

after that date, see section 11 of Pub. L. 94-131, set out as a note under section 351 of this title.

§ 375. Patent issued on international application: Effect

(a) A patent may be issued by the Director based on an international application designating 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.

EFFECTIVE DATE

Section effective Jan. 24, 1978, and applicable to international and national applications filed, on and after that date, see section 11 of Pub. L. 94-131, set out as a note under section 351 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]