

Public Law 96-517  
96th Congress

An Act

To amend the patent and trademark laws.

Dec. 12, 1980

[H.R. 6933]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title 35 of the United States Code, entitled "Patents", is amended by adding after chapter 29 the following new chapter 30:

Patent and  
trademark laws,  
amendment.

**"CHAPTER 30—PRIOR ART CITATIONS TO OFFICE AND  
REEXAMINATION OF PATENTS**

"Sec.

"301. Citation of prior art.

"302. Request for reexamination.

"303. Determination of issue by Commissioner.

"304. Reexamination order by Commissioner.

"305. Conduct of reexamination proceedings.

"306. Appeal.

"307. Certificate of patentability, unpatentability, and claim cancellation.

**"§ 301. Citation of prior art**

35 USC 301.

"Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

**"§ 302. Request for reexamination**

35 USC 302.

"Any person at any time may file a request for reexamination by the Office of any claim of a patent on the basis of any prior art cited under the provisions of section 301 of this title. The request must be in writing and must be accompanied by payment of a reexamination fee established by the Commissioner of Patents pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested. Unless the requesting person is the owner of the patent, the Commissioner promptly will send a copy of the request to the owner of record of the patent.

Fee.

Post, p. 3017.

**"§ 303. Determination of issue by Commissioner**

35 USC 303.

"(a) Within three months following the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner will determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On his own initiative, and any time, the Commissioner may determine whether a substantial new question of patentability is

(f) Sections 6 and 7 of this Act will take effect on the first day of the seventh month beginning after its enactment. Implementing regulations may be issued earlier.

(g) Sections 8 and 9 will take effect on the date of enactment of this Act.

Computerized data and retrieval system, report to Congress.  
35 USC 14 note.

**SEC. 9.** The Commissioner of Patents and Trademarks shall report to Congress, within two years after the effective date of this Act, a plan to identify, and if necessary develop or have developed, computerized data and retrieval systems equivalent to the latest state of the art which can be applied to all aspects of the operation of the Patent and Trademark Office, and particularly to the patent search file, the patent classification system, and the trademark search file. The report shall specify the cost of implementing the plan, how rapidly the plan can be implemented by the Patent and Trademark Office, without regard to funding which is or which may be available for this purpose in the future.

**SEC. 10.** (a) Section 101 of title 17 of the United States Code is amended to add at the end thereof the following new language:

"Computer program."

"A 'computer program' is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result."

(b) Section 117 of title 17 of the United States Code is amended to read as follows:

17 USC 117.

**"§ 117. Limitations on exclusive rights: Computer programs**

17 USC 106.

"Notwithstanding the provisions of section 106, it is not an infringement for the owner of a copy of a computer program to make or authorize the making of another copy or adaptation of that computer program provided:

"(1) that such a new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner, or

"(2) that such new copy or adaptation is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.

“Any exact copies prepared in accordance with the provisions of this section may be leased, sold, or otherwise transferred, along with the copy from which such copies were prepared, only as part of the lease, sale, or other transfer of all rights in the program. Adaptations so prepared may be transferred only with the authorization of the copyright owner.”

Approved December 12, 1980.

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**LEGISLATIVE HISTORY:**

HOUSE REPORTS: No. 96-1307, Pt. I (Comm. on the Judiciary) and No. 96-1307, Pt. 2 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Mar. 20, S. 2446 considered and passed Senate.

Nov. 17, considered and passed House.

Nov. 20, considered and passed Senate, amended.

Nov. 21, House concurred in Senate amendment.