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APPROVED
JAN 2-1975

ACTION

THE WHITE HOUSE

WASHINGTON

December 30, 1974

Last Day: January 4**

*Posted
1/3
To Archives
1/3*

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 7599
Trademark Act Amendments

Attached for your consideration is H.R. 7599, sponsored by Representative Kastenmeier, which would change the name of the Patent Office to the Patent and Trademark Office and the title of the Commissioner of Patents to the Commissioner of Patents and Trademarks.

OMB recommends approval and provides additional background information in its enrolled bill report (Tab A).

Max Friedersdorf and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign H.R. 7599 (Tab B)



** The Department of Commerce states the above bill should be signed after H.R. 9199 is signed, as the latter bill uses the terms "Patent Office" and "Commissioner of Patents"

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 26 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7599 - Trademark Act amendments
Sponsor - Rep. Kastenmeier (D) Wisconsin

Last Day for Action

January 4, 1975

Purpose

To change the name of the Patent Office to the Patent and Trademark Office and the title of the Commissioner of Patents to the Commissioner of Patents and Trademarks.

Agency Recommendations

Office of Management and Budget Approval

Department of Commerce Approval

Discussion

H.R. 7599 was introduced to reflect the dual role of the Patent Office which administers both the patent law and the Trademark Act. Originally, the Office did not have jurisdiction over trademarks, but approximately twenty percent of current applications to be processed are in this area. (About 95% of the budget of the Patent Office is devoted to patents.) Commerce feels that there is public confusion as to whether the Trademark Act is administered by the Patent Office. Their hope is that this enrolled bill will minimize such confusion.

The enrolled bill would change the name of the Patent Office to the Patent and Trademark Office and the title of the Commissioner of Patents to the Commissioner of Patents and Trademarks wherever



necessary in existing law. H.R. 7599 is identical to a bill submitted to Congress by the Department of Commerce in April 1973.

The bill would have no budget impact.

Gregory H. Rommel

Assistant Director for
Legislative Reference

Enclosures





THE UNDER SECRETARY OF COMMERCE
Washington, D.C. 20230

DEC 26 1974

Honorable Roy Ash
Director
Office of Management and Budget
Washington, D.C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department on H.R. 8981, H.R. 9199 and H.R. 7599, and their enrolled enactment.

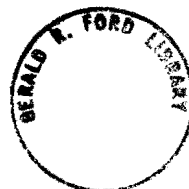
The purpose of H.R. 8981 is to effect three minor changes in the Trademark Act of 1946, as amended:

(1) It would afford an automatic, 30-day extension on request in which to file an opposition to an application for a trademark registration, without need to give reasons showing good cause;

(2) It would eliminate as archaic the existing requirement that so-called "reasons of appeal" be filed with the Patent Office when appealing from the agency to the U.S. Court of Customs and Patent Appeals; and

(3) It would authorize award of attorney fees to the prevailing party in trademark litigation where justified by equitable considerations.

This bill was introduced at the request of the Department of Commerce as part of its legislative program for the 93rd Congress. Accordingly, we recommend approval of H.R. 8981 by the President.



H.R. 9199 changes the title of the First Assistant Commissioner of Patents to Deputy Commissioner of Patents; it provides that the fifteen examiners-in-chief in the Patent Office shall be appointed under Civil Service instead of being appointed by the President and confirmed by the Senate; it would empower the Commissioner of Patents to accept late payment of the patent issue fee if delay in payment is shown to have been unavoidable, and it provides limited retro-activity with respect to the Commissioner's authority under section 3 of title 35, United States Code. Examiners-in-chief who are in office on the date of enactment of H.R. 9199 are continued in office.

The purpose of H.R. 7599 is to change the name of the Patent Office to "Patent and Trademark Office" and the title of the Commissioner of Patents to "Commissioner of Patents and Trademarks." In changing the name of the Patent Office and the title of the Commissioner of Patents to include reference to trademarks, the legislation would reflect the dual role of the Patent Office which administers both the patent law and the Trademark Act of 1946. Although about 95 percent of the Patent Office budget is still devoted to patents, it is thought that the public would benefit from a clarification of the name of the Office and the title of the Commissioner. This bill was introduced at the request of the Department of Commerce as part of its legislative program for the 93rd Congress.

With the following proviso, we recommend approval of both H.R. 9199 and H.R. 7599 by the President. It is essential that the name change bill, H.R. 7599, be signed into law after H.R. 9199. This is required because H.R. 9199 uses the terms "Patent Office" and "Commissioner of Patents" which, if signed into law after H.R. 7599, would defeat the purpose of H.R. 7599.

Enactment of these bills will not require additional appropriations.

Sincerely.

John K. Tabor

To
Harrison M. ...
12-26-74
7:00 p.m.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 26, 1974

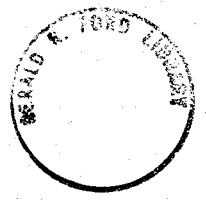
MEMORANDUM FOR ROBERT D. LINDER

Subject: Enrolled Bills H.R. 9199 and H.R. 7599--
Patents

As you will note in the views letter of Commerce on these two bills, it recommends that H.R. 9199 be signed into law before H.R. 7599. I assume this means that the first would be signed a day or more earlier than the other.

Commerce points out that H.R. 9199 uses the terms "Patent Office" and "Commissioner of Patents" which are changed by the other bill.

Welford H. Rowland
Assistant Director
for Legislative Reference



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 26 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7599 - Trademark Act amendments
Sponsor - Rep. Kastenmeier (D) Wisconsin

Last Day for Action

January 4, 1975

Purpose

To change the name of the Patent Office to the Patent and Trademark Office and the title of the Commissioner of Patents to the Commissioner of Patents and Trademarks.

Agency Recommendations

Office of Management and Budget

Approval

Department of Commerce

Approval

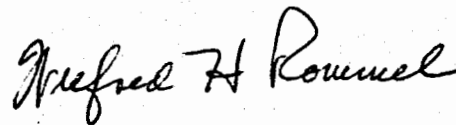
Discussion

H.R. 7599 was introduced to reflect the dual role of the Patent Office which administers both the patent law and the Trademark Act. Originally, the Office did not have jurisdiction over trademarks, but approximately twenty percent of current applications to be processed are in this area. (About 95% of the budget of the Patent Office is devoted to patents.) Commerce feels that there is public confusion as to whether the Trademark Act is administered by the Patent Office. Their hope is that this enrolled bill will minimize such confusion.

The enrolled bill would change the name of the Patent Office to the Patent and Trademark Office and the title of the Commissioner of Patents to the Commissioner of Patents and Trademarks wherever

necessary in existing law. H.R. 7599 is identical to a bill submitted to Congress by the Department of Commerce in April 1973.

The bill would have no budget impact.

A handwritten signature in cursive script that reads "Alfred H. Roussel".

Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 895

Date: December 28, 1974

Time: 8:00 p.m.

FOR ACTION: Geoff Shepard *oh*
 Phil Areeda *No obj*
 Max Friedersdorf *oh*

cc (for information): Jerry Jones
 Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

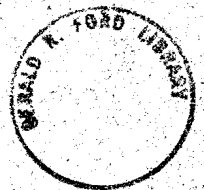
Enrolled Bills H.R. 9199 and H.R. 7599 - Patents

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
 For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 895

Date: December 28, 1974

Time: 8:00 p.m.

FOR ACTION: Geoff Shepard ✓
Phil Areeda
Max Friedersdorf

cc (for information): Jerry Jones
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bills H.R. 9199 and H.R. 7599 - Patents

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Judy Johnston Ground Floor West Wing

*Approval of both bills.
Note: 9199 to be signed
one day earlier.*

J.C.S.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: WARREN HENDRIKS

FROM: *Vern Loren for* MAX L. FRIEDERSDORF

SUBJECT: Action Memorandum - Log No. 895
Enrolled Bills H.R. 9199 & H.R. 7599

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 895

Date: December 28, 1974

Time: 8:00 p.m.

FOR ACTION: Geoff Shepard
Phil Areeda
Max Friedersdorf

cc (for information): Jerry Jones
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bills H.R. 9199 and H.R. 7599 - Patents

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston Ground Floor West Wing

*No Objections
of Held
JC*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

CHANGING NAME OF PATENT OFFICE

DECEMBER 17, 1974.—Ordered to be printed

Mr. McCLELLAN, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 7599]

The Committee on the Judiciary, to which was referred the bill (H.R. 7599) to amend the Trademark Act of 1946 and title 35 of the United States Code to change the name of the Patent Office to the Patent and Trademark Office, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 7599 is to change the name of the Patent Office to "Patent and Trademark Office" and the title of the Commissioner of Patents to "Commissioner of Patents and Trademarks."

STATEMENT

H.R. 7599 was introduced at the request of the Department of Commerce. In changing the name of the Patent Office and the title of the Commissioner of Patents to include reference to trademarks the legislation would reflect the dual role of the Patent Office which administers both the patent law (title 35, United States Code) and the Trademark Act of 1946 (60 Stat. 427, 15 U.S.C. 1051, et seq.). The annual number of applications filed for trademark registration is now about 30,000 as compared to approximately 100,000 for patents. Although about 95 percent of the Patent Office budget is still devoted to patents, it is thought that the public would benefit from a clarifica-

tion of the name of the Office and the title of the Commissioner. Existing stocks of stationery would be used up and the cost of implementing the legislation is regarded as negligible.

COMMERCE DEPARTMENT STATEMENT

The communication from the Department of Commerce requesting introduction of this legislation contains the following statement of Purpose and Need:

The purpose of this bill is to effect a name change in the Patent Office and a corresponding change in the title of the Commissioner of Patents. The new name and title would be "Patent and Trademark Office" and "Commissioner of Patents and Trademarks," respectively.

This name change is needed in order to provide a more accurate description of the dual role of the Patent Office in administering the patent law and the Trademark Act of 1946. This dual responsibility is set forth in 35 U.S.C. 1 and section 1 of the Trademark Act of 1946, 60 Stat. 427, 15 U.S.C., 1051 et seq.

The Patent Office, which is one of the oldest government agencies, has been known by its present name at least since 1836. In its very early years the Office did not have any jurisdiction over trademark matters. The first Federal Trademark Act was passed in 1870 and subsequent trademark statutes were enacted by Congress in 1881, 1905, and 1920.

Administration of Federal trademark law was not a very significant function of the Patent Office, however, until the Trademark Act of 1946 (Lanham Act) came into effect. This act provided added incentives for securing Federal registration for trademarks, and since 1946 Federal trademark law has become increasingly important. The number of applications for trademark registrations received in the Patent Office each year, while smaller than the number of patent applications, has become quite substantial—about 30,000 trademark applications per year compared with 100,000 patent applications. The major part (about 95 percent) of the Patent Office budget is still devoted to patents, since the expense involved in examining of patent applications, especially those involving complex technologies, is greater than the expense of examining trademark applications. But the interest of the general public in trademark protection today and the economic significance of trademarks may equal or exceed that of patents. For instance, the 1971 report of the Secretary of Commerce's Public Advisory Committee on Trademark Affairs stated, "It has been said that the value of trademarks registered in the Patent Office exceeds that of existing patents."

Members of the general public frequently are confused as to whether the Trademark Act is administered by the Patent Office, or by the Copyright Office in the Library of Congress, or by some other Government agency. The name "Patent Office" conveys the impression that the agency's interest and

expertise are limited to patent matters, while in fact the Patent Office also has responsibility for the quite different matters of protecting consumer and business interests under the Trademark Act.

The proposed legislation will effect the name change by changing a number of references to "Patent Office" and "Commissioner of Patents" in the patent and trademark laws to "Patent and Trademark Office" and "Commissioner of Patents and Trademarks."

The bill would provide for the marking of trademarked items with the words Registered in U.S. Patent and Trademark Office or "Reg. U.S. Pat. & Tm. Off." However, the old terms "Registered in U.S. Patent Office" and "Reg. U.S. Pat. Off." would remain acceptable. Also, the slightly longer new designation could cause no inconvenience to trademark owners because the symbol "®" would still be available as under present law for giving notice of registration where brevity is desirable.

Because of the similarity of the present name and the new name, existing stationery, signs, etc., would continue in use until existing supplies were exhausted. Therefore, the expense of implementing the legislation would be negligible.

COST TO THE UNITED STATES

As noted above, the similarity of the present name of the Patent Office and title of the Commissioner to the new name and title permits the continued use of existing stationery, signs, etc. until they are exhausted and the cost of implementing this legislation would be negligible.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows; (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

The Trademark Act of 1946, 60 Stat. 427, as amended (15 U.S.C. sec. 1051 et seq. (1970)), and title 35 of the United States Code, entitled "Patents".

* * * * *

[Patent Office ¹**]** *Patent and Trademark Office*
[Commissioner of Patents ¹**]** *Commissioner of Patents and Trade-*

¹ Wherever the term appears.

marks

Section 29 of the Trademark Act of 1946:

[Reg. U.S. Pat. Off.**]** *Reg. U.S. Pat. & Tm. Off.*

CHANGING NAME OF PATENT OFFICE

SEPTEMBER 25, 1973.—Referred to the House Calendar and ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 7599]

The Committee on the Judiciary, to whom was referred the bill (H.R. 7599) to amend the Trademark Act of 1946 and title 35 of the United States Code to change the name of the Patent Office to the "Patent and Trademark Office", having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 7599 is to change the name of the Patent Office to "Patent and Trademark Office" and the title of the Commissioner of Patents to "Commissioner of Patents and Trademarks."

STATEMENT

H.R. 7599 was introduced at the request of the Department of Commerce. In changing the name of the Patent Office and the title of the Commissioner of Patents to include reference to trademarks the legislation would reflect the dual role of the Patent Office which administers both the patent law (title 35, United States Code) and the Trademark Act of 1946 (60 Stat. 427, 15 U.S.C. 1051, et seq.). The annual number of applications filed for trademark registration is now about 30,000, as compared to approximately 100,000 for patents. Although about 95 percent of the Patent Office budget is still devoted to patents, it is thought that the public would benefit from a clarification of the name of the Office and the title of the Commissioner. Existing stocks of stationery would be used up and the cost of implementing the legislation is regarded as negligible.

A public hearing was held on H.R. 7599 on July 20, 1973.

COMMERCE DEPARTMENT STATEMENT

The communication from the Department of Commerce requesting introduction of this legislation contains the following statement of Purpose and Need:

"The purpose of this bill is to effect a name change in the Patent Office and a corresponding change in the title of the Commissioner of Patents. The new name and title would be 'Patent and Trademark Office' and 'Commissioner of Patents and Trademarks', respectively.

"This name change is needed in order to provide a more accurate description of the dual role of the Patent Office in administering the patent law and the Trademark Act of 1946. This dual responsibility is set forth in 35 U.S.C. 1 and section 1 of the Trademark Act of 1946, 60 Stat. 427, 15 U.S.C. 1051 et seq.

"The Patent Office, which is one of the oldest government agencies, has been known by its present name at least since 1836. In its very early years the Office did not have any jurisdiction over trademark matters. The first Federal Trademark Act was passed in 1870 and subsequent trademark statutes were enacted by Congress in 1881, 1905, and 1920.

"Administration of Federal trademark law was not a very significant function of the Patent Office, however, until the Trademark Act of 1946 (Lanham Act) came into effect. This act provided added incentives for securing Federal registration for trademarks, and since 1946 Federal trademark law has become increasingly important. The number of applications for trademark registrations received in the Patent Office each year, while smaller than the number of patent applications, has become quite substantial—about 30,000 trademark applications per year compared with 100,000 patent applications. The major part (about 95 percent) of the Patent Office budget is still devoted to patents, since the expense involved in examining of patent applications, especially those involving complex technologies, is greater than the expense of examining trademark applications. But the interest of the general public in trademark protection today and the economic significance of trademarks may equal or exceed that of patents. For instance, the 1971 report of the Secretary of Commerce's Public Advisory Committee on Trademark Affairs stated, 'It has been said that the value of trademarks registered in the Patent Office exceeds that of existing patents.'

"Members of the general public frequently are confused as to whether the Trademark Act is administered by the Patent Office, or by the Copyright Office in the Library of Congress, or by some other Government agency. The name 'Patent Office' conveys the impression that the agency's interest and expertise are limited to patent matters, while in fact the Patent Office also has responsibility for the quite different matters of protecting consumer and business interests under the Trademark Act.

"The proposed legislation will effect the name change by changing a number of references to 'Patent Office' and 'Commissioner of Patents' in the patent and trademark laws to 'Patent and Trademark Office' and 'Commissioner of Patents and Trademarks'.

"The bill would provide for the marking of trademarked items with the words Registered in U.S. Patent and Trademark Office or 'Reg. U.S. Pat. & Tm. Off.' However, the old terms 'Registered in U.S. Patent Office' and 'Reg. U.S. Pat. Off.' would remain acceptable. Also, the slightly longer new designation could cause no inconvenience to trademark owners because the symbol '®' would still be available as under present law for giving notice of registration where brevity is desirable.

"Because of the similarity of the present name and the new name, existing stationery, signs, etc., would continue in use until existing supplies were exhausted. Therefore, the expense of implementing the legislation would be negligible."

COST OF THE UNITED STATES

As noted above, the similarity of the present name of the Patent Office and title of the Commissioner to the new name and title permits the continued use of existing stationery, signs, etc. until they are exhausted and the cost of implementing this legislation would be negligible.

VOTES

At a meeting held on September 25, 1973, the Committee on the Judiciary, by voice vote, ordered that H.R. 7599 be favorably reported to the House without amendment. No record vote was taken in connection with the Committee's consideration of the measure.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows; (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

The Trademark Act of 1946, 60 Stat. 427, as amended (15 U.S.C. sec. 1051 et seq. (1970)), and title 35 of the United States Code, entitled "Patents".

* * * * *

[Patent Office*] *Patent and Trademark Office*

[Commissioner of Patents*] *Commissioner of Patents and Trade-*
marks

Section 29 of the Trademark Act of 1946:

[Reg. U.S. Pat. Off.] *Reg. U.S. Pat. & Tm. Off.*

*Wherever the term appears.



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend the Trademark Act of 1946 and title 35 of the United States Code to change the name of the Patent Office to the "Patent and Trademark Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Trademark Act of 1946, 60 Stat. 427, as amended (15 U.S.C. sec. 1051 et seq. (1970)), and title 35 of the United States Code, entitled "Patents", are amended by striking out each time they appear "Patent Office" and "Commissioner of Patents" and inserting in lieu thereof "Patent and Trademark Office" and "Commissioner of Patents and Trademarks", respectively.

SEC. 2. Section 29 of the Trademark Act of 1946 is further amended by striking out "Reg. U.S. Pat. Off." and inserting in lieu thereof "Reg. U.S. Pat. & Tm. Off."

SEC. 3. The terms "Patent Office" and "Commissioner of Patents" in all laws of the United States shall mean "Patent and Trademark Office" and "Commissioner of Patents and Trademarks", respectively.

SEC. 4. This Act shall become effective upon enactment. However, any registrant may continue to give notice of his registration in accordance with section 29 of the Trademark Act of 1946 (60 Stat. 427), as amended Oct. 9, 1962 (76 Stat. 769), as an alternative to notice in accordance with section 29 of the Trademark Act as amended by section 2 of this Act, regardless of whether his mark was registered before or after the effective date of this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*