

it shall be the duty of the Provincial Secretary to deposit the description, specification and drawings of the second applicant in the confidential archives of his office, and to give notice of the application, by mail or otherwise, to the person that filed the caveat, who within three months after receiving such notice, if he would avail himself of the benefit of his caveat, shall file his description, specification and drawings; if in the opinion of the Attorney General the specifications filed by the respective parties interfere with each other, the like proceedings shall be had by appeal as hereinbefore prescribed; provided however that the opinion or decision of the Board of Examiners in such case shall not prevent any person interested from the right to contest the same in any Court where the validity of a patent may come in question.

Each patentee confined to his own invention, or improvement.

19. When Letters Patent shall be obtained for any new and useful invention or discovery, and thereafter any person shall discover or invent an improvement thereupon, and shall apply for and obtain a patent under this Act for the exclusive right to such improvement, it shall not be lawful for him to make, use or vend the original invention or discovery, nor for the person who procured the patent for the original invention or discovery to make, use or vend the improvement thereupon; and it is hereby declared and enacted, that simply changing the form or proportions of any machine, article or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this Act.

Provision in case Patentee without fraud, claims too much.

20. If by mistake, accident or inadvertence, and without any wilful default or intent to defraud or mislead the public, a patentee shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be deemed good and valid for so much of the invention or discovery as shall be actually his own, provided that it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee and his legal representatives, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity for any infringement of such part of the same as is actually the invention or discovery of the patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the Office of the Provincial Secretary a disclaimer, attested by one witness or more, of that part of the thing patented which was claimed without right; provided always that no person bringing a suit shall be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to record his disclaimer.

Patentee in such case may disclaim excess.

21. If through inadvertence, accident or mistake a patentee shall have made his specification too broad by claiming more than that of which he was the original or first inventor, (some material and substantial part of the thing patented being justly and truly his own,) such patentee or his legal representatives, may disclaim the excess; the disclaimer shall be in writing, and shall state the extent of interest in the patent held by the party making the same, it shall be attested by one or more witnesses, and be recorded in the Office of the Provincial Secretary; thereafter such disclaimer shall be taken and considered as part of the original specification, to the extent of the interest possessed by the party making the same, or by those claiming under him, but no such disclaimer shall affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable neglect or delay in recording the same.

Defective Patent may be surrendered and new Patent may issue.

22. If any patent shall become inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming in his specification as his own invention more than he had a right to claim, and the error has arisen from inadvertency, accident or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Lieutenant Governor, upon the surrender of such patent and upon petition therefor, to cause a new patent to be issued to the patentee for the residue of the term mentioned in the first patent, in accordance with the patentee's amended description and specification; in case of his death or the assignment by him of the original patent, or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.