§ 4303. Limitation on recovery

(a) Amount recoverable

Notwithstanding section 15 of this title and in lieu of the relief specified in such section, any person who is entitled to recovery on a claim under such section shall recover the actual damages sustained by such person, interest calculated at the rate specified in section 1961 of title 28 on such actual damages as specified in subsection (d) of this section, and the cost of suit attributable to such claim, including a reasonable attorney’s fee pursuant to section 4304 of this title if such claim—

1. results from conduct that is within the scope of a notification that has been filed under section 4305 (a) of this title for a joint venture, or for a standards development activity engaged in by a standards development organization against which such claim is made, and

2. is filed after such notification becomes effective pursuant to section 4305 (c) of this title.

(b) Recovery by States

Notwithstanding section 15c of this title, and in lieu of the relief specified in such section, any State that is entitled to monetary relief on a claim under such section shall recover the total damage sustained as described in subsection (a)(1) of such section, interest calculated at the rate specified in section 1961 of title 28 on such total damage as specified in subsection (d) of this section, and the cost of suit attributable to such claim, including a reasonable attorney’s fee pursuant to section 15c of this title if such claim—

1. results from conduct that is within the scope of a notification that has been filed under section 4305 (a) of this title for a joint venture, or for a standards development activity engaged in by a standards development organization against which such claim is made, and

2. is filed after such notification becomes effective pursuant to section 4305 (c) of this title.

(c) Conduct similar under State law

Notwithstanding any provision of any State law providing damages for conduct similar to that forbidden by the antitrust laws, any person who is entitled to recovery on a claim under such provision shall not recover in excess of the actual damages sustained by such person, interest calculated at the rate specified in section 1961 of title 28 on such actual damages as specified in subsection (d) of this section, and the cost of suit attributable to such claim, including a reasonable attorney’s fee pursuant to section 4304 of this title if such claim—

1. results from conduct that is within the scope of a notification that has been filed under section 4305 (a) of this title for a joint venture, or for a standards development activity engaged in by a standards development organization against which such claim is made, and

2. is filed after notification has become effective pursuant to section 4305 (c) of this title.

(d) Interest

Interest shall be awarded on the damages involved for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances.

(e) Rule of construction

Subsections (a), (b), and (c) of this section shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

1. directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

2. is not a fulltime employee of the standards development organization that engaged in such activity, and
(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.

(f) **Applicability**

This section shall be applicable only if the challenged conduct of a person defending against a claim is not in violation of any decree or order, entered or issued after October 11, 1984, in any case or proceeding under the antitrust laws or any State law similar to the antitrust laws challenging such conduct as part of a joint venture, or of a standards development activity engaged in by a standards development organization.


**Amendments**

2004—Subsecs. (a)(1), (b)(1), (c)(1). Pub. L. 108–237, § 105(1), inserted “or for a standards development activity engaged in by a standards development organization against which such claim is made” after “joint venture”.


Pub. L. 108–237, § 105(2)(A), inserted “or of a standards development activity engaged in by a standards development organization” before period at end.


1993—Subsecs. (a) to (c). Pub. L. 103–42, § 3(e)(1)(A), (B), in introductory provisions inserted “of this section” after “subsection (d)” and in par. (1) substituted “joint venture” for “joint research and development venture”.

Subsec. (e). Pub. L. 103–42, § 3(e)(1)(A), (C), substituted “October 11, 1984,” for “the effective date of this Act” and substituted “joint venture” for “joint research and development venture”.