Patent Act of 1790, Ch. 7, 1 Stat. 109-112 (April 10, 1790) The First United States Patent Statute

CHAP. VII. --An Act to promote the progress of useful Arts.(a)

SEC. 1.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the petition of any person or persons to the Secretary of State, the Secretary for the department of war, and the Attorney General of the United States, setting forth, that he, she, or they, hath or have invented or discovered any useful art, manufacture, engine, machine, or device, or any improvement therein not before known or used, and praying that a patent may be granted therefor, it shall and may be lawful to and for the Secretary of State, the Secretary for the department of war, and the Attorney General, or any two of them, if they shall deem the invention or discovery sufficiently useful and important, to cause letters patent to be made out in the name of the United States, to bear teste by the President of the United States, reciting the allegations and suggestions of the said petition, and describing the said invention or discovery, clearly, truly and fully, and thereupon granting to such petitioner or petitioners, his, her or their heirs, administrators or assigns for any term not exceeding fourteen years, the sole and exclusive right and liberty of making, constructing, using and vending to others to be used, the said invention or discovery; which letters patent shall be delivered to the Attorney General of the United States to be examined, who shall, within fifteen days next after the delivery to him, if he shall find the same conformable to this act, certify it to be so at the foot thereof, and present the letters patent so certified to the President, who shall cause the seal of the United States to be thereto affixed, and the same shall be good and available to the grantee or grantees by force of this act, to all and every intent and purpose herein contained, and shall be recorded in a book to be kept for that purpose in the office of the Secretary of State, and delivered to the patentee or his agent, and the delivery thereof shall be entered on the record and endorsed on the patent by the said Secretary at the time of granting the same.

SEC 2.

And be it further enacted, That the grantee or grantees of each patent shall, at the time of granting the same, deliver to the Secretary of State a specification in writing, containing a description, accompanied with drafts or models, and explanations and models (if the nature of the invention or discovery will admit of a model) of the thing or things, by him or them invented or discovered, and described as aforesaid, in the said patents; which specification shall be so particular, and said models so exact, as not only to distinguish the invention or discovery from other things before known and used, but also to enable a workman or other person skilled in the art or manufacture, whereof it is a branch, or wherewith it may be nearest connected, to make, construct, or use the same, to the end that the public may have the full benefit thereof, after the expiration of the patent term; which specification shall be filed in the office of the said Secretary, and certified copies thereof, shall be competent evidence in all courts and before all jurisdictions, where any matter or thing, touching or concerning such patent, right, or privilege, shall come in question.

SEC. 3.

And be it further enacted, That upon the application of any person to the Secretary of State, for a copy of any such specification, and for permission to have similar model or models made, it shall be the duty of the Secretary to give such

copy, and to permit the person so applying for a similar model or models, to take, or make, or cause the same to be taken or made, at the expense of such applicant.

SEC. 4.

And be it further enacted, That if any person or persons shall devise, make, construct, use, employ, or vend within these United States, any art, manufacture, engine, machine or device, or any invention or improvement upon, or in any art, manufacture, engine, machine or device, the sole and exclusive right of which shall be so as aforesaid granted by patent to any person or persons, by virtue and in pursuance of this act, without the consent of the patentee or patentees, their executors, administrators or assigns, first had and obtained in writing, every person so offending, shall forfeit and pay to the said patentee or patentees, his, her or their executors, administrators or assigns such damages as shall be as - sessed by a jury, and moreover shall forfeit to the person aggrieved, the thing or things so devised, made, constructed, used, employed or vended, contrary to the true intent of this act, which may be recovered in an action on the case founded on this act.

SEC. 5.

And be it further enacted, That upon oath or affirmation made before the judge of the district court, where the defendant resides, that any patent which shall be issued in pursuance of this act, was obtained surreptitiously by, or upon false suggestion, and motion made to the said court, within one year after issuing the said patent, but not afterwards, it shall and may be lawful to and for the judge of the said district court, if the matter alleged shall appear to him to be sufficient, to grant a rule that the patentee or patentees, his, her, or their executors, administrators or assigns, show cause why process should not issue against him, her, or them, to repeal such patents; and if sufficient cause shall not be shown to the contrary, the rule shall be made absolute, and thereupon the said judge shall order process to be issued as aforesaid, against such patentee or patentees, his, her, or their executors, administrators, or assigns. And in case no sufficient cause shall be shown to the contrary, or if it shall appear that the patentee was not the first and true inventor or discoverer, judgment shall be rendered by such court for the repeal of such patent or patents; and if the party at whose complaint the process issued, shall have judgment given against him, he shall pay all such costs as the defendant shall be put to in defending the suit, to be taxed by the court, and recovered in such manner as costs expended by defendants, shall be recovered in due course of law.

SEC. 6.

And be it further enacted, That in all actions to be brought by such patentee or patentees, his, her, or their executors, administrators or assigns, for any penalty incurred by virtue of this act, the said patents or specifications shall be *prima facie* evidence, that the said patentee or patentees was or were the first and true inventor or inventors, discoverer or discoverers of the thing so specified, and that the same is truly specified; but that nevertheless the defendant or defendants may plead the general issue, and give this act, and any special matter whereof notice in writing shall have been given to the plaintiff, or his attorney, thirty days before the trial, in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole of the truth concerning his invention or discovery; or that it contains more than is necessary to produce the effect described; and if the concealment of part, or the addition of more than is necessary, shall appear to have been intended to mislead, or shall actually mislead the public, so as the effect described cannot be produced by the means specified, then, and in such cases, the verdict and judgment shall be for the defendant.

SEC. 7.

And be it further enacted, That such patentee as aforesaid, shall, before he receives his patent, pay the following fees to the several officers employed in making out and perfecting the same, to wit: For receiving and filing the petition, fifty cents; for filing specifications, per copy-sheet containing one hundred words, ten cents; for making out patent, two dollars; for affixing great seal, one dollar; for indorsing the day of delivering the same to the patentee, including all intermediate services, twenty cents.

Legislative History

APPROVED, April 10, 1790.