

be served by publication or otherwise as the court directs. The Director shall not be a necessary party but he shall be notified of the filing of the suit by the clerk of the court in which it is filed and shall have the right to intervene. Judgment of the court in favor of the right of an applicant to a patent shall authorize the Director to issue such patent on the filing in the Patent and Trademark Office of a certified copy of the judgment and on compliance with the requirements of law.

(July 19, 1952, ch. 950, 66 Stat. 803; Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 97-164, title I, § 163(a)(7), Apr. 2, 1982, 96 Stat. 49; Pub. L. 98-622, title II, § 203(c), Nov. 8, 1984, 98 Stat. 3387; 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(j)(1), (2)(A), (4), 9(a), 20(j), Sept. 16, 2011, 125 Stat. 290, 316, 335.)

HISTORICAL AND REVISION NOTES

The first paragraph and parts of the second paragraph are based on Title 35, U.S.C., 1946 ed., § 63 (R.S. 4915, amended (1) Mar. 2, 1927, ch. 273, § 11, 44 Stat. 1336, (2) Mar. 2, 1929, ch. 488, § 2(b), 45 Stat. 1476, (3) Aug. 5, 1939, ch. 451, § 4, 53 Stat. 1212), limited to interferences and making some changes. The action is not restricted to applicants, but a patentee may also bring the action. The time for bringing the action is made the same as for appeals.

In the second paragraph the first sentence is new and eliminates difficulties arising from unrecorded interests.

The second sentence is based on Title 35, U.S.C., 1946 ed., § 72a (Mar. 3, 1927, ch. 364, 44 Stat. 1394, reenacted Oct. 31, 1951, ch. 655, § 53a, 65 Stat. 728) with changes in language.

The fourth sentence is new and prevents such suits from being filed against the Commissioner as a defendant; however, the Commissioner has the right to intervene.

Language is changed.

Editorial Notes

AMENDMENTS

2011—Pub. L. 112-29, § 20(j), struck out “of this title” after “141”.

Pub. L. 112-29, § 9(a), substituted “United States District Court for the Eastern District of Virginia” for “United States District Court for the District of Columbia”.

Pub. L. 112-29, § 3(j)(1), (2)(A), (4), amended section catchline generally, substituting “Civil action in case of derivation proceeding” for “Civil action in case of interference”, and substituted in text “a derivation proceeding” for “an interference”, “Patent Trial and Appeal Board” for “Board of Patent Appeals and Interferences”, and “the derivation proceeding” for “the interference”.

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner” wherever appearing.

1984—Pub. L. 98-622 substituted “Board of Patent Appeals and Interferences on the interference” for “board of patent interference on the question of priority”.

1982—Pub. L. 97-164 substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

1975—Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 3(j)(1), (2)(A), (4) 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 9(a) of Pub. L. 112-29 effective Sept. 16, 2011, and applicable to any civil action commenced on or after that date, see section 9(b) of Pub. L. 112-29, set out as a note under section 1071 of Title 15, Commerce and Trade.

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 OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective three months after Nov. 8, 1984, see section 207 of Pub. L. 98-622, set out as a note under section 41 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 Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

CHAPTER 14—ISSUE OF PATENT

Sec.

- 151. Issue of patent.
- 152. Issue of patent to assignee.
- 153. How issued.
- 154. Contents and term of patent; provisional rights.
- [155, 155A. Repealed.]
- 156. Extension of patent term.
- [157. Repealed.]

Editorial Notes

AMENDMENTS

2011—Pub. L. 112-29, § 20(k), Sept. 16, 2011, 125 Stat. 335, struck out items 155 “Patent term extension” and 155A “Patent term restoration”.

Pub. L. 112-29, § 3(e)(1), Sept. 16, 2011, 125 Stat. 287, struck out item 157 “Statutory invention registration”.

1999—Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4507(6)], Nov. 29, 1999, 113 Stat. 1536, 1501A-566, inserted “; provisional rights” after “patent” in item 154.

1984—Pub. L. 98-622, title I, § 102(b), Nov. 8, 1984, 98 Stat. 3384, added item 157.

Pub. L. 98-417, title II, § 201(b), Sept. 24, 1984, 98 Stat. 1602, added item 156.

1983—Pub. L. 98-127, § 4(b), Oct. 13, 1983, 97 Stat. 833, added item 155A.

Pub. L. 97-414, § 11(b), Jan. 4, 1983, 96 Stat. 2066, added item 155.

1965—Pub. L. 89-83, § 6, July 24, 1965, 79 Stat. 261, substituted “Issue of patent” for “Time of issue of patent” in item 151.

§ 151. Issue of patent

(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.

(Added Pub. L. 112-211, title II, §202(b)(6), Dec. 18, 2012, 126 Stat. 1536.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 151, act July 19, 1952, ch. 950, 66 Stat. 803; Pub. L. 89-83, §4, July 24, 1965, 79 Stat. 260; Pub. L. 93-601, §3, Jan. 2, 1975, 88 Stat. 1956; 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, related to issue of patent, prior to repeal by Pub. L. 112-211, title II, §202(b)(6), Dec. 18, 2012, 126 Stat. 1536.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective on the date that is 1 year after Dec. 18, 2012, applicable to patents issued before, on, or after that date and patent applications pending on or filed after that date, and not effective with respect to patents in litigation commenced before that date, see section 203 of Pub. L. 112-211, set out as a note under section 27 of this title.

§ 152. Issue of patent to assignee

Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.

(July 19, 1952, ch. 950, 66 Stat. 804; Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §44 (R.S. 4895).

Language is changed and the reference to reissue is omitted in view of the general provision in section 251.

Editorial Notes**AMENDMENTS**

1975—Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1975 AMENDMENT**

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

§ 153. How issued

Patents shall be issued in the name of the United States of America, under the seal of the Patent and Trademark Office, and shall be signed by the Director or have his signature placed thereon and shall be recorded in the Patent and Trademark Office.

(July 19, 1952, ch. 950, 66 Stat. 804; Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949; 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, §13203(c), 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1902, 1906.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §39 (R.S. 4883, amended (1) Feb. 18, 1888, ch. 15, 25 Stat. 40, (2) April 11, 1903, ch. 417, 32 Stat. 95, (3) Feb. 18, 1922, ch. 58, §5, 42 Stat. 391).

The phrases referring to the attesting officers and to the recording of the patents are broadened.

Editorial Notes**AMENDMENTS**

2002—Pub. L. 107-273, §13206(b)(1)(B), made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

Pub. L. 107-273, §13203(c), struck out “and attested by an officer of the Patent and Trademark Office designated by the Director,” after “signature placed thereon”.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, §13206(b)(1)(B), substituted “Director” for “Commissioner” in two places.

1975—Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office” wherever appearing.

Statutory Notes and Related Subsidiaries**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 OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

§ 154. Contents and term of patent; provisional rights

(a) IN GENERAL.—

(1) CONTENTS.—Every patent shall contain a short title of the invention and a grant to the patentee, his heirs or assigns, of the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States, and, if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States, or importing into the United States, products made by that process, referring to the specification for the particulars thereof.

(2) TERM.—Subject to the payment of fees under this title, such grant shall be for a term beginning on the date on which the patent issues and ending 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, 365(c), or 386(c), from the date on which the earliest such application was filed.

(3) PRIORITY.—Priority under section 119, 365(a), 365(b), 386(a), or 386(b) shall not be taken into account in determining the term of a patent.