B, § 1000(a)(9) [title IV, § 4732(a)(10)(A), (11)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582, 1501A–583; Pub. L. 107–273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

AMENDMENTS

2002—Subsecs. (a), (c). 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—Subsecs. (a), (c). Pub. L. 106–113, § 1000(a)(9) [title IV, § 4732(a)(10)(A), as amended by Pub. L. 107–273, substituted ''Director'' for ''Commissioner'' wherever appearing.

Subsec. (d). Pub. L. 106–113, § 1000(a)(9) [title IV, § 4732(a)(11)], substituted ''Director'' for ''Secretary of Commerce''.

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

Section 102(c) of Pub. L. 98–622 provided that: ''The amendments made by this section [enacting this section and item 157 in the table of sections of this chapter] shall take effect six months after the date of enactment of this Act [Nov. 8, 1984].''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d) of this section relating to annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 51 of House Document No. 103–7.

CHAPTER 15—PLANT PATENTS

Sec.
161. Patents for plants.
162. Description, claim.
163. Grant.
164. Assistance of Department of Agriculture.

§ 161. Patents for plants

Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.

(June 19, 1952, ch. 950, 66 Stat. 804; Sept. 3, 1954, ch. 1259, 68 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 31, part (R.S. 4886, amended (1) Mar. 3, 1897, ch. 391, § 1, 29 Stat. 692, (2) May 23, 1930, ch. 312, § 1, 46 Stat. 376, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

The provision relating to plants in the corresponding section of existing statute is made a separate section.

AMENDMENTS

1954—Act Sept. 3, 1954, provided that plant seedlings, discovered, propagated asexually, and proved to have new characteristics distinct from other known plants are patentable.

§ 162. Description, claim

No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible.

The claim in the specification shall be in formal terms to the plant shown and described.

(July 19, 1952, ch. 950, 66 Stat. 804.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 33, part (R.S. 4888, amended (1) Mar. 3, 1915, ch. 94, § 1, 38 Stat. 958, (2) May 23, 1930, ch. 312, § 2, 46 Stat. 376).

The first paragraph is the provision in R.S. 4888 (see section 112). The second paragraph is not in the statute but represents the actual practice.

§ 163. Grant

In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.

(July 19, 1952, ch. 950, 66 Stat. 804; Pub. L. 105–289, § 3(a), Oct. 27, 1998, 112 Stat. 2781.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 40, part (R.S. 4884, amended May 23, 1930, ch. 312, § 1, 46 Stat. 376).

This provision is from R.S. 4884 (see section 154) amended in language.

AMENDMENTS

1998—Pub. L. 105–289 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''In the case of a plant patent the grant shall be of the right to exclude others from asexually reproducing the plant or selling or using the plant so reproduced.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–289, § 3(b), Oct. 27, 1998, 112 Stat. 2781, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any plant patent issued on or after the date of the enactment of this Act [Oct. 27, 1998].''

FINDINGS AND PURPOSES

Pub. L. 105–289, § 2, Oct. 27, 1998, 112 Stat. 2780, provided that:

''(a) FINDINGS.—The Congress makes the following findings:

''(1) The protection provided by plant patents under title 35, United States Code, dating back to 1930, has historically benefited American agriculture and horticulture and the public by providing an incentive for breeders to develop new plant varieties.

''(2) Domestic and foreign agricultural trade is rapidly expanding and is very different from the trade of the past. An unforeseen ambiguity in the provisions of title 35, United States Code, is undermining the orderly collection of royalties due breeders holding United States plant patents.

''(3) Plant parts produced from plants protected by United States plant patents are being taken from illegally reproduced plants and traded in United States markets to the detriment of plant patent holders.

''(4) Resulting lost royalty income inhibits investment in domestic research and breeding activities associated with a wide variety of crops—an area where the United States has historically enjoyed a strong