
IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1899.

Mr. HANSBROUGH introduced the following bill; which was read twice and referred to the Committee on Patents.

A BILL

To establish a high court of patents, trade-marks, and copyrights.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That there is hereby created a high court of patents, trade-
4 marks, and copyrights, which shall consist of one chief jus-
5 tice and of six associate justices, to be appointed by the
6 President of the United States, by and with the advice and
7 consent of the Senate, and which shall be a court of record
8 with appellate jurisdiction, as is hereafter limited and estab-
9 lished. Such court shall prescribe the form and style of its
10 seal and the form of writs and other process and procedure
11 as may be conformable to the exercise of its jurisdiction as
12 shall be conferred by law. It shall have the appointment of
13 the marshal of the court, with the same duties and powers, under
14 the regulations of the court, as are now provided for the marshal
15 of the Supreme Court of the United States, so far as the same

1 may be applicable. The court shall also appoint a clerk, who
2 shall perform and exercise the same duties and powers in
3 regard to all matters within its jurisdiction as are now exer-
4 cised and performed by the clerk of the Supreme Court of the
5 United States, so far as the same may be applicable. The
6 salary of the marshal of the court shall be two thousand five
7 hundred dollars a year, and the salary of the clerk of the
8 court shall be three thousand dollars a year, to be paid in
9 equal proportions quarterly. The costs and fees in the
10 Supreme Court now provided for by law shall be the costs
11 and fees in the high court of patents, trade-marks, and copy-
12 rights, and the same shall be expended, accounted for, and
13 paid over to the Treasury Department of the United States
14 in the same manner as is provided in respect of the costs
15 and fees in the Supreme Court. The court shall have power
16 to establish all rules and regulations for the conduct of the
17 business of the court within its jurisdiction as conferred by
18 law.

19 SEC. 2. That the high court of patents, trade-marks, and
20 copyrights shall hold an annual term on the second Monday
21 of October of each and every year, at the city of Washington,
22 in the District of Columbia.

23 SEC. 3. That no appeal, whether by writ of error or
24 otherwise, shall hereafter be taken or allowed from any dis-
25 trict court to the existing circuit courts, and no appellate

1 jurisdiction shall hereafter be exercised or allowed by said
2 existing circuit courts, but all appeals by writ of error or
3 otherwise from said district courts shall only be subject to
4 review in the Supreme Court of the United States, or in the
5 high courts of patents, trade-marks, and copyrights hereby
6 established, as is hereinafter provided; and the review by
7 appeal, by writ of error, or otherwise from the existing circuit
8 courts shall be had only in the Supreme Court of the United
9 States or in the high court of patents, trade-marks, and copy-
10 rights hereby established, according to the provisions of this
11 Act regulating the same.

12 SEC. 4. That the high court of patents, trade-marks,
13 and copyrights established by this Act shall exercise appel-
14 late jurisdiction to review by appeal or writ of error final
15 decisions in the district courts and the existing circuit courts
16 in all cases arising under the patent laws, under the copy-
17 right laws, and in all cases involving the ownership, viola-
18 tion, and construction of trade-marks, and the question of
19 unfair competition in trade; and the judgments or decrees of
20 the high court of patents, trade-marks, and copyrights shall
21 be final in all such cases, excepting that in every such sub-
22 ject within its appellate jurisdiction the high court of
23 patents, trade-marks, and copyrights at any time may
24 certify to the Supreme Court of the United States any
25 questions or propositions of law concerning which it

1 desires the instruction of that court for its proper de-
2 cision; and thereupon the Supreme Court may either
3 give its instruction on the questions and propositions
4 certified to it, which shall be binding upon the high court of
5 patents, trade-marks, and copyrights in such case, or it may
6 require that the whole record and cause may be sent up to it
7 for its consideration, and thereupon shall decide the whole
8 matter in controversy in the same manner as if it had been
9 brought there for review by writ of error or appeal; and
10 excepting also that in any such case as is hereinbefore made
11 final in the high court of patents, trade-marks, and copyrights
12 it shall be competent for the Supreme Court to require by
13 certiorari or otherwise any such case to be certified to the
14 Supreme Court for its review and determination, with the
15 same power and authority in the case as if it had been carried
16 by appeal or writ of error to the Supreme Court.

17 SEC. 5. That where, upon a hearing in equity in a dis-
18 trict court or in a circuit court, an injunction shall be granted,
19 continued, refused, or dissolved by an interlocutory order or
20 decree, or an application to dissolve an injunction shall be
21 refused in a case in which an appeal from a final decree may
22 be taken under the provisions of this Act to the high court
23 of patents, trade-marks, and copyrights, an appeal may be
24 taken from such interlocutory order or decree granting, con-
25 tinuing, refusing, dissolving, or refusing to dissolve an injunc-

1 tion to the high court of patents, trade-marks, and copyrights:
2 *Provided*, That the appeal must be taken within thirty days
3 from the entry of such order or decree and the proceedings
4 in other respects in the court below shall not be stayed,
5 unless otherwise specially ordered by that court, during the
6 pendency of such appeal: *And provided further*, That the
7 court below may, in its discretion, require, as a condition of
8 the appeal, an additional injunction bond.

9 SEC. 6. That two of the justices of the high court of
10 patents, trade-marks, and copyrights shall be designated from
11 time to time by the chief justice of said court to hear and
12 determine appeals from interlocutory orders or decrees referred
13 to in section five of this Act and that the remaining five
14 justices shall hear appeals from final decrees; that three
15 justices on the hearing of appeals from final decrees shall
16 constitute a quorum, and that one justice shall hear and de-
17 termine appeals from interlocutory decrees or orders. The
18 chief justice of the high court of patents, trade-marks, and
19 copyrights may, for special purposes, require one of the
20 justices who has been designated to hear appeals from inter-
21 locutory orders or decrees to hear such appeals in places other
22 than Washington, in the District of Columbia.

23 SEC. 7. That the chief justice of the high court of pat-
24 ents, trade-marks, and copyrights shall be entitled to a compen-
25 sation of dollars per annum and each of the associate

1 justices shall be entitled to a compensation of dollars
2 per annum.

3 SEC. 8. That any justice who, in pursuance of the pro-
4 visions of this Act, shall attend at any place other than
5 Washington, District of Columbia, shall, upon his written
6 certificate, be paid by the marshal of the district in which
7 he may so attend his reasonable expenses for travel and
8 attendance, not to exceed ten dollars per day, and such pay-
9 ments shall be allowed the marshal in the settlement of his
10 accounts to the Treasury of the United States.

11 SEC. 9. That the marshal of the high court of patents,
12 trade-marks, and copyrights shall, under the direction of the
13 Attorney-General of the United States, and with his approval,
14 provide such rooms in the public buildings of the United
15 States at Washington, in the District of Columbia, as may be
16 necessary, and pay all incidental expenses of said court, in-
17 cluding criers, bailiffs, and messengers: *Provided, however,*
18 *That in case proper rooms can not be provided in such build-*
19 *ings, then the said marshal, with the approval of the Attorney-*
20 *General of the United States, may from time to time lease*
21 *such rooms as may be necessary for such court; that the*
22 *marshals, criers, clerks, bailiffs, and messengers shall be*
23 *allowed the same compensation for their respective services*
24 *as is allowed for similar services in the existing circuit courts.*

 SEC. 10. That whenever, on appeal or writ of error or

1 otherwise, a case coming from the high court of patents,
2 trade-marks, and copyrights shall be reviewed and determined
3 in the Supreme Court, the cause shall be remanded by the
4 Supreme Court to the proper district or circuit court for fur-
5 ther proceedings in pursuance of such determination. When-
6 ever, on appeal or writ of error or otherwise, a case coming
7 from a district or circuit court shall be reviewed and deter-
8 mined in the high court of patents, trade-marks, and copy-
9 rights, such cause shall be remanded to the said district or
10 circuit court for further proceedings, to be there taken in pur-
11 suance of such determination.

12 SEC. 11. That no appeal or writ of error by which any
13 final order, judgment, or decree may be reviewed in the high
14 court of patents, trade-marks, and copyrights under the pro-
15 visions of this Act shall be taken or sued out except within six
16 months after the entry of the final order, judgment, or decree
17 sought to be reviewed; and all provisions of law now in force
18 regulating the methods and system of review of appeals
19 or writs of error shall regulate the methods and system of
20 appeals and writs of error provided for in this Act in respect
21 to the high court of patents, trade-marks, and copyrights,
22 including all provisions for bonds and other securities to be
23 required and taken on such appeals and writs of error, and
24 any justice of the high court of patents, trade-marks, and copy-
25 rights in respect of cases brought or to be brought to that

1 court shall have the same powers and duties as to allowance
2 of appeals or writs of error and the conditions of such allow-
3 ance as now by law belong to the justices or judges in respect
4 to the existing courts of the United States, respectively.

5 SEC. 12. That the high court of patents, trade-marks, and
6 copyrights shall have the powers specified in section seven
7 hundred and sixteen of the Revised Statutes of the United
8 States.

9 SEC. 13. That appeals and writs of error may be taken
10 and prosecuted from the decisions of the United States court
11 in the Indian Territory and from the supreme court of the
12 District of Columbia to the high court of patents, trade-marks,
13 and copyrights in the same manner and under the same regu-
14 lations as from the circuit courts or district courts of the United
15 States under this Act; and the high court of patents, trade-
16 marks, and copyrights shall have the same appellate jurisdic-
17 tion by writ of error or appeal to review the judgments,
18 orders, and decrees of the supreme courts of the several Terri-
19 tories as by this Act they may have to review the judgments,
20 orders, or decrees of the district courts and circuit courts.

21 SEC. 14. That the Act entitled "An Act to establish
22 circuit courts of appeals and to define and regulate in certain
23 cases the jurisdiction of the courts of the United States, and
24 for other purposes," approved March third, eighteen hundred
25 and ninety-one, and also the Act entitled "An Act to amend

1 the Act entitled ‘An Act to establish circuit courts of appeals
2 and to define and regulate in certain cases the jurisdiction of
3 the courts of the United States, and for other purposes,
4 approved March third, eighteen hundred and ninety-one,’”
5 approved February eighteenth, eighteen hundred and ninety-
6 five, be, and the same are hereby, repealed, and all Acts and
7 parts of Acts relating to appeals or writs of error inconsistent
8 with the provisions of this Act are hereby repealed.

9 SEC. 15. That this Act shall take effect on the first day
10 of September, eighteen hundred and ninety-eight, and all
11 appeals or writs of error involving patents, trade-marks, copy-
12 rights, and questions of unfair competition in trade which on
13 that day shall be pending in courts abolished by this Act and
14 in other courts, and which shall not have been actually heard,
15 shall, between the first day of September, eighteen hundred
16 and ninety-eight, and the second Monday of October, eighteen
17 hundred and ninety-eight, be transferred to the clerk of the
18 high court of patents, trade-marks, and copyrights hereby
19 created, and by him docketed.

50TH CONGRESS, }
1ST SESSION. } **S. 1883.**

A BILL

To establish a high court of patents, trade-marks,
and copyrights.

By Mr. HANSBROGH.

DECEMBER 19, 1899.—Read twice and referred to the Com-
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