1975—Pub. L. 93–596 substituted ''Patent and Trademark Office'' for ''Patent Office'' in section catchline and text.

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.

## § 24. Subpoenas, witnesses

The clerk of any United States court for the district wherein testimony is to be taken for use in any contested case in the Patent and Trademark Office, shall, upon the application of any party thereto, issue a subpoena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and to the production of documents and things shall apply to contested cases in the Patent and Trademark Office.

Every witness subpoenaed and in attendance shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless his fees and traveling expenses in going to, and returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena.

(July 19, 1952, ch. 950, 66 Stat. 795; Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §§ 54, 55 and 56 (R.S. 4906, amended Feb. 18, 1922, ch. 58, § 7, 42 Stat. 389, 391–2; R.S. 4907; R.S. 4908).

Three sections of the existing statute are combined with some changes in language and placed in part 1 since they apply to trade-mark cases in the Patent Office as well as to patent cases. Reference to a repealed statute in the first paragraph is replaced by reference to the Federal Rules of Civil Procedure and certain rules are made applicable.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1975—Pub. L. 93–596 substituted ''Patent and Trademark Office'' for ''Patent Office'' in two places.

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.

## § 25. Declaration in lieu of oath

(a) The Director may by rule prescribe that any document to be filed in the Patent and Trademark Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Director may prescribe, such declaration to be in lieu of the oath otherwise required.

(b) Whenever such written declaration is used, the document must warn the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001).

(Added Pub. L. 88–292, § 1, Mar. 26, 1964, 78 Stat. 171; amended Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949; 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'' in two places.

1975—Subsec. (a). 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.

## § 26. Effect of defective execution

Any document to be filed in the Patent and Trademark Office and which is required by any law, rule, or other regulation to be executed in a specified manner may be provisionally accepted by the Director despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

(Added Pub. L. 88–292, § 1, Mar. 26, 1964, 78 Stat. 171; amended Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949; 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—Pub. L. 107–273 made technical correction to directory language of Pub. L. 106–113. See 1999 Amendment note below.

1999—Pub. L. 106–113, as amended by Pub. L. 107–273, substituted ''Director'' for ''Commissioner''.

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.

## CHAPTER 3—PRACTICE BEFORE PATENT AND TRADEMARK OFFICE

Sec.
[31. Repealed.]
32. Suspension or exclusion from practice.
33. Unauthorized representation as practitioner.

AMENDMENTS

1999—Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4715(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–580, struck out item 31 ''Regulations for agents and attorneys''.

1975—Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949, substituted ''PATENT AND TRADEMARK OFFICE'' for ''PATENT OFFICE'' in chapter heading.

### [§ 31. Repealed. Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4715(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–580]

Section, acts July 19, 1952, ch. 950, 66 Stat. 795; Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949, authorized the Commissioner to prescribe regulations for agents and attorneys.

EFFECTIVE DATE OF REPEAL

Repeal 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.

### § 32. Suspension or exclusion from practice

The Director may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Patent and Trademark Office, any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who does not comply with the regulations established under section 2(b)(2)(D) of this title, or who shall, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the Office. The reasons for any such suspension or exclusion shall be duly recorded. The Director shall have the discretion to designate any attorney who is an officer or employee of the United States Patent and Trademark Office to conduct the hearing required by this section. The United States District Court for the District of Columbia, under such conditions and upon such proceedings as it by its rules determines, may review the action of the Director upon the petition of the person so refused recognition or so suspended or excluded.

(July 19, 1952, ch. 950, 66 Stat. 795; Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, §§ 4715(c), 4719, 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A–580 to 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., § 11 (R.S. 487, amended Feb. 18, 1922, ch. 58, § 3, 42 Stat. 390).

See note under section 31.

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'' in first and last sentences.

Pub. L. 106–113, § 1000(a)(9) [title IV, § 4719], inserted before last sentence ''The Director shall have the discretion to designate any attorney who is an officer or employee of the United States Patent and Trademark Office to conduct the hearing required by this section.''

Pub. L. 106–113, § 1000(a)(9) [title IV, § 4715(c)], substituted ''2(b)(2)(D)'' for ''31''.

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.

### § 33. Unauthorized representation as practitioner

Whoever, not being recognized to practice before the Patent and Trademark Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent, shall be fined not more than $1,000 for each offense.

(July 19, 1952, ch. 950, 66 Stat. 796; Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 11a (May 9, 1938, ch. 188, 52 Stat. 342).

This is a criminal statute. The language has been considerably simplified and the upper limit of the penalty is increased.

AMENDMENTS

1975—Pub. L. 93–596 substituted ''Patent and Trademark Office'' for ''Patent Office''.

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 under section 1111 of Title 15, Commerce and Trade.

## CHAPTER 4—PATENT FEES; FUNDING; SEARCH SYSTEMS

Sec.
41. Patent fees; patent and trademark search systems.
42. Patent and Trademark Office funding.

AMENDMENTS

1991—Pub. L. 102–204, § 5(d)(2)(B), (C), Dec. 10, 1991, 105 Stat. 1640, inserted ''; FUNDING; SEARCH SYSTEMS'' after ''FEES'' in chapter heading, inserted ''; patent and trademark search systems'' after ''fees'' in item 41, and substituted ''Patent and Trademark Office funding'' for ''Payment of patent fees; return of excess amounts'' in item 42.

### § 41. Patent fees; patent and trademark search systems

(a) The Director shall charge the following fees: