

**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:

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. AWARD OF CERTIFICATES TO ACCELERATE CER-**
5 **TAIN MATTERS AT THE PATENT AND TRADE-**
6 **MARK OFFICE.**

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

9 **“§ 28. Award of certificates to accelerate certain mat-**
10 **ters at the Patent and Trademark Office**

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

15 “(1) An ex parte reexamination proceeding, in-
16 cluding one appeal to the Patent Trial and Appeal
17 Board from that proceeding.

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

4 “(3) An appeal to the Patent Trial and Appeal
5 Board of a claim twice rejected in a patent applica-
6 tion or reissue application or finally rejected in an
7 ex parte reexamination, without accelerating the un-
8 derlying matter which generated the appeal.

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

11 “(b) ADMINISTRATION.—The Director shall admin-
12 ister the competition established by subsection (a).

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

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

21 “(1) entities eligible to receive an award;

22 “(2) process and metrics by which applications
23 are judged, including the criteria for selecting judges
24 for the competition;

1 “(3) factors that will be considered in selecting
2 the eligible entities that receive an award; and

3 “(4) additional matters for which a certificate
4 described under subsection (a) may be awarded.

5 “(e) PROMOTION OF COMPETITION.—The Director
6 shall promote the competition through the satellite offices
7 established pursuant to section 1.

8 “(f) TREATMENT AS SUCCESSOR.—The competition
9 established under subsection (a) shall be treated as a suc-
10 cessor to the Patents for Humanity Program (established
11 in the notice entitled ‘Humanitarian Awards Pilot Pro-
12 gram’, published at 77 Fed. Reg. 6544 (February 8,
13 2012)).

14 “(g) ELIGIBLE ENTITY DEFINED.—In this section,
15 the term ‘eligible entity’ means a entity that—

16 “(1) submits an application under subsection
17 (c) for a patent that addresses a humanitarian issue;
18 and

19 “(2) is eligible to receive an award under sub-
20 section (d)(1).”.

21 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion, or the amendments made by this section, may be con-
23 strued as prohibiting the Under Secretary of Commerce
24 for Intellectual Property and Director of the United States
25 Patent and Trademark Office from administering the

1 competition established by section 28 of title 35, United
2 States Code, as added by subsection (a), before the date
3 on which all rules are promulgated under the rulemaking
4 proceeding required by subsection (d) of such section.

5 (c) TECHNICAL AND CONFORMING AMENDMENT.—

6 The table of sections at the beginning of chapter 2 of title
7 35, United States Code, is amended by adding at the end
8 the following:

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

