

HR 2791

United States Patent and Trademark Fee Modernization Act of 2005

Congress: 109 (2005–2007, Ended)

Chamber: House

Policy Area: Commerce

Introduced: Jun 8, 2005

Current Status: Placed on the Union Calendar, Calendar No. 203.

Latest Action: Placed on the Union Calendar, Calendar No. 203. (Feb 8, 2006)

Official Text: <https://www.congress.gov/bill/109th-congress/house-bill/2791>

Sponsor

Name: Rep. Sensenbrenner, F. James, Jr. [R-WI-5]

Party: Republican • State: WI • Chamber: House

Cosponsors (11 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Berman, Howard L. [D-CA-28]	D · CA		Jun 8, 2005
Rep. Boucher, Rick [D-VA-9]	D · VA		Jun 8, 2005
Rep. Chabot, Steve [R-OH-1]	R · OH		Jun 8, 2005
Rep. Coble, Howard [R-NC-6]	R · NC		Jun 8, 2005
Rep. Conyers, John, Jr. [D-MI-14]	D · MI		Jun 8, 2005
Rep. Goodlatte, Bob [R-VA-6]	R · VA		Jun 8, 2005
Rep. Jenkins, William L. [R-TN-1]	R · TN		Jun 8, 2005
Rep. Lofgren, Zoe [D-CA-16]	D · CA		Jun 8, 2005
Rep. Smith, Lamar [R-TX-21]	R · TX		Jun 8, 2005
Rep. Wexler, Robert [D-FL-19]	D · FL		Jun 8, 2005
Rep. Manzullo, Donald A. [R-IL-16]	R · IL		Nov 14, 2005

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	House	Reported by	Jun 28, 2005

Subjects & Policy Tags

Policy Area:

Commerce

Related Bills

No related bills are listed.

(This measure has not been amended since it was introduced. The summary has been expanded because action occurred on the measure.)

United States Patent and Trademark Fee Modernization Act of 2005 - (Sec. 2) Revises the schedule of fees for patents. Sets the fees that the Director of the United States Patent and Trademark Office (USPTO) must charge for: (1) filing an application for an original patent, an original design patent, or an original plant patent; (2) filing a provisional application for an original patent; (3) filing an application for the reissue of a patent; (4) the basic national fee for each international application entering the national stage under the Patent Cooperation Treaty (PCT); (5) filing an application whose specification and drawings exceed 100 sheets of paper (excluding any sequence listing or computer program listing filed in an electronic medium prescribed by the Director); (6) filing or presenting more than three claims or more than 20 claims; and (7) filing an application containing a multiple dependent claim. Allows the Director to provide a refund of any part of the claims fees for any claim that is canceled before an examination on the merits.

Prescribes the examination fees that the Director must charge. Allow the Director to provide a refund of any part of such fee for any applicant who: (1) files a written declaration of express abandonment before an examination of the application; or (2) provides a search report that meets the conditions prescribed by the Director.

Prescribes the issue fees, disclaimer fees, and appeal fees that the Director must charge. Establishes the fee for filing a brief in support of the appeal or requesting an oral hearing in the appeal.

Sets the fees for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, and for the unintentionally delayed response by the patent owner in any reexamination proceeding.

Establishes the fees for filing a petition for an extension of time to take actions required by the Director in an application.

Prescribes the fees that the Director must charge for maintaining in force patents based on applications filed on or after December 12, 1980. Provides that such a patent will expire if timely payment is not received. Prohibits any such fee from being established for maintaining a design or plant patent.

Requires the Director to: (1) charge a fee for the search of each application for a patent, except for a provisional application; and (2) establish such fees to recover an amount not to exceed the estimated average cost to USPTO for searching applications for patent by either acquiring a search report from a qualified search authority or by causing a search by USPTO personnel to be made. Establishes the maximum charge for such fees. Limits the amount the Director can increase such fees. Allows the Director to provide for a refund of such fees for any applicant who files a written declaration of express abandonment before an examination has been made of the application or for any applicant who provides a qualified search report. Excludes a commercial entity from being considered a qualified search authority unless: (1) the Director conducts a pilot program which demonstrates that searches by such entities of the available prior art relating to the subject matter of inventions claimed in patent applications are accurate and meet or exceed USPTO standards; (2) the Director reports the results of such pilot program to Congress and the Patent Public Advisory Committee; (3) the Committee provides an independent evaluation of the effects of such program to the Director and Congress; and (4) Congress does not enact a law prohibiting searches by commercial entities.

Allows the Director to adjust fees established under this Act to reflect annual changes in the Consumer Price Index.

Reduces by 75% (currently, 50%) the fee charged to a small business concern for filing an application for an original patent, except for design, plant, or provisional applications. Requires the Director to study and report to Congress on the effect of patent fees on the ability of small entity inventors to file patent applications, including regarding whether a separate category of reduced patent fees is necessary to ensure adequate development of new technology by small entity inventors.

(Sec. 3) Establishes the fee for filing an application for the registration of a trademark. Allows the Director to reduce the fee for filing an electronic application for any applicant who prosecutes the application through electronic means.

Allows the Director to adjust fees to reflect annual changes in the Consumer Price Index.

(Sec. 4) Amends the 21st Century Department of Justice Appropriations Authorization Act to make the Deputy Director of USPTO a member of the Trademark Trial and Appeal Board and the Board of Patent Appeals and Interferences.

(Sec. 5) Establishes in the Treasury a Patent and Trademark Fee Reserve Fund for fees collected by USPTO in excess of appropriated amounts. Requires the Director to make payments from the Fund equal to the amount of funds deposited in the Fund during the fiscal year, less the cost of administering such Fund, to persons who paid patent or trademark fees during that fiscal year.

(Sec. 6) Amends the Consolidated Appropriations Act, 2005 to repeal provisions setting forth patent and trademark fees.

(Sec. 7) Sets the effective date of this Act as December 8, 2004.

Establishes the search fees that the Director must charge from the effective date of this Act until such time as the Director promulgates search fees under this Act. Allows the Director to provide for a fee refund for any applicant who files a written declaration of express abandonment before an application examination has been made or who provides a qualified search report.

(Sec. 8) Defines "Director" to mean the Under Secretary of Commerce for Intellectual Property and Director of USPTO.

Actions Timeline

- **Feb 8, 2006:** Reported by the Committee on Judiciary. H. Rept. 109-372.
- **Feb 8, 2006:** Reported by the Committee on Judiciary. H. Rept. 109-372.
- **Feb 8, 2006:** Placed on the Union Calendar, Calendar No. 203.
- **Nov 9, 2005:** Committee Consideration and Mark-up Session Held.
- **Nov 9, 2005:** Ordered to be Reported by Voice Vote.
- **Jun 28, 2005:** Subcommittee Consideration and Mark-up Session Held.
- **Jun 28, 2005:** Forwarded by Subcommittee to Full Committee by Voice Vote.
- **Jun 27, 2005:** Referred to the Subcommittee on Courts, the Internet, and Intellectual Property.
- **Jun 8, 2005:** Introduced in House
- **Jun 8, 2005:** Introduced in House
- **Jun 8, 2005:** Referred to the House Committee on the Judiciary.