shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

(Added Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4604(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–570; amended Pub. L. 107–273, div. C, title III, §13202(a)(5), (c)(1), Nov. 2, 2002, 116 Stat. 1901, 1902; Pub. L. 112–29, §6(a), Sept. 16, 2011, 125 Stat. 303.)

Editorial Notes

AMENDMENTS

2011—Pub. L. 112–29 amended section generally. Prior to amendment, section related to restriction on subsequent request for inter partes reexamination.

2002—Pub. L. 107–273, §13202(c)(1), made technical correction to directory language of Pub. L. 106–113, which enacted this section.

Subsec. (a). Pub. L. 107–273, §13202(a)(5)(A), substituted ''third-party requester nor its privies'' for ''patent owner nor the third-party requester, if any, nor privies of either''.

Subsec. (b). Pub. L. 107–273, §13202(a)(5)(B), struck out ''United States Code,'' after ''title 28,''.

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 any patent issued before, on, or after that effective date, with provisions for graduated implementation, see section 6(c)(2) of Pub. L. 112–29, set out as a note under section 311 of this title.

EFFECTIVE DATE

Section effective Nov. 29, 1999, and applicable to any patent issuing from an original application filed in the United States on or after that date, see section 1000(a)(9) [title IV, §4608(a)] of Pub. L. 106–113, set out as an Effective Date of 1999 Amendment note under section 41 of this title.

§ 318. Decision of the Board

(a) FINAL WRITTEN DECISION.—If an inter partes review is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner and any new claim added under section 316(d).

(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final written decision under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent by operation of the certificate any new or amended claim determined to be patentable.

(c) INTERVENING RIGHTS.—Any proposed amended or new claim determined to be patentable and incorporated into a patent following an inter partes review under this chapter shall have the same effect as that specified in section 252 for reissued patents on the right of any person who made, purchased, or used within the United States, or imported into the United States, anything patented by such proposed amended or new claim, or who made substantial preparation therefor, before the issuance of a certificate under subsection (b).

(d) DATA ON LENGTH OF REVIEW.—The Office shall make available to the public data describing the length of time between the institution of, and the issuance of a final written decision under subsection (a) for, each inter partes review.

(Added Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4604(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–570; amended Pub. L. 107–273, div. C, title III, §13202(c)(1), Nov. 2, 2002, 116 Stat. 1902; Pub. L. 112–29, §6(a), Sept. 16, 2011, 125 Stat. 303.)

Editorial Notes

AMENDMENTS

2011—Pub. L. 112–29 amended section generally. Prior to amendment, text read as follows: ''Once an order for inter partes reexamination of a patent has been issued under section 313, the patent owner may obtain a stay of any pending litigation which involves an issue of patentability of any claims of the patent which are the subject of the inter partes reexamination order, unless the court before which such litigation is pending determines that a stay would not serve the interests of justice.''

2002—Pub. L. 107–273 made technical correction to directory language of Pub. L. 106–113, which enacted this section.

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 any patent issued before, on, or after that effective date, with provisions for graduated implementation, see section 6(c)(2) of Pub. L. 112–29, set out as a note under section 311 of this title.

EFFECTIVE DATE

Section effective Nov. 29, 1999, and applicable to any patent issuing from an original application filed in the United States on or after that date, see section 1000(a)(9) [title IV, §4608(a)] of Pub. L. 106–113, set out as an Effective Date of 1999 Amendment note under section 41 of this title.

§ 319. Appeal

A party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) may appeal the decision pursuant to sections 141 through 144. Any party to the inter partes review shall have the right to be a party to the appeal.

(Added Pub. L. 112–29, §6(a), Sept. 16, 2011, 125 Stat. 304.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent issued before, on, or after that effective date, with provisions for graduated implementation, see section 6(c)(2) of Pub. L. 112–29, set out as an Effective Date of 2011 Amendment note under section 311 of this title.

CHAPTER 32—POST-GRANT REVIEW

Sec.
321. Post-grant review.