

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# **H. R. 3723**

## **AN ACT**

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

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## AN ACT

To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “United States Patent  
3 and Trademark Office Reauthorization Act, Fiscal Year  
4 1999”.

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

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

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

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

18 “(a) The Commissioner shall charge the following  
19 fees:

20 “(1)(A) On filing each application for an origi-  
21 nal patent, except in design or plant cases, \$760.

22 “(B) In addition, on filing or on presentation at  
23 any other time, \$78 for each claim in independent  
24 form which is in excess of 3, \$18 for each claim  
25 (whether independent or dependent) which is in ex-

1       cess of 20, and \$260 for each application containing  
2       a multiple dependent claim.

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

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

7               “(3) In design and plant cases—

8                       “(A) on filing each design application,  
9       \$310;

10                      “(B) on filing each plant application,  
11       \$480;

12                      “(C) on issuing each design patent, \$430;  
13       and

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

15               “(4)(A) On filing each application for the re-  
16       issue of a patent, \$760.

17               “(B) In addition, on filing or on presentation at  
18       any other time, \$78 for each claim in independent  
19       form which is in excess of the number of independ-  
20       ent claims of the original patent, and \$18 for each  
21       claim (whether independent or dependent) which is  
22       in excess of 20 and also in excess of the number of  
23       claims of the original patent.

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

1           “(6)(A) On filing an appeal from the examiner  
2           to the Board of Patent Appeals and Interferences,  
3           \$300.

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

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

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

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

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

19                  “(C) on filing a third petition or subse-  
20          quent petition, \$490.

21          “(9) Basic national fee for an international ap-  
22          plication where the Patent and Trademark Office  
23          was the International Preliminary Examining Au-  
24          thority and the International Searching Authority,  
25          \$670.

1           “(10) Basic national fee for an international  
2 application where the Patent and Trademark Office  
3 was the International Searching Authority but not  
4 the International Preliminary Examining Authority,  
5 \$760.

6           “(11) Basic national fee for an international  
7 application where the Patent and Trademark Office  
8 was neither the International Searching Authority  
9 nor the International Preliminary Examining Au-  
10 thority, \$970.

11           “(12) Basic national fee for an international  
12 application where the international preliminary ex-  
13 amination fee has been paid to the Patent and  
14 Trademark Office, and the international preliminary  
15 examination report states that the provisions of Arti-  
16 cle 33(2), (3), and (4) of the Patent Cooperation  
17 Treaty have been satisfied for all claims in the appli-  
18 cation entering the national stage, \$96.

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

22           “(14) For filing or later presentation of each  
23 claim (whether independent or dependent) in a na-  
24 tional stage of an international application in excess  
25 of 20, \$18.

1           “(15) For each national stage of an inter-  
2           national application containing a multiple dependent  
3           claim, \$260.

4 For the purpose of computing fees, a multiple dependent  
5 claim referred to in section 112 of this title or any claim  
6 depending therefrom shall be considered as separate de-  
7 pendent claims in accordance with the number of claims  
8 to which reference is made. Errors in payment of the addi-  
9 tional fees may be rectified in accordance with regulations  
10 of the Commissioner.”.

11           (b) PATENT MAINTENANCE FEES.—Section 41 of  
12 title 35, United States Code, is amended by striking sub-  
13 section (b) and inserting the following:

14           “(b) The Commissioner shall charge the following  
15 fees for maintaining in force all patents based on applica-  
16 tions filed on or after December 12, 1980:

17           “(1) 3 years and 6 months after grant, \$940.

18           “(2) 7 years and 6 months after grant, \$1,900.

19           “(3) 11 years and 6 months after grant,  
20           \$2,910.

21 Unless payment of the applicable maintenance fee is re-  
22 ceived in the Patent and Trademark Office on or before  
23 the date the fee is due or within a grace period of 6  
24 months thereafter, the patent will expire as of the end of  
25 such grace period. The Commissioner may require the

1 payment of a surcharge as a condition of accepting within  
2 such 6-month grace period the payment of an applicable  
3 maintenance fee. No fee may be established for maintain-  
4 ing a design or plant patent in force.”.

5 **SEC. 4. AUTHORIZATION OF COLLECTION AND EXPENDI-**  
6 **TURE.**

7 Section 42(e) of title 35, United States Code, is  
8 amended by striking the first sentence and inserting the  
9 following: “To the extent and in the amounts provided in  
10 advance in appropriations Acts, fees authorized in this  
11 title or any other Act to be charged or established by the  
12 Commissioner shall be collected by and shall be available  
13 to the Commissioner to carry out the activities of the Pat-  
14 ent and Trademark Office.”.

15 **SEC. 5. EFFECTIVE DATE.**

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

Passed the House of Representatives May 12, 1998.

Attest:

*Clerk.*