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agreement or understanding. If any party filing the same so requests, the copy shall be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person on a showing of good cause. Failure to file the copy of such agreement or understanding shall render permanently unenforceable such agreement or understanding and any patent of such parties involved in the interference or any patent subsequently issued on any application of such parties so involved. The Commissioner may, however, on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six-month period subsequent to the termination of the interference as between the parties to the agreement or understanding.

The Commissioner shall give notice to the parties or their attorneys of record, a reasonable time prior to said termination, of the filing requirement of this section. If the Commissioner gives such notice at a later time, irrespective of the right to file such agreement or understanding within the six-month period on a showing of good cause, the parties may file such agreement or understanding within sixty days of the receipt of such notice.

Any discretionary action of the Commissioner under this subsection shall be reviewable under section 10 of the Administrative Procedure Act.

(d) Parties to a patent interference, within such time as may be specified by the Commissioner by regulation, may determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9 to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Commissioner, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Commissioner from determining patentability of the invention involved in the interference.

(Subsection (a) amended Nov. 8, 1984, Public Law 98-622, sec. 202, 98 Stat. 3386.)

(Subsection (c) amended Oct. 15, 1962, Public Law 87-831, 76 Stat. 958; Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)

(Subsection (d) added Nov. 8, 1984, Public Law 98-622, sec. 105, 98 Stat. 3385.)

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CHAPTER 13—REVIEW OF PATENT AND TRADEMARK OFFICE DECISION

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141	Appeal to Court of Appeals for the Federal Circuit.
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35 U.S.C. 141 **Appeal to the Court of Appeals for the Federal Circuit.**

An applicant dissatisfied with the decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title may appeal the decision to the United States Court of Appeals for the Federal Circuit. By filing such an appeal the applicant waives his or her right to proceed under section 145 of this title. A party to an interference dissatisfied with the decision of the Board of Patent Appeals and Interferences on the interference may appeal the decision to the United States Court of Appeals for the Federal Circuit, but such appeal shall be dismissed if any adverse party to such interference, within twenty days after the appellant has filed notice of appeal in accordance with section 142 of this title, files notice with the Commissioner that the party elects to have all further proceedings conducted as provided in section 146 of this title. If the appellant does not, within thirty days after filing of such notice by the adverse party, file a civil action under section 146, the decision appealed from shall govern the further proceedings in the case.

(Amended Nov. 8, 1984, Public Law 98-622, sec. 203(a), 98 Stat. 3387.)

35 U.S.C. 142 **Notice of appeal.**

When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

(Amended Nov. 8, 1984, Public Law 98-620, sec. 414(a), 98 Stat. 3363.)

35 U.S.C. 143 **Proceedings on appeal.**

With respect to an appeal described in section 142 of this title, the Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during the pendency of the appeal. In an ex parte case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

(Amended Nov. 8, 1984, Public Law 98-620, sec. 414(a), 98 Stat. 3363.)

35 U.S.C. 144 **Decision on appeal.**

The United States Court of Appeals for the Federal Circuit shall review the decision from which an appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue its mandate and opinion, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.

(Amended Nov. 8, 1984, Public Law 98-620, sec. 414(a), 98 Stat. 3363.)

35 U.S.C. 145 **Civil action to obtain patent.**

An applicant dissatisfied with the decision of the Board of Patent Appeals and Interferences in an appeal under section 134 of this title may, unless appeal has been taken to the United States

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Court of Appeals for the Federal Circuit, have remedy by civil action against the Commissioner in the United States District Court for the District of Columbia if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints. The court may adjudge that such applicant is entitled to receive a patent for his invention, as specified in any of his claims involved in the his invention, as specified in any of his claims involved in the decision of the Board of Patent Appeals and Interferences, as the facts in the case may appear, and such adjudication shall authorize the Commissioner to issue such patent on compliance with the requirements of law. All the expenses of the proceedings shall be paid by the applicant.

(Amended Nov. 8, 1984, Public Law 98-620, sec. 203(b), 98 Stat. 3387.)

35 U.S.C. 146 Civil action in case of interference.

Any party to an interference dissatisfied with the decision of the Board of Patent Appeals and Interferences may have remedy by civil action, if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints or as provided in section 141 of this title, unless he has appealed to the United States Court of Appeals for the Federal Circuit, and such appeal is pending or has been decided. In such suits the record in the Patent and Trademark Office shall be admitted on motion of either party upon the terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Patent and Trademark Office when admitted shall have the same effect as if originally taken and produced in the suit.

Such suit may be instituted against the party in interest as shown by the records of the Patent and Trademark Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same state, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Commissioner shall not be a necessary party but he shall be notified of the filing of the suit by the clerk of the court in which it is filed and shall have the right to intervene. Judgment of the court in favor of the right of an applicant to a patent shall authorize the Commissioner to issue such patent on the filing in the Patent and Trademark Office of a certified copy of the judgment and on compliance with the requirements of law.

(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949; Apr. 2, 1982, Public Law 97-164, sec. 163, 96 Stat. 49; Nov. 8, 1984, Public Law 98-622, sec. 203(c), 98 Stat. 3387.)

*Patent Laws and Regulations***CHAPTER 14—ISSUE OF PATENT**

Sec.	
151	Issue of patent.
152	Issue of patent to assignee.
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154	Contents and term of patent.
155	Patent term extension.
155	A patent term restoration.
156	Extension of patent term.
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35 U.S.C. 151 Issue of patent.

If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Commissioner as though no abandonment or lapse had ever occurred.

(Amended July 24, 1965, Public Law 89-83, secs. 4 and 6, 79 Stat. 260; Jan. 2, 1975, Public Law 93-601, sec. 3, 88 Stat. 1956.)

35 U.S.C. 152 Issue of patent to assignee.

Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.

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

35 U.S.C. 153 How issued.

Patents shall be issued in the name of the United States of America, under the seal of the Patent and Trademark Office, and shall be signed by the Commissioner or have his signature placed thereon and attested by an officer of the Patent and Trademark Office designated by the Commissioner, and shall be recorded in the Patent and Trademark Office.

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

35 U.S.C. 154 Contents and term of patent.**(a) IN GENERAL.—**

- (1) **CONTENTS.**—Every patent shall contain a short title of the invention and a grant to the patentee, his heirs or assigns, of the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States, and, if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States, or importing into the United States, products made by that process, referring to the specification for the particulars thereof.
- (2) **TERM.**—Subject to the payment of fees under this title, such grant shall be for a

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term beginning on the date on which the patent issues and ending 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, from the date on which the earliest such application was filed.

- (3) **PRIORITY.**—Priority under section 119, 365(a), or 365(b) of this title shall not be taken into account in determining the term of a patent.
 - (4) **SPECIFICATION AND DRAWING.**—A copy of the specification and drawing shall be annexed to the patent and be a part of such patent.
- (b) **TERM EXTENSION.**—
- (1) **INTERFERENCE DELAY OR SECRECY ORDERS.**—If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.
 - (2) **EXTENSION FOR APPELLATE REVIEW.**—If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.
 - (3) **LIMITATIONS.**—The period of extension referred to in paragraph (2)—
 - (A) shall include any period beginning on the date on which an appeal is filed under section 134 or 141 of this title, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant;
 - (B) shall be reduced by any time attributable to appellate review before the expiration of 3 years from the filing date of the application for patent; and
 - (C) shall be reduced for the period of time during which the applicant for patent did not act with due diligence, as determined by the Commissioner.
 - (4) **LENGTH OF EXTENSION.**—The total duration of all extensions of a patent under this subsection shall not exceed 5 years.
- (c) **CONTINUATION.**—
- (1) **DETERMINATION.**—The term of a patent that is in force on or that results from an application filed before the date that is 6 months after the date of the enactment of the Uruguay Round Agreements Act shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant subject to any terminal disclaimers.
 - (2) **REMEDIES.**—The remedies of sections 283, 284, and 285 of this title shall not apply to Acts which —
 - (A) were commenced or for which substantial investment was made before the date that is 6 months after the date of the enactment of the Uruguay Round Agreements Act; and
 - (B) became infringing by reason of paragraph (1).
 - (3) **REMUNERATION.**—The acts referred to in paragraph (2) may be continued only upon the payment of an equitable remuneration to the patentee that is determined in an action brought under chapter 28 and chapter 29 (other than those provisions excluded by paragraph (2)) of this title.