

118TH CONGRESS
2D SESSION

S. 5537

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

DECEMBER 16, 2024

Mrs. BLACKBURN (for herself and Mr. WELCH) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

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 with respect to an eligible critical or emerging tech-
8 nology.

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) artificial intelligence, as defined in sec-
16 tion 5002 of the National Artificial Intelligence
17 Initiative Act of 2020 (15 U.S.C. 9401);

18 (B) microelectronics, as defined in section
19 10731(a) of the Research and Development,
20 Competition, and Innovation Act (42 U.S.C.
21 19331(a)); or

22 (C) quantum information science, as de-
23 fined in section 2 of the National Quantum Ini-
24 tiative Act (15 U.S.C. 8801).

25 (4) EXPEDITE.—The term “expedite” means,
26 with respect to a covered application, to advance

1 that covered application out of turn through the use
2 of a petition to make special.

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

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

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

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

18 (d) IMPLEMENTATION.—In carrying out the pilot
19 program, the Director—

20 (1) shall establish the process by which covered
21 applications are expedited;

22 (2) may waive—

23 (A) the petition fee described in section
24 1.102(d) of title 37, Code of Federal Regula-
25 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; and

4 (3) may establish reasonable limitations on the
5 number of covered applications that an applicant
6 may submit for expedited examination under the
7 pilot program.

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

12 (1) The applicant submitting the covered appli-
13 cation is—

14 (A) an entity that is incorporated in the
15 United States; or

16 (B) an inventor who resides in the United
17 States.

18 (2) The covered application is a noncontinuing,
19 original, and nonprovisional patent application.

20 (f) TERMINATION.—

21 (1) IN GENERAL.—The pilot program shall ter-
22minate on the earlier of the following:

23 (A) The date that is 5 years after the date
24 on which the Director first issues a patent for

1 an invention claimed in a covered application
2 that is expedited under the pilot program.

3 (B) The date on which the Director has
4 accepted 10,000 covered applications for par-
5 ticipation in the pilot program, without regard
6 to whether those covered applications have been
7 expedited under the pilot program.

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

11 (A) An additional 5-year period.

12 (B) An additional period—

13 (i) beginning on the date on which the
14 pilot program terminates under paragraph
15 (1)(B); and

16 (ii) ending on the date on which the
17 Director has accepted an additional 10,000
18 covered applications for participation in
19 the pilot program, without regard to
20 whether those covered applications have
21 been expedited under the pilot program.

22 (3) NOTICE OF RENEWAL.—The Director shall
23 notify Congress of the intent of the Director to
24 renew the pilot program under paragraph (2) not

1 later than the date that is the earlier of the fol-
2 lowing:

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

5 (B) The date that is 30 days after the date
6 on which the Director has accepted 8,000 cov-
7 ered applications for participation in the pilot
8 program, without regard to whether those cov-
9 ered applications have been expedited under the
10 pilot program.

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

15 (1) the number of covered applications received
16 by the Director for participation in the pilot pro-
17 gram;

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

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

24 (h) REPORT TO CONGRESS.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date on which the pilot program terminates
3 (including any renewal of the pilot program under
4 subsection (f)(2)), the Director shall submit to Con-
5 gress a report that assesses the impact and effective-
6 ness of the pilot program based on all available data.

7 (2) APPLICABILITY.—The collection of any data
8 for the purposes of carrying out paragraph (1) shall
9 be exempt from subchapter I of chapter 35 of title
10 44, United States Code (commonly referred to as
11 the “Paperwork Reduction Act”).

○