

cant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application; and if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.

(b) The Director shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant. The Director may establish appropriate fees for such continued examination and shall provide a 50 percent reduction in such fees for small entities that qualify for reduced fees under section 41(h)(1).

(July 19, 1952, ch. 950, 66 Stat. 801; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §§4403, 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-560, 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.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §51 (R.S. 4903, amended Aug. 5, 1939, ch. 452, §1, 53 Stat. 1213).

The first paragraph of the corresponding section of existing statute is revised in language and amplified to incorporate present practice; the second paragraph of the existing statute is placed in section 135.

The last sentence relating to new matter is added but represents no departure from present practice.

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-29 struck out “of this title” after “41(h)(1)”.

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113, §1000(a)(9) [title IV, §4732(a)(10)(A)]. See 1999 Amendment note below.

1999—Pub. L. 106-113, §1000(a)(9) [title IV, §4732(a)(10)(A)], as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

Pub. L. 106-113, §1000(a)(9) [title IV, §4403], designated existing provisions as subsec. (a) and added subsec. (b).

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

Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4405(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-560, provided that: “The amendments made by section 4403 [amending this section]—

“(1) shall take effect on the date that is 6 months after the date of the enactment of this Act [Nov. 29, 1999], and shall apply to all applications filed under section 111(a) of title 35, United States Code, on or after June 8, 1995, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after June 8, 1995; and

“(2) do not apply to applications for design patents under chapter 16 of title 35, United States Code.”

Amendment by section 1000(a)(9) [title IV, §4732(a)(10)(A)] of 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.

§ 133. Time for prosecuting application

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto.

(July 19, 1952, ch. 950, 66 Stat. 801; 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)(5), Dec. 18, 2012, 126 Stat. 1536.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §37 (R.S. 4894, amended (1) Mar. 3, 1897, ch. 391, §4, 29 Stat. 692, 693, (2) July 6, 1916, ch. 225, §1, 39 Stat. 345, 347-8, (3) Mar. 2, 1927, ch. 273, §1, 44 Stat. 1335, (4) Aug. 7, 1939, ch. 568, 53 Stat. 1264).

The opening clause of the corresponding section of existing statute is omitted as having no present day meaning or value and the last two sentences are omitted for inclusion in section 267. The notice is stated as given or mailed. Language is revised.

AMENDMENTS

2012—Pub. L. 112-211 struck out “, unless it be shown to the satisfaction of the Director that such delay was unavoidable” before period at end.

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

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner” in two places.

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.

§ 134. Appeal to the Patent Trial and Appeal Board

(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Patent Trial and Appeal Board, having once paid the fee for such appeal.

(b) PATENT OWNER.—A patent owner in a reexamination may appeal from the final rejection of any claim by the primary examiner to the Patent Trial and Appeal Board, having once paid the fee for such appeal.

(July 19, 1952, ch. 950, 66 Stat. 801; Pub. L. 98-622, title II, §204(b)(1), Nov. 8, 1984, 98 Stat. 3388; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4605(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-570; Pub. L. 107-273, div. C, title III, §§13106(b), 13202(b)(1), Nov. 2, 2002, 116 Stat. 1901; Pub. L. 112-29, §§3(j)(1), (3), 7(b), Sept. 16, 2011, 125 Stat. 290, 313.)