

104TH CONGRESS  
1ST SESSION

# S. 1458

To amend the provisions of title 35, United States Code, to establish the Patent and Trademark Corporation, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 1995

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend the provisions of title 35, United States Code, to establish the Patent and Trademark Corporation, 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 and Trademark  
5 Office Reform Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—PATENT AND TRADEMARK CORPORATION

- Sec. 101. Establishment, officers, and functions of the Corporation.

- Sec. 102. Management report.
- Sec. 103. Use of Corporation name and definitions.
- Sec. 104. Suspension or exclusion from practice.
- Sec. 105. Fees.
- Sec. 106. Trademark Trial and Appeal Board.
- Sec. 107. Transfers.
- Sec. 108. Transition provisions.
- Sec. 109. Nonapplicability of Federal workforce reductions.
- Sec. 110. Technical and conforming amendments.

## TITLE II—MISCELLANEOUS PROVISIONS

- Sec. 201. Separability.
- Sec. 202. Effective date.

1                   **TITLE I—PATENT AND**  
 2                   **TRADEMARK CORPORATION**  
 3   **SEC. 101. ESTABLISHMENT, OFFICERS, AND FUNCTIONS OF**  
 4                   **THE CORPORATION.**

5           Chapter 1 of title 35, United States Code, is amended  
 6 by striking out sections 1, 2, 3, 4, 6, and 7 and inserting  
 7 in lieu thereof the following:

8   **“§ 1. Establishment**

9           “(a) The Patent and Trademark Corporation is es-  
 10 tablished as a wholly owned Government corporation sub-  
 11 ject to chapter 91 of title 31, except as otherwise provided  
 12 in this title. The Corporation shall be within the Depart-  
 13 ment of Commerce and shall be subject to the Secretary  
 14 for patent and trademark policy direction. For purposes  
 15 of internal management, the Corporation shall be consid-  
 16 ered a corporate body apart from departmental super-  
 17 vision, except as otherwise provided in this title.

18           “(b) The Patent and Trademark Corporation shall  
 19 maintain an office for the service of process in the District

1 of Columbia, or the metropolitan area thereof, and shall  
2 be deemed, for purposes of venue in civil actions, to be  
3 a resident of the district in which its principal office is  
4 located. The Corporation may establish offices in such  
5 other place or places as it may deem necessary or appro-  
6 priate in the conduct of its business.

7 “(c) For purposes of this title, the Patent and Trade-  
8 mark Corporation shall also be referred to as the ‘Cor-  
9 poration’.

10 **“§2. Powers and duties**

11 “(a) The Corporation shall have the powers and carry  
12 out the functions and duties that are authorized by law  
13 with respect to—

14 “(1) the granting and issuing of patents and  
15 the registration of trademarks;

16 “(2) conducting studies, programs, or ex-  
17 changes of items or services regarding domestic and  
18 international patent and trademark law or the ad-  
19 ministration of the Corporation, or any other matter  
20 included in the laws for which the Corporation is re-  
21 sponsible including the provision of this title, the Act  
22 of July 5, 1946 (commonly referred to as the Trade-  
23 mark Act of 1946 (15 U.S.C. 1051 et seq.)), and  
24 the Patent and Trademark Office Reform Act of  
25 1995;

1           “(3) authorizing or conducting studies and pro-  
2           grams cooperatively with foreign patent and trade-  
3           mark offices and international organizations, in con-  
4           nection with the granting and issuing of patents and  
5           the registration of trademarks; and

6           “(4) disseminating to the public information  
7           with respect to patents and trademarks.

8           “(b) In order to accomplish the purposes of this title,  
9 the Corporation—

10           “(1) shall have perpetual succession;

11           “(2) shall adopt and use a corporate seal, which  
12           shall be judicially noticed and with which letters pat-  
13           ent, certificates of trademark registrations, and pa-  
14           pers issued by the Corporation shall be authenti-  
15           cated;

16           “(3) may sue and be sued in its corporate name  
17           and be represented by its own attorneys in all judi-  
18           cial and administrative proceedings, as provided in  
19           section 8 of this title;

20           “(4) may indemnify the Commissioner, officers,  
21           attorneys, agents and employees (including members  
22           of the Advisory Board), of the Corporation for liabil-  
23           ities and expenses incurred within the scope of their  
24           employment;

1           “(5) may adopt, amend, and repeal bylaws,  
2 rules, and regulations, governing the manner in  
3 which its business will be conducted and the powers  
4 granted to it by law will be exercised, without regard  
5 to chapter 35 of title 44;

6           “(6) without regard to the provisions of the  
7 Federal Property and Administrative Services Act of  
8 1949 (40 U.S.C. 471 et seq.); the Public Buildings  
9 Act of 1959 (40 U.S.C. 601 et seq.), and sections  
10 501 and 502 of the Stewart B. McKinney Act (42  
11 U.S.C. 11411 and 11412) may—

12           “(A) acquire, construct, purchase, lease,  
13 hold, manage, operate, and alter any property  
14 (real, personal, or mixed) or any interest there-  
15 in, as it determines necessary in the transaction  
16 of its business, and sell, lease, grant; and

17           “(B) dispose of such property, as it deems  
18 necessary to effectuate the purposes of this title  
19 for periods of time or for terms as the Corpora-  
20 tion determines necessary;

21           “(7)(A) may make purchases, contracts for the  
22 construction, alteration, maintenance, or manage-  
23 ment and operation of facilities and contracts for the  
24 supplies or services, except personal services, after  
25 advertising, in such manner and at such times suffi-

1       ciently in advance of opening bids, as the Corpora-  
2       tion shall determine to be adequate to insure notice  
3       and an opportunity for competition, except such ad-  
4       vertising shall not be required when the Corporation  
5       determines that—

6               “(i) the making of any such purchase or  
7               contract without advertising is necessary in the  
8               interest of furthering the purposes of this title;  
9               or

10              “(ii) advertising is not reasonably prac-  
11              ticable; and

12              “(B) may enter into and perform such pur-  
13              chases and contracts for printing services, to include  
14              the process of composition, platemaking, presswork,  
15              silk screen processes, binding, microform, and the  
16              products of such processes, as it determines nec-  
17              essary to effectuate the functions of the Corporation,  
18              without regard to sections 501 through 517 and  
19              1101 through 1123 of title 44;

20              “(8) may use, with their consent, services,  
21              equipment, personnel, and facilities of other civilian  
22              or military agencies and instrumentalities of the  
23              Federal Government, on a reimbursable basis, and,  
24              on a similar basis, to cooperate with such other  
25              agencies and instrumentalities in the establishment

1 and use of services, equipment, and facilities of the  
2 Corporation;

3 “(9) may obtain from the Administrator of the  
4 General Services Administration such services as the  
5 Administrator is authorized to provide to agencies of  
6 the United States, on the same basis as those serv-  
7 ices are provided to other agencies of the United  
8 States;

9 “(10) may use, with the consent of the agency,  
10 government, or organization concerned, the services,  
11 records, facilities, or personnel of any State or local  
12 government agency or instrumentality or foreign  
13 government or international organization to perform  
14 necessary functions on the Corporation’s behalf;

15 “(11) may enter into and perform such con-  
16 tracts, leases, cooperative agreements, or other  
17 transactions with international, foreign and domestic  
18 public agencies and private organizations and per-  
19 sons as needed in the conduct of its business and on  
20 such terms as it determines appropriate;

21 “(12) may determine the character of and the  
22 necessity for its obligations and expenditures and  
23 the manner in which they shall be incurred, allowed,  
24 and paid, subject to the provisions of this title, the  
25 Act of July 5, 1946 (commonly referred to as the

1 Trademark Act of 1946), and to laws specifically ap-  
2 plicable to wholly owned government corporations  
3 that are not specifically inconsistent with this title;

4 “(13) may retain and utilize all of its revenues  
5 and receipts, including revenues from the sale, lease,  
6 or disposal of any property (real, personal, or mixed)  
7 or any interest therein, of the Corporation, including  
8 research and development and capital investment,  
9 without apportionment under the provisions of sub-  
10 chapter II of chapter 15 of title 31;

11 “(14) shall have the priority of the United  
12 States with respect to the payment of debts out of  
13 bankrupt, insolvent, and decedents’ estates;

14 “(15) may accept monetary gifts or donations  
15 of services, or of property, real, personal, mixed, tan-  
16 gible or intangible, in aid of any purposes authorized  
17 under this section;

18 “(16) may execute, in accordance with its by-  
19 laws, rules and regulations, all instruments nec-  
20 essary and appropriate in the exercise of any of its  
21 powers;

22 “(17) may provide for liability insurance and  
23 insurance against any loss in connection with its  
24 property, other assets or operations either by con-  
25 tract or by self-insurance; and

1           “(18) shall pay any settlement or judgment en-  
2           tered against it from the Corporation’s own funds  
3           and not from the judgment fund established under  
4           section 1304 of title 31.

5   **“§3. Officers and employees**

6           “(a)(1) The management of the Corporation shall be  
7           vested in the Commissioner of Patents and Trademarks,  
8           who shall be a citizen of the United States and who shall  
9           be appointed by the President, by and with the advice and  
10          consent of the Senate. The Commissioner shall be a person  
11          who, by reason of professional background and experience  
12          in patent and trademark law and of management experi-  
13          ence, is especially qualified to manage the Corporation.

14          “(2) The Commissioner shall—

15                 “(A) be responsible for the management and di-  
16                 rection of the Corporation, including the granting  
17                 and issuance of patents and the registration of  
18                 trademarks, and may delegate these responsibilities  
19                 to the officers and employees of the Corporation  
20                 whose performance of these duties shall be subject  
21                 to the Commissioner’s review;

22                 “(B) report directly to the Secretary on patent  
23                 and trademark policy matters;

24                 “(C) consult with the Advisory Board estab-  
25                 lished in section 5 on a regular basis on matters re-

1       lating to the operation of the Corporation, and shall  
2       consult with the Board before submitting budgetary  
3       proposals to the Office of Management and Budget  
4       or changing or proposing to change patent or trade-  
5       mark user fees or patent or trademark regulations;

6               “(D) inform the Secretary of studies and pro-  
7       grams conducted under section 2(a)(3);

8               “(E) advise the Secretary on all aspects of in-  
9       tellectual property policy, legislation, and issues;

10              “(F) advise the Secretary on international trade  
11       issues concerning intellectual property;

12              “(G) promote in international trade the United  
13       States industries that rely on intellectual property;

14              “(H) advise the Secretary of State, the United  
15       States Trade Representative, and other appropriate  
16       department and agency heads, subject to the author-  
17       ity of the Secretary, on international intellectual  
18       property issues;

19              “(I) advise Federal agencies on ways to improve  
20       intellectual property protection in other countries  
21       through economic assistance and international trade;

22              “(J) review and coordinate all proposals by  
23       agencies to assist foreign governments and inter-  
24       national intergovernmental agencies in improving in-  
25       tellectual property protection;

1           “(K) carry on studies related to the effective-  
2           ness of intellectual property protection throughout  
3           the world; and

4           “(L) in coordination with the Department of  
5           State, carry on studies cooperatively with foreign in-  
6           tellectual property offices and international intergov-  
7           ernmental organizations.

8           “(3) The Commissioner shall serve a term of 6 years,  
9           and such period thereafter until a successor is appointed  
10          and assumes office. The Commissioner may be  
11          reappointed to subsequent terms.

12          “(4) The Commissioner shall receive as basic com-  
13          pensation for a calendar year an amount not to exceed  
14          the equivalent of the annual rate of basic pay for level  
15          II of the Executive Schedule under section 5313 of title  
16          5 and, in addition, may receive as a bonus awarded by  
17          the Secretary, an amount up to the equivalent of the an-  
18          nual rate of basic pay for such level II, based upon the  
19          Secretary’s evaluation of the Commissioner’s perform-  
20          ance—

21          “(A) as defined in an annual performance  
22          agreement between the Commissioner and the Sec-  
23          retary incorporating measurable goals in such spe-  
24          cific areas as productivity, cycle times, efficiency,  
25          cost-reduction, innovative ways of delivering patent

1 and trademark services, and customer satisfaction,  
2 as delineated in an annual performance plan; and

3 “(B) as reflected in the annual report required  
4 under section 14.

5 “(5) The Commissioner shall, before taking office,  
6 take an oath to discharge faithfully the duties of the Cor-  
7 poration.

8 “(6) The Commissioner shall designate an officer of  
9 the Corporation who shall be vested with the authority to  
10 act in the capacity of the Commissioner in the event of  
11 absence or incapacity of the Commissioner.

12 “(b)(1) Officers and employees of the Corporation  
13 shall be officers and employees of the United States as  
14 defined by sections 2104 and 2105 of title 5, United  
15 States Code.

16 “(2)(A) The Commissioner shall appoint a Deputy  
17 Commissioner for Patents and a Deputy Commissioner for  
18 Trademarks for terms that shall expire on the date on  
19 which the Commissioner’s term expires. The Deputy Com-  
20 missioner for Patents shall be a person with demonstrated  
21 experience in patent law and the Deputy Commissioner  
22 for Trademarks shall be a person with demonstrated expe-  
23 rience in trademark law.

24 “(B) The Deputy Commissioner for Patents and the  
25 Deputy Commissioner for Trademarks shall be—

1           “(i) the principal advisors to the Commissioner  
2           on all aspects of the activities of the Corporation  
3           that affect the administration of patent and trade-  
4           mark operations, respectively; and

5           “(ii) principally responsible for managing their  
6           respective patent and trademark units.

7           “(3) The Commissioner shall appoint an Inspector  
8           General and such other officers, employees (including at-  
9           torneys), and agents of the Corporation as the Commis-  
10          sioner considers necessary to carry out its functions.

11          “(c)(1) Except as regards the Inspector General, the  
12          Commissioner shall fix the compensation of officers and  
13          employees in accordance with the policy set forth in sec-  
14          tion 5301 of title 5 including compensation based on per-  
15          formance.

16          “(2) Except as otherwise provided in this title or any  
17          other provision of law, the basic pay of an officer or em-  
18          ployee of the Corporation for any calendar year may not  
19          exceed the annual rate of basic pay in effect for level III  
20          of the Executive Schedule under section 5314 of title 5  
21          or level ES-6 for the Senior Executive Service under sec-  
22          tion 5332 of title 5, whichever is higher. Total compensa-  
23          tion, including compensation based on performance (but  
24          not including benefits or contributions to retirement sys-  
25          tems), may not exceed the equivalent of the basic rate of

1 pay for level I of the Executive Schedule under section  
2 5312 of title 5.

3 “(3) The Commissioner shall define the authority and  
4 duties of such officers and employees and delegate to them  
5 such of the powers vested in the Corporation as the Com-  
6 missioner shall determine.

7 “(d) The Corporation shall not be subject to any ad-  
8 ministratively or statutorily imposed limitation on posi-  
9 tions or personnel, and no positions or personnel of the  
10 Corporation shall be taken into account for purposes of  
11 applying any such limitation, except to the extent other-  
12 wise specifically provided by statute with respect to the  
13 Corporation.

14 “(e) Notwithstanding the provisions of title 5 (but  
15 subject to the Inspector General Act of 1978 (5 U.S.C.  
16 App.)), the Commissioner shall have sole and exclusive dis-  
17 cretion—

18 “(1) over the establishment, amendment, or re-  
19 peal of any position classification system to deter-  
20 mine the qualifications and procedures for appoint-  
21 ment; any compensation and award system except  
22 gainsharing, including wages and compensation  
23 based on performance, and contributions of the Cor-  
24 poration to the retirement and benefits programs,  
25 except that the Corporation’s contribution shall not

1 be less than that paid for Federal employees under  
2 title 5;

3 “(2) to fix and adjust rates of pay without re-  
4 gard to the provisions of chapter 53 of title 5 and  
5 abolish positions and lay off without regard to the  
6 provisions of chapter 35 of title 5 except that pref-  
7 erence eligibility laws shall apply in any layoff sys-  
8 tem; and

9 “(3) to determine any supplement to benefits  
10 beyond those provided by statute.

11 “(f) The following provisions of title 5 shall not apply  
12 to the Corporation or its officers and employees:

13 “(1) Chapter 31 (employment authorities), ex-  
14 cept that the provisions of sections 3102 and 3110  
15 shall apply to the Corporation and its employees.

16 “(2) Chapter 33 (examination, selection, and  
17 placement), except that the system of veterans’ pref-  
18 erence established by chapter 33 shall apply to the  
19 Corporation and its employees.

20 “(3) Chapter 35 (retention, restoration, and re-  
21 employment).

22 “(4) Chapter 43 (performance appraisal).

23 “(5) Chapter 51 (classification).

24 “(6) Chapter 53, subchapter 3 (general pay  
25 rates).

1       “(g)(1) Officers and employees shall remain subject  
2 to chapters 83 (Civil Service Retirement System), 84  
3 (Federal Employees Retirement System), 87 (life insur-  
4 ance), and 89 (health insurance) of title 5. The Corpora-  
5 tion may supplement the benefits provided under chapters  
6 83 and 84 of such title from time to time. The Corporation  
7 also may change the application of chapters 87 and 89  
8 of such title to its officers and employees, except that such  
9 changes, in their aggregate, shall not result in life and  
10 health benefits which are less favorable to officers and em-  
11 ployees than those offered under chapters 87 and 89.

12       “(2) The Corporation shall withhold pay and make  
13 such payments as are required under the Federal disabil-  
14 ity and retirement system for the Government’s share of  
15 the cost of the Civil Service Retirement System or the  
16 Federal Employees Retirement System applicable to the  
17 Corporation’s employees and their beneficiaries. The Cor-  
18 poration shall also contribute to the employees’ compensa-  
19 tion fund, on the basis of annual billings as determined  
20 by the Secretary of Labor, for the benefit payments made  
21 from such fund on account of the Corporation’s employees.  
22 The annual billings shall also include a statement of the  
23 fair portion of the cost of administration of the respective  
24 funds, which shall be paid into the Treasury as miscellane-  
25 ous receipts.

1       “(h)(1) Chapter 71 of title 5 shall apply with respect  
2 to the Corporation and its employees.

3       “(2) The Corporation and employees may bargain  
4 with respect to the establishment, amendment, or repeal  
5 of—

6               “(A) any position classification system;

7               “(B) any compensation system, including wages  
8 and compensation based on performance, and con-  
9 tribution of the Corporation to the retirement and  
10 benefits program; and

11              “(C) any system to determine qualifications and  
12 procedures for employment;

13 in the same manner and to the same extent as under a  
14 Federal Labor Relations Authority holding, in effect on  
15 the day before the effective date of the Patent and Trade-  
16 mark Office Reform Act of 1995, with regard to the nego-  
17 tiability of such matters, unless such holding is overturned  
18 or modified by a Federal court.

19       “(i)(1) On the effective date of the Patent and Trade-  
20 mark Office Reform Act of 1995, all officers and employ-  
21 ees of the Patent and Trademark Office on the day before  
22 such effective date shall become officers and employees of  
23 the Corporation without a break in service.

24       “(2) No officer or employee of the Office who be-  
25 comes an officer or employee of the Corporation shall, for

1 a period of 1 year after the effective date of the Patent  
2 and Trademark Office Reform Act of 1995, be subject to  
3 separation or to any reduction in compensation as a con-  
4 sequence of the establishment of the Corporation.

5       “(3) The amount of sick and annual leave and com-  
6 pensatory time accumulated under title 5 prior to the ef-  
7 fective date of the Patent and Trademark Office Reform  
8 Act of 1995, by officers and employees of the Office who  
9 become officers and employees of the Corporation under  
10 this section shall be obligations of the Corporation.

11       “(4)(A) The individual serving as the Commissioner  
12 of Patents and Trademarks on the day before the effective  
13 date of the Patent and Trademark Office Reform Act of  
14 1995 may serve as the Commissioner until a Commis-  
15 sioner has been appointed under subsection (a).

16       “(B) The individual serving as the Assistant Commis-  
17 sioner for Patents on the day before the effective date of  
18 the Patent and Trademark Office Reform Act of 1995  
19 may serve as the Deputy Commissioner for Patents until  
20 a Deputy Commissioner for Patents has been appointed  
21 under subsection (b).

22       “(C) The individual serving as the Assistant Commis-  
23 sioner for Trademarks on the day before the effective date  
24 of the Patent and Trademark Office Reform Act of 1995

1 may serve as Deputy Commissioner for Trademarks until  
2 a Commissioner has been appointed under subsection (b).

3 “(j) For purposes of appointment to a position in the  
4 competitive service for which an officer or employee of the  
5 Corporation is qualified, such officer or employee shall—

6 “(1) not forfeit any competitive status, acquired  
7 by such officer or employee before the effective date  
8 of the Patent and Trademark Office Reform Act of  
9 1995, by reason of becoming an officer or employee  
10 of the Corporation under subsection (i)(1); or

11 “(2) if not covered by paragraph (1), acquire  
12 competitive status after completing at least 1 year of  
13 continuous service under a nontemporary appoint-  
14 ment to a position within the Corporation (taking  
15 into account such service, performed before the ef-  
16 fective date described in paragraph (1), as may be  
17 appropriate).

18 “(k) All orders, determinations, rules, and regula-  
19 tions regarding compensation and benefits and other  
20 terms and conditions of employment in effect for the Of-  
21 fice and its officers and employees on the day before the  
22 effective date of the Patent and Trademark Office Reform  
23 Act of 1995 shall continue in effect with respect to the  
24 Corporation and its officers and employees until modified,  
25 superseded, or set aside by the Corporation or a court of

1 competent jurisdiction or by operation of law. The collec-  
2 tive bargaining agreements between the Patent and  
3 Trademark Office and the National Treasury Employees  
4 Union 243, dated March 13, 1993, the Patent and Trade-  
5 mark Office and the National Treasury Employees Union  
6 245, dated July 20, 1993, and the Patent and Trademark  
7 Office and the Patent Office Professional Association,  
8 dated October 6, 1986, as well as the recognition of the  
9 three units, shall remain in effect until modified, super-  
10 seded, or set aside by the parties.

11 **“§4. Restrictions on officers and employees as to in-**  
12 **terest in patents**

13 “Officers and employees of the Patent and Trade-  
14 mark Corporation shall be incapable, during the period of  
15 their appointments and for 1 year thereafter, of applying  
16 for a patent and of acquiring, directly or indirectly, except  
17 by inheritance or bequest, any patent or any right or inter-  
18 est in any patent, issued or to be issued by the Corpora-  
19 tion. In patents applied for thereafter they shall not be  
20 entitled to any priority date earlier than 1 year after the  
21 termination of their appointment.

22 **“§5. Advisory Board**

23 “(a)(1) There is established an Advisory Board of the  
24 Corporation, which shall consist of thirteen members, as  
25 follows:

1           “(A) The Commissioner of Patents and Trade-  
2 marks, ex officio.

3           “(B) Twelve members appointed by the Sec-  
4 retary who shall be United States citizens of high in-  
5 tegrity and demonstrated accomplishment in a vari-  
6 ety of fields, including, finance, labor relations,  
7 consumer affairs, academia, large and small business  
8 or as an independent inventor. At least 6 shall have  
9 strong backgrounds in patents or trademarks.

10          “(2) No other person may substitute for a member  
11 of the Advisory Board.

12          “(3) The Secretary shall designate the chair of the  
13 Board, whose term as chair shall be for 3 years.

14          “(4) Initial appointments to the Board shall be made  
15 within 3 months after the effective date of the Patent and  
16 Trademark Office Reform Act of 1995, and vacancies  
17 shall be filled within 3 months after they occur.

18          “(b) Of those members of the Board specified in sub-  
19 section (a)(1)(A) who are original appointees, the Sec-  
20 retary shall designate 4 who shall serve for a term of 1  
21 year, 4 who shall serve for a term of 2 years, and 4 who  
22 shall serve for a term of 3 years. The term of members  
23 of the Board appointed after the expiration of the terms  
24 of the first appointed members of the Board shall be 3  
25 years. The Secretary shall appoint an individual to serve

1 the unexpired term of a member who withdraws or other-  
2 wise is unable to serve for the full term.

3 “(c) Members of the Board specified in subsection  
4 (a)(1)(B) shall be special Government employees within  
5 the meaning of section 202 of title 18. Members of the  
6 Board specified in subsection (a)(1)(B) shall serve on a  
7 part-time basis and shall be compensated at a per diem  
8 rate equivalent to level III of the Executive Schedule  
9 under section 5314 of title 5, in addition to reimbursement  
10 of reasonable incurred expenses when engaged in perform-  
11 ance of duties vested in the Board.

12 “(d) The Board shall—

13 “(1) review the Corporation’s policies, goals,  
14 performance, budget, and user fees and advise the  
15 Commissioner on these matters and any other mat-  
16 ter that the Commissioner refers to the Board;

17 “(2) within 60 days after the end of each fiscal  
18 year, prepare an annual report on the matters re-  
19 ferred to in paragraph (1), transmit the report to  
20 the President, the Commissioner, and the Commit-  
21 tees on the Judiciary of the Senate and the House  
22 of Representatives, and publish the report in the  
23 Patent and Trademark Office Official Gazette; and

1           “(3) meet at least quarterly, as provided by the  
2           bylaws of the Corporation, and at any time at the  
3           request of the Commissioner.

4           “(e)(1) The Corporation shall provide at the request  
5           of the Board such assistance as is necessary for the Board  
6           to perform its functions.

7           “(2) Members of the Board shall be provided access  
8           to records and information of the Corporation, except for  
9           personnel or other privileged information and information  
10          concerning patent applications required to be kept in con-  
11          fidence by section 122 of this title.

12          “(f) The provisions of the Federal Advisory Commit-  
13          tee Act (5 U.S.C. App.) shall not apply to any activities  
14          of the Board, except that members shall be considered to  
15          be serving on an advisory committee within the meaning  
16          of the Federal Advisory Committee Act for purposes of  
17          section 208(b)(3) of title 18.

18          **“§ 6. Suits by and against the Corporation**

19          “(a)(1) Any civil action, suit, or proceeding to which  
20          the Corporation is a party is deemed to arise under the  
21          laws of the United States. Exclusive jurisdiction over all  
22          civil actions by or against the Corporation is in the Fed-  
23          eral courts as provided by law. For purposes of filing suits,  
24          the Commissioner shall be the head of the Corporation.

1       “(2) Any action, suit, or proceeding against the Cor-  
2 poration founded upon contract shall be subject to the lim-  
3 itations and exclusive remedy provided in sections  
4 1346(a)(2) and 1491 through 1509 of title 28, whether  
5 or not such contract claims are cognizable under sections  
6 507, 1346, 1402, 1491, 1496, 1497, 1501, 1503, 2071,  
7 2072, 2411, 2501, and 2512 of title 28. For purposes of  
8 the Contract Disputes Act of 1978, the Commissioner  
9 shall be deemed to be the agency head with respect to con-  
10 tract claims arising with respect to the Corporation.

11       “(3) Any action, suit, or proceeding against the Cor-  
12 poration founded upon tort shall be subject to the limita-  
13 tions and exclusive remedies provided in sections 1346(a)  
14 and 2671 through 2680 of title 28, whether or not such  
15 tort claims are cognizable under section 1346(b) of title  
16 28.

17       “(4) Any action, suit, or proceeding against the Cor-  
18 poration based upon an alleged violation of section 717  
19 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16),  
20 section 15 of the Age Discrimination in Employment Act  
21 of 1967 (29 U.S.C. 633a), title V of the Rehabilitation  
22 Act of 1973 (29 U.S.C. 791 et seq.) or section 6(d) of  
23 the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d))  
24 shall be subject to the limitations and exclusive remedies

1 provided for other Federal Government executive agencies  
2 for a violation of such section or title.

3 “(5) No attachment, garnishment, lien, or similar  
4 process, intermediate or final, in law or equity, may be  
5 issued against property of the Corporation.

6 “(6) The Corporation shall be substituted as defend-  
7 ant in any civil action, suit, or proceeding against an em-  
8 ployee of the Corporation, if the Corporation determines  
9 that the employee was acting within the scope of the em-  
10 ployee’s employment with the Corporation. If the Corpora-  
11 tion refuses to certify scope of employment, the employee  
12 may at any time before trial, petition the court to find  
13 and certify that the employee was acting within the scope  
14 of the employee’s employment. Upon certification by the  
15 court, the Corporation shall be substituted as the party  
16 defendant. A copy of the petition shall be served upon the  
17 Corporation.

18 “(b)(1) Except as further provided in this section, in  
19 relation to all judicial proceedings in which the Corpora-  
20 tion or an employee is a party or in which the Corporation  
21 is interested and which arise from or relate to employees  
22 acting within the scope of their employment, torts, con-  
23 tracts, property, registration of patent and trademark  
24 practitioners, patents or trademarks, or fees, the Corpora-  
25 tion may exercise, without prior authorization from the

1 Attorney General, the authorities and duties that other-  
2 wise would be exercised by the Attorney General on behalf  
3 of the Corporation under title 28 and other laws. In all  
4 other judicial proceedings in which the Corporation or an  
5 employee of the Corporation is a party or is interested,  
6 the Corporation may exercise these authorities and duties  
7 only after obtaining authorization from the Attorney Gen-  
8 eral.

9       “(2) The Attorney General may file an appearance  
10 on behalf of the Corporation or an employee of the Cor-  
11 poration, without the consent of the Corporation, in any  
12 suit in which the Corporation is a party and represent the  
13 Corporation with exclusive authority in the conduct, settle-  
14 ment, or compromise of that suit.

15       “(3) The Corporation may consult with the Attorney  
16 General concerning any legal matter, and the Attorney  
17 General shall provide advice and assistance to the Cor-  
18 poration, including representing the Corporation in litiga-  
19 tion, if requested by the Corporation.

20       “(4) The Attorney General shall represent the Cor-  
21 poration in all cases before the United States Supreme  
22 Court.

23       “(5) An attorney admitted to practice to the bar of  
24 the highest court of at least one State in the United States  
25 or the District of Columbia and appointed by the Corpora-

1 tion may represent the Corporation in any legal proceed-  
2 ing in which the Corporation or an employee of the Cor-  
3 poration is a party or interested, regardless of whether  
4 the attorney is a resident of the jurisdiction in which the  
5 proceeding is held and notwithstanding any other pre-  
6 requisites of qualification or appearance required by the  
7 court or administrative body.

8 **“§ 7. Board of Patent Appeals and Interferences**

9       “(a) There shall be in the Patent and Trademark  
10 Corporation a Board of Patent Appeals and Interferences.  
11 The Commissioner, the officer principally responsible for  
12 the examination of patents, the officer principally respon-  
13 sible for the examination of trademarks, and the examin-  
14 ers-in-chief shall constitute the Board. The examiners-in-  
15 chief shall be persons of competent legal knowledge and  
16 scientific ability.

17       “(b) The Board of Patent Appeals and Interferences  
18 shall, on written appeal of an applicant, review adverse  
19 decisions of examiners upon applications for patents and  
20 shall determine priority and patentability of invention in  
21 interferences declared under section 135(a) of this title  
22 (35 U.S.C. 135(a)). Each appeal and interference shall be  
23 heard by at least 3 members of the Board, who shall be  
24 designated by the Commissioner. Only the Board of Pat-  
25 ent Appeals and Interferences may grant rehearings.”.

1 **SEC. 102. MANAGEMENT REPORT.**

2 Section 14 of title 35, United States Code, is amend-  
3 ed to read as follows:

4 **“§ 14. Annual report to Congress**

5 “The Corporation shall prepare and submit to the  
6 Congress an annual management report as required under  
7 section 9106 of title 31.”.

8 **SEC. 103. USE OF CORPORATION NAME AND DEFINITIONS.**

9 Chapter 1 of title 35, United States Code, is amended  
10 by inserting after section 14 the following new sections:

11 **“§ 15. Use of Corporation name**

12 “No individual, association, partnership, or corpora-  
13 tion, except the Corporation, shall hereafter use the words  
14 ‘United States Patent and Trademark Corporation’, ‘Pat-  
15 ent and Trademark Office’, or any combination of such  
16 words, as the name or part thereof under which such indi-  
17 vidual or entity shall do business. Violations of the fore-  
18 going may be enjoined by any Federal court at the suit  
19 of the Corporation. In any such suit, the Corporation shall  
20 be entitled to statutory damages of \$1,000 for each day  
21 during which such violation continues or is repeated and,  
22 in addition, may recover actual damages flowing from such  
23 violation.

24 **“§ 16. Definitions**

25 “For purposes of this title:

1           “(1) The term ‘Advisory Board’ means the Ad-  
2           visory Board of the United States Patent and  
3           Trademark Corporation.

4           “(2) The term ‘Commissioner’ means the Com-  
5           missioner of the United States Patent and Trade-  
6           mark Corporation.

7           “(3) The term ‘Corporation’ means the United  
8           States Patent and Trademark Corporation.

9           “(4) The term ‘intellectual property’ shall in-  
10          clude rights in inventions; in trademarks, service  
11          marks, and commercial names and designations; in  
12          literary, artistic and scientific works; in perform-  
13          ances of performing artists, phonograms and broad-  
14          casts; in industrial designs; in trade secrets and sci-  
15          entific discoveries; in semiconductor chip layout de-  
16          signs; in geographical indications; and all other  
17          rights resulting from intellectual activity in the in-  
18          dustrial, scientific, literary, or artistic fields.

19          “(5) The terms ‘Patent and Trademark Office’  
20          and ‘Office’ mean the Patent and Trademark Office  
21          of the Department of Commerce.

22          “(6) The term ‘Secretary’ means the Secretary  
23          of Commerce.”.

1 **SEC. 104. SUSPENSION OR EXCLUSION FROM PRACTICE.**

2 Section 32 of title 35, United States Code, is amend-  
3 ed by inserting before the last sentence the following: “The  
4 Commissioner shall have the discretion to designate any  
5 attorney who is an officer or employee of the Patent and  
6 Trademark Corporation to conduct the hearing required  
7 by this section.”.

8 **SEC. 105. FEES.**

9 (a) IN GENERAL.—Chapter 4 of title 35, United  
10 States Code, is amended by striking out section 42 and  
11 inserting in lieu thereof the following:

12 **“§42. Patent and Trademark Corporation funding**

13 “(a) All fees for services performed by or materials  
14 furnished by the Patent and Trademark Corporation will  
15 be payable to the Corporation.

16 “(b)(1) Moneys of the Corporation not otherwise used  
17 to carry out the functions of the Corporation shall be kept  
18 in cash on hand or on deposit, or invested in obligations  
19 of the United States or guaranteed thereby, or in obliga-  
20 tions or other instruments which are lawful investments  
21 for fiduciary, trust, or public funds.

22 “(2) Fees available to the Commissioner under this  
23 title shall be used exclusively for the processing of patent  
24 applications and for other services and materials relating  
25 to patents. Fees available to the Commissioner under sec-  
26 tion 31 of the Act of July 5, 1946 (commonly referred

1 to as the ‘Trademark Act of 1946’) (15 U.S.C. 1113) shall  
2 be used exclusively for the processing of trademark reg-  
3 istrations and for other services and materials relating to  
4 trademarks.

5       “(c) The Corporation is authorized to issue from time  
6 to time for purchase by the Secretary of the Treasury its  
7 debentures, bonds, notes, and other evidences of indebted-  
8 ness (collectively referred to as ‘obligations’) in an amount  
9 not exceeding \$2,000,000,000 outstanding at any one  
10 time, to assist in financing its activities. Such obligations  
11 shall be redeemable at the option of the Corporation before  
12 maturity in the manner stipulated in such obligations and  
13 shall have such maturity as is determined by the Corpora-  
14 tion with the approval of the Secretary of the Treasury.  
15 Each such obligation issued to the Treasury shall bear in-  
16 terest at a rate not less than the current yield on outstand-  
17 ing marketable obligations of the United States of com-  
18 parable maturity during the month preceding the issuance  
19 of the obligation as determined by the Secretary of the  
20 Treasury. The Secretary of the Treasury shall purchase  
21 any obligations of the Corporation issued hereunder and  
22 for such purpose the Secretary of the Treasury is author-  
23 ized to use as a public debt transaction the proceeds of  
24 any securities issued under chapter 31 of title 31, and the  
25 purposes for which securities may be issued under that

1 chapter are extended to include such purpose. Payment  
2 under this section of the purchase price of such obligations  
3 of the Corporation shall be treated as public debt trans-  
4 actions of the United States.

5 **“§43. Audits**

6       “(a) Financial statements of the Corporation shall be  
7 prepared on an annual basis in accordance with generally  
8 accepted accounting principles and shall be made publicly  
9 available in a timely manner. Such statements shall be au-  
10 dited by an independent certified public accountant chosen  
11 by the Secretary. The audit shall be conducted in accord-  
12 ance with standards that are consistent with generally ac-  
13 cepted government auditing standards and other stand-  
14 ards established by the Comptroller General, and with the  
15 private sector’s generally accepted auditing standards, to  
16 the extent feasible. Upon the completion of the audit re-  
17 quired by this subsection, the person who audits the state-  
18 ment shall submit a report on the audit to the Congress  
19 and the Corporation.

20       “(b) The Comptroller General may review any audit  
21 of the Corporation’s financial statements conducted under  
22 subsection (a). The Comptroller General shall report to  
23 the Congress and the Corporation the results of any such  
24 review and shall include in such report appropriate rec-  
25 ommendations.

1       “(c) The Comptroller General may audit the financial  
2 statements of the Corporation and such audit shall be in  
3 lieu of the audit required by subsection (a). The Corpora-  
4 tion shall reimburse the Comptroller General for the cost  
5 of any audit conducted under this subsection.

6       “(d) All books, financial records, report files, memo-  
7 randa, and other property that the Comptroller General  
8 deems necessary for the performance of any audit shall  
9 be made available to the Comptroller General.

10       “(e) This section shall apply to the Corporation in  
11 lieu of the provisions of section 9105 of title 31.”.

12       (b) SURCHARGE FUND.—(1) On the effective date of  
13 this Act, there are transferred to the Patent and Trade-  
14 mark Office those residual and unappropriated balances  
15 remaining as of the effective date within the Patent and  
16 Trademark Office Surcharge Fund established by section  
17 10101(b) of the Omnibus Budget Reconciliation Act of  
18 1990 (35 U.S.C. 41 note).

19       (2) Notwithstanding any other provision of law, effec-  
20 tive on and after October 1, 1998, section 10101 of the  
21 Omnibus Reconciliation Act of 1990 (35 U.S.C. 41 note)  
22 shall cease to apply to the revenues of the Corporation.

23       (c) TECHNICAL AND CONFORMING AMENDMENTS.—  
24 (1) The table of sections for chapter 4 of title 35, United

1 States Code, is amended by striking out the item relating  
2 to section 42 and inserting in lieu thereof the following:

“42. Patent and Trademark Corporation funding.  
“43. Audits.”.

3 (2) Section 10101 of the Omnibus Reconciliation Act  
4 of 1990 (35 U.S.C. 41 note) is amended—

5 (A) in subsection (a), by striking out “sub-  
6 sections (a) and (b) of”;

7 (B) in paragraphs (1)(A) and (2)(A) of sub-  
8 section (b), by striking out “Patent and Trademark  
9 activities in the Department of Commerce” and in-  
10 serting in lieu thereof “United States Patent and  
11 Trademark Corporation”;

12 (C) in subsection (b), by striking out “Patent  
13 and Trademark Office” each place it appears and in-  
14 serting in each such place “United States Patent  
15 and Trademark Corporation”; and

16 (D) in subsection (c), by striking out “Commis-  
17 sioner of Patents and Trademarks” and inserting in  
18 lieu thereof “Commissioner of the United States  
19 Patent and Trademark Corporation”.

20 **SEC. 106. TRADEMARK TRIAL AND APPEAL BOARD.**

21 Section 17 of the Act of July 5, 1946 (commonly re-  
22 ferred to as the Trademark Act of 1946) (15 U.S.C. 1067)  
23 is amended to read as follows:

1       “SEC. 17. (a) In every case of interference, opposition  
2 to registration, application to register as a lawful concur-  
3 rent user, or application to cancel the registration of a  
4 mark, the Commissioner shall give notice to all parties and  
5 shall direct a Trademark Trial and Appeal Board to deter-  
6 mine and decide the respective rights of registration.

7       “(b) The Trademark Trial and Appeal Board shall  
8 include the Commissioner, the officer principally respon-  
9 sible for the examination of trademarks, the officer prin-  
10 cipally responsible for the examination of patents, and  
11 members competent in trademark law, who are appointed  
12 by the Commissioner of the United States Patent and  
13 Trademark Corporation.”.

14 **SEC. 107. TRANSFERS.**

15       (a) FUNCTIONS.—Except as otherwise provided in  
16 this Act, there are transferred to, and vested in, the  
17 United States Patent and Trademark Corporation all  
18 functions, powers, and duties vested by law in the Sec-  
19 retary of Commerce or the Department of Commerce or  
20 in officers or components in the Department with respect  
21 to the authority to grant patents and register trademarks,  
22 and the Patent and Trademark Office, and in the officers  
23 and components of such Office.

24       (b) ASSETS.—The Secretary of Commerce is author-  
25 ized and directed, without need of further appropriation,

1 to transfer to the United States Patent and Trademark  
2 Corporation, on the effective date of this title, those as-  
3 sets, liabilities, contracts, property, records, and unex-  
4 pended and unobligated balances of appropriations, au-  
5 thorizations, allocations, and other funds employed, held,  
6 used, arising from, available or to be made available to  
7 the Department of Commerce (inclusive of funds set aside  
8 for accounts receivable which are related to functions,  
9 powers, and duties which are vested in the Corporation  
10 by this title).

11 **SEC. 108. TRANSITION PROVISIONS.**

12 (a) **CONTRACTS AND AGREEMENTS.**—Except as oth-  
13 erwise provided in this Act, all contracts, agreements,  
14 leases and other business instruments, licenses, permits,  
15 and privileges that have been afforded to the Patent and  
16 Trademark Office before the effective date of this Act,  
17 shall continue in effect as if the United States Patent and  
18 Trademark Corporation had executed such contracts,  
19 agreements, leases, or other business instruments which  
20 have been made in the exercise of functions which are  
21 transferred to the Corporation by this Act.

22 (b) **RULES.**—Until changed by the United States  
23 Patent and Trademark Corporation, any procedural and  
24 administrative rules applicable to particular functions over  
25 which the Corporation acquires jurisdiction on the effec-

1 tive date of this Act shall continue in effect with respect  
2 to such particular functions.

3 (c) APPLICATION OF DEPARTMENT RULES TO COR-  
4 PORATION.—Unless otherwise provided by this Act, as re-  
5 lated to the functions vested in the United States Patent  
6 and Trademark Corporation by this Act, all orders, deter-  
7 minations, rules, regulations, and privileges of the Depart-  
8 ment shall cease to apply to the Corporation on the effec-  
9 tive date of this Act, except for those which the Corpora-  
10 tion determines shall continue to be applicable.

11 (d) PENDING PROCEEDINGS.—Except as otherwise  
12 provided in this Act, the transfer of functions related to  
13 and vested in the United States Patent and Trademark  
14 Corporation by this Act shall not affect judicial, adminis-  
15 trative, or other proceedings which are pending at the time  
16 this Act takes effect, and such proceedings shall be contin-  
17 ued by the Corporation.

18 (e) REFERENCES.—Reference in any other Federal  
19 law, Executive order, rule, regulation, or delegation of au-  
20 thority, or any document of or relating to—

21 (1) the Commissioner of Patents and Trade-  
22 marks shall be deemed to refer to the Commissioner  
23 of the United States Patent and Trademark Cor-  
24 poration; and

1           (2) the Patent and Trademark Office shall be  
2           deemed to refer to the United States Patent and  
3           Trademark Corporation.

4 **SEC. 109. NONAPPLICABILITY OF FEDERAL WORKFORCE**  
5 **REDUCTIONS.**

6           No full-time equivalent position in the Patent and  
7 Trademark Corporation shall be eliminated to meet the  
8 requirements of section 5 of the Federal Workforce Re-  
9 structuring Act of 1994 (5 U.S.C. 3101 note).

10 **SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.**

11           Make the following amendments:

12           (1) Section 500(e) of title 5, United States  
13 Code, is amended by striking out “the Patent Of-  
14 fice” and inserting in lieu thereof “the United States  
15 Patent and Trademark Corporation”.

16           (2) Section 5102(c)(23) of title 5, United  
17 States Code, is amended by striking out “Patent  
18 and Trademark Office” and inserting in lieu thereof  
19 “United States Patent and Trademark Corpora-  
20 tion”.

21           (3) Section 5313 of title 5, United States Code,  
22 is amended by adding at the end thereof the follow-  
23 ing:

1           “Commissioner of Patents and Trademarks,  
2           United States Patent and Trademark Office, De-  
3           partment of Commerce.”.

4           (4) Section 5315 of title 5, United States Code,  
5           is amended by adding at the end thereof the follow-  
6           ing:

7           “Inspector General, United States Patent and  
8           Trademark Corporation.”.

9           (5) Section 5316 of title 5, United States Code  
10          (5 U.S.C. 5316), is amended by striking out the  
11          items relating to Commissioner of Patents, Depart-  
12          ment of Commerce, Deputy Commissioner for Pat-  
13          ents, Assistant Commissioner for Patents, and As-  
14          sistant Commissioner for Trademarks.

15          (6) Section 8G(a)(2) of the Inspector General  
16          Act of 1978 (5 U.S.C. App.) is amended by inserting  
17          “the United States Patent and Trademark Corpora-  
18          tion,” before “and the United States Postal Serv-  
19          ice”.

20          (7) Section 13 of title 35, United States Code,  
21          is amended by striking out “at the rate for each  
22          year’s issue established for this purpose in section  
23          41(d) of this title”.

24          (8) The provisions of the Act of July 5, 1946  
25          (commonly referred to as the Trademark Act of

1 1946) (15 U.S.C. 1051 et seq.), other than section  
2 29, are amended by striking out “Patent and Trade-  
3 mark Office” and “United States Patent and Trade-  
4 mark Office” each place such terms appear and in-  
5 serting in each such place “United States Patent  
6 and Trademark Corporation”.

7 (9) The Act of July 5, 1946 (commonly re-  
8 ferred to as the Trademark Act of 1946) is amended  
9 in section 12(a) (15 U.S.C. 1062(a)) by striking out  
10 “shall refer the application to the examiner in  
11 charge of the registration of marks”.

12 (10) Section 4 of the Act of February 14, 1903  
13 (15 U.S.C. 1511) is amended by striking out “Pat-  
14 ent and Trademark Office”.

15 (11) Section 19 of the Tennessee Valley Au-  
16 thority Act of 1933 (16 U.S.C. 831r) is amended by  
17 striking out “Patent and Trademark Office of the  
18 United States” and inserting in lieu thereof “United  
19 States Patent and Trademark Corporation”.

20 (12) Section 2320(d)(1)(A)(ii) of title 18,  
21 United States Code, is amended by striking out  
22 “United States Patent and Trademark Office” and  
23 inserting in lieu thereof “United States Patent and  
24 Trademark Corporation”.

1           (13) Section 526 of the Tariff Act of 1930 (19  
2 U.S.C. 1526(a)) is amended by striking out “Patent  
3 and Trademark Office” and inserting in lieu thereof  
4 “United States Patent and Trademark Corpora-  
5 tion”.

6           (14) The Joint Resolution approved April 12,  
7 1892 (20 U.S.C. 91) is amended by striking out  
8 “Patent Office” and inserting in lieu thereof  
9 “United States Patent and Trademark Corpora-  
10 tion”.

11           (15) Section 505(m) of the Federal Food,  
12 Drug, and Cosmetic Act (21 U.S.C. 355(m)) is  
13 amended by striking out “Patent and Trademark  
14 Office of the Department of Commerce”  
15 and inserting in lieu thereof “United States Patent  
16 and Trademark Corporation”.

17           (16) Section 512(o) of the Federal Food, Drug,  
18 and Cosmetic Act (21 U.S.C. 360b(o)) is amended  
19 by striking out “Patent and Trademark Office of the  
20 Department of Commerce” and inserting in lieu  
21 thereof “United States Patent and Trademark Cor-  
22 poration”.

23           (17) Section 702(d) of the Federal Food, Drug,  
24 and Cosmetic Act (21 U.S.C. 372(d)) is amended by  
25 striking out “Commissioner of Patents” and insert-

1 ing in lieu thereof “Commissioner of Patents and  
2 Trademarks”.

3 (18) Section 501(b)(1) of the Jobs Through  
4 Trade Expansion Act of 1994 (22 U.S.C. 2151t-  
5 1(b)(1)) is amended by striking out “Patent and  
6 Trademark Office” and inserting in lieu thereof  
7 “United States Patent and Trademark Corpora-  
8 tion”.

9 (19) Section 2 of the Act of August 27, 1935  
10 (25 U.S.C. 305a) is amended by striking out “Pat-  
11 ent and Trademark Office” and inserting in lieu  
12 thereof “United States Patent and Trademark Cor-  
13 poration”.

14 (20) Section 105(e) of the Federal Alcohol Ad-  
15 ministration Act (27 U.S.C. 205(e)) is amended by  
16 striking out “Patent Office” and inserting in lieu  
17 thereof “United States Patent and Trademark Cor-  
18 poration”.

19 (21) Section 1295(a)(4) of title 28, United  
20 States Code, is amended by striking out “Patent  
21 and Trademark Office” and inserting in lieu thereof  
22 “United States Patent and Trademark Corpora-  
23 tion”.

24 (22) Section 1744 of title 28, United States  
25 Code, is amended—

1 (A) in the section heading by striking out  
2 “**Patent Office**” and inserting in lieu thereof  
3 “**United States Patent and Trademark**  
4 **Office**”;

5 (B) by striking out “Patent Office” each  
6 place such term appears and inserting in lieu  
7 thereof “United States Patent and Trademark  
8 Corporation”; and

9 (C) by striking out “Commissioner of Pat-  
10 ents” and inserting in lieu thereof “Commis-  
11 sioner of Patents and Trademarks”.

12 (23) Section 1745 of title 28, United States  
13 Code, is amended by striking out “United States  
14 Patent Office” and inserting in lieu thereof “United  
15 States Patent and Trademark Corporation”.

16 (24) Section 1928 of title 28, United States  
17 Code, is amended by striking out “Patent Office”  
18 and inserting in lieu thereof “United States Patent  
19 and Trademark Corporation”.

20 (25) Section 9101(3) of title 31, United States  
21 Code, is amended by adding at the end thereof:

22 “(O) the United States Patent and Trade-  
23 mark Corporation.”.

24 (26) The provisions of title 35, United States  
25 Code, are amended by striking out “Patent and

1 Trademark Office” and “United States Patent and  
 2 Trademark Office” each place such terms appear  
 3 and inserting in each such place “United States Pat-  
 4 ent and Trademark Corporation”.

5 (27) The table of sections for chapter 1 of part  
 6 I of title 35, United States Code, is amended to read  
 7 as follows:

8 **“CHAPTER 1—ESTABLISHMENT,**  
 9 **OFFICERS, FUNCTIONS**

“Sec.

“1. Establishment.

“2. Powers and duties.

“3. Officers and employees.

“4. Restrictions on officers and employees as to interest in patents.

“5. Advisory Board.

“6. Suits by and against the Corporation.

“7. Board of Patent Appeals and Interferences.

“8. Library.

“9. Classification of patents.

“10. Certified copies of records.

“11. Publications.

“12. Exchange of copies of patents with foreign countries.

“13. Copies of patents for public libraries.

“14. Annual report to Congress.

“15. Use of Corporation name.

“16. Definitions.”.

10 (28) Section 302 of title 35, United States  
 11 Code, is amended in the second sentence by insert-  
 12 ing “established” before “pursuant”.

13 (29) Sections 371(c)(1) and 376(a) of title 35,  
 14 United States Code, are amended by striking out  
 15 “provided” and inserting in lieu thereof “established  
 16 under”.

1           (30) Section 602 of the Federal Property and  
2           Administrative Services Act of 1949 (40 U.S.C. 474)  
3           is amended by inserting after paragraph (21) the  
4           following new paragraph:

5           “(22) the United States Patent and Trademark  
6           Corporation,”.

7           (31) Section 151 (c) and (d) of the Atomic En-  
8           ergy Act of 1954 (42 U.S.C. 2181 (c) and (d)) are  
9           each amended by striking out “Commissioner of  
10          Patents” and inserting in lieu thereof “Commis-  
11          sioner of Patents and Trademarks”.

12          (32) Section 160 of the Atomic Energy Act of  
13          1954 (42 U.S.C. 2190) is amended by striking out  
14          “Patent Office” and inserting in lieu thereof  
15          “United States Patent and Trademark Corpora-  
16          tion”.

17          (33) Section 305(c) of the National Aeronautics  
18          and Space Act of 1958 (42 U.S.C. 2457(c)) is  
19          amended by striking out “Commissioner of Patents”  
20          and inserting in lieu thereof “Commissioner of Pat-  
21          ents and Trademarks”.

22          (34) Section 12(a) of the Solar Energy Re-  
23          search, Development, and Demonstration Act of  
24          1974 (42 U.S.C. 5510(a)) is amended by striking  
25          out “Commissioner of Patent Office” and inserting

1 in lieu thereof “Commissioner of Patents and Trade-  
2 marks”.

3 (35) Section 1111 of title 44, United States  
4 Code, is amended by striking out “Commissioner of  
5 Patents” and inserting in lieu thereof “Commis-  
6 sioner of Patents and Trademarks”.

7 (36) Section 1123 of title 44, United States  
8 Code, is amended by striking out “the Patent Of-  
9 fice,”.

10 (37) Section 1114 of title 44, United States  
11 Code, is amended by striking out “Commissioner of  
12 Patents,”.

13 (38)(A) Sections 1337 and 1338 of title 44,  
14 United States Code, are repealed.

15 (B) The table of sections for chapter 13 of title  
16 44, United States Code, is amended by striking out  
17 the items relating to sections 1337 and 1338.

18 (39) Section 10(i) of the Trading with the  
19 Enemy Act (50 U.S.C. App. 10) is amended by  
20 striking out “Commissioner of Patents” and insert-  
21 ing in lieu thereof “Commissioner of Patents and  
22 Trademarks”.

1           **TITLE II—MISCELLANEOUS**  
 2                           **PROVISIONS**

3   **SEC. 201. SEPARABILITY.**

4           If any provision of this Act or the application thereof  
 5 to any person or circumstance is held invalid, the remain-  
 6 der of this Act, and the application of such provision to  
 7 other persons or circumstances shall not be affected there-  
 8 by.

9   **SEC. 202. EFFECTIVE DATE.**

10          This Act shall take effect 180 days after the date of  
 11 the enactment of this Act.

○

S 1458 IS—2

S 1458 IS—3

S 1458 IS—4