

[§ 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 Repealed.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 designat-

ing 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 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 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.

§ 376. Fees

(a) The required payment of the international fee and the handling fee, which amounts are specified in the Regulations, shall be paid in United States currency. The Patent and Trademark Office shall charge a national fee as provided in section 41(a), and may also charge the following fees:

- (1) A transmittal fee (see section 361(d)).
- (2) A search fee (see section 361(d)).
- (3) A supplemental search fee (to be paid when required).
- (4) A preliminary examination fee and any additional fees (see section 362(b)).

(5) Such other fees as established by the Director.

(b) The amounts of fees specified in subsection (a) of this section, except the international fee and the handling fee, shall be prescribed by the Director. He may refund any sum paid by mistake or in excess of the fees so specified, or if required under the treaty and the Regulations. The Director may also refund any part of the search fee, the national fee, the preliminary examination fee, and any additional fees, where he determines such refund to be warranted.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 690; amended Pub. L. 98-622, title IV, §§ 402(g), 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99-616, § 8, Nov. 6, 1986, 100 Stat. 3486; Pub. L. 102-204, § 5(g)(1), Dec. 10, 1991, 105 Stat. 1640; 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(a)(21), (b)(1)(B), Nov. 2, 2002, 116 Stat. 1905, 1906.)

AMENDMENTS

2002—Subsec. (a)(1) to (3). Pub. L. 107-273, § 13206(a)(21), substituted period for semicolon at end.

Subsecs. (a)(5), (b). Pub. L. 107-273, § 13206(b)(1)(B), made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsecs. (a)(5), (b). Pub. L. 106-113, as amended by Pub. L. 107-273, § 13206(b)(1)(B), substituted “Director” for “Commissioner” wherever appearing.

1991—Subsec. (a). Pub. L. 102-204, § 5(g)(1)(A), in introductory provisions inserted “shall charge a national fee as provided in section 41(a), and” after “Office”, redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4), which read as follows: “A national fee (see section 371(c));”.

Subsec. (b). Pub. L. 102-204, § 5(g)(1)(B), substituted “the national fee, the preliminary examination fee,” for “the preliminary examination fee”.

1986—Subsec. (a). Pub. L. 99-616, § 8(a), in introductory provisions, inserted “and the handling fee” and substituted “amounts are” for “amount is”, added par. (5), and redesignated former par. (5) as (6).

Subsec. (b). Pub. L. 99-616, § 8(b), inserted “and the handling fee” and “the preliminary examination fee and any additional fees.”.

1984—Subsec. (a). Pub. L. 98-622, § 403(a), substituted “Patent and Trademark Office” for “Patent Office” in provision preceding par. (1).

Subsec. (a)(5), (6). Pub. L. 98-622, § 402(g), redesignated par. (6) as (5). Former par. (5), which read “A special fee (to be paid when required; see section 372(c))”, was struck out.

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(g) 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.

PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

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CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

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PRIOR PROVISIONS

A prior chapter 38, as added by Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3018, was originally editorially inserted after chapter 17 of this title because the probable intent of Congress was to designate the chapter as “18”, in view of the numerical designation of the sections contained in the chapter as sections 200 to 211 and in view of the subject matter of the chapter in relation to the subject matter of Part II of this title. Pub. L. 97-256, title I, § 101(5), Sept. 8, 1982, 96 Stat. 816, redesignated chapter 38 as chapter 18 and transferred chapter 18, as so redesignated, from the end of this part to the end of Part II. See 1982 Amendment note set out under the analysis of chapter 18 (§ 200 et seq.) of this title.

§ 381. Definitions

(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

(1) the term “treaty” means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

(2) the term “regulations”—

(A) when capitalized, means the Common Regulations under the treaty; and

(B) when not capitalized, means the regulations established by the Director under this title;

(3) the terms “designation”, “designating”, and “designate” refer to a request that an international registration have effect in a Contracting Party to the treaty;

(4) the term “International Bureau” means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

(5) the term “effective registration date” means the date of international registration determined by the International Bureau under the treaty;

(6) the term “international design application” means an application for international registration; and

(7) the term “international registration” means the international registration of an industrial design filed under the treaty.

(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.