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Editorial Notes

AMENDMENTS

2002—Pub. L. 107-273, div. C, title III, § 13206(a)(6), Nov. 2, 2002, 116 Stat. 1904, substituted “Examination of Application” for “Examination of Applications” in heading of chapter 12.

1982—Pub. L. 97-256, title I, § 101(6), Sept. 8, 1982, 96 Stat. 816, added item for chapter 18.

1975—Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949, substituted “Patent and Trademark Office” for “Patent Office” in heading of chapter 13.

CHAPTER 10—PATENTABILITY OF INVENTIONS

Sec.	
100.	Definitions.
101.	Inventions patentable.
102.	Conditions for patentability; novelty.
103.	Conditions for patentability; non-obvious subject matter.
[104.	Repealed.]
105.	Inventions in outer space.

Editorial Notes

AMENDMENTS

2011—Pub. L. 112-29, § 3(b)(3), (d), Sept. 16, 2011, 125 Stat. 287, substituted in item 102 “Conditions for patentability; novelty” for “Conditions for patentability; novelty and loss of right to patent” and struck out item 104 “Invention made abroad”.

1990—Pub. L. 101-580, § 1(b), Nov. 15, 1990, 104 Stat. 2863, added item 105.

§ 100. Definitions

When used in this title unless the context otherwise indicates—

(a) The term “invention” means invention or discovery.

(b) The term “process” means process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.

(c) The terms “United States” and “this country” mean the United States of America, its territories and possessions.

(d) The word “patentee” includes not only the patentee to whom the patent was issued but also the successors in title to the patentee.

(e) The term “third-party requester” means a person requesting ex parte reexamination under section 302 who is not the patent owner.

(f) The term “inventor” means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of the invention.

(g) The terms “joint inventor” and “co-inventor” mean any 1 of the individuals who in-

¹ So in original. Does not conform to chapter heading.

vented or discovered the subject matter of a joint invention.

(h) The term “joint research agreement” means a written contract, grant, or cooperative agreement entered into by 2 or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

(i)(1) The term “effective filing date” for a claimed invention in a patent or application for patent means—

(A) if subparagraph (B) does not apply, the actual filing date of the patent or the application for the patent containing a claim to the invention; or

(B) the filing date of the earliest application for which the patent or application is entitled, as to such invention, to a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c).

(2) The effective filing date for a claimed invention in an application for reissue or reissued patent shall be determined by deeming the claim to the invention to have been contained in the patent for which reissue was sought.

(j) The term “claimed invention” means the subject matter defined by a claim in a patent or an application for a patent.

(July 19, 1952, ch. 950, 66 Stat. 797; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4603], Nov. 29, 1999, 113 Stat. 1536, 1501A-567; Pub. L. 112-29, § 3(a), Sept. 16, 2011, 125 Stat. 285; Pub. L. 112-211, title I, § 102(1), Dec. 18, 2012, 126 Stat. 1531.)

HISTORICAL AND REVISION NOTES

Paragraph (a) is added only to avoid repetition of the phrase “invention or discovery” and its derivatives throughout the revised title. The present statutes use the phrase “invention or discovery” and derivatives.

Paragraph (b) is noted under section 101.

Paragraphs (c) and (d) are added to avoid the use of long expressions in various parts of the revised title.

Editorial Notes

AMENDMENTS

2012—Subsec. (i)(1)(B). Pub. L. 112-211 substituted “right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)” for “right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)”.

2011—Subsec. (e). Pub. L. 112-29, § 3(a)(1), struck out “or inter partes reexamination under section 311” after “302”.

Subsecs. (f) to (j). Pub. L. 112-29, § 3(a)(2), added subsecs. (f) to (j).

1999—Subsec. (e). Pub. L. 106-113 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-211, title I, § 103, Dec. 18, 2012, 126 Stat. 1532, provided that:

“(a) IN GENERAL.—The amendments made by this title [enacting part V of this title and amending this section and sections 102, 111, 115, 120, 154, 173, 365, and 366 of this title] shall take effect on the later of—

“(1) the date that is 1 year after the date of the enactment of this Act [Dec. 18, 2012]; or

“(2) the date of entry into force of the treaty with respect to the United States [May 13, 2015].”