

national applications designating the United States) filed on or after that date, see section 1000(a)(9) [title IV, § 4508] of Pub. L. 106-113, as amended, set out as a note under section 10 of this title.

**§ 375. Patent issued on international application: Effect**

(a) A patent may be issued by the Director based on an international application designating the United States, in accordance with the provisions of this title. Subject to section 102(e) of this title, such patent shall have the force and effect of a patent issued on a national application filed under the provisions of chapter 11 of this title.

(b) Where due to an incorrect translation the scope of a patent granted on an international application designating the United States, which was not originally filed in the English language, exceeds the scope of the international application in its original language, a court of competent jurisdiction may retroactively limit the scope of the patent, by declaring it unenforceable to the extent that it exceeds the scope of the international application in its original language.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 689; amended 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.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (a). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

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.

**§ 376. Fees**

(a) The required payment of the international fee and the handling fee, which amounts are specified in the Regulations, shall be paid in United States currency. The Patent and Trademark Office shall charge a national fee as provided in section 41(a), and may also charge the following fees:

(1) A transmittal fee (see section 361(d)).

(2) A search fee (see section 361(d)).

(3) A supplemental search fee (to be paid when required).

(4) A preliminary examination fee and any additional fees (see section 362(b)).

(5) Such other fees as established by the Director.

(b) The amounts of fees specified in subsection (a) of this section, except the international fee and the handling fee, shall be prescribed by the Director. He may refund any sum paid by mistake or in excess of the fees so specified, or if required under the treaty and the Regulations. The Director may also refund any part of the search fee, the national fee, the preliminary examination fee, and any additional fees, where he determines such refund to be warranted.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 690; amended Pub. L. 98-622, title IV, §§ 402(g), 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99-616, § 8, Nov. 6, 1986, 100 Stat. 3486; Pub. L. 102-204, § 5(g)(1), Dec. 10, 1991, 105 Stat. 1640; 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(a)(21), (b)(1)(B), Nov. 2, 2002, 116 Stat. 1905, 1906.)

AMENDMENTS

2002—Subsec. (a)(1) to (3). Pub. L. 107-273, § 13206(a)(21), substituted period for semicolon at end.

Subsecs. (a)(5), (b). Pub. L. 107-273, § 13206(b)(1)(B), made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsecs. (a)(5), (b). Pub. L. 106-113, as amended by Pub. L. 107-273, § 13206(b)(1)(B), substituted “Director” for “Commissioner” wherever appearing.

1991—Subsec. (a). Pub. L. 102-204, § 5(g)(1)(A), in introductory provisions inserted “shall charge a national fee as provided in section 41(a), and” after “Office”, redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4), which read as follows: “A national fee (see section 371(c));”.

Subsec. (b). Pub. L. 102-204, § 5(g)(1)(B), substituted “the national fee, the preliminary examination fee,” for “the preliminary examination fee”.

1986—Subsec. (a). Pub. L. 99-616, § 8(a), in introductory provisions, inserted “and the handling fee” and substituted “amounts are” for “amount is”, added par. (5), and redesignated former par. (5) as (6).

Subsec. (b). Pub. L. 99-616, § 8(b), inserted “and the handling fee” and “the preliminary examination fee and any additional fees,”.

1984—Subsec. (a). Pub. L. 98-622, § 403(a), substituted “Patent and Trademark Office” for “Patent Office” in provision preceding par. (1).

Subsec. (a)(5), (6). Pub. L. 98-622, § 402(g), redesignated par. (6) as (5). Former par. (5), which read “A special fee (to be paid when required; see section 372(c))”, was struck out.

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 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99-616, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 402(g) of Pub. L. 98-622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98-622, set out as a note under section 3 of this title.

Amendment by section 403(a) of Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

**[CHAPTER 38—TRANSFERRED]**

CODIFICATION

Chapter 38, as added by Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3018, was originally editorially inserted after chapter 17 of this title because the probable intent of Congress was to designate the chapter as “18”, in view of the numerical designation of the sections contained in the chapter as sections 200 to 211 and in view of the subject matter of the chapter in relation to the subject matter of Part II of this title. Pub. L. 97-256, title I, § 101(5), Sept. 8, 1982, 96 Stat. 816, redesignated