

copyrights vested with respect to the motion picture listed last in exhibit A of vesting order 11803, as amended (13 F.R. 5167, 15 F.R. 1626), are hereby divested as a matter of grace, effective the ninety-first day after October 22, 1962, and the persons entitled thereto shall on that day succeed to the rights, privileges, and obligations arising out of such copyrights, subject, however, to—

- (1) the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect of such copyrights;
- (2) the rights of assignees under assignments by the Alien Property Custodian or the Attorney General of interests in such licenses; and
- (3) the right retained by the United States to reproduce, for its own use, or exhibit any divested copyrighted motion picture films.

The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to copyrights divested hereunder are hereby transferred, effective the day of divestment, to the persons entitled to such copyrights: *Provided*, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(d) Rights or interests arising out of prevesting contracts

All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this chapter subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to copyrights, except—

- (1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;
- (2) rights or interests which have been returned or otherwise disposed of under this chapter; and
- (3) rights or interests vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), and 17366 (16 F.R. 2483),

are hereby divested as a matter of grace, effective the ninety-first day after October 22, 1962, and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(e) Suits for infringement

Nothing in this section shall be construed to transfer to a person entitled to a copyright divested hereunder the right of the Attorney General to sue for the infringement of such copyright during the period between (1) the vesting thereof or the vesting of rights and interests in a contract entered into with respect thereto, and (2) the day of divestment. The right to sue for infringement shall remain in the Attorney General.

(Oct. 6, 1917, ch. 106, § 41, as added Pub. L. 87-846, title II, § 206, Oct. 22, 1962, 76 Stat. 1115; amended

Pub. L. 88-490, Aug. 26, 1964, 78 Stat. 607; Pub. L. 97-164, title I, § 161(9), Apr. 2, 1982, 96 Stat. 49; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), and (d), was in the original “this Act” or “the Trading With the Enemy Act”, meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, also known as the Trading with the enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 42 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Subsec. (a). Pub. L. 97-164 substituted “Claims Court” for “Court of Claims”.

1964—Subsec. (a). Pub. L. 88-490 substituted “render judgment upon” for “report to the Congress concerning” and “two years after October 22, 1962” for “one year after the date of the enactment of this Act”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by 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 Title 28, Judiciary and Judicial Procedure.

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.

Executive Documents

TRANSFER OF FUNCTIONS

Functions vested by law in Alien Property Custodian and Office of Alien Property Custodian transferred to Attorney General by Reorg. Plan No. 1 of 1947, § 101, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4340. Divestment of trademarks

(a) “Trademarks” defined

As used in this section, the word “trademarks” includes trademarks, trade names, and the goodwill of the business to which a trademark or trade name is appurtenant.

(b) Effective date of divestment; rights of licensees; transfer of interests; payment of royalties to Attorney General

Trademarks vested in the Alien Property Custodian or the Attorney General under the provisions of this chapter subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this chapter, except trademarks vested by vesting orders 284, as amended (7 Fed. Reg. 9754, 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17

Fed. Reg. 4364), are hereby divested as a matter of grace, effective the ninety-first day after October 23, 1962, and the persons entitled to such trademarks shall on that day succeed to the rights, privileges, and obligations arising therefrom, subject, however, to the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect to such trademarks. The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to trademarks divested hereunder are transferred, effective the day of divestment, to the persons entitled to such trademarks: *Provided*, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(c) Prevesting contracts; exceptions; payment of royalties to Attorney General

All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this chapter subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to trademarks, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this chapter;

(3) rights or interests vested by vesting orders 284, as amended (7 Fed. Reg. 9754; 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364),

are hereby divested as a matter of grace, effective the ninety-first day after October 23, 1962, and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(d) Publication of ownership list in Federal Register; effective date of divestment; succession to ownership of equivalent trademarks

The Attorney General shall within forty-five days after October 23, 1962, publish in the Federal Register a list of trademarks which at the date of vesting in the Alien Property Custodian or Attorney General were owned by persons who were resident in or had their sole or primary seat in the area of Germany now in the Soviet Zone of Occupation or in the Soviet sector of Berlin or in German territory under provisional Soviet or Polish administration. Notwithstanding the provisions of subsection (b) of this section, the effective date of divestment of the trademarks so listed and published in the Federal Register shall be the date of publication in the Federal Register by the Secretary of State of a certification identifying the cases in which an equivalent trademark has been registered in the Federal Republic of Germany for a person residing or having its sole or primary seat in the Federal Republic of Germany or in the western

sectors of Berlin. In those cases of an equivalent trademark certified by the Secretary of State, the person registered by the Federal Republic of Germany as owner of such equivalent trademark shall succeed to the ownership of the divested trademark in the United States.

(Oct. 6, 1917, ch. 106, § 42, as added Pub. L. 87-861, § 2, Oct. 23, 1962, 76 Stat. 1139.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 43 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

Executive Documents

TRANSFER OF FUNCTIONS

Functions vested by law in Alien Property Custodian and Office of Alien Property Custodian transferred to Attorney General by Reorg. Plan No. 1 of 1947, § 101, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4341. Motion picture prints, transfer of title

(a) Prints in custody of Library of Congress; exception

The Attorney General is authorized and directed to transfer to the Library of Congress the title to all prints of motion pictures now in the custody of the Library, which prints were vested in or transferred to the Alien Property Custodian or the Attorney General pursuant to this chapter after December 17, 1941, except prints of motion pictures which are the subject of suits or claims under section 4309(a) or section 4329 of this title.

(b) Prints in custody of Attorney General; exception; right of selection by Library of Congress; disposal of unselected prints by Attorney General

Subject to the right of selection by the Library of Congress, the authorization, direction, and exception contained in subsection (a) hereof shall apply with respect to such prints now in the custody of the Attorney General. Prints not selected by the Library of Congress may be disposed of by the Attorney General in any manner he deems appropriate.

(c) Retention, reproduction, and disposal of prints by Library of Congress

With respect to all prints concerning which title is transferred to the Library of Congress pursuant to subsections (a) and (b) hereof, the Library shall have complete discretion to retain such prints and to reproduce copies thereof, or to dispose of them in any manner it deems appropriate.

(Oct. 6, 1917, ch. 106, § 43, as added Pub. L. 87-861, § 2, Oct. 23, 1962, 76 Stat. 1140.)