(Added Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4102(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–552.)

REFERENCES IN TEXT

Section 170(b)(1)(A) of the Internal Revenue Code of 1986, referred to in subsec. (c)(3)(B), is classified to section 170(b)(1)(A) of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, subtitle A, § 4103], Nov. 29, 1999, 113 Stat. 1536, 1501A–554, provided that: ''This subtitle [enacting this section and provisions set out as a note under section 1 of this title] and the amendments made by this subtitle shall take effect 60 days after the date of the enactment of this Act [Nov. 29, 1999].''

CHAPTER 30—PRIOR ART CITATIONS TO OFFICE AND EX PARTE REEXAMINATION OF PATENTS

Sec.
301. Citation of prior art.
302. Request for reexamination.
303. Determination of issue by Director.
304. Reexamination order by Director.
305. Conduct of reexamination proceedings.
306. Appeal.
307. Certificate of patentability, unpatentability, and claim cancellation.

AMENDMENTS

2002—Pub. L. 107–273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906, made technical correction to directory language of Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582. See 1999 Amendment note below.

1999—Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582, as amended by Pub. L. 107–273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906, substituted ''Director'' for ''Commissioner'' in item 304.

Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, §§ 4602, 4732(a)(9)(B)], Nov. 29, 1999, 113 Stat. 1536, 1501A–567, 1501A–582, inserted ''EX PARTE'' before ''REEXAMINATION'' in chapter heading and substituted ''Director'' for ''Commissioner'' in item 303.

§ 301. Citation of prior art

Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

(Added Pub. L. 96–517, § 1, Dec. 12, 1980, 94 Stat. 3015.)

EFFECTIVE DATE

Chapter effective July 1, 1981, and applicable to patents in force as of July 1, 1981, or issued thereafter, see section 8(b) of Pub. L. 96–517, set out as an Effective Date of 1980 Amendment note under section 41 of this title.

§ 302. Request for reexamination

Any person at any time may file a request for reexamination by the Office of any claim of a patent on the basis of any prior art cited under the provisions of section 301 of this title. The request must be in writing and must be accompanied by payment of a reexamination fee established by the Director pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested. Unless the requesting person is the owner of the patent, the Director promptly will send a copy of the request to the owner of record of the patent.

(Added Pub. L. 96–517, § 1, Dec. 12, 1980, 94 Stat. 3015; amended Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(a)(8), (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—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 promptly'' for ''Commissioner promptly''.

Pub. L. 106–113, § 1000(a)(9) [title IV, § 4732(a)(8)], substituted ''Director pursuant'' for ''Commissioner of Patents pursuant''.

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.

§ 303. Determination of issue by Director

(a) Within three months following the filing of a request for reexamination under the provisions of section 302 of this title, the Director will determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On his own initiative, and any time, the Director may determine whether a substantial new question of patentability is raised by patents and publications discovered by him or cited under the provisions of section 301 of this title. The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.

(b) A record of the Director's determination under subsection (a) of this section will be placed in the official file of the patent, and a copy promptly will be given or mailed to the owner of record of the patent and to the person requesting reexamination, if any.

(c) A determination by the Director pursuant to subsection (a) of this section that no substantial new question of patentability has been raised will be final and nonappealable. Upon such a determination, the Director may refund a portion of the reexamination fee required under section 302 of this title.

(Added Pub. L. 96–517, § 1, Dec. 12, 1980, 94 Stat. 3015; amended Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(a)(9)(A), (10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582; Pub. L. 107–273, div. C, title