

“(a) Section 1 of this Act [enacting this part] shall come into force on the same day as the entry into force of the Patent Cooperation Treaty with respect to the United States. It shall apply to international and national applications filed on and after this effective date, even though entitled to the benefit of an earlier filing date, and to patents issued on such applications.

“(b) Sections 2 to 10 of this Act [amending sections 6, 41, 42, 102, 104, 112, 113, 120, and 282 of this title] shall take effect on the same day as section 1 of this Act [enacting this part] and shall apply to all applications for patent actually filed in the United States on and after this effective date, as well as to international applications where applicable.

“(c) Applications for patent on file in the Patent Office [now the Patent and Trademark Office] on the effective date of this Act, and patents issued on such applications, shall be governed by the provisions of title 35, United States Code, in effect immediately prior to the effective date of this Act.”

[The Patent Cooperation Treaty entered into force with respect to the United States on Jan. 24, 1978, with the exception of Chapter II.]

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-616, §1, Nov. 6, 1986, 100 Stat. 3485, provided: “That this Act [amending this section and sections 361, 362, 364, 368, 371, and 376 of this title and enacting provisions set out as a note above] may be cited as the ‘Act to authorize the United States to participate in chapter II of the Patent Cooperation Treaty.’”

CHAPTER 36—INTERNATIONAL STAGE

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AMENDMENTS

1986—Pub. L. 99-616, §3, Nov. 6, 1986, 100 Stat. 3485, amended item 362 generally.

§ 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 international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall either be paid on filing of an international application or within such later time as may be fixed by the Director.

(Added Pub. L. 94-131, §1, Nov. 14, 1975, 89 Stat. 686; amended Pub. L. 98-622, title IV, §§401(a), 403(a), Nov. 8, 1984, 98 Stat. 3391, 3392; Pub. L. 99-616, §2(d), Nov. 6, 1986, 100 Stat. 3485; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-211, title II, §202(b)(7), Dec. 18, 2012, 126 Stat. 1536.)

AMENDMENT OF SECTION

Pub. L. 112-211, title II, §§202(b)(7), 203, Dec. 18, 2012, 126 Stat. 1536, provided that, effective on the date that is 1 year after Dec. 18, 2012, applicable to patents issued before, on, or after that effective date and patent applications pending on or filed after that effective date, and not effective with respect to patents in litigation commenced before that effective date, this section is amended by striking subsection (c) and inserting the following:

(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.

See 2012 Amendment note below.

AMENDMENTS

2012—Subsec. (c). Pub. L. 112-211 added subsec. (c) and struck out former subsec. (c) which read as follows: “International applications filed in the Patent and Trademark Office shall be in the English language.”

2002—Subsec. (d). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (d). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1986—Subsec. (d). Pub. L. 99-616 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “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.”

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), inserted “or within one month after the date of such filing” after “application”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-211 effective on the date that is 1 year after Dec. 18, 2012, applicable to patents issued before, on, or after that effective date and patent applications pending on or filed after that effective date, and not effective with respect to patents in litigation commenced before that effective date, see section 203 of Pub. L. 112-211, set out as an Effective Date note under section 27 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending