

[REPUBLIC ACT NO. 165, June 20, 1947]

**AN ACT CREATING A PATENT OFFICE, PRESCRIBING ITS
POWERS AND DUTIES, REGULATING THE ISSUANCE OF
PATENTS, AND APPROPRIATING FUNDS THEREFOR.**

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

CHAPTER I. —*Organization and Operation*

SECTION 1. *Patent Office.* —There is hereby created a "Patent Office" under the executive provision of the Department of Justice, where all records, books, drawings, specifications and other papers and things pertaining to patents shall be safely kept and preserved.

SEC. 2. *Officers and employees of the Patent Office.*—The Patent Office shall be under the direction of a Director who shall have an Assistant Director shall be appointed by the President with the consent of the Commission on Appointments of the Congress of the Philippines, and shall hold office during good behavior. The Director shall receive a salary of seven thousand two hundred pesos a year, and the Assistant Director a salary of six thousand pesos a year.

To carry into effect the provisions of this Act, there shall also be in said office such other officers and employees as may be appointed by the Secretary of Justice upon recommendation of the Director.

The term "Office" used in this Act means the Patent Office.

The term "Director" used in this Act refers to the Director of Patents or the Assistant Director of Patents when acting as or performing the duties of the Director.

SEC. 3. *Special technical and scientific assistance.*—The Director is empowered to obtain the assistance of technical, scientific or other qualified officers or employees of other departments, bureaus, offices, agencies and instrumentalities of the Government, including corporations owned, controlled or operated by government, when deemed necessary in the consideration of any matter submitted to the Office relative to the enforcement of the provisions of this Act.

SEC. 4. *Seal of Office.*—The Office shall have a seal with which patents and other papers issued by shall be authenticated. The form and design of the seal shall be approved by the President of the Philippines.

SEC. 5. *Publications of laws and rules.*—The Director shall print, or cause to be printed, and make available for the distribution, pamphlet copies of the laws and of the rules and regulations of the Office, and may print circulars of information

relating to matters within the jurisdiction of the Office.

SEC. 6. *Publication of certain matters in the Official Gazette.*—There shall be published in the Official Gazette a suitable view of drawing, if there be a drawing, and the claims of each patent issue; the rules and regulations duly promulgated and the amendments thereto; an annual index of the names of inventors and patentees and the title of the inventions covered by the patents issued during each fiscal year; all notices and decisions required under this Act to be published; and such other information relating to patents and other matters within the jurisdiction of the Office, as may, in the discretion of the Director, be useful to the public.

CHAPTER II.—*Inventions Patentable*

SEC. 7. *Invention Patentable.*—Any invention of a new and useful machine, manufactured product or substance, process, or an improvement of any of the foregoing, shall be patentable.

SEC. 8. *Inventions not patentable.*—An invention shall not be patentable if it is contrary to the public order or morals, or to the public health or welfare, or if it constitutes a mere idea, scientific principle or abstract theorem not embodied in an invention as specified in section seven hereof, or any process not directed to the making or improving of a commercial product.

SEC. 9. *Invention not considered new or patentable.*—An invention shall be considered new or capable of being patented if it was known or used by others in the Philippines before the invention thereof by the inventor named in a application for patent for the invention; or if it was patented or described in any printed publication in the Philippines or any foreign country more than one year before the application for patent therefor; or if it had been in public use or on sale in the Philippines for more than one year before the application for a patent therefor; or if it is the subject matter of a validly issued patent in the Philippines granted on an application for patent therefor.

CHAPTER III.—*Application for Patent*

SEC. 10. *Right to Patent.*—The right to the patent belongs to the true and actual inventor, his heirs, legal representatives or assigns. If two or more persons have an invention jointly, the right to the patent belong to them jointly. If two or more persons have made the invention this patent shall belong to the person who is the first to file an application for such inventions, unless the contrary is shown.

SEC. 11. *Applications by non-residents.*—Any person filing an application for patent who is not a resident of the Philippines must appoint an agent or representatives in the application for patent may be served. In the event of death, absence or inability of an agent or representative, a new agent or representatives must be appointed and notice thereof must be filed in the Office. Upon failure to maintain an agent or representative of record in this Office, service to the Director shall be deemed sufficient.

SEC. 12. *Who may apply for patent.*—An application for patent may be filed only by the inventor, his heirs, legal representatives or assigns.

SEC. 13. *The application.*—The application for patent shall be in English or Spanish, or in the national language with its corresponding English translation, and signed by the applicant, and shall include a statement giving the name, address, and citizenship or nationality of the applicant and of the inventor, if the applicant is not the inventor, and:

- (a) A specification;
- (b) Drawings, where the invention can be shown by drawing;
- (c) Power of attorney if the filing is through an attorney;
- (d) The assignment or a certified true copy of the assignment of the invention for recording; where the application is filed by one who derives his title from the inventor or proof of title if the derivation is not by assignment;
- (e) A sworn statement of an inventor of his inventorship; or such sworn statement may be made by his heirs or legal representatives in case of death or incapacity of the inventor; however, such sworn statement will not be required if a certified copy of a previously filed foreign application containing the same is filed;
- (f) The appointments of the resident agent or representatives in cases coming under section eleven hereof; and
- (g) The required fee.

SEC. 14. *The specification.*—The specification shall include:

- (a) The title of the invention;
- (b) A brief statement of its nature and purpose;
- (c) A brief explanation of the drawings, where there are drawings.
- (d) A complete and detailed description of the invention in such full, clear, concise and exact terms as to enable any person skilled in the heart of science to which the invention relates to make and practice the invention; and
- (e) A distinct and explicit claims or claims of the subject matter which the applicant claims new and seek to have patented.

SEC. 15. *Application previously filed abroad.*—An application for patent for an invention filed in this country by any person who has previously regularly filed an application for a patent for the same invention in a foreign country which, by treaty, convention, or law, affords similar privileges citizens of the Philippines shall have the same force and effect as the same applicant would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country: *Provided*, That the application in this country is filed within twelve months from the earliest date on which any such foreign application was filed, and a translation thereof to English, if not in English language, is filed within six months from the date of filing in the Philippines, unless the Director for good cause shown shall extend the time for filing such certified copy.

CHAPTER IV.—*Issuance of Patent*

SEC. 16. *Formal examination of application.*—When an application for patent has been filed the Director shall determine whether it complies with the formal requirements. If the application is defective in this respect the applicant shall be notified of the specific defects and a time fixed, not less than four months, within which such defects may be remedied.

If the applicant fails to request reconsideration or to remedy the defects within the time fixed by the Director, or within such additional time, not exceeding four months, as may be granted, the application shall be denied.

SEC. 17. *Multiple inventions in one application.*—If several independent inventions which are not so closely related as to be proper in one application are claimed, the Director may require the application to be restricted to a single invention in the same manner as notifications of defects in the application. A later application filed for an invention divided out shall be considered as having been filed on the same day as the first application provided the later application is filed within four months after the requirements to divide becomes final, or within such additional time, not exceeding four months, as may be granted.

SEC. 18. *Issuance of patent.*—If the original or corrected application is in order, the director shall issue the patent and shall, as soon as practicable, make the publication required by section six, Chapter I hereof.

SEC. 19. *How issued.*—The patent shall be issued in the name of the Republic of the Philippines under the seal of the Office and shall be signed by the Director, and registered together with the specification and drawings, if any, in books and records of the the Office to be kept for the purpose.

SEC. 20. *Content of patent.*—The patent shall contain the patent number, the title of the invention, the name and residence of the inventor and of the patentee if the patentee be other than the inventor, the date on which the application was filed, the the on which it is issued, and a grant to the patentee, his heirs or assigns, of the exclusive of the invention throughout the Republic of the Philippines for the term thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

CHAPTER V.—*Term of Patent*

SEC. 21. *Term of patent.*—The term of a patent shall begin on a date when the patent is issued as shown on the face thereof and shall expire seventeen years thereafter. However, a patent shall cease to be in force and effect if the patentee fails to pay the prescribed annual fees within the [prescribed times hereinafter provided or if the patent is canceled in accordance with the provisions of this Act.

SEC. 22. *Annual fees.*—The first annual fee on a patent shall be due and payable on the expiration of four years from the date of issue. In a similar manner, annual fees on subsisting patents shall be due and payable on the fifth and each annual anniversary of the date of issue. If any annul fee is not paid on prescribed time, a notice of the nonpayment shall be published in the *Official Gazette* and the patentee shall have six months from the date of publication to pay the fee together with the surcharge required for the delayed payment. A notice of the lapsing of a patent for nonpayment of any annual fee shall be published in the *Official Gazette*.

SEC. 23. *Reinstatement of a lapsed.*—Within two years from the date on which the first unpaid annual fee was due, a patent which has lapsed for nonpayment of any fee may be reinstated upon payment of all annual fees then due and surcharge for reinstatement, and upon proof satisfactory to the Director that such nonpayment

was due to fraud, accident, mistake or excusable negligence: *Provided, however,* That such reinstatement shall not be prejudice the rights acquired by a third person while the patent was not in force.

CHAPTER VI.—*Surrender, Correction and Amendments of Patent*

SEC. 24. *Surrender of patent.*—Any patentee, with the consent of all persons having grant or licenses or other right, title or interest in and to the patent and the invention covered thereby, which have been recorded in the Office, may surrender his patent or any claim or claims forming part thereof to the Director for cancellation.

SEC. 25. *Corrections of mistakes of Office.*—The Director shall have the power to correct without fee any mistake in a patent incurred through the fault of the Office when clearly disclosed by the records thereof, to make the patent conform to the records.

SEC. 26. *Correction of mistake of application.*—On payment of the prescribed fee the Director is authorized to correct any mistake in a patent of a formal or clerical nature, not incurred through the fault of the Office.

SEC. 27. *Form and publication of amendment.*—Amendment or correction of a patent as provided in section twenty-five and twenty-six hereof; shall be accomplished by a certificate of such amendment or correction authenticated by the seal of the Office and signed by the Director, which certificate shall be attached to the patent if the patent has been returned to the Director. Notice of such amendment or correction shall be published in the *Official Gazette*, and copies of the patent furnished by the Office shall include a copy of the certificate of the amendment or correction.

CHAPTER VII.—*Cancellation of Patents*

SEC. 28. *General grounds for cancellation.*—Any person may on payment of the required fee petition the Director within three years from the date of publication of the issue of the patent in the *Official Gazette*, to cancel the patent or any claim thereof, on any of the following grounds:

- (a) That the invention is not new or patentable in accordance with section seven, eight and nine, Chapter II hereof;
- (b) That the specification does not comply with the requirement of section fourteen, Chapter III hereof; or
- (c) That the person to whom the patent was issued was not the true and actual inventor or did not derive his rights from the true and actual inventor.

SEC. 29. *When patent may be canceled at any time.*—A petition to cancel a patent on any of the grounds specified in the next preceding section may be filed at any time by the Solicitor General.

SEC. 30. *Requirements of the petition.*—The petition for cancellation must be in writing and verified by the petitioner or by any person on his behalf who knows the facts and shall specify the grounds upon which it is based, and include a statement