

forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

(Added Pub. L. 98-620, title III, § 302, Nov. 8, 1984, 98 Stat. 3352; amended Pub. L. 101-553, § 2(b)(1), Nov. 15, 1990, 104 Stat. 2750; Pub. L. 105-80, § 12(a)(23), Nov. 13, 1997, 111 Stat. 1535.)

#### REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 337 of the Tariff Act of 1930, referred to in subsec. (c)(1)(A), is classified to section 1337 of Title 19, Customs Duties.

#### AMENDMENTS

1997—Subsec. (a). Pub. L. 105-80 substituted “As used” for “as used” in second sentence.

1990—Subsec. (a). Pub. L. 101-553 inserted sentences at end defining “any person” and providing that any State and any instrumentality, officer, or employee be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-553 effective with respect to violations that occur on or after Nov. 15, 1990, see section 3 of Pub. L. 101-553, set out as a note under section 501 of this title.

### § 911. Civil actions

(a) Any court having jurisdiction of a civil action arising under this chapter may grant temporary restraining orders, preliminary injunctions, and permanent injunctions on such terms as the court may deem reasonable to prevent or restrain infringement of the exclusive rights in a mask work under this chapter.

(b) Upon finding an infringer liable, to a person entitled under section 910(b)(1) to institute a civil action, for an infringement of any exclusive right under this chapter, the court shall award such person actual damages suffered by the person as a result of the infringement. The court shall also award such person the infringer's profits that are attributable to the infringement and are not taken into account in computing the award of actual damages. In establishing the infringer's profits, such person is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the mask work.

(c) At any time before final judgment is rendered, a person entitled to institute a civil action for infringement may elect, instead of actual damages and profits as provided by subsection (b), an award of statutory damages for all infringements involved in the action, with respect to any one mask work for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and sev-

erally, in an amount not more than \$250,000 as the court considers just.

(d) An action for infringement under this chapter shall be barred unless the action is commenced within three years after the claim accrues.

(e)(1) At any time while an action for infringement of the exclusive rights in a mask work under this chapter is pending, the court may order the impounding, on such terms as it may deem reasonable, of all semiconductor chip products, and any drawings, tapes, masks, or other products by means of which such products may be reproduced, that are claimed to have been made, imported, or used in violation of those exclusive rights. Insofar as practicable, applications for orders under this paragraph shall be heard and determined in the same manner as an application for a temporary restraining order or preliminary injunction.

(2) As part of a final judgment or decree, the court may order the destruction or other disposition of any infringing semiconductor chip products, and any masks, tapes, or other articles by means of which such products may be reproduced.

(f) In any civil action arising under this chapter, the court in its discretion may allow the recovery of full costs, including reasonable attorneys' fees, to the prevailing party.

(g)(1) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of the owner of a mask work under this chapter, or for any other violation under this chapter.

(2) In a suit described in paragraph (1) for a violation described in that paragraph, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include actual damages and profits under subsection (b), statutory damages under subsection (c), impounding and disposition of infringing articles under subsection (e), and costs and attorney's fees under subsection (f).

(Added Pub. L. 98-620, title III, § 302, Nov. 8, 1984, 98 Stat. 3353; amended Pub. L. 101-553, § 2(b)(2), Nov. 15, 1990, 104 Stat. 2750.)

#### AMENDMENTS

1990—Subsec. (g). Pub. L. 101-553 added subsec. (g).

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-553 effective with respect to violations that occur on or after Nov. 15, 1990, see section 3 of Pub. L. 101-553, set out as a note under section 501 of this title.

### § 912. Relation to other laws

(a) Nothing in this chapter shall affect any right or remedy held by any person under chap-