

such patent was developed through federally financed research; and (D) the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(2) In determining what constitutes just compensation as provided for in section 2181 of this title, or in determining the amount of any award under subsection (b)(3) of this section, the Commission shall take into account the considerations set forth in paragraph (1) of this subsection and the actual use of such invention or discovery. Such compensation may be paid by the Commission in periodic payments or in a lump sum.

#### (d) Limitations

Every application under this section shall be barred unless filed within six years after the date on which first accrues the right to such reasonable royalty fee, just compensation, or award for which such application is filed.

(Aug. 1, 1946, ch. 724, title I, §157, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 947; amended Pub. L. 87-206, §11, Sept. 6, 1961, 75 Stat. 478; Pub. L. 93-276, title II, §201, May 10, 1974, 88 Stat. 119; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### REFERENCES IN TEXT

Sections 281, 283, and 284 of title 18, referred to in subsec. (a), were repealed by Pub. L. 87-849, §2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States, and were supplanted by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. For further details, see "Exemptions" note set out under section 203 of Title 18.

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(e)(1) to (3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93-276 substituted "after consultation with the General Advisory Committee" for "upon the recommendation of the General Advisory Committee".

1961—Subsec. (d). Pub. L. 87-206 added subsec. (d).

#### TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. Patent Compensation Board established by this section transferred to Energy Research and Development Administration and functions of Atomic Energy Commission with respect thereto transferred to Administrator by section 5814(d) of this title. See, also, notes set out under sections 5814 and 5841 of this title. Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-

year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### EX. ORD. NO. 11477. AWARDS BY COMMISSION WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 11477, eff. Aug. 7, 1969, 34 F.R. 12937, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Atomic Energy Commission is hereby designated and empowered, without approval, ratification, or other action by the President, to grant by the unanimous affirmative vote of all of its members not more than five awards in any calendar year, not exceeding the sum of \$5,000 each, pursuant to the last sentence of section 157b(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)) which authorizes the Commission to grant awards for especially meritorious contributions to the development, use, or control of atomic energy.

RICHARD NIXON.

#### MODIFICATION OF EXECUTIVE ORDER NO. 11477

Ex. Ord. No. 11477, Aug. 7, 1969, 34 F.R. 12937, set out as a note above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

### § 2188. Monopolistic use of patents

Whenever the owner of any patent hereafter granted for any invention or discovery of primary use in the utilization or production of special nuclear material or atomic energy is found by a court of competent jurisdiction to have intentionally used such patent in a manner so as to violate any of the antitrust laws specified in section 2135(a) of this title, there may be included in the judgment of the court, in its discretion and in addition to any other lawful sanctions, a requirement that such owner license such patent to any other licensee of the Commission who demonstrates a need therefor. If the court, at its discretion, deems that such licensee shall pay a reasonable royalty to the owner of the patent, the reasonable royalty shall be determined in accordance with section 2187 of this title.

(Aug. 1, 1946, ch. 724, title I, §158, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 947; amended Pub. L. 87-206, §12, Sept. 6, 1961, 75 Stat. 478; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### AMENDMENTS

1961—Pub. L. 87-206 made it discretionary, rather than mandatory, for the court to require payment of royalties by a licensee to the owner of a patent.

### § 2189. Federally financed research

Nothing in this chapter shall affect the right of the Commission to require that patents granted on inventions, made or conceived during the course of federally financed research or operations, be assigned to the United States.

(Aug. 1, 1946, ch. 724, title I, §159, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 948; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)