

**AMENDMENT TO THE RULES COMMITTEE PRINT
OF H.R. 3309
OFFERED BY MR. CONYERS OF MICHIGAN**

Page 60, after line 19, insert the following and re-designate the succeeding section, and amend the table of contents, accordingly:

1 SEC. 10. PATENT AND TRADEMARK OFFICE FUNDING.

2 (a) DEFINITIONS.—In this section:

3 (1) FUND.—The term “Fund” means the
4 United States Patent and Trademark Office Public
5 Enterprise Revolving fund established under sub-
6 section (c).

7 (2) TRADEMARK ACT OF 1946.—The term
8 “Trademark Act of 1946” means the Act entitled
9 “An Act to provide for the registration and protec-
10 tion of trademarks used in commerce, to carry out
11 the provisions of certain international conventions,
12 and for other purposes”, approved July 5, 1946 (15
13 U.S.C. 1051 et seq.) (commonly referred to as the
14 “Trademark Act of 1946” or the “Lanham Act”).

15 (b) FUNDING.—

16 (1) IN GENERAL.—Section 42 of title 35,
17 United States Code, is amended—

1 (A) in subsection (b), by striking “Patent
2 and Trademark Office Appropriation Account”
3 and inserting “United States Patent and
4 Trademark Office Public Enterprise Fund”;
5 and

6 (B) in subsection (c)—

7 (i) in paragraph (1)—

8 (I) in the first sentence, by strik-
9 ing “To the extent” and all that fol-
10 lows through “fees” and inserting
11 “Fees”; and

12 (II) by striking “shall be col-
13 lected by and shall, subject to para-
14 graph (3), be available to the Direc-
15 tor” and inserting “shall be collected
16 by, and shall be available to, the Di-
17 rector until expended”; and

18 (ii) by striking paragraph (2) and re-
19 designating paragraph (3) as paragraph
20 (2).

21 (2) EFFECTIVE DATE.—The amendments made
22 by paragraph (1) shall take effect on the first day
23 of the first fiscal year that begins on or after the
24 date of the enactment of this Act.

25 (c) USPTO REVOLVING FUND.—

1 (1) ESTABLISHMENT.—There is established in
2 the Treasury of the United States a revolving fund
3 to be known as the “United States Patent and
4 Trademark Office Public Enterprise Fund”. Any
5 amounts in the Fund shall be available for use by
6 the Director without fiscal year limitation.

7 (2) DERIVATION OF RESOURCES.—

8 (A) IN GENERAL.—There shall be depos-
9 ited into the Fund on and after the effective
10 date set forth in subsection (b)(2)—

11 (i) any fees collected under title 35,
12 United States Code; and

13 (ii) any fees collected under the
14 Trademark Act of 1946 (15 U.S.C. 1051
15 et seq.).

16 (B) REMAINING BALANCES.—There shall
17 be deposited in the Fund, on the effective date
18 set forth in subsection (b)(2), any unobligated
19 balances remaining in the Patent and Trade-
20 mark Office Appropriation Account, and in the
21 Patent and Trademark Fee Reserve Fund es-
22 tablished under section 42(b)(2) of title 31,
23 United States Code, as in effect on the day be-
24 fore such effective date. Upon the payment of
25 all obligated amounts in the Patent and Trade-

1 mark Fee Reserve Fund, the Patent and Trade-
2 mark Fee Reserve Fund shall be terminated.

3 (3) EXPENSES.—Amounts deposited into the
4 Fund under paragraph (2) shall be available, with-
5 out fiscal year limitation, to cover—

6 (A) all expenses, to the extent consistent
7 with the limitation on the use of fees set forth
8 in section 42(c) of title 35, United States Code,
9 including all administrative and operating ex-
10 penses, determined in the discretion of the Di-
11 rector to be ordinary and reasonable, incurred
12 by the Director for the continued operation of
13 all services, programs, activities, and duties of
14 the Office relating to patents and trademarks,
15 as such services, programs, activities, and du-
16 ties are described under—

17 (i) title 35, United States Code; and

18 (ii) the Trademark Act of 1946; and

19 (B) all expenses incurred pursuant to any
20 obligation, representation, or other commitment
21 of the Office.

22 (d) ANNUAL REPORT AND OPERATION PLAN.—Not
23 later than 60 days after the end of each fiscal year, the
24 Director shall submit to Congress a report that—

1 (1) summarizes the operations of the Office for
2 the preceding fiscal year, including financial details
3 and staff levels broken down by each major activity
4 of the Office;

5 (2) describes the long term modernization plans
6 of the Office;

7 (3) sets forth details of any progress towards
8 such modernization plans made in the preceding fis-
9 cal year; and

10 (4) includes the results of the most recent audit
11 carried out under subsection (f).

12 (e) ANNUAL SPENDING PLAN.—

13 (1) IN GENERAL.—Not later than 30 days after
14 the beginning of each fiscal year, the Director shall
15 notify the Committee on Appropriations of the
16 House of Representatives and the Committee on Ap-
17 propriations of the Senate of the plan for the obliga-
18 tion and expenditure by the Office of the total
19 amount of the funds for that fiscal year in accord-
20 ance with section 605 of the Science, State, Justice,
21 Commerce, and Related Agencies Appropriations
22 Act, 2006 (Public Law 109–108; 119 Stat. 2334).

23 (2) CONTENTS.—Each plan under paragraph
24 (1) shall—

1 (A) summarize the operations of the Office
2 for the current fiscal year, including financial
3 details and staff levels with respect to major ac-
4 tivities; and

5 (B) detail the operating plan of the Office,
6 including specific expense and staff needs, for
7 the current fiscal year.

8 (f) AUDIT.—The Director shall, on an annual basis,
9 provide for an independent audit of the financial state-
10 ments of the Office. Such audit shall be conducted in ac-
11 cordance with generally accepted accounting principles.

12 (g) BUDGET.—The Fund shall prepare and submit
13 each year to the President a business-type budget in such
14 manner, and before such date, as the President prescribes
15 by regulation.

