

the office, including all direct and indirect costs of services provided by the office.

"(2) in fiscal years 1992 through 1995—

"(A) shall be credited to a separate account established in the Treasury and ascribed to the Patent and Trademark Office activities in the Department of Commerce as offsetting receipts, and

"(B) shall be available only to the Patent and Trademark Office, to the extent provided in appropriation Acts, for all authorized activities and operations of the office, including all direct and indirect costs of services provided by the office, and

"(3) shall remain available until expended.

"(c) **ESTABLISHMENT OF SURCHARGES.**—In fiscal years 1991 through 1995, the Commissioner of Patents and Trademarks shall establish surcharges under subsection (a), subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, but not more than the following amounts, of patent and trademark user fees are collected:

"(1) \$109,807,000 in fiscal year 1991.

"(2) \$95,000,000 in fiscal year 1992.

"(3) \$99,000,000 in fiscal year 1993.

"(4) \$103,000,000 in fiscal year 1994.

"(5) \$107,000,000 in fiscal year 1995."

#### EFFECT ON OTHER LAWS

Pub. L. 101-508, title X, § 10103, Nov. 5, 1990, 104 Stat. 1388-392, provided that: "Except for section 10101(d) [not classified to the Code], nothing in this subtitle [subtitle B (§§ 10101-10103) of title X of Pub. L. 101-508, enacting provisions set out as notes under this section and section 1 of this title] affects the provisions of Public Law 100-703 (102 Stat. 4674 and following) [see Tables for classification]."

#### PUBLIC ACCESS TO PATENT AND TRADEMARK OFFICE INFORMATION

Pub. L. 100-703, title I, § 104(b), (c), Nov. 19, 1988, 102 Stat. 4675, which provided that the Commissioner of Patents and Trademarks maintain patent and trademark collections, search rooms, and libraries for use by the public without fees and authorized establishment of fees for access by the public to automated search systems of the Patent and Trademark Office, was repealed by Pub. L. 102-204, § 9, Dec. 10, 1991, 105 Stat. 1641. See section 41(l) of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 302, 371, 376 of this title.

#### § 42. Patent and Trademark Office funding

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

(c) Revenues from fees shall be available to the Commissioner to carry out, to the extent provided in appropriation Acts, the activities of the Patent and Trademark Office. Fees available to the Commissioner under section 31 of the Trademark Act of 1946 may be used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Patent and Trademark Office.

[See main edition for text of (d)]

(e) The Secretary of Commerce shall, on the day each year on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Office; and

(5) such other information as the committees consider necessary.

(As amended Dec. 10, 1991, Pub. L. 102-204, §§ 4, 5(e), 105 Stat. 1637, 1640.)

#### REFERENCES IN TEXT

Section 31 of the Trademark Act of 1946, referred to in subsec. (c), is classified to section 1113 of Title 15, Commerce and Trade.

#### AMENDMENTS

1991—Subsec. (c). Pub. L. 102-204, § 5(e), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Revenues from fees will be available to the Commissioner of Patents to carry out, to the extent provided for in appropriation Acts, the activities of the Patent and Trademark Office. Fees available to the Commissioner under section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials related to trademarks."

Subsec. (e). Pub. L. 102-204, § 4, added subsec. (e).

#### PART II—PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

#### CHAPTER 10—PATENTABILITY OF INVENTIONS

Sec.  
105. Inventions in outer space.

#### AMENDMENTS

1990—Pub. L. 101-580, § 1(b), Nov. 15, 1990, 104 Stat. 2863, added item 105.

§ 105. Inventions in outer space

(a) Any invention made, used or sold in outer space on a space object or component thereof under the jurisdiction or control of the United States shall be considered to be made, used or sold within the United States for the purposes of this title, except with respect to any space object or component thereof that is specifically identified and otherwise provided for by an international agreement to which the United States is a party, or with respect to any space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space.

(b) Any invention made, used or sold in outer space on a space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space, shall be considered to be made, used or sold within the United States for the purposes of this title if specifically so agreed in an international agreement between the United States and the state of registry.

(Added Pub. L. 101-580, § 1(a), Nov. 15, 1990, 104 Stat. 2863.)

**EFFECTIVE DATE; SPECIAL RULES**

Section 2 of Pub. L. 101-580 provided that:

"(a) **EFFECTIVE DATE.**—Subject to subsections (b), (c), and (d) of this section, the amendments made by the first section of this Act [enacting this section] shall apply to all United States patents granted before, on, or after the date of enactment of this Act [Nov. 15, 1990], and to all applications for United States patents pending on or filed on or after such date of enactment.

"(b) **FINAL DECISIONS.**—The amendments made by the first section of this Act [enacting this section] shall not affect any final decision made by a court or the Patent and Trademark Office before the date of enactment of this Act [Nov. 15, 1990] with respect to a patent or an application for a patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

"(c) **PENDING CASES.**—The amendments made by the first section of this Act [enacting this section] shall not affect the right of any party in any case pending in a court on the date of enactment of this Act [Nov. 15, 1990] to have the party's rights determined on the basis of the substantive law in effect before such date of enactment.

"(d) **NON-APPLICABILITY.**—The amendments made by the first section of this Act [enacting this section] shall not apply to any process, machine, article of manufacture, or composition of matter, an embodiment of which was launched prior to the date of enactment of this Act [Nov. 15, 1990]."

**CHAPTER 17—SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS IN FOREIGN COUNTRY**

**§ 183. Right to compensation**

An applicant, his successors, assigns, or legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, or February 1, 1952, whichever is later, and ending six years after a patent is issued thereon, to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. The head of the department or agency is authorized, upon the presentation of a claim, to enter into an agreement with the applicant, his successors, assigns, or legal representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, his successors, assigns, or legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the United States Court of Federal Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall

constitute just compensation for the damage and/or use of the invention by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 181 of this title, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the United States Court of Federal Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of the invention resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. In a suit under the provisions of this section the United States may avail itself of all defenses it may plead in an action under section 1498 of title 28. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the invention on which the claim is based.

(As amended Oct. 29, 1992, Pub. L. 102-572, title IX, § 902(b)(1), 106 Stat. 4516.)

**AMENDMENTS**

1992—Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court" in two places.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

**CHAPTER 18—PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE**

**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in title 15 sections 278k, 3705, 5308; title 30 section 1228; title 49 section 309.

**§ 201. Definitions**

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 49 section 309.

**§ 202. Disposition of rights**

[See main edition for text of (a)]

(b) [See main edition for text of (1) and (2)]

(3) At least once every 5 years, the Comptroller General shall transmit a report to the Committees on the Judiciary of the Senate and House of Representatives on the manner in which this chapter is being implemented by the agencies and on such other aspects of Government patent policies and practices with respect to federally funded inventions as the Comptroller General believes appropriate.

[See main edition for text of (4); (c) to (f)]

(As amended Pub. L. 102-204, § 10, Dec. 10, 1991, 105 Stat. 1641.)

**AMENDMENTS**

1991—Subsec. (b)(3). Pub. L. 102-204 substituted "every 5 years" for "each year".