



Legislative Bulletin.....December 5, 2006

Contents:

H.R. 4742 — To amend title 35, United States Code, to allow the Director of the Patent and Trademark Office to waive statutory provisions governing patents and trademarks in certain emergencies

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of *Bills* Without Committee Reports: 0

Number of *Reported* Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

H.R. 4742 — To amend title 35, United States Code, to allow the Director of the Patent and Trademark Office to waive statutory provisions governing patents and trademarks in certain emergencies — *as reported* (Smith, R-TX)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4742 would give authority to the Director of the Patent and Trademark Office to waive statutory provisions governing the filing, processing, renewal, and maintenance of patents, trademark registrations, and applications to the extent deemed necessary in order to protect the rights and privileges of applicants and other persons affected by an emergency or a major disaster. In

addition, the bill would provide that a decision by the Director not to exercise, or a failure to exercise, the waiver authority provided by this bill would not be subject to judicial review.

Additional Information: According to Committee Report [109-408](#), “The devastation caused by Hurricane Katrina in the Gulf region affected the ability of the PTO [Patent and Trademark Office] to adequately serve applicants, patentees, trademark holders, and other interested parties. The agency invoked as much administrative and statutory authority as it could to accommodate those affected. ...Despite its best efforts to date, PTO needs additional authority to provide individuals and businesses relief from certain statutory deadlines, especially those pertaining to the maintenance of granted patents and registered trademarks.”

Committee Action: H.R. 4742 was introduced in the House on February 14, 06, and referred to the House Judiciary Committee, which considered it, held a mark-up, and reported the bill by voice vote on March 15, 2006.

Cost to Taxpayers: According to CBO, enactment of H.R. 4742 would not affect discretionary or direct spending.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Committee Report 109-408 cites constitutional authority in Article 1, Section 8 of the Constitution, but fails to cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” [*emphasis added*]

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