Patent Act of 1793, Ch. 11, 1 Stat. 318-323 (February 21, 1793)

Ch. 11

SEC. 1.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any person or persons, being a citizen or citizens of the United States, shall allege that he or they have invented any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture or composition of matter, not known or used before the application, and shall present a petition to the Secretary of State, signifying a desire of obtaining an exclusive property in the same, and praying that a patent may be granted therefor, it shall and may be lawful for the said Secretary of State, to cause letters patent to be made out in the name of the United States, bearing teste by the President of the United States, reciting the allegations and suggestions of the said petition, and giving a short description of the said invention or discovery, and thereupon granting to such petitioner, or petitioners, his, her, or their heirs, administrators or assigns, for a term not exceeding fourteen years, the full 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, within fifteen days after such delivery, if he finds the same conformable to this act, shall certify accordingly, at the foot thereof, and return the same to the Secretary of State, who shall present the letters patent thus certified, to be signed, and 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, 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 order.

SEC. 2.

Provided always, and be it further enacted, That any person, who shall have discovered an improvement in the principle of any machine, or in the process of any composition of matter, which shall have been patented, and shall have obtained a patent for such improvement, he shall not be at liberty to make, use or vend the original discovery, nor shall the first inventor be at liberty to use the improvement: And it is hereby enacted and declared, that simply changing the form or the proportions of any machine, or composition of matter, in any degree, shall not be deemed a discovery.

SEC. 3.

And be it further enacted, That every inventor, before he can receive a patent, shall swear or affirm that he does verily believe, that he is the true inventor or discoverer of the art, machine, or improvement, for which he solicits a patent, which oath or affirmation may be made before any person authorized to administer oaths, and shall deliver a written description of his invention, and of the manner of using, or process of compounding the same, in such full, clear and exact terms, as to distinguish the same from all other things before known, and to enable any person skilled in the art or science, of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same. And in the case of any machine, he shall fully explain the principle, and the several modes in which he has contemplated the application of that principle or character, by which it may be distinguished from other inventions; and he shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter; which description, signed by himself and attested by two witnesses, shall be filed in the office of the Secretary of State, and certified copies thereof shall be competent evidence, in all

courts, where any matter or thing, touching such patent-right, shall come in question. And such inventor shall, moreover, deliver a model of his machine, provided, the secretary shall deem such model to be necessary.

SEC. 4.

And be it further enacted, That it shall be lawful for any inventor, his executor or administrator to assign the title and interest in the said invention, at any time, and the assignee having recorded the said assignment, in the office of the Secretary of State, shall thereafter stand in the place of the original inventor, both as to right and responsibility, and so the assignees of assigns, to any degree.

SEC. 5.

And be it further enacted, That if any person shall make, devise and use, or sell the thing so invented, the exclusive right of which shall, as aforesaid, have been secured to any person by patent, without the consent of the patentee, his executors, administrators or assigns, first obtained in writing, every person so offending, shall forfeit and pay to the patentee, a sum, that shall be at least equal to three times the price, for which the patentee has usually sold or licensed to other persons, the use of the said invention; which may be recovered in an action on the case founded on this act, in the circuit court of the United States, or any other court having competent jurisdiction.

SEC. 6.

Provided always, and be it further enacted, That the defendant in such action shall be permitted to plead the general issue, and give this act and any special matter, of which notice in writing may have been given to the plaintiff or his attorney, thirty days before trial, in evidence, tending to prove, that the specification, filed by the plaintiff, does not contain the whole truth relative to his discovery, or that it contains more than is necessary to produce the described effect, which concealment or addition shall fully appear to have been made, for the purpose of deceiving the public, or that the thing, thus secured by patent, was not originally discovered by the patentee, but had been in use, or had been described in some public work anterior to the supposed discovery of the patentee, or that he had surreptitiously obtained a patent for the discovery of another person: in either of which cases, judgment shall be rendered for the defendant, with costs, and the patent shall be declared void.

SEC. 7.

And be it further enacted, That where any state, before its adoption of the present form of government, shall have granted an exclusive right to any invention, the party, claiming that right, shall not be capable of obtaining an exclusive right under this act, but on relinquishing his right under such particular state, and of such relinquishment his obtaining an exclusive right under this act shall be sufficient evidence.

SEC. 8.

And be it further enacted, That the persons, whose applications for patents, were, at the time of passing this act, depending before the Secretary of State, Secretary at War, and Attorney General, according to the act, passed the second session of the first Congress, intituled "An act to promote the progress of useful arts," on complying with the conditions of this act, and paying the fees herein required, may pursue their respective claims to a patent under the same.

SEC. 9.

And be it further enacted, That in case of interfering applications, the same shall be submitted to the arbitration of three persons, one of whom shall be chosen by each of the applicants, and the third person shall be appointed by the Secretary of State; and the decision or award of such arbitrators, delivered to the Secretary of State, in writing and subscribed by them, or any two of them, shall be final, as far as respects the granting of the patent: And if either of the applicants shall refuse or fail to chuse an arbitrator, the patent shall issue to the opposite party. And where there shall be more than two interfering applications, and the parties applying shall not all unite in appointing three arbitrators, it shall be in the power of the Secretary of State to appoint three arbitrators for the purpose.

SEC. 10.

And be it further enacted, That upon oath or affirmation being made, before the judge of the district court, where the patentee, his executors, administrators or assigns reside, that any patent, which shall be issued in pursuance of this act, was obtained surreptitiously, or upon false suggestion, and motion made to the said court, within three years after issuing the said patent, but not afterwards, it shall and may be lawful 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 his executor, administrator or assign show cause, why process should not issue against him to repeal such patent. 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 against such patentee, or his executors, administrators or assigns, with costs of suit. And in case no sufficient cause shall be shown to the contrary, or if it shall appear that the patentee was not the true inventor or discoverer, judgment shall be rendered by such court for the repeal of such patent; 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 due course of law.

SEC. 11.

And be it further enacted, That every inventor, before he presents his petition to the Secretary of State, signifying his desire of obtaining a patent, shall pay into the treasury thirty dollars, for which he shall take duplicate receipts; one of which receipts he shall deliver to the Secretary of State, when he presents his petition; and the money, thus paid, shall be in full for the sundry services, to be performed in the office of the Secretary of State, consequent on such petition, and shall pass to the account of clerk-hire in that office. *Provided nevertheless,* That for every copy, which may be required at the said office, of any paper respecting any patent, that has been granted, the person, obtaining such copy,

shall pay, at the rate of twenty cents, for every copy-sheet of one hundred words, and for every copy of a drawing, the party obtaining the same, shall pay two dollars; of which payments, an account shall be rendered, annually, to the treasury of the United States, and they shall also pass to the account of clerk hire in the office of the Secretary of State.

SEC. 12.

And be it further enacted, That the act, passed the tenth day of April, in the year one thousand seven hundred and ninety, intituled "An act to promote the progress of useful arts," be, and the same is hereby repealed. *Provided always,* That nothing, contained in this act, shall be construed to invalidate any patent, that may have been granted under the authority of the said act; and all patentees under the said act, their executors, administrators and assigns, shall be considered within the purview of this act, in respect to the violation of their rights; provided, such violations shall be committed, after the passing of this act.

Legislative History

APPROVED, February 21, 1793.