

§ 1338. Patents, plant variety protection, copyrights, mask works, designs, trademarks, and unfair competition

(a) The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents, plant variety protection, copyrights and trademarks. No State court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights. For purposes of this subsection, the term “State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) The district courts shall have original jurisdiction of any civil action asserting a claim of unfair competition when joined with a substantial and related claim under the copyright, patent, plant variety protection or trademark laws.

(c) Subsections (a) and (b) apply to exclusive rights in mask works under chapter 9 of title 17, and to exclusive rights in designs under chapter 13 of title 17, to the same extent as such subsections apply to copyrights.

(June 25, 1948, ch. 646, 62 Stat. 931; Pub. L. 91-577, title III, §143(b), Dec. 24, 1970, 84 Stat. 1559; Pub. L. 100-702, title X, §1020(a)(4), Nov. 19, 1988, 102 Stat. 4671; Pub. L. 105-304, title V, §503(b)(1), (2)(A), Oct. 28, 1998, 112 Stat. 2917; Pub. L. 106-113, div. B, §1000(a)(9) [title III, §3009(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A-551; Pub. L. 112-29, §19(a), Sept. 16, 2011, 125 Stat. 331.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§41(7) and 371(5) (Mar. 3, 1911, ch. 231, §24, par. 7, 256, par. 5, 36 Stat. 1092, 1160).

Section consolidates section 41(7) with section 371 (5) of title 28, U.S.C., 1940 ed., with necessary changes in phraseology.

Words “of any civil action” were substituted for “all suits at law or in equity” and “cases” to conform section to Rule 2 of the Federal Rules of Civil Procedure.

Word “patents” was substituted for “patent-right” in said section 371 (Fifth) of title 28, U.S.C., 1940 ed.

Similar provisions respecting suits cognizable in district courts, including those of territories and possessions. (See section 34 of title 17, U.S.C., 1940 ed., Copyrights.)

Subsection (b) is added and is intended to avoid “piecemeal” litigation to enforce common-law and statutory copyright, patent, and trade-mark rights by specifically permitting such enforcement in a single civil action in the district court. While this is the rule under Federal decisions, this section would enact it as statutory authority. The problem is discussed at length in *Hurn v. Oursler* (1933, 53 S.Ct. 586, 289 U.S. 238, 77 L.Ed. 1148) and in *Musher Foundation v. Alba Trading Co.* (C.C.A. 1942, 127 F.2d 9) (majority and dissenting opinions).

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-29 substituted “No State court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights. For purposes of this subsection, the term ‘State’ includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.” for “Such jurisdiction shall be exclusive

of the courts of the states in patent, plant variety protection and copyright cases.”

1999—Pub. L. 106-113 substituted “trademarks” for “trade-marks” in section catchline and subsec. (a) and substituted “trademark” for “trade-mark” in subsec. (b).

1998—Pub. L. 105-304, §503(b)(2)(A), inserted “designs,” after “mask works,” in section catchline.

Subsec. (c). Pub. L. 105-304, §503(b)(1), inserted “, and to exclusive rights in designs under chapter 13 of title 17,” after “title 17”.

1988—Pub. L. 100-702, §1020(a)(4)(B), amended section catchline generally, inserting “mask works,” after “copyrights.”

Subsec. (c). Pub. L. 100-702, §1020(a)(4)(A), added subsec. (c).

1970—Pub. L. 91-577 inserted references to “plant variety protection” in section catchline and in subsecs. (a) and (b).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 applicable to any civil action commenced on or after Sept. 16, 2011, see section 19(e) of Pub. L. 112-29, set out as a note under section 1295 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-577 effective Dec. 24, 1970, see section 141 of Pub. L. 91-577, set out as an Effective Date note under section 2321 of Title 7, Agriculture.

§ 1339. Postal matters

The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to the postal service.

(June 25, 1948, ch. 646, 62 Stat. 932.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(6) (Mar. 3, 1911, ch. 231, §24, par. 6, 36 Stat. 1092).

Changes were made in phraseology.

§ 1340. Internal revenue; customs duties

The district courts shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage except matters within the jurisdiction of the Court of International Trade.

(June 25, 1948, ch. 646, 62 Stat. 932; Pub. L. 96-417, title V, §501(21), Oct. 10, 1980, 94 Stat. 1742.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(5) (Mar. 3, 1911, ch. 231, §24, par. 5, 36 Stat. 1092; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475).

Words “Customs Court” were substituted for “Court of Customs and Patent Appeals.” Section 41(5) of title 28, U.S.C., 1940 ed., is based on the Judicial Code of 1911. At that time the only court, other than the district courts, having jurisdiction of customs cases, was the Court of Customs Appeals which became the Court of Customs and Patent Appeals in 1929. The Customs Court was created in 1926 as a court of original jurisdiction over customs cases. (See reviser’s note preceding section 251 of this title.)

Words “any civil action” were substituted for “all cases” in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

AMENDMENTS

1980—Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on

or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

§ 1341. Taxes by States

The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.

(June 25, 1948, ch. 646, 62 Stat. 932.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 41(1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

This section restates the last sentence of section 41(1) of title 28, U.S.C., 1940 ed.

Other provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1331, 1332, 1342, 1345, 1354, and 1359 of this title.

Words "at law or in equity" before "in the courts of such State" were omitted as unnecessary.

Words "civil action" were substituted for "suit" in view of Rule 2 of the Federal Rules of Civil Procedure.

Words "under State law" were substituted for "imposed by or pursuant to the laws of any State" for the same reason.

§ 1342. Rate orders of State agencies

The district courts shall not enjoin, suspend or restrain the operation of, or compliance with, any order affecting rates chargeable by a public utility and made by a State administrative agency or a rate-making body of a State political subdivision, where:

(1) Jurisdiction is based solely on diversity of citizenship or repugnance of the order to the Federal Constitution; and,

(2) The order does not interfere with interstate commerce; and,

(3) The order has been made after reasonable notice and hearing; and,

(4) A plain, speedy and efficient remedy may be had in the courts of such State.

(June 25, 1948, ch. 646, 62 Stat. 932.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 41(1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

This section rearranges and restates the fourth sentence of section 41(1) of title 28, U.S.C., 1940 ed.

Other provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1331, 1332, 1341, 1345, 1354, and 1359 of this title.

Words "at law or in equity" before "in the courts of such State" were omitted as unnecessary.

Words "civil action" were substituted for "suit," in view of Rule 2 of the Federal Rules of Civil Procedure.

Word "operation" was substituted for "enforcement, operation or execution" for the same reason.

§ 1343. Civil rights and elective franchise

(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance

of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

(b) For purposes of this section—

(1) the District of Columbia shall be considered to be a State; and

(2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(June 25, 1948, ch. 646, 62 Stat. 932; Sept. 3, 1954, ch. 1263, § 42, 68 Stat. 1241; Pub. L. 85-315, part III, § 121, Sept. 9, 1957, 71 Stat. 637; Pub. L. 96-170, § 2, Dec. 29, 1979, 93 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 41(12), (13), and (14) (Mar. 3, 1911, ch. 231, § 24, pars. 12, 13, 14, 36 Stat. 1092).

Words "civil action" were substituted for "suits," "suits at law or in equity" in view of Rule 2 of the Federal Rules of Civil Procedure.

Numerous changes were made in arrangement and phraseology.

AMENDMENTS

1979—Pub. L. 96-170 designated existing provisions as subsec. (a) and added subsec. (b).

1957—Pub. L. 85-315 inserted "and elective franchise" in section catchline and added par. (4).

1954—Act Sept. 3, 1954, substituted "section 1985 of Title 42" for "section 47 of Title 8" wherever appearing.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-170, § 3, Dec. 29, 1979, 93 Stat. 1284, provided that: "The amendments made by this Act [amending this section and section 1983 of Title 42, The Public Health and Welfare] shall apply with respect to any deprivation of rights, privileges, or immunities secured by the Constitution and laws occurring after the date of the enactment of this Act [Dec. 29, 1979]."

§ 1344. Election disputes

The district courts shall have original jurisdiction of any civil action to recover possession of any office, except that of elector of President or Vice President, United States Senator, Representative in or delegate to Congress, or member of a state legislature, authorized by law to be commenced, where in it appears that the sole question touching the title to office arises out of denial of the right to vote, to any citizen offering to vote, on account of race, color or previous condition of servitude.

The jurisdiction under this section shall extend only so far as to determine the rights of the parties to office by reason of the denial of the