

Boehler	Hamilton	Pease
Boehner	Harman	Pelosi
Borski	Hastings (FL)	Peterson (MN)
Boswell	Hefner	Peterson (PA)
Boucher	Hilliard	Pickett
Boyd	Hinche	Pitts
Brady	Hinojosa	Pomeroy
Brown (CA)	Hooley	Porter
Brown (FL)	Horn	Portman
Bunning	Hostettler	Price (NC)
Burr	Houghton	Pryce (OH)
Burton	Hyde	Quinn
Buyer	Jackson (IL)	Radanovich
Callahan	Jackson-Lee	Ramstad
Camp	(TX)	Rangel
Canady	Jefferson	Reyes
Cannon	Jenkins	Rodriguez
Capps	John	Roemer
Carson	Johnson (CT)	Rogan
Castle	Johnson (WI)	Rogers
Chabot	Johnson, E. B.	Rothman
Chambliss	Johnson, Sam	Roukema
Clay	Kasich	Roybal-Allard
Clyburn	Kelly	Sabo
Coble	Kennedy (MA)	Sanchez
Conyers	Kennedy (RI)	Sandlin
Coyne	Kennelly	Sawyer
Cramer	Kim	Schumer
Crane	Kind (WI)	Scott
Cummings	Klug	Serrano
Davis (FL)	Knollenberg	Shadegg
Davis (IL)	Kolbe	Shaw
Davis (VA)	LaFalce	Shays
DeGette	Lampson	Sherman
Delahunt	Lantos	Shimkus
DeLauro	Latham	Shuster
Dickey	Levin	Sisisky
Dicks	Lewis (GA)	Skaggs
Dingell	Linder	Skeen
Doggett	Lofgren	Skelton
Dooley	Lowe	Slaughter
Dreier	Luther	Smith (TX)
Dunn	Maloney (CT)	Smith, Adam
Edwards	Maloney (NY)	Snyder
Ehlers	Manton	Souder
Ehrlich	Markey	Spence
Engel	Matsui	Spratt
Eshoo	McCarthy (MO)	Stabenow
Etheridge	McCollum	Stearns
Evans	McDermott	Stenholm
Farr	McGovern	Stokes
Fattah	McHale	Tanner
Fawell	McIntosh	Tauscher
Fazio	Meehan	Tauzin
Flake	Meek	Thomas
Foglietta	Menendez	Thompson
Ford	Millender-	Tierney
Fowler	McDonald	Torres
Fox	Miller (CA)	Turner
Frank (MA)	Minge	Upton
Franks (NJ)	Moakley	Vento
Frelinghuysen	Mollohan	Visclosky
Frost	Moran (VA)	Watkins
Ganske	Morella	Waxman
Gejdenson	Murtha	Weldon (PA)
Gilchrest	Nadler	Wexler
Gillmor	Neal	Weygand
Gilman	Nethercutt	White
Gonzalez	Northup	Wicker
Goodlatte	Nussle	Wolf
Goodling	Owens	Woolsey
Gordon	Oxley	Wynn
Granger	Packard	Young (AK)
Greenwood	Pastor	Young (FL)
Gutknecht	Paxon	
Hall (OH)	Payne	

NOT VOTING—24

Andrews	Gekas	Schiff
Ballenger	Hoekstra	Smith (OR)
Bryant	Inglis	Taylor (MS)
Collins	Kilpatrick	Taylor (NC)
Cubin	Kingston	Towns
Deutsch	Rahall	Velazquez
Diaz-Balart	Rush	Wise
Furse	Sanford	Yates

So the amendment was not agreed to.

36.11 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Ms. KAPTUR:

Page 48, insert the following after line 21: "(C) An application filed by a small business concern entitled to reduced fees under section 41(h)(1) of this title, by an individual

who is an independent inventor entitled to reduced fees under such section, or by an institution of higher education (as defined in section 1202 of the Higher Education Act of 1965) entitled to reduced fees under such section 41(h)(1) shall not be published until a patent is issued thereon, except upon the request of applicant, or in any of the following circumstances:

"(i) In the case of an application under section 111(a) for a patent for an invention for which the applicant intends to file or has filed an application for a patent in a foreign country, the Commissioner may publish, at the discretion of the Commissioner and by means determined suitable for the purpose, no more than that data from such application under section 111(a) which will be made or has been made public in such foreign country. Such a publication shall be made only after the date of the publication in such foreign country and shall be made only if the data is not available, or cannot be made readily available, in the English language through commercial services.

"(ii) If the Commissioner determines that a patent application which is filed after the date of the enactment of this paragraph—

"(I) has been pending more than 5 years from the effective filing date of the application,

"(II) has not been previously published by the Patent and Trademark Office,

"(III) is not under any appellate review by the Board of Patent Appeals and Interferences,

"(IV) is not under interference proceedings in accordance with section 135(a),

"(V) is not under any secrecy order pursuant to section 181,

"(VI) is not being diligently pursued by the applicant in accordance with this title, and

"(VII) is not in abandonment,

the Commissioner shall notify the applicant of such determination.

"(iii) An applicant which received notice of a determination described in clause (ii) may, within 30 days of receiving such notice, petition the Commissioner to review the determination to verify that subclauses (I) through (VII) are all applicable to the applicant's application. If the applicant makes such a petition, the Commissioner shall not publish the applicant's application before the Commissioner's review of the petition is completed. If the applicant does not submit a petition, the Commissioner may publish the applicant's application no earlier than 90 days after giving such a notice.

"(iv) If after the date of the enactment of this paragraph a continuing application has been filed more than 6 months after the date of the initial filing of an application, the Commissioner shall notify the applicant under such application. The Commissioner shall establish a procedure for an applicant which receives such a notice to demonstrate that the purpose of the continuing application was for reasons other than to achieve a delay in the time of publication of the application. If the Commissioner agrees with such a demonstration by the applicant, the Commissioner shall not publish the applicant's application. If the Commissioner does not agree with such a demonstration by the applicant or if the applicant does not make an attempt at such a demonstration within a reasonable period of time as determined by the Commissioner, the Commissioner shall publish the applicant's application.

Page 48, line 22, strike "(C)" and insert "(D)".

Page 49, line 16, strike "(D)" and insert "(E)".

Page 49, line 17, strike "(C)" and insert "(D)".

Page 50, line 2, strike "(C)" and insert "(D)".

Strike title V of the bill and redesignate the succeeding title, and sections thereof, and references thereto, accordingly.

Amend the table of contents accordingly. It was decided in the { Yeas ..... 220 affirmative ..... } { Nays ..... 193

36.12 [Roll No. 88] AYES—220

Abercrombie	Harman	Olver
Aderholt	Hastert	Ortiz
Archer	Hastings (WA)	Owens
Bachus	Hayworth	Pallone
Baker	Hefley	Pappas
Baldacci	Herger	Parker
Barcia	Hill	Pascrell
Barr	Hillery	Paul
Barrett (WI)	Hilliard	Payne
Bartlett	Holden	Pelosi
Bereuter	Hostettler	Peterson (PA)
Bilbray	Hoyer	Petri
Bilirakis	Hulshof	Pickering
Bishop	Hunter	Pombo
Bonilla	Hutchinson	Pomeroy
Bonior	Istook	Porter
Bono	Jackson-Lee	Poshad
Boyd	(TX)	Radanovich
Brady	Jefferson	Rahall
Brown (FL)	Jones	Rangel
Brown (OH)	Kanjorski	Regula
Calvert	Kaptur	Riggs
Campbell	Kildee	Riley
Cardin	Kim	Rivers
Chenoweth	King (NY)	Rodriguez
Christensen	Klecza	Rohrabacher
Clay	Klink	Ros-Lehtinen
Clayton	Kucinich	Royce
Clyburn	LaHood	Ryun
Coburn	Largent	Salmon
Collins	LaTourrette	Sanders
Combust	Lazio	Saxton
Condit	Leach	Scarborough
Cook	Levin	Schaefer, Dan
Costello	Lewis (KY)	Schaefer, Bob
Cox	Lipinski	Sensenbrenner
Cramer	Livingston	Shadegg
Crapo	LoBiondo	Smith (MI)
Danner	Lucas	Smith (NJ)
Deal	Manzullo	Smith, Linda
DeFazio	Martinez	Snowbarger
DeLauro	Mascara	Solomon
DeLay	McCarthy (NY)	Spence
Dellums	McCrery	Spratt
Dickey	McDade	Stabenow
Dixon	McGovern	Stark
Doollittle	McHale	Stearns
Doyle	McHugh	Stenholm
Duncan	McInnis	Strickland
Emerson	McIntosh	Stump
English	McIntyre	Stupak
Ensign	McKeon	Sununu
Everett	McKinney	Talent
Ewing	McNulty	Tauzin
Fattah	Meek	Thompson
Filner	Menendez	Thornberry
Foley	Metcalf	Thune
Forbes	Mica	Tiahrt
Fowler	Millender-	Torres
Fox	McDonald	Traficant
Franks (NJ)	Miller (CA)	Upton
Galleghy	Miller (FL)	Walsh
Gejdenson	Mink	Wamp
Gephardt	Molinari	Waters
Gillmor	Moran (KS)	Watt (NC)
Goode	Moran (VA)	Watts (OK)
Gordon	Murtha	Weldon (PA)
Goss	Myrick	Weller
Graham	Nethercutt	Weygand
Green	Neumann	Whitfield
Gutierrez	Ney	Wicker
Hall (OH)	Norwood	Woolsey
Hall (TX)	Oberstar	Wynn
Hansen	Obey	Young (AK)

NOES—193

Ackerman	Bliley	Buyer
Allen	Blumenauer	Callahan
Armey	Blunt	Camp
Baesler	Boehler	Canady
Barrett (NE)	Boehner	Cannon
Barton	Borski	Capps
Bass	Boswell	Carson
Bateman	Boucher	Castle
Becerra	Brown (CA)	Chabot
Bentsen	Bryant	Chambliss
Berman	Bunning	Clement
Berry	Burr	Coble
Blagojevich	Burton	Conyers

Cooksey	Hyde	Portman
Coyne	Jackson (IL)	Price (NC)
Crane	Jenkins	Pryce (OH)
Cummings	John	Quinn
Cunningham	Johnson (CT)	Ramstad
Davis (FL)	Johnson (WI)	Reyes
Davis (IL)	Johnson, E. B.	Roemer
Davis (VA)	Johnson, Sam	Rogan
DeGette	Kasich	Rogers
Delahunt	Kelly	Rothman
Dicks	Kennedy (MA)	Roukema
Dingell	Kennedy (RI)	Roybal-Allard
Doggett	Kennelly	Sabo
Dooley	Kind (WI)	Sanchez
Dreier	Klug	Sandlin
Dunn	Knollenberg	Sawyer
Edwards	Kolbe	Schumer
Ehlers	LaFalce	Scott
Ehrlich	Lampson	Serrano
Engel	Lantos	Sessions
Eshoo	Latham	Shaw
Etheridge	Lewis (CA)	Shays
Evans	Lewis (GA)	Sherman
Farr	Linder	Shimkus
Fawell	Lofgren	Shuster
Fazio	Lowe	Sisisky
Flake	Luther	Skaggs
Foglietta	Maloney (CT)	Skeen
Ford	Maloney (NY)	Skelton
Frank (MA)	Manton	Slaughter
Frelinghuysen	Markey	Smith (TX)
Frost	Matsui	Smith, Adam
Ganske	McCarthy (MO)	Snyder
Gekas	McCollum	Souder
Gibbons	McDermott	Stokes
Gilchrest	Meehan	Tanner
Gilman	Minge	Tauscher
Gonzalez	Moakley	Thomas
Goodlatte	Mollohan	Thurman
Goodling	Morella	Tierney
Granger	Nadler	Turner
Greenwood	Neal	Vento
Gutknecht	Northup	Visclosky
Hamilton	Nussle	Watkins
Hastings (FL)	Oxley	Waxman
Hefner	Packard	Weldon (FL)
Hinche	Pastor	Wexler
Hinojosa	Paxon	White
Hobson	Pease	Wolf
Hoolley	Peterson (MN)	Young (FL)
Horn	Pickett	
Houghton	Pitts	

NOT VOTING—20

Andrews	Inglis	Taylor (MS)
Ballenger	Kilpatrick	Taylor (NC)
Cubin	Kingston	Towns
Deutsch	Rush	Velazquez
Diaz-Balart	Sanford	Wise
Furse	Schiff	Yates
Hoekstra	Smith (OR)	

So the amendment was agreed to.

36.13 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. HUNTER:

Page 4, strike line 1 and all that follows through page 26, line 9 and insert the following:

TITLE I—PATENT AND TRADEMARK SYSTEM REVISIONS

SEC. 101. SECURE PATENT EXAMINATION.

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

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

SEC. 102. PATENT AND TRADEMARK EXAMINER TRAINING.

(a) IN GENERAL.—Chapter 1 of title 35, United States Code, is amended by adding at the end the following new section:

“§ 15. Patent and trademark examiner training

IN GENERAL.—All patent examiners and trademark examiners shall spend at least 5 percent of their duty time per annum in training to maintain and develop the legal

and technological skills useful for patent or trademark examination, as the case may be.

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

(b) CLERICAL AMENDMENT.—The table of contents for chapter 1 of title 35, United States Code, is amended by adding at the end the following:

“15. Patent and trademark examiner training.”

SEC. 103. LIMITATIONS ON PERSONNEL.

Section 3(a) of title 35, United States Code, is amended by adding at the end the following: “The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.”

Page 26, line 10, strike “121” and insert “104”.

Page 28, line 15, strike “122” and insert “105”.

Page 30, strike line 3 and all that follows through page 46, line 23, and insert the following:

SEC. 106. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect 30 days after the date of the enactment of this Act.

Amend the table of contents accordingly.

It was decided in the { Yeas ..... 133 negative ..... } Nays ..... 280

36.14 [Roll No. 89] AYES—133

Abercrombie	Herger	Obey
Bachus	Hill	Olver
Baker	Holden	Ortiz
Baldacci	Hostettler	Pallone
Barcia	Hoyer	Pappas
Barr	Hulshof	Pascrell
Bartlett	Hunter	Petri
Bilbray	Istook	Pombo
Bilirakis	Jackson-Lee	Pomeroy
Bonior	(TX)	Radanovich
Bono	Jones	Rahall
Brown (OH)	Kanjorski	Regula
Burton	Kaptur	Riley
Calvert	Kildee	Rivers
Campbell	King (NY)	Rohrabacher
Chenoweth	Kleccka	Ros-Lehtinen
Clement	Klink	Royce
Coburn	Kucinich	Ryun
Combest	Largent	Salmon
Condit	LaTourette	Sanders
Crapo	Lewis (KY)	Saxton
Danner	Lipinski	Scarborough
DeFazio	LoBiondo	Schaefer, Dan
Doolittle	Lucas	Schaffer, Bob
Doyle	Manzullo	Sessions
Emerson	Martinez	Skelton
English	Mascara	Smith (NJ)
Ensign	McCarthy (NY)	Smith, Linda
Everett	McHale	Snowbarger
Ewing	McHugh	Solomon
Filner	McInnis	Spence
Foley	McKeon	Stark
Forbes	McKinney	Stump
Galleghy	McNulty	Talent
Gephardt	Metcalfe	Tiahrt
Gibbons	Mica	Traficant
Goode	Miller (CA)	Walsh
Goodling	Mink	Wamp
Goss	Moran (KS)	Waters
Graham	Moran (VA)	Watts (OK)
Gutierrez	Myrick	Weldon (FL)
Hall (TX)	Neumann	Weller
Hansen	Ney	Whitfield
Hayworth	Norwood	Young (AK)
Hefley	Oberstar	

NOES—280

Ackerman	Allen	Armey
Aderholt	Archer	Baesler

Barrett (NE)	Frost	Northup
Barrett (WI)	Ganske	Nussle
Barton	Gejdenson	Owens
Bass	Gekas	Oxley
Bateman	Gilchrest	Packard
Becerra	Gillmor	Parker
Bentsen	Gilman	Pastor
Bereuter	Gonzalez	Paul
Berman	Goodlatte	Paxon
Berry	Gordon	Payne
Bishop	Granger	Pease
Blagojevich	Green	Pelosi
Bliley	Greenwood	Peterson (MN)
Blumenauer	Gutknecht	Peterson (PA)
Blunt	Hall (OH)	Pickering
Boehkert	Hamilton	Pickett
Boehner	Harman	Pitts
Bonilla	Hastert	Porter
Borski	Hastings (FL)	Portman
Boswell	Hastings (WA)	Poshard
Boucher	Hefner	Price (NC)
Boyd	Hilleary	Pryce (OH)
Brady	Hilliard	Quinn
Brown (CA)	Hinche	Ramstad
Brown (FL)	Hinojosa	Rangel
Bryant	Hobson	Reyes
Bunning	Hooley	Riggs
Burr	Horn	Rodriguez
Buyer	Houghton	Roemer
Callahan	Hutchinson	Rogan
Camp	Hyde	Rogers
Canady	Jackson (IL)	Rothman
Cannon	Jefferson	Roukema
Capps	Jenkins	Roybal-Allard
Cardin	John	Sabo
Carson	Johnson (CT)	Sanchez
Castle	Johnson (WI)	Sandlin
Chabot	Johnson, E.B.	Sawyer
Chambliss	Johnson, Sam	Schumer
Christensen	Kasich	Scott
Clay	Kelly	Sensenbrenner
Clayton	Kennedy (MA)	Serrano
Clyburn	Kennedy (RI)	Shadegg
Coble	Kennelly	Shaw
Cole	Kim	Shays
Collins	Kind (WI)	Sherman
Conyers	Klug	Shimkus
Cook	Knollenberg	Shuster
Cooksey	Kolbe	Sisisky
Costello	LaFalce	Skaggs
Cox	LaHood	Skeen
Coyne	Lampson	Slaughter
Cramer	Lantos	Smith (MI)
Crane	Latham	Smith (TX)
Cummings	Lazio	Smith, Adam
Cunningham	Leach	Snyder
Davis (FL)	Levin	Souder
Davis (IL)	Lewis (CA)	Spratt
Davis (VA)	Lewis (GA)	Stabenow
Deal	Linder	Stearns
DeGette	Livingston	Stenholm
Delahunt	Lofgren	Stokes
DeLauro	Lowey	Strickland
Dellums	Luther	Stupak
Dickey	Maloney (CT)	Sununu
Dicks	Maloney (NY)	Tanner
Dingell	Manton	Tauscher
Dixon	Markey	Tauzin
Doggett	Matsui	Thomas
Dreier	McCarthy (MO)	Thompson
Duncan	McCollum	Thornberry
Dunn	McCrery	Thune
Edwards	McDade	Thurman
Ehlers	McDermott	Tierney
Ehrlich	McGovern	Torres
Engel	McIntosh	Turner
Eshoo	McIntyre	Upton
Etheridge	Meehan	Vento
Evans	Meek	Visclosky
Farr	Menendez	Watkins
Fattah	Millender-	Watt (NC)
Fawell	McDonald	Waxman
Fazio	Miller (FL)	Weldon (PA)
Flake	Minge	Wexler
Foglietta	Moakley	White
Ford	Molinar	Wicker
Fowler	Mollohan	Wolf
Fox	Morella	Woolsey
Frank (MA)	Murtha	Wynn
Franks (NJ)	Nadler	Young (FL)
Frelinghuysen	Neal	
	Nethercutt	

NOT VOTING—20

Andrews	Furse	Rush
Ballenger	Hoekstra	Sanford
Cubin	Inglis	Schiff
Deutsch	Kilpatrick	Smith (OR)
Diaz-Balart	Kingston	