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Thirty-Sixth Congress of the United States of America;

At the Second Session,

Begun and held at the city of Washington, on Monday, the Third day of December, one thousand eight hundred and sixty

AN ACT

In addition to "An act to promote the progress of the useful arts."

Be it enacted *by the Senate and House of Representatives of the United States of America in Congress assembled,*

That the Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any justice of the peace, or other officer authorized by law to take depositions to be used in the courts of the United States, or in the State courts of any State where such officer shall reside; and in any contested case pending in the Patent Office it shall be lawful for the clerk of any court of the United States for any district or Territory, and he is hereby required, upon the application of any party to such contested case, or the agent or attorney of such party, to issue subpenas for any witnesses residing or being within the said district or Territory, commanding such witnesses to appear and testify before any justice of the peace, or other officer as aforesaid, residing within the said district or Territory, at any time and place in the subpena to be stated; and if any witness, after being duly served with such subpena, shall refuse or neglect to appear, or, after appearing, shall refuse to testify, (not being privileged from giving testimony,) such refusal or neglect being proved to the satisfaction of any judge of the court whose clerk shall have issued such subpena, said judge may thereupon proceed to enforce obedience to the process, or to punish the disobedience in like manner as any court of the United States may do in cases of disobedience to process of subpena ad testificandum issued by such court; and witnesses in such cases shall be allowed the same compensation as is allowed to witnesses attending the courts of the United States: Provided, That no witness shall be required to attend at any place more than forty miles from the place where the subpena shall be served upon him to give a deposition under this law: Provided, also, That no witness shall be deemed guilty of contempt for refusing to disclose any secret invention made or owned by him: And provided, further, That no witness shall be deemed guilty of contempt for disobeying any subpena

directed to him by virtue of this act, unless his fees for going to, returning from, and one days attendance at the place of examination shall be paid or tendered to him at the time of the service of the subpena.

Sec 2. And be it further enacted, That, for the purpose of securing greater uniformity of action in the grant and refusal of letters patent, there shall be appointed by the President by and with the advice and consent of the Senate three examiners-in-chief, at an annual salary of three thousand dollars each, to be composed of persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the applicant for that purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters patent; and also to revise and determine in like manner upon the validity of the decisions of examiners in interference cases, and when required by the Commissioner in applications for the extension of patents, and to perform such other duties as may be assigned to them by the Commissioner; that from their decisions appeals may be taken to the Commissioner of Patents in person, upon payment of the fee hereinafter prescribed; that the said examiners-in-chief, shall be governed in their action by the rules to be prescribed by the Commissioner of Patents.

Sec 3. And be it further enacted, That no appeal shall be allowed to the examiners-in-chief from the decisions of the primary examiners, except in interference cases, until after the application shall have been twice rejected; and the second examination of the application by the primary examiner shall not be had until the applicant, in view of the references given on the first rejection, shall have renewed the oath of invention, as provided for in the seventh section of the act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose", approved July fourth, eighteen hundred and thirty-six.

Sec 4. And be it further enacted, That the salary of the Commissioner of Patents, from and after the passage of this act shall be four thousand five hundred dollars per annum, and the salary of the chief clerk of the Patent Office shall be two thousand five hundred dollars, and the salary of the librarian of the Patent Office shall be eighteen hundred dollars.

Sec 5. And be it further enacted, That the Commissioner of Patents

is authorized to restore to the respective applicants, or when not removed by them, to otherwise dispose of such of the models belonging to rejected applications as he shall not think necessary to be preserved. The same authority is also given in relation to all models accompanying applications for designs. He is further authorized to dispense in future with models of designs when the design can be sufficiently represented by a drawing.

Sec 6 - And be it further enacted, That the tenth section of the act approved the third of March, eighteen hundred and thirty-seven, authorizing the appointment of agents for the transportation of models and specimens to the Patent Office, is hereby repealed.

Sec 7 - And be it further enacted, That the Commissioner is further authorized, from time to time, to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners as may be required to transact the current business of the office with dispatch, provided the whole number of additional examiners shall not exceed four of each class, and that the total annual expenses of the Patent Office shall not exceed the annual receipts.

Sec 8 - And be it further enacted, That the Commissioner may require all papers filed in the Patent Office if not correctly, legibly, and clearly written to be printed at the cost of the parties filing such papers; and for gross misconduct he may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons of the Commissioner for such refusal shall be duly recorded, and subject to the approval of the President of the United States.

Sec 9 - And be it further enacted, That no money paid as a fee on any application for a patent after the passage of this act shall be withdrawn or refunded, nor shall the fee paid on filing a caveat be considered as part of the sum required to be paid on filing a subsequent application for a patent for the same invention.

That the three months notice given to any caveator, in pursuance of the requirements of the twelfth section of the act of July fourth, eighteen hundred and thirty-six, shall be computed from the day on which such notice is deposited in the post office at Washington with the regular time for the transmission of the same added thereto, which time shall be indorsed on the

notice; and that so much of the thirteenth section of the act of Congress, approved July fourth, eighteen hundred and thirty-six, as authorizes the annexing to Letters Patent of the description and specification of additions & improvements is hereby repealed, and in all cases where additional improvements would now be admissible independent patents must be applied for.

Sec. 10. And be it further enacted, That all laws now in force fixing the rates of the Patent Office fees to be paid and discriminating between the inhabitants of the United States and those of other Countries which shall not discriminate against the inhabitants of the United States are hereby repealed, and in their stead the following rates are established.

On filing each caveat, ten dollars.

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

On issuing each original patent, twenty dollars.

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

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

On every application for the extension of a patent, fifty dollars; and fifty dollars in addition, on the granting of every extension;

On filing each disclaimer, ten dollars;

For certified copies of patents, and other papers ten cents per hundred words;

For recording every assignment, agreement, power of attorney, and other papers of three hundred words or under, one dollar;

For recording every assignment, and other papers over three hundred and under one thousand words, two dollars;

For recording every assignment or other writing, if over one thousand words, three dollars;

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

Sec. 11 — And be it further enacted, That any citizen or citizens, or alien or aliens having resided one year in the United States, and taken the oath of his or their intention to become a citizen or citizens, who by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design for a manufacture, whether of metal or other material or materials, _____

_____ and original design for a bust, statue, or bas relief, or composition in alto or basso relievo, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern, or print, or picture, to be either worked into or worked on, or printed, or painted, or cast, or otherwise fixed on, any article of manufacture, or any new and original shape or configuration of any article of manufacture, not known or used by others before his, her, or their invention or production thereof, and prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell, and vend the same, or copies of the same, to others, by them to be made, used, and sold, may make _____

application, in writing, to the Commissioner of Patents, expressing such desire; and the Commissioner on due proceedings had, may grant a patent therefor as in the case now of application for a patent, for the term of three and one half years, or for the term of seven years, or for the term of fourteen years, as the said applicant may elect in his application, Provided, That the fee to be paid in such application shall be, for the term of three years, and six months ten dollars, for seven years fifteen dollars, and for fourteen years thirty dollars; And provided, That the patentees of designs under this act, shall be entitled to the extension of their respective patents for the term of seven years, from the day on which said patents shall expire, upon the same terms and restrictions as are now provided for the extension of letters patent.

Sec. 12. And be it further enacted, That all applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, 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 and all applications now pending shall be treated as if filed after the passage of this act, and all applications for the extension of patents shall be filed at least ninety days before the expiration thereof; and notice of the day set for the hearing of the case shall be published, as now required by law, for at least sixty days.

Sec 13. And be it further enacted, That in all cases where an article is made or vended by any person under the protection of letters patent, it shall be the duty of such person to give sufficient notice to the public that said article is so 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 patented, that may be impracticable by envelopping one or more of the said articles, and affixing a label to the package or otherwise attaching thereto a label on which the notice, with the date, is printed; on failure of which, in any suit for the infringement of letters patent by the party failing so to mark the article the right to which is infringed upon, no damage 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 or vend the article patended. And the sixth section of the act entitled "An act in addition to an act to promote the progress of the useful arts," and so forth, approved the twenty-ninth day of August, eighteen hundred and forty two, be and the same is hereby, repealed.

Transfer

Sec. 14 And be it further enacted, That the Commissioner of Patents be, and he is hereby, authorized to print, or in his discretion to cause to be printed, ten copies of the description and claims of all patent which may hereafter be granted, and ten copies of the drawings of the same, when drawings shall accompany the patents; Provided, the cost of printing the text of said descriptions and claims, shall not exceed, exclusive of stationary, the sum of two cents per hundred words for each of said copies, and the cost of the drawing shall not exceed fifty cents per copy; one copy of the above number shall be printed on parchment to be affixed to the Letters patent; the work shall be under the direction and subject to the approval of the Commissioner of Patents, and the expense of the said copies shall be paid for out of the patent fund.

Sec. 15. And be it further enacted, That printed copies of the Letters patent of the United States, with the seal of the Patent Office affixed thereto, and certified and signed by the Commissioner of Patents, shall be legal evidence of the contents of said Letters patent in all cases.

Sec. 16. And be it further enacted, That all patents hereafter granted shall remain in force for the term of seventeen years from the date of issue; and all extension of such patents is hereby prohibited.

Sec. 17 And be it further enacted That all acts and parts of acts heretofore passed which are inconsistent with the provisions of this act be and the same are hereby repealed

Wm Pennington
Speaker of the House of Representatives

Wm C Rives
Vice President of the United States and President of the Senate

Approved 2 March 1861.
James Buchanan

I certify that this act did
originate in the Senate

Asbury Dickins
Secretary

by W. Hickey
Chief Clerk