

# TITLE 35—PATENTS

*This title was enacted by act July 19, 1952, ch. 950, § 1, 66 Stat. 792*

|             |  |                        |  |
|-------------|--|------------------------|--|
| Part        |  | Sec.                   |  |
| <b>I.</b>   | <b>United States Patent and Trade-mark Office .....</b>                                      | <b>1</b>               |  |
| <b>II.</b>  | <b>Patentability of Inventions and Grant of Patents .....</b>                                | <b>100</b>             |  |
| <b>III.</b> | <b>Patents and Protection of Patent Rights .....</b>   | <b>251</b>             |  |
| <b>IV.</b>  | <b>Patent Cooperation Treaty .....</b>   | <b>351</b>             |  |
| <b>V.</b>   | <b>The Hague Agreement Concerning International Registration of Industrial Designs .....</b> | <b>401<sup>1</sup></b> |  |

### AMENDMENTS

2012—Pub. L. 112-211, title I, § 101(b), Dec. 18, 2012, 126 Stat. 1531, added item V.

1999—Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A-581, substituted “United States Patent and Trademark Office” for “Patent and Trademark Office” in item I.

1984—Pub. L. 98-622, title IV, § 403(b), Nov. 8, 1984, 98 Stat. 3392, added item IV.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 35

| Title 35<br>Former Sections | Title 35<br>New Sections |
|-----------------------------|--------------------------|
| 1 .....                     | 1                        |
| 2 .....                     | 3                        |
| 3 .....                     | 2                        |
| 4 .....                     | 4                        |
| 5 .....                     | 5                        |
| 6 .....                     | 6                        |
| 7 .....                     | 7                        |
| 10 .....                    | 8                        |
| 11 .....                    | 31, 32                   |
| 11a .....                   | 33                       |
| 12 .....                    | 22                       |
| 13 .....                    | 11                       |
| 14 .....                    | 10                       |
| 14a .....                   | (See former § 78)        |
| 15 .....                    | 12                       |
| 16 .....                    | 11(a) 1                  |
| 17-19 .....                 | Rep.                     |
| 20 .....                    | 14                       |
| 21 .....                    | 21                       |
| 22 .....                    | Rep.                     |
| 23 .....                    | Rep.                     |
| 31 .....                    | 101, 102, 161            |
| 32 .....                    | 102(d), 119, 172         |
| 32a, 32b .....              | Rep.                     |
| 33 .....                    | 111, 112, 162            |
| 34 .....                    | 113, 114                 |
| 35 .....                    | 115                      |
| 36 .....                    | 131                      |
| 37 .....                    | 133, 267                 |
| 38 .....                    | Rep.                     |
| 39 .....                    | 153                      |
| 40 .....                    | 154                      |
| 40a-40d .....               | Rep.                     |
| 41 .....                    | 151                      |
| 42-42f .....                | Rep.                     |
| 43 .....                    | Rep.                     |
| 44 .....                    | 152                      |
| 45 .....                    | 266                      |
| 46 .....                    | 147                      |
| 47 .....                    | 261                      |
| 48 .....                    | Rep.                     |
| 49 .....                    | 267                      |
| 50 .....                    | 292                      |
| 51 .....                    | 132, 135                 |
| 52 .....                    | 135                      |

<sup>1</sup> So in original. Probably should be “381”.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 35—Continued

| Title 35<br>Former Sections | Title 35<br>New Sections |
|-----------------------------|--------------------------|
| 53 .....                    | 23                       |
| 54-56 .....                 | 24                       |
| 56a .....                   | 164                      |
| 57 .....                    | 134                      |
| 58, 59 .....                | Rep.                     |
| 59a .....                   | 141; T. 28 § 1542        |
| 60 .....                    | 142                      |
| 61 .....                    | 143                      |
| 62 .....                    | 144                      |
| 63 .....                    | 145, 146                 |
| 64 .....                    | 251, 252                 |
| 65 .....                    | 253                      |
| 66 .....                    | 291                      |
| 67 .....                    | 281, 284                 |
| 68 .....                    | T. 28 § 1498             |
| 69 .....                    | 102(g), 282              |
| 70 .....                    | 283-286, 290             |
| 71 .....                    | 288                      |
| 72 .....                    | 102, 104                 |
| 72a .....                   | 146, 291                 |
| 73 .....                    | 171                      |
| 74, 75 .....                | 289                      |
| 76 .....                    | 114                      |
| 77 .....                    | 173                      |
| 78 .....                    | 12, 13, 41               |
| 79 .....                    | 42                       |
| 80-87 .....                 | Rep.                     |
| 88 .....                    | 254                      |
| 89-96 .....                 | Elim.                    |
| 101-108 .....               | Elim.                    |
| 109 .....                   | 104                      |
| 110-118a .....              | Elim.                    |
| 119 .....                   | T. 50 App. § 2371        |
| 151 .....                   | 181                      |
| 152 .....                   | 182                      |
| 153 .....                   | 183                      |
| 154 .....                   | 184                      |
| 155 .....                   | 185                      |
| 156 .....                   | 186                      |
| 157 .....                   | 187                      |
| 158 .....                   | 188                      |
| 159 .....                   | Rep.                     |

### CITATION

Section 1 of act July 19, 1952, ch. 950, 66 Stat. 792, provided in part that this title may be cited as “Title 35, United States Code, section —.”

### SEPARABILITY

Section 3 of act July 19, 1952, ch. 950, 66 Stat. 815, provided that: “If any provision of Title 35, as enacted by section 1 hereof, is declared unconstitutional or is held invalid, the validity of the remainder of this title shall not be affected.”

### EFFECTIVE DATE; SAVINGS PROVISION

Section 4 of act July 19, 1952, ch. 950, 66 Stat. 815, provided that:

“(a) This Act [enacting this title] shall take effect on January 1, 1953 and shall apply to all applications for patent filed on or after such date and to all patents granted on such applications. It shall apply to further proceedings on applications pending on such date and to patents granted on such applications except as otherwise provided. It shall apply to unexpired patents granted prior to such date except as otherwise provided.

“(b) Section 102(d) of Title 35, as enacted by section 1 hereof, shall not apply to existing patents and pend-

ing applications, but the law previously in effect, namely the first paragraph of R. S. 4887 [first paragraph of section 32 of former Title 35], shall apply to such patents and applications.

“(c) Section 119, second paragraph, of Title 35 as enacted by section 1 hereof shall not apply to existing patents.

“(d) The period of one year specified in section 102(b) of Title 35 as enacted by section 1 hereof shall not apply in the case of applications filed before August 5, 1940, and patents granted on such applications, and with respect to such applications and patents, said period is two years instead of one year.

“(e) Nothing contained in Title 35, as enacted by section 1 hereof, shall operate to nullify any judicial finding prior to the effective date of this Act on the validity of any patent by a court of competent jurisdiction.

“(f) Nothing in Title 35, as enacted by section 1 hereof, shall affect any provision of the Atomic Energy Act of 1946 (Aug. 1, 1946, ch. 724, 60 Stat. 755) [§2011 et seq. of Title 42, The Public Health and Welfare].

“(g) The period of one year specified in section 4 of Title 35 as enacted by section 1 hereof shall not apply in the case of applications filed before the effective date of this Act.

“(h) The repeal of sections 1–9, 11, 12 of the Act of Congress approved February 1, 1952 (ch. 4, 66 Stat. 3) [sections 151 to 159 of former Title 35], shall not affect any rights or liabilities existing on the date of approval of this Act [July 19, 1952]. An order of secrecy issued under or in effect under the repealed Act and in effect on the date of approval of this Act, shall be considered as issued under this Act, and any claims arising under the repealed Act or subject to presentation and determination pursuant thereto and unsettled as of the effective date of this Act, may be presented and determined pursuant to the provisions of this Act [this title].”

REPEALS

Section 5 of act July 19, 1952, ch. 950, 66 Stat. 815, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large codified in this Act with the proviso that “Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.”

PART I—UNITED STATES PATENT AND TRADEMARK OFFICE

|       |   |           |
|-------|---|-----------|
| Chap. |   | Sec.      |
| 1.    | <b>Establishment, Officers and Employees, Functions .....</b> | <b>1</b>  |
| 2.    | <b>Proceedings in the Patent and Trademark Office .....</b>   | <b>21</b> |
| 3.    | <b>Practice Before Patent and Trademark Office .....</b>      | <b>31</b> |
| 4.    | <b>Patent Fees; Funding; Search Systems .....</b>             | <b>41</b> |

AMENDMENTS

2002—Pub. L. 107–273, div. C, title III, §13206(a)(4), Nov. 2, 2002, 116 Stat. 1904, substituted “Before” for “before” in chapter 3 heading.

1999—Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(a)(2), (3)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582, substituted “UNITED STATES PATENT AND TRADEMARK OFFICE” for “PATENT AND TRADEMARK OFFICE” in part heading and “Establishment, Officers and Employees, Functions” for “Establishment, Officers, Functions” in chapter 1 heading.

1991—Pub. L. 102–204, §5(d)(2)(D), Dec. 10, 1991, 105 Stat. 1640, substituted “before” for “Before the” in chapter 3 heading and inserted “; Funding; Search Systems” after “Fees” in chapter 4 heading.

1975—Pub. L. 93–596, §1, Jan. 2, 1975, 88 Stat. 1949, substituted “PATENT AND TRADEMARK OFFICE” for “PATENT OFFICE” in part heading and in headings for chapters 2 and 3.

CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

|       |  |
|-------|--|
| Sec.  |  |
| 1.    | Establishment.   |
| 2.    | Powers and duties.   |
| 3.    | Officers and employees.  |
| 4.    | Restrictions on officers and employees as to interest in patents.      |
| 5.    | Patent and Trademark Office Public Advisory Committees.                |
| 6.    | Patent Trial and Appeal Board.   |
| 7.    | Library.   |
| 8.    | Classification of patents.   |
| 9.    | Certified copies of records.   |
| 10.   | Publications.  |
| 11.   | Exchange of copies of patents and applications with foreign countries. |
| 12.   | Copies of patents and applications for public libraries.               |
| 13.   | Annual report to Congress.   |
| [14.] | Renumbered 13.]  |

AMENDMENTS

2011—Pub. L. 112–29, §7(a)(2), Sept. 16, 2011, 125 Stat. 313, amended item 6 generally, substituting “Patent Trial and Appeal Board” for “Board of Patent Appeals and Interferences”.

2002—Pub. L. 107–273, div. C, title III, §13205(2)(D), Nov. 2, 2002, 116 Stat. 1903, made technical correction to directory language of Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4507(4)], Nov. 29, 1999, 113 Stat. 1536, 1501A–566. See 1999 Amendment note below.

1999—Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(a)(4)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582, amended analysis generally, substituting “OFFICERS AND EMPLOYEES” for “OFFICERS” in chapter heading, substituting “Powers and duties” for “Seal” in item 2, adding item 5, renumbering items 7 to 14 as 6 to 13, respectively, striking out former item 6, “Duties of Commissioner”, and inserting “and applications” after “patents” in items 11 and 12.

Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §§4507(4), 4508], Nov. 29, 1999, 113 Stat. 1536, 1501A–566, as amended by Pub. L. 107–273, div. C, title III, §13205(2)(D), Nov. 2, 2002, 116 Stat. 1903, which directed the insertion of “and applications” after “patents” in items 11 and 12, effective 1 year after Nov. 29, 1999, was not executed in either item to reflect the probable intent of Congress. See above.

1984—Pub. L. 98–622, title II, §201(b), Nov. 8, 1984, 98 Stat. 3386, substituted “Patent Appeals and Interferences” for “Appeals” in item 7.

1972—Pub. L. 92–310, title II, §208(b), June 6, 1972, 86 Stat. 203, struck out item 5 “Bond of Commissioner and other officers”.

§ 1. Establishment

(a) ESTABLISHMENT.—The United States Patent and Trademark Office is established as an agency of the United States, within the Department of Commerce. In carrying out its functions, the United States Patent and Trademark Office shall be subject to the policy direction of the Secretary of Commerce, but otherwise shall retain responsibility for decisions regarding the management and administration of its operations and shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions in accordance with this title and applicable provisions of law. Those operations designed to grant and issue patents and those operations which are designed to facilitate the registration of trademarks shall be treated as separate operating units within the Office.