

(d) DUTIES.—Each Advisory Committee shall—
 (1) review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to Trademarks, in the case of the Trademark Public Advisory Committee, and advise the Director on these matters;

(2) within 60 days after the end of each fiscal year—

(A) prepare an annual report on the matters referred to in paragraph (1);

(B) transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

(C) publish the report in the Official Gazette of the United States Patent and Trademark Office.

(e) COMPENSATION.—Each member of each Advisory Committee shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of that Advisory Committee or otherwise engaged in the business of that Advisory Committee, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5. While away from such member's home or regular place of business such member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

(f) ACCESS TO INFORMATION.—Members of each Advisory Committee shall be provided access to records and information in the United States Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.

(g) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of each Advisory Committee shall be special Government employees within the meaning of section 202 of title 18.

(h) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to each Advisory Committee.

(i) OPEN MEETINGS.—The meetings of each Advisory Committee shall be open to the public, except that each Advisory Committee may by majority vote meet in executive session when considering personnel, privileged, or other confidential information.

(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees.

(Added Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4714], Nov. 29, 1999, 113 Stat. 1536, 1501A-578; amended Pub. L. 107-273, div. C, title III, §§13203(b), 13206(a)(3), Nov. 2, 2002, 116 Stat. 1902, 1904.)

REFERENCES IN TEXT

For the effective date of the Patent and Trademark Office Efficiency Act, referred to in subsec. (a)(3), as 4 months after Nov. 29, 1999, see section 1009(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as an Effective Date of 1999 Amendment note under section 1 of this title.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 5, act July 19, 1952, ch. 950, 66 Stat. 793, related to bond of Commissioner and other officers, prior to repeal by Pub. L. 92-310, title II, §208(a), June 6, 1972, 86 Stat. 203.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-273, §13206(a)(3), struck out “, United States Code” after “title 5” in two places.

Subsec. (g). Pub. L. 107-273, §13206(a)(3), struck out “, United States Code” after “title 18”.

Subsec. (i). Pub. L. 107-273, §13203(b)(1), inserted “, privileged,” after “personnel”.

Subsec. (j). Pub. L. 107-273, §13203(b)(2), added subsec. (j).

EFFECTIVE DATE

Section effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as an Effective Date of 1999 Amendment note under section 1 of this title.

§ 6. Board of Patent Appeals and Interferences

(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent and Trademark Office a Board of Patent Appeals and Interferences. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Secretary of Commerce, in consultation with the Director.

(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a). Each appeal and interference shall be heard by at least three members of the Board, who shall be designated by the Director. Only the Board of Patent Appeals and Interferences may grant rehearings.

(c) AUTHORITY OF THE SECRETARY.—The Secretary of Commerce may, in his or her discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge.

(d) DEFENSE TO CHALLENGE OF APPOINTMENT.—It shall be a defense to a challenge to the appointment of an administrative patent judge on the basis of the judge's having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer.

(Added Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4717(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A-580; amended Pub. L. 107-273, div. C, title III, §13203(a)(2), Nov. 2, 2002, 116 Stat. 1902; Pub. L. 110-313, §1(a)(1), Aug. 12, 2008, 122 Stat. 3014.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 110-313, which was approved Aug. 12, 2008.

PRIOR PROVISIONS

A prior section 6, acts July 19, 1952, ch. 950, 66 Stat. 793; Pub. L. 92-132, Oct. 5, 1971, 85 Stat. 364; Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 94-131, § 2, Nov. 14, 1975, 89 Stat. 690; Pub. L. 97-247, §§ 7, 13, Aug. 27, 1982, 96 Stat. 320, 321; Pub. L. 102-204, § 8, Dec. 10, 1991, 105 Stat. 1641, related to duties of Commissioner, prior to repeal by Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, §§ 4715(a), 4731], Nov. 29, 1999, 113 Stat. 1536, 1501A-580, 1501A-581, effective 4 months after Nov. 29, 1999.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-313, § 1(a)(1)(A), (B), substituted “Deputy Director” for “Deputy Commissioner” in second sentence and “Secretary of Commerce, in consultation with the Director” for “Director” in last sentence.

Subsecs. (c), (d). Pub. L. 110-313, § 1(a)(1)(C), which directed addition of subsecs. (c) and (d) at end of subsec. (a), was executed by adding subsecs. (c) and (d) at end of section to reflect the probable intent of Congress.

2002—Subsec. (a). Pub. L. 107-273, which directed amendment of subsec. (a) by inserting “the Deputy Commissioner,” after “Commissioner,” was executed by making the insertion after “The Director,” to reflect the probable intent of Congress.

EFFECTIVE DATE

Section effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as an Effective Date of 1999 Amendment note under section 1 of this title.

§ 7. Library

The Director shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Patent and Trademark Office to aid the officers in the discharge of their duties.

(July 19, 1952, ch. 950, 66 Stat. 793, § 8; Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949; renumbered § 7 and amended Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, §§ 4717(1), 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-580, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 10 (R.S. 486).

Some change in language has been made. “Purchased” is changed to “maintained” to include the existing library and keeping it up by additions. The phrase “and other” is added to include legal works. The last phrase of the corresponding section of the existing statute is omitted as unnecessary.

PRIOR PROVISIONS

A prior section 7, acts July 19, 1952, ch. 950, 66 Stat. 793; Pub. L. 85-933, § 2, Sept. 6, 1958, 72 Stat. 1793; Pub. L. 86-370, § 1(b), Sept. 23, 1959, 73 Stat. 650; Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 93-601, § 2, Jan. 2, 1975, 88 Stat. 1956; Pub. L. 98-622, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3386, established the Board of Patent Appeals and Interferences, prior to repeal by Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, §§ 4717(1), 4731], Nov. 29, 1999, 113 Stat. 1536, 1501A-580, 1501A-581, effective 4 months after Nov. 29, 1999.

AMENDMENTS

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113, § 1000(a)(9) [title IV, § 4732(a)(10)(A)]. See 1999 Amendment note below.

1999—Pub. L. 106-113, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

Pub. L. 106-113, § 1000(a)(9) [title IV, § 4717(1)], renumbered section 8 of this title as this section.

1975—Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office”.

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 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

§ 8. Classification of patents

The Director may revise and maintain the classification by subject matter of United States letters patent, and such other patents and printed publications as may be necessary or practicable, for the purpose of determining with readiness and accuracy the novelty of inventions for which applications for patent are filed. (July 19, 1952, ch. 950, 66 Stat. 794, § 9; renumbered § 8 and amended Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, §§ 4717(1), 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-580, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 6 note (June 10, 1898, ch. 430, § 1, 30 Stat. 440).

Changes in language are made.

PRIOR PROVISIONS

A prior section 8 was renumbered section 7 of this title.

AMENDMENTS

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113, § 1000(a)(9) [title IV, § 4732(a)(10)(A)]. See 1999 Amendment note below.

1999—Pub. L. 106-113, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

Pub. L. 106-113, § 1000(a)(9) [title IV, § 4717(1)], renumbered section 9 of this title as this section.

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.

§ 9. Certified copies of records

The Director may furnish certified copies of specifications and drawings of patents issued by the Patent and Trademark Office, and of other records available either to the public or to the person applying therefor.

(July 19, 1952, ch. 950, 66 Stat. 794, § 10; Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949; renumbered § 9 and amended Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, §§ 4717(1), 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-580, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 14 (Mar. 3, 1891, ch. 541, § 1 (part), 26 Stat. 908, 940).