

Patent Act of 1939, Ch. 450, 53 Stat, 1212 (August 5, 1939)

Ch. 450

Scope

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That section 4904 of the Revised Statutes (U. S. C., title 35, sec. 52) be amended to read as follows:

"Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct a board of three examiners of interferences to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who is adjudged the prior inventor."

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."

SEC. 3.

That section 4911 of the Revised Statutes (U. S. C., title 35, sec. 59a) be amended by changing the words "Board of Appeals" in the second sentence to read "board of interference examiners", and by canceling the last sentence of said section.

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."

SEC. 5.

That this Act shall take effect two months after its approval; but it shall not affect interferences then pending, which may be heard and decided and appeals and other proceedings taken under the statutes in force at the time of approval of this Act as if such statutes had not been amended.

Legislative History

APPROVED, August 5, 1939.