

Public Laws

ENACTED DURING THE

SECOND SESSION OF THE EIGHTY-SECOND CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Tuesday, January 8, 1952, and adjourned sine die on Monday, July 7, 1952. HARRY S. TRUMAN, President; ALBEN W. BARKLEY, Vice President; SAM RAYBURN, Speaker of the House of Representatives.

Public Law 256

CHAPTER 4

AN ACT

February 1, 1952
[H. R. 4687]

To provide for the withholding of certain patents that might be detrimental to the national security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever publication or disclosure by the grant of a patent on 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 disclosure 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

Invention Sec-
recy Act of 1951.
Post, p. 815.

Withholding of
patent by Secre-
tary of Commerce.

Inspection of ap-
plication by AEC,
etc.

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.

Right to appeal.

Time limitations.

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.

Rescission of order.

Abandonment of invention.

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 abandonment shall constitute forfeiture by the applicant, his successors, assigns, or legal representatives, or anyone in privity with him or them, of all claims against the United States based upon such invention.

Right to compensation.

SEC. 3. An applicant, his successors, assigns, or legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, or the effective date of this Act, whichever is later, and ending six years after a patent is issued thereon, to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. The head of the department or agency is authorized, upon the presentation of a claim, to enter into an agreement with the applicant, his successors, assigns, or legal

Settlement agreement.

representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, his successors, assigns, or legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the Court of Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of the invention by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 1 hereof, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the Court of Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of the invention resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. In a suit under the provisions of this section, and in negotiations concerning settlement of a claim, the United States may avail itself of all defenses it may plead in an action under title 28, United States Code, section 1498, as amended. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the invention on which the claim is based.

Suit by claimant.

62 Stat. 941.

SEC. 4. Except when authorized by a license obtained from the Secretary of Commerce a person shall not file or cause or authorize to be filed in any foreign country prior to six months after filing in the United States an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in this country. A license shall not be granted with respect to an invention subject to an order issued by the Secretary of Commerce pursuant to section 1 hereof without the concurrence of the head of the departments and the chief officers of the agencies who caused the order to be issued. The license may be granted retroactively where an application has been inadvertently filed abroad and the application does not disclose an invention within the categories prescribed under section 1 hereof.

Filing of application in foreign country, etc.

The term "application" when used in this Act includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

"Application."

SEC. 5. Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 4 hereof, have made, or consented to or assisted another's making, application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such person, his successors, assigns, or legal representatives shall be invalid.

Penalty clause.

SEC. 6. Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 1 hereof, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the invention, or mate-

rial information with respect thereto, or whoever, in violation of the provisions of section 4 hereof, shall file or cause or authorize to be filed in any foreign country 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 not more than \$10,000 or imprisoned for not more than two years, or both.

Nonapplicability.

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.

Rules and regulations; delegation of power.

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.

Separability.

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.

Repeals.

SEC. 10. The Acts of Congress approved October 6, 1917 (ch. 95, 40 Stat. 394); July 1, 1940 (ch. 501, 54 Stat. 710); August 21, 1941 (ch. 393, 55 Stat. 657); and June 16, 1942 (ch. 415, 56 Stat. 370) (U. S. C., title 35, secs. 42 and 42a to 42f), are repealed, but such repeal shall not affect any rights or liabilities existing on the date of approval of this Act. An order of secrecy issued under the repealed Acts, and in effect on the date of the approval of this Act, shall be considered an order issued pursuant to this Act. A claim arising under the repealed Acts and unsettled as of the effective date of this Act, may be presented and determined pursuant to the provisions of this Act.

42 USC 1801 note.

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.

Short title.

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

Approved February 1, 1952.

Public Law 257**CHAPTER 17****AN ACT**

To suspend certain import duties on lead.

February 11, 1952
[H. R. 4948]

Lead. Suspension of duties.

46 Stat. 628.
19 USC 1001,
pars. 391, 392.

64 Stat. A454.
50 USC app.,
note prec. 1.

Revocation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the import duties imposed under paragraphs 391 and 392 of the Tariff Act of 1930, as amended, on lead-bearing ores, flue dust, and mattes of all kinds, lead bullion or base bullion, lead in pigs and bars, lead dross, reclaimed lead, scrap lead, antimonial lead, and antimonial scrap lead shall not apply with respect to imports entered for consumption or withdrawn from warehouse for consumption during the period beginning with the day following the date of the enactment of this Act and ending with the close of March 31, 1953, or the termination of the national emergency proclaimed by the President on December 16, 1950, whichever is earlier: *Provided,* That when, for any one calendar month during such period, the average market price of common lead for that month, in standard shapes and sizes, delivered at New York, has been below 18 cents per pound, the Tariff Commission, within fifteen days after the conclusion of such calendar month, shall so