§ 6  TITLE 35—PATENTS  

Statutory Notes and Related Subsidaries  

**Effective Date of 2013 Amendment**  
Pub. L. 112–274, §1(n), Jan. 14, 2013, 126 Stat. 2459, provided that: “Except as otherwise provided in this Act [amending this section and sections 42, 115, 123, 135, 154, 299, and 311 of this title, repealing section 373 of this title, enacting provisions set out as notes under this section and sections 2, 135, 298, and 311 of this title, and amending provisions set out as a note under section 321 of this title], the amendments made by this Act shall take effect on the date of enactment of this Act [Jan. 14, 2013], and shall apply to proceedings commenced on or after such date of enactment.”

**Effective Date**  
Section effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106–113, set out as an Effective Date of 1999 Amendment note under section 1 of this title.

**Transition**  

“(A) IN GENERAL.—The Secretary of Commerce shall, in the Secretary’s discretion, determine the time and manner in which the amendments made by paragraph (1) [amending this section] shall take effect, except that, in each year following the year in which this Act is enacted [2013], 3 members shall be appointed to each Advisory Committee (to which such amendments apply) for 3-year terms that begin on December 1 of that year, in accordance with section 5(a) of title 35, United States Code, as amended by paragraph (1) of this subsection.

“(B) DEEMED TERMINATION OF TERMS.—In order to implement the amendments made by paragraph (1), the Secretary of Commerce may determine that the term of an existing member of an Advisory Committee under section 5 of title 35, United States Code, shall be deemed to terminate on December 1 of a year beginning after the date of the enactment of this Act [Jan. 14, 2013], regardless of whether December 1 is before or after the date on which such member’s term would terminate if this Act had not been enacted.”

§ 6. Patent Trial and Appeal Board  

(a) IN GENERAL.—There shall be in the Office a Patent Trial and Appeal Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Secretary, in consultation with the Director. Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Board of Patent Appeals and Interferences is deemed to refer to the Patent Trial and Appeal Board.

(b) DUTIES.—The Patent Trial and Appeal Board shall—

1. (1) on written appeal of an applicant, review adverse decisions of examiners upon applications for patents pursuant to section 134(a);  
2. (2) review appeals of reexaminations pursuant to section 134(b);  
3. (3) conduct derivation proceedings pursuant to section 135; and  
4. (4) conduct inter partes reviews and post-grant reviews pursuant to chapters 31 and 32.

(c) 3-MEMBER PANELS.—Each appeal, derivation proceeding, post-grant review, and inter
PARTIES REVIEW SHALL BE HEARD BY AT LEAST 3 MEMBERS OF THE PATENT TRIAL AND APPEAL BOARD, WHO SHALL BE DESIGNATED BY THE DIRECTOR. ONLY THE PATENT TRIAL AND APPEAL BOARD MAY GRANT REHEARINGS.

(d) TREATMENT OF PRIOR APPOINTMENTS.—The Secretary of Commerce may, in the Secretary’s discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge. It shall be a defense to a challenge to the appointment of an administrative patent judge on the basis of the judge’s having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer.