



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 3, 2002

### **H.R. 1886**

#### **An act to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings**

*As reported by the Senate Committee on the Judiciary on June 20, 2002*

H.R. 1886 would allow third parties—persons other than the patent owner—to appeal patent reexamination decisions to the U.S. Court of Appeals for the Federal Circuit. CBO estimates that implementing the act would cost the Patent and Trademark Office (PTO) about \$4 million a year, subject to the availability of appropriated funds. Enacting H.R. 1886 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 1886 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Under current law, third parties can file a request with PTO to reexamine a patent's validity and can appeal the agency's ruling to a special board. Unlike the patent owner, however, a third party is not allowed to appeal the special board's ruling to the U.S. Court of Appeals for the Federal Circuit. Because H.R. 1886 would give third parties this extra level of appeal, implementing the act would require PTO to hire additional attorneys to represent the agency in appeals proceedings. Based on information from PTO, CBO also expects that enacting H.R. 1886 would cause the total number of patent reexamination filings to increase. As a result, PTO would need to hire additional patent examiners to review the new requests. CBO estimates that the added staff would cost the agency about \$4 million a year, subject to the availability of appropriated funds.

On June 27, 2001, CBO transmitted a cost estimate for H.R. 1886, as ordered reported by the House Committee on the Judiciary on June 20, 2001. The language of the two versions of the legislation is identical. CBO had estimated that this legislation would cost \$3 million a year. However, based on new information from the PTO, CBO now estimates that implementing both versions would cost about \$4 million a year.

The CBO staff contact for this estimate is Ken Johnson. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.