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35 U.S.C. 1 Establishment.

The Patent and Trademark Office shall continue as an office in the Department of Commerce, where records, books, drawings, specifications, and other papers and things pertaining to patents and to trademark registrations shall be kept and preserved, except as otherwise provided by law.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 2 Seal.

The Patent and Trademark Office shall have a seal with which letters patent, certificates of trademark registrations, and papers issued from the Office shall be authenticated.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 3 Officers and employees.

(a) There shall be in the Patent and Trademark Office a Commissioner of Patents and Trademarks, a Deputy Commissioner, two Assistant Commissioners, and examiners-in-chief appointed under section 7 of this title. The Deputy Commissioner, or, in the event of a vacancy in that office, the Assistant Commissioner senior in date of appointment, shall fill the office of Commissioner during a vacancy in that office until the Commissioner is appointed and takes office. The Commissioner of Patents and Trademarks, the Deputy Commissioner, and the Assistant Commissioners shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary of Commerce, upon the nomination of the Commissioner, in accordance with law shall appoint all other officers and employees.

(b) The Secretary of Commerce may vest in himself the functions of the Patent and Trademark Office and its officers and employees specified in this title and may from time to time authorize their performance by any other officer or employee.

(c) The Secretary of Commerce is authorized to fix the per annum rate of basic compensation of each examiner-in-chief in the Patent and Trademark Office at not in excess of the maximum scheduled rate provided for positions in grade 17 of the General Schedule of the Classification Act of 1949, as amended.

(d) The Commissioner of Patents and Trademarks shall be an Assistant Secretary of Commerce and shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce.

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(e) The members of the Trademark Trial and Appeal Board of the Patent and Trademark Office shall each be paid at a rate not to exceed the maximum rate of basic pay payable for GS-16 of the General Schedule under section 5332 of title 5.

(Subsection (c) amended Sept. 6, 1958, Public Law 85-933, sec. 1, 72 Stat. 1793; Sept. 23, 1959, Public Law 85-370, sec. 1(a), 73 Stat. 650; Aug. 14, 1964, Public Law 88-426, sec. 305(26), 78 Stat. 425; Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949; Jan. 2, 1975, Public Law 93-601, sec. 1, 88 Stat. 1956; Aug. 27, 1982, Public Law 97-247, sec. 4, 96 Stat. 319.)

(Subsection (d) added Oct. 25, 1982, Public Law 97-366, 96 Stat. 1760.)

(Subsection (e) added Nov. 8, 1984, Public Law 98-622, sec. 405, 98 Stat. 3392.)

35 U.S.C. 4 Restrictions on officers and employees as to interest in patents.

Officers and employees of the Patent and Trademark Office shall be incapable, during the period of their appointments and for one year thereafter, of applying for a patent and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Office. In patents applied for thereafter they shall not be entitled to any priority date earlier than one year after the termination of their appointment.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 5 [Repealed]

(June 6, 1972, Public Law 92-310, Title II, sec. 208(a), 86 Stat. 203.)

35 U.S.C. 6 Duties of Commissioner.

(a) The Commissioner, under the direction of the Secretary of Commerce, shall superintend or perform all duties required by law respecting the granting and issuing of patents and the registration of trademarks; shall have the authority to carry on studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law or the administration of the Patent and Trademark Office, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry; and shall have charge of property belonging to the Patent and Trademark Office. He may, subject to the approval of the Secretary of Commerce, establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent and Trademark Office.

(b) The Commissioner, under the direction of the Secretary of Commerce, may, in coordination with the Department of State, carry on programs and studies cooperatively with foreign patent offices and international intergovernmental organizations, or may authorize such programs and studies to be carried on, in connection with the performance of duties stated in subsection (a) of this section.

(c) The Commissioner, under the direction of the Secretary of Commerce, may, with the concurrence of the Secretary of State, transfer funds appropriated to the Patent and Trademark Office, not to exceed \$100,000 in any year, to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and related matters. These special payments may be in addition to any other payments or contributions to the international organization and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the Government of the United States.

(Subsection (c) amended Oct. 5, 1971, Public Law 92-132, 85 Stat. 364; Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949; Aug. 27, 1982, Public Law 97-247, sec. 13, 96 Stat. 321.)

(Subsection (d) repealed Aug. 27, 1982, Public Law 97-247, sec. 7, 96 Stat. 320.)

(Subsection (a) amended Dec. 10, 1991, Public Law 102-204, sec. 8, 105 Stat. 1641.)

35 U.S.C. 7 Board of Patent Appeals and Interferences.

(a) The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, who shall be appointed to the competitive service. The Commissioner, the Deputy Commissioner, the

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Assistant Commissioners, and the examiners-in-chief shall constitute the Board of Patent Appeals and Interferences.

(b) The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title. Each appeal and interference shall be heard by at least three members of the Board of Patent Appeals and Interferences, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences has the authority to grant rehearings.

(c) Whenever the Commissioner considers it necessary, in order to keep current the work of the Board of Patent Appeals and Interferences, the Commissioner may designate any patent examiner of the primary examiner grade or higher, having the requisite ability, to serve as examiner-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Patent Appeals and Interferences. Not more than one of the members of the Board of Patent Appeals and Interferences hearing an appeal or determining an interference may be an examiner so designated. The Secretary of Commerce is authorized to fix the pay of each designated examiner-in-chief in the Patent and Trademark Office at not to exceed the maximum rate of basic pay payable for grade GS-16 of the General Schedule under section 5332 of title 5. The rate of basic pay of each individual designated examiner-in-chief shall be adjusted, at the close of the period for which that individual was designated to act examiner-in-chief, to the rate of basic pay that individual would have been receiving at the close of such period if such designation had not been made.

(Amended Nov. 8, 1984, Public Law 98-622, sec. 201(a), 98 Stat. 3386.)

35 U.S.C. 8 Library.

The Commissioner shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Patent and Trademark Office to aid the officers in the discharge of their duties.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 9 Classification of patents.

The Commissioner may revise and maintain the classification by subject matter of United States letters patent, and such other patents and printed publications as may be necessary or practicable, for the purpose of determining with readiness and accuracy the novelty of inventions for which applications for patent are filed.

35 U.S.C. 10 Certified copies of records.

The Commissioner may furnish certified copies of specifications and drawings of patents issued by the Patent and Trademark Office, and of other records available either to the public or to the person applying therefor.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 11 Publications.

(a) The Commissioner may print, or cause to be printed, the following:

1. Patents, including specifications and drawings, together with copies of the same. The Patent and Trademark Office may print the headings of the drawings for patents for the purpose of photolithography.
2. Certificates of trademark registrations, including statements and drawings, together with copies of the same.
3. The Official Gazette of the United States Patent and Trademark Office.
4. Annual indexes of patents and patentees, and of trademarks and registrants.
5. Annual volumes of decisions in patent and trade-mark cases.

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6. Pamphlet copies of the patent laws and rules of practice, laws and rules relating to trademarks, and circulars or other publications relating to the business of the Office.

(b) The Commissioner may exchange any of the publications specified in items 3, 4, 5, and 6 of subsection (a) of this section for publications desirable for the use of the Patent and Trademark Office.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 12 Exchange of copies of patents with foreign countries.

The Commissioner may exchange copies of specifications and drawings of United States patents for those of foreign countries.

35 U.S.C. 13 Copies of patents for public libraries.

The Commissioner may supply printed copies of specifications and drawings of patents to public libraries in the United States which shall maintain such copies for the use of the public, at the rate for each year's issue established for this purpose in section 41(d) of this title.

(Amended Aug. 27, 1982, Public Law 97-247, sec. 15, 96 Stat. 321.)

35 U.S.C. 14 Annual report to Congress.

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.

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CHAPTER 2-PROCEEDINGS IN THE PATENTS AND TRADEMARK OFFICE

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35 U.S.C. 21 Filing date and day for taking action.

(a) The Commissioner 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 Commissioner.

(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 fee paid, on the next succeeding secular or business day.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949; Aug. 27, 1982, Public Law 97-247, sec. 12, 96 Stat. 321.)

35 U.S.C. 22 Printing of papers filed.

The Commissioner may require papers filed in the Patent and Trademark Office to be printed or typewritten.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 23 Testimony in Patent and Trademark Office cases

The Commissioner 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.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 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.

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(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 25 Declaration in lieu of oath.

(a) The Commissioner 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 Commissioner 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 Mar. 26, 1964, Public Law 88-292, sec. 1, 78 Stat. 171; amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

35 U.S.C. 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 Commissioner despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

(Added Mar. 26, 1964, Public Law 88-292, sec. 1, 78 Stat. 171; amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)