

RIGHTS OF PRIORITY IN PATENT APPLICATIONS

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The Secretary of State to the Philippine Ambassador

The Secretary of State presents his compliments to His Excellency the Ambassador of the Philippines and has the honor to refer to the problem of the application to United States citizens of certain rights of priority in the filing of patent applications under the Philippine Patent Law.

The United States Patent Law, R.S. 4887 (title 15, [35], USC Sec. 32) contains a clause similar to one found in Section 15 of the Philippine Patent Law, Republic Act 165. In both cases the law provides that the right of priority is accorded to “. . . a foreign country which, by treaty, convention, or law, affords similar privileges . . .” It is felt that the presence of similar provisions in the patent laws of the United States and the Philippines satisfies the requirement of reciprocity. A statement by the appropriate Philippine officials to the effect that Section 15 of the Philippine Patent Law applies to United States citizens will be considered sufficient for the United States to recognize that Section 32 of the United States Patent Law is applicable to citizens of the Philippines.

Assuming that the procedure outlined above is satisfactory, the question of the war-caused delay in the use of the right of priority arises. Section 76 of the Philippine Patent Law extends the right of priority for the filing of patents which accrued during the war period on a reciprocal basis with countries according substantially the same privileges to citizens of the Philippines. The Boykin Act (United States Public Law 690, 79th Congress) contains substantially the same provisions and, upon a statement by the appropriate Philippine officials indicating that Section 76 of the Philippine Patent Law is applicable to citizens of the United States, the United States Patent Office could apply Section 1 of the Boykin Act to citizens of the Philippines. It should be noted, however, that the present expiration date of the extension of the right of priority under the Boykin Act is February 29,