

105TH CONGRESS  
1ST SESSION

# H. R. 812

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1997

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

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## A BILL

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

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

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

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

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

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

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

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

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

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

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

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

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

1 (2) by adding at the end thereof the following:

2 “United States letters patent, and all such other  
3 patents and printed publications shall be maintained  
4 in the examiners’ search files under the United  
5 States Patent Classification System.”.

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

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

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

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

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

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

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

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

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

10 “Patent and Trademark Office”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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