

## CROSS REFERENCES

Costs when disclaimer not entered before suit, see section 288 of this title.

**§ 254. Certificate of correction of Patent Office mistake.**

Whenever a mistake in a patent, incurred through the fault of the Patent Office, is clearly disclosed by the records of the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Commissioner may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction. (July 19, 1952, ch. 950, § 1, 66 Stat. 809.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—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.

**§ 255. Certificate of correction of applicant's mistake.**

Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. (July 19, 1952, ch. 950, § 1, 66 Stat. 809.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—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).

**§ 256. Misjoinder of inventor.**

Whenever a patent is issued on the application of persons as joint inventors and it appears that one of such persons was not in fact a joint inventor, and that he was included as a joint inventor by error and without any deceptive intention, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate deleting the name of the erroneously joined person from the patent.

Whenever a patent is issued and it appears that a person was a joint inventor, but was omitted by

error and without deceptive intention on his part, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate adding his name to the patent as a joint inventor.

The misjoinder or nonjoinder of joint inventors shall not invalidate a patent, if such error can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Commissioner shall issue a certificate accordingly. (July 19, 1952, ch. 950, § 1, 66 Stat. 810.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—This section is new and is companion to section 118.

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.

**§ 261. Ownership; assignment.**

Subject to the provisions of this title, patents shall have the attributes of personal property.

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from its date or prior to the date of such subsequent purchase or mortgage. (July 19, 1952, ch. 950, § 1, 66 Stat. 810.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—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.

## CROSS REFERENCES

Issue of patent to assignee, see section 152 of this title.  
Oaths, acknowledgments, affidavits and depositions before United States Commissioners, see section 637 of Title 28, Judiciary and Judicial Procedure.

## § 262. Joint owners.

In the absence of any agreement to the contrary, each of the joint owners of a patent may make, use or sell the patented invention without the consent of and without accounting to the other owners. (July 19, 1952, ch. 950, § 1, 66 Stat. 810.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—This section states a condition in existing law not expressed in the existing statutes.

## Chapter 27.—GOVERNMENT INTERESTS IN PATENTS

Sec.

266. Issue of patents without fees to Government employees.

267. Time for taking action in Government applications.

## § 266. Issue of patents without fees to Government employees.

The Commissioner may grant, subject to the provisions of this title, to any officer, enlisted man, or employee of the Government, except officers and employees of the Patent Office, a patent without the payment of fees, when the head of a department or agency certifies the invention is used or likely to be used in the public interest and the applicant in his application states that the invention described therein, if patented, may be manufactured and used by or for the Government for governmental purposes without the payment to him of any royalty thereon, which stipulation shall be included in the patent. (July 19, 1952, ch. 950, § 1, 66 Stat. 811.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on Title 35, U. S. C., 1946 ed., § 45 (Mar. 3, 1883, ch. 143, 2<sup>d</sup> Stat. 625, amended April 30, 1928, ch. 460, 45 Stat. 467).

Changes in language are made. The omission of the specific reference to 35 U. S. C., 1946 ed., § 31, (R. S. 4886) broadens the section so as to include design patents.

## § 267. Time for taking action in Government applications.

Notwithstanding the provisions of sections 133 and 151 of this title, the Commissioner may extend the time for taking any action to three years, when an application has become the property of the United States and the head of the appropriate department or agency of the Government has certified to the Commissioner that the invention disclosed therein is important to the armament or defense of the United States. (July 19, 1952, ch. 950, § 1, 66 Stat. 811.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—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).

This provision, which appears as the last two sentences of the corresponding section of the present statute (see note to section 133) is made a separate section and rewritten in simpler form.

## Chapter 28.—INFRINGEMENT OF PATENTS

Sec.

271. Infringement of patent.

272. Temporary presence in the United States.

## § 271. Infringement of patent.

(a) Except as otherwise provided in this title, whoever without authority makes, uses or sells any patented invention, within the United States during the term of the patent therefor, infringes the patent.

(b) Whoever actively induces infringement of a patent shall be liable as an infringer.

(c) Whoever sells a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use, shall be liable as a contributory infringer.

(d) No patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his having done one or more of the following: (1) derived revenue from acts which if performed by another without his consent would constitute contributory infringement of the patent; (2) licensed or authorized another to perform acts which if performed without his consent would constitute contributory infringement of the patent; (3) sought to enforce his patent rights against infringement or contributory infringement. (July 19, 1952, ch. 950, § 1, 66 Stat. 811.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—The first paragraph of this section is declaratory only, defining infringement.

Paragraphs (b) and (c) define and limit contributory infringement of a patent and paragraph (d) is ancillary to these paragraphs, see preliminary general description of bill. One who actively induces infringement as by aiding and abetting the same is liable as an infringer, and so is one who sells a component part of a patented invention or material or apparatus for use therein knowing the same to be especially made or especially adapted for use in the infringement of the patent except in the case of a staple article or commodity of commerce having other uses. A patentee is not deemed to have misused his patent solely by reason of doing anything authorized by the section.

## § 272. Temporary presence in the United States.

The use of any invention in any vessel, aircraft or vehicle of any country which affords similar privileges to vessels, aircraft or vehicles of the United States, entering the United States temporarily or accidentally, shall not constitute infringement of any patent, if the invention is used exclusively for the needs of the vessel, aircraft or vehicle and is not sold in or used for the manufacture of anything to be sold in or exported from the United States. (July 19, 1952, ch. 950, § 1, 66 Stat. 812.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—This section follows the requirement of the International Convention for the Protection of Industrial Property, to which the United States is a party.