REVISION OF TITLE 35, UNITED STATES CODE "PATENTS"

REPORT

FROM THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H. R. 7794

A BILL TO REVISE AND CODIFY THE LAWS RELATING TO PATENTS AND THE PATENT OFFICE, AND TO ENACT INTO LAW TITLE 35 OF THE UNITED STATES CODE ENTITLED "PATENTS"



MAY 12, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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82D CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
No. 1923

REVISION OF TITLE 35, UNITED STATES CODE

MAY 12, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRYSON, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 7794]

The Committee on the Judiciary submits the following report in explanation of the bill (H. R. 7794) to revise, codify, and enact into law title 35 of the United States Code entitled "Patents," and recommends that the bill do pass. The present bill has been substituted for an earlier bill (H. R. 3760), on which hearings were held, and contains changes recommended by the subcommittee.

INTRODUCTION

As its title indicates, the purpose of the bill is to revise and codify the laws relating to patents and enact into law title 35 of the United States Code entitled "Patents."

This bill is part of the comprehensive program of revising and enacting into law all the titles of the United States Code. Up to the present time nine out of the 50 titles of the code have been revised and enacted into law and consideration or preparation of bills relating to a number of additional titles is in process.

For many years there had been considerable agitation for a complete restatement and codification of all the laws of the United States, inasmuch as the only such codification—the Revised Statutes of 1874—had become generally outmoded on all subjects.

In 1926, in response to widespread recognition of the need therefor, and after nearly 7 years' effort on the part of the Committee on the Revision of the Laws, the Congress adopted the United States Code, which was a codification of the existing general and permanent laws of the United States arranged in 50 titles according to subject matter, and which was declared to be prima facie evidence of the law.

Because of the size of that code Congress decided that it should undergo a testing period before it was enacted into positive law.

been subjected to such a testing period lasting and the committee's program of enacting the n in progress for several years.

OR REVISION OF PATENT LAWS

laws consist of about 60 sections of the Revised ether with a large number of acts of Congress revising various sections of the Revised Statutes nents not related to any section of the Revised

f the Revised Statutes relating to patents were of the act of July 8, 1870, 16 Stat. 198, our s essentially the act of 1870 with subsequent lemental enactments.

vision of the patent laws was the act of July 8, cted as part of a program to revise and con- f the United States then under way. In 1866 providing for a commission to revise and con- of the United States. The Commission which form this work prepared a preliminary draft of patents and copyrights in 1868, and a second 869. The following year a draft of the statutes nd copyrights as revised, simplified, arranged, the Commission was reported to Congress, and erred to the Committee on Patents; a bill was irman a few days later.

Commission on revision of the laws was only to consolidate the statutes in force and the draft nmission presumably was for this purpose only. n for referring the matter to the Committee on ng this same period there had been suggestions ent laws in substance and it appears that the ts studied the draft of the Commission and s amendments affecting matters of substance. ced was enacted on July 8, 1870, 16 Stat. 198, ojects of copyrights and trade-marks as well

Statutes, as in force on December 1, 1873, were 1874, the sections of the act of 1870 were dis- rts of the Revised Statutes.

HISTORY OF PRESENT BILL

ribution of committee functions, the Committee the same subcommittee of this committee, is revision of the laws and with the consideration ents.

ago it was suggested that, since the same sub- nmittee on the Judiciary has jurisdiction over he laws and the subject of patents, we should tion of a bill to revise these laws.

ated by the preparation of a preliminary draft on and Amendment of the Patent Laws," which buted in February 1950.

The preliminary draft, in addition to simple codification, included a collection of a large number of proposed changes in the law which had come to the attention of the Congress during the past quarter-century, in the form of bills or otherwise. The preliminary draft was widely distributed with a request for criticisms and suggestions. As a result of the comments received, it was decided not to include most of the proposed changes in a bill but to defer them for later consideration, and to limit the bill to the main purpose of codification and enactment of title 35 into law, with only some minor procedural and other changes deemed substantially noncontroversial and desirable.

Numerous suggestions had been received from the Patent Bar and the public. After consideration of the suggestions and criticisms and other comments which had been received, a bill (H. R. 9133) was prepared and introduced in the Eighty-first Congress on July 17, 1950. This bill was also widely distributed and again comments were received from the Patent Bar and others. As a result, the bill was reintroduced in revised form in the Eighty-second Congress as H. R. 3760.

Hearings were held on H. R. 3760 and as a result of the hearings and material received by the committee the bill was revised and introduced as the present bill.

In the preparation of the various drafts leading to the present bill, all acts of Congress relating to or mentioning patents which have been enacted since 1874 were collected and studied, and those acts which had not been specifically repealed were used in preparing the drafts.

The changes introduced in the bill were obtained mainly from a study of all the bills relating to patents which had been introduced in Congress since 1925, the reports of various committees making studies of the patent laws, reports and recommendations of private groups and individuals, and other miscellaneous sources.

The actual work of preparing the preliminary drafts and the bill was directed and supervised by the committee's law revision counsel, Charles J. Zinn, and its counsel having jurisdiction over patent matters, L. James Harris.

For a number of years the committee has pursued a policy of calling on official and unofficial experts in the subject-matter of the proposed revision to assist it, and it has been most fortunate in receiving the able and helpful assistance of various persons such as Mr. P. J. Federico of the Patent Office, Capt. George N. Robillard, United States Navy, patent counsel of the Department of Defense, Mr. T. Hayward Brown of the Department of Justice, and many others. The Coordinating Committee or the Patent Bar, which was organized under the auspices of the National Council of Patent Law Associations and included representatives of industry as well, has rendered invaluable service to the committee in the preparation and refinement of the bill. Messrs. Henry R. Ashton, Giles S. Rich and Paul A. Rose, particularly, devoted themselves to this work.

EARLY PATENT LAWS

As has already been stated, the present patent laws consist of the Patent Act of 1870 with subsequent enactments adding to or changing various sections of that original act. The first patent law was enacted

n of the First Congress in 1790. When the first its very first items of business was the considera- opyrights, and the first patent bill was H. R. No. ress.

are enacted by Congress in accordance with the article I, section 8, of the Constitution which

ve the power . . . to promote the progress of science and for limited times to authors and inventors the exclusive writings and discoveries.

as unanimously adopted by the Constitutional g suggestions for Federal jurisdiction over both hts which had been made in the Convention by irginia and Charles Pinckney of South Carolina. rate provisions relating to patents and to copy- erged by the Drafting Committee of the Conven- l statement we now have, which was adopted ng voice.

he balanced construction, and the usage current ate that the constitutional provision is really two to one. The purpose of the first provision is to of science by securing for limited times to authors o their writings, the word "science" in this con- neaning of knowledge in general, which is one of The other provision is that Congress has the e progress of useful arts by securing for limited e exclusive right to their discoveries. The first tent laws up to a much later period were entitled e progress of useful arts."

w, which was enacted on April 10, 1790, vested ue patents in a Board consisting of the Secretary y General, and the Secretary of War. The person and the leader of the group was the Secretary fferson, who was personally deeply interested in f patent law. Jefferson was not a patentee him- inventor of a number of devices, most of them

e the power of the Board to issue patents absolute, or various things that would be necessary in a

and particularly Thomas Jefferson, was quite nting of patents, and granted them with great her duties of members of this Board, in view of de it impossible for them to devote much time to result the law was changed in 1793 to make the clerical function. Under the act of 1793 patents one who applied on fulfilling the formal require- necessary papers and fees.

l in force until 1836 when the dissatisfaction with ents without any examination as to novelty or the appointment of a select committee by the uced a bill that became the new law which was 1836. This new law contains the fundamental

principles of our present patent law. It created a Patent Office with a Commissioner of Patents at the head, and examiners with the function of examining applications for patents and with the power to refuse patents, which was not present in the previous law. The law had many other provisions in it relating to details of procedure, enforcement of patents, and matters of that sort.

Amendments were made to this act of 1836 at various times until 1870 when the law was completely revised in the manner above referred to.

The present bill in a sense, then, is the second revision and codification of the patent laws by a committee on the Revision of the Laws and a committee in charge of patents.

GENERAL DESCRIPTION OF BILL

Although the principal purpose of the bill is the codification of title 35, United States Code and involves simplification and clarification of language and arrangement, and elimination of obsolete and redundant provisions there are a number of changes in substantive statutory law. These will be explained in some detail in the revision notes keyed to each section which appear in the appendix of this report. The major changes or innovations in the title consist of incorporating a requirement for invention in § 103 and the judicial doctrine of contributory infringement in § 271.

The bill divides the statutes into three parts. The first part contains the sections of the law relating to the Patent Office generally, its powers and duties and some ancillary matters of that kind. The second part consists of the sections relating to the conditions under which a patent may be obtained and the procedure in obtaining patents. The third part contains the sections relating to the patents themselves and the protection of rights under patents, and matters relating to that phase of the subject.

Stated generally, these three parts relate to, first, the Patent Office, second, obtaining a patent, and third, the patent itself. Of course it has not been possible to maintain this three-part division strictly and there may be some overlapping of the three phases of the subject. In each part the sections are arranged in several chapters of more or less homogeneous subject matter, with chapter headings.

The organization of the bill and the arrangement of the sections are such that new future amendments can readily find their place in the organization. Catchlines of parts, chapters and sections are provided for convenience of reference.

The first chapter in part I relates to the Patent Office and covers the establishment of the Patent Office, its seal, officers and employees, restrictions on officers and employees as to interest in patents, bond of the Commissioner, duties of the Commissioner, the Board of Appeals, the Patent Office library, etc. Very little change is introduced in these sections. There is one change in section 3, relating to a temporary successor to the Commissioner when the office is vacant, filling a gap in the present law. There is a change in section 4 relating to the disability of Patent Office employees to obtain patents.

The next chapter collects some of the details relating to procedure in the Patent Office of general application with no important changes.

ctions 31, 32, and 33 relate to practice before the
iem the language of the prior statutes has been
ded into several sections. There has been no
in these sections, except in the third of this
minal provision for unauthorized practice. The
nsiderably simplified, and the maximum fine has
) to $1,000.
of sections, relating to Patent Office fees, there
djustments in some minor fees, and an upward
an appeal to the Board of Appeals.
e first part apply to the Patent Office as such,
sions specific to patents, include trade-marks as
re they relate to organizational and procedural
gistration of trade-marks is handled by the Patent

patentability of inventions and the grant of

section 101, this section specifies the type of
e the subject matter of a patent. The present
erson who has invented or discovered any "new
ine, manufacture, or composition of matter, or
provement thereof" may obtain a patent. That
served except that the word "art" which appears
te has been changed to the word "process."
in the present statute has a different meaning
eful art" in the Constitution, and a different
of the word "art" in other places in the statutes,
by the courts to be practically synonymous with
The word "process" has been used to avoid the
tion that the word "art" as used in this place
ethod," and that it does not mean the same thing
other places.
process" has been added in section 100 to make
s or method" is meant, and also to clarify the
e patentability of certain types of processes or
some insubstantial doubts have been expressed.
orth the subject matter that can be patented,
itions and requirements of this title." The con-
a patent may be obtained follow, and section 102
relating to novelty.
e "invented" a machine or a manufacture, which
under the sun that is made by man, but it is not
e under section 101 unless the conditions of the

graphs (a), (b), and (c) repeats the conditions in
ing to novelty.
he language of the existing law, recognizing that
y the courts excludes various kinds of private
n to the public.
ting to a bar to patentability when the inventor
ned a patent in a foreign country, represents a
the existing law.
another well-recognized condition imposed by a
me Court which was not expressed in the exist-
rpose of anticipating subsequent inventors, a

patent disclosing the subject matter speaks from the filing date of the application disclosing the subject matter.

Subsection (f) merely emphasizes that it is the inventor that applies for the patent.

Subsection (g) relates to the question of priority of invention between rival inventors.

Section 102, in general, may be said to describe the statutory novelty required for patentability, and includes, in effect, an amplification and definition of "new" in section 101.

Section 103, for the first time in our statute, provides a condition which exists in the law and has existed for more than 100 years, but only by reason of decisions of the courts. An invention which has been made, and which is new in the sense that the same thing has not been made before, may still not be patentable if the difference between the new thing and what was known before is not considered sufficiently great to warrant a patent. That has been expressed in a large variety of ways in decisions of the courts and in writings. Section 103 states this requirement in the title. It refers to the difference between the subject matter sought to be patented and the prior art, meaning what was known before as described in section 102. If this difference is such that the subject matter as a whole would have been obvious at the time to a person skilled in the art, then the subject matter cannot be patented.

That provision paraphrases language which has often been used in decisions of the courts, and the section is added to the statute for uniformity and definiteness. This section should have a stabilizing effect and minimize great departures which have appeared in some cases.

The next group of sections relates to the application for a patent.

Sections 116 and 118 introduce a new element in our statutes. The existing statute is very strict in requiring that only the inventor may apply for a patent. These two sections provide for certain types of situations where it may be impossible for the inventor himself to apply, or where, in the case of a joint invention, one of the joint applicants has been inadvertently erroneously included or a joint inventor inadvertently excluded; the sections provide all the safeguards necessary for the inventor.

Section 119 introduces a minor change.

Sections 120 and 121 express in the statute certain matters which exist in the law today but which had not before been written into the statute, and in so doing make some minor changes in the concepts involved.

Section 122 incorporates into the title the rule of secrecy of patent applications which has existed in the Patent Office for generations.

The next chapter relates to the examination of the application in the Patent Office; rejection by the examiner, the right to reconsideration, the time within which an applicant must reply to actions, time for prosecuting application, appeal to the Board, and interferences between rival claimants for a patent. Very little has been changed in this group of sections except a minor revision in the interference section.

The next chapter relates to the review of Patent Office decisions.

The act of 1836 provided, for the first time, for the refusal of patents by officials known as examiners. The legislature was jealous of the

and provided adequate means of reviewing the
t Office. In fact, there are now two types of
ant may appeal to a court of appeals especially
file suit in the district court against the Com-
rights adjudicated by the court.
ons makes no fundamental change in the various
view of Patent Office action, but has made a few
dure in various instances to correct some of the
ve arisen, particularly in section 146. These
cedural.
collects the provisions relating to plant patents,
g to designs, and chapter 17 restates the recently
ing to secrecy of certain inventions.
the patent itself after it has been granted.
f this part relates to correcting and amending a

252 are a development of the present statute
called reissues. Under certain circumstances
ain a new patent to replace the old one to correct
cts that he may have discovered in the patent.
ogether replace the present one, make a number
a few additions in further development of the

to another form of correction of a patent known
The patentee files a paper in the Office which is
ims certain things from the scope of his patent
laims. This subject of disclaimers, in the present
great deal of confusion and uncertainty in certain
which at times are almost ridiculous. Conse-
wo sections, 253 and 288, has introduced certain
isclaimers. One of these changes is that only a
disclaimed; a patent can not be rewritten by
atent Office.
relates to the situation when a patent has two
one of them may be discovered to be invalid.
sion in the statute under which an invalid claim
vithout unreasonable delay in order to save the
What delay is unreasonable is presently quite
resent law does not, as a matter of fact, prevent
ng again on the invalid claim if he so wishes.
ated that requirement. It has left the situation
of a patent is invalid, the patentee may take it
on the remaining claims which have whatever
ve on their own merits. That is, one bad claim
ther claims, unless they are also bad for similar

f the bill take care at least as well as is done in
ie possibility of a patentee suing again after his
invalid. That can be done today and no change
tion, except that certain provisions tend to deter

permits the Patent Office to correct by a cer-
ical error made by the patentee, is new.

Section 256 is a new section in the law that is correlated with section 116 and relates to a mistake in joining a person as a joint inventor. Very often two or three people make an invention together. They must apply as joint inventors. If they make a mistake in determining who are the true inventors, they do so at their peril. This provision permits a bona fide mistake in joining a person as inventor or in failing to join a person as an inventor to be corrected.

The next chapter of two sections relates to assignments and ownership.

Section 262 merely states in the statute a peculiarity relating to joint ownership.

The next two sections collect provisions now in the law referring to the Government ownership of patents, making little change except in language.

The next chapter relates to infringements of patents.

Section 271, paragraph (a), is a declaration of what constitutes infringement. There is no declaration of what constitutes infringement in the present statute. It is not actually necessary because the granting clause creates certain exclusive rights and infringement would be any violation of those rights.

Paragraphs (b), (c), and (d) relate to the subject referred to as contributory infringement. The doctrine of contributory infringement has been part of our law for about 80 years. It has been applied to enjoin those who sought to cause infringement by supplying someone else with the means and directions for infringing a patent. One who makes a special device constituting the heart of a patented machine and supplies it to others with directions (specific or implied) to complete the machine is obviously appropriating the benefit of the patented invention. It is for this reason that the doctrine of contributory infringement, which prevents appropriating another man's patented invention, has been characterized as "an expression both of law and morals." Considerable doubt and confusion as to the scope of contributory infringement has resulted from a number of decisions of the courts in recent years. The purpose of this section is to codify in statutory form principles of contributory infringement and at the same time eliminate this doubt and confusion. Paragraph (b) recites in broad terms that one who aids and abets an infringement is likewise an infringer. The principle of contributory infringement is set forth in the provisions of the next paragraph which is concerned with the usual situation in which contributory infringement arises. This latter paragraph is much more restricted than many proponents of contributory infringement believe should be the case. The sale of a component of a patented machine, etc., must constitute a material part of the invention and must be known to be especially made or especially adapted for use in the infringement before there can be contributory infringement, and likewise the sale of staple articles of commerce suitable for noninfringement use does not constitute contributory infringement. The last paragraph of this section provides that one who merely does what he is authorized to do by statute is not guilty of misuse of the patent. These paragraphs have as their main purpose clarification and stabilization.

ew section in the law relating to infringement, little importance and it follows a paragraph in United States is a party.

1 is a group of sections relating to remedy for ent, the suit in the courts. The present statutes confusion because they were written quite some procedure and the names of actions and so on hen. So the present sections were substantially up of sections fitting in at this place, with some

aration which serves as a preamble to the others. ces a declaration of the presumption of validity now a statement made by courts in decisions, ssion in the statute. The defenses to a suit for ed in general terms, changing the language in ut not materially changing the substance.

ns relate to injunctions, damages, attorney fees, ions, and to marking and notice; all of which nt statutes on suits, with a good deal of reorganiclarify the statement of the statutes.

ompanion section to the disclaimer section, 253. riminal statute relating to falsely marking an ted when it was not patented, which is now the is section revises it and makes a few changes, ordinary criminal action as well as an informer nt statute.

w section that is needed on some occasions to er foreign patent owners that do not reside in

which follow and constitute a part of this report, ail the revisions made by the bill.

APPENDIX

REVISION NOTES

Notes explaining in detail the revision of the laws relating to patents are set forth in numerical order according to the section numbers of the revised title.

Title 35—Patents

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PART I. PATENT OFFICE

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CHAPTER 1. ESTABLISHMENT, OFFICERS, FUNCTIONS

Sec.
1. Establishment.
2. Seal.
3. Officers and employees.
4. Restrictions on officers and employees as to interest in patents.
5. Bond of Commissioner and other officers.
6. Duties of Commissioner.
7. Board of Appeals.
8. Library.
9. Classification of patents.
10. Certified copies of records.
11 Publications.
12 Exchange of copies of patents with foreign countries.
13. Copies of patents for public libraries.
14. Annual report to Congress.

ECTION 1—SECTION REVISED

U. S. C., 1946 ed., § 1 (R. S. 475 and Executive 1925).
omitted from the corresponding section of the "except as otherwise provided by law" added, ds are kept in the National Archives, see 44 . 8A.
' has been omitted to remove emphasis on models nger generally required. They are included by

o trade-mark registrations" is added. There is ponding to this section in the trade-mark law. of the Revised Statutes containing this section t Office as such in its administration of trade- ents. This is explicitly brought out in some of tions of the present chapter.
ge are made.

ECTION 2—SECTION REVISED

J. S. C., 1946 ed., § 3 (R. S. 478).
de-mark registrations" is added, see note under in language are made and the specific date

ECTION 3—SECTION REVISED

U. S. C., 1946 ed., § 2 (R. S. 476, amended (1) § 1, 39 Stat. 8, (2) Feb. 14, 1927, ch. 139, § 1, ril 11, 1930. ch. 132, § 1, 46 Stat. 155).
ignation of the assistant commissioner as Com- vacancy in office is added. This will eliminate resent applicable general statutes (5 U. S. C., a vacancy to be temporarily filled only for not

ge are made. "Assistant commissioners" is used ee (and elsewhere in the bill) as referring to all

subject to Reorganization Plan No. 5 of 1950 vests all functions of the Patent Office in the rce and authorizes delegation by him. It has al to so word the various sections of the title, on has been inserted as the second paragraph of , leaving the wording of various sections of the s previously specified and to whom the functions ated.

ECTION 4—SECTION REVISED

J. S. C., 1946 ed., § 4 (R. S. 480).
ised and inability to apply for a patent, included ge, is made explicit.
ility is increased to include one year after leaving

The further restriction, that no priority date earlier than one year after leaving the Office can be claimed, is added.
The one year period is made inapplicable to applications which may be pending when the revised title goes into effect by section 4 (g) of the bill.

SECTION 5—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 5 (R. S. 479).
Specific mention of the office of chief clerk is omitted from the corresponding section of the existing statute, the officers requiring bonds, and the amounts of the bonds are to be designated by the Commissioner.

SECTION 6—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 6 (R. S. 481 and 483).
The two sections are combined into one with some changes in language.
"And the registration of trade-marks" is added, see note under section 1.

SECTION 7—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 7 (R. S. 482, amended (1) Mar. 2, 1927, ch. 273, § 3, 44 Stat. 1335, (2) April 11, 1930, ch. 132, § 2, 46 Stat. 155, (3) Mar. 4, 1950, ch. 50, 64 Stat. 11).
Some changes in language have been made and the reference to interferences, which are no longer considered by the Board of Appeals, has been deleted. Reference to reissues is omitted in view of the general provision in section 201.

SECTION 8—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 10 (R. S. 486).
Some change in language has been made. "Purchased" is changed to "maintained" to include the existing library and keeping it up by additions. The phrase "and other" is added to include legal works. The last phrase of the corresponding section of the existing statute is omitted as unnecessary.

SECTION 9—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 6 note (June 10, 1898, ch. 430, § 1, 30 Stat. 440).
Changes in language are made.

SECTION 10—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 14 (Mar. 3, 1891, ch. 541, § 1 (part), 26 Stat. 908, 940).
Reference to other records is added. The fee for certification is omitted as it appears in the table of fees.

SECTION 11—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., §§ 13 and 16 (R. S. 489; July 9, 1947, ch. 211, § 301 (part), 61 Stat. 299, repeated in prior and subsequent appropriation acts).

d to list the publications of the Patent Office,
1946 ed., § 283, 283a.
ze of item 1 of the revised section is a provision
n appropriation acts to enable the Patent Office
inting press to place headings on drawings before
roduced.
ed.

CTION 12—SECTION REVISED

U. S. C., 1946 ed., §§ 15 and 78, part (Jan. 14,
eb. 18, 1922, ch. 58, § 9, proviso in, 42 Stat. 393).
oned applies to Canada only, the second to any
onsolidated in one section, specific reference to
g necessary.
ed.

CTION 13—SECTION REVISED

J. S. C., 1946 ed., § 78, part (R. S. 4934, Feb. 18,
Stat. 389, 393, amended June 15, 1950, ch. 249,

schedule of fees of the existing statute is made a
some changes in language are made.

CTION 14—SECTION REVISED

J. S. C., 1946 ed., § 20 (R. S. 494).
ed. The lists referred to in the corresponding
atute, and which are omitted from the revised
es provided for in section 11 (a) 4. The month
ed. The report contemplated by R. S. 494 has
ce 1925 under authority of 44 U. S. C., 1946 ed.,

OCEEDINGS IN THE PATENT OFFICE

n falling on Saturday, Sunday or holiday.
ed.
Office cases.
.

CTION 21—SECTION REVISED

U. S. C., 1946 ed., § 21 (Mar. 2, 1927, ch. 273,

' is omitted from the corresponding section of the
necessary. Saturday is added as a day on which
aken.

CTION 22—SECTION REVISED

U. S. C., 1946 ed., § 12 (R. S. 488).
ed and "or typewritten" is added after "printed."

SECTION 23—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 53 (R. S. 4905).
This section is placed in part 1 since it relates to trade-mark cases in the Patent Office as well as to patent cases.
Language is changed.

SECTION 24—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., §§ 54, 55 and 56 (R. S. 4906, amended Feb. 18, 1922, ch. 58, § 7, 42 Stat. 389, 391–2; R. S. 4907; R. S. 4908).
Three sections of the existing statute are combined with some changes in language and placed in part 1 since they apply to trade-mark cases in the Patent Office as well as to patent cases. Reference to a repealed statute in the first paragraph is replaced by reference to the Federal Rules of Civil Procedure and certain rules are made applicable.

CHAPTER 3, PRACTICE BEFORE PATENT OFFICE

Sec.
31. Regulations for agents and attorneys.
32. Suspension or exclusion from practice.
33. Unauthorized representation as practitioner.

SECTION 31—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 11 (R. S. 487, amended Feb. 18, 1922, ch. 58, § 3, 42 Stat. 390).
The present statute is divided into two sections, 31 and 32.
Changes in language are made.

SECTION 32—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 11 (R. S. 487 amended Feb 18, 1922, ch. 58, § 3, 42 Stat. 390).
See note under section 31.

SECTION 33—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 11a (May 9, 1938, ch. 188, 52 Stat. 342).
This is a criminal statute. The language has been considerably simplified and the upper limit of the penalty is increased.

CHAPTER 4. PATENT FEES

Sec.
41. Patent fees.
42. Payment of patent fees; return of excess amounts.

SECTION 41—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 78 (R. S. 4934, amended (1) May 27, 1908, ch. 200, § 1 (part) 35 Stat. 317, 343; (2) June 25, 1910, ch. 414, § 2, 35 Stat. 843; (3) Feb. 18, 1922, ch. 58, § 9, 42 Stat. 389, 393; (4) Feb. 14, 1927, ch. 139, § 2, 44 Stat. 1098, 1099; (5) Mar.

3, 44 Stat. 1335, 1337; (6) April 11, 1930, ch. 132, 7) June 30, 1932, ch. 314, §§ 308, 309, 47 Stat. , 1939, ch. 619, § 3, 53 Stat. 1293; July 5, 1946, , 60 Stat. 446, 471.
schedule of fees are rearranged in a few instances or convenient reference.
or appeal from the examiners of interferences to s is omitted.
l to the Board of Appeals is changes from $15

he corresponding section of the existing statute arate sections, see sections 12 and 13.
icate is changed from 50 cents to $1 to correspond he trade-mark statute.
added to go with section 205.
to take care of miscellaneous minor fees is added; items in the present schedule are omitted.
applications is changed slightly.

ECTION 42—SECTION REVISED

U. S. C., 1946 ed., § 79 (Mar. 6, 1920, ch. 94, 503, 512).
n changed.

ILITY OF INVENTIONS AND GRANT OF PATENTS

	Sec.
INVENTIONS	100
PATENT	111
APPLICATIONS	131
T OFFICE DECISIONS	141
	151
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N INVENTIONS AND FILING APPLICATIONS ABROAD	181

10. PATENTABILITY OF INVENTIONS

able.
entability; novelty and loss of right to patent.
entability; nonobvious subject matter.
broad.

SECTION 100—NEW SECTION

added only to avoid repetition of the phrase very" and its derivatives throughout the revised statutes use the phrase "invention or discovery"

noted under section 101.
d (d) are added to avoid the use of long expres- s of the revised title.

SECTION 101—SECTION REVISED

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.

SECTION 102—SECTION REVISED

Paragraphs (a), (b), and (c) are based on 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).

No change is made in these paragraphs other than that due to division into lettered paragraphs. The interpretation by the courts of paragraph (a) as being more restricted than the actual language would suggest (for example, "known" has been held to mean "publicly known") is recognized but no change in the language is made at this time. Paragraph (a) together with section 104 contains the substance of title 35 U. S. C., 1946 ed., § 72 (R. S. 4923).

Paragraph (d) is based on 35 U. S. C., 1946 ed., § 32, first paragraph (R. S. 4887 (first paragraph), amended (1) Mar. 3, 1897, ch. 391, § 3, 29 Stat. 692, 693, (2) Mar. 3, 1903, ch. 1019, § 1, 32 Stat. 1225, 1226, (3) June 19, 1936, ch. 594, 49 Stat. 1529).

The section has been changed so that the prior foreign patent is not a bar unless it was granted before the filing of the application in the United States.

Paragraph (e) is new and enacts the rule of *Milburn* v. *Davis-Bournonville*, 270 U. S. 390, by reason of which a United States patent disclosing an invention dates from the date of filing the application for the purpose of anticipating a subsequent inventor.

Paragraph (f) indicates the necessity for the inventor as the party applying for patent. Subsequent sections permit certain persons to apply in place of the inventor under special circumstances.

Paragraph (g) is derived from title 35, U. S. C., 1946 ed., § 69 (R. S. 4920, amended (1) Mar. 3, 1897, ch. 391, § 2, 29 Stat. 692,

450, § 1, 53 Stat. 1212), the second defense
. This paragraph retains the present rules of
termination of priority of invention.
specifically to designs is omitted for inclusion
s.

CTION 103—NEW SECTION

n corresponding to the first sentence explicitly
tatutes, but the refusal of patents by the Patent
of patents invalid by the courts, on the ground
r lack of patentable novelty has been followed
as 1850. This paragraph is added with the
tatement in the statute may have some stabiliz-
serve as a basis for the addition at a later time
may be worked out.
e states that patentability as to this require-
tived by the manner in which the invention was
material whether it resulted from long toil and
om a flash of genius.

TION 104—SECTION REVISED

J. S. C., 1946 ed., § 109 (Aug. 8, 1946, ch. 910,

changed and the last sentence has been broad-
s serving in connection with operations by or on
States, instead of solely in connection with the
r.

11. APPLICATION FOR PATENT

nt.

of inventor.
inventor.
ng date in foreign country; right of priority.
ng date in the United States.
ns.
f applications.

ION 111—SECTION REVISED

U. S. C., 1946 ed., § 33 (R. S. 4888, amended
94, § 1, 38 Stat. 958; (2) May 23, 1930, ch. 312,

section of existing statute is divided into an
elating to the application generally (this section)
pecification (sec. 112).
plication are specified and the requirement for
this general section so as to insure that only one

SECTION 112—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 33 (R. S. 4888, amended (1) Mar. 3, 1915, ch. 94, § 1, 38 Stat. 958; (2) May 23, 1930, ch. 312, § 2, 46 Stat. 376).

The sentence relating to signature of the specification is omitted in view of the general requirement for a signature in section 111.

The last sentence is omitted for inclusion in the chapter relating to plant patents.

The clause relating to machines is omitted as unnecessary and the requirement for disclosing the best mode of carrying out the invention is stated as generally applicable to all types of invention (derived from title 35, U. S. C., 1946 ed., § 69, first defense).

The clause relating to the claim is made a separate paragraph to emphasize the distinction between the description and the claim or definition, and the language is modified.

A new paragraph relating to functional claims is added.

SECTION 113—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 34, part (R. S. 4889, amended Mar. 3, 1915, ch. 94, § 2, 38 Stat. 958).

The requirement for signature in the corresponding section of existing statute is omitted; regulations of the Patent Office can take care of any substitute. A redundant clause is omitted.

SECTION 114—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 34, part (R. S. 4890 and 4891).

The change in language in the second paragraph broadens the requirement for specimens.

SECTION 115—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 35 (R. S. 4892, amended (1) Mar. 3, 1903, ch. 1019, § 2, 32 Stat. 1225, 1226, (2) May 23, 1930, ch. 312, § 3, 46 Stat. 376).

The expression at the end of the second sentence is added to avoid application of the District of Columbia law to oaths taken outside the District.

Changes in language are made.

SECTION 116—NEW SECTION

The first paragraph is implied in the present statutes, and the part of the last paragraph relating to omission of an erroneously joined inventor is in the Patent Office rules. The remainder is new and provides for the correction of a mistake in erroneously joining a person as inventor, and for filing an application when one of several joint inventors cannot be found. This section is ancillary to section 256.

SECTION 117—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 46 (R. S. 4896, amended (1) Feb. 28, 1899, ch. 227, 30 Stat. 915, (2) Mar. 3, 1903, ch. 1019, § 3, 32 Stat. 1225, 1226, (3) May 23, 1908, ch. 188, 35 Stat. 245).

The language has been considerably simplified.

ECTION 118—NEW SECTION

y and provides for the filing of an application by the inventor in certain special hardship situations.

CTION 119—SECTION REVISED

U. S. C., 1946 ed., § 32, second paragraph (R. S. aph, amended (1) Mar. 3, 1903, ch. 1019, § 1, (2) June 19, 1936, ch. 594, 49 Stat. 1529, (3) , § 1, 53 Stat. 1212).

h is the same as the present law with changes in ences to designs have been removed for inclusion d the opening clause has been modified to accord and the requirements of the International Con- ection of Industrial Property.

raph is new, making an additional procedural ining the right of priority. Copies of the foreign right of priority is based are required so that the States patent will be complete in this country.

ECTION 120—NEW SECTION

sents present law not expressed in the statute, l requirement that the first application must be d in the second.

ECTION 121—NEW SECTION

as law existing practice with respect to division, oducing a number of changes. Division is made he Commissioner. The requirements of section able and neither of the resulting patents can be other merely because of their being divided in some cases a divisional application may be filed

ECTION 122—NEW SECTION

the Patent Office rule of secrecy of applications.

. EXAMINATION OF APPLICATION

lication.
reexamination.
g application.
d of Appeals.

CTION 131—SECTION REVISED

U. S. C., 1946 ed., § 36 (R. S. 4893).
evised in language and amplified. The phrase ation is sufficiently useful and important" is ary, the requirements for patentability being , 102 and 103.

SECTION 132—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 51 (R. S. 4903, amended Aug. 5, 1939, ch. 452, § 1, 53 Stat. 1213).

The first paragraph of the corresponding section of existing statute is revised in language and amplified to incorporate present practice; the second paragraph of the existing statute is placed in section 135.

The last sentence relating to new matter is added but represents no departure from present practice.

SECTION 133—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 37 (R. S. 4894, amended (1) Mar. 3, 1897, ch. 391, § 4, 29 Stat. 692, 693, (2) July 6, 1916, ch. 225, § 1, 39 Stat. 345, 347–8, (3) Mar. 2, 1927, ch. 273, § 1, 44 Stat. 1335, (4) Aug. 7, 1939, ch. 568, 53 Stat. 1264).

The opening clause of the corresponding section of existing statute is omitted as having no present day meaning or value and the last two sentences are omitted for inclusion in section 267. The notice is stated as given or mailed. Language is revised.

SECTION 134—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 57 (R. S. 4909 amended (1) Mar. 2, 1927, ch. 273, § 5, 44 Stat. 1335, 1336, (2) Aug. 5, 1939, ch. 451, § 2, 53 Stat. 1212).

Reference to reissues is omitted in view of the general provision in section 251. Minor changes in language are made.

SECTION 135—SECTION REVISED

The first paragraph is based on title 35, U. S. C., 1946 ed., § 52 (R. S. 4904 amended (1) Mar. 2, 1927, ch. 273, § 4, 44 Stat. 1335, 1336, (2) Aug. 5, 1939, ch. 451, § 1, 53 Stat. 1212).

The first paragraph states the existing corresponding statute with a few changes in language. An explicit statement that the Office decision on priority constitutes a final refusal by the Office of the claims involved, is added. The last sentence is new and provides that judgment adverse to a patentee constitutes cancellation of the claims of the patent involved after the judgment has become final, the patentee has a right of appeal (sec. 141) and is given a right of review by civil action (sec. 146).

The second paragraph is based on title 35, U. S. C., 1946 ed., § 51, (R. S. 4903, amended Aug. 5, 1939, ch. 452, § 1, 53 Stat. 1213). Changes in language are made.

VIEW OF PATENT OFFICE DECISIONS

Customs and Patent Appeals.

al.

n patent.
of interference.

TION 141—SECTION REVISED

. S. C., 1946 ed., § 59a (R. S. 4911, amended (1)
, § 8, 44 Stat. 1336, (2) Mar. 2, 1929, ch. 4888,
) Aug. 5, 1939, ch. 451, § 3, 53 Stat. 1212).
e are made.

TION 142—SECTION REVISED

J. S. C., 1946 ed., § 60 (R. S. 4912 amended (1)
, § 9, 44 Stat. 1336 (2) Mar. 2, 1929, ch. 4888,
.
e are made.

TION 143—SECTION REVISED

U. S. C., 1946 ed., § 61 (R. S. 4913, amended
§ 10, 44 Stat. 1336).
ed. The requirement that the Commissioner
mitted and a requirement that the court notify
The statement relating to filing the papers and
re explicit.

TION 144—SECTION REVISED

J. S. C., 1946 ed., § 62 (R. S. 4914).
ed and the last sentence of the corresponding
atute omitted as superfluous; such a sentence
he present civil action section, 35 U. S. C. 63
validity of the patent may be questioned.

TION 145—SECTION REVISED

U. S. C., 1946 ed., § 63 (R. S. 4915, amended
273, § 11, 44 Stat. 1336, (2) Mar. 2, 1929, ch.
476, (3) Aug. 5, 1939, ch. 451, § 4, 53 Stat. 1212).
nged to civil action and the section is restricted
es which are covered by the next section. The
on is changed to the same as the time for appeal.
he applicant to file a copy of the decision in the
ed. Language is changed.

ECTION 146—SECTION REVISED

n and parts of the second paragraph are based
1946 ed., § 63 (R. S. 4915, amended (1) Mar. 2,
4 Stat. 1336, (2) Mar. 2, 1929, ch. 488, § 2 (b),

45 Stat. 1476, (3) Aug. 5, 1939, ch. 451, § 4, 53 Stat. 1212), limited to interferences and making some changes. The action is not restricted to applicants, but a patentee may also bring the action. The time for bringing the action is made the same as for appeals.

In the second paragraph the first sentence is new and eliminates difficulties arising from unrecorded interests.

The second sentence is based on 35 U. S. C., 1946 ed., § 72a (Mar. 3, 1927, ch. 364, 44 Stat. 1394, reenacted Oct. 31, 1951, ch. 655, § 53a, 65 Stat. 728) with changes in language.

The fourth sentence is new and prevents such suits from being filed against the Commissioner as a defendant; however, the Commissioner has the right to intervene.

Language is changed.

CHAPTER 14. ISSUE OF PATENT

Sec.
151. Time of issue of patent.
152. Issue of patent to assignee.
153. How issued.
154. Contents and term of patent.

SECTION 151—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 41 (R. S. 4885, amended (1) May 23, 1908, ch. 189, 35 Stat. 246, (2) Aug. 9, 1939, § 2, ch. 619, 53 Stat. 1293).

Language is changed.

SECTION 152—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 44 (R. S. 4895).

Language is changed and the reference to reissues is omitted in view of the general provision in section 201.

SECTION 153—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 39 (R. S. 4883, amended (1) Feb. 18, 1888, ch. 15, 25 Stat. 40, (2) April 11, 1903, ch. 417, 32 Stat. 95, (3) Feb. 18, 1922, ch. 58, § 5, 42 Stat. 391).

The phrases referring to the attesting officers and to the recording of the patents are broadened.

SECTION 154—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 40 (R. S. 4884, amended May 23, 1930, ch. 312, § 1, 46 Stat. 376).

The reference to plants is omitted for inclusion in another section and the reference to the title is shortened since the title is of no legal significance.

The wording of the granting clause is changed to "the right to exclude others from making, using, or selling", following language used by the Supreme Court, to render the meaning clearer.

"United States" is defined in section 100.

PTER 15. PLANT PATENTS

tment of Agriculture.

CTION 161—SECTION REVISED

J. S. C., 1946 ed., § 31, part (R. S. 4886, amended 391, § 1, 29 Stat. 692, (2) May 23, 1930, ch. 312, Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).
ting to plants in the corresponding section of de a separate section.

CTION 162—SECTION REVISED

J. S. C., 1946 ed., § 33, part (R. S. 4888, amended 94, § 1, 38 Stat. 958, (2) May 23, 1930, ch. 312,

is the provision in R. S. 4888 (see section 112). h is not in the statute but represents the actual

CTION 163—SECTION REVISED

J. S. C., 1946 ed., § 40, part (R. S. 4884, amended 2, § 1, 46 Stat. 376).
from R. S. 4884 (see section 154) amended in

CTION 164—SECTION REVISED

U. S. C., 1946 ed., § 56a (May 23, 1930, ch. 312,

ed.

CHAPTER 16. DESIGNS

ent.

CTION 171—SECTION REVISED

U. S. C., 1946 ed., § 73 (R. S. 4929, amended 783, 32 Stat. 193, (2) Aug. 5, 1939, ch. 450, § S. 4933).
ions specified in the corresponding section of mitted as unnecessary in view of the general itions applying to other patents. Language is

CTION 172—SECTION REVISED

J. S. C., 1946 ed., § 32, part (R. S. 4887, amended 1019, § 1, 32 Stat. 1225, 1226, (2) June 19, 1936, 9, (3) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).
ken from R. S. 4887 (see section 119) and made

SECTION 173—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 77 (R. S. 4931).
Language is changed slightly.

CHAPTER 17. SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS IN FOREIGN COUNTRY

Sec.
181. Secrecy of certain inventions and withholding of patent.
182. Abandonment of invention for unauthorized disclosure.
183. Right of compensation.
184. Filing of application in foreign country.
185. Patent barred for filing without license.
186. Penalty.
187. Nonapplicability to certain persons.
188. Rules and regulations, delegation of power.

SECTION 181—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 151 (Feb. 1, 1952, ch. 4, § 1, 66 Stat. 3, 4).
Language is changed.

SECTION 182—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 152 (Feb. 1, 1952, ch. 4, § 2, 66 Stat. 4).
Language is changed.

SECTION 183—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 153 (Feb. 1, 1952, ch. 4, § 3, 66 Stat. 4, 5).
Language is changed.

SECTION 184—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 154 (Feb. 1, 1952, ch. 4, § 4, 66 Stat. 5).
Language is changed.

SECTION 185—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 155 (Feb. 1, 1952, ch. 4, § 5, 66 Stat. 5).
Language is changed.

SECTION 186—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 156 (Feb. 1, 1952, ch. 4, § 6, 66 Stat. 5, 6).
Language is changed.

CTION 187—SECTION REVISED

J. S. C., 1946 ed., § 157 (Feb. 1, 1952, ch. 4, § 7,

ed.

CTION 188—SECTION REVISED

J. S. C., 1946 ed., § 158 (Feb. 1, 1952, ch. 4, § 8,

ed.

TS AND PROTECTION OF PATENT RIGHTS

	Sec.
RRECTION OF PATENTS	251
IGNMENT	261
ESTS IN PATENTS	266
TENTS	271
NGEMENT OF PATENT AND OTHER ACTIONS	281

MENDMENT AND CORRECTION OF PATENTS

patents.

tion of Patent Office mistake.
tion of applicant's mistake.
or.

TION 251—SECTION REVISED

U. S. C., 1946 ed., § 64 (R. S. 4916, amended
), 45 Stat. 732.)
he corresponding section of existing statute are
ed into two sections with some changes in lan-
t the end of the present statute is omitted as

h incorporates by reference the requirements of
d adds a new provision relating to application
e in certain cases by the assignee.
of limitation on applying for broadened reissues
e present rule of decision with a fixed period.

TION 252—SECTION REVISED

U. S. C., 1946 ed., § 64 (R. S. 4916, amended
), 45 Stat. 732.)
follows the present section with some rearrange-
The second paragraph adds new provisions for
ervening rights, the court is given discretion to
ivities which would be adversely affected by the
things made before the grant of the reissue are
ssue unless a claim of the original patent which
sue is infringed.

SECTION 253—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 65 (R. S. 4917).

Language is changed and substantive changes are introduced; (1) only a claim as a whole may be disclaimed, and (2) the provision regarding delay is omitted. See preliminary general description of bill.

See section 288.

The second paragraph is new and provides for the disclaiming or dedication of an entire patent, or any terminal part of the term, for example, a patentee may disclaim the last three years of the term of his patent.

SECTION 254—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 88 (Mar. 4, 1925, ch. 535, § 1, 43 Stat. 1268).

The last sentence of the present section is omitted as obsolete. A sentence is added similar to a provision in the corresponding section in the trade-mark law, 15 U. S. C., 1946 ed., § 1057 (f), and provides that the Commissioner may issue a corrected patent instead of a certificate of correction.

SECTION 255—NEW SECTION

This section providing for the correction of minor clerical errors made by the applicant, is new and follows a similar provision in the trade-mark law, 15 U. S. C., 1946 ed., § 1057 (g).

SECTION 256—NEW SECTION

This section is new and is companion to section 116.

The first two paragraphs provide for the correction of the inadvertent joining or nonjoining of a person as a joint inventor. The third paragraph provides that a patent shall not be invalid for such cause, and also provides that a court may order correction of a patent; the two sentences of this paragraph are independent.

CHAPTER 26. OWNERSHIP AND ASSIGNMENT

Sec.
261. Ownership; assignment.
262. Joint owners.

SECTION 261—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 47 (R. S. 4898, amended (1) Mar. 3, 1897, ch. 391, § 5, 29 Stat. 93, (2) Feb. 18, 1922, ch. 58, § 6, 42 Stat. 391, (3) Aug. 18, 1941, ch. 370, 55 Stat. 634).

The first paragraph is new but is declaratory only. The second paragraph is the same as in the corresponding section of existing statute. The third paragraph is from the existing statute, a specific reference to another statute is omitted. The fourth paragraph is the same as the existing statute but language has been changed.

SECTION 262—NEW SECTION

This section states a condition in existing law not expressed in the existing statutes.

OVERNMENT INTERESTS IN PATENTS

thout fees to Government employees.
tion in Government applications.

CTION 266—SECTION REVISED

U. S. C., 1946 ed., § 45 (Mar. 3, 1883, ch. 143, ed April 30, 1928, ch. 460, 45 Stat. 467).
ge are made. The omission of the specific refer- 1946 ed., § 31, (R. S. 4886) broadens the section gn patents.

CTION 267—SECTION REVISED

U. S. C. 1946 ed., § 37 (R. S. 4894, amended (1) , § 4, 29 Stat. 692, 693, (2) July 6, 1916, ch. 225, 7–8, (3) Mar. 2, 1927, ch. 273, § 1, 44 Stat. 1335, 568, 53 Stat. 1264).
hich appears as the last two sentences of the n of the present statute (see note to section 133) ection and rewritten in simpler form.

28. INFRINGEMENT OF PATENTS

tent.
e in the United States.

SECTION 271—NEW SECTION

ph of this section is declaratory only, defining

d (c) define and limit contributory infringement agraph (d) is ancillary to these paragraphs, see description of bill. One who actively induces aiding and abetting the same is liable as an in- e who sells a component part of a patented in- r apparatus for use therein knowing the same to r especially adapted for use in the infringement of n the case of a staple article or commodity of ther uses. A patentee is not deemed to have olely by reason of doing anything authorized by

SECTION 272—NEW SECTION

vs the requirement of the International Conven- ion of Industrial Property, to which the United d also codifies the holding of the Supreme Court ted invention on board a foreign ship does not

CHAPTER 29. REMEDIES FOR INFRINGEMENT OF PATENT, AND OTHER ACTIONS

Sec.
281. Remedy for infringement of patent.
282. Prosecution of validity; defenses.
283. Injunction.
284. Damages.
285. Attorney fees.
286. Time limitation on damages.
287. Limitation on damages; marking and notice.
288. Action for infringement of a patent containing an invalid claim.
289. Additional remedy for infringement of design patent.
290. Notice of patent suits.
291. Interfering patents.
292. False marking.
293. Nonresident patentee, service and notice.

SECTION 281—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., §§ 67 and 70, part (R. S. 4919; R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

The corresponding two sections of existing law are divided among sections 281, 283, 284, 285, 286 and 289 with some changes in language. Section 241 serves as an introduction or preamble to the following sections, the modern term civil action is used, there would be, of course, a right to a jury trial when no injunction is sought.

SECTION 282—SECTION REVISED

Derived from title 35, U. S. C., 1946 ed., § 69, (R. S. 4920, amended (1) Mar. 3, 1897, ch. 391, § 2, 29 Stat. 692, (2) Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212).

The first paragraph declares the existing presumption of validity of patents.

The five defenses named in R. S. 4920 are omitted and replaced by a broader paragraph specifying defenses in general terms.

The third paragraph, relating to notice of prior patents, publications and uses, is based on part of the last paragraph of R. S. 4920 which was superseded by the Federal Rules of Civil Procedure but which is reinstated with modifications.

SECTION 283—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 70, part (R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

This section is the same as the provision which opens R. S. 4921 with minor changes in language.

SECTION 284—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., §§ 67 and 70, part (R. S. 4919; R. S. 4921, amended (1) Mar. 3, 1897, ch. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58, § 8, 42 Stat. 392, (3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).

This section consolidates the provisions relating to damages in R. S. 4919 and 4921, with some changes in language.

SECTION 285—SECTION REVISED

U. S. C., 1946 ed., § 70, part (R. S. 4921, amended
n. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58,
3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).
ostantially the same as the corresponding provision
xceptional cases" has been added as expressing the
sent statute as shown by its legislative history and
ne courts.

SECTION 286—SECTION REVISED

U. S. C., 1946 ed., § 70, part (R. S. 4921, amended
n. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58,
3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).
ph is the same as the provision in R. S. 4921 with
anguage, with the added provision relating to the
ms for infringement.
graph is new and relates to extending the period
respect to suits in the Court of Claims in certain
inistrative consideration is pending.

SECTION 287—SECTION REVISED

, U. S. C., 1946 ed., § 49 (R. S. 4900, amended
, 44 Stat. 1058).
ged. The proviso in the corresponding section of
omitted as being temporary in character and now

SECTION 288—SECTION REVISED

, U. S. C., 1946 ed., § 71 (R. S. 4922).
a disclaimer to recover on valid claims is elimi-
253.
ged.

SECTION 289—SECTION REVISED

, U. S. C., 1946 ed., §§ 74, 75 (Feb. 4, 1887, ch.
t. 387, 388).
ged.

SECTION 290—SECTION REVISED

U. S. C., 1946 ed., § 70, part (R. S. 4921, amended
n. 391, § 6, 29 Stat. 694, (2) Feb. 18, 1922, ch. 58,
3) Aug. 1, 1946, ch. 726, § 1, 60 Stat. 778).
entence of R. S. 4921, third paragraph, with minor
e.

SECTION 291—SECTION REVISED

, U. S. C., 1946 ed., § 66 (R. S. 4918, amended
73, § 12, 44 Stat. 1337).
ged.

SECTION 292—SECTION REVISED

Based on title 35, U. S. C., 1946 ed., § 50 (R. S. 4901).
This is a criminal provision. The first two paragraphs of the corresponding section of existing statute are consolidated, a new paragraph relating to false marking of "patent applied for" is added, and false advertising is included in all the offenses. The minimum fine, which has been interpreted by the courts as a maximum, is replaced by a higher maximum. The informer action is included as additional to an ordinary criminal action.

SECTION 293—NEW SECTION

This section provides for service on non-resident patentees.

COMPLIANCE WITH RAMSEYER RULE

1. Text of Statutes for Repeal

In compliance with paragraph 2a (1) of rule XIII of the Rules of the House of Representatives, the text of the statutes or parts thereof which are proposed to be repealed by the bill are set out below.

The Revised Statutes, set out first, are in numerical order according to section number. The Statutes at Large which specifically amend a section of the Revised Statutes follow the particular Revised Statute section. The Statutes at Large which do not specifically amend any particular section of the Revised Statutes follow the Revised Statutes in chronological order.

The citation in the left-hand column of the headings identifies the text of the Revised Statutes or Statutes at Large which immediately follows that reference; that in the right-hand column refers to the section of proposed title 35, "Patents", of the United States Code, where similar subject matter will be found. The word "omitted" in the right-hand column of a heading indicates that the particular text of such statute was not incorporated in proposed title 35 because it was obsolete, executed, covered by other law, or superseded by later law. The specific reasons for omitting and repealing such statutes are given in the table of omitted laws elsewhere in this report.

REVISED STATUTES

R. S. 475 ---------- T. 35, § 1

There shall be in the Department of the Interior an office known as the Patent-Office, where all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

R. S. 476 ---------- T. 35, § 3

There shall be in the Patent-Office a Commissioner of Patents, one Assistant Commissioner and three examiners-in-chief, who shall be appointed by the President, by and with the advice and consent of the Senate. All other officers, clerks, and employees authorized by law for the Office shall be appointed by the Secretary of the Interior upon the nomination of the Commissioner of Patents.

As amended Feb. 15, 1916, ch. 22, § 1, 39 Stat. 8.

That section four hundred and seventy-six of the Revised Statutes be, and the same is hereby, amended to read as follows:

"Sec. 476. There shall be in the Patent Office a Commissioner of Patents, one first assistant commissioner, one assistant commissioner, and five examiners in chief, who shall be appointed by the President, by and with the advice and consent of the Senate. The first assistant commissioner and the assistant commissioner shall perform such duties pertaining to the office of commissioner as may be assigned to them, respectively, from time to time by the Commissioner of Patents. All other officers, clerks, and employees authorized by law for the office shall be appointed by the Secretary of the Interior upon the nomination of the Commissioner of Patents, in accordance with existing law."

As amended Feb. 14, 1927, ch. 139, § 1, 44 Stat. 1098.

That section 476 of the Revised Statutes be amended to read as follows:

"Sec. 476. There shall be in the Patent Office a Commissioner of Patents, one first assistant commissioner, one assistant commissioner, and six examiners in

ppointed by the President, by and with the advice and
The first assistant commissioner and the assistant com-
n such duties pertaining to the office of commissioner as
em, respectively, from time to time by the Commissioner
officers, clerks, and employees authorized by law for the
d by the Secretary of Commerce upon the nomination of
atents, in accordance with existing law."

1930, ch. 132, § 1, 46 Stat. 155.

the Revised Statutes, as amended (United States Code,
mended to read as follows:
all be in the Patent-Office a Commissioner of Patents, one
oner, two assistant commissioners, and nine examiners-in-
inted by the President, by and with the advice and consent
st assistant commissioner and the assistant commissioners
ties pertaining to the office of commissioner as may be
ctively, from time to time by the Commissioner of Patents.
s, and employees authorized by law for the office shall be
ary of Commerce upon the nomination of the Commissioner
nce with existing law."

---------- T. 35, § 2

rovided for the Patent-Office shall be the seal of the Office,
nt and papers issued from the Office shall be authenticated.

---------- T. 35, § 5

f Patents and the chief clerk, before entering upon their
give bond, with sureties, to the Treasurer of the United
e sum of ten thousand dollars, and the latter in the sum of
conditioned for the faithful discharge of their respective
shall render to the proper officers of the Treasury a true
eceived by virtue of their offices.

---------- T. 35, § 4

loyes of the Patent-Office shall be incapable, during the
hold their appointments, to acquire or take, directly or
heritance or bequest, any right or interest in any patent

---------- T. 35, § 6

of Patents, under the direction of the Secretary of the
end or perform all duties respecting the granting and
ted by law; and he shall have charge of all books, records,
es, and other things belonging to the Patent-Office.

---------- T. 35, § 7

ief shall be persons of competent legal knowledge and
duty it shall be, on written petition of the appellant, to
upon the validity of the adverse decisions of examiners
patents, and for re-issues of patents, and in interference
ed by the Commissioner, they shall hear and report upon
nd perform such other like duties as he may assign them.

27, ch. 273, § 3, 44 Stat. 1335.

82 of the Revised Statutes of the United States be amended

iners-in-chief shall be persons of competent legal knowl-
lity. The Commissioner of Patents, the first assistant
tant commissioner, and the examiners in chief shall con-
eals, whose duty it shall be, on written petition of the
nd determine upon the validity of the adverse decisions
lications for patents and for reissues of patents and in
ch appeal shall be heard by at least three members of
he members hearing such appeal to be designated by the
ard of appeals shall have sole power to grant rehearings."

As amended Apr. 11, 1930, ch. 132, § 2, 46 Stat. 155.

SEC. 2. Section 482 of the Revised Statutes as amended (United States Code, title 35, section 7) is hereby amended by substituting the words "assistant commissioners" for the words "assistant commissioner," in conformity with the provisions of section 1 of this bill.

As amended Mar. 4, 1950, ch. 50, 64 Stat. 11.

That section 482 of the Revised Statutes (35 U. S. C. 7) is amended by adding the following paragraph:

"The Commissioner, when in his discretion considered necessary to maintain the work of the board of appeals current, may designate any examiner of the primary examiner grade or higher, having the requisite ability, to serve as examiner in chief for periods not exceeding six months each, and any examiner so designated shall be qualified to act as a member of the board of appeals. Not more than one primary examiner shall be among the members of the board of appeals hearing an appeal."

R. S. 483---------- T. 35, § 6

The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent-Office.

R. S. 486---------- T. 35, § 8

There shall be purchased for the use of the Patent-Office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated for that purpose.

R. S. 487---------- T. 35, §§ 31, 32

For gross misconduct the Commissioner of Patents may refuse to recognize any person as a patent-agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

As amended Feb. 18, 1922, ch. 58, § 3, 42 Stat. 390.

SEC. 3. That section 487 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 487. The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing applicants or other parties before his office, and he may require of such persons, agents, or attorneys, 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 Commissioner 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, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who refuses to comply with the said rules and regulations, 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 commissioner may be reviewed upon the petition of the person so refused recognition or so suspended or excluded by the Supreme Court of the District of Columbia under such conditions and upon such proceedings as the said court may by its rules determine."

R. S. 488---------- T. 35, § 22

The Commissioner of Patents may require all papers filed in the Patent-Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

---------- T. 35, § 11

Patents may print, or cause to be printed, copies of the
es, and copies of such laws, decisions, regulations, and
ssary for the information of the public.

---------- T. 35, § 41

or uncertified printed copies of specifications and drawings
rmined by the Commissioner of Patents, within the limits
um and fifty cents as the maximum price.

396, ch. 204, 29 Stat. 124.

dred and ninety-three of the Revised Statutes be, and the
d by striking out the words" within the limits of ten cents
ty cents as the maximum price," in lines three and four,
thereof, "*Provided*, That the maximum cost of a copy
at the section so amended shall read as follows:
o be paid for uncertified printed copies of specifications and
l be determined by the Commissioner of Patents: *Provided*,
of a copy shall be ten cents."

---------- T. 35, § 14

Patents shall lay before Congress, in the month of January,
g a detailed statement of all moneys received for patents,
drawings, or from any other source whatever; a detailed
itures for contingent and miscellaneous expenses; a list
re granted during the preceding year, designating under
s of such patents; an alphabetical list of all the patentees,
idence; a list of all patents which have been extended
h other information of the condition of the Patent-Office
gress or the public.

---------- Omitted

the Patent-Office shall be made by the disbursing clerk
ent.

---------- T. 35, § 153

sued in the name of the United States of America, under
ffice, and shall be signed by the Secretary of the Interior
e Commissioner of Patents, and they shall be recorded,
cations, in the Patent-Office, in books to be kept for that

88, ch. 15, 25 Stat. 40.

ousand eight hundred and eighty-three of the Revised
nded by inserting after the words "Secretary of the
cur therein, the following words: "or under his direction
Secretaries of the Interior," so that the said section as
lows:
atents shall be issued in the name of the United States
al of the Patent Office, and shall be signed by the Secre-
nder his direction by one of the Assistant Secretaries of
r-signed by the Commissioner of Patents, and they shall
h the specifications, in the Patent Office, in books to be

02, ch. 417, 32 Stat. 95.

nt hundred and eighty-three of the Revised Statutes be,
so as to read as follows:
ts shall be issued in the name of the United States of
of the Patent Office, and shall be signed by the Commis-
hey shall be recorded, together with the specifications,
ooks to be kept for that purpose."

22, ch. 58, sec. 5, 42 Stat. 391.

883 of the Revised Statutes be, and the same is hereby,
ws:
s shall be issued in the name of the United States of
of the Patent Office, and shall either be signed, by the

Commissioner of Patents or have his name printed thereon and attested by an Assistant Commissioner of Patents or by one of the law examiners duly designated by the commissioner, and shall be recorded, together with the specifications, in the Patent Office in books to be kept for that purpose."

R. S. 4884---------- T. 35, §§ 154, 163

Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use and vend the invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

As amended May 23, 1930, ch. 312, sec. 1, 46 Stat. 376.

That sections 4884 [and 4886] of the Revised Statutes, as amended (U. S. C., title 35, secs. 40 [and 31]), are amended to read as follows:

"SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery (including in the case of a plant patent the exclusive right to asexually reproduce the plant) throughout the United States and the Territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof."

R. S. 4885---------- T. 35, § 151

Every patent shall bear date as of a day not later than six months from the time at which it was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

As amended May 23, 1908, ch. 189, 35 Stat. 246.

That section forty-eight hundred and eighty-five of the Revised Statutes be, and the same hereby is, amended to read as follows:

"SEC. 4885. Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the time at which the application was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld."

As amended Aug. 9, 1939, ch. 619, § 2, 53 Stat. 1293.

SEC. 2. That section 4885 of the Revised Statutes (U. S. C., title 35, sec. 41) be amended by adding at the end thereof the following: "*Provided, however*. That the Commissioner of Patents may in his discretion receive the final fee if paid within one year after the six months' period for payment has passed and the patent shall issue."

R. S. 4886---------- T. 35, §§ 101, 102, 161

Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceeding had, obtain a patent therefor.

As amended Mar. 3, 1897, ch. 391, § 1 29 Stat. 692.

That section forty-eight hundred and eighty-six of the Revised Statutes be, and the same hereby is, amended by inserting on line four, after the word "country," the words "before his invention or discovery thereof" and on line five after the word "thereof" the words "or more than two years prior to his application," so that the clause so amended will read as follows:

"SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereof, not known or used by others in this country, before his

thereof, and not patented or described in any printed any foreign country, before his invention or discovery wo years prior to his application, and not in public use or for more than two years prior to his application, unless have been abandoned, may, upon payment of the fees ther due proceeding had. obtain a patent therefor."

930, ch. 312, sec. 1, 46 Stat. 376.

and] 4886 of the Revised Statutes, as amended (U S. C., 31), are amended to read as follows:

rson who has invented or discovered any new and useful cture. or composition of matter, or any new and useful or who has invented or discovered and asexually repro- new variety of plant, other than a tuber-propagated plant others in this country, before his invention or discovery ed or described in any printed publication in this or any e his invention or discovery thereof, or more than two cation, and not in public use or on sale in this country for rior to his application, unless the same is proved to have upon payment of the fees required by law, and other due a patent therefor."

39, ch. 450, § 1, 53 Stat. 1212.

4887, 4920, and 4929 of the Revised Statutes (U. S. C., and 73) be amended by striking out the words "two years" in said sections and substituting therefor the words "one

---------- T. 35, §§ 102 (d), 119

barred from receiving a patent for his invention or discovery, declared invalid, by reason of its having been first patented d in a foreign country, unless the same has been introduced nited States for more than two years prior to the applica- nt granted for an invention which has been previously untry shall be so limited as to expire at the time with the re be more than one, at the same time with the one having in no case shall it be in force more than seventeen years.

97, ch. 391, § 3, 29 Stat. 693.

forty-eight hundred and eighty-seven of the Revised ne hereby is, amended by inserting on line one, after the e words "otherwise entitled thereto," and on line three, to be patented," the words "by the inventor or his legal ns," and by erasing therein all that portion of the section ds "in a foreign country," on lines three and four, and reof the following: "unless the application for said foreign han seven months prior to the filing of the application in case no patent shall be granted in this country" so that will read as follows:

on otherwise entitled thereto shall be debarred from is invention or discovery, nor shall any patent be declared s having been first patented or caused to be patented by al representatives or assigns in a foreign country, unless foreign patent was filed more than seven months prior to ation in this country, in which case no patent shall be "

03, ch. 1019, § 1, 32 Stat. 1225.

ght hundred and eighty-seven of the Revised Statutes is he word "seven" to "twelve", and by inserting after the rds "in cases within the provisions of section forty-eight of the Revised Statutes, and four months, in cases of g the following words: "An application for patent for an r for a design filed in this country by any person who has d an application for a patent for the same invention, dis- reign country which, by treaty, convention, or law, affords

similar privileges to citizens of the United States 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, discovery, or design was first filed in such foreign country, provided the application in this country is filed within twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use, or on sale in this country for more than two years prior to such filing;" so that the section so amended shall read:

"SEC. 4887. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months, in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and four months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

"An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States 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, discovery, or design was first filed in such foreign country, provided the application in this country is filed within twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country for more than two years prior to such filing."

As amended June 19, 1936, ch. 594, 49 Stat. 1529.

That section 4887 of the Revised Statutes (U. S. C., title 35, sec. 32) be amended to read as follows:

"No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months, in cases within the provisions of section 4886 of the Revised Statutes, and six months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

"An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States 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, discovery, or design was first filed in such foreign country: *Provided*, That the application in this country is filed within twelve months in cases within the provisions of section 4886 of the Revised Statutes, and within six months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on any application for patent for an invention or discovery or a design 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 on sale in this country for more than one year prior to such filing."

As amended Aug. 5, 1939, ch. 450, § 1, 53 Stat. 1212.

That sections 4886, 4887, 4920, and 4929 of the Revised Statutes (U. S. C., title 35, secs. 31, 32, 69, and 73) be amended by striking out the words "two

y appear in said sections and substituting therefor the words

---------- T. 35, §§ 111, 112, 162

or or discoverer shall receive a patent for his invention or ake application therefor, in writing, to the Commissioner of e in the Patent-Office a written description of the same, and rocess of making, constructing, compounding, and using it, ncise and exact terms as to enable any person skilled in the h it appertains, or with which it is most nearly connected, compound, and use the same; and in case of a machine, he ciple thereof, and the best mode in which he has contem- principle, so as to distinguish it from other inventions; and point out and distinctly claim the part, improvement, or e claims as his invention or discovery. The specification ned by the inventor and attested by two witnesses.

1915, ch. 94, § 1, 38 Stat. 958.

eight hundred and eighty-eight of the Revised Statutes of and the same is hereby, amended by striking out from the words "and attested by two witnesses," so that the section as follows:

any inventor or discoverer shall receive a patent for his y he shall make application therefor, in writing, to the nts. and shall file in the Patent-Office a written description e manner and process of making, constructing, compounding, full, clear, concise and exact terms as to enable any person ience to which it appertains, or with which it is most nearly construct, compound, and use the same: and in case of a lain the principle thereof, and the best mode in which he lying that principle, so as to distinguish it from other in l particularly point out and distinctly claim the part, im- nation which he claims as his invention or discovery. The n shall be signed by the inventor."

1930, ch. 312, § 2, 46 Stat. 376.

8 of the Revised Statutes, as amended (U. S. C., title 35, by adding at the end thereof the following sentence: "No declared invalid on the ground of noncompliance with this ion is made as complete as is reasonably possible."

---------- T. 35, § 113

f the case admits of drawings, the applicant shall furnish he inventor or his attorney in fact, and attested by two be filed in the Patent Office; and a copy of the drawing to tent Office, shall be attached to the patent as a part of the

915, ch. 94, § 2, 38 Stat. 959.

n forty-eight hundred and eighty-nine of the Revised d States be, and the same is hereby, amended by striking ttested by two witnesses," so that the section so amended

the nature of the case admits of drawings, the applicant signed by the inventor or his attorney in fact, which shall Office; and a copy of the drawing to be furnished by the attached to the patent as a part of the specification."

---------- T. 35, § 114

or discovery is of a composition of matter, the applicant, missioner, shall furnish specimens of ingredients and of the in quantity for the purpose of experiment.

---------- T. 35, § 114

limit of representation by model, the applicant, if required shall furnish a model of convenient size to exhibit advan- parts of his invention or discovery.

R. S. 4892---------- T. 35, § 115

The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commercial agent, holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be.

As amended Mar. 3, 1903, ch. 1019, § 2, 32 Stat. 1226.

SEC. 2. That section forty-eight hundred and ninety-two of the Revised Statutes is amended by inserting after the words "notary public" the words "judge or magistrate having an official seal and authorized to administer oaths," and by adding at the end thereof the words "whose authority shall be proved by certificate of a diplomatic or consular officer of the United States;" so that the section so amended shall read:

"SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition. or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, charge d'affaires, or consul holding commission under the Government of the United States, or before any notary public, judge, or magistrate having any official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States."

As amended May 23, 1930, ch. 312, § 3, 46 Stat. 376.

SEC. 3. The first sentence of section 4892 of the Revised Statutes, as amended (U. S. C., title 35, sec. 35), is amended to read as follows:

"SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement, or of the variety of plant, for whic he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen."

R. S. 4893---------- T. 35, § 131

On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall cause an examination to be made of the alleged new invention or discovery; and, if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the commissioner shall issue a patent therefor.

R. S. 4894---------- T. 35, §§ 133, 267

All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

As amended Mar. 3, 1897, ch. 391, § 4, 29 Stat. 693.

SEC. 4. That section forty-eight hundred and ninety-four of the Revised Statutes be, and the same hereby is, amended by striking out the words "two years" in every place where they occur and substituting in lieu thereof the words "one year," so that the section so amended will read as follows:

"Sec. 4894. All applications for patents shall be completed and prepared for examination within one year after the filing of the application and in default thereof, or upon failure of the applicant to prosecute the same within one year after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

16, ch. 225, § 1 (part), 39 Stat. 348.

undred and ninety-four of the Revised Statutes is amended

ications for patents shall be completed and prepared for
e year after the filing of the application, and in default
e of the applicant to prosecute the same within one year
n of which notice shall have been given to the applicant,
as abandoned by the parties thereto, unless it be shown
ne Commissioner of Patents that such delay was unavoid-
That no application shall be regarded as abandoned
property of the Government of the United States and
he head of any department of the Government shall have
sioner of Patents, within a period of three years, that the
ein is important to the armament or defense of the United
, That within ninety days, and not less than thirty days,
any such three-year period the Commissioner of Patents
the head of the department interested in any pending
of the approaching expiration of the three-year period
cation for patent shall have been pending."

27, ch. 273, 1, 44 Stat. 1335

the Revised Statutes of the United States be amended by
one year" wherever they appear and substituting therefor
'

39, ch. 568, 53 Stat. 1264

ne Revised Statutes (U. S. C., title 35, sec. 37) be amended
months", second occurrence, the words "or such shorter
y days or any extensions thereof, as shall be fixed by the
s in writing to the applicant."

---------- T. 35, § 152

ed and issued or reissued to the assignee of the inventor or
nment must first be entered of record in the Patent Office.
application by an assignee for the issue of a patent, the
de and the specification sworn to by the inventor or dis-
of an application for a reissue of any patent, the application
orrected specification signed by the inventor or discoverer,
patent was issued and assignment made before the eighth
ndred and seventy.

---------- T. 35, § 117

ving made any new invention or discovery for which a
granted, dies before a patent is granted, the right of
ing the patent shall devolve on his executor or admin-
heirs at law of the deceased, in case he shall have died
have left a will, disposing of the same, then in trust for
anner and on the same terms and conditions as the same
or enjoyed by him in his life time; and when the applica-
al representatives, the oath or affirmation required to be
n form that it can be made by them.

99, ch. 227, 30 Stat. 915

ght hundred and ninety-six of the Revised Statutes is
ting after the words "in his lifetime" the following words:
aving made any new invention or discovery for which a
granted becomes insane before a patent is granted, the
nd obtaining the patent shall devolve upon his legally
servator, or representative in trust for his estate, in as
same terms and conditions as the same might have been
m while sane;" and by inserting at the end of said section
he foregoing section, as to insane persons, is to cover all
n the Patent Office or which may be hereafter made," so
amended will read as follows:
y person, having made any new invention or discovery for
ve been granted, dies before a patent is granted, the right
ning the patent shall devolve upon his executor or admin-
heirs at law of the deceased, in case he shall have died

intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when any person having made any new invention or discovery for which a patent might have been granted becomes insane before a patent is granted, the right of applying for and obtaining the patent shall devolve on his legally appointed guardian, conservator, or representative in trust for his estate, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him while sane; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them.

"The foregoing section, as to insane persons, is to cover all applications now on file in the Patent Office or which may be hereafter made."

As amended Mar. 3. 1903, ch. 1019, § 3, 32 Stat. 1226–7

SEC. 3. That section forty-eight hundred and ninety-six of the Revised Statutes is amended by adding thereto the following sentence: "The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States;" so that the section so amended shall read as follows:

"SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the decreased, in case he shall have died intestate; or if he shall have left a will disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States."

As amended May 23, 1908, ch. 188, 35 Stat. 245

That section forty-eight hundred and ninety-six of the Revised Statutes be, and the same is hereby, amended so that the section shall read as follows:

"SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will disposing of the same, then in trust for his devisees in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when any person having made any new invention or discovery for which a patent might have been granted becomes insane before a patent is granted the right of applying for and obtaining the patent shall devolve on his legally appointed guardian, conservator, or representative in trust for his estate in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him while sane; and when the application is made by such legal representatives the oath or affirmation required to be made shall be so varied in form that it can be made by them. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States.

"The foregoing section, as to insane persons, is to cover all applications now on file in the Patent Office or which may be hereafter made."

---------- T. 35, § 261

terest therein shall be assignable in law by an instrument
ntee or his assigns or legal representatives may, in like
ey an exclusive right under his patent to the whole or
United States. An assignment, grant, or conveyance
any subsequent purchaser or mortgage for a valuable
otice, unless it is recorded in the Patent-Office within
ate thereof.

7, ch. 391, § 5, 29 Stat. 693

forty-eight hundred and ninety-eight of the Revised
ne hereby is, amended by adding thereto the following

nt, grant, or conveyance of any patent shall be acknowl-
public of the several States or Territories or the District
missioner of the United States circuit court, or before
or consular officer authorized to administer oaths or
der section seventeen hundred and fifty of the Revised
of such acknowledgment, under the hand and official
er officer, shall be prima facie evidence of the execution
t, or conveyance," so that the section so amended will

ent or any interest therein shall be assignable in law by
and the patentee or his assigns or legal representatives
and convey an exclusive right under his patent to the
part of the United States. An assignment, grant, or
as against any subsequent purchaser or mortgagee for
without notice, unless it is recorded in the Patent Office
the date hereof.

nt, grant, or conveyance of any patent shall be acknowl-
public of the several States or Territories or the District
missioner of the United States circuit court, or before
or consular officer authorized to administer oaths or
der section seventeen hundred and fifty of the Revised
such acknowledgment, under the hand and official seal
fficer, shall be prima facie evidence of the execution of
conveyance."

2, ch. 58, § 6, 42 Stat. 391

98 of the Revised Statutes be, and the same is hereby,
vs:

ent or any interest therein shall be assignable in law by
and the patentee or his assigns or legal representatives
and convey an exclusive right under his patent to the
rt of the United States. An assignment, grant, or con-
against any subsequent purchaser or mortgagee for a
ithout notice, unless it is recorded in the Patent Office
the date thereof or prior to such subsequent purchase

t, grant, or conveyance of any patent shall be acknowl-
ublic of the several States or Territories or the District
nissioner of any court of the United States for any Dis-
e any secretary of legation or consular officer authorized
erform notarial acts under section 1750 of the Revised
such acknowledgment, under the hand and official seal
fficer, shall be prima facie evidence of the execution of
conveyance."

1, ch. 370, 55 Stat. 634

e Revised Statutes (35 U. S. C. 47) be, and the same is
as follows:

ication for patent or patent or any interest therein shall
n instrument in writing, and the applicant or patentee
resentatives may, in like manner, grant and convey an
application for patent or patent to the whole or any
ed States. An assignment, grant, or conveyance shall
ubsequent purchaser or mortgagee for a valuable con-
unless it is recorded in the Patent Office within three
reof or prior to such subsequent purchase or mortgage.

"If any such assignment, grant, or conveyance of any application for patent or patent shall be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any commissioner of any court of the United States for any district or Territory, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section 1750 of the Revised Statutes (U. S. C., title 22, sec. 131) the certificate of such acknowledgment, under the hand and official seal of such notary or other officer, shall be prima facie evidence of the execution of such assignment, grant or conveyance."

R. S. 4899---------- Omitted

Every person who purchases of the inventor, or discoverer, or with his knowledge and consent constructs any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

R. S. 4900---------- T. 35, § 287

It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted, or when, from the character of the article, this can not be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

As amended Feb. 7, 1927, ch. 67, 44 Stat. 1058

That section 4900 of the Revised Statutes of the United States shall be amended to read as follows:

"It shall be the duty of all patentees and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word 'patent', together with the number of the patent, or when, from the character of the article, this can not be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice: *Provided, however*, That with respect to any patent issued prior to April 1, 1927, it shall be sufficient to give such notice in the form following, viz: '*Patented*', together with the day and year the patent was granted; and in any suit for infringement by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement and continued, after such notice, to make, use, or vend the article so patented."

R. S. 4901---------- T. 35, § 292

Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent" or "patentee", or the words "letters patent" or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, shall be liable, for every such offense, to a penalty of not less than $100, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

R. S. 4903---------- T. 35, § 132, 135

Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection,

formation and references as may be useful in judging of the his application or of altering his specification; and if after the applicant persists in his claim for a patent, with or pecification, the Commissioner shall order a reexamination

1939, ch. 452, § 1, 53 Stat. 1213.

f the Revised Statutes (U. S. C., title 35, sec. 51) be amended thereof the following:

r the first time presenting or asserting a claim which is the tantially the same subject matter as, a claim of an issued in any application unless such amendment is filed within te on which said patent was granted."

---------- T. 35, § 135

ication is made for a patent which, in the opinion of the interfere with any pending application, or with any unex- give notice thereof to the applicants, or applicant and pat- y be, and shall direct the primary examiner to proceed to n of priority of invention. And the Commissioner may issue y who is adjudged the prior inventor, unless the adverse the decision of the primary examiner, or of the board of the case may be, within such time, not less than twenty ioner shall prescribe.

1927, ch. 273, § 4, 44 Stat. 1336.

on 4904 of the Revised Statutes of the United States be out from the last sentence thereof the words "or of the board as the case may be."

1939, ch. 451, § 1, 53 Stat. 1212.

f the Revised Statutes (U. S. C., title 35, sec. 52) be amended

lication is made for a patent which, in the opinion of the interfere with any pending application, or with any unex- ll give notice thereof to the applicants, or applicant and may be, and shall direct a board of three examiners of inter- o determine the question of priority of invention. And the sue a patent to the party who is adjudged the prior inventor."

---------- T. 35, § 23

of Patents may establish rules for taking affidavits and n cases pending in the Patent Office, and such affidavits and aken before any officer authorized by law to take depositions urts of the United States, or of the State where the officer

---------- T. 35 § 24

urt of the United States, for any district or Territory wherein en for use in any contested case pending in the Patent-Office, , issue a subpoena for any witness residing or being within itory, commanding him to appear and testify before any t or Territory authorized to take depositions and affidavits, e in the subpoena stated. But no witness shall be required e more than forty miles from the place where the subpoena is

1922, ch. 58, § 7, 49 Stat. 391, 392.

on 4906 of the Revised Statutes be, and the same is hereby ollows:

lerk of any court of the United States, for any District or timony is to be taken for use in any contested case pending shall, upon the application of any party thereto, or of his ue a subpoena for any witness residing or being within such commanding him to appear and testify before any officer in ritory authorized to take depositions and affidavits at any subpoena stated. But no witness shall be required to attend an forty miles from the place where the subpoena is served

upon him; and the provisions of section 869 of the Revised Statutes relating to the issuance of subpoenas duces tecum shall apply to contested cases in the Patent Office."

R. S. 4907---------- T. 35, § 24

Every witness duly subpoenaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

R. S. 4908---------- T. 35, § 24

Whenever any witness, after being duly served with such subpoena, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpoena may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be deemed guilty of contempt for disobeying such subpoena, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret invention or discovery made or owned by himself

R. S. 4909---------- T. 35, § 134

Every applicant for a patent or for the re-issue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, to the board of examiners-in-chief; having once paid the fee for such appeal.

As amended Mar. 2, 1927, ch. 273, § 5, 44 Stat. 1336.

SEC. 5. That section 4909 of the Revised Statutes of the United States be amended by striking out the words "board of examiners in chief" and substituting therefor the words "board of appeals."

As amended Aug. 5, 1939, ch. 451, § 2, 53 Stat. 1212.

SEC. 2. That section 4909 of the Revised Statutes (U. S. C., title 35, sec. 57) be amended to read as follows:

"Every applicant for a patent or for the reissue of a patent, any of the claims of which have been twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals, having once paid the fee for such appeal."

R. S. 4911---------- T. 35, § 141

If such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the supreme court of the District of Columbia, sitting in banc.

As amended Mar. 2, 1927, ch. 273, § 8, 44 Stat. 1336.

SEC. 8. That section 4911 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 4911. If any applicant is dissatisfied with the decision of the board of appeals, he may appeal to the United States Court of Appeals of the District of Columbia, in which case he waives his right to proceed under section 4915 of the Revised Statutes. If any party to an interference is dissatisfied with the decision of the board of appeals, he may appeal to the United States Court of Appeals of the District of Columbia, provided that such appeal shall be dismissed if any adverse party to such interference shall, within twenty days after the appellant shall have filed notice of appeal according to section 4912 of the Revised Statutes, file notice with the Commissioner of Patents that he elects to have all further proceedings conducted as provided in section 4915 of the Revised Statutes. Thereupon the appellant shall have thirty days thereafter within which to file a bill of equity under said section 4915, in default of which the decisions appealed from shall govern the further proceedings in the case. If the appellant shall file such bill within said thirty days and shall file due proof thereof with the Commissioner of Patents, the issue of a patent to the party awarded priority by said board of appeals shall be withheld pending the final determination of said proceeding under said section 4915."

As amended Mar. 2, 1929, ch. 488, § 2 (b), 45 Stat. 1475.

SEC. 2. (b) Sections 4911 (Forty-fourth Statutes, page 1336), 4912 (section 60, title 35, United States Code), and 4915 (section 63, title 35, United States Code)

s, as amended, and section 9 of the Act entitled "An Act to
ion of trade-marks used in commerce with foreign nations
States or with Indian tribes, and to protect the same,"
1905 (United States Code, title 15, section 89), are amended
ds "Court of Appeals of the District of Columbia" wherever
inserting in lieu thereof the words "United States Court of
ppeals" in each instance.

939, ch. 451, § 3, 53 Stat. 1212.

4911 of the Revised Statutes (U. S. C., title 35, sec. 59a)
ng the words "Board of Appeals" in the second sentence to
rence examiners", and by canceling the last sentence of

---------- T. 35, § 142

aken to the supreme court of the District of Columbia, the
otice thereof to the Commissioner, and file in the Patent-
e as the Commissioner shall appoint, his reasons of appeal,
writing.

927, ch. 273, § 9, 44 Stat. 1336.

n 4912 of the Revised Statutes of the United States be
ut the words "Supreme Court of the District of Columbia"
or the words "Court of Appeals of the District of Colum-

---------- T. 35, § 143

ore hearing such appeal, give notice to the Commissioner
the hearing, and on receiving such notice the Commissioner
time and place in such manner as the court may prescribe,
ar to be interested therein. The party appealing shall lay
d copies of all the original papers and evidence in the case,
shall furnish the court with the grounds of his decision,
g, touching all the points involved by the reasons of appeal.
ny party interested, or of the court, the Commissioner and
examined under oath, in explanation of the principles of
tent is demanded.

927, ch. 273, § 10, 44 Stat. 1336.

n 4913 of the Revised Statutes of the United States be
ut the words "And at the request of any party interested,
missioner and the examiners may be examined under oath
inciples of the thing for which a patent is demanded."

---------- T. 35, § 144

on, shall hear and determine such appeal, and revise the
in a summary way, on the evidence produced before the
early and convenient time as the court may appoint; and
onfined to the points set forth in the reasons of appeal.
he court shall return to the commissioner a certificate of its
on, which shall be entered of record in the Patent Office,
rther proceedings in the case. But no opinion or decision
h case shall preclude any person interested from the right
of such patent in any court wherein the same may be

---------- T. 35, §§ 145, 146

on application is refused, either by the Commissioner of
eme court of the District of Columbia upon appeal from
applicant may have remedy by bill in equity; and the
e thereof, on notice to adverse parties and other due
adjudge that such applicant is entitled, according to law,
his invention, as specified in his claim, or for any part
the case may appear. And such adjudication, if it be in
he applicant, shall authorize the Commissioner to issue
olicant filing in the Patent-Office a copy of the adjudica-
plying with the requirements of law. In all cases, where

there is no opposing party, a copy of the bill shall be served on the Commissioner; and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.

As amended Mar. 2, 1927, ch. 273, § 11, 44 Stat. 1336.

SEC. 11. That section 4915 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 4915. Whenever a patent on application is refused by the Commissioner of Patents, the applicant, unless appeal has been taken from the decision of the board of appeals to the Court of Appeals of the District of Columbia, and such appeal is pending or has been decided, in which case no action may be brought under this section, may have remedy by bill in equity, if filed within six months after such refusal; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication and otherwise complying with the requirements of law. In all cases where there is no opposing party a copy of the bill shall be served on the commissioners; and all the expenses of the proceedings shall be paid by the applicant, whether the final decision is in his favor or not. In all suits brought hereunder where there are adverse parties the record in the Patent Office shall be admitted in whole or in part, on motion of either party, subject to such terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court may impose, without prejudice, however, to the right of the parties to take further testimony. The testimony and exhibits, or parts thereof, of the record in the Patent Office when admitted shall have the same force and effect as if originally taken and produced in the suit."

As amended Mar. 2, 1929, ch. 488, § 2 (b), 45 Stat. 1475.

SEC. 2. (b) Sections 4911 (Forty-fourth Statutes, page 1336), 4912 (section 60, title 35, United States Code), and 4915 (section 63, title 35, United States Code) of the Revised Statutes, as amended, and section 9 of the Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February 20, 1905 (United States Code, title 15, section 89), are amended by striking out the words "Court of Appeals of the District of Columbia" wherever they occur therein and inserting in lieu thereof the words "United States Court of Customs and Patent Appeals" in each instance.

As amended Aug. 5, 1939, ch. 451, § 4, 53 Stat. 1212.

SEC. 4. That section 4915 of the Revised Statutes (U. S. C., title 35, sec. 63) be amended by changing the first sentence thereof to read:

"Whenever a patent on application is refused by the Board of Appeals or whenever any applicant is dissatisfied with the decision of the board of interference examiners, the applicant, unless appeal has been taken to the United States Court of Customs and Patent Appeals, and such appeal is pending or has been decided, in which case no action may be brought under this section, may have remedy by bill in equity, if filed within six months after such refusal or decision; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim or for any part thereof, as the facts in the case may appear."

R. S. 4916---------- T. 35, §§ 251, 252

Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery 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 Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be reissued to the patentee, or in the case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take

the amended patent. The Commissioner may, in his patents to be issued for distinct and separate parts of the hand of the applicant, and upon payment of the required ch of such reissued letters-patent. The specifications case shall be subject to revision and restriction in the applications are. Every patent so reissued, together ification, shall have the same effect and operation in ions for causes thereafter arising, as if the same had been rrected form; but no new matter shall be introduced into ase of a machine patent shall the model or drawings be the other; but when there is neither model nor drawing, le upon proof satisfactory to the Commissioner that such t was a part of the original invention, and was omitted inadvertence, accident, or mistake, as aforesaid.

5 Stat. 732 as amended.

e Revised Statutes of the United States be, and the same d as follows:

any patent is wholly or partly inoperative or invalid, by insufficient specification, or by reason of the patentee tion or discovery more than he had a right to claim as sen by inadvertence, accident, or mistake, and without ive intention, the commissioner shall, on the surrender payment of the duty required by law, cause a patent nd in accordance with the corrected specification, to be r to his assigns or legal representatives, for the unexpired original patent. Such surrender shall take effect upon patent, but in so far as the claims of the original and ical, such surrender shall not affect any action then pend- of action then existing, and the reissued patent to the e identical with the original patent shall constitute a have effect continuously from the date of the original ner may, in his discretion, cause several patents to be parate parts of the thing patented, upon demand of the nent of the required fee for a reissue for each of such re- ne specifications and claims in every such case shall be striction in the same manner as original applications are. together with the corrected specifications, shall have the n in law, on the trial of all actions for causes thereafter ad been originally filed in such corrected form; but no oduced into the specification, nor in case of a machine r drawings be amended, except each by the other; but del nor drawing, amendments may be made upon proof issioner that such new matter or amendment was a part and was omitted from the specification by inadvertence, oresaid."

---------- T. 35, § 253

advertence, accident, or mistake, and without any tention, a patentee has claimed more than that of which rst inventor or discoverer, his patent shall be valid for y and justly his own, provided the same is a material or ng patented; and any such patentee, his heirs or assigns, ny sectional interest therein, may, on payment of the fee claimer of such parts of the thing patented as he shall not d by virtue of the patent or assignment, stating therein in such patent. Such disclaimer shall be in writing, witnesses, and recorded in the Patent Office; and it lered as part of the original specification to the extent by the claimant and by those claiming under him after o such disclaimer shall affect any action pending at the ept so far as may relate to the question of unreasonable t.

---------- T. 35, § 291

terfering patents, any person interested in any one of f the invention claimed under either of them, may have

relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

Mar. 2, 1927, ch. 273, § 12, 44 Stat. 1337 as amended.

SEC. 12. That section 4918 of the Revised Statutes of the United States be amended to change the phrase "may adjudge and declare eight of the patents void in whole or in part" to read as follows: "may adjudge and declare either or both of the patents void in whole or in part, upon any ground."

R. S. 4919---------- T. 35, §§ 281, 284

Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

R. S. 4920---------- T. 35, § 282

In any action for infringement the defendant may plead the general issue, and, having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

Third. That it has been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of the patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

Mar. 3, 1897, ch. 391, § 2, 29 Stat. 692 as amended.

SEC. 2. That section forty-nine hundred and twenty of the Revised Statutes be, and the same hereby is, amended by adding to the third clause of said section after "thereof" and before "or" the following words: "or more than two years prior to his application for a patent therefor," so that the section so amended will read as follows:

"SEC. 4920. In any action for infringement the defendant may plead the general issue, and, having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial any one or more of the following special matters:

"First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

"Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

been patented or described in some printed publication
vention or discovery thereof, or more than two years prior
atent therefor; or,
as not the original and first inventor or discoverer of any
part of the thing patented; or,
been in public use or on sale in this country for more than
cation for a patent, or had been abandoned to the public.
o proof of previous invention, knowledge, or use of the
ndant shall state the names of the patentees and the dates
hen granted, and the names and residences of the persons
or to have had the prior knowledge of the thing patented,
n it had been used; and if any one or more of the special
found for the defendant, judgment shall be rendered for
he like defenses may be pleaded in any suit in equity for
infringement; and proofs of the same may be given upon
of the defendant, and with the like effect."

1, 53 Stat. 1212 as amended.

4887, 4920, and 4929 of the Revised Statutes (U. S. C.,
and 73) be amended by striking out the words "two years"
n said sections and substituting therefor the words "one

---------- T. 35, §§ 283, 284, 285, 286, 290

ested with jurisdiction of cases arising under the patent
o grant injunctions according to the course and principles
prevent the violation of any right secured by patent, on
may deem reasonable; and upon a decree being rendered
infringement, the complainant shall be entitled to recover,
s to be accounted for by the defendant, the damages the
ed thereby; and the court shall assess the same or cause the
er its direction. And the court shall have the same power
es, in its discretion, as is given to increase the damages
ons in the nature of actions of trespass upon the case.

6, 29 Stat. 694 as amended.

orty-nine hundred and twenty-one of the Revised Statutes
is, amended by adding thereto the following sentence:
action brought for the infringement of any patent there
profits or damages for any infringement committed more
e filing of the bill of complaint or the issuing of the writ in
this provision shall apply to existing causes of action."
mended will read as follows:
ral courts vested with jurisdiction of cases arising under
ave power to grant injunctions according to the course
of equity, to prevent the violation of any right secured
s as the court may deem reasonable; and upon a decree
such case for an infringement the complainant shall be
ddition to the profits to be accounted for by the defend-
mplaint has sustained thereby; and the court shall assess
same to be assessed under its direction. And the court
ver to increase such damages, in its discretion, as is given
found by verdicts in actions in the nature of actions of

action brought for the infringement of any patent there
profits or damages for any infringement committed more
e filing of the bill of complaint or the issuing of the writ
nd this provision shall apply to existing causes of action."

8, 42 Stat. 392 as amended.

4921 of the Revised Statutes be, and the same is hereby,
ows:
ral courts vested with jurisdiction of cases arising under
ave power to grant injunctions according to the course
of equity, to prevent the violation of any right secured
s as the court may deem reasonable; and upon a decree
such case for an infringement the complainant shall be

entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction. If on the proofs it shall appear that the complainant has suffered damage from the infringement or that the defendant has realized profits therefrom to which the complainant is justly entitled, but that such damages or profits are not susceptible of calculation and determination with reasonable certainty, the court may, on evidence tending to establish the same, in its discretion, receive opinion or expert testimony, which is hereby declared to be competent and admissible, subject to the general rules of evidence applicable to this character of testimony; and upon such evidence and all other evidence in the record the court may adjudge and decree the payment by the defendant to the complainant of a reasonable sum as profits or general damages for the infringement: *Provided*, That this provision shall not affect pending litigation. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case; but in any suit or action brought for the infringement of any patent there shall be no recovery of profits or damages for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action, and this provision shall apply to existing causes of action. And it shall be the duty of the clerks of such courts within one month after the filing of any action, suit, or proceeding arising under the patent laws to give notice thereof in writing to the Commissioner of Patents, setting forth in order so far as known the names and addresses of the litigants, names of the inventors, and the designating number or numbers of the patent or patents upon which the action, suit, or proceeding has been brought, and in the event any other patent or patents be subsequently included in the action, suit, or proceeding by amendment, answer, cross bill, or other pleading, the clerk shall give like notice thereof to the Commissioner of Patents, and within one month after the decision is rendered or a decree issued the clerk of the court shall give notice thereof to the Commissioner of Patents, and it shall be the duty of the Commissioner of Patents on receipt of such notice forthwith to indorse the same upon the file wrapper of the said patent or patents and to incorporate the same as a part of the contents of said file or file wrapper; and for each notice required to be furnished to the Commissioner of Patents in compliance herewith a fee of 50 cents shall be taxed by the clerk as costs of suit."

Aug. 1, 1946, ch. 726, 60 Stat. 778 as amended.

That section 4921 of the Revised Statutes of the United States (35 U. S. C. A. 70) is hereby amended to read as follows:

"The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a judgment being rendered in any case for an infringement the complainant shall be entitled to recover general damages which shall be due compensation for making, using, or selling the invention, not less than a reasonable royalty therefor, together with such costs, and interest, as may be fixed by the court. The court may in its discretion award reasonable attorney's fees to the prevailing party upon the entry of judgment on any patent case.

"The court is authorized to receive expert or opinion evidence upon which to determine in conjunction with any other evidence in the record, due compensation for making, using, or selling the invention, and such expert or opinion evidence is declared to be competent and admissible subject to the general rules of evidence applicable thereto.

"The court shall assess said damages, or cause the same to be assessed, under its direction and shall have the same power to increase the assessed damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case; but recovery shall not be had for any infringement committed more than six years prior to the filing of the complaint in the action. And it shall be the duty of the clerks of such courts within one month after the filing of any action, suit, or proceeding arising under the patent laws to give notice thereof in writing to the Commissioner of Patents, setting forth in order so far as known the names and addresses of the litigants, names of the inventors, and the designating number or numbers of the patent or patents upon which the action, suit, or proceeding has been brought, and in the event any other patent or patents be subsequently included in the action, suit, or proceeding by amendment, answer, cross bill, or other pleading, the

tice thereof to the Commissioner of Patents, and within
cision is rendered or a judgment issued the clerk of the
thereof to the Commissioner of Patents, and it shall be
ssioner of Patents on receipt of such notice forthwith to
the file wrapper of the said patent or patents, and to
a part of the contents of said file or file wrapper."
effect upon approval and shall apply to pending causes
aking of the testimony has not been concluded: *Provided*,
causes of action in which the taking of the testimony
to be governed by the statute in force at the time of
if such statute had not been amended.

---------- T. 35, § 288

advertence, accident, or mistake and without any willful
raud or mislead the public, a patentee has, in his specifi-
e original and first inventor or discoverer of any material
he thing patented, of which he was not the original and
erer, every such patentee, his executors, administrators,
the whole or any sectional interest in the patent, may
or in equity, for the infringement of any part thereof,
own, if it is a material and substantial part of the thing
distinguishable from the parts claimed without right,
ecifications may embrace more than that of which the
nventor or discoverer. But in every such case in which
all be rendered for the plaintiff no costs shall be recovered
aimer has been entered at the Patent Office before the
uit. But no patentee shall be entitled to the benefits of
reasonably neglected or delayed to enter a disclaimer.

---------- T. 35, § 102, 104

that a patentee, at the time of making his application for
nself to be the original and first inventor or discoverer of
same shall not be held to be void on account of the inven-
y part thereof, having been known or used in a foreign
ention or discovery thereof, if it had not been patented
d publication.

---------- T. 35, § 171

is own industry, genius, efforts, and expense, has invented
and original design for a manufacture, bust, statute, alto-
y new and original design for the printing of woolen, silk,
s; any new and original impression, ornament, patent,
printed, painted, cast, or otherwise placed on or worked
ufacture: or any new, useful, and original shape or con-
e of manufacture, the same not having been known or
s invention or production thereof, or patented or described
ion, may, upon payment of the fee prescribed, and other
e same as in cases of inventions or discoveries, obtain a

2, ch. 783, 32 Stat. 193.

ne hundred and twenty-nine of the Revised Statutes be,
amended so as to read as follows:
son who has invented any new, original, and ornamental
manufacture, not known or used by others in this country
reof, and not patented or described in any printed publica-
gn country before his invention thereof, or more than two
ation, and not in public use or on sale in this country for
ior to his application, unless the same is proved to have
upon payment of the fees required by law and other due
ame as in cases of inventions or discoveries covered by
patent therefor."

39, ch. 450, § 1, 53 Stat. 1212.

4887, 4920, and 4929 of the Revised Statutes (U. S. C.,
and 73) be amended by striking out the words "two years"

wherever they appear in said sections and substituting therefor the words "one year".

R. S. 4930---------- T. 35, § 114

The commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

R. S. 4931---------- T. 35, § 173

Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

R. S. 4933---------- T. 35, § 171

All the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries not inconsistent with the provisions of this title, shall apply to patents for designs.

R. S. 4934---------- T. 35, §§ 12, 13, 41

The following shall be the rates for patent-fees:

On filing each original application for a patent, except in design cases, fifteen dollars.

On issuing each original patent, except in design cases, twenty dollars.

In design cases: For three years and six months, ten dollars; for seven years, fifteen dollars; for fourteen years, thirty dollars.

On filing each caveat, ten dollars.

On every application for the re-issue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, including certified printed copies, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

As amended Feb. 18, 1922, ch. 58, § 9, 42 Stat. 393.

SEC. 9. That section 4934 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 4934. The following shall be the rates for patent fees:

"On filing each original application for a patent, except in design cases, $20.

"On issuing each original patent, except in design cases, $20.

"In design cases: For three years and six months, $10; for seven years, $15; for fourteen years, $30.

"On every application for the reissue of a patent, $30.

"On filing each disclaimer, $10.

"On an appeal for the first time from the primary examiners to the examiners in chief, $10.

"On every appeal from the examiners in chief to the commissioner, $20.

"For uncertified printed copies of specifications and drawings of patents, 10 cents per copy: *Provided*, That the Commissioner of Patents may supply public libraries of the United States with such copies as published, for $50 per annum: *Provided further*, That the Commissioner of Patents may exchange copies of United States patents for those of foreign countries.

"For copies of records made by the Patent Office, excluding printed copies, 10 cents per hundred words.

"For each certificate, 25 cents.

"For recording every assignment, agreement, power of attorney, or other paper of three hundred words or under, $1; of over three hundred and under one thousand words, $2; and for each additional thousand words or fraction thereof, $1; for each additional patent or application included or involved in one writing, where more than one is so included or involved, 25 cents additional.

"For copies of drawings, the reasonable cost of making them."

, 1927, ch. 139, § 2, 44 Stat. 1098.

on 4934 of the Revised Statutes be amended to read as

llowing shall be the rates for patent fees:
iginal application for a patent, except in design cases, $20,
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riginal patent. except in design cases, $20, and $1 for each
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For three years and six months, $10; for seven years, $15;
30.
ion for the reissue of a patent, $30.
laimer, $10.
the first time from the primary examiners to the examiners

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for those of foreign countries.
rds made by the Patent Office, excluding printed copies, 10
rds
e. 25 cents.
y assignment, agreement, power of attorney, or other paper
ls or under, $1; of over three hundred and under one thou-
or each additional thousand words or fraction thereof, $1:
atent or application included or involved in one writing,
is so included or involved, 25 cents additional.
ings, the reasonable cost of making them."

927, ch. 273, § 13, 44 Stat. 1337.

on 4934 of the Revised Statutes of the United States be
out the following words: "On an appeal for the first time
miners to the examiners in chief, $10. On every appeal
chief to the commissioner, $20," and substituting therefor
eal for the first time from the primary examiners to the
On every appeal from the examiner of interferences to
25."

930, ch. 132, § 3, 46 Stat. 155.

of the Revised Statutes, as amended (United States Code,
amended to read as follows:
owing shall be the rates for patent fees:
inal application for a patent, except in design cases, $25,
n excess of twenty.
ginal patent, except in design cases, $25, and $1 for each
ty.
r three years and six months, $10; for seven years, $15;

n for the reissue of a patent, $30.
aimer, $10.
he first time from the primary examiners to the Board of

n the examiner of interferences to the Board of Appeals, $25.
ted copies of specifications and drawings of patents, 10
d, That the Commissioner of Patents may supply public
States with such copies as published, for $50 per annum:
the Commissioner of Patents may exchange copies of
or those of foreign countries.
ds made by the Patent Office, excluding printed copies,
ords.
50 cents.
assignment, agreement, power of attorney, or other paper
, $3; for each additional two pages or less, $1; for each
plication included or involved in one writing, where more
or involved, 50 cents additional.
gs, the reasonable cost of making them."

As amended June 30, 1932, ch. 314, §§ 308, 309, 47 Stat. 410.

SEC. 308. After the expiration of thirty days after the enactment of this Act (but in no event prior to July 1, 1932), the base fee of $25 provided by section 4934 of the Revised Statutes, as amended (U. S. C., Sup. V, title 35, sec. 78), to be paid upon the filing of each original application and upon each renewal application for patent, except in design cases, and on issuing each original patent, except in design cases, is hereby increased to $30.

SEC. 309. Section 4934 of the Revised Statutes, as amended (U. S. C., Sup. V, title 35, sec. 78), is amended by adding at the end thereof the following:

"On filing each petition for the revival of an abandoned application for a patent, $10."

As amended Aug. 9, 1939, ch. 619, § 3, 53 Stat. 1293.

SEC. 3. That section 4934 of the Revised Statutes (U. S. C., title 35, sec. 78) be amended by changing the last sentence to read: "On filing each petition for the revival of an abandoned application for a patent or for the delayed payment of the fee for issuing each patent, $10."

As amended June 15, 1950, ch. 249, 64 Stat. 215.

That section 4934 of the Revised Statutes, as amended (U. S. C., title 35, sec. 78), is amended by inserting after "*Provided*, That the Commissioner of Patents may supply public libraries of the United States with such copies as published, for $50 per annum" a colon and the following: "*Provided further*, That the Commissioner of Patents may supply to any public library approved by the Commissioner, which on January 1, 1949, was receiving such copies under the preceding proviso, such copies for any year in which such library did not receive copies under the preceding proviso upon the payment of $50 per year for any such year." T. 35, § 42

R. S. 4935

Patent fees may be paid to the Commissioner of Patents, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever. T. 35, § 42

R. S. 4936

The Treasurer of the United States is authorized to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depositary, to the credit of the Treasury, as for fees accruing at the Patent Office, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

STATUTES AT LARGE

Mar. 3, 1883, ch. 143 (part), 22 Stat. 625 T. 35, § 266

The Secretary of the Interior and the Commissioner of Patents are authorized to grant any officer of the government, except officers and employees of the Patent Office, a patent for any invention of the classes mentioned in section forty-eight hundred and eighty-six of the Revised Statutes, when such invention is used or to be used in the public service, without the payment of any fee: *Provided*, That the applicant in his application shall state that the invention described therein, if patented, may be used by the government or any of its officers or employees in the prosecution of work for the government, or by any other person in the United States, without the payment to him of any royalty thereon, which stipulation shall be included in the patent.

As amended Apr. 30, 1928, ch. 460, 45 Stat. 467.

That so much of chapter 143 of the Act of Congress approved March 3, 1883 (Twenty-second Statutes at Large, page 625), as relates to issue of patents without payment of any fee be, and the same is hereby, amended to read as follows:

"The Commissioner of Patents is authorized to grant, subject to existing law, to any officer, enlisted man, or employee of the Government, except officers and employees of the Patent Office, a patent for any invention of the classes mentioned in section 4886 of the Revised Statutes, without the payment of any fee when the head of the department or independent bureau certifies such invention is used or

ie public interest: *Provided*, That the applicant in his applica-
the invention described therein, if patented, may be manu-
or for the Government for governmental purposes without
of any royalty thereon, which stipulation shall be included

, §§ 1 and 2, 24 Stat. 387---------- T. 35, § 289

the term of letters patent for a design, it shall be unlawful
than the owner of said letters patent, without the license of
the design secured by such letters patent, or any colorable
any article of manufacture for the purpose of sale, or to sell
y article of manufacture to which such design or colorable
out the license of the owner, have been applied, knowing
n so applied. Any person violating the provisions, or either
on, shall be liable in the amount of two hundred and fifty
he total profit made by him from the manufacture or sale,
rticle or articles to which the design, or colorable imitation
lied, exceeds the sum of two hundred and fifty dollars, he
e for the excess of such profit over and above the sum of
ty dollars; and the full amount of such liability may be
er of the letters patent, to his own use, in any circuit court
having jurisdiction of the parties, either by action at law or
for an injunction to restrain such infringement.
ng in this Act contained shall prevent, lessen, impeach, or
law or in equity which any owner of letters patent for a
the infringement of the same might have had if this act
but such owner shall not twice recover the profit made from

25 Stat. 40---------- T. 35, § 153
3.

§ 1 (part) 26 Stat. 940---------- T. 35, § 10

of such drawings and specifications may be furnished by
Patents to persons applying therefor upon payment of the
ertified copies, and twenty-five cents additional for each

, 29 Stat. 124---------- T. 35, § 41

§§ 1, 2, 3, 4, 5, 6, T. 35, §§ 101, 102, 119, 133, 211, 267, 282–6, 250, 171, 172.
6, 4920, 4887, 4894, 4898, 4921.

§ 7, 29 Stat. 694---------- Omitted

ry case where the head of any Department of the Govern-
Commissioner of Patents to expedite the consideration of
tent it shall be the duty of such head of a Department to
the Commissioner in order to prevent the improper issue

§ 1, 30 Stat. 440---------- T. 35 § 9

purpose of determining with more readiness and accuracy
ons for which applications for letters patent are or may be
ates Patent Office, and to prevent the issuance of letters
ates for inventions which are not new, the Commissioner of
orized and directed to revise and perfect the classification,
all letters patent and printed publications in the United
ich constitute the field of search in the examination as to
for which applications for patents are or may be filed.

30 Stat. 915---------- T. 35, § 117

32 Stat. 95---------- T. 35, § 153

May 9, 1902, ch. 783, 32 Stat. 193---------- T. 35, § 171

See under R. S. 4929.

Mar. 3, 1903, ch. 1019. §§ 1, 2, 3, 32 Stat. 1225–7 T. 35, §§ 102, 115, 117, 119, 172

See under R. S. 4887, 4892, 4896.

May 23, 1908, ch. 188. 35 Stat. 245---------- T. 35, § 117

See under R. S. 4896.

May 23. 1908, ch. 189, 35 Stat. 246---------- T. 35, § 151

See under R. S. 4885.

May 27, 1908, ch. 200, § 1 (part), 35 Stat. 343---------- T. 35, § 41

In lieu of the fees fixed by section forty-nine hundred and thirty-four of the Revised Statutes for recording assignments, agreements, powers of attorney, or other papers in the Patent Office the following shall hereafter be the rates:

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; and for each additional thousand words or fraction thereof, one dollar.

Jan. 14, 1915, Pub. Res. 61, 38 Stat. 1221---------- T. 35, § 12

That the Commissioner of Patents of the United States be, and he is hereby, authorized to exchange with the Dominion of Canada, under such terms of contract as may by him be deemed practicable, printed copies of patents now in the United States Patent Office and hereafter issued by the United States.

Mar. 3, 1915, ch. 94, §§ 1, 2, 38 Stat. 958---------- T. 35, §§ 111–113,162

See under R. S. 4888. 4889.

Feb. 15, 1916, ch. 22, § 1, 39 Stat. 9---------- T. 35, § 3

See under R. S. 476.

July 6, 1916, ch. 225, § 1 (part), 39 Stat. 348---------- T. 35, §§ 133, 267

See under R. S. 4894.

Nov. 4, 1919, ch. 93, § 1 (part), 41 Stat. 335---------- T. 35, § 41

Provided, That hereafter 10 cents per copy shall be charged for uncertified printed copies of specifications and drawings of patents.

Mar. 6, 1920, ch. 94, § 1 (part), 41 Stat. 512---------- T. 35, § 42

Hereafter all patent fees shall be paid to the Commissioner of Patents, who shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury shall direct, and said commissioner is authorized to pay back any sum or sums of money paid to him by any person by mistake or in excess of the fee required by law.

Mar. 3, 1921, ch. 126, §§ 1–8, 41 Stat. 1313–1315---------- Omitted

That the rights of priority provided by section 4887 of the Revised Statutes, for the filing of applications for patent for inventions and designs, which rights had not expired on the 1st day of August, 1914, or which rights have arisen since the 1st day of August, 1914, shall be, and the same are hereby extended until the expiration of a period of six months from the passage of this Act in favor of the citizens of the United States or citizens or subjects of all countries which have extended, or which now extend, or which within said period of six months shall extend substantially reciprocal privileges to citizens of the United States, and such extension shall apply to applications upon which patents have been granted, as well as to applications now pending or filed within the period herein: *Provided* That such extension shall in no way furnish a basis of claim against the Government of the United States *Provided further* That such extension shall in no way affect the right of any citizen of the United States, who, before the passage of this Act, was bona fide in possession of any rights in patents or applications for patent

hts in patents granted or validated by reason of such extension,
its by itself or himself personally, or by such agents, or licensees,
ghts from it, or him, before the passage of this Act, and such
e amenable to any action for infringement of any patent granted
ason of such extension.
ot be refused on an application coming within the provisions of
a patent granted on such application be held invalid by reason
ving been patented or described in any printed publication or in
ale in the United States prior to the filing of the application,
or publication or such public use or sale was prior to the filing
cation upon which the right of priority is based.
e time now fixed by law for the payment of any fee or for the
n with respect to an application for patent, which time had not
1, 1914, or which commenced after August 1, 1914, is hereby
expiration of one year from the passage of this Act, without the
on fees or other penalty in favor of the citizens or subjects of
ve extended, now extend, or shall extend during a period of one
age of this Act substantially reciprocal privileges to citizens of
provided that no extension herein shall confer such privileges
subjects of a foreign country for a longer term than the term
privileges are conferred by such foreign country on the citizens
es, but nothing in this Act shall give any right to reopen inter-
s where final hearing before the examiner of interferences has

patent granted or validated by reason of the extensions provided
d 2 of this Act shall abridge or otherwise affect the right of any
ed States, or his agent or agents, or his successor in business, to
ufacture, use, or sale commenced before the passage of this
n, nor shall the continued manufacture, use, or sale by such
or sale of the devices resulting from such manufacture or use
gement.
applications for patent filed since August 1, 1914, and prior to
ch were executed by an agent of the applicant, and in which a
on, and oath, signed by the inventor, or his executor or adminis-
ed or shall have been filed within a period of one year from the
, and the patents granted on such applications, shall have the
ect as if the papers signed by the inventor, or his executor or
been filed on the date on which the papers signed by the agent

applications for patent filed since August 1, 1914, in which
uted before or authenticated by a consular officer, or other
lified to administer oaths, of a Government acting in the
ernment of the United States, shall have the same force and
h had been executed by the applicant before a consular officer
es.
ere an invention was made by a person while serving abroad,
h the forces of the United States, civil or military, the inventor
tled, in interference and other proceedings arising in connection
, to the same rights of priority with respect of such invention
been made in the United States, and where an application
or forfeited, during the time the applicant was serving with
ited States, by reason of his failure to take action or pay a fee
w required by law, such action may be taken, or the fee paid,
rom the passage of this Act.
claim shall be made or action brought in respect of the use
14, up to the passage of this Act, by the Government of the
y any persons acting on behalf of, or under contract with, or
the Government of the United States or of Governments or
es associated with the United States, under any patent rights
n part since August 1, 1914, by an alien enemy, nor in respect
rocess during such period, or the sale, offering for sale, or use,
y products, articles, or apparatus whatsoever manufactured
to which such patent rights applied.
thing in this Act shall affect any act done by virtue of the
ken during the war under legislative, executive, or administra-
he United States in regard to the rights of an enemy, or ally

of an enemy, as defined by the Trading with the Enemy Act of October 6, 1917, in patents for inventions and designs.

Feb. 18, 1922, ch. 58, §§ 3, 5, 6, 7, 8, 9, 42 Stat. 390–393. — T. 35, §§ 12, 13, 24, 31, 32, 41, 153, 211, 283–286, 250.

See under R. S. 487, 4883, 4898, 4906, 4921, 4934.

Mar. 4, 1925, ch. 535, § 1, 43 Stat. 1268 — T. 35, § 254

That whenever a mistake in a patent or a trade-mark registration, incurred through the fault of the Patent Office, is clearly disclosed by the records or files of the office, a certificate, stating the fact and nature of such mistake, signed by the Commissioner of Patents and sealed with the seal of the Patent Office, may be issued, without charge, and recorded in the records of patents or trade-marks, and a printed copy thereof attached to each printed copy of the patent or trade-mark registration, and such certificate shall thereafter be considered as part of the original, and every patent or trade-mark registration, together with such certificate, 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 issued in such corrected form. All such certificates heretofore issued in accordance with the rules of the Patent Office and the patents or trade-mark registrations to which they are attached shall have the same force and effect as if such certificates had been specifically authorized by statute.

Feb. 7, 1927, ch. 67, 44 Stat. 1058 — T. 35, § 287

See under R. S. 4900.

Feb. 14, 1927, ch. 139, §§ 1, 2, 44 Stat. 1098–9 — T. 35, §§ 3, 12, 13, 41

See under R. S. 476, 4934.

Mar. 2, 1927, ch. 273, §§ 1, 3, 4, 5, 8, 9, 10, 11, 12, 13, 44 Stat. 1335–37. — T. 35, §§ 7, 12, 13, 41, 133–5, 141–3, 146, 267, 291

See under R. S. 4894, 482, 4904, 4909, 4911, 4912, 4913, 4915, 4918, 4934.

Mar. 2, 1927, ch. 273, § 14, 44 Stat. 1337 — T. 35, § 21

SEC. 14. That where the day, or the last day, fixed by statute for taking any action or paying any fee in the United States Patent Office falls on Sunday, or on a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding secular or business day.

Mar. 3, 1927, ch. 364, 44 Stat. 1394 — T. 35, §§ 146, 291

That section 52 of the Judicial Code be, and the same is hereby, amended by adding thereto the following:

And upon the filing of a bill in the Supreme Court of the District of Columbia wherein remedy is sought under section 4915 or section 4918 of the Revised Statutes, without seeking other remedy, if it shall appear that there is an adverse party residing in a foreign country, or adverse parties residing in a plurality of districts not embraced within the same State, the court shall have jurisdiction thereof and writs shall, unless the adverse party or parties voluntarily make appearance, be issued against all of the adverse parties with the force and effect and in the manner set forth in this section; provided that writs issued against parties residing in foreign countries pursuant to this section may be served by publication or otherwise as the court shall direct."

Apr. 30, 1928, ch. 460, 45 Stat. 467 — T. 35, § 266

See under Mar. 3, 1883, ch. 143, 22 Stat. 625.

May 24, 1928, ch. 730, 45 Stat. 732 — T. 35, §§ 251, 252

See under R. S. 4916.

May 31, 1928, ch. 992, §§ 1–4, 45 Stat. 1012–1014 — Omitted

That any person who served honorably in the military or naval forces of the United States at any time between April 6, 1917, and November 11, 1918, both dates inclusive, and was subsequently honorably discharged, may within six months after the enactment of this Act, upon payment of a fee of $20, make application to the Commissioner of Patents, comprising a verified statement, accompanied by supporting evidence of the following facts:

the inventor or discoverer of an invention or discovery for patent was granted prior to the 11th day of November, 1918, of which remains unexpired at the time of the filing of the

een April 6, 1917, and November 11, 1918, and also at the time his Act, he held, by ownership or contract, a right in said inven- patent or to income by way of royalty or otherwise therefrom, sion of the term of said patent would benefit him.
een April 6, 1917, and July 2, 1921, he was not receiving from come, or that his income therefrom was reduced by his said

e time of his induction into the service he was making diligent he invention covered by his patent.
of all persons, firms, or corporations, if any, holding at the time this Act, by grant, transfer, license, or contract from him, any in the invention or discovery or under the patent, and their ension for which application is made, which shall be supported , or instruments, executed by all such persons, firms, and cor- ing their consent to such extension.
of extension of the patent from the expiration of the original which he applies, which shall in no case exceed a further term length of his said service in the military or naval forces of the ween the dates of April 6, 1917, and July 2, 1921, but exclusive at subsequent to November 11, 1918.
censee of a patent affected by this Act shall automatically be ion of said license for the period of the extension on the same ons as contained in said existing license, thereby creating an ent of the benefits of this Act.
extension shall in no way impair the right of anyone who before is Act was bona fide in possession of any rights in patents or atents conflicting with the rights in any patents extended under any extension granted under this Act impair the right of any- ully manufacturing before the passage of this Act the invention tended patent.
ase of a veteran, as described in paragraph 1 of this Act, who or who becomes insane or unable to act, which veteran owned cribed in this Act in said patent at the time of his death or at declared mentally incompetent or became unable to act before ranted, such application may be filed or proceeded with by his ves substantially as provided in section 4896 of the Revised United States (United States Code, title 35, section 46), as spect to proceedings in such cases for obtaining a patent.
filing of such application the Commissioner of Patents shall tion thereof to be made, and if, on such examination, it shall application conforms, or by amendment or supplement is made requirements of section 1 of this Act, the commissioner shall h application to be published at least once in the Official Gazette. elieves that he would be injured by such extension may within m such publication oppose the same on the ground that any of the application for extension required by section 1 of this Act which said notice of opposition shall be verified before an officer laws of any State or Territory or the District of Columbia to In all cases where notice of opposition is filed the Commissioner tify the applicant for extension thereof and set a day of hearing. ng the Commissioner of Patents is of the opinion that such ex- be granted, he may deny the application therefor, stating in for such denial. Where an extension is refused the applicant the same remedy by appeal from the decision of the commis- ovided by law where an application for patent is refused. If no grant of the extension is filed, or if, after opposition is filed, it at the applicant is entitled to the extension asked for, the Com- ts shall issue a certificate that the term of said patent is extended period for which application has been made as aforesaid, and of such extension to be published in the Official Gazette and es of the patent for sale by the Patent Office, in such manner as may determine.
on said patent shall have the same force and effect in law as n originally granted for seventeen years plus the term of such

extension: *Provided, however,* That in any action, at law or in equity, for infringement after the expiration of seventeen years from the grant of the patent and during the period of such extension, the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial that any of the statements of the application for extension required by section 1 of this Act is not true in fact; and if any one or more of such statements shall be found untrue in fact, judgment shall be rendered for the defendant, with costs: *Provided further,* That no person whose patent shall be extended under the provisions of this Act shall be permitted to make any claim for damages against the United States for the period of the extension, and the rights of the United States shall remain in all respects as if these patents had not been extended.

Mar. 2, 1929, ch. 488, § 2 (b), 45 Stat. 1475 ---------- T. 35, §§ 141, 145, 146

See under R. S. 4911, 4915.

Apr. 11, 1930, ch. 132, §§ 1, 2, 3, 46 Stat. 155 ---------- T. 35, §§ 3, 7, 12, 13, 41

See under R. S. 476, 482, 4934.

Apr. 11, 1930, ch. 132, § 5, 46 Stat. 156 ---------- Omitted

SEC. 5. The money required for the Patent Office each year, commencing with the fiscal year 1932, shall be appropriated by law out of the revenues of that office, except as otherwise provided by law.

May 23, 1930, ch. 312, §§ 1, 2, 3, 46 Stat. 376 T. 35, §§ 101, 102, 111, 112, 115, 154, 162, 171

See under R. S. 4884, 4886, 4888, 4892.

May 23, 1930, ch. 312, § 4, 46 Stat. 376 ---------- T. 35, § 163

SEC. 4. The President may by Executive order direct the Secretary of Agriculture (1) to furnish the Commissioner of Patents such available information of the Department of Agriculture, or (2) to conduct through the appropriate bureau or division of the department such research upon special problems, or (3) to detail to the Commissioner of Patents such officers and employees of the department, as the commissioner may request for the purposes of carrying this Act into effect.

May 23, 1930, ch. 312, § 5, 46 Stat. 376 ---------- Omitted

SEC. 5. Notwithstanding the foregoing provisions of this Act, no variety of plant which has been introduced to the public prior to the approval of this Act shall be subject to patent.

May 23, 1930, ch. 312, § 6, 46 Stat 376 ---------- § 3 of bill

SEC. 6. If any provision of this Act is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the application thereof to other persons or circumstances shall not be affected thereby.

June 30, 1932, ch. 314, §§ 308, 309, 47 Stat. 410 ---------- T. 35, § 12, 13, 41

See under R. S. 4934.

June 19, 1936, ch. 594, 49 Stat. 1529 ---------- T. 35, § 102, 119, 172

See under R. S. 4887.

May 9, 1938, ch. 188, § 477, 52 Stat. 342 ---------- T. 35, § 33

That it shall be unlawful for any person who has not been duly recognized to practice before the United States Patent Office in accordance with the provisions of Section 487 of the Revised Statutes (U. S. C., title 35, sec. 11) and the rules of the Patent Office to hold himself out or knowingly permit himself to be held out as a patent solicitor, patent agent, or patent attorney, or otherwise in any manner hold himself out, either directly or indirectly, as authorized to represent applicants for patent in their business before the Patent Office, and it shall be unlawful for any person who has, under the authority of section 487 of the Revised Statutes (U. S. C., title 35, sec. 11) 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

iness before the Patent Office or any division thereof; and any
ne foregoing provision shall be a misdemeanor and be pun-
not less than $50 and not exceeding $500.

50, § 1, 53 Stat. 1212-------- T. 35, §§ 101, 102, 119, 171, 172
4886, 4887, 4920, 4929.

450, § 2, 53 Stat. 1212---------- Sec. 4 (d) of bill
t shall take effect one year after its approval and shall apply
for patent filed after it takes effect and to all patents granted
ons: *Provided, however*, That all applications for patents filed
his Act takes effect and all patents granted on such applications
by the statutes in force at the time of approval of this Act as
d not been amended.

451, §§ 1, 2, 3, 4, 53 T. 35, §§ 134, 135, 141, 145, 146
4904, 4909, 4911, 4915.

452, § 1, 53 Stat. 1213---------- T. 35, §§ 132, 135
4903.

568, 53 Stat. 1264---------- T. 35, §§ 133, 267
4894.

19, §§ 2, 3, 53 Stat. 1293---------- T. 35, §§ 12, 13, 41, 151
4885, 4934.

370, 55 Stat. 634---------- T. 35, § 261
4898.

26, 60 Stat. 778---------- T. 35, §§ 283–6, 250
4921.

541, § 301 (part), 60 Stat. 471---------- T. 35, § 41
ereafter on July 1, 1946, and thereafter 25 cents per copy shall
ertified copies of specifications and drawings of patents, and
for design patents and certificates of trade-mark registration.

10, § 9, 60 Stat. 943---------- T. 35, § 104
proceedings in the Patent Office and in the courts of the United
t for a patent for an invention, discovery, or a design, or a
be permitted to establish the date of invention or discovery
owledge or use thereof, or other activity with respect thereto,
to the United States, other than the filing in a foreign country
or a patent for the same invention, discovery, or design which,
and subject to the provisions of section 4887 of the Revised
ed, or in accordance with and subject to the provisions of this
have the same force and effect as it would have had if filed in
on the date on which it was filed in such foreign country:
ere an invention was made by a person, civil or military,
ch person was domiciled in the United States or its possessions
a foreign country in connection with the prosecution of the war
nited States or its allies, the inventor thereof shall be entitled,
other proceedings arising in connection with such invention,
of priority with respect to such invention as if the same had
Jnited States.

0, 64 Stat. 11---------- T. 35, § 7
82.

249, 64 Stat. 215---------- T. 35, §§ 12, 13, 41
1934.

55, § 53a, 65 Stat. 728---------- T. 35, §§ 146, 291
on the filing of a complaint in the United States District Court
Columbia wherein remedy is sought under section 4915 or

section 4918 of the Revised Statutes, as amended (35 U. S. C., secs. 63 and 66), without seeking other remedy, if it shall appear that there is an adverse party residing in a foreign country, or adverse parties residing in a plurality of districts not embraced within the same State, the court shall have jurisdiction thereof and process shall, unless the adverse party or parties voluntarily make appearance, be issued against all of the adverse parties and served anywhere within the United States, except that process issued against parties residing in foreign countries pursuant to this section may be served by publication or otherwise as the court may direct.

(b) The provision of subsection (a) of this section shall be deemed to be in effect as of September 1, 1948.

Feb. 1, 1952, ch. 4, §§, 1–9, 11, 12, 66 T. 35, §§ 181–188
Stat. 3–6

That whenever publication or disclosure by the grant of a patent or an invention in which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Secretary of Commerce upon being so notified shall order that the invention be kept secret and shall withhold the grant of a patent therefor under the conditions set forth hereinafter.

Whenever the publication or discolsure of an invention by the granting of a patent, in which the Government does not have a property interest, might, in the opinion of the Secretary of Commerce, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief officer shall notify the Secretary of Commerce and the Secretary of Commerce shall order that the invention be kept secret and shall withhold the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Secretary of Commerce shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

An invention shall not be ordered kept secret and the grant of a patent withheld for a period of not more than one year. The Secretary of Commerce shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Secretary of Commerce may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

SEC. 2. The invention disclosed in an application for patent subject to an order made pursuant to section 1 hereof may be held abandoned upon its being established by the Secretary of Commerce that in violation of said order the invention has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, assigns, or legal representatives, or anyone in privity with him or them, without the consent of the Secretary of Commerce. The abandonment shall be held to have occurred as of the time of violation. The consent of the Secretary of Commerce shall not be given without the concurrence of the heads of the departments and the chief officers of the agencies who caused the order to be issued. A holding of abandon-

ute forfeiture by the applicant, his successors, assigns, or legal
anyone in privity with him or them, of all claims against the
ed upon such invention.
licant, his successors, assigns, or legal representatives, whose
as herein provided, shall have the right, beginning at the date
otified that, except for such order, his application is otherwise
owance, or the effective date of this Act, whichever is later, and
after a patent is issued thereon, to apply to the head of any
ncy who caused the order to be issued for compensation for the
the order of secrecy and/or for the use of the invention by the
lting from his disclosure. The right to compensation for use
date of the first use of the invention by the Government. The
tment or agency is authorized, upon the presentation of claim,
agreement with the applicant, his successors, assigns, or legal
full settlement for the damage and/or use. This settlement
conclusive for all purposes notwithstanding any other provision
ary. If full settlement of the claim cannot be effected, the head
or agency may award and pay to such applicant, his successors,
epresentatives, a sum not exceeding 75 per centum of the sum
the department or agency considers just compensation for the
e. A claimant may bring suit against the United States in the
r in the District Court of the United States for the district in
nt is a resident for an amount which when added to the award
st compensation for the damage and/or use of the invention by
The owner of any patent issued upon an application that was
y order issued pursuant to section 1 hereof, who did not apply
as above provided, shall have the right, after the date of issuance
bring suit in the Court of Claims for just compensation for the
reason of the order of secrecy and/or use by the Government
esulting from his disclosure. The right to compensation for use
date of the first use of the invention by the Government. In a
visions of this section, and in negotiations concerning settlement
nited States may avail itself of all defenses it may plead in an
28, United States Code, section 1498, as amended. This section
right of action on anyone or his successors, assigns, or legal
no, while in the full-time employment or service of the United
, invented, or developed the invention on which the claim is

when authorized by a license obtained from the Secretary of
on shall not file or cause or authorize to be filed in any foreign
six months after filing in the United States an application for
registration of a utility model, industrial design, or model in
ntion made in this country. A license shall not be granted with
ntion subject to an order issued by the Secretary of Commerce
n 1 hereof without the concurrence of the head of the depart-
ief officers of the agencies who caused the order to be issued.
be granted retroactively where an application has been inad-
oad and the application does not disclose an invention within
scribed under section 1 hereof.
lication" when used in this Act includes applications and any
endments, or supplements thereto, or divisions thereof.
astanding any other provisions of law any person, and his
s, or legal representatives, shall not receive a United States
ention if that person, or his successors, assigns, or legal repre-
ithout procuring the license prescribed in section 4 hereof, have
d to or assisted another's making, application in a foreign country
the registration of a utility model, industrial design, or model
nvention. A United States patent issued to such person, his
, or legal representatives shall be invalid.
r, during the period or periods of time an invention has been
t secret and the grant of a patent thereon withheld pursuant to
hall, with knowledge of such order and without due authoriza-
ish or disclose or authorize or cause to be published or disclosed
material information with respect thereto, or whoever, in viola-
ons of section 4 hereof, shall file or cause or authorize to be filed
ntry an application for patent or for the registration of a utility

model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined nor more than $10,000 or imprisoned for not more than two years, or both.

SEC. 7. The prohibitions and penalties of this Act shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

SEC. 8. The Atomic Energy Commission, the Secretary of a defense department, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this Act, and may delegate any power conferred by this Act.

SEC. 9. If any provision of this Act or of any section hereof shall be held invalid, the remainder of the Act shall not be affected thereby.

SEC. 11. Nothing in this Act shall be construed to alter, amend, revoke, repeal, or otherwise affect the provisions of the Atomic Energy Act of 1946 (60 Stat. 755), as amended.

SEC. 12. This Act may be cited as the "Invention Secrecy Act of 1951".

2. Comparative Text of Statutes Amended

In compliance with paragraph 2a (2) of rule XIII of the Rules of the House of Representatives, a comparative print of the part of an act to be amended by section 2 of the bill follows. This amendment merely changes references to the old statutes to appropriate references to proposed title 35.

The comparative text of the proposed amendment is set forth below with omissions indicated by brackets and additions by italics.

Section 2 of the Bill

Amends Act July 5, 1946, ch. 540, § 21, 60 Stat. 435, (15 U. S. C., 1946 ed., § 1071).

Comparative text.—

Any applicant for registration of a mark, party to an interference proceeding, party to an opposition proceeding, party to an application to register as a lawful concurrent user, party to a cancelation proceeding, or any registrant who has filed an affidavit as provided in section 8, who is dissatisfied with the decision of the Commissioner may appeal to the United States Court of Customs and Patent Appeals or may proceed under [section 4915, Revised Statutes] *35 United States Code, sections 145 and 146*, as in the case of applicants for patents, under the same conditions, rules, and procedure as are prescribed in the case of patent appeals or proceedings so far as they are applicable: *Provided*, That any party who is satisfied with the decision of the Commissioner shall, upon the filing of an appeal to the Court of Customs and Patent Appeals by any dissatisfied party, have the right to elect to have all further proceedings under [Revised Statutes 4915] *35 United States Code, section 146*, by election as provided in [Revised Statutes 4911] *35 United States Code, section 141*. The Commissioner of Patents shall not be a necessary party to an inter partes proceeding under [Revised Statutes 4915] *35 United States Code, section 146*, but he shall be notified of the filing of the bill by the clerk of the court in which it is filed and the Commissioner shall have the right to intervene in the action.

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BLE 3.—LAWS OMITTED AND REPEALED

es or Statutes at Large	Reason for omission and repeal
1946 ed. § 19)	Superseded, the function of disbursement was transferred to Treasury in 1933 by Executive Order 6166, see notes under 35 U. S. C., 1946 ed., § 19.
, 1946 ed. § 48)	Redundant and unnecessary.
7. 29 Stat. 694 (35 U. S. C., 1946	Has no apparent meaning.
§§ 1–8, 41 Stat. 1313, 1314 (35 80–87).	Obsolete.
§§ 1–4, 45 Stat. 1012–1014 (35 0a–40d).	Executed and obsolete.
§ 5, 46 Stat. 156 (35 U. S. C.,	Superseded by act of June 26, 1934, ch. 756, § 6, 48 Stat. 1228 (31 U. S. C., 1946 ed., § 725e).
§ 5, 46 Stat. 376 (35 U. S. C.,	Obsolete.
, 66 Stat. 6	Obsolete short title.

4.—LAWS OMITTED BUT NOT REPEALED

itted from this revision but not included in the schedule of repeals

statutes are not included in the revision, since they are mainly ature and will be appropriately codified as may be necessary.

. 634, 56 Stat. 1013 (35 U. S. C., 1946 ed. §§ 89–97. Royalty t, expires by its terms.

910, 60 Stat. 990 (35 U. S. C., 1946 ed., §§ 101–114). Boykin tion 9 (35 U. S. C., 1946 ed. sec. 109) which is in section 104. aking action under this act has expired.

. 302, 61 Stat. 413. Extension of Boykin Act.

511, 61 Stat. 794. relating to peace treaties and patents to citi- y and Japan.

444, 64 Stat. 316 (35 U. S. C., 1946 ed., §§ 115–118). Relates to atents to veterans of World War II, the time for taking action has expired.

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