

able to defendants in patent infringement suits were omitted as unnecessary. In the absence of statutory restriction, any defense available to a private party is equally available to the United States.

Changes in phraseology were made.

#### 1949 ACT

This amendment clarifies section 1498 of title 28, U.S.C., by restating its first paragraph to conform more closely with the original law.

### Editorial Notes

#### REFERENCES IN TEXT

Hereafter, referred to in subsec. (b), probably means the date of enactment of Pub. L. 86-726, which was approved on Sept. 8, 1960.

The copyright laws of the United States, referred to in subsec. (b), are classified generally to Title 17, Copyrights.

Hereafter, referred to in subsec. (d), probably means after the date of enactment of Pub. L. 91-577, which was approved on Dec. 24, 1970.

#### AMENDMENTS

1998—Subsec. (e). Pub. L. 105-304 inserted “, and to exclusive rights in designs under chapter 13 of title 17,” after “title 17”.

1997—Subsec. (b). Pub. L. 105-147, § 3, substituted “action which may be brought for such infringement shall be an action by the copyright owner” for “remedy of the owner of such copyright shall be by action”.

1996—Subsec. (a). Pub. L. 104-308 inserted at end of first par. “Reasonable and entire compensation shall include the owner’s reasonable costs, including reasonable fees for expert witnesses and attorneys, in pursuing the action if the owner is an independent inventor, a nonprofit organization, or an entity that had no more than 500 employees at any time during the 5-year period preceding the use or manufacture of the patented invention by or for the United States. Notwithstanding the preceding sentences, unless the action has been pending for more than 10 years from the time of filing to the time that the owner applies for such costs and fees, reasonable and entire compensation shall not include such costs and fees if the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.”

1992—Subsec. (a). Pub. L. 102-572, § 902(a)(1), substituted “United States Court of Federal Claims” for “United States Claims Court”.

Subsecs. (b), (d). Pub. L. 102-572, § 902(a)(2), substituted “Court of Federal Claims” for “Claims Court”.

1988—Subsec. (e). Pub. L. 100-702 added subsec. (e).

1982—Subsec. (a). Pub. L. 97-168, § 133(d)(1), substituted “United States Claims Court” for “Court of Claims”.

Subsecs. (b), (d). Pub. L. 97-164, § 133(d)(2), substituted “Claims Court” for “Court of Claims”.

1976—Subsec. (b). Pub. L. 94-553 substituted “section 504(c) of title 17” for “section 101(b) of title 17”.

1970—Subsec. (d). Pub. L. 91-577 added subsec. (d).

1960—Pub. L. 86-726, § 4, substituted “Patent and copyright cases” for “Patent cases” in section catchline.

Pub. L. 86-726, § 1, designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1952—Act July 17, 1952, allowed Government employees to maintain patent suits against the United States in certain instances.

1951—Act Oct. 31, 1951, inserted second par.

1949—Act May 29, 1949, conformed first par. of section to original law.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-308, § 1(b), Oct. 19, 1996, 110 Stat. 3814, provided that: “The amendment made by subsection (a)

[amending this section] shall apply to actions under section 1498(a) of title 28, United States Code, that are pending on, or brought on or after, the date of the enactment of this Act [Oct. 19, 1996].”

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

#### 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.

#### WAIVER OF IMMUNITY FOR MEMBERS OF CONGRESS

Pub. L. 86-726, § 2, Sept. 8, 1960, 74 Stat. 855, provided that: “Nothing in this Act [amending this section and section 2386 of Title 10, Armed Forces] shall be construed to in any way waive any immunity provided for Members of Congress under article I of section 6 of the Constitution of the United States.”

### § 1499. Liquidated damages withheld from contractors under chapter 37 of title 40

The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim for liquidated damages withheld from a contractor or subcontractor under section 3703 of title 40.

(June 25, 1948, ch. 646, 62 Stat. 942; Pub. L. 87-581, title II, § 202(a), Aug. 13, 1962, 76 Stat. 360; Pub. L. 97-164, title I, § 133(e)(1), (2)(A), Apr. 2, 1982, 96 Stat. 40, 41; Pub. L. 101-650, title III, § 325(b)(7), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 102-572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 107-217, § 3(g)(3), Aug. 21, 2002, 116 Stat. 1299; Pub. L. 109-284, § 4(2), Sept. 27, 2006, 120 Stat. 1211.)

#### HISTORICAL AND REVISION NOTES

Based on section 324 of title 40, U.S.C., 1940 ed., Public Buildings, Property and Works (June 19, 1912, ch. 174, § 1, 37 Stat. 137).

This section contains only the jurisdictional provision in the last clause of section 324 of title 40, U.S.C., 1940 ed.

Changes in phraseology were made.

### Editorial Notes

#### AMENDMENTS

2006—Pub. L. 109-284 substituted “chapter 37 of title 40” for “Contract Work Hours and Safety Standards Act” in section catchline.

2002—Pub. L. 107-217 substituted “section 3703 of title 40” for “section 104 of the Contract Work Hours and Safety Standards Act”.

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1990—Pub. L. 101-650 substituted “Hours and Safety Standards” for “Hours Standards” in text.

1982—Pub. L. 97-164 substituted “Contract Work Hours and Safety Standards Act” for “Contract Work Hours Standards Act” in section catchline and “United States Claims Court” for “Court of Claims” in text.

1962—Pub. L. 87-581 amended section generally, substituting “Liquidated damages withheld from contractors under Contract Work Hours Standards Act” for “Penalties imposed against contractors under eight hour law” in section catchline, and “liquidated damages withheld from a contractor or subcontractor under section 104 of the Contract Work Hours Standards Act” for “a penalty withheld from a contractor or subcontractor under section 324 of Title 40” in text.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

##### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

##### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-581 effective 60 days after Aug. 13, 1962, but shall not affect contracts existing or thereafter entered into pursuant to invitations for bids outstanding on Aug. 13, 1962, see section 204 of Pub. L. 87-581, Aug. 13, 1962, 76 Stat. 360.

#### CONTINUED JURISDICTION UPON CLAIMS UNDER SECTION 324 OF FORMER TITLE 40

Pub. L. 87-581, title II, §202(b), Aug. 13, 1962, 76 Stat. 360, provided that the Court of Claims (now United States Court of Federal Claims) was to continue to have jurisdiction to render judgment upon certain claims for a penalty withheld from a contractor or subcontractor under section 324 of former Title 40, Public Buildings, Property, and Works, in connection with any contract subject to that section existing on the date sixty days after Aug. 13, 1962, or thereafter entered into pursuant to invitations for bids that were outstanding on Aug. 13, 1962.

#### § 1500. Pendency of claims in other courts

The United States Court of Federal Claims shall not have jurisdiction of any claim for or in respect to which the plaintiff or his assignee has pending in any other court any suit or process against the United States or any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, directly or indirectly under the authority of the United States. (June 25, 1948, ch. 646, 62 Stat. 942; Pub. L. 97-164, title I, §133(e)(1), Apr. 2, 1982, 96 Stat. 40; Pub. L. 102-572, title IX, §902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

##### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §260 (Mar. 3, 1911, ch. 231, §154, 36 Stat. 1138).

Words “or in the Supreme Court on appeal therefrom” were omitted as unnecessary.

Changes were made in phraseology.

#### Editorial Notes

##### AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

##### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### § 1501. Pensions

The United States Court of Federal Claims shall not have jurisdiction of any claim for a pension.

(June 25, 1948, ch. 646, 62 Stat. 942; Pub. L. 97-164, title I, §133(e)(1), Apr. 2, 1982, 96 Stat. 40; Pub. L. 102-572, title IX, §902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

##### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §250(1) (Mar. 3, 1911, ch. 231, §145, 36 Stat. 1136).

Section constitutes the exception in section 250(1) of title 28, U.S.C., 1940 ed.

Changes were made in phraseology.

#### Editorial Notes

##### AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

##### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### § 1502. Treaty cases

Except as otherwise provided by Act of Congress, the United States Court of Federal Claims shall not have jurisdiction of any claim against the United States growing out of or dependent upon any treaty entered into with foreign nations.

(June 25, 1948, ch. 646, 62 Stat. 942; May 24, 1949, ch. 139, §88, 63 Stat. 102; Pub. L. 97-164, title I, §133(e)(1), Apr. 2, 1982, 96 Stat. 40; Pub. L. 102-572, title IX, §902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

##### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on title 28, U.S.C., 1940 ed., §259 (Mar. 3, 1911, ch. 231, §153, 36 Stat. 1138).

Phrase “Except as otherwise provided by enactment of Congress” was inserted to cover cases where special Acts confer jurisdiction. (See *Sioux Tribe of Indians v. United States*, 1943, 97 Ct.Cl. 613, certiorari denied 63 S.Ct. 992, 318 U.S. 789, 87 L.Ed. 1155, and *In re United States*, 1873, 17 Wall. 439, 443, 21 L.Ed. 696.)

Words “not pending therein on December 1, 1862,” were omitted as obsolete.