

the period of the extension of its term and shall be pleaded, and that a due diligence determination under section 156(d)(2) is not subject to review in such an action.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 294 of this title.

§ 283. Injunction

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 284. Damages

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 285. Attorney fees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 271 of this title.

§ 286. Time limitation on damages

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 287. Limitation on damages; marking and notice

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 288. Action for infringement of a patent containing an invalid claim

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 289. Additional remedy for infringement of design patent

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 292. False marking

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

CHAPTER 30—PRIOR ART CITATIONS TO OFFICE AND REEXAMINATION OF PATENTS

§ 305. Conduct of reexamination proceedings

After the times for filing the statement and reply provided for by section 304 of this title have expired, reexamination will be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner will be permitted to propose any amendment to his patent and a new claim or claims thereto, in order to distinguish the invention as claimed from the prior art cited under the provisions of section 301 of this title, or in response to a decision adverse to the patentability of a claim of a patent. No proposed amended or new claim enlarging the scope of a claim of the patent will be permitted in a reexamination proceeding under this chapter. All reexamination proceedings under this section,

including any appeal to the Board of Patent Appeals and Interferences, will be conducted with special dispatch within the Office.

(As amended Pub. L. 98-622, title II, § 204(c), Nov. 8, 1984, 98 Stat. 3388.)

AMENDMENTS

1984—Pub. L. 98-622, § 204(c), substituted "Patent Appeals and Interferences" for "Appeals".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective three months after Nov. 8, 1984, see section 207 of Pub. L. 98-622, set out as a note under section 7 of this title.

PART IV—PATENT COOPERATION TREATY

CHAPTER 35—DEFINITIONS

§ 351. Definitions

When used in this part unless the context otherwise indicates—

[See main edition for text of (a) to (c)]

(d) The term "international application originating in the United States" means an international application filed in the Patent and Trademark Office when it is acting as a Receiving Office under the treaty, irrespective of whether or not the United States has been designated in that international application.

[See main edition for text of (e) to (i)]

(As amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392.)

AMENDMENTS

1984—Subsec. (d), Pub. L. 98-622 substituted "Patent and Trademark Office" for "Patent Office".

EFFECTIVE DATE OF 1984 AMENDMENT

Section 406(a) of Pub. L. 98-622 provided that: "Section 404 of this Act [set out as a note under section 41 of this title] and the amendments made by section 403 of this Act [amending sections 104, 351, 361, 362, 363, 364, 365, 367, 368, 371, 372, 373, and 376 of this title] shall take effect on the date of the enactment of this Act [Nov. 8, 1984]."

CHAPTER 36—INTERNATIONAL STAGE

§ 361. Receiving Office

(a) The Patent and Trademark Office shall act as a Receiving Office for international applications filed by nationals or residents of the United States. In accordance with any agreement made between the United States and another country, the Patent and Trademark Office may also act as a Receiving Office for international applications filed by residents or nationals of such country who are entitled to file international applications.

(b) The Patent and Trademark Office shall perform all acts connected with the discharge of duties required of a Receiving Office, including the collection of international fees and their transmittal to the International Bureau.

(c) International applications filed in the Patent and Trademark Office shall be in the English language.

(d) The basic fee portion of the international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall be paid on filing of an international application or within one month after the date of such filing. Payment of designation fees may be made on filing and shall be made not later than one year from the priority date of the international application.

(As amended Pub. L. 98-622, title IV, §§ 401(a), 403(a), Nov. 8, 1984, 98 Stat. 3391, 3392.)

AMENDMENTS

1984—Subsecs. (a) to (c), Pub. L. 98-622, § 403(a), substituted "Patent and Trademark Office" for "Patent Office".

Subsec. (d), Pub. L. 98-622, § 401(a), added "or within one month after the date of such filing" after "application".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 403(a) of Pub. L. 98-622 effective on Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

Amendment by section 401(a) of Pub. L. 98-622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98-622, set out as a note under section 3 of this title.

§ 362. International Searching Authority

The Patent and Trademark Office may act as an International Searching Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau.

(As amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392.)

AMENDMENTS

1984—Pub. L. 98-622 substituted "Patent and Trademark Office" for "Patent Office".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective on Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

§ 363. International application designating the United States: Effect

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

(As amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392.)

AMENDMENTS

1984—Pub. L. 98-622 substituted "Patent and Trademark Office" for "Patent Office".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective on Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

§ 364. International stage: Procedure

(a) International applications shall be processed by the Patent and Trademark Office

when acting as a Receiving Office or International Searching Authority, or both, in accordance with the applicable provisions of the treaty, the Regulations, and this title.

[See main edition for text of (b)]

(As amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392.)

AMENDMENTS

1984—Subsec. (a), Pub. L. 98-622 substituted "Patent and Trademark Office" for "Patent Office".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective on Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

§ 365. Right of priority; benefit of the filing date of a prior application

[See main edition for text of (a) and (b)]

(c) In accordance with the conditions and requirements of section 120 of this title, an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior international application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application which designated but did not originate in the United States, the Commissioner may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

(As amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392.)

AMENDMENTS

1984—Subsec. (c), Pub. L. 98-622 substituted "Patent and Trademark Office" for "Patent Office".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective on Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

§ 366. Withdrawn international application

Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of withdrawal, and shall be considered as not having been made, unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal. However, such withdrawn international application may serve as the basis

for a claim of priority under section 365(a) and (b) of this part, if it designated a country other than the United States.

(As amended Pub. L. 98-622, title IV, § 401(b), Nov. 8, 1984, 98 Stat. 3391.)

AMENDMENTS

1984—Pub. L. 98-622 inserted "after the date of withdrawal," after "effect" and " , unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal" after "having been made" in first sentence, and inserted "withdrawn" after "such" in second sentence.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98-622, set out as a note under section 3 of this title.

§ 367. Actions of other authorities: Review

(a) Where a Receiving Office other than the Patent and Trademark Office has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Commissioner, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

[See main edition for text of (b)]

(As amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-622 substituted "Patent and Trademark Office" for "Patent Office".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective on Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

§ 368. Secrecy of certain inventions; filing international applications in foreign countries

(a) International applications filed in the Patent and Trademark Office shall be subject to the provisions of chapter 17 of this title.

[See main edition for text of (b)]

(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Patent and Trademark Office when acting as a Receiving Office or International Searching Authority, or both, may not disclose the contents of such application to anyone not authorized to receive such disclosure.

(As amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392.)

AMENDMENTS

1984—Subsecs. (a), (c). Pub. L. 98-622 substituted "Patent and Trademark Office" for "Patent Office".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective on Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

CHAPTER 37—NATIONAL STAGE

§ 371. National stage: Commencement

(a) Receipt from the International Bureau of copies of international applications with amendments to the claims, if any, and international search reports may be required in the case of all international applications designating the United States.

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2) of the treaty.

(c) The applicant shall file in the Patent and Trademark Office—

(1) the national fee prescribed under section 376(a)(4) of this part;

(2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;

(3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;

[See main edition for text of (4)]

(d) The requirements with respect to the national fee referred to in subsection (c)(1), the translation referred to in subsection (c)(2), and the oath or declaration referred to in subsection (c)(4) of this section shall be complied with by the date of the commencement of the national stage or by such later time as may be fixed by the Commissioner. The copy of the international application referred to in subsection (c)(2) shall be submitted by the date of the commencement of the national stage. Failure to comply with these requirements shall be regarded as abandonment of the application by the parties thereof, unless it be shown to the satisfaction of the Commissioner that such failure to comply was unavoidable. The payment of a surcharge may be required as a condition of accepting the national fee referred to in subsection (c)(1) or the oath or declaration referred to in subsection (c)(4) of this section if these requirements are not met by the date of the commencement of the national stage. The requirements of subsection (c)(3) of this section shall be complied with by the date of the commencement of the national stage, and failure to do so shall be regarded as a cancellation of the amendments to the claims in the international application made under article 19 of the treaty.

[See main edition for text of (e) and (f)]