

tion period", being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

**§ 1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit**

(a) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—

(1) of an appeal from a final decision of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands, in any civil action arising under, or in any civil action in which a party has asserted a compulsory counterclaim arising under, any Act of Congress relating to patents or plant variety protection;

(2) of an appeal from a final decision of a district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, if the jurisdiction of that court was based, in whole or in part, on section 1346 of this title, except that jurisdiction of an appeal in a case brought in a district court under section 1346(a)(1), 1346(b), 1346(e), or 1346(f) of this title or under section 1346(a)(2) when the claim is founded upon an Act of Congress or a regulation of an executive department providing for internal revenue shall be governed by sections 1291, 1292, and 1294 of this title;

(3) of an appeal from a final decision of the United States Court of Federal Claims;

(4) of an appeal from a decision of—

(A) the Patent Trial and Appeal Board of the United States Patent and Trademark Office with respect to a patent application, derivation proceeding, reexamination, post-grant review, or inter partes review under title 35, at the instance of a party who exercised that party's right to participate in the applicable proceeding before or appeal to the Board, except that an applicant or a party to a derivation proceeding may also have remedy by civil action pursuant to section 145 or 146 of title 35; an appeal under this subparagraph of a decision of the Board with respect to an application or derivation proceeding shall waive the right of such applicant or party to proceed under section 145 or 146 of title 35;

(B) the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office or the Trademark Trial and Appeal Board with respect to applications for registration of marks and other proceedings as provided in section 21 of the Trademark Act of 1946 (15 U.S.C. 1071); or

(C) a district court to which a case was directed pursuant to section 145, 146, or 154(b) of title 35;

(5) of an appeal from a final decision of the United States Court of International Trade;

(6) to review the final determinations of the United States International Trade Commission relating to unfair practices in import trade, made under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337);

(7) to review, by appeal on questions of law only, findings of the Secretary of Commerce under U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States (relating to importation of instruments or apparatus);

(8) of an appeal under section 71 of the Plant Variety Protection Act (7 U.S.C. 2461);

(9) of an appeal from a final order or final decision of the Merit Systems Protection Board, pursuant to sections 7703(b)(1) and 7703(d) of title 5;

(10) of an appeal from a final decision of an agency board of contract appeals pursuant to section 7107(a)(1) of title 41;

(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;

(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;

(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and

(14) of an appeal under section 523 of the Energy Policy and Conservation Act.

(b) The head of any executive department or agency may, with the approval of the Attorney General, refer to the Court of Appeals for the Federal Circuit for judicial review any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by that department or agency which the head of such department or agency has concluded is not entitled to finality pursuant to the review standards specified in section 7107(b) of title 41. The head of each executive department or agency shall make any referral under this section within one hundred and twenty days after the receipt of a copy of the final appeal decision.

(c) The Court of Appeals for the Federal Circuit shall review the matter referred in accordance with the standards specified in section 7107(b) of title 41. The court shall proceed with judicial review on the administrative record made before the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, if appropriate, render judgment thereon, or remand the matter to any administrative or executive body or official with such direction as it may deem proper and just.

(Added Pub. L. 97-164, title I, §127(a), Apr. 2, 1982, 96 Stat. 37; amended Pub. L. 98-622, title II, §205(a), Nov. 8, 1984, 98 Stat. 3388; Pub. L. 100-418, title I, §1214(a)(3), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 100-702, title X, §1020(a)(3), Nov. 19, 1988, 102 Stat. 4671; Pub. L. 102-572, title I, §102(c), title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4507, 4516; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §§4402(b)(2), 4732(b)(14)], Nov. 29, 1999, 113 Stat. 1536, 1501A-560, 1501A-584; Pub. L. 111-350, §5(g)(5), Jan. 4, 2011, 124 Stat. 3848; Pub. L. 112-29, §§7(c)(2), 19(b), Sept. 16, 2011, 125 Stat. 314, 331.)

**Editorial Notes**

## REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(7), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

Section 211 of the Economic Stabilization Act of 1970, referred to in subsec. (a)(11), is section 211 of Pub. L. 91-379, title II, formerly set out as an Economic Stabilization Program note under section 1904 of Title 12, Banks and Banking.

Section 5 of the Emergency Petroleum Allocation Act of 1973, referred to in subsec. (a)(12), is section 5 of Pub. L. 93-159, which was classified to section 754 of Title 15, Commerce and Trade, and was omitted from the Code.

Section 506(c) of the Natural Gas Policy Act of 1978, referred to in subsec. (a)(13), is classified to section 3416(c) of Title 15.

Section 523 of the Energy Policy and Conservation Act, referred to in subsec. (a)(14), is classified to section 6393 of Title 42, The Public Health and Welfare.

## AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 112-29, §19(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “of an appeal from a final decision of a district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, if the jurisdiction of that court was based, in whole or in part, on section 1338 of this title, except that a case involving a claim arising under any Act of Congress relating to copyrights, exclusive rights in mask works, or trademarks and no other claims under section 1338(a) shall be governed by sections 1291, 1292, and 1294 of this title;”.

Subsec. (a)(4)(A). Pub. L. 112-29, §7(c)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office with respect to patent applications and interferences, at the instance of an applicant for a patent or any party to a patent interference, and any such appeal shall waive the right of such applicant or party to proceed under section 145 or 146 of title 35;”.

Subsec. (a)(10). Pub. L. 111-350, §5(g)(5)(A), substituted “section 7107(a)(1) of title 41” for “section 8(g)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)(1))”.

Subsec. (b). Pub. L. 111-350, §5(g)(5)(B), substituted “section 7107(b) of title 41” for “section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b))”.

Subsec. (c). Pub. L. 111-350, §5(g)(5)(C), substituted “section 7107(b) of title 41” for “section 10(b) of the Contract Disputes Act of 1978”.

1999—Subsec. (a)(4)(A). Pub. L. 106-113, §1000(a)(9) [title IV, §4732(b)(14)(A)], inserted “United States” before “Patent and Trademark”.

Subsec. (a)(4)(B). Pub. L. 106-113, §1000(a)(9) [title IV, §4732(b)(14)(B)], substituted “Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office” for “Commissioner of Patents and Trademarks”.

Subsec. (a)(4)(C). Pub. L. 106-113, §1000(a)(9) [title IV, §4402(b)(2)], substituted “145, 146, or 154(b)” for “145 or 146”.

1992—Subsec. (a)(3). Pub. L. 102-572, §902(b)(1), substituted “United States Court of Federal Claims” for “United States Claims Court”.

Subsec. (a)(11) to (14). Pub. L. 102-572, §102(c), added pars. (11) to (14).

1988—Subsec. (a)(1). Pub. L. 100-702 inserted “, exclusive rights in mask works,” after “copyrights”.

Subsec. (a)(7). Pub. L. 100-418 substituted “U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States” for “headnote 6 to

schedule 8, part 4, of the Tariff Schedules of the United States”.

1984—Subsec. (a)(4)(A). Pub. L. 98-622 substituted “Patent Appeals and” for “Appeals or the Board of Patent”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 7(c)(2) 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, with certain exceptions, see section 7(e) of Pub. L. 112-29, set out as a note under section 6 of Title 35, Patents.

Pub. L. 112-29, §19(e), Sept. 16, 2011, 125 Stat. 333, provided that: “The amendments made by this section [enacting section 1454 of this title and section 299 of Title 35, Patents, and amending this section and section 1338 of this title] shall apply to any civil action commenced on or after the date of the enactment of this Act [Sept. 16, 2011].”

## EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 1000(a)(9) [title IV, §4402(b)(2)] 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 Title 35, 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 Title 35, Patents.

Amendment by section 1000(a)(9) [title IV, §4732(b)(14)] 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 Title 35, Patents.

## EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 102(c) of Pub. L. 102-572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102-572, set out as a note under section 905 of Title 2, The Congress.

Amendment by section 902(b)(1) of Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 applicable to all United States patents granted before, on, or after Nov. 8, 1984, and to all applications for United States patents pending on or filed after that date, except as otherwise provided, see section 106 of Pub. L. 98-622, set out as a note under section 103 of Title 35, Patents.

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 Title 35.

## EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

## ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS

Pub. L. 102-572, title I, §102(d), (e), Oct. 29, 1992, 106 Stat. 4507, provided that:

“(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 [Pub. L. 91-379, formerly set out as a note under section 1904 of Title 12, Banks and Banking] is abolished, effective 6 months

after the date of the enactment of this Act [Oct. 29, 1992].

“(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described in subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

“(2) Any case which, before the effective date of abolition described in subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.”

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the “transition period”, being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

§ 1296. Review of certain agency actions

(a) JURISDICTION.—Subject to the provisions of chapter 179, the United States Court of Appeals for the Federal Circuit shall have jurisdiction over a petition for review of a final decision under chapter 5 of title 3 of—

- (1) an appropriate agency (as determined under section 454 of title 3);
- (2) the Federal Labor Relations Authority made under part D of subchapter II of chapter 5 of title 3, notwithstanding section 7123 of title 5; or
- (3) the Secretary of Labor or the Occupational Safety and Health Review Commission, made under part C of subchapter II of chapter 5 of title 3.

(b) FILING OF PETITION.—Any petition for review under this section must be filed within 30 days after the date the petitioner receives notice of the final decision.

(Added Pub. L. 104-331, §3(a)(1), Oct. 26, 1996, 110 Stat. 4068.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1296, added Pub. L. 97-164, title I, §127(a), Apr. 2, 1982, 96 Stat. 39, related to precedence of cases in United States Court of Appeals for the Federal Circuit, prior to repeal by Pub. L. 98-620, title IV, §402(29)(C), Nov. 8, 1984, 98 Stat. 3359.

EFFECTIVE DATE

Pub. L. 104-331, §3(d), Oct. 26, 1996, 110 Stat. 4071, provided that: “The amendments made by this section [enacting this section and sections 1413 and 3901 to 3908 of this title and amending sections 1346 and 2402 of this title] shall take effect on October 1, 1997.”

CHAPTER 85—DISTRICT COURTS; JURISDICTION

Sec. 1330. Actions against foreign states.

- Sec. 1331. Federal question.
- 1332. Diversity of citizenship; amount in controversy; costs.
- 1333. Admiralty, maritime and prize cases.
- 1334. Bankruptcy cases and proceedings.
- 1335. Interpleader.
- 1336. Surface Transportation Board’s orders.
- 1337. Commerce and antitrust regulations; amount in controversy, costs.
- 1338. Patents, plant variety protection, copyrights, mask works, designs, trademarks, and unfair competition.
- 1339. Postal matters.
- 1340. Internal revenue; customs duties.
- 1341. Taxes by States.
- 1342. Rate orders of State agencies.
- 1343. Civil rights and elective franchise.
- 1344. Election disputes.
- 1345. United States as plaintiff.
- 1346. United States as defendant.
- 1347. Partition action where United States is joint tenant.
- 1348. Banking association as party.
- 1349. Corporation organized under federal law as party.
- 1350. Alien’s action for tort.
- 1351. Consuls, vice consuls, and members of a diplomatic mission as defendant.
- 1352. Bonds executed under federal law.
- 1353. Indian allotments.
- 1354. Land grants from different states.
- 1355. Fine, penalty or forfeiture.
- 1356. Seizures not within admiralty and maritime jurisdiction.
- 1357. Injuries under Federal laws.
- 1358. Eminent domain.
- 1359. Parties collusively joined or made.
- 1360. State civil jurisdiction in actions to which Indians are parties.
- 1361. Action to compel an officer of the United States to perform his duty.
- 1362. Indian tribes.
- 1363. Jurors’ employment rights.
- 1364. Direct actions against insurers of members of diplomatic missions and their families.
- 1365. Senate actions.
- 1366. Construction of references to laws of the United States or Acts of Congress.
- 1367. Supplemental jurisdiction.
- 1368. Counterclaims in unfair practices in international trade.
- 1369. Multiparty, multiforum jurisdiction.

Editorial Notes

AMENDMENTS

- 2002—Pub. L. 107-273, div. C, title I, §11020(b)(1)(B), Nov. 2, 2002, 116 Stat. 1827, added item 1369.
- 1999—Pub. L. 106-113, div. B, §1000(a)(9) [title III, §3009(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A-552, substituted “trademarks” for “trade-marks” in item 1338.
- 1998—Pub. L. 105-304, title V, §503(b)(2)(B), Oct. 28, 1998, 112 Stat. 2917, inserted “designs,” after “mask works,” in item 1338.
- 1995—Pub. L. 104-88, title III, §305(a)(4), Dec. 29, 1995, 109 Stat. 944, substituted “Surface Transportation Board’s” for “Interstate Commerce Commission’s” in item 1336.
- 1994—Pub. L. 103-465, title III, §321(b)(3)(B), Dec. 8, 1994, 108 Stat. 4947, added item 1368.
- 1990—Pub. L. 101-650, title III, §310(b), Dec. 1, 1990, 104 Stat. 5114, added item 1367.
- 1988—Pub. L. 100-702, title X, §1020(a)(7), Nov. 19, 1988, 102 Stat. 4672, substituted “Actions” for “Action” in item 1330, inserted a period after “question” in item 1331, substituted “plant variety protection, copyrights, mask works, trade-marks,” for “copyrights, and trade-marks” in item 1338, and inserted “and elective franchise” in item 1343.