§ 251. Reissue of defective patents

Whenever any patent is, through error without any deceptive intention, deemed wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than he had a right to claim in the patent, the Director shall, on the surrender of such patent and the payment of the fee required by law, reissue the patent for the invention disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

The Director may issue several reissued patents for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued patents.

The provisions of this title relating to applications for patent shall be applicable to applications for reissue of a patent, except that application for reissue may be made and sworn to by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

No reissued patent shall be granted enlarging the scope of the claims of the original patent unless applied for within two years from the grant of the original patent.


Amendment of Section

Pub. L. 112–29, § 20(d), (l), Sept. 16, 2011, 125 Stat. 333, 335, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, this section is amended:

(1) in the first undesignated paragraph—
   (A) by striking “Whenever” and inserting “(a) In General.—Whenever”; and
   (B) by striking “without any deceptive intention”;

(2) in the second undesignated paragraph, by striking “The Director” and inserting “(b) Multiple Reissued Patents.—The Director”;

(3) in the third undesignated paragraph, by striking “The provisions” and inserting “(c) Applicability of This Title.—The provisions”; and

(4) in the last undesignated paragraph, by striking “No reissued patent” and inserting “(d) Reissue Patent Enlarging Scope of Claims.—No reissued patent”.

See 2011 Amendment note below.

Pub. L. 112–29, § 4(b)(2), (e), Sept. 16, 2011, 125 Stat. 296, 297, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent application that is filed on or after that effective date, this section is amended in the third undesignated paragraph by inserting “or the application for the original patent was filed by the assignee of the entire interest” after “claims of the original patent”. See 2011 Amendment note below.

Historical and Revision Notes

The sentences of the corresponding section of existing statute are rearranged and divided into two sections with some changes in language. The clause at the end of the present statute is omitted as obsolete.

The third paragraph incorporates by reference the requirements of other applications, and adds a new provision relating to application for reissue being made in certain cases by the assignee.

A two year period of limitation on applying for broadened reissues is added, codifying the present rule of decision with a fixed period.

**Amendments**

2011—Pub. L. 112–29, § 20(d), designated first to fourth pars. as subsecs. (a) to (d), respectively, inserted headings, and in subsec. (a), struck out “without any deceptive intention” after “error”.

Pub. L. 112–29, § 4(b)(2), in third par., inserted “or the application for the original patent was filed by the assignee of the entire interest” after “claims of the original patent”.


**Effective Date of 2011 Amendment**

Amendment by section 4(b)(2) of Pub. L. 112–29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent application that is filed on or after that effective date, see section 4(e) of Pub. L. 112–29, set out as a note under section 111 of this title.

Amendment by section 20(d) of Pub. L. 112–29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112–29, set out as a note under section 2 of this title.

**Effective Date of 1999 Amendment**