

2011—Subsec. (b). Pub. L. 112–29, §20(i)(5), substituted “of the treaty.” for “of the treaty”.

Subsec. (c)(1). Pub. L. 112–29, §20(j), struck out “of this title” after “41(a)”.

Subsec. (c)(4). Pub. L. 112–29, §20(j), struck out “of this title” after “11” and after “115”.

2002—Subsec. (d). Pub. L. 107–273, §13206(b)(1)(B), made technical correction to directory language of Pub. L. 106–113. See 1999 Amendment note below.

Pub. L. 107–273, §13206(a)(20), inserted period at end.

1999—Subsec. (d). Pub. L. 106–113, as amended by Pub. L. 107–273, §13206(b)(1)(B), substituted “Director” for “Commissioner” wherever appearing.

1991—Subsec. (c)(1). Pub. L. 102–204 substituted “provided in section 41(a) of this title” for “prescribed under section 376(a)(4) of this part”.

1986—Subsec. (a). Pub. L. 99–616, §7(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Receipt from the International Bureau of copies of international applications with amendments to the claims, if any, and international search reports may be required in the case of all international applications designating the United States.”

Subsec. (b). Pub. L. 99–616, §7(b), amended subsec. (b) generally, substituting “, or under article 39(1)(a) of the treaty” for “of the treaty.”

Subsec. (c)(4), (5). Pub. L. 99–616, §7(c), (d), substituted a semicolon for a period at end of par. (4) and added par. (5).

Subsec. (d). Pub. L. 99–616, §7(e), inserted “The requirement of subsection (c)(5) shall be complied with at such time as may be fixed by the Commissioner and failure to do so shall be regarded as cancellation of the amendments made under article 34(2)(b) of the treaty” at end.

Subsec. (e). Pub. L. 99–616, §7(f), inserted “or article 41” after “article 28”.

1984—Subsec. (a). Pub. L. 98–622, §402(a), substituted “may be” for “is” and struck out “, except those filed in the Patent Office” after “United States”, which amendment was executed by striking out “, except those filed in the Patent and Trademark Office” as the probable intent of Congress in view of the amendment by section 403(a) of Pub. L. 98–622. See Effective Date of 1984 Amendment note below.

Pub. L. 98–622, §403(a), substituted “Patent and Trademark Office” for “Patent Office”.

Subsec. (b). Pub. L. 98–622 struck out “, at which time the applicant shall have complied with the applicable requirements specified in subsection (c) of this section” after “of the treaty”.

Subsec. (c). Pub. L. 98–622, §403(a), substituted “Patent and Trademark Office” for “Patent Office” in provisions preceding par. (1) and in par. (3).

Subsec. (c)(2). Pub. L. 98–622, §402(c)(1), (2), substituted “communicated by” for “received from” and struck out “verified” before “translation”.

Subsec. (d). Pub. L. 98–622, §402(d), substituted provisions setting forth time periods for compliance with the requirements of subsec. (c), payments of surcharges, and the effect of failure to comply for provisions related only to the effect of failure to comply with the requirements of subsec. (c).

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 2011 AMENDMENT

Amendment by Pub. L. 112–29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112–29, set out as a note under section 2 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 before or after that date, see section 9 of Pub. L. 99–616, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 402(a)–(d) of Pub. L. 98–622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98–622, set out as a note under section 3 of this title.

Amendment by section 403(a) of Pub. L. 98–622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98–622, set out as a note under section 351 of this title.

EFFECTIVE DATE

Chapter effective Jan. 24, 1978, and applicable to international and national applications filed, on and after that date, see section 11 of Pub. L. 94–131, set out as a note under section 351 of this title.

§ 372. National stage: Requirements and procedure

(a) All questions of substance and, within the scope of the requirements of the treaty and Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Patent and Trademark Office.

(b) In case of international applications designating but not originating in, the United States—

(1) the Director may cause to be reexamined questions relating to form and contents of the application in accordance with the requirements of the treaty and the Regulations;

(2) the Director may cause the question of unity of invention to be reexamined under section 121, within the scope of the requirements of the treaty and the Regulations; and

(3) the Director may require a verification of the translation of the international application or any other document pertaining to the application if the application or other document was filed in a language other than English.

(Added Pub. L. 94–131, §1, Nov. 14, 1975, 89 Stat. 689; amended Pub. L. 98–622, title IV, §§402(e), (f), 403(a), Nov. 8, 1984, 98 Stat. 3392; 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. 112–29, §20(j), Sept. 16, 2011, 125 Stat. 335.)

AMENDMENTS

2011—Subsec. (b)(2). Pub. L. 112–29 struck out “of this title” after “121”.

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

1999—Subsec. (b). Pub. L. 106–113, as amended by Pub. L. 107–273, substituted “Director” for “Commissioner” wherever appearing.

1984—Subsec. (a). Pub. L. 98–622, §403(a), substituted “Patent and Trademark Office” for “Patent Office”.

Subsec. (b)(3). Pub. L. 98-622, § 402(e), added par. (3).

Subsec. (c). Pub. L. 98-622, § 402(f), struck out subsec. (c) which related to cancellation of claims and payment of special fees.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 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 1984 AMENDMENT

Amendment by section 402(e), (f) of Pub. L. 98-622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98-622, set out as a note under section 3 of this title.

Amendment by section 403(a) of Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

§ 373. Repealed. Pub. L. 112-274, § 1(i), Jan. 14, 2013, 126 Stat. 2457]

Section, added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 689; amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 103-465, title V, § 532(c)(5), Dec. 8, 1994, 108 Stat. 4987; Pub. L. 112-29, § 20(j), Sept. 16, 2011, 125 Stat. 335, related to improper applicant.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 14, 2013, and applicable to proceedings commenced on or after such date, see section 1(n) of Pub. L. 112-274, set out as an Effective Date of 2013 Amendment note under section 5 of this title.

§ 374. Publication of international application

The publication under the treaty defined in section 351(a), of an international application designating the United States shall be deemed a publication under section 122(b), except as provided in section 154(d).

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 689; amended Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4507(10)], Nov. 29, 1999, 113 Stat. 1536, 1501A-566; Pub. L. 107-273, div. C, title III, § 13205(2)(E), Nov. 2, 2002, 116 Stat. 1903; Pub. L. 112-29, §§ 3(g)(4), 20(j), Sept. 16, 2011, 125 Stat. 288, 335.)

AMENDMENTS

2011—Pub. L. 112-29, § 20(j), struck out “of this title” after “351(a)” and after “and 154(d)”.

Pub. L. 112-29, § 3(g)(4), substituted “section 154(d)” for “sections 102(e) and 154(d)”.

2002—Pub. L. 107-273 amended Pub. L. 106-113, § 1000(a)(9) [title IV, § 4507(10)], see 1999 Amendment note below. Prior to being amended by Pub. L. 107-273, Pub. L. 106-113, § 1000(a)(9) [title IV, § 4507(10)], had amended this section to read as follows: “The publication under the treaty defined in section 351(a) of this title, of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.”

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, amended section catchline and text generally. Prior to amendment, text read as follows: “The publication under the treaty of an international application shall

confer no rights and shall have no effect under this title other than that of a printed publication.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 3(g)(4) of Pub. L. 112-29 effective upon the expiration of the 18-month period beginning on Sept. 16, 2011, and applicable to certain applications for patent and any patents issuing thereon, see section 3(n) of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment; Savings Provisions note under section 100 of this title.

Amendment by section 20(j) of Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective Nov. 29, 2000, and applicable only to applications (including international applications designating the United States) filed on or after that date, see section 1000(a)(9) [title IV, § 4508] of Pub. L. 106-113, as amended, set out as a note under section 10 of this title.

§ 375. Patent issued on international application: Effect

(a) A patent may be issued by the Director based on an international application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on a national application filed under the provisions of chapter 11.

(b) Where due to an incorrect translation the scope of a patent granted on an international application designating the United States, which was not originally filed in the English language, exceeds the scope of the international application in its original language, a court of competent jurisdiction may retroactively limit the scope of the patent, by declaring it unenforceable to the extent that it exceeds the scope of the international application in its original language.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 689; amended 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. 112-29, §§ 3(g)(5), 20(j), Sept. 16, 2011, 125 Stat. 288, 335.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-29, § 20(j), struck out “of this title” after “102(e)” and after “11”.

Pub. L. 112-29, § 3(g)(5), which directed substitution of “Such” for “Subject to section 102(e) of this title, such”, was executed by making the substitution for “Subject to section 102(e), such”, to reflect the probable intent of Congress, because the words “of this title” did not appear after “section 102(e)” subsequent to amendment by Pub. L. 112-29, § 20(j). See note above and Effective Date of 2011 Amendment notes below.

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

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

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 3(g)(5) of Pub. L. 112-29 effective upon the expiration of the 18-month period beginning on Sept. 16, 2011, and applicable to certain applica-