

shall be a bar to the patenting of such invention or discovery even though such prior knowledge or use was under secrecy within the atomic energy program of the United States.

(Aug. 1, 1946, ch. 724, title I, § 155, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§ 2186. Commission patent licenses

The Commission shall establish standard specifications upon which it may grant a patent license to use any patent declared to be affected with the public interest pursuant to section 2183(a) of this title. Such a patent license shall not waive any of the other provisions of this chapter.

(Aug. 1, 1946, ch. 724, title I, § 156, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947; amended Pub. L. 96-517, § 7(a), Dec. 12, 1980, 94 Stat. 3027; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1980—Pub. L. 96-517 substituted “patent declared to be affected” for “patent held by the Commission or declared to be affected”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-517 effective July 1, 1981, but implementing regulations authorized to be issued earlier, see section 8(f) of Pub. L. 96-517, set out as a note under section 41 of Title 35, Patents.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§ 2187. Compensation, awards, and royalties

(a) Patent Compensation Board

The Commission shall designate a Patent Compensation Board to consider applications under this section. The members of the Board shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Board. The members of the Board may serve as such without regard to the provisions of sections 281, 283, or 284¹ of title 18, except in so far

as such sections may prohibit any such member from receiving compensation in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(b) Eligibility

(1) Any owner of a patent licensed under section 2188 or 2183(b) or 2183(e) of this title, or any patent licensee thereunder may make application to the Commission for the determination of a reasonable royalty fee in accordance with such procedures as the Commission by regulation may establish.

(2) Any person seeking to obtain the just compensation provided in section 2181 of this title shall make application therefor to the Commission in accordance with such procedures as the Commission may by regulation establish.

(3) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this chapter and who has complied with the provisions of section 2181(c) of this title may make application to the Commission for, and the Commission may grant, an award. The Commission may also, after consultation with the General Advisory Committee, and with the approval of the President, grant an award for any especially meritorious contribution to the development, use, or control of atomic energy.

(c) Standards

(1) In determining a reasonable royalty fee as provided for in section 2183(b) or 2183(e) of this title, the Commission shall take into consideration (A) the advice of the Patent Compensation Board; (B) any defense, general or special, that might be pleaded by a defendant in an action for infringement; (C) the extent to which, if any, such patent was developed through federally financed research; and (D) the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(2) In determining what constitutes just compensation as provided for in section 2181 of this title, or in determining the amount of any award under subsection (b)(3), the Commission shall take into account the considerations set forth in paragraph (1) of this subsection and the actual use of such invention or discovery. Such compensation may be paid by the Commission in periodic payments or in a lump sum.

(d) Limitations

Every application under this section shall be barred unless filed within six years after the date on which first accrues the right to such reasonable royalty fee, just compensation, or award for which such application is filed.

(Aug. 1, 1946, ch. 724, title I, § 157, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947; amended Pub. L. 87-206, § 11, Sept. 6, 1961, 75 Stat. 478; Pub. L. 93-276, title II, § 201, May 10, 1974, 88 Stat. 119; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

¹ See References in Text note below.