

80TH CONGRESS
2D SESSION

H. R. 5740

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1948

Mr. LEWIS (by request) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To extend the jurisdiction of district courts to patent suits against the United States and to other suits against the United States where the amount claimed exceeds \$10,000, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 That paragraph 20 of section 24 of the Judicial Code, as

4 amended (U. S. C., 1940 edition, title 28, sec. 41 (20)),

5 is amended to read as follows:

6 "Twentieth. Concurrent with the Court of Claims, and

7 without limitation with respect to amount claimed, of all

8 claims against the United States for compensation arising

9 under the Act of October 6, 1917, as amended (U. S. C.,

1 1940 edition, title 35, sec. 42), the Act of June 25, 1910,
2 as amended (U. S. C., 1940 edition, title 35, sec. 68),
3 or the Act of October 31, 1942, as amended (U. S. C.,
4 1940 edition, Supp. V, title 35, sec. 90), and of all other
5 claims founded upon the Constitution of the United States
6 or any law of Congress, or upon any regulation of an
7 executive department, or upon any contract, express or
8 implied, with the Government of the United States, or for
9 damages, liquidated or unliquidated, in cases not sounding
10 in tort, in respect to which claims the party would be
11 entitled to redress against the United States, either in a
12 court of law, equity, or admiralty, if the United States were
13 suable, and of all set-offs, counterclaims, claims for damages,
14 whether liquidated, or unliquidated, or other demands what-
15 soever on the part of the Government of the United States
16 against any claimant against the Government in said court;
17 and of any suit or proceeding commenced after the passage
18 of the Revenue Act of 1921, for the recovery of any internal-
19 revenue tax alleged to have been erroneously or illegally
20 assessed or collected, or of any penalty claimed to have
21 been collected without authority, or any sum alleged to
22 have been excessive or in any manner wrongfully collected
23 under the internal-revenue laws. Nothing in this paragraph
24 shall be construed as giving to either the district courts
25 or the Court of Claims jurisdiction to hear and determine

1 claims growing out of the Civil War, and commonly known
2 as 'war claims', or to hear and determine other claims
3 which had been rejected or reported on adversely prior to
4 March 3, 1887, by any court, department, or commission
5 authorized to hear and determine the same, or to hear and
6 determine claims for pensions; or as giving to the district
7 courts jurisdiction of cases brought to recover fees, salary,
8 or compensation for official services of officers of the United
9 States or brought for such purpose by persons claiming as
10 such officers or as assignees or legal representatives thereof;
11 but no suit pending on June 27, 1898, shall abate or be
12 affected by this provision. No suit against the Government
13 of the United States shall be allowed under this paragraph
14 unless the same shall have been brought within six years
15 after the right accrued for which the claim is made. The
16 claims of married women, first accrued during marriage, of
17 persons under the age of twenty-one years, first accrued
18 during minority, and of idiots, lunatics, insane persons, and
19 persons beyond the seas at the time the claim accrued,
20 entitled to the claim, shall not be barred if the suit be
21 brought within three years after the disability has ceased;
22 but no other disability than those enumerated shall prevent
23 any claim from being barred, nor shall any of the said
24 disabilities operate cumulatively. All suits brought and tried

1 under the provisions of this paragraph shall be tried by the
2 court without a jury.”.

3 SEC. 2. The district courts of the United States, in suits
4 against the United States for compensation arising under the
5 Act of October 6, 1917, as amended (U. S. C., 1940 edition,
6 title 35, sec. 42), the Act of June 25, 1910, as amended
7 (U. S. C., 1940 edition, title 35, sec. 68), or the Act of
8 October 31, 1942, as amended (U. S. C., 1940 edition,
9 Supp. V, title 35, sec. 90), shall have the power conferred
10 upon the Court of Claims by section 164 of the Judicial Code
11 (U. S. C., 1940 edition, title 28, sec. 272) to call upon the
12 executive branch of the Government for information and
13 papers.

14 SEC. 3. The Act of February 28, 1927, entitled “An Act
15 to amend section 129 of the Judicial Code, allowing an appeal
16 in a patent suit from a decree which is final except for the
17 order of accounting” (U. S. C., 1940 edition, title 28, sec.
18 227a) is amended by inserting at the end thereof the follow-
19 ing: “This Act shall apply to suits in the district courts of
20 the United States for compensation under the Act of October
21 6, 1917, as amended (U. S. C., 1940 edition, title 35, sec.
22 42), the Act of June 25, 1910, as amended (U. S. C., 1940
23 edition, title 35, sec. 68), or the Act of October 31, 1942, as
24 amended (U. S. C., 1940 edition, Supp. V, title 35, sec.
25 90).”.

1 SEC. 4. Section 5 of the Act of March 3, 1887, entitled
2 “An Act to provide for the bringing of suits against the
3 Government of the United States” (U. S. C., 1940 edition,
4 title 28, sec. 762) is amended to read as follows:

5 “SEC. 5. The plaintiff in any suit brought under the
6 provisions of section 2 of this Act shall file a petition, duly
7 verified with the clerk of the respective court having juris-
8 diction of the case, and in the court where the plaintiff
9 resides, or in the district where one of the plaintiffs resides
10 where there are two or more plaintiffs residing in different
11 districts. Such petition shall set forth the full name and
12 residence of the plaintiff, the nature of his claim, and a
13 succinct statement of the facts upon which the claim is
14 based, the money or any other thing claimed, or the damages
15 sought to be recovered and praying the court for a judgment
16 or decree upon the facts and law.”

17 SEC. 5. Section 13 (b) of the Contract Settlement Act
18 of 1944 (U. S. C., 1940 edition, Supp. V, title 41, sec.
19 113 (b)) is amended to read as follows:

20 “(b) Whenever any war contractor is aggrieved by the
21 findings of a contracting agency on his claim or part thereof
22 or by its failure to make such findings in accordance with
23 subsection (a) of this section, he may, at his election—

1 “(1) appeal to the Appeal Board in accordance
2 with subsection (d) of this section; or

3 “(2) bring suit for such claim or such part thereof.

4 If the suit is against the United States, it shall be brought
5 in the Court of Claims or in a United States district
6 court, which courts concurrently shall have jurisdiction
7 regardless of the amount of the claim, and shall be tried
8 by the court without a jury. If the contracting agency
9 is the Reconstruction Finance Corporation, or any cor-
10 poration organized pursuant to the Reconstruction
11 Finance Corporation Act (47 Stat. 5), as amended, or
12 any corporation owned or controlled by the United
13 States, the suit shall be brought against such corporation
14 in any court of competent jurisdiction in accordance
15 with existing law.”.

16 SEC. 6. The third and fourth sentences of the first sec-
17 tion of the Act of October 31, 1942, entitled “An Act to
18 authorize the President of the United States to requisition
19 property required for the defense of the United States”, as
20 amended (U. S. C., 1940 edition, Supp. V, title 50 App.,
21 sec. 721), are amended to read as follows: “If, upon any
22 such requisition of property, the person entitled to receive
23 the amount so determined by the President as the fair and
24 just compensation for the property is unwilling to accept the
25 same as full and complete compensation for such property

1 he shall be paid 50 per centum of such amount and shall
2 be entitled to sue the United States in the Court of Claims
3 or in any district court of the United States for an additional
4 amount which, when added to the amount so paid to him,
5 he considers to be fair and just compensation for such prop-
6 erty. Such courts concurrently shall have jurisdiction of
7 such actions regardless of the amounts of the claims. Any
8 such action may be commenced at any time after the
9 requisition of the property and within six years thereafter
10 and shall be tried by the court without a jury. Such courts
11 shall also have power to determine in an appropriate pro-
12 ceeding any questions that may arise with respect to the
13 amount of the fair value to be paid upon the return of any
14 property under section 2 of this Act, regardless of the
15 amount in controversy in any such proceeding.”

16 SEC. 7. The Act of October 6, 1917, entitled “An Act
17 to prevent the publication of inventions by the grant of
18 patents that might be detrimental to the public safety or
19 convey useful information to the enemy, to stimulate in-
20 vention, and provide adequate protection to owners of patents,
21 and for other purposes”, as amended (U. S. C., 1940 edition,
22 title 35, sec. 42), is amended to read as follows:

23 “That whenever the publication or disclosure of an in-
24 vention by the granting of a patent might, in the opinion
25 of the Commissioner of Patents, be detrimental to the public

1 safety or defense he may order that the invention be kept
2 secret and withhold the grant of a patent for such period
3 or periods as in his opinion the national interest requires:
4 *Provided*, That the invention disclosed in the application for
5 said patent may be held abandoned upon it being established
6 before or by the Commissioner that in violation of said order
7 said invention has been published or disclosed or that an
8 application for a patent therefor has been filed in a foreign
9 country by the inventor or his assigns or legal representatives,
10 without the consent or approval of the Commissioner of
11 Patents.

12 "When an applicant whose patent is withheld as herein
13 provided and who faithfully obeys the order of the Com-
14 missioner of Patents above referred to shall tender his inven-
15 tion to the Government of the United States for its use,
16 he shall, if and when he ultimately receives a patent, have
17 the right to sue for compensation in the Court of Claims,
18 or in the district courts of the United States insofar as such
19 courts may have concurrent jurisdiction with the Court of
20 Claims, such right to compensation to begin from the date
21 of the use of the invention by the Government: *Provided*,
22 That the Secretary of War or the Secretary of the Navy
23 or the chief officer of any established defense agency of the
24 United States, as the case may be, is authorized to enter
25 into an agreement with the said applicant in full settlement

1 and compromise for the damage accruing to him by reason
2 of the order of secrecy, and for the use of the invention
3 by the Government.”

4 SEC. 8. The Act of June 25, 1910, entitled “An Act
5 to provide additional protection for owners of patents of the
6 United States, and for other purposes”, as amended
7 (U. S. C., 1940 edition, title 35, sec. 68), is amended to
8 read as follows:

9 “That whenever an invention described in and covered
10 by a patent of the United States shall be used or manu-
11 factured by or for the United States without license of the
12 owner thereof, or lawful right to use or manufacture the
13 same, such owner’s remedy shall be by suit against the
14 United States in the Court of Claims, or in the district
15 courts of the United States insofar as such courts may have
16 concurrent jurisdiction with the Court of Claims, for the
17 recovery of his reasonable and entire compensation for such
18 use and manufacture. The Court of Claims or the district
19 courts shall not entertain a suit or award compensation under
20 the provisions of this Act where the claim for compensation
21 is based on the use or manufacture by or for the United
22 States of any article owned, leased, used by, or in the pos-
23 session of the United States prior to June 25, 1910. In
24 any such suit the United States may avail itself of any and
25 all defenses, general or special, that might be pleaded by

1 a defendant in an action for infringement, as set forth in
2 title sixty of the Revised Statutes, or otherwise. The bene-
3 fits of the provisions of this Act shall not inure to any
4 patentee who, when he makes such claim, is in the employ-
5 ment or service of the Government of the United States,
6 or the assignee of any such patentee. This Act shall not
7 apply to any device discovered or invented by such employee
8 during the time of his employment or service.”

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