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**H.R. \_\_** -To authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force

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### **H.R. \_\_ —To authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force (*Conyers, D-MI*)**

**Order of Business:** The bill is scheduled to be considered on Tuesday July 7, 2009, under a motion to suspend the rules and pass the bill.

**Summary:** The bill authorizes the U.S. Patent and Trademark Office (PTO) Director to use FY2009 and FY2010 funds to support the agency's patent operations. The bill allows the Director to borrow up to \$70 million, which is equal to the trademark surplus. The Director may also establish a surcharge on patent fees to repay borrowed trademark funds. In order to use the funds, the Director must certify to Congress that it is necessary to avoid furloughs, or layoffs, and that the use of the funds will not disrupt trademark operations.

The surcharge would have to take effect no later than September 30, 2010. The Director's authority to transfer trademark funds expires on June 30, 2010.

**Background:** Because of the economic crisis, patent fee collections at the PTO are not as high as previously estimated. Due to the lack of collections, the agency will begin layoffs in the fall, which would increase the backlog of applications and the processing of new applications. PTO has already cut \$120 million from its operating plan and intends to cut another \$25 million. The legislation attempts to fix this problem by shifting funds from the trademark operations to the patent operations, which requires a statutory change.

The Senate considered a similar bill, S. 1358, on June 25, 2009. The bill passed by unanimous consent.

**Committee Action:** The bill was introduced on July 7, 2009 and referred to the Judiciary Committee, which took no subsequent public action.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No CBO score is available.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. The bill gives additional authority to the PTO Director and could lead to a potential fee increase.

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

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** No explanation of constitutional authority is available.

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