

44 of this Appendix] after December 17, 1941, which have not become payable or deliverable to or have not vested in possession in the Attorney General prior to December 31, 1961, are divested: *Provided*, That the provisions of this section shall not affect the right of the Attorney General to retain all such property rights and interests and to collect all income which is payable to or vested in possession in him prior to December 31, 1961.

(b) Nothing contained in this section shall divest or require the divestment of any portion of any such interest the beneficial owner of which is a natural person who has been convicted personally and by name by a court of competent jurisdiction of murder, ill treatment, or deportation for slave labor of prisoners of war, political opponents, hostages, or civilian population in occupied territories, or of murder or ill treatment of military or naval persons, or of plunder or wanton destruction without justified military necessity.

(c) At the earliest practicable time after the effective date of this Act, the Attorney General shall transmit to the lawful owner or custodian of any interest divested by this section written notice of such divestment.

(Oct. 6, 1917, ch. 106, § 40, as added Pub. L. 87-846, title II, § 205, Oct. 22, 1962, 76 Stat. 1115.)

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (c), probably means the effective date of Pub. L. 87-846, which was approved Oct. 22, 1962, which added this section.

§ 42. Claims for proceeds from sale of certain certificates: jurisdiction, limitations; divestment of copyrights: "copyrights" defined, rights of licensees and assignees, reproduction rights of United States, transfer of interests, payment of royalties to Attorney General, suits for infringement

(a) Notwithstanding any statute of limitation, lapse of time, any prior decision by any court of the United States, or any compromise, release or assignment to the Alien Property Custodian, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment upon the claims against the United States for the proceeds received by the United States from the sale of the property vested under the provisions of the Trading With the Enemy Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] by vesting order numbered 33 relating to certificate numbers 104 to 121, inclusive, 125, 126, 128 to 134, inclusive, and 137 to 139, inclusive. Proceedings with respect to such claims may be instituted hereunder not later than two years after the date of the enactment of this section [Oct. 22, 1962].

(b) As used in this section the word "copyrights" includes copyrights, claims of copyrights, rights to copyrights, and rights to copyright renewals.

(c) All copyrights vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or

otherwise disposed of under this Act [said sections], except copyrights vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), 17366 (16 F.R. 2483), and 17952 (16 F.R. 6162) and copyrights vested with respect to the motion picture listed last in exhibit A of vesting order 11803, as amended (13 F.R. 5167, 15 F.R. 1626), are hereby divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled thereto shall on that day succeed to the rights, privileges, and obligations arising out of such copyrights, subject, however, to—

(1) the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect of such copyrights;

(2) the rights of assignees under assignments by the Alien Property Custodian or the Attorney General of interests in such licenses; and

(3) the right retained by the United States to reproduce, for its own use, or exhibit any divested copyrighted motion picture films.

The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to copyrights divested hereunder are hereby transferred, effective the day of divestment, to the persons entitled to such copyrights: *Provided*, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(d) All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to copyrights, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]; and

(3) rights or interests vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), and 17366 (16 F.R. 2483),

are hereby divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(e) Nothing in this section shall be construed to transfer to a person entitled to a copyright divested hereunder the right of the Attorney General to sue for the infringement of such copyright during the period between (1) the vesting thereof or the vesting of rights and interests in a contract entered into with respect thereto, and (2) the day of divestment. The right to sue

for infringement shall remain in the Attorney General.

(Oct. 6, 1917, ch. 106, § 41, as added Pub. L. 87-846, title II, § 206, Oct. 22, 1962, 76 Stat. 1115; amended Pub. L. 88-490, Aug. 26, 1964, 78 Stat. 607; Pub. L. 97-164, title I, § 161(9), Apr. 2, 1982, 96 Stat. 49; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Subsec. (a). Pub. L. 97-164 substituted “Claims Court” for “Court of Claims”.

1964—Subsec. (a). Pub. L. 88-490 substituted “render judgment upon” for “report to the Congress concerning” and “two years after the date of enactment of this section [October 22, 1962]” for “one year after the date of the enactment of this Act”.

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.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, are vested in Attorney General. See notes set out under section 6 of this Appendix.

§ 43. Divestment of trademarks

(a) “Trademarks” defined

As used in this section, the word “trademarks” includes trademarks, trade names, and the goodwill of the business to which a trademark or trade name is appurtenant.

(b) Effective date of divestment; rights of licensees; transfer of interests; payment of royalties to Attorney General

Trademarks vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this Act [said sections], except trademarks vested by vesting orders 284, as amended (7 Fed. Reg. 9754, 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364), are hereby divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 23, 1962], and the persons entitled to such trademarks shall on that day succeed to the rights, privileges, and obligations arising therefrom, subject, however, to the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect to such trademarks. The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to trademarks divested hereunder are transferred, effective the day of di-

vestment, to the persons entitled to such trademarks: *Provided*, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(c) Prevesting contracts; exceptions; payment of royalties to Attorney General

All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to trademarks, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this Act [said sections];

(3) rights or interests vested by vesting orders 284, as amended (7 Fed. Reg. 9754; 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364),

are hereby divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 23, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(d) Publication of ownership list in Federal Register; effective date of divestment; succession to ownership of equivalent trademarks

The Attorney General shall within forty-five days after the date of enactment of this section [Oct. 23, 1962] publish in the Federal Register a list of trademarks which at the date of vesting in the Alien Property Custodian or Attorney General were owned by persons who were resident in or had their sole or primary seat in the area of Germany now in the Soviet Zone of Occupation or in the Soviet sector of Berlin or in German territory under provisional Soviet or Polish administration. Notwithstanding the provisions of subsection (b) of this section, the effective date of divestment of the trademarks so listed and published in the Federal Register shall be the date of publication in the Federal Register by the Secretary of State of a certification identifying the cases in which an equivalent trademark has been registered in the Federal Republic of Germany for a person residing or having its sole or primary seat in the Federal Republic of Germany or in the western sectors of Berlin. In those cases of an equivalent trademark certified by the Secretary of State, the person registered by the Federal Republic of Germany as owner of such equivalent trademark shall succeed to the ownership of the divested trademark in the United States.

(Oct. 6, 1917, ch. 106, § 42, as added Pub. L. 87-861, § 2, Oct. 23, 1962, 76 Stat. 1139.)

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to