

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.