

119TH CONGRESS
1ST SESSION

S. _____

To require the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to establish and carry out a pilot program to expedite the examination of applications for certain patents, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. BLACKBURN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to establish and carry out a pilot program to expedite the examination of applications for certain patents, 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 “Leadership in Critical
5 and Emerging Technologies Act” or the “Leadership in
6 CET Act”.

1 **SEC. 2. PILOT PROGRAM FOR EXPEDITING EXAMINATION**
2 **OF CERTAIN CRITICAL AND EMERGING TECH-**
3 **NOLOGY PATENT APPLICATIONS.**

4 (a) DEFINITIONS.—In this section:

5 (1) COVERED APPLICATION.—The term “cov-
6 ered application” means an application for patent
7 that contains at least 1 claimed invention directed to
8 an eligible critical or emerging technology.

9 (2) DIRECTOR.—The term “Director” means
10 the Under Secretary of Commerce for Intellectual
11 Property and Director of the Office.

12 (3) ELIGIBLE CRITICAL OR EMERGING TECH-
13 NOLOGY.—The term “eligible critical or emerging
14 technology” means—

15 (A) an artificial intelligence capability re-
16 lating to—

17 (i) machine learning;

18 (ii) deep learning;

19 (iii) reinforcement learning;

20 (iv) sensory perception or recognition;

21 (v) an artificial intelligence assurance
22 or assessment technique;

23 (vi) a foundation model;

24 (vii) a generative artificial intelligence
25 system or multimodal or large language
26 model;

1 (viii) a synthetic data approach for
2 training, tuning, or testing;

3 (ix) planning, reasoning, or decision
4 making; or

5 (x) the improvement of artificial intel-
6 ligence safety, trust, security, or respon-
7 sible use;

8 (B) semiconductor design or an electronic
9 design automation tool; or

10 (C) a quantum information science capa-
11 bility relating to—

12 (i) quantum computing;

13 (ii) materials, isotopes, or fabrication
14 techniques for quantum devices;

15 (iii) quantum sensing; or

16 (iv) quantum communications or net-
17 working.

18 (4) EXPEDITE.—The term “expedite” means,
19 with respect to a covered application, to advance
20 that covered application out of turn through the use
21 of a petition to make special.

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

1 (6) PILOT PROGRAM.—The term “pilot pro-
2 gram” means the pilot program established under
3 subsection (b).

4 (b) ESTABLISHMENT.—Not later than 1 year after
5 the date of enactment of this Act, the Director shall estab-
6 lish a pilot program to expedite the examination, under
7 section 131 of title 35, United States Code, of covered ap-
8 plications.

9 (c) PURPOSE.—The purpose of the pilot program
10 shall be to encourage innovation by, and the leadership
11 of, the United States with respect to critical or emerging
12 technologies by ensuring that covered applications receive
13 prompt consideration.

14 (d) IMPLEMENTATION.—In carrying out the pilot
15 program, the Director may—

16 (1) by regulation, and in addition to the re-
17 quirements under subsection (e), prescribe the condi-
18 tions under which a covered application shall be ac-
19 cepted and examined under the pilot program, in-
20 cluding—

21 (A) the requirements to participate in the
22 pilot program;

23 (B) internal processing by the Office of
24 covered applications under the pilot program;

1 (C) requirements for restriction or unity of
2 inventions identified in covered applications;

3 (D) the period during which the applicant
4 submitting the covered application may reply
5 with respect to an action taken by the Office
6 with respect to the covered application;

7 (E) standards relating to a reply described
8 in subparagraph (D);

9 (F) standards or procedures governing—

10 (i) any amendment, affidavit, or other
11 evidence filed after a final action taken by
12 the Office with respect to the covered ap-
13 plication; and

14 (ii) any process for appeal with re-
15 spect to a final action described in clause
16 (i); and

17 (G) the withdrawal, by an applicant, of a
18 covered application submitted under the pilot
19 program; and

20 (2) waive—

21 (A) the petition fee described in section
22 1.102(d) of title 37, Code of Federal Regula-
23 tions, or any successor regulation; or

1 (B) any other requirement of the Office re-
2 lating to the accelerated examination program
3 or the prioritized examination program.

4 (e) QUALIFYING APPLICATIONS.—To best achieve the
5 purpose of the pilot program, the Director shall ensure
6 that a covered application satisfies the following require-
7 ments to qualify for the pilot program:

8 (1) The applicant submitting the covered appli-
9 cation—

10 (A) is not a foreign entity of concern, as
11 defined in section 9901 of the William M.
12 (Mac) Thornberry National Defense Authoriza-
13 tion Act for Fiscal Year 2021 (15 U.S.C.
14 4651); and

15 (B) certifies in the covered application that
16 the inventor or any joint inventor with respect
17 to any claimed invention in the covered applica-
18 tion has not been named as the inventor or
19 joint inventor with respect to more than 4 other
20 covered applications submitted under the pilot
21 program.

22 (2) The covered application is a noncontinuing,
23 nonprovisional application for an original utility pat-
24 ent filed under section 111(a) of title 35, United
25 States Code, that does not claim any domestic ben-

1 efit under section 120, 121, 365(c), or 386(c) of
2 that title.

3 (f) TERMINATION.—

4 (1) IN GENERAL.—The pilot program shall ter-
5 minate on the earlier of the following:

6 (A) The date that is 5 years after the date
7 on which the Director first accepts a covered
8 application for participation in the pilot pro-
9 gram.

10 (B) The date on which the Director has
11 accepted 15,000 covered applications for par-
12 ticipation in the pilot program, without regard
13 to whether those covered applications have been
14 expedited under the pilot program.

15 (2) RENEWAL.—If the pilot program terminates
16 under paragraph (1)(B), the Director may renew the
17 pilot program for the shorter of the following:

18 (A) An additional 5-year period, beginning
19 on the date on which the pilot program termi-
20 nates under paragraph (1)(B).

21 (B) An additional period—

22 (i) beginning on the date on which the
23 pilot program terminates under paragraph
24 (1)(B); and

1 (ii) ending on the date on which the
2 Director has accepted an additional 15,000
3 covered applications for participation in
4 the pilot program, without regard to
5 whether those covered applications have
6 been expedited under the pilot program.

7 (3) NOTICE OF RENEWAL.—The Director shall
8 notify the Committee on the Judiciary of the Senate
9 and the Committee on the Judiciary of the House of
10 Representatives of the intent of the Director to
11 renew the pilot program under paragraph (2) not
12 later than the date that is the earlier of the fol-
13 lowing:

14 (A) The date that is 60 days before the
15 date described in paragraph (1)(A).

16 (B) The date that is 30 days after the date
17 on which the Director has accepted 12,000 cov-
18 ered applications for participation in the pilot
19 program, without regard to whether those cov-
20 ered applications have been expedited under the
21 pilot program.

22 (g) PUBLIC AVAILABILITY OF INFORMATION.—The
23 Director shall make publicly available in an easily acces-
24 sible location on the website of the Office information
25 about the pilot program, including—

1 (1) the number of covered applications sub-
2 mitted under the pilot program;

3 (2) the number of covered applications de-
4 scribed in paragraph (1) that the Director has ac-
5 cepted for participation in the pilot program; and

6 (3) the number of patents that have been issued
7 for inventions claimed in covered applications expe-
8 dited under the pilot program.

9 (h) REPORT TO CONGRESS.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date on which the pilot program terminates
12 (including any renewal of the pilot program under
13 subsection (f)(2)), the Director shall submit to the
14 Committee on the Judiciary of the Senate and the
15 Committee on the Judiciary of the House of Rep-
16 resentatives a report that assesses the impact and
17 effectiveness of the pilot program based on all avail-
18 able data.

19 (2) APPLICABILITY.—The collection of any data
20 for the purposes of carrying out paragraph (1) shall
21 be exempt from subchapter I of chapter 35 of title
22 44, United States Code (commonly referred to as
23 the “Paperwork Reduction Act”).