

113TH CONGRESS
1ST SESSION

H. R. 3349

To provide for the permanent funding of the United States Patent and Trademark Office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2013

Mr. CONYERS (for himself, Mr. WATT, and Mr. COLLINS of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the permanent funding of the United States 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Innovation Protection
5 Act”.

6 **SEC. 2. PATENT AND TRADEMARK OFFICE FUNDING.**

7 (a) DEFINITIONS.—In this section:

8 (1) DIRECTOR.—The term “Director” means
9 the Under Secretary of Commerce for Intellectual

1 Property and Director of the United States Patent
2 and Trademark Office.

3 (2) FUND.—The term “Fund” means the
4 United States Patent and Trademark Office Public
5 Enterprise Revolving fund established under sub-
6 section (c).

7 (3) OFFICE.—The term “Office” means the
8 United States Patent and Trademark Office.

9 (4) TRADEMARK ACT OF 1946.—The term
10 “Trademark Act of 1946” means the Act entitled
11 “An Act to provide for the registration and protec-
12 tion of trademarks used in commerce, to carry out
13 the provisions of certain international conventions,
14 and for other purposes”, approved July 5, 1946 (15
15 U.S.C. 1051 et seq.) (commonly referred to as the
16 “Trademark Act of 1946” or the “Lanham Act”).

17 (b) FUNDING.—

18 (1) IN GENERAL.—Section 42 of title 35,
19 United States Code, is amended—

20 (A) in subsection (b), by striking “Patent
21 and Trademark Office Appropriation Account”
22 and inserting “United States Patent and
23 Trademark Office Public Enterprise Fund”;
24 and

25 (B) in subsection (c)—

1 (i) in paragraph (1)—

2 (I) in the first sentence, by strik-
3 ing “To the extent” and all that fol-
4 lows through “fees” and inserting
5 “Fees”; and

6 (II) by striking “shall be col-
7 lected by and shall, subject to para-
8 graph (3), be available to the Direc-
9 tor” and inserting “shall be collected
10 by, and shall be available to, the Di-
11 rector until expended”; and

12 (ii) by striking paragraph (2) and re-
13 designating paragraph (3) as paragraph
14 (2).

15 (2) EFFECTIVE DATE.—The amendments made
16 by paragraph (1) shall take effect on the first day
17 of the first fiscal year that begins on or after the
18 date of the enactment of this Act.

19 (c) USPTO REVOLVING FUND.—

20 (1) ESTABLISHMENT.—There is established in
21 the Treasury of the United States a revolving fund
22 to be known as the “United States Patent and
23 Trademark Office Public Enterprise Fund”. Any
24 amounts in the Fund shall be available for use by
25 the Director without fiscal year limitation.

1 (2) DERIVATION OF RESOURCES.—

2 (A) IN GENERAL.—There shall be depos-
3 ited into the Fund on and after the effective
4 date set forth in subsection (b)(2)—

5 (i) any fees collected under title 35,
6 United States Code; and

7 (ii) any fees collected under the
8 Trademark Act of 1946 (15 U.S.C. 1051
9 et seq.).

10 (B) REMAINING BALANCES.—There shall
11 be deposited in the Fund, on the effective date
12 set forth in subsection (b)(2), any unobligated
13 balances remaining in the Patent and Trade-
14 mark Office Appropriation Account, and in the
15 Patent and Trademark Fee Reserve Fund es-
16 tablished under section 42(b)(2) of title 31,
17 United States Code, as in effect on the day be-
18 fore such effective date. Upon the payment of
19 all obligated amounts in the Patent and Trade-
20 mark Fee Reserve Fund, the Patent and Trade-
21 mark Fee Reserve Fund shall be terminated.

22 (3) EXPENSES.—Amounts deposited into the
23 Fund under paragraph (2) shall be available, with-
24 out fiscal year limitation, to cover—

1 (A) all expenses, to the extent consistent
2 with the limitation on the use of fees set forth
3 in section 42(c) of title 35, United States Code,
4 including all administrative and operating ex-
5 penses, determined in the discretion of the Di-
6 rector to be ordinary and reasonable, incurred
7 by the Director for the continued operation of
8 all services, programs, activities, and duties of
9 the Office relating to patents and trademarks,
10 as such services, programs, activities, and du-
11 ties are described under—

12 (i) title 35, United States Code; and

13 (ii) the Trademark Act of 1946; and

14 (B) all expenses incurred pursuant to any
15 obligation, representation, or other commitment
16 of the Office.

17 (d) ANNUAL REPORT AND OPERATION PLAN.—Not
18 later than 60 days after the end of each fiscal year, the
19 Director shall submit to Congress a report that—

20 (1) summarizes the operations of the Office for
21 the preceding fiscal year, including financial details
22 and staff levels broken down by each major activity
23 of the Office;

24 (2) describes the long term modernization plans
25 of the Office;

1 (3) sets forth details of any progress towards
2 such modernization plans made in the preceding fis-
3 cal year; and

4 (4) includes the results of the most recent audit
5 carried out under subsection (f).

6 (e) ANNUAL SPENDING PLAN.—

7 (1) IN GENERAL.—Not later than 30 days after
8 the beginning of each fiscal year, the Director shall
9 notify the Committee on Appropriations of the
10 House of Representatives and the Committee on Ap-
11 propriations of the Senate of the plan for the obliga-
12 tion and expenditure by the Office of the total
13 amount of the funds for that fiscal year in accord-
14 ance with section 605 of the Science, State, Justice,
15 Commerce, and Related Agencies Appropriations
16 Act, 2006 (Public Law 109–108; 119 Stat. 2334).

17 (2) CONTENTS.—Each plan under paragraph
18 (1) shall—

19 (A) summarize the operations of the Office
20 for the current fiscal year, including financial
21 details and staff levels with respect to major ac-
22 tivities; and

23 (B) detail the operating plan of the Office,
24 including specific expense and staff needs, for
25 the current fiscal year.

1 (f) AUDIT.—The Director shall, on an annual basis,
2 provide for an independent audit of the financial state-
3 ments of the Office. Such audit shall be conducted in ac-
4 cordance with generally accepted accounting principles.

5 (g) BUDGET.—The Fund shall prepare and submit
6 each year to the President a business-type budget in such
7 manner, and before such date, as the President prescribes
8 by regulation.

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