

-CITE-

35 USC Sec. 143

02/01/2010

-EXPCITE-

TITLE 35 - PATENTS

PART II - PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

CHAPTER 13 - REVIEW OF PATENT AND TRADEMARK OFFICE DECISIONS

-HEAD-

Sec. 143. Proceedings on appeal

-STATUTE-

With respect to an appeal described in section 142 of this title, the Director 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 Director forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case or any reexamination case, the Director 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 Director and the parties in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Director and the parties in the appeal.(!1)

-SOURCE-

(July 19, 1952, ch. 950, 66 Stat. 802; Pub. L. 93-596, Sec. 1, Jan.

2, 1975, 88 Stat. 1949; Pub. L. 97-164, title I, Sec. 163(a)(7),
Apr. 2, 1982, 96 Stat. 49; Pub. L. 98-620, title IV, Sec. 414(a),
Nov. 8, 1984, 98 Stat. 3363; Pub. L. 106-113, div. B, Sec.
1000(a)(9) [title IV, Secs. 4605(d), 4732(a)(10)(A)], Nov. 29,
1999, 113 Stat. 1536, 1501A-571, 1501A-582; Pub. L. 107-273, div.
C, title III, Secs. 13202(b)(2), 13206(b)(1)(B), Nov. 2, 2002, 116
Stat. 1901, 1906.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., Sec. 61 (R.S. 4913, amended
Mar. 2, 1927, ch. 273, Sec. 10, 44 Stat. 1336).

Language is changed. The requirement that the Commissioner notify
the parties is omitted and a requirement that the court notify the
parties is added. The statement relating to filing the papers and
testimony is made more explicit.

AMENDMENTS

2002 - Pub. L. 107-273, Sec. 13206(b)(1)(B), made technical
correction to directory language of Pub. L. 106-113, Sec.
1000(a)(9) [title IV, Sec. 4732(a)(10)(A)]. See 1999 Amendment note
below.

Pub. L. 107-273, Sec. 13202(b)(2), amended third sentence
generally and added fourth sentence identical to existing fourth
(now fifth) sentence. Prior to amendment, third sentence read as
follows: "In any reexamination case, the Director 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."

1999 - Pub. L. 106-113, Sec. 1000(a)(9) [title IV, Sec. 4732(a)(10)(A)], as amended by Pub. L. 107-273, Sec. 13206(b)(1)(B), substituted "Director" for "Commissioner" the first, second, and fourth places appearing.

Pub. L. 106-113, Sec. 1000(a)(9) [title IV, Sec. 4605(d)], amended third sentence generally. Prior to amendment, third sentence read as follows: "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."

1984 - Pub. L. 98-620 substituted provisions requiring the Commissioner to transmit to the court a certified list of the documents comprising the record in the Patent and Trademark Office, with respect to an appeal described in section 142 of this title, for provision which required the Commissioner to transmit to the court certified copies of all the necessary original papers and evidence in the case specified by the appellant and the appellee, and inserted provision that the court may request that the Commissioner forward the original or certified copies of such documents during the pendency of the appeal.

1982 - Pub. L. 97-164 substituted "Court of Appeals for the Federal Circuit" for "Court of Customs and Patent Appeals".

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, Sec. 4605(d)] of Pub. L. 106-113 effective Nov. 29, 1999, and applicable to any patent issuing from an original application filed in the United States on or after that date, see section 1000(a)(9) [title IV, Sec. 4608(a)] of Pub. L. 106-113, set out as a note under section 41 of this title.

Amendment by section 1000(a)(9) [title IV, Sec. 4732(a)(10)(A)] of Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, Sec. 4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 applicable to proceedings pending in the Patent and Trademark Office on Nov. 8, 1984, and to appeals pending in the United States Court of Appeals for the Federal Circuit on such date, see section 414(c) of Pub. L. 98-620, set out as a note under section 142 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

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.

-FOOTNOTE-

(!1) So in original. Fourth and fifth sentences are identical.