

Ms. KAPTUR. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I take the gentleman's point about U.S. companies and who might be called a U.S. company. I simply wanted to point out that the chairman of the Committee on the Judiciary has a manager's amendment that will not simply limit this to U.S. companies, but limit it to searches only by companies employing U.S. citizens to perform the searches. So there is that as an additional element.

Ms. KAPTUR. Mr. Speaker, reclaiming my time, and I thank the gentleman from California for those comments, but it is interesting because our submarine technology happened to end up in the hands of the former Soviet Union through a subsidiary of a company operating here and also in Europe. It does not matter if U.S. citizens are in those jobs; what matters is who owns the company. And beyond that, why should we be outsourcing anything from the Patent and Trademark Office?

I totally oppose this bill. At least I want on the record that there was one Member standing to say that the constitutional protections to America's patent holders and inventors should not be breached. It has been working. Why change it?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would appreciate Members' abiding by the time limits.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill H.R. 1561, soon to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 547 and rule XVIII, the Chair declares the House in the Committee of the Whole

House on the State of the Union for the consideration of the bill, H.R. 1561.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1561 will help implement the Patent and Trademark Office's Strategic Business Plan to transform the agency's operations. The bill incorporates a revised fee schedule previously submitted by the PTO that will generate much-needed additional revenue. The plan also includes a true structural reform of the office, which demonstrates that the PTO is not simply saying give us more money and we will solve the problem. The implementation of the strategic plan is the first step forward toward improving patent and trademark quality while reducing application backlogs and pendency at the agency.

These goals are critical to the health of cutting-edge industries in particular and our economy in general. Americans lead the world in the production and export of intellectual property and related goods and services. Time is money in the intellectual property world. If the PTO cannot issue quality patents and trademarks in a timely manner, then inventors and trademark filers are the losers.

By granting patents and registering trademarks, the PTO affects the vitality of businesses and entrepreneurs, paving the way for investment in research and development. Industries based on intellectual property, like biotechnology and motion pictures, represent the largest single sector of the United States economy. Approximately 50 percent of American exports depend upon some form of IP protection.

While intellectual property protection is increasing in importance, the PTO is collapsing under an increasingly complex and massive workload. Patent pendency, the amount of time of patent application is pending before a patent is issued, now averages over 2 years. Without fundamental changes in the way the PTO operates, average pendency in these areas will likely more than double to 6 to 8 years in the next few years.

I would point out that the patent term is 20 years from the date of filing. So if it takes 6 to 8 years before the PTO can decide whether or not an application is indeed patentable and grants a patent, that will be that much less time that the patent is actually good, and, thus, that much less valuable to the person who has successfully invented a new technology or product and patented it.

Moreover, the backlog of applications awaiting a first review by an examiner will grow from the current level of 475,000 to over a million. These delays pose a grave threat to American businesses and entrepreneurs. The nature of technology and the nature of the marketplace make these delays unacceptable and unsustainable.

And what I would point out to the gentleman from Ohio and others who complain about this bill and the fee increases that are contained to modernize the system is that if our competitors in an increasingly globalized economy, in Europe and in Japan and elsewhere, are able to obtain more prompt decisions from their patent offices, that will put American inventors at a disadvantage considerably.

To fund the initiatives set forth in the strategic plan, the administration has proposed in H.R. 1561 an increase in patent and trademark fees. The proposed fee changes accurately reflect the PTO's cost of doing business. They will benefit the PTO's customers by reducing application filing fees and allowing applicants to evaluate the commercial value of their inventions and recover the cost of search and examination as the situation warrants. Most importantly, the new fee structure will enable the PTO to reduce pendency time, improve quality and customer service through electronic processing, and pursue greater enforcement of intellectual property rights abroad.

For example, the additional revenue provided by the fee bill will allow the PTO to hire an additional 2,900 patent examiners, these are Federal employees, not outsourced employees, and move to full electronic processing of patent and trademark applications.

The Committee on the Judiciary unanimously approved this bill on July 9, 2003. The administration and private sector strongly advocated the adoption of the fee bill as a necessary means to address the workload crisis at the PTO. Failure to pass the restructuring contained in H.R. 1561 will result in further degrading of PTO operations and increasing the already unacceptable delays to patent and trademark applicants.

Mr. Chairman, I will soon offer a bipartisan compromise amendment on section 5 of this bill. This portion of the bill, as reported, would essentially have taken the PTO off budget, a result that our friends at the Committee on Appropriations strongly opposed. My amendment, developed with their input, as well as that of the majority leader's office, the Congressional Budget Office, and the Committee on the