

AN ACT TO AMEND SECTIONS TEN, FIFTEEN, SIXTEEN, FIFTY-FIVE, FIFTY-SEVEN, FIFTY-EIGHT, FIFTY-NINE, SIXTY, AND SEVENTY-EIGHT OF, AND TO ADD NEW SECTIONS TWENTY-SEVEN-A, AND FORTY-...

REPUBLIC ACT NO. 637, June 09, 1951

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section ten of Republic Act Numbered One hundred and sixty-five is hereby amended so as to read as follows:

"SEC. 10. Right to patent.-The right to the patent belongs to the first true and actual inventor, his heirs, legal representatives, or assigns. If two or more persons have an invention jointly, the right to the patent belongs to them jointly. If two or more persons have made the invention separately and independently of each other, the right to the patent shall belong to the person who is the first to file an application for such invention, unless it is shown that the second to file an application was the original and first inventor.

"Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applications, or applicant and patentee, as the case may be, and shall proceed to determine the question of priority of invention. And upon termination of the interference proceedings, the Director may issue a patent to the party who is adjudged the prior inventor."

SEC. 2. Section fifteen of Republic Act Numbered One hundred and sixty-five is hereby amended so as to read as follows:

"SEC. 15. Applications previously filed abroad.-An application for patent for an invention filed in this country by any person who has previously regularly filed an application for a patent for the same invention in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the Philippines, shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country: Provided, That the application in this country is filed within twelve months from the earliest date on which any such foreign application was filed, and a certified copy of the foreign application together with a translation thereof into English, if not in the English language, is filed within six months from the date of filing in the Philippines, unless the Director for good cause shown shall extend the time for filing such certified copy: And provided, further, That no patent shall be granted on an application for patent for an invention which had been patented or described in a printed publication in this or any foreign country more than one year before the date of the actual filing of the application in this country, or which had been in public use or sale in this country for more than one year prior to such filing."

SEC. 3. Section sixteen of Republic Act Numbered One hundred and sixty-five is hereby amended so as to read as follows:

"SEC. 16. Examination of the application.-When an application for patent has been filed, the Director shall

cause to be determined whether it complies with the formal requirements and with the requirements of Chapter II of this Act. If the application is defective in any respect, the applicant shall be notified of the specific defects and a time fixed, not less than four months, within which such defects may be remedied.

"Whenever, on examination, any claim for a patent is rejected, the Director, shall cause the applicant to be notified thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the Director shall order a reexamination of the case.

"No amendment for the first time presenting or asserting a claim which is the same as, or for substantially the same subject matter as, a claim of an issued patent may be made in any application unless such amendment is , filed within one year from the date on which said patent was granted.

"If the applicant fails to request reconsideration of any adverse action or decision of the Patent Office, or to remedy the defects indicated to him by the Office within the time fixed by the Director, or within such additional time, not exceeding four months, as may be granted, the application shall be denied."

SEC. 4. Republic Act Numbered One hundred and sixty-five is hereby amended by adding a new section immediately after section twenty-seven thereof, to read as follows:

"SEC. 27-A. Whenever any patent is wholly or partly, inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Director shall, on the surrender of such patent and the payment of a filing fee of one hundred pesos, cause a patent for the same invention, and in accordance with the corrected specification, to be reissued to the patentee or to his assigns or legal representatives, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the reissued patent, but in so far as the claims of the original and reissued patents are identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent to the extent that its claims are identical with the original patent shall constitute a continuation thereof and have effect continuously from the date of the original patent. The Director may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of fifty pesos for a reissue for each of such reissued letters patent. The specifications and claims in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in the case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Director that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid."

SEC. 5. A new section is hereby added to Republic Act Numbered One hundred and sixty-five, immediately before section forty-two, to read as follows:

"SEC. 41-A. Any foreign corporation or juristic person to which a patent for an invention or design has been granted or assigned under this Act may bring an action for infringement hereunder, whether or not it has been duly licensed to do business in the Philippines under the Corporation Law at the time it brings the complaint: Provided, That the country of which the said foreign corporation or juristic person is a citizen, or in which it is domiciled, by treaty, convention, or law, grants a similar privilege to corporate or juristic citizens of the Philippines."

SEC. 6. Sections fifty-five, fifty-seven, fifty-eight, fifty-nine and sixty of Republic Act Numbered One hundred

and sixty-five are hereby amended to read as follows:

"SEC. 55. Industrial designs.-Any new and original creation relating to the features of shape, pattern, configuration, ornamentation, or artistic appearance of an article or industrial product may be protected by a patent for industrial design by the author in the same manner and subject to the same provisions and requirements as relate to patents for inventions in so far as they are applicable, except as otherwise hereinafter provided.

"SEC 57. Notice of grant of patent shall be published.- Notice of the grant of a design patent shall be published in the Official Gazette.

"SEC. 58. Term and extension thereof.-The term of the design patent shall be five years from the date of the grant thereof.

"Before the expiration of the five-year term, upon payment of the required fee, or within a further time thereafter not to exceed six months upon payment of the surcharge, the owner of the design patent may apply for an extension for an additional five years. The application for extension must be accompanied by an affidavit showing that the design is in commercial or industrial use in the Philippines or satisfactorily explaining non-use. In a similar manner an extension for a third five-year period may be obtained.

"SEC. 59. Marking.-The Marking required by section forty-four, Chapter X, hereof, shall be 'Philippine Design Patent/ or appropriate abbreviation, and the number of the patent.

"SEC. 60. Infringement.-Infringement of a design patent shall consist in unauthorized copying of the patented design for the purpose of trade or industry in the article or product and in the making, using, or selling of the article or product copying the patented design. Identity or substantial identity with the patented design shall constitute evidence of copying."

SEC. 7. Section seventy-eight of Republic Act Numbered One hundred and sixty-five is hereby amended to read as follows:

"SEC. 78. Rules and regulations.-The Director, subject to the approval of the Department Head, shall promulgate the necessary rules and regulations, not inconsistent with law, for the conduct of all business in the Patent Office.

"The Director may prescribe rules and regulations governing the recognition of attorneys, agents, or other persons representing applicants or other parties before his office in patent and trademark cases, and may require such persons, attorneys or agents, before being recognized as representatives of applicants or other persons, that they shall show that they are of good moral character and in good repute, are possessed of the necessary qualifications to enable them to render to applicants or other persons valuable service, and are likewise competent to advise and assist applicants or other persons in the presentation or prosecution of their applications or other business before the Office. And the Director of Patents may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before his office any person, attorney, or agent shown to be incompetent or disreputable, or guilty of gross misconduct, or gross discourtesy or disrespect towards any Patent Office official or examiner while the latter is in the discharge of his official duty, or who refuses to comply with the rules and regulations of the Patent Office, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant or other person having immediate or prospective business before the office, by word, circular, letter, or by advertising. The reasons for any such suspension or exclusion shall be duly recorded. And the action of the director may be reviewed upon the petition of the person so refused recognition or so suspended or excluded by the Supreme Court under such conditions and upon such proceedings as the said Court may by its rules determine.

"It shall be unlawful for any person who has not been duly recognized to practice before the Patent Office in

accordance with the provisions of this section and the rules of practice before the Patent Office to hold himself out or knowingly permit himself to be held out as a patent or trademark solicitor, patent or trademark agent, or patent or trademark attorney, or otherwise in any manner hold himself out, either directly or indirectly, as authorized to represent applicants for patent or trademark in their business before the patent office, and it shall be unlawful for any person who has, under the authority of this section, been disbarred or excluded from practice before the Patent Office, and has not been reinstated, to hold himself out in any manner whatever as entitled to represent or assist persons in the transaction of business before the Patent Office; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine of not less than one hundred pesos and not exceeding one thousand pesos."

SEC. 8. This Act shall take effect upon its approval.

Approved, June 9, 1951.

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