

Subsec. (g)(1)(A). Pub. L. 100-670, §201(h)(1)(A), (2), substituted “new drug, antibiotic drug, or human biological product” for “human drug product” and “paragraph (6)” for “paragraph (4)”.

Subsec. (g)(1)(B). Pub. L. 100-670, §201(h)(1)(B), substituted “new drug, antibiotic drug, or human biological product” for “human drug product” in introductory provisions and “product” for “human drug product” in cls. (i) and (ii).

Subsec. (g)(2)(A), (3)(A). Pub. L. 100-670, §201(h)(3), substituted “paragraph (6)” for “paragraph (4)”.

Subsec. (g)(4), (5). Pub. L. 100-670, §201(h)(4), added pars. (4) and (5). Former par. (4) redesignated (6).

Subsec. (g)(6). Pub. L. 100-670, §201(h)(4), redesignated former par. (4) as (6).

Subsec. (g)(6)(B)(i). Pub. L. 100-670, §201(h)(5)(A), substituted “paragraph (1)(B) or (4)(B) was submitted and no request for the authority described in paragraph (5)(B) was submitted” for “paragraph (1)(B) was submitted”.

Subsec. (g)(6)(B)(ii). Pub. L. 100-670, §201(h)(5)(B), substituted “paragraph (2)(B) or (4)(B)” for “paragraph (2)”.

Subsec. (g)(6)(C). Pub. L. 100-670, §201(h)(5)(C), inserted “or in the case of an approved product which is a new animal drug or veterinary biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act or the Virus-Serum-Toxin Act), three years” after “exceed two years”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-29, §37(b), Sept. 16, 2011, 125 Stat. 341, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any application for extension of a patent term under section 156 of title 35, United States Code, that is pending on, that is filed after, or as to which a decision regarding the application is subject to judicial review on, the date of the enactment of this Act [Sept. 16, 2011].”

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 1000(a)(9) [title IV, §4404] of Pub. L. 106-113 effective on date that is 6 months after Nov. 29, 1999, and, except for design patent application filed under chapter 16 of this title, applicable to any application filed on or after such date, see section 1000(a)(9) [title IV, §4405(a)] of Pub. L. 106-113, set out as a note under section 154 of this title.

Amendment by section 1000(a)(9) [title IV, §4732(a)(10)(A)] of 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 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective 6 months after Dec. 8, 1994, and applicable to all patent applications filed in the United States on or after that effective date, with provisions relating to earliest filed patent application, see section 534(b)(1), (3) of Pub. L. 103-465, set out as a note under section 154 of this title.

### [§ 157. Repealed. Pub. L. 112-29, §3(e)(1), Sept. 16, 2011, 125 Stat. 287]

Section, added Pub. L. 98-622, title I, §102(a), Nov. 8, 1984, 98 Stat. 3383; amended Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A), (11)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582, 1501A-583; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-29, §20(j), Sept. 16, 2011, 125 Stat. 335, related to statutory invention registration.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Repeal effective upon the expiration of the 18-month period beginning on Sept. 16, 2011, and applicable to any

request for a statutory invention registration filed on or after that effective date, see section 3(e)(3) of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment note under section 111 of this title.

## CHAPTER 15—PLANT PATENTS

#### Sec.

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| 161. | Patents for plants.                      |
| 162. | Description, claim.                      |
| 163. | Grant.                                   |
| 164. | Assistance of Department of Agriculture. |

### § 161. Patents for plants

Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.

(July 19, 1952, ch. 950, 66 Stat. 804; Sept. 3, 1954, ch. 1259, 68 Stat. 1190.)

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §31, part (R.S. 4886, amended (1) Mar. 3, 1897, ch. 391, §1, 29 Stat. 692, (2) May 23, 1930, ch. 312, §1, 46 Stat. 376, (3) Aug. 5, 1939, ch. 450, §1, 53 Stat. 1212).

The provision relating to plants in the corresponding section of existing statute is made a separate section.

### Editorial Notes

#### AMENDMENTS

1954—Act Sept. 3, 1954, provided that plant seedlings, discovered, propagated asexually, and proved to have new characteristics distinct from other known plants are patentable.

### § 162. Description, claim

No plant patent shall be declared invalid for noncompliance with section 112 if the description is as complete as is reasonably possible.

The claim in the specification shall be in formal terms to the plant shown and described.

(July 19, 1952, ch. 950, 66 Stat. 804; Pub. L. 112-29, §20(j), Sept. 16, 2011, 125 Stat. 335.)

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §33, part (R.S. 4888, amended (1) Mar. 3, 1915, ch. 94, §1, 38 Stat. 958, (2) May 23, 1930, ch. 312, §2, 46 Stat. 376).

The first paragraph is the provision in R.S. 4888 (see section 112). The second paragraph is not in the statute but represents the actual practice.

### Editorial Notes

#### AMENDMENTS

2011—Pub. L. 112-29 struck out “of this title” after “112”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by 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