

apply to any civil action commenced on or after the date of the enactment of this Act [Jan. 14, 2013].”

Except as otherwise provided in Pub. L. 112-29, section effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent issued on or after that effective date, see section 35 of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment note under section 1 of this title.

§ 299. Joinder of parties

(a) JOINDER OF ACCUSED INFRINGERS.—With respect to any civil action arising under any Act of Congress relating to patents, other than an action or trial in which an act of infringement under section 271(e)(2) has been pled, parties that are accused infringers may be joined in one action as defendants or counterclaim defendants, or have their actions consolidated for trial, only if—

(1) any right to relief is asserted against the parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process; and

(2) questions of fact common to all defendants or counterclaim defendants will arise in the action.

(b) ALLEGATIONS INSUFFICIENT FOR JOINDER.—For purposes of this subsection, accused infringers may not be joined in one action as defendants or counterclaim defendants, or have their actions consolidated for trial, based solely on allegations that they each have infringed the patent or patents in suit.

(c) WAIVER.—A party that is an accused infringer may waive the limitations set forth in this section with respect to that party.

(Added Pub. L. 112-29, §19(d)(1), Sept. 16, 2011, 125 Stat. 332; amended Pub. L. 112-274, §1(c), Jan. 14, 2013, 126 Stat. 2456.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 112-274 substituted “only if” for “or counterclaim defendants only if” in introductory provisions.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-274 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 a note under section 5 of this title.

EFFECTIVE DATE

Section applicable to any civil action commenced on or after Sept. 16, 2011, see section 19(e) of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment note under section 1295 of Title 28, Judiciary and Judicial Procedure.

CHAPTER 30—PRIOR ART CITATIONS TO OFFICE AND EX PARTE REEXAMINATION OF PATENTS

Sec. 301. Citation of prior art and written statements. 302. Request for reexamination. 303. Determination of issue by Director. 304. Reexamination order by Director. 305. Conduct of reexamination proceedings. 306. Appeal.

Sec. 307. Certificate of patentability, unpatentability, and claim cancellation.

AMENDMENTS

2011—Pub. L. 112-29, §6(g)(2), Sept. 16, 2011, 125 Stat. 312, amended item 301 generally, substituting “Citation of prior art and written statements” for “Citation of prior art”.

2002—Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906, made technical correction to directory language of Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582. See 1999 Amendment note below.

1999—Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582, as amended by Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906, substituted “Director” for “Commissioner” in item 304.

Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §§4602, 4732(a)(9)(B)], Nov. 29, 1999, 113 Stat. 1536, 1501A-567, 1501A-582, inserted “EX PARTE” before “REEXAMINATION” in chapter heading and substituted “Director” for “Commissioner” in item 303.

§ 301. Citation of prior art and written statements

(a) IN GENERAL.—Any person at any time may cite to the Office in writing—

(1) prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent; or

(2) statements of the patent owner filed in a proceeding before a Federal court or the Office in which the patent owner took a position on the scope of any claim of a particular patent.

(b) OFFICIAL FILE.—If the person citing prior art or written statements pursuant to subsection (a) explains in writing the pertinence and manner of applying the prior art or written statements to at least 1 claim of the patent, the citation of the prior art or written statements and the explanation thereof shall become a part of the official file of the patent.

(c) ADDITIONAL INFORMATION.—A party that submits a written statement pursuant to subsection (a)(2) shall include any other documents, pleadings, or evidence from the proceeding in which the statement was filed that addresses the written statement.

(d) LIMITATIONS.—A written statement submitted pursuant to subsection (a)(2), and additional information submitted pursuant to subsection (c), shall not be considered by the Office for any purpose other than to determine the proper meaning of a patent claim in a proceeding that is ordered or instituted pursuant to section 304, 314, or 324. If any such written statement or additional information is subject to an applicable protective order, such statement or information shall be redacted to exclude information that is subject to that order.

(e) CONFIDENTIALITY.—Upon the written request of the person citing prior art or written statements pursuant to subsection (a), that person’s identity shall be excluded from the patent file and kept confidential.

(Added Pub. L. 96-517, §1, Dec. 12, 1980, 94 Stat. 3015; amended Pub. L. 112-29, §6(g)(1), Sept. 16, 2011, 125 Stat. 311.)