AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5796
OFFERED BY MR. NADLER OF NEW YORK

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Patents for Humanity Act of 2021”.

SEC. 2. AWARD OF CERTIFICATES TO ACCELERATE CERTAIN MATTERS AT THE PATENT AND TRADEMARK OFFICE.

(a) AWARD.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

“§ 28. Award of certificates to accelerate certain matters at the Patent and Trademark Office

“(a) ESTABLISHMENT.—There is established a competition, to be held not less frequently than biennially, to award eligible entities certificates that can be redeemed to accelerate one of the following matters:

“(1) An ex parte reexamination proceeding, including one appeal to the Patent Trial and Appeal Board from that proceeding.
“(2) An application for a patent, including one appeal to the Patent Trial and Appeal Board from that application.

“(3) An appeal to the Patent Trial and Appeal Board of a claim twice rejected in a patent application or reissue application or finally rejected in an ex parte reexamination, without accelerating the underlying matter which generated the appeal.

“(4) A matter identified under subsection (d)(4).

“(b) ADMINISTRATION.—The Director shall administer the competition established by subsection (a).

“(c) APPLICATION.—An eligible entity seeking an award under subsection (a) shall submit to the Director an application, at such time, in such manner, and containing such information as the Director may require.

“(d) RULEMAKING AUTHORITY.—With respect to the competition established by subsection (a), the Director shall conduct a rulemaking proceeding to promulgate rules on the—

“(1) entities eligible to receive an award;

“(2) process and metrics by which applications are judged, including the criteria for selecting judges for the competition;
“(3) factors that will be considered in selecting
the eligible entities that receive an award; and
“(4) additional matters for which a certificate
described under subsection (a) may be awarded.
“(e) PROMOTION OF COMPETITION.—The Director
shall promote the competition through the satellite offices
established pursuant to section 1.
“(f) TREATMENT AS SUCCESSOR.—The competition
established under subsection (a) shall be treated as a suc-
cessor to the Patents for Humanity Program (established
in the notice entitled ‘Humanitarian Awards Pilot Pro-
gram’, published at 77 Fed. Reg. 6544 (February 8,
2012)).
“(g) ELIGIBLE ENTITY DEFINED.—In this section,
the term ‘eligible entity’ means a entity that—
“(1) submits an application under subsection
(c) for a patent that addresses a humanitarian issue;
and
“(2) is eligible to receive an award under sub-
section (d)(1).”.
(b) RULE OF CONSTRUCTION.—Nothing in this sec-
tion, or the amendments made by this section, may be con-
strued as prohibiting the Under Secretary of Commerce
for Intellectual Property and Director of the United States
Patent and Trademark Office from administering the
competition established by section 28 of title 35, United States Code, as added by subsection (a), before the date on which all rules are promulgated under the rulemaking proceeding required by subsection (d) of such section.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 2 of title 35, United States Code, is amended by adding at the end the following:

“Sec. 28. Award of certificates to accelerate certain matters at the Patent and Trademark Office.”