

AN ACT TO ESTABLISH THE MANNER OF SECURING PATENTS FOR INVENTIONS OR DISCOVERIES, AND FOR OTHER PURPOSES.

Act No. 2793, February 20, 1919

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. This Act shall be known as the Patent Law.

CHAPTER I.

PATENTS FOR INVENTIONS.

SEC. 2. Any person making a new discovery or invention in any branch of human activity not intended for unlawful purposes, shall be entitled to the exclusive privilege of making, using or vending, and of authorizing others to make, use or vend the same, subject to the provisions of this Act.

SEC. 3. A discovery or invention shall not be deemed new:

- (a) If it was known or used in another country before said discovery or invention;
- (b) If it was published or described in printed publications in this or in any foreign country prior to such discovery or invention.

SEC. 4. Patents for inventions or discoveries made or manufactured in the Philippine Islands shall not pay any tax. The patentee in such cases shall pay only the sum of twenty pesos upon receiving the patent, in addition to the fees established in section thirty-three for the registration and the expenses of publishing the application.

Patents for inventions or discoveries manufactured or made entirely or largely in foreign countries shall pay a tax of twenty pesos per annum during the life of the patent and on the date of their issue.

The provisions of this section shall not be applicable to public officers and employees desiring to register a patent for an invention for the use of the Government, in which case the inventor shall state in his application that the Government of the Philippine Islands or any of its officers or employees may use said patent in the execution of work of the Government without any payment to the inventor, which condition shall be set forth on the letters patent.

SEC. 5. Any discovery or invention patented in any country outside of the Philippine Islands may also be patented under the provisions of this Act if the inventor or discoverer has a legal representative in the Philippine Islands: Provided, however, That as to patents registered in the United States Patent Office, the provisions of Act Numbered Twenty-two hundred and thirty-five, entitled "An Act providing for the registration of patents and patent rights in the Philippine Islands, and for the protection of the same," shall govern until January first, nineteen hundred and twenty.

SEC. 6. In case two or more persons apply separately for patents covering the same invention or discovery, action

on applications of a posterior date shall be suspended until the application first filed has been disposed of Priority as between applications shall be determined by the date and hour on which the same were filed in the Patent Office.

SEC. 7. All patents shall be issued in the name of the Government of the Philippine Islands, under the seal of the Bureau of Commerce and Industry, and be signed by the Director of said Bureau or by a person legally authorized by him, and shall contain a concise and clear description of the invention or discovery and the grant to the inventor, and the term established in this Act for the exclusive right to make, use, vend, encumber, and turn to profit his invention or discovery in the Philippine Islands.

Any patent for an invention may, upon indemnification of the inventor, be declared the property of the Government of the Philippine Islands, when so ordered by Act of the Legislature.

CHAPTER II.

PATENT OFFICE.

SEC. 8. The Bureau of Commerce and Industry, subject to the control, direction, and supervision of the Secretary of Commerce and Communications, is hereby vested with the necessary powers and authority for carrying out the provisions and purposes of this Act, and shall, in general, have the following duties and functions:

- (a) Receive applications for patents;
- (b) Examine them and determine whether or not it is proper to issue the patent requested;
- (c) Keep a record of all letters patent issued, with a description of the discovery or invention to which they refer; and
- (d) Keep open for public inspection, during office hours, a list of all inventions or discoveries patented.

SEC. 9. The Director of the Bureau of Commerce and Industry may consult any public officer and any technical man or scientist in Government employ with respect to applications for patents pending his decision. It shall be the duty of all public officers to furnish information, answer inquiries, and render any service in relation to the powers and functions conferred by this Act upon said Bureau.

CHAPTER III.

PROCEDURE FOR SECURING A PATENT.

SEC. 10. Any person claiming to have made a new discovery or invention may make an application, which must be in accordance with the requirements established by regulations issued in the premises by the Secretary of Commerce and Communications. The application shall be accompanied by a model or copy of the discovery or invention. In case the application is in accordance with the requisites and conditions established by this Act and the regulation herein before mentioned, it shall be published in two consecutive issues of the Official Gazette and, also, in two of the newspapers most widely read in the Islands, one published in Spanish and the other in English, for a period of six consecutive days. Together with the application there shall be published a notice to all persons having any objection to the application filed, inviting them to file at the Patent Office, within the inextensible period of thirty days from and after the date of the last publication, a written objection specifying clearly and in detail the reasons on which their opposition is based. Upon the expiration of the time set for the filing of objections, if none has been filed, an investigation shall be made as to whether or not the discovery or invention mentioned in the application has the requisite mentioned in section two, but if any objection is filed, the applicant

shall be directed to reply to the same within ten days' time, and the Director of the Bureau of Commerce and Industry shall render his decision as soon as possible after the filing of such reply.

Upon a patent being granted, the same shall be published in two consecutive issues of the Official Gazette.

CHAPTER IV.

ADDITION TO OR PERFECTION OF INVENTIONS.

SEC. 11. Any person may apply for a license for any addition to or perfection of an invention already patented for a period not greater than that granted for the patent of the original invention, and upon payment of fifty per cent of the fees established in sections four and twenty-one. If the license comes under the provisions of the second paragraph of section four, the tax established therein shall also be paid.

However, he shall not be entitled to the exclusive privilege of the addition to or perfection of the invention without first having paid a premium to the inventor of the original, the amount whereof shall be determined by the Court of First Instance of the domicile of the latter or of his legal representative, upon motion of the inventor of the addition or perfection. The provisions of this section shall not be construed to prohibit the original inventor from exploiting the addition or perfection in competition with the inventor of the addition or perfection.

CHAPTER V.

TRANSMISSION OF PATENTS.

SEC. 12. Any person in whose favor a patent has been issued for any invention or discovery, may transfer said patent by assignment, sale, exchange, or in any other manner in which title may be conveyed. No assignment, sale, exchange, or conveyance of patents shall be valid with regard to a third party unless such assignment, sale, exchange or conveyance has been recorded in the proper register of the Bureau of Commerce and Industry.

SEC. 13. In case the owner of a patent dies intestate, his rights shall be transmitted to his legitimate heirs. In the absence of these, they shall pass to the Government of the Philippine Islands which may, in its option, either put the invention to profit itself or sell the same to private individuals or corporations.

CHAPTER VI.

ANNULMENT AND EXPIRATION OF PATENTS.

SEC. 14. A patent shall be null and void in any of the following cases:

- (a) When it is not for a new discovery or invention;
- (b) When a patent has been issued previously for the same invention or discovery;
- (c) When the person in whose favor a patent has been issued has obtained possession fraudulently of the invention or discovery of another.

SEC. 15. A patent shall lapse:

- (a) Upon the termination of the period of seventeen years from and after the date of the application;
- (b) If, five years after a patent has issued, the invention or discovery for which it was granted has not yet been put to profit;

(c) If the tax for two consecutive years has not been paid in the case referred to in the second paragraph of section four.

SEC. 16. Any action for the annulment or cancellation of a patent shall be brought at the domicile of the plaintiff or of the defendant, at the option of the former, and shall be prosecuted the same as any ordinary action. Courts of First Instance shall have original jurisdiction to try these cases and from their decision an appeal shall lie to the Supreme Court. The action for annulment shall prescribe five years from and after the date of the issue of the patent.

SEC. 17. In case a patent is declared null and void for the reason mentioned in subsection (c) of section fourteen, the judge shall direct in the final decision that the patent cancelled be transferred to the plaintiff.

In case the courts have declared that a patent has expired, the discovery or invention shall become public property and no one shall be prevented from putting it to profit.

Every patent declared null and void or expired shall be published in the Official Gazette.

CHAPTER VII.

FALSIFICATION OF PATENTS—PENALTIES AND DAMAGES.

SEC. 18. Any person who, with fraudulent intent of -making use of the rights of the patentee, marks, stamps or designates any articles or thing manufactured, sold, or offered for sale by him as protected by any patent, shall be deemed guilty of the falsification of patents and shall, upon conviction thereof, be sentenced to a fine of not more than two thousand pesos or imprisonment for not more than two years, or both, in the discretion of the court, and all articles so falsified shall be confiscated. Any person guilty of the falsification of patents shall likewise be liable for damages to the injured party.

For the purpose of this section, the facts of the defendant having been an operative or employee of the patentee or having obtained knowledge of the invention by unlawful means shall be considered an aggravating circumstance.

SEC. 19. Any person who knowingly aids and assists in the sale or offering for sale of articles so falsified or who authorizes the sale, offering for sale or circulation of such articles, shall also be subject to the penalties established in section eighteen.

SEC. 20. The criminal action for falsification of patents shall prescribe two years from and after the commission of the offence.

CHAPTER VIII.

FEES AND CHARGES TO BE COLLECTED BY THE BUREAU OF COMMERCE AND INDUSTRY.

SEC. 21. The Bureau of Commerce and Industry shall be entitled to collect, in addition to the fees or taxes established in section five, the following:

For the registration of each application and expenses of publication, fifty pesos; for the reissue of a patent, thirty pesos; for recording any assignment, sale, exchange or transfer, twenty pesos; for recording any agreement, power of attorney or other document not a conveyance of title, if the same contains more than one thousand words and less than one thousand, five pesos; for each one thousand additional words or fraction thereof, two pesos; for certified copies of patents and other documents, fifty centavos per page certified or any fraction thereof, plus fifty centavos for the certificate.

CHAPTER IX.**FINAL PROVISIONS.**

SEC 22. Any rights acquired prior to the entering into effect of this Act are hereby reserved.

SEC. 23. This Act shall take effect on its approval.

Approved, February 20, 1919.

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