Subsec. (c). Pub. L. 107–273, §13206(a)(19)(B), substituted ''rendered by a court of'' for ''rendered by a court to''.

Subsecs. (d), (e). 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. (d), (e). Pub. L. 106–113, as amended by Pub. L. 107–273, §13206(b)(1)(B), substituted ''Director'' for ''Commissioner'' wherever appearing.

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 17(c) of Pub. L. 97–247 provided that: ''Sections 5, 6, 8 through 12, and 17(b) of this Act [enacting this section and amending sections 21, 111, 116, and 256 of this title and sections 1058, 1063, 1064, 1065, and 1066 of Title 15, Commerce and Trade] shall take effect six months after enactment [Aug. 27, 1982].''

§295. Presumption: Product made by patented process

In actions alleging infringement of a process patent based on the importation, sale, offer for sale, or use of a product which is made from a process patented in the United States, if the court finds—

(1) that a substantial likelihood exists that the product was made by the patented process, and

(2) that the plaintiff has made a reasonable effort to determine the process actually used in the production of the product and was unable to so determine,

the product shall be presumed to have been so made, and the burden of establishing that the product was not made by the process shall be on the party asserting that it was not so made.

(Added Pub. L. 100–418, title IX, §9005(a), Aug. 23, 1988, 102 Stat. 1566; amended Pub. L. 103–465, title V, §533(b)(7), Dec. 8, 1994, 108 Stat. 4990.)

AMENDMENTS

1994—Pub. L. 103–465 substituted ''sale, offer for sale, or use'' for ''sale, or use'' in introductory provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on date that is one year after date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], with provisions relating to earliest filed patent application, see section 534(a), (b)(3) of Pub. L. 103–465, set out as a note under section 154 of this title.

EFFECTIVE DATE

Section effective 6 months after Aug. 23, 1988, and, subject to enumerated exceptions, applicable only with respect to products made or imported after such effective date, see section 9006 of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 271 of this title.

§296. Liability of States, instrumentalities of States, and State officials for infringement of patents

(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of a patent under section 271, or for any other violation under this title.

(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 284, attorney fees under section 285, and the additional remedy for infringement of design patents under section 289.

(Added Pub. L. 102–560, §2(a)(2), Oct. 28, 1992, 106 Stat. 4230.)

EFFECTIVE DATE

Section effective with respect to violations that occur on or after Oct. 28, 1992, see section 4 of Pub. L. 102–560, set out as an Effective Date of 1992 Amendment note under section 2541 of Title 7, Agriculture.

§297. Improper and deceptive invention promotion

(a) IN GENERAL.—An invention promoter shall have a duty to disclose the following information to a customer in writing, prior to entering into a contract for invention promotion services:

(1) the total number of inventions evaluated by the invention promoter for commercial potential in the past 5 years, as well as the number of those inventions that received positive evaluations, and the number of those inventions that received negative evaluations;

(2) the total number of customers who have contracted with the invention promoter in the past 5 years, not including customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention promoter, or who have defaulted in their payment to the invention promoter;

(3) the total number of customers known by the invention promoter to have received a net financial profit as a direct result of the invention promotion services provided by such invention promoter;

(4) the total number of customers known by the invention promoter to have received license agreements for their inventions as a direct result of the invention promotion services provided by such invention promoter; and

(5) the names and addresses of all previous invention promotion companies with which the invention promoter or its officers have collectively or individually been affiliated in the previous 10 years.

(b) CIVIL ACTION.—(1) Any customer who enters into a contract with an invention promoter and who is found by a court to have been injured by any material false or fraudulent statement or representation, or any omission of material fact, by that invention promoter (or any agent, employee, director, officer, partner, or independent