EXTENSIONS OF REMARKS

PATENT AND TRADEMARK OFFICE SURCHARGE EXTENSION ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 1997

Mr. COBLE. Mr. Speaker, today, I am pleased to introduce a bill which responds to an aspect of the budget proposed by the administration last Thursday and to congressional practice over the past 6 fiscal years. The administration's budget proposal would divert $92 million in fiscal year 1998 from the U.S. Patent and Trademark Office, which receives no taxpayer dollars, to other tax-funded areas of the Government. In 1999, the administration proposes that $119 million be diverted. In fiscal year 1997, Congress diverted $54 million, a significant increase over previous diversions. This legislation would correct this serious and growing problem, without harming the budget, so that the PTO can continue to be the engine that fuels the creation of competitive American technology.

Last month, Representatives GOODLATTE, CONYERS, LOFGREN, and I introduced H.R. 400, the 21st Century Patent System Improvement Act, a bipartisan bill which will make critical reforms to our Nation's patent laws and to the PTO for America's high-technology industries. However, unless we move quickly to preserve and stabilize the finances of the PTO, these improvements and the patent system itself will be in jeopardy.

The Patent and Trademark Office is funded totally through the payment of application and user fees. Taxpayer support for the operations of the Office was eliminated in 1990 with the passage of the Omnibus Budget Reconciliation Act. The act imposed a massive fee increase—referred to as a ''surcharge''—on America's inventors and industry in order to replace taxpayer support the Office was then receiving. The revenues generated by this surcharge, $119 million, which constitute approximately 20 percent of the PTO's operating budget, are placed into a surcharge account. The PTO is required to request of the Appropriations Committees that they be allowed to use these surcharge revenues in this account to support the 20 percent of its operations these revenues represent. It was anticipated in 1990 that Congress would routinely grant the PTO permission to use the surcharge revenue since it was generated originally from fees paid by users of the patent and trademark systems to support the cost of those systems.

Unfortunately, experience has shown us that the user fees paid into the surcharge account have become a target of opportunity to fund other, unrelated, taxpayer-funded Government programs. The temptation to use the surcharge, and thus a significant portion of the operating budget of the PTO, has proven increasingly irresistible, to the detriment and sound functioning of our Nation's patent and trademark systems. Beginning with the diversion of $8 million in 1992, Congress has increasingly redirected a larger share of the surcharge revenue, reaching a record level of $54 million in the current year. In total, over the past 6 fiscal years, over $142 million has been diverted from the PTO.

This, of course, has had a debilitating impact on the Patent and Trademark Office. The effort to reclassify the patent search file to keep it current with developing technologies had to be eliminated. The efforts to provide technological training for patent examiners and to expose them to the latest developments in their fields has been reduced. The support of legal training for patent examiners has been cut 50 percent. One of the most promising cost-saving steps contemplated by the PTO, allowing applicants to file their applications electronically, has been postponed indefinitely. Since the diversion of $54 million this year, the Office has been forced to reduce the hiring of patent examiners 50 percent at a time when patent application filings are increasing by nearly 10 percent annually. In the budget delivered to this body by the administration last Thursday, the President is proposing that we continue to increase these diversions in the amount of $92 million in fiscal year 1998 and $119 million, the amount of the entire surcharge, in each of the succeeding years through fiscal year 2002. In anticipation of this denial of user fees, the PTO has canceled totally all plans for hiring patent examiners this year because it would not have sufficient funds to pay for them next year. We cannot afford to allow this dismantling of our patent system to occur.

The legislation I am introducing today is revenue neutral. It does not increase an expenditure of taxpayer revenues which would increase the deficit. It would merely permit the PTO to use all of the patent and trademark fees it receives to examine patent and trademark applications, to grant patents and to register trademarks. It does this by placing the fees generated by the surcharge mandated by the Omnibus Budget Reconciliation Act of 1990 into the same category as the other user fees paid by patent and trademark applicants. Specifically, it would characterize these fees as ''offsetting collections'' rather than ''offsetting receipts'' so that all of the fees collected could be used for the purposes for which they were paid.

We must stop this unwarranted tax on innovation. Our Patent and Trademark Office cannot operate effectively on 80 percent of its operating budget—all of which is paid for not by you and me, but by the applicants who use it. I look forward to working with all interested parties to reverse this potential decline in the services offered by the PTO. In this increasingly competitive world, the economic survival of the United States will be dependent upon high technology products and services. We cannot allow the pillar upon which our competitiveness in the global economy rests to be destroyed.

SUNSHINE ON THE FEDERAL OPEN MARKET COMMITTEE ACT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 1997

Mr. TRAFICANT. Mr. Speaker, in 1995 the Chairman of the Federal Reserve clarified that transcripts of its Federal Open Market Committee [FOMC] meetings will be disclosed to the public—after 30 years.

Enough is enough. I urge my colleagues to once again cosponsor my Sunshine on the Federal Open Market Committee Act, which will apply the Government-in-the-Sunshine Act to FOMC meetings.

The Fed is charged with duty of not only conducting the day-to-day banking for the entire Nation, but regulating the economy through the formulation of monetary policy. Needless to say, it wields immense power. In a typical month, it pumps anywhere between $1 and $4 billion into the economy while dangling the threat of higher interest rates over the American public. Even more intimidating, Mr. Speaker, is that half of all the banks in the country are members of the Federal Reserve System; all national banks must belong. All told, the Fed has holdings of over $300 billion—accounting for nearly 7 percent of the national debt.

The entity within the Fed responsible for determining the country's monetary policy is the FOMC, which consists of the 7 member Board of Governors and 5 of the 12 district bank presidents. The FOMC meets every 6 weeks but, unfortunately for the general public, they meet in relative secrecy. I say relative because, in the wake of a FOMC meeting, members of the committee give speeches to business groups where, with a wink and a nod, they may reveal specifics of the new policy. Meanwhile, the ordinary American gets a convoluted synopsis of the policy immediately after the meeting, an edited transcript 6 weeks later, and the full story 30 years later. It is time to open these meetings up to all.

Mr. Speaker, the Government-in-the-Sunshine Act, passed in 1976 to increase accountability of over 50 Federal agencies, opens closed meetings to private scrutiny. It requires that every portion of every meeting of an agency that is headed by a collegial body must be open to public observation. There are exceptions to the law, however, and the Fed has massaged the English language to the point where the Supreme Court overruled the lower courts and allowed one such exemption to apply to the FOMC meetings. Consequently, the Fed has the extraordinary timetable for disclosure that I mentioned.

Mr. Speaker, I understand the sensitivity with which the Fed must treat monetary policy. I also understand the need for apolitical decisionmaking during the FOMC meetings. But when a governmental entity can wield a $300 billion bludgeoning tool at will in the marketplace, it should be held accountable. As such,