

111TH CONGRESS
1ST SESSION

H. R. 3114

IN THE SENATE OF THE UNITED STATES

JULY 8, 2009

Received

AN ACT

To authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force, 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. AUTHORITY OF PTO DIRECTOR TO USE TRADE-**
2 **MARK FUNDS.**

3 (a) AUTHORITY.—

4 (1) IN GENERAL.—The Director of the United
5 States Patent and Trademark Office—

6 (A) may use funds made available for fis-
7 cal year 2009, pursuant to section 31 of the
8 Trademark Act of 1946 (15 U.S.C. 1113),
9 under the heading “Department of Com-
10 merce—United States Patent and Trademark
11 Office—Salaries and Expenses” in title I of di-
12 vision B of the Omnibus Appropriations Act,
13 2009 (Public Law 111–8), up to \$70,000,000,
14 to support the processing of patents and other
15 activities, services, and materials relating to
16 patents, notwithstanding section 42(c) of title
17 35, United States Code; and

18 (B) notwithstanding any other provision of
19 law, shall, upon the exercise of the authority
20 under subparagraph (A), establish a surcharge,
21 in amounts up to \$70,000,000, on patent fees
22 in effect under title 35, United States Code, to
23 repay any funds drawn down pursuant to sub-
24 paragraph (A),

25 if the Director certifies in writing to the Congress
26 that the use of the funds described in subparagraph

1 (A) is reasonably necessary to avoid furloughs or a
2 reduction-in-force, or both, in the United States Pat-
3 ent and Trademark Office, and does not create a
4 substantial risk of a furlough or reduction-in-force of
5 personnel working in the Trademark Operation of
6 the United States Patent and Trademark Office.

7 (2) SURCHARGES DEPOSITED IN TREASURY.—
8 All surcharges paid under paragraph (1)(B) shall be
9 deposited in the Treasury as an offsetting receipt
10 that shall not be available for obligation or expendi-
11 ture.

12 (b) LIMITATIONS ON AUTHORITY.—The authority
13 under subsection (a)(1)(A) shall terminate on June 30,
14 2010. The surcharge established under subsection
15 (a)(1)(B) shall take effect no later than September 30,
16 2011, and all funds drawn down pursuant to subsection
17 (a)(1)(A) shall be repaid pursuant to subsection (a)(1)(B)
18 no later than September 30, 2014.

19 (c) DEFINITIONS.—In this section:

20 (1) DIRECTOR.—The terms “Director of the
21 United States Patent and Trademark Office” and
22 “Director” mean the Under Secretary of Commerce
23 for Intellectual Property and Director of the United
24 States Patent and Trademark Office.

Attest: LORRAINE C. MILLER,
Clerk.