

fecting the mark may be served. Such notices or process may be served upon the person designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

(July 5, 1946, ch. 540, title XII, § 68, as added Pub. L. 107-273, div. C, title III, § 13402, Nov. 2, 2002, 116 Stat. 1917.)

#### **§ 1141i. Effect of extension of protection**

##### **(a) Issuance of extension of protection**

Unless a request for extension of protection is refused under section 1141h of this title, the Director shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the United States Patent and Trademark Office.

##### **(b) Effect of extension of protection**

From the date on which a certificate of extension of protection is issued under subsection (a)—

- (1) such extension of protection shall have the same effect and validity as a registration on the Principal Register; and
- (2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

(July 5, 1946, ch. 540, title XII, § 69, as added Pub. L. 107-273, div. C, title III, § 13402, Nov. 2, 2002, 116 Stat. 1918.)

#### **§ 1141j. Dependence of extension of protection to the United States on the underlying international registration**

##### **(a) Effect of cancellation of international registration**

If the International Bureau notifies the United States Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Director shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

##### **(b) Effect of failure to renew international registration**

If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

##### **(c) Transformation of an extension of protection into a United States application**

The holder of an international registration canceled in whole or in part by the Inter-

national Bureau at the request of the office of origin, under article 6(4) of the Madrid Protocol, may file an application, under section 1051 or 1126 of this title, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 1141g of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this chapter which apply to any application filed pursuant to section 1051 or 1126 of this title.

(July 5, 1946, ch. 540, title XII, § 70, as added Pub. L. 107-273, div. C, title III, § 13402, Nov. 2, 2002, 116 Stat. 1918.)

#### **§ 1141k. Duration, affidavits and fees**

##### **(a) Time periods for required affidavits**

Each extension of protection for which a certificate has been issued under section 1141i of this title shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director unless the holder of the international registration files in the United States Patent and Trademark Office affidavits that meet the requirements of subsection (b), within the following time periods:

- (1) Within the 1-year period immediately preceding the expiration of 6 years following the date of issuance of the certificate of extension of protection.
- (2) Within the 1-year period immediately preceding the expiration of 10 years following the date of issuance of the certificate of extension of protection, and each successive 10-year period following the date of issuance of the certificate of extension of protection.
- (3) The holder may file the affidavit required under this section within a grace period of 6 months after the end of the applicable time period established in paragraph (1) or (2), together with the fee described in subsection (b) and the additional grace period surcharge prescribed by the Director.

##### **(b) Requirements for affidavit**

The affidavit referred to in subsection (a) shall—

- (1)(A) state that the mark is in use in commerce;
- (B) set forth the goods and services recited in the extension of protection on or in connection with which the mark is in use in commerce;
- (C) be accompanied by such number of specimens or facsimiles showing current use of the mark in commerce as may be required by the Director; and

(D) be accompanied by the fee prescribed by the Director; or

(2)(A) set forth the goods and services recited in the extension of protection on or in connection with which the mark is not in use in commerce;

(B) include a showing that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

(C) be accompanied by the fee prescribed by the Director.

**(c) Deficient affidavit**

If any submission filed within the period set forth in subsection (a) is deficient, including that the affidavit was not filed in the name of the holder of the international registration, the deficiency may be corrected after the statutory time period, within the time prescribed after notification of the deficiency. Such submission shall be accompanied by the additional deficiency surcharge prescribed by the Director.

**(d) Notice of requirement**

Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

**(e) Notification of acceptance or refusal**

The Director shall notify the holder of the international registration who files any affidavit required by this section of the Director's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

**(f) Designation of resident for service of process and notices**

If the holder of the international registration of the mark is not domiciled in the United States, the holder may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the last designated address, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.

(July 5, 1946, ch. 540, title XII, §71, as added Pub. L. 107-273, div. C, title III, §13402, Nov. 2, 2002, 116 Stat. 1919; amended Pub. L. 111-146, §3(d)(2), Mar. 17, 2010, 124 Stat. 68.)

AMENDMENTS

2010—Pub. L. 111-146 amended section generally. Prior to amendment, section related to required affidavits and fees, contents of affidavit, notification of Director's acceptance or refusal, and service of notice or process.

**§ 1141l. Assignment of an extension of protection**

An extension of protection may be assigned, together with the goodwill associated with the

mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

(July 5, 1946, ch. 540, title XII, §72, as added Pub. L. 107-273, div. C, title III, §13402, Nov. 2, 2002, 116 Stat. 1920.)

**§ 1141m. Incontestability**

The period of continuous use prescribed under section 1065 of this title for a mark covered by an extension of protection issued under this subchapter may begin no earlier than the date on which the Director issues the certificate of the extension of protection under section 1141i of this title, except as provided in section 1141n of this title.

(July 5, 1946, ch. 540, title XII, §73, as added Pub. L. 107-273, div. C, title III, §13402, Nov. 2, 2002, 116 Stat. 1920.)

**§ 1141n. Rights of extension of protection**

When a United States registration and a subsequently issued certificate of extension of protection to the United States are owned by the same person, identify the same mark, and list the same goods or services, the extension of protection shall have the same rights that accrued to the registration prior to issuance of the certificate of extension of protection.

(July 5, 1946, ch. 540, title XII, §74, as added Pub. L. 107-273, div. C, title III, §13402, Nov. 2, 2002, 116 Stat. 1920.)

**CHAPTER 23—DISSEMINATION OF TECHNICAL, SCIENTIFIC AND ENGINEERING INFORMATION**

Sec.	
1151.	Purpose of chapter.
1152.	Clearinghouse for technical information; removal of security classification.
1153.	Rules, regulations, and fees.
1153a.	Repealed.
1154.	Reference of data to armed services and other Government agencies.
1155.	General standards and limitations; preservation of security classification.
1156.	Use of existing facilities.
1157.	Relation to other provisions.

**§ 1151. Purpose of chapter**

The purpose of this chapter is to make the results of technological research and development more readily available to industry and business, and to the general public, by clarifying and defining the functions and responsibilities of the Department of Commerce as a central clearinghouse for technical information which is useful to American industry and business.

(Sept. 9, 1950, ch. 936, §1, 64 Stat. 823.)

**§ 1152. Clearinghouse for technical information; removal of security classification**

The Secretary of Commerce (hereinafter referred to as the "Secretary") is directed to establish and maintain within the Department of