EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–247 effective Aug. 27, 1982, see section 17(a) of Pub. L. 97–247, set out as a note under section 41 of this title.

§ 13. Annual report to Congress

The Director shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, the nature of training provided to examiners, the evaluation of the Commissioner of Patents and the Commissioner of Trademarks by the Secretary of Commerce, the compensation of the Commissioners, and other information relating to the Office.

(July 19, 1952, ch. 950, 66 Stat. 794, § 14; renumbered § 13 and amended Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, §§ 4717(1), 4718], Nov. 29, 1999, 113 Stat. 1536, 1501A–580, 1501A–581.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 20 (R.S. 494).

Language is changed. The lists referred to in the corresponding section of existing statute, and which are omitted from the revised section, are the indexes provided for in section 11(a)4. The month of reporting is omitted. The report contemplated by R.S. 494 has been discontinued since 1925 under authority of 44 U.S.C., 1946 ed., § 212.

PRIOR PROVISIONS

A prior section 13 was renumbered section 12 of this title.

AMENDMENTS

1999—Pub. L. 106–113 renumbered section 14 of this title as this section and amended section catchline and text generally. Prior to amendment, text read as follows: ''The Commissioner shall report to Congress annually the moneys received and expended, statistics concerning the work of the Office, and other information relating to the Office as may be useful to the Congress or the public.''

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.

REPORT TO CONGRESS

Pub. L. 100–703, title I, § 103(c), Nov. 19, 1988, 102 Stat. 4674, provided that: ''The Secretary of Commerce shall, on the day on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

''(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

''(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

''(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

''(4) any proposed disposition of surplus fees by the Office; and

''(5) such other information as the committees consider necessary.''

Similar provisions were contained in the following prior authorization act:

Pub. L. 99–607, § 3(c), Nov. 6, 1986, 100 Stat. 3471.

COMPUTERIZED DATA AND RETRIEVAL SYSTEM; REPORT TO CONGRESS

Pub. L. 96–517, § 9, Dec. 12, 1980, 94 Stat. 3028, directed the Commissioner of Patents and Trademarks to report to Congress, within two years after Dec. 12, 1980, a plan to identify, and if necessary develop or have developed, computerized data and retrieval systems equivalent to the latest state of the art which could be applied to all aspects of the operation of the Patent and Trademark Office, and particularly to the patent search file, the patent classification system, and the trademark search file. The report was to specify the cost of implementing the plan, and how rapidly the plan could be implemented by the Patent and Trademark Office, without regard to the availability of future funding.

[§ 14. Renumbered § 13]

CHAPTER 2—PROCEEDINGS IN THE PATENT AND TRADEMARK OFFICE

Sec.
21. Filing date and day for taking action.
22. Printing of papers filed.
23. Testimony in Patent and Trademark Office cases.
24. Subpoenas, witnesses.
25. Declaration in lieu of oath.
26. Effect of defective execution.

AMENDMENTS

2002—Pub. L. 107–273, div. C, title III, § 13206(a)(5), Nov. 2, 2002, 116 Stat. 1904, substituted ''Filing date and day for taking action'' for ''Day for taking action falling on Saturday, Sunday, or holiday'' in item 21.

1975—Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949, substituted ''Patent and Trademark Office'' for ''Patent Office'' in chapter heading and in item 23.

1964—Pub. L. 88–292, § 2, Mar. 26, 1964, 78 Stat. 171, added items 25 and 26.

§ 21. Filing date and day for taking action

(a) The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

(b) When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding secular or business day.

(July 19, 1952, ch. 950, 66 Stat. 794; Pub. L. 93–596, § 1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 97–247, § 12, Aug. 27, 1982, 96 Stat. 321; 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.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 21 (Mar. 2, 1927, ch. 273, § 14, 44 Stat. 1337).

''Fixed by statute'' is omitted from the corresponding section of the existing statute as unnecessary. Saturday is added as a day on which action need not be taken.

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.

1982—Pub. L. 97–247 substituted ''Filing date and day for taking action'' for ''Day for taking action falling on Saturday, Sunday, or holiday'' as section catchline, added subsec. (a), redesignated existing provisions as subsec. (b) and inserted ''Federal'' after ''Sunday, or a''.

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 1982 AMENDMENT

Amendment by Pub. L. 97–247 effective six months after Aug. 27, 1982, see section 17(c) of Pub. L. 97–247, set out as an Effective Date note under section 294 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.

EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING PATENT CASES

Relief as to filing date of patent application or patent and excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see note set out under section 111 of this title.

§ 22. Printing of papers filed

The Director may require papers filed in the Patent and Trademark Office to be printed, typewritten, or on an electronic medium.

(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, §§ 4732(a)(10)(A), 4804(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582, 1501A–589; 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., § 12 (R.S. 488).

Language is changed and ''or typewritten'' is added after ''printed''.

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, § 4804(a)], substituted ''printed, typewritten, or on an electronic medium'' for ''printed or typewritten''.

Pub. L. 106–113, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], 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 section 1000(a)(9) [title IV, § 4732(a)(10)(A)] of 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.

§ 23. Testimony in Patent and Trademark Office cases

The Director may establish rules for taking affidavits and depositions required in cases in the Patent and Trademark Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where he resides, may take such affidavits and depositions.

(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, § 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.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 53 (R.S. 4905).

This section is placed in part 1 since it relates to trade-mark cases in the Patent Office as well as to patent cases.

Language is changed.

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'' 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