notes under sections 32, 102, and 111 of this title], the amendments made by this section shall take effect upon the expiration of the 18-month period beginning on the date of the enactment of this Act [Sept. 16, 2011], and shall apply to any application for patent, and to any patent issuing thereon, that contains or contained at any time—

''(A) a claim to a claimed invention that has an effective filing date as defined in section 100(i) of title 35, United States Code, that is on or after the effective date described in this paragraph; or

''(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.

''(2) INTERFERING PATENTS.—The provisions of sections 102(g), 135, and 291 of title 35, United States Code, as in effect on the day before the effective date set forth in paragraph (1) of this subsection, shall apply to each claim of an application for patent, and any patent issued thereon, for which the amendments made by this section also apply, if such application or patent contains or contained at any time—

''(A) a claim to an invention having an effective filing date as defined in section 100(i) of title 35, United States Code, that occurs before the effective date set forth in paragraph (1) of this subsection; or

''(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.''

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by 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, § 4608(a)] of Pub. L. 106–113, set out as a note under section 41 of this title.

§ 101. Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

(July 19, 1952, ch. 950, 66 Stat. 797.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 31 (R.S. 4886, amended (1) Mar. 3, 1897, ch. 391, § 1, 29 Stat. 692, (2) May 23, 1930, ch. 312, § 1, 46 Stat. 376, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

The corresponding section of existing statute is split into two sections, section 101 relating to the subject matter for which patents may be obtained, and section 102 defining statutory novelty and stating other conditions for patentability.

Section 101 follows the wording of the existing statute as to the subject matter for patents, except that reference to plant patents has been omitted for incorporation in section 301 and the word ''art'' has been replaced by ''process'', which is defined in section 100. The word ''art'' in the corresponding section of the existing statute has a different meaning than the same word as used in other places in the statute; it has been interpreted by the courts as being practically synonymous with process or method. ''Process'' has been used as its meaning is more readily grasped than ''art'' as interpreted, and the definition in section 100(b) makes it clear that ''process or method'' is meant. The remainder of the definition clarifies the status of processes or methods which involve merely the new use of a known process, machine, manufacture, composition of matter, or material; they are processes or methods under the statute and may be patented provided the conditions for patentability are satisfied.

LIMITATION ON ISSUANCE OF PATENTS

Pub. L. 112–29, § 33, Sept. 16, 2011, 125 Stat. 340, provided that:

''(a) LIMITATION.—Notwithstanding any other provision of law, no patent may issue on a claim directed to or encompassing a human organism.

''(b) EFFECTIVE DATE.—

''(1) IN GENERAL.—Subsection (a) shall apply to any application for patent that is pending on, or filed on or after, the date of the enactment of this Act [Sept. 16, 2011].

''(2) PRIOR APPLICATIONS.—Subsection (a) shall not affect the validity of any patent issued on an application to which paragraph (1) does not apply.''

§ 102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless—

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or

(c) he has abandoned the invention, or

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;[1] or

(f) he did not himself invent the subject matter sought to be patented, or

(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

[1] So in original. The semicolon probably should be a comma.