

113TH CONGRESS  
2D SESSION

# S. 2146

To establish a United States Patent and Trademark Office Innovation  
Promotion Fund, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2014

Mrs. FEINSTEIN (for herself, Mr. COBURN, Ms. KLOBUCHAR, and Mr. FLAKE)  
introduced the following bill; which was read twice and referred to the  
Committee on the Judiciary

---

## A BILL

To establish a United States Patent and Trademark Office  
Innovation Promotion Fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Patent Fee Integrity  
5 Act”.

6 **SEC. 2. PATENT AND TRADEMARK OFFICE FUNDING.**

7 (a) DEFINITIONS.—In this Act:

8 (1) DIRECTOR.—The term “Director” means  
9 the Director of the United States Patent and Trade-  
10 mark Office.

1           (2) FUND.—The term “Fund” means the  
2 United States Patent and Trademark Office Innova-  
3 tion Promotion Fund established under subsection  
4 (c).

5           (3) OFFICE.—The term “Office” means the  
6 United States Patent and Trademark Office.

7           (4) 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—

18                   (A) in subsection (b), by striking “Patent  
19 and Trademark Office Appropriation Account”  
20 and inserting “United States Patent and  
21 Trademark Office Innovation Promotion  
22 Fund”; and

23                   (B) in subsection (c),

24                           (i) in paragraph (1)—

1 (I) by striking “To the extent”  
2 and all that follows through “fees”  
3 and inserting “Fees”; and

4 (II) by striking “shall be col-  
5 lected by and shall, subject to para-  
6 graph (3), be available to the Direc-  
7 tor” and inserting “shall be collected  
8 by the Director and shall be available  
9 to the Director until expended”;

10 (ii) by striking paragraph (2); and

11 (iii) by redesignating paragraph (3) as  
12 paragraph (2).

13 (2) EFFECTIVE DATE.—The amendments made  
14 by paragraph (1) shall take effect on the first day  
15 of the first fiscal year that begins on or after the  
16 date of enactment of this Act.

17 (c) USPTO REVOLVING FUND.—

18 (1) ESTABLISHMENT.—There is established in  
19 the Treasury of the United States a revolving fund  
20 to be known as the “United States Patent and  
21 Trademark Office Innovation Promotion Fund”.  
22 Any amounts in the Fund shall be available for use  
23 by the Director without fiscal year limitation.

24 (2) DERIVATION OF RESOURCES.—

1 (A) IN GENERAL.—There shall be depos-  
2 ited into the Fund on or after the effective date  
3 described in subsection (b)(2)—

4 (i) any fees collected under title 35,  
5 United States Code; and

6 (ii) any fees collected under the  
7 Trademark Act of 1946.

8 (B) REMAINING BALANCES.—There shall  
9 be deposited in the Fund, on the effective date  
10 described in subsection (b)(2), any available un-  
11 obligated balances remaining in the Patent and  
12 Trademark Office Appropriation Account, and  
13 in the Patent and Trademark Fee Reserve  
14 Fund established under section 42(b)(2) of title  
15 31, United States Code, as in effect on the date  
16 before the effective date. Upon the payment of  
17 all obligated amounts in the Patent and Trade-  
18 mark Fee Reserve Fund, the Patent and Trade-  
19 mark Fee Reserve Fund shall be terminated.

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

23 (A) all expenses to the extent consistent  
24 with the limitation on the use of fees set forth  
25 in section 42(c) of title 35, United States Code,

1 including all administrative and operating ex-  
2 penses, determined in the discretion of the Di-  
3 rector to be ordinary and reasonable, incurred  
4 by the Director for the continued operation of  
5 all services, programs, activities, and duties of  
6 the Office relating to patents and trademarks,  
7 as such services, programs, activities, and du-  
8 ties are described under—

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

10 (ii) the Trademark Act of 1946; and

11 (B) all expenses incurred pursuant to any  
12 obligation, representation, or other commitment  
13 of the Office.

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

17 (1) summarizes the operations of the Office for  
18 the preceding fiscal year, including financial details  
19 and staff levels broken down by each major activity  
20 of the Office;

21 (2) describes the long-term modernization plans  
22 of the Office;

23 (3) sets forth details of any progress towards  
24 such modernization plans made in the preceding fis-  
25 cal year; and

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

3 (e) ANNUAL SPENDING PLAN.—

4           (1) IN GENERAL.—Not later than 30 days after  
5 the beginning of each fiscal year, the Director shall  
6 notify the Committee on Appropriations of the Sen-  
7 ate and the Committee on Appropriations of the  
8 House of Representatives of the plan for the obliga-  
9 tion and expenditure by the Office of the total  
10 amount of the funds for that fiscal year in accord-  
11 ance with section 605 of the Science, State, Justice,  
12 Commerce, and Related Agencies Appropriations  
13 Act, 2006 (Public Law 109–108; 119 Stat. 2334).

14           (2) CONTENTS.—Each plan under paragraph  
15 (1) shall—

16                   (A) summarize the operations of the Office  
17 for the current and next fiscal year, including  
18 financial details and staff levels with respect to  
19 major activities; and

20                   (B) detail the operating plan of the Office,  
21 including specific expense and staff needs, for  
22 the current and next fiscal year.

23 (f) AUDIT.—The Director shall, on an annual basis,  
24 provide for an independent audit of the financial state-

1 ments of the Office. Such audit shall be conducted in ac-  
2 cordance with generally accepted accounting principles.

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

○