Code, is amended by striking the first sentence and inserting the following: “To the extent and in the amounts provided in advance in appropriations Acts, fees authorized in this title or any other Act to be charged or established by the Commissioner shall be collected by and shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office.”.

35 USC 41 note.

#### **SEC. 5. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on October 1, 1998.

Approved November 10, 1998.

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#### **LEGISLATIVE HISTORY—H.R. 3723:**

HOUSE REPORTS: No. 105-528 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 12, considered and passed House.

Oct. 14, considered and passed Senate.