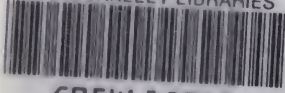


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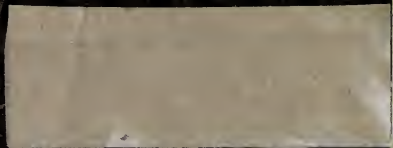
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About
Patents



About
Patents

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PATENTS 1913 ✓

AND

HOW TO OBTAIN THEM

TOGETHER WITH

A SUMMARY OF PATENT LAW

BY

FRANCIS M. WRIGHT

Attorney at Law and Registered Solicitor of United States
and Foreign Patents

Formerly U. S. Patent Office Examiner

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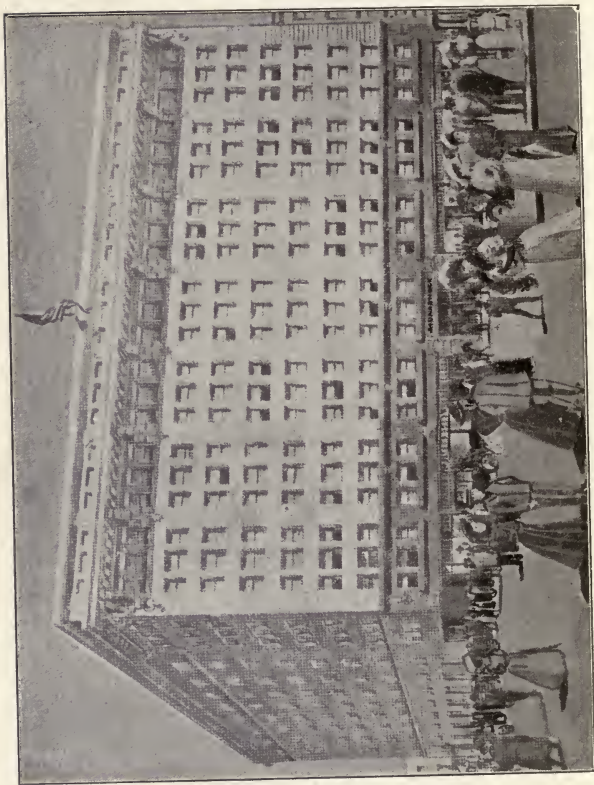
In memoriam
George Davidson
1825-1911

Mr. Francis M. Wright is a graduate of the University of Oxford, England, where he obtained a double First Class in Mathematical Honors. He was afterwards appointed a Professor in the Institute of Technology of the City of London.

In 1891 he entered the U. S. Patent Office as Assistant Examiner, and had charge of important classes of inventions in the Divisions of Metal Working and Metallurgy. After having familiarized himself with the routine of the Patent Office, and acquired a thorough knowledge of Patent Law and Practice, he entered upon the profession of Solicitor of Patents at Washington, D. C., and practiced successfully for several years in that city, where he still retains a branch office.

Mr. Wright has repeatedly and successfully prosecuted cases before every division and every tribunal of the Patent Office, and is accurately acquainted with every detail of its working.

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Monadnock Building

PATENTS AND HOW TO OBTAIN THEM

The Foundation of the Patent Laws

of the United States is found in Article I, Section 8, of the Constitution, which provides that Congress shall have power to promote the progress of science and useful arts by securing for limited times to inventors the exclusive right to their respective discoveries.

The Principal Enactment of Congress

in accordance with this provision of the Constitution is Section 4886 of the U. S. Revised Statutes, which, as now amended, is as follows:

Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereof, not known or used by others in this country before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country before his invention or discovery thereof or more than two years prior to his application, and not patented in a country foreign to the United States on an application filed more than twelve months before his application, and not in public use or on sale in this country for more than two years prior to his application, may, upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor.

The Subjects of Patents

are therefore seen to be, (1) an art, (2) a machine, (3) a manufacture, (4) a composition of matter, or (5) any new and useful improvement of these. A sixth class comprises Design patents,

which, by authority of a separate Section are granted for a term of $3\frac{1}{2}$ years, 7 years, or 14 years, as may be desired, for any new design, shape or pattern of any article of manufacture.

An Art

(method, or process), is a mode of treatment of certain materials to produce a given result. A good example of a patentable art was Goodyear's process of vulcanizing rubber, which consisted in mixing crude India rubber with sulphur and then subjecting the mixture to a high degree of heat. In order to be patentable, the act, or series of acts, constituting the art or process in question must be capable of being conceived or imagined apart from any special form of machine employed for performing such act or acts. In *Corning v. Burden*, it was held that a process of converting puddler's balls into blooms, by continuous pressure and rotation of the balls between converging surfaces, was not a patentable process, as it was merely the operation of the machine, merely the use of certain mechanism.

A Principle

or law of nature, cannot be patented. Thus Morse's eighth claim was declared invalid by the U. S. Supreme Court, as it was substantially a claim for the use of the electric current for making signs at a distance. A claim for the manner or method by which the electric current was so employed, however broad, would have been valid.

A Machine

is a combination of moving mechanical parts

adapted to receive motion, and to apply it to the production of some mechanical result. A machine is patentably new when its principle of operation is new, and two machines are substantially the same when their principles of operation are the same.

↓ A Manufacture

is a very comprehensive title and includes every article devised by man, not a machine, a composition of matter, or a design.

A Composition of Matter

includes all compositions of two or more substances, either mechanically or chemically mixed, either fluid or solid.

Improvements

on all the above are also patentable. A patent on an improvement may be obtained whether the matter improved upon has been patented or not, and though there may be an unexpired patent therefor. But a patent on an improvement on a patented device does not confer on the improver a right to use the original device. Nor can the patentee of the original device use the patented improvement without the consent of the improver. Each has the monopoly of his own invention.

Designs

differ from the foregoing subjects of mechanical patents in that they have reference to appearance only. The object of patents for designs is to encourage the arts of decoration.

A design is sufficiently novel to be patentable,

if it can be distinguished from prior designs by an ordinary observer, giving such attention as a purchaser usually gives.

Under the ruling of Commissioner Butterworth, in *ex parte Traitel*, the color of a design or the material of which it is made are of no importance in distinguishing the design, but the design relates solely to form and configuration.

The Products of Invention

alone are patentable. Not all improvement is patentable, but only such as is produced by the exercise of the **inventive faculties**.

It is not invention to make an improvement which any skilled mechanic would produce whenever required.

It is not invention to produce an article which differs from some older thing only in excellence of workmanship; or, in general, to substitute superior for inferior materials, as, for instance, to substitute clay door knobs for wooden and metallic ones.—*Hotchkiss v. Greenwood*. It is not invention to enlarge a machine so that it will do heavier work than before. Thus, it being old to cut lath with a small circular saw, a patent for a circular saw for cutting logs was declared void.—*Phillips v. Page*.

It is not invention to change the degree of a thing; thus, pulverized glue was declared not a patentable improvement on flake glue.—*Glue Co. v. Upton*.

To collect in one article a number of good features, scattered through sundry prior devices, although constituting an article much superior to any before made, is not invention.—*Hailer v. Van Wormer*. For the same reason, in *Recken-*

dorfer v. Faber, it was held that it did not amount to invention to unite a piece of soft rubber to the end of a lead pencil, and this article was declared not patentable.

It is not invention to omit a part of a device, unless the remaining parts thereby act in a different way. It is not invention to use an old thing for a new purpose; if, however, a change of construction is made at the same time with the change of use, there may be invention.

In doubtful cases the rule in *Smith v. The Dental Vulcanite Co.* may be applied, namely: The fact of a device having gone into general use and having displaced other devices which had previously been employed for analogous purposes will generally establish that the device involves a patentable invention.

Novelty

is a pre-requisite of patentability. The invention must be "new," not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before the applicant's invention or discovery thereof.

An invention may be patentably novel, although known and used, prior to the act of invention, by persons in foreign countries, provided that it was not, in such foreign countries, described in a printed publication. A published drawing alone would be a sufficient description to anticipate an invention. Such description, however, must be sufficiently full to enable a person, skilled in the art to which the invention belongs, to practice the invention.

Novelty is not negatived by the existence of

another person's prior unpublished drawings of the invention, or of a model, or of an abandoned application therefor.

A thing may be novel, even though every part of it is old, provided these old parts co-act with each other, and produce by their union a result not performed by each part separately. But if they do not do this the assemblage is not patentable.

The Date of Invention

may often be a matter of great importance. An invention dates from the completion of a model or drawing clearly showing the invention or from the complete disclosure of the invention to other parties.

A Patent Once Granted

if attacked upon the ground of the existence of the device prior to the patentee's invention, will only be overthrown upon evidence establishing the alleged existence beyond a doubt.

Utility

is a necessary quality of a patentable invention. The device must be capable of producing a result, and the result must be a useful one.

If an application is made for a patent on a machine, the drawing or description of which shows that the machine will not work as intended, the invention will be rejected for lack of utility, for "inoperativeness." An application for a "perpetual motion" machine will always be rejected for this reason, and the applicant will be required to provide a working model to substantiate his claim.

Also the result must be a useful one. A device,

the function of which is necessarily injurious to morals, or health, or public order, cannot be patented. But a device which can be used in a beneficial manner, although it can also be used in a harmful manner, is patentable.

The very smallest amount of utility is sufficient to support a patent.

Public Use

of the invention for more than two years prior to filing the application will be a bar to a patent for the invention. By public use is meant any use of the invention by other persons generally, with or without the consent of the inventor. If an inventor permits the invention to be used by the public for this length of time without applying for a patent, he is presumed to have waived or abandoned his right to a monopoly therein. But an experimental use, for the purpose of testing the qualities of the invention, is not public use. In *Elizabeth v. Pavement Co.*, it was held that the use of an improved street pavement on a public highway for more than two years, made to test its utility, was not a public use within the meaning of the Statute.

The act of putting the invention on sale for more than two years prior to the application will also bar a patent. A single sale, of a single article, to a single person, is sufficient, as is also the mere offering or exposing for sale. A sale "to see if it will sell," more than two years before filing the application, is abandonment, but a sale "on trial" for the purpose of testing the invention, is not abandonment.

Abandonment

of an invention may also occur in other ways than by two years' public use or sale, as by an express declaration of abandonment, or by lack of diligence of the inventor in securing his rights, which negligence may be evidenced by long delay in filing the application. But such long delay may be excused by extreme poverty, mental or physical disorder, or other prevailing cause.

Prior Foreign Patents.

Under the present law, the inventor who has obtained a foreign patent, will not thereby be prevented from obtaining a U. S. patent for the same invention, provided he files his application within twelve months after the filing of the application for the foreign patent. The term of the U. S. patent is now no longer limited by the term of a foreign patent previously granted.

An Application for a Patent

comprises (1) a petition, (2) a specification, (3) an oath, (4) payment of fifteen dollars, (5) one or more sheets of drawings, when the nature of the case admits of drawings.

Only in complicated machines, the construction of which cannot well be understood from the drawings, are models now called for. Specimens of compositions are occasionally required to be filed. Unless called for, models or specimens should not be filed with the application; but it sometimes happens that models or specimens, although not absolutely required by the Examiner, may be of service in the prosecution of the case to show the merit of the invention. If so, they may, with the permission of the Examiner, be

filed as an exhibit, and will then be returned to the applicant on the determination of the application.

The Petition

must be signed by the actual inventor; it must be addressed to the Commissioner of Patents, state the name and residence of the applicant, designate by title the invention sought to be patented, and contain a reference to the specification for a full disclosure of the invention.

The Specification

comprises seven parts: (1) The preamble, giving the name and address of the applicant, the title of the invention, and the name of any foreign country in which the invention has been patented, and the details thereof; (2) a general statement of the nature and object of the invention; (3) a brief description of the several figures of the drawings, showing what each figure thereof represents; (4) a detailed description of the invention, explaining fully its construction, and mode of operation; (5) the claim or claims; (6) the signature of the inventor; (7) the signatures of two witnesses.

The Detailed Description must be sufficiently full, clear, concise and exact, to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make and use the invention, if it is a machine or manufacture, or to compound the invention, if it is a composition of matter, or to perform the invention, if it is a process. If the description does not do this, the patent, if granted, will be

void. The reason for this is obvious from the nature of a patent.

A Patent is a Contract between the inventor and the public, by which the inventor, in consideration that the exclusive use of his invention is secured to him for a limited period of time, confers upon the public full knowledge of the invention, so that it shall be able to use the invention after the expiration of that period. Now, if the inventor does not so place the invention fully within the knowledge of the public, it is evident that he has not performed his part in the contract, and his patent is void for lack of consideration.

Theoretical Principles, however, underlying a process or other invention, need not be stated, as they are not necessary to enable the public to practise the invention. They may not even be understood by the inventor himself. Yet in the prosecution of an application for a novel process, presenting unexpected results, it may often be very desirable to be able to propound a theory of operation accounting for the observed results, should the Examiner be skeptical as to the operativeness of the process claimed to be novel.

No Argument as to the merits of the invention should be inserted in the description, except such as is absolutely necessary to set forth the utility of the invention. In particular, it is not permitted to disparage competing inventions in specific terms.

Persons Skilled in the Art are the class to whom the description must be intelligible. A description of a loom must be intelligible to weavers, of a dynamo to electric engineers, etc.

A False Suggestion is Fatal. The inventor is

bound to keep faith with the public. If for the purpose of misleading them, he states less than the whole truth, or asserts that things are necessary to produce the desired effect when he knows that they are not so, the patent will be void. Such wilful fraud is, however, never presumed, but must be established by direct or circumstantial evidence.

The Claim

is the life of the patent, and by it the letters patent must stand or fall. The thing patented is the thing claimed; the Courts will not go into the history of the art to determine what the patentee really invented and might have claimed; and though he may have actually invented much more than he has claimed, his monopoly will only be that which he has claimed.

A claim must correspond with the description; must not be functional, that is, cover a mere result, instead of covering the means by which the result is attained; must not be alternative, that is, must not cover two different constructions by language applied separately to each; and claims must not be multiplied, so as to define the invention by a number of claims, which all mean the same thing.

Genus and Species claims may be presented on the same invention, the generic claim defining the invention with sufficient breadth to include all of a family or group having the essential characteristics of the invention claimed, while specific claims cover only those constructions specifically referred to in the claim. But only one species of any patentable construction or combination may be claimed in a single application, although

it may be claimed both specifically and broadly.

Different inventions may be claimed in the same application, when they are mutually dependent and contribute to a single result.

The Oath.

The applicant must make oath that he verily believes himself to be the first inventor of the invention for which he solicits a patent, as well as to the fulfillment of the other conditions of Sec. 4886, Rev. Stat.

The Drawing

must be prepared with great care, as the requirements of the Patent Office are very exacting. The drawing must show every feature referred to in the specification as forming a part of the invention; on the other hand, when a modification of the invention is not covered by any claim, it must not appear on the drawing.

Deceased Inventor.

In case of the death of the inventor before the application is filed, the application may be made by his legal representatives.

Examination of the Application.

The application, having been filed in the Patent Office, complete in all its five parts, is given the date of filing and a serial number, the present series having been begun in 1900. Acknowledgment of the filing is mailed to the applicant or his attorney, and the application is sent to some one of 40 examining divisions, according to the subject matter of the invention. Here it must await its turn before undergoing examination, the

applications in each division being taken up for action in the order of filing, which may be in from one to ten months.

The Official Search.

When the application is reached, the Examiner will proceed to make a search among prior patents, and, if necessary, books and publications, to determine whether the claims presented should be allowed. For this purpose, the prior United States and foreign patents, over 2,000,000 in number, are extensively classified and are distributed among the different divisions.

If the Examiner finds that any claim of the application should be rejected, the applicant will be notified of such rejection and of the reasons therefor, and such information will be given as may be useful in judging of the propriety of prosecuting the application or amending the claim.

Amendments and Actions by Applicants.

The applicant has the right to amend the specification either before or after the first rejection or action; and he may amend as often as the Examiner presents new reasons for rejection. Should the applicant consider that the rejection by the Examiner is erroneous, he will request a reconsideration of his action, pointing out the supposed error therein, and the patentable novelty of the claim or claims rejected. If the applicant prefers this request for a reconsideration without substantially amending his claim, and the Examiner repeats his objection on the same ground as before, and without advancing new reasons for his rejection, the second rejection is final, and the applicant's remedy is by appeal.

At any time before final rejection, however, the applicant may amend his claim or claims so rejected, and will then be entitled to consideration of the same, and a first rejection thereof. A final rejection will only be given when a request for reconsideration is made without an amendment.

New Matter Inadmissible.

An applicant is not permitted to introduce into the specification or drawing, when once filed, any new matter, that is, matter which was not shown in either the drawing or the specification as originally filed. And this is the case, even although the matter sought to be inserted formed a part of his original invention, and was omitted from his application by inadvertence. When new matter is sought to be introduced, it can only be done by filing a new application.

Progress of the Case.

After each amendment by the applicant, or request for reconsideration, the case will await its turn with other cases in like condition before the same Examiner. This period will be from one to ten weeks; on an average about four weeks. Should the amendment present a new feature, or restrict the claims, the Examiner will, if necessary, make a further search, and either allow or reject the amended claims. This process of amendment, or request for reconsideration, by the applicant, and rejection or allowance by the Examiner, will be continued until either all the claims are allowed, or some are allowed and some finally rejected, or all are finally rejected. When claims are finally rejected which the applicant's

attorney deems to be allowable (which, however, happens infrequently), either the Examiner or the attorney holds an erroneous opinion, and this question is a proper subject for an appeal.

Appeals.

Appeal to the Board of Examiners-in-Chief may be taken from an action of the Examiner finally rejecting one or more claims. The Government fee for this appeal is \$10. This Board of Appeal consists of three members, whose office it is thus to revise and control adverse judgments of the Examiners when brought up to them on appeal. From an adverse decision of the Examiners-in-Chief an appeal may be taken to the Commissioner in person (appeal fee \$20), and from the Commissioner an appeal may be taken to the Court of Appeals of the District of Columbia, whose decision is final.

Unless the applicant decides to appeal on the finally rejected claims, and in case he appeals and the rejection is sustained on appeal, he will be required to cancel the rejected claims before the application can be passed on the allowed claims.

Notice of Allowance will then be mailed to him, and then it will only be necessary to pay the final Government fee of \$20. This may be paid any time within six months after notice of allowance, thus giving him time to make application for foreign patents, if he so desires.

Abandoned Applications.

All applications must receive proper action by the applicant within one year after action thereon

by the Patent Office, otherwise the application will be held to have been abandoned.

Interferences.

An interference is a proceeding instituted by the Patent Office to determine which of two parties, claiming the same patentable invention, is the real inventor thereof. The fact that one of the parties has already obtained a patent will not prevent an interference, for, although the Commissioner has no power to cancel or revoke a patent, he may grant another patent for the same invention to a person who proves to be the prior inventor.

In the determination of an interference, it is not always the first inventor to whom the award of priority is given, but it is the party who can prove that he was the first inventor. Inventors should remember this fact, and should, as soon as possible after their conception of the invention, make sketches of the same, show them to friends whom they can trust, and obtain the signatures of such persons, with the date. They will thus be able to establish the conception of the invention at an early date.

Reduction to Practice.

There are two main epochs in the production of an invention. The first is the conception of the invention in the mind of the inventor; the second is the actual embodiment of the invention. The latter is called Reduction to Practice. Actual reduction to practice consists in the construction of the actual thing invented, of dimensions suitable for practical use, and, in case of any doubt of the practical operativeness of the device, it must have been tried sufficiently to establish its

practicability. A model, no matter how complete in detail, is not sufficient.

Constructive Reduction to Practice.

An invention will, however, be held to be completed by the filing in the Patent Office of an application clearly disclosing the invention and claiming the same. This is called a Constructive Reduction to Practice, and is a completion of the invention just as much as would be the embodiment of the invention in an actual reduction.

Priority of Invention.

Where there are two independent inventors, the rule is that the first to conceive the invention is considered to be the first inventor, if he is reasonably diligent in reducing to practice. But if he is not diligent, and the later to conceive reduces to practice first, then the latter is the first inventor.

Re-Issues.

A patent, after issue, may be found to be defective, most commonly by reason of the claims not being broad enough to adequately cover the actual invention. The remedy for this is by a surrender of the original patent and a re-issue of the same with broader claims.

Such re-issue should be applied for as soon as possible after the discovery of the defects sought to be remedied. In case of delay, and if other rights have arisen in the meantime, the re-issue will be refused. The Government fee for a re-issue is \$30.

On the Choice of an Attorney.

Too much care cannot be exercised in the selec-

tion of an attorney to prepare and prosecute an application for a Patent.

If the invention is sufficiently valuable to patent at all, a good patent should be procured, one which will afford thorough and complete protection. Otherwise, the inventor will find, when he attempts to sustain his monopoly, that not only has the money spent in procuring the patent been wasted, but the invention itself is lost. It is true that the invention may sometimes be saved by a re-issue of the patent, but in many instances this cannot be done, and in any case the pecuniary loss is considerable.

The procurement of sufficiently broad claims is the especial province of the attorney. It is no part of the duty of the Patent Office to see that the applicant obtains claims as broad as the invention merits. Its duty is to the public in general, to see that the inventor is not granted claims broader than are warranted. A conscientious attorney has often the greatest difficulty and labor in obtaining the allowance of sufficiently broad claims.

Inventors who have had experience in the sale of patents for their inventions know full well the importance of the character of the claims which they have obtained. But inventors who have not had such experience are generally in ignorance on this point. They imagine that if they get A PATENT that is enough. This is not so.

The value of a patent depends entirely on the value of the claims obtained. Many patents, obtained by careless or incompetent attorneys, contain claims so worthless that it would be ridiculous to even attempt upon such patents to enjoin the use of the invention supposed to be protected

by the patent. And even if the patent has been obtained by a reputable attorney, it is only by the employment of care, skill, and experience that the invention is properly protected.

It is generally better for the inventor to employ an attorney whom he can visit personally, if necessary. The Patent Agencies at Washington, D. C., New York and Philadelphia, who advertise so extensively in newspapers throughout the entire country, are many of them not safely to be trusted. A very considerable portion of the fee paid by the inventor to these agencies goes for advertising, and the remainder would not be a sufficient compensation for good work put upon the case by a man of ability and experience.

The work is, as a matter of fact, generally done by underpaid clerks, who are merely learning their profession, and who do not know how to obtain a good patent, even if they were permitted to spend the time on each case necessary to do so.

The sole object is to push the case through as fast as possible, and to get a patent, any kind, so long as it is a patent. Thus it is that so many patents are worthless, and the unfortunate patentee blames the Patent System for giving him a patent that does not protect him. It is not the system that is at fault, but his own imprudence or inexperience in the appointment of an attorney.

Some of these agencies take advantage of this ignorance on the part of the inventor by offering the alluring inducement, "No patent, no pay." The inventor gets a patent, that is, he gets some sheets of paper, a blue ribbon, and a seal, but does he get proper protection for his invention? He is decidedly fortunate if he does.

A personal visit to the attorney is often desirable in many ways. The local attorney can often assist the inventor in working out the details of the invention, and can aid the inventor in other ways that will readily suggest themselves, and that an attorney at a distance could not so well do. Many serious errors are liable to occur when the nature of the invention is communicated by correspondence. A feature of the invention may be entirely overlooked, or more importance, or less, may be attached to it by the attorney than in reality belongs to it.

A skilled and experienced Patent Attorney can conduct the case as well at a distance as he can at Washington, D. C. He understands the reasons for the Examiner's actions, without the necessity of interviewing the Examiner, and can make the appropriate amendment or reply by letter.

In the beginning of this pamphlet will be found a brief statement of the author's qualifications as a Solicitor of Patents. These qualifications are not excelled on this coast.

To have been an Examiner in the Patent Office is a decided advantage to a practising Patent Attorney. It enables him to realize the precise mental attitude taken by an Examiner in his treatment of any case, to see the reasonableness of the Examiner's action, or where the Examiner has failed to perceive the merit of the invention, and to prosecute the case accordingly with the least possible friction, and with the best results in securing a good patent.

This advantage has in my case been enhanced by the experience gained as a Patent Attorney at the National Capital, which has brought me

into personal contact with all the officials of the Patent Office, and thoroughly familiarized me with its entire routine.

Rejected Cases.

Many valuable inventions are buried among the rejected applications in the Patent Office, for which patents might be obtained. I have been remarkably successful in procuring patents for such inventions, which had been given up as hopeless by other attorneys.

The Cost of a Patent.

The Government fees on an application for a patent are \$35.00. Of this sum, however, only \$15.00 is payable on filing the application, the remaining \$20.00 being payable when the application is allowed by the Patent Office, or at any time within six months after such notice of allowance. When the final Government fee of \$20.00 has been paid, the patent will issue about four weeks afterwards. Should the applicant fail to pay the final Government fee of \$20.00 within the six months allowed him, he is permitted to renew the application by payment of a renewal fee of \$15.00, and the application will be again examined, and, when allowed, the final fee of \$20.00 must be paid before the patent issues. But such renewal of the application must be made within two years after the notice of allowance of the original application.

My fee for preparing and prosecuting the application is, in ordinary cases, involving one

sheet of drawing, \$45.00, including the drawing, of which sum \$35.00 is payable before preparing the application for filing, and \$10.00 on receipt of the first official action. Thus the total cost of filing an ordinary application is \$50.00, the total cost of obtaining the patent being \$80.00. In more complicated cases the attorney's fee and cost of drawings are proportionately greater.

For a Re-issue application, my charge, and the draftsman's fee, are generally the same as for an ordinary patent, but the Government fee is only \$30.00, making the total cost \$75.00. The whole of the Government fee for a Re-issue is, however, payable on filing the application.

For a Design Patent, my charge is \$25.00, including drawings. The Government fee is \$10.00 for a 3½ year patent, \$15.00 for a 7 year patent, and \$30.00 for a 14 year patent.

The above fee for a patent is the same as the standard price with the best class of agents in Washington, D. C., and will be found to be reasonable for the amount and character of the work done. An inventor may receive offers to procure him a patent for a smaller sum, but he should remember that a "paper" patent is dear at any price. To obtain a patent that is one only in name, with narrow claims that do not adequately cover the invention, requires comparatively little labor or skill, and for such a patent a small fee is a proper compensation. But to obtain a good patent, that will withstand the assaults of infringers and protect the inventor, requires the expenditure of time, hard work, skill, and experience, and should be proportionately remunerated. A good patent at a fair price will be found to be infinitely cheaper in the end.

Preliminary Examinations.

In many cases it is advisable to have a preliminary examination made, before applying for a patent, to ascertain whether the invention is patentable. This search can be made with the greatest facility at the Patent Office in Washington, where the various patents are arranged for inspection in classes and sub-classes. My charge for having this search conducted by my correspondent in Washington is \$6.00. An immediate investigation of the records can also be made at greater expense at my office, where I have a complete set of the Patent Office Gazettes and Annual Indexes.

Trade-Marks.

Trade-marks are registered for thirty years, renewable for thirty years more. They assist manufacturers and merchants to retain the trade to which they are entitled on account of the reputation or excellence of their goods.

The Government fee for registering a trade-mark is \$10.00; my fee is \$10.00, exclusive of the drawing.

Copyrights.

Copyrights are granted for twenty-eight years, renewable for fourteen years more, to any citizen of the United States or resident therein, who shall be the author, inventor, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, photograph or negative thereof, or of a painting, drawing, chromo, statue, model, or design not intended for use as a trade-mark or label.

My charge for procuring a copyright is \$5.00, which includes all Government fees.

Assignments.

An assignment, grant or conveyance of a patent will be void as against any subsequent purchaser or mortgagee for a valuable consideration without notice, unless recorded in the Patent Office within three months from the date thereof. My charge for preparing and recording an assignment is \$5.00.

Abstract of Title.

An abstract of title is generally required when the owner of the patent undertakes to sell, or a party proposes to purchase, a patent. My usual charge for an abstract of title, showing each recorded transfer, is \$5.00. If a legal opinion as to title is also required, my fee is determined by the time and labor required in preparing it.

Validity and Scope of Patents.

Parties contemplating investing money in patents should first have the validity and scope of the claims of the said patents carefully examined, and a report made thereon. Many seemingly broad claims of patents are really worthless and should not have been allowed, and in other cases it may be found that the claims must be so restricted by the prior art as not to protect against slightly changed forms of the invention.

To investigations and opinions of this kind I give most careful attention, and my charge will depend upon the complexity and importance of the case, and the time required in making the investigation and report.

Foreign Patents.

I have had extensive experience in procuring foreign patents for inventions, and can obtain the best patents in all countries at reasonable rates.

The following table gives the term of a patent in the principal foreign countries, and my charge for procuring the same:

	Term.	Cost.
Canada	18 years.....	\$40
Great Britain	14 years.....	75
Germany	15 years.....	80
France	15 years.....	70
Belgium	20 years.....	40
Austria	15 years.....	75
Hungary	15 years.....	75
Switzerland	15 years.....	70
Italy	15 years.....	75
Spain	20 years.....	75
Portugal	15 years.....	70
Sweden	15 years.....	75
Norway	15 years.....	70
Denmark	15 years.....	75
Russia	15 years.....	100
Mexico	20 years.....	90
Japan	15 years.....	90
Australia	14 years.....	90
New Zealand	14 years.....	65

These prices are for ordinary cases.

The term above given is the maximum duration of the patent, but there are important particulars to be noted in this respect with regard to the several countries. Also the price quoted covers all the fees in ordinary cases for procuring the patent, but does not include the further payments and taxes which are necessary in nearly all foreign countries to keep the pat-

ent alive for its maximum duration. Very few patent agencies ever apprise their clients in their circulars of these further payments. I think, however, that it is proper that the intending patentee should have the whole matter set plainly before him.

Foreign Patents—Taxes.

In Canada there will be a further payment of \$20 at the end of the 6th year, and of a similar amount at the end of the 12th year. In Great Britain there is an annual tax commencing at the 4th year of \$30 and increasing gradually to \$75 the 13th year. In Germany a similar annual tax of \$20 the 2d year to \$190 the 15th year. In France an annual tax of \$23 each year commencing with the 2nd. In Belgium an annual tax of \$8 the 2nd year, increasing to \$50 the 20th year. In Austria and Hungary an annual tax of \$25 the second year, increasing to \$75 the 15th year. Similar taxes are the rule with regard to the remaining countries.

All the above charges include my fee for attending to the payment of taxes, etc.

Foreign Patents—Working.

In most of the above countries it is necessary that the invention be worked in the foreign country within a short time, varying from two to five years, after the issue of the patent in that country, otherwise the patent becomes void. Also the general rule is that any foreign patent will expire at the same time as a patent in any foreign country for the same invention. Thus in general the patents in all the countries will expire with that in the country having the shortest term.

This was also the rule with the United States patents prior to January 1, 1898.

Foreign Patents—Validity.

Valid patents cannot be obtained in Germany and France if applied for after the issue of the United States patent for the same invention; nor in Great Britain if applied for after knowledge of the invention therein, (and it is therefore not safe to apply in Great Britain more than a week later than the issue of the U. S. patent), nor in Canada if applied for later than twelve months after the issue of the U. S. patent. In the remaining countries mentioned the general rule is that the application must be made before introduction of the invention into the respective country.

International Union.

These rules are, however, subject to an exception. The International Union for the Protection of Industrial Property comprises the following countries: Australia, Belgium, Denmark, France, Germany, Great Britain, Italy, Mexico, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland and the United States of America, with some other smaller countries. Any person filing an application for a patent in the United States may, within twelve months from the date of filing, file an application in any of the other countries of the Union, and such later filing will be given the date of filing of the U. S. application. Thus, any acts, such as disclosure of the intention, which would render the patent invalid in such foreign country, must have taken place, not

before the "actual" date of filing in the foreign country, but before that of filing in the United States Patent Office.

I have given careful attention to the selection of foreign agents, and to all matters relating to the procurement of foreign patents, and can promise the best of service. At the same time my rates will be found as reasonable as those of other reputable attorneys.

SUMMARY OF PATENT LAW.

ABANDONMENT.

Recital of, but failure to claim, an element, in an application as first filed, is no abandonment of such element, when the same is subsequently claimed in the prosecution of the application.

When an inventor delays applying for a patent "he assumes the chances of the field being occupied by other and more diligent designers, more prompt to supplement their creative efforts by a reduction to practice."

APPLICATION.

It is not the result produced by the invention that is the subject of the patent but only the means used to produce the result.

If a specification fails to make the invention fully known and accessible to the public in any material respect, it is fatally defective and the patent is void.

If the invention can not be made practically operative without a further exercise of inventive skill, the patent is void.

The description is sufficient if from it a skilled mechanic could construct the invention.

Every patent for a composition must identify the composition by certain characteristics or tests.

The drawing should show the entire thing described in the specification as constituting the invention and not merely a section thereof.

When a device as shown in the drawing is inoperative and the defect is obviously a clerical one, the drawing may be amended to cure the defect.

An amendment can not introduce matter not substantially described in the application as filed.

*If two patents covering the same invention issue to the same inventor, the later is void.

A new application filed by the executor of a deceased applicant is a continuation of the former application and has the same status in the Patent Office.

An application for a patent for a joint invention can be made only by all the joint inventors.

The Patent Office refuses to give to strangers to the record copies of pending applications without the consent of the applicant or his assignees.

ASSIGNMENT.

An assignment, grant, or conveyance is void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

An assignment of an unpatented invention which does not contain a request that the patent issue to the assignee does not convey legal title to the patent.

A patent can not issue to the assignee unless the assignment contains a request to that effect and is duly recorded.

An assignment before patent, without a request that the patent issue to the assignee, although recorded within three months, will not prevail against a subsequent assignment with such a request to a bona fide purchaser.

If the assignee of a future patent records his assignment after the patent issues, the legal title will vest in him if there are no superior rights.

The record of an assignment, whenever made, is notice to a subsequent purchaser.

Actual notice to a subsequent purchaser is equivalent to record.

An unrecorded assignment is valid against the assignor.

An assignment requires no special form.

An assignment must be in writing, but need not be under seal.

An assignment of an invention before patent is valid.

An assignment before the patent issues is a contract to assign the patent when issued, and creates an equitable title to the patent in the assignee, although the patent issues to the inventor.

An assignment holds good although the invention is not yet perfected.

An assignment of one patent with all modifications, improvements, and re-issues does not cover a later invention attaining the same end by different means.

An assignee takes subject to all the legal consequences of the previous acts of his assignor, such as implied licenses.

A conveyance of "all my right, title and interest in and to," a patent, though properly recorded, does not affect a territorial right previously conveyed to a third party, even if the prior conveyance is not recorded.

An assignment of a patent carries an implied warranty of title.

An assignment of "all my right, title and interest" does not imply a warranty of title.

If a patent is void because the invention is useless, the note given for it is without consideration.

Money paid for a void patent can be recovered.

A statement by a vender that an invention would be useful to the vendee is a mere expression of opinion, not a fraud.

Only falsehood as to matter of fact and not errors of opinion can render a sale void.

False representations as to the amount already offered for the patent are not such warranties of value as will render the sale void, or support any action for fraud.

Married women or minors may be made assignees.

A minor must assign by guardian.

The assignment of a patent by one of two administrators is sufficient to transfer the entire interest in the patent.

A right of action for damages for past infringements may be assigned.

An assignment of a patent does not cover claims for past infringements unless so expressed.

An assignment during a suit does not affect the litigation.

After an assignment has been forfeited by breach of condition, the assignee can grant nothing, either by way of license or otherwise.

An assignment of all the assignor's property except such as is exempt by law does not include a patent right.

A trustee in insolvency does not, by virtue of his appointment as trustee, acquire the patents of the insolvent.

A patent can not be seized and sold on execution like personal property in general.

A court of equity may compel an insolvent to assign the patent or may appoint a trustee to make the assignment.

CLAIM.

A patentee is bound by his claims.

Claims should be construed, if possible, to sustain the patentee's right to cover his entire invention.

But the court can not go outside of the clear meaning of the claims.

Matter not claimed is not covered by the patent.

When an element is described, declared to be an essential feature of the invention, and made an element in the claims, the patentee is not at liberty to say that the element is immaterial or that a device which dispenses with it is an infringement.

The circumstance that a patentee, when an applicant, had no attorney, is no reason for granting him a more liberal construction of his patent.

A claim is invalid, when the patent does not disclose the manner in which the combination of the claim can be operated.

The claims need not be limited to correspond with the form of operation described.

Details of construction not essential to the invention should be described, but should not be inserted in the claims.

Differences which would be important in a subordinate patent are unessential in a pioneer patent.

A claim for a tube "reduced in diameter to support the end of a spring" covers a tube having ears bent in from the tube.

An understanding of the physical laws under which an invention operates is not essential in a claim for a patent.

COPYRIGHT.

One advertising pamphlet, resembling a copyrighted advertising pamphlet in its advertising features only, does not infringe the copyright, since such features are not the subject of a copyright.

A device for the storage and indexing of letters is not a proper subject matter for copyright, inasmuch as it is not a medium for information.

DESIGN.

A design is not new unless it appears to ordinary observers to be different from the old, but the difference may be small.

Designs have relation to external appearance merely and are not concerned with internal structure.

The grant of a mechanical patent is no bar to the grant of a design patent for the same article.

EMPLOYER AND EMPLOYEE.

An employee may assign his inventions to his employer in advance of making them.

When an employee using the time and at the expense of the employer makes an invention, the invention is his own, but the employer has an implied license to use it.

When a workman is hired to invent, the employer will own the inventions which fall within the scope of the contract, while the others belong to the employee.

An inventor who employs a mechanic to embody his conception in practical form retains his exclusive right to the perfected improvement, notwithstanding the perfection is partly due to the exercise of the mechanical skill of the employee.

An employee may be enjoined from fraudulently disclosing the secret invention of his employer.

A patent granted to one member of a firm is not partnership property, although the firm paid the patent fees and used the invention.

The conduct of an employee in permitting his employers to treat the invention as their own may be con-

clusive evidence of an agreement that the invention shall belong to them.

By contract express or implied an employer may acquire a right either to own the invention of the employee or to the use of it. The law does not favor a claim to the former, but favors a claim to the latter. Strict proof therefore is required to establish the former contract, whereas the latter is easily established and will generally be presumed.

EQUIVALENTS.

Two devices are equivalent which accomplish the same results but by different modes of operation.

Where a patent is for a combination, to support a charge of infringement it must be shown that the infringer has used substantially the same combination, including every one of the elements thereof, or a mechanical equivalent for any one that has been omitted.

GRANTS.

A grant should be construed to cover whatever is necessary to render it effective.

An assignee of a territorial right, without restrictions may sell the patented device to be used anywhere, but not to be sold again outside his territory.

If A grants to B the right to make and sell a patented article in the State of New York only, and C buys the article from B, C cannot be prevented from selling the article anywhere else in the United States.

The purchaser of a machine from one who has a right to use, and to sell to others to be used, only in a certain territory, has no right to use it elsewhere, and if he does, is liable for royalties to the patentee.

The assignee of a right to make, use and sell a machine only in a certain territory may sell the product of the machine anywhere.

INFRINGEMENT.

Mere differences in form are not sufficient to avoid infringement.

Interchangeability or non-interchangeability of the respective devices is an important test as to infringement.

An inventor is entitled to all the necessary and legitimate results attained by his invention, including such as were not foreseen.

Whether or not a device is an infringement is determined by the claims of the patent, not by the actual invention.

One valid claim in a patent may be infringed though other claims are not valid.

Identity of mode of operation is necessary for one device to infringe the patent for another.

A machine different in form will infringe if the structural law is the same as that of the patented machine.

A process is infringed only when every step claimed as essential is used.

A process may be infringed though the order of the steps is varied, when the order is not essential.

A combination patent is infringed if the substance of the combination is taken, whatever equivalents, alterations, or omissions may be resorted to.

A claim comprising "terminals," such terminals being essential elements, is not infringed by a device employing only one terminal.

The use of a hard cast-iron pin does not infringe a claim limited to a soft-metal safety-pin, wooden safety-pin being old.

The substitution of spring rockers for a pivot or hinge to produce a tipping movement is an infringement, for the two are equivalent.

A patent for a composition of matter is infringed, if the new element does the same thing as the one for which it is substituted, though otherwise it is different.

A design infringes a patented design if it is the same to the eye of an ordinary observer giving such attention as a purchaser usually gives.

An improvement may be an infringement.

An improver may infringe though his improvement gives to the invention nearly all its value.

The use of a patented invention as an element in a new construction is an infringement.

A difference in the purpose for which an invention is used will not prevent an infringement.

Making a part of an invention with the intent that others shall make the remainder and unite them is infringement.

If a patented invention is not operative, it cannot be infringed by one that is.

An article incapable of performing the functions of a patented device cannot be an infringement.

A device which may be forced to operate like the patented device is not an infringement if such use was not an object of the construction.

To make a patented article in order to experiment with it as a basis for proposed improvement by the maker is not infringement.

To experiment with a patented article to gratify scientific tastes or for curiosity or amusement is not infringement.

To make for use in order to see whether the use will be profitable, and using for that purpose is infringement.

The possession of infringing articles bought for use but not yet used is an infringement.

There may be an infringement though the infringer does not know of the patent.

A sale of an infringing device by an agent is an infringement by the principal.

Any party making profits by an infringement is a wrongdoer and is liable to the patentee.

One who licenses others to use certain improvements of his own does not infringe the original patent improved upon.

The use of an infringing device is not justified by the fact that the patentee failed for some years to manufacture his device.

Nor by the refusal of the patentee to furnish his device when required.

No infringement can be committed before the issue of the patent.

An infringement may be committed by the use, after a patent issues, of a device constructed before the issue of the patent.

A patentee is estopped from denying the validity of the patent in a suit for infringement brought against him by his assignee.

A licensee merely refusing to pay his royalties cannot be treated as an infringer.

The measure of damages in an infringement suit is not what the defendant has gained but what the plaintiff has lost.

A patentee may circulate notices warning the public not to buy the invention except from him.

INJUNCTIONS.

No preliminary injunction will be granted unless the patent has been sustained by a judgment or acquiescence in a long exclusive use.

A bond may be ordered instead of an injunction where the defendant is responsible and intends to contest the suit.

An injunction will be refused and a bond ordered when the defendant has large capital invested and the plaintiff does not manufacture the invention.

An injunction will be refused and a bond ordered when the defendant's machine embraces valuable features not covered by the plaintiff's patent.

An injunction will be granted against a licensee unless his acts are in accordance with his license.

If the defendant infringes when the plaintiff is powerless to prevent it, that does not take away his right to protect his interests when he becomes able.

A mere forbearance to sue, after giving notice, does not affect the right to an injunction.

A license fee fixes the amount of damages where there have been licenses enough issued to establish a market value.

Where there is no established license fee, general evidence concerning damages may be given.

In a suit for infringement the verdict of the jury must be confined to the actual damages and the Court may then increase them not exceeding three times the amount, if necessary to give complete redress to the plaintiff.

The recovery of profits and damages from the manufacturers of an infringing machine debars the patentee from recovering from a user for the use of the same machine.

The refusal of a defendant to exhibit his device raises a presumption of infringement.

An oral agreement to convey a patent will be enforced.

An agreement to assign all future inventions relating to a certain art cannot generally be enforced in equity.

INTERFERENCES.

The burden of proof is upon the party who is the last to file his application in the patent office.

One of two joint patentees may afterwards file a sole application and have an interference declared with the joint patent.

INVENTIVE SKILL.

An improvement, embodying means to cure a long standing defect in a machine, involves invention, although the means were simple and, after the event, apparently obvious.

In a suit on a patent, where the other facts leave the question of invention in doubt, the fact that the device has generally displaced other devices of its kind on its merits is sufficient to turn the scale in favor of the invention.

Though a device at first sight appears to be nothing more than a simple adaptation of a former device, the fact that the former device was used for many years while the need was felt for something to do the work done by the latter device, implies invention and not mere skill.

The fact that each and every element of a combination was old and well known at the date of a patent is not sufficient to deprive the invention claimed of novelty, for most of the inventions of the present day consist of the utilization and adaptation of mechanical appliances that are themselves old and well known.

When a patentee had borrowed in part from the previous art, but had so arranged the various parts as to tend toward simplicity and double the speed of the machine the patent was sustained.

The difference between the use of two devices may be so extreme and the conditions so radically different that the adaptation of what was useful in one sphere to use in another would possibly require more inventive faculty than the creation of something novel in itself.

Inclining holes in a gas-heater downwards instead of horizontally, when more efficient, is patentable.

Where the article sought to be patented differs from prior like articles merely in the superiority of the materials of which it is composed, the material and its properties being old and known, there is no invention in the substitution.

There is no invention involved in striking up from a blank by means of a die a railway brace which has previously been made by casting.

To make a single solid casting instead of connected parts is not invention.

To make an apparatus portable is not a patentable improvement.

It does not require invention merely to unite two short cars so as to make a single long car with a central transverse platform.

It is not patentable to provide an index table across each page of an index volume, instead of at the front or back only of the book.

It does not require invention to provide an old form of garment-stay with projections, which are also old for the same purpose in devices of a similar character.

JURISDICTION.

Questions affecting the validity of a patent, the title to a patent or the infringement of a patent are determined in the Federal Courts only.

Federal Courts have no jurisdiction over suits for royalties.

A Circuit Court has no jurisdiction unless the defendant is served in his own district, or is found and served where sued.

Actions on a contract relating to a patent between citizens of the same State are determined in the State Court only.

The validity of a patent may be the subject of inquiry in a State Court collaterally in a suit upon a contract.

A State Court cannot enjoin infringers.

A State cannot tax the property in Letters Patent but may tax the proceeds thereof.

A decision in the Patent Office is not binding on the Courts.

LICENSES.

The only matter conveyed in a license is the right not to be sued.

A grant reserving to the grantor certain usages of the invention is a mere license.

A license need not be written.

Oral evidence is not admissible to explain a written license but the parties must stand to the license as written.

A license need not be recorded.

Licenses are governed by the State Law.

A license may be granted before the patent issues.

A license is only assignable when it clearly appears that it was intended to be so.

A license to use a certain fixed quantity is assignable.

A personal license granted for a certain period will expire at the death of the licensee unless also granted to his assignees.

A license to a partnership is not affected by a change of members in the firm.

A license to manufacture "at their shop" in a place described, is not transferable.

A license to use "at his own establishment" does not cover a use at a shop owned by himself and others.

A license to use a device on a certain railroad does not carry the right to use the device on the cars of the licensee over whatever railroad they may be run.

A license to a railroad company to use a patented device on their road extends no further than the road was built and used by it at the time the license was given, the use on roads built or leased afterwards not being protected.

A license "to use to the extent of one machine" includes the right to make for such use and to repair indefinitely.

The words "licensed to use once only" if stamped on an invention are notice that it is used under such a license and that the license expires on its first use.

When an inventor sells an article which is to be protected by a patent, or knowingly permits another to use it, before the patent issues, the purchaser or maker has an implied license to use and sell the specific article only, the same as if he had bought it from the patentee after the issue of the patent.

The lawful sale of a patented article carries with it the right to use it until worn out.

When a patented device is accidentally destroyed or where it is practically worn out, the owner cannot, under pretense of repairing it, make a new device. In such case he must cast it aside and buy a new one from the patentee.

Where a patent covers the combination of a drawhead, a knuckle, a pivot-pin, and a locking-pin, it is not infringed by a defendant who furnishes the knuckles to replace broken ones.

A patented machine, sold at a sheriff's sale, carries with it a license to use the machine.

The sale of an invention, the use of which involves the use of a process patented by the same grantor, is a license to use the process.

The contract of a workman to give his employer the benefit of his inventions is a license, not a grant.

A license fully paid for in advance, and not upon condition, is irrevocable.

A breach of covenant in a license does not work a forfeiture of the license unless it is so expressly agreed.

It is the duty of the licensor to demand the license fee, if he has no other agreement, and not wait for the licensee to pay it.

If a royalty is based on the number of articles sold, and the licensee ceases to make and sell, he abandons his license, and the licensor may then license other parties.

An agreement to pay the inventor a royalty until \$5,000 has been paid and then a lower one, is an agreement to continue the business as long as it is reasonably profitable.

An agreement to pay a certain sum for each of the first four hundred machines is not a contract to make that number.

An agreement to pay a certain royalty on every article made on the patented machine is not an agreement to run a machine to its utmost capacity.

A licensee while receiving benefit under an apparently void patent is obliged to pay his royalties, and the invalidity of the patent is no defense.

A licensee must repudiate his license before he can defend against a claim for royalties by denying the validity of the patent.

When an exclusive licensee fails to pay as he agrees, and the patentee thereupon grants an exclusive license to another, who has notice of the prior license, the first licensee may at any time tender what is due and assert his rights as against the second licensee.

A license under a foreign patent does not authorize the licensee to make the article abroad for use here.

A license taken to avoid a suit is not taken under duress or fraud.

Each joint owner of a patent may license without the consent of the others, but is liable to them for their shares of the profits of such license.

MARKING "PATENTED."

Any person marking an unpatented article as patented, with intent to deceive, is liable to a penalty of \$100 for each article; one-half of which is paid to the person suing for the same; any person may bring suit.

When a device has been manufactured and sold for five years, it is immaterial that a large number of the devices were not marked "patented" if enough were so marked to give general notice to the public.

There is no objection to marking an article for which an application has been made, as "Patent applied for."

Any person infringing a design patent is liable to a penalty of not less than \$250.

PATENTABILITY.

The object of an invention is not patentable, the means for attaining the object may be.

Adulterations of food are not patentable.

Doubts as to patentability should be resolved in favor of the inventor.

A combination of old elements producing a new and useful result is patentable.

An old construction in a windmill is not patentable in a paddle wheel.

An old construction of cutter-head in a wood-planing machine is not patentable in an ice-planing machine.

PAYMENT OF FEES.

When an appeal is regularly taken and the fee therefor paid, but the applicant changes his purpose and concludes not to prosecute the appeal, the appeal fee cannot be returned.

PRIOR USE.

A process accidentally performed by an experimenter, but unnoted, and presumably unobserved, by him, does not anticipate a subsequent invention of the process.

A mere accidental use of some of the features of an invention without recognition of its benefit, does not constitute anticipation.

A suggestion in a prior patent that a part of the operation may be the same as applicant's process, is not an anticipation, where, first, such change in the operation was not made, and, secondly, the patent did not state clearly how it could be made.

Evidence of experimental use of the device patented, which was unknown to the patentee, is not an anticipation of his patent.

The patent of an originator of a complete and successful invention cannot be invalidated by proof of any number of incomplete and imperfect devices.

The fact that all the elements of a combination may be found partly in one prior structure and partly in another is unsafe ground for overturning a patent.

Oral testimony, unsupported by patents or exhibits, tending to show prior use of a device regularly patented, is, in the nature of the case, open to grave suspicion.

As clear and convincing proof is necessary to invalidate a patent by evidence of prior use as would be required to convict a person charged with crime.

Prior use requires a practical working apparatus.

The abandonment of a thing greatly needed indicates that it was an unsuccessful experiment.

Secret use is not prior use.

PROCESS.

A new process may be created by omitting one of the steps regarded as necessary in an old one.

A process, within the meaning of the patent laws, must accomplish some change in the character or condition of material objects.

PUBLIC USE.

Use in public, or by the public, in the way of business, or a sale, or an offer for sale, more than two years prior to the application, is a bar to a patent.

The making or construction of an invention without using it is not public use.

A use, clearly experimental, although public, to test the capability of the invention, is not public use.

A continued use in business without change is not experimental use.

A single instance of use in public, or a single sale, is a sufficient bar, if more than two years prior to the application.

Use in a workshop, when the workmen are pledged to secrecy, is not public use; but if they are not pledged to secrecy, or if the use is in view of customers, it is public use.

The invalidating public use may be without the consent of the inventor.

The two years public use invalidating the patent must be established beyond a reasonable doubt.

If there has been a use in public more than two years before application, the burden is upon the patentee to prove that it was experimental.

Sale of the future patent covering an invention more than two years before the application does not bar the patent.

When the invention is put into public use without reserving rights to it or exercising control over it, or examining it to test its efficiency, the use is not experimental.

REAL INVENTOR.

If A suggests the idea of an invention to B but gives no explanation how the idea is to be carried into effect, and B embodies the idea in practical shape, B is the real inventor.

When a party suggested to another that a certain tool or device could be altered to adapt it for a desired oper-

ation, but did not explain how, and the latter proceeded to make the alterations, the latter is the inventor.

An inventor assigns an interest in his invention to another, who agrees to furnish all necessary funds. The latter then experiments and makes the invention a success. He cannot, however, for that reason appropriate more than the original interest assigned him.

REDUCTION TO PRACTICE.

A drawing or model demonstrating the efficiency and operativeness of the machine is not the equivalent of the actual machine and is not a reduction to practice.

A machine may have been far from perfect and never operated continuously for work in a commercial sense, and yet a reasonably successful reduction to practice.

In cases where delay in completing an invention is excused there is something of compelling power in the circumstances that produce it.

Poverty, sickness, etc., will not excuse delay in reduction to practice for an indefinite period.

RE-ISSUES.

A delay of two years is the limit permissible in applying for a re-issue to broaden a claim, except under special circumstances.

A re-issue will not be granted, if, before applying for a re-issue, other parties have begun to use the subject matter not claimed.

A claim rejected and cancelled in the original application cannot be restored on re-issue.

If the application for re-issue be rejected, the original patent stands precisely as though a re-issue had never been applied for, unless the re-issue be refused upon some ground equally affecting the original patent.

A re-issue may correct errors occasioned by mistaken ideas of the objections raised in the Patent Office.

TRADE-MARKS.

Trade-marks cannot be registered as labels.

Neither a print nor a label can be registered as a print or label if previously used as a trade-mark, but must be registered as a trade-mark.

A print or label can be registered if it has artistic merit as a picture, but if it merely describes the article in words it cannot be registered.

The word "imperial" being descriptive of quality cannot become the subject of a lawful trade-mark.

The word "Olive" cannot be registered as a trade-mark for bicycles, as it indicates the color of the bicycles.

Numerals to identify specific remedies are descriptive terms and not registrable as trade-marks.

Bromo-quinine is either descriptive, if the preparation contains bromide, or misleading, if it does not, and in either case is not a valid trade-mark.

The words "Syrup of Figs" for a compound whose principal ingredient is senna is not a valid trade-mark, being deceptive.

The words "Fibre Chamois" are sufficiently arbitrary to be registrable.

The words "Social Register" constitute a valid trade-mark.

The form of a package alone can rarely be the subject of trade-mark protection. If novel, it should be the subject of a design patent.

When an inventor obtains a patent on a device and the device is known by a certain name, the name becomes public property at the expiration of the patent.

When a sewing machine invented by S. becomes known as the S. sewing machine, and is patented, then after the expiration of the patent any one can make and sell a machine and has a right to call it an S. sewing machine.

Where a name has been used as a mark experimentally and put upon the market at long intervals, and in the meantime a second party has innocently used the name and built up a large business, the first party will have acquired no rights against the second.

A man has the right to the use of his own name to designate his goods so long as he uses it honestly and so as not to injure another having the same name, and to prevent such injury he may be required to use his name in a special manner pointed out in an injunction.

No one may designate an article of his own production

by his own name in such a way as to cause it to be mistaken for the manufacture of another already on the market.

The essential feature of a trade-mark is not that which the registrant selects to designate as such, but that which would strike the public mind as its most salient feature.

TRANSFER OF PATENTS.

Every patent and every interest in a patent is transferable.

A conveyance of the whole interest, or an undivided portion of the whole interest, throughout the whole of the United States, is an assignment.

A conveyance of such an interest throughout a part only of the United States is a grant.

A conveyance of any other interest than that by assignment or grant is a license.

A transfer of the exclusive right to sell an invention is a license only, since it does not transfer the exclusive right to make or use, and the legal right to the patent does not pass by the transfer.

A transfer of the right to make and sell carries the right to use the invention, and, if exclusive, transfers the entire invention, and is not a license but an assignment.

UTILITY.

The degree of utility of a device is unimportant in determining whether a device be patentable. If the invention is not frivolous or prejudicial to the public and has any degree of usefulness, no matter how slight, it is patentable.

An invention employed only for gambling is not useful or patentable.

TESTIMONIALS

140 North Ninth St., San Jose, Cal., Feb. 25, 1900.

Mr. Francis M. Wright—Dear Sir: I have had several patents granted to me, but none with as little delay as the one secured by you on my "Musical Whistle." This, coupled with the fact that you secured the allowance of two broad, comprehensive claims, while another local Patent Agency reported upon making a "Preliminary Examination" that this article was not even patentable, shows that you thoroughly understand your business and are worthy the patronage of inventors desiring quick, intelligent service. Very truly yours,
M. BARTHEL.

Gualala, Cal., Feb. 9, 1900.

F. M. Wright, Esq., Atty. at Law, San Francisco, Cal.—Dear Sir: I want to thank you, and express my satisfaction at the manner in which you procured United States and Canadian Letters Patent on Rotary Engine. You are at liberty to refer to me at any time. Yours truly,
E. P. COUTURE.

I consider Patent Atty. Francis M. Wright one of the best and most reliable patent experts in the country. I know him to be a man of highest character, and what he says can be relied on as absolutely correct. Should he consider an invention unpatentable he frankly says so and thus spares the inventor needless expense and mortification. He also gives sound advice as to how a patent may be marketed at the least expense and with the best prospects of success. I strongly recommend him to all my friends who need the services of a careful, painstaking and conscientious expert. They can safely rely on his knowledge, judgment and integrity.

DR. F. CURTIS.
401 L St., Sacramento, Cal.

Watsonville, Cal., Jan. 24, 1900.

Mr. W. R. Ellis—My Dear Sir:—I followed your advice and took the case from my former attorney and put it into the hands of Mr. F. M. Wright, and in less than thirty days the claim was allowed, a claim too that covers the invention.

I wish to thank you a thousand times for your timely advice. My case was put into the hands of.....

..... last June, and after over six months time was a complete failure; no claim was allowed and, in fact no claim was ever made which, if allowed, would have covered my invention. I had almost lost hope of securing my claim although satisfied that no reference cited by the Examiner was pertinent in the case, and why? The claims were all wrong.

Again I thank you and hope to be able some day to return the favor. Your friend,

DR. E. EDGAR CAMPBELL.

Livermore, Cal., Jan. 31, 1900.

Dr. R. E. Campbell, Watsonville, Cal.—Dear Doctor: Yours of the 24th inst. at hand. I am pleased but not surprised at the outcome of your late patent application. I knew, as I told you, that Mr. Wright would go to the core of your case and get all there was in it with promptness. I had an unfortunate experience not unlike yours with inefficient patent attorneys in San Francisco before I met Mr. Wright. In one case I was finally and completely rejected after nearly a year's fight in the Patent Office. The case was "bungled." Mr. Wright took it up and obtained strong claims for me, giving me abundant protection, and the invention thus covered I have now leased to one of the biggest factories of the East with the brightest prospects of obtaining good returns from it.

I am more than glad that you have found Mr. Wright, to your own satisfaction, all that I led you to expect him to be. A patent solicitor should have wit, an inventive mind, and a conscience. These Mr. Wright has and more. He is, in my opinion, the best equipped man in his profession on the Pacific Coast. Sincerely,

W. R. ELLIS,
Inventor the Ellis Ballot Machine.

2220 Adeline St., Oakland, Cal.

Mr. Francis M. Wright—Dear Sir: I heartily appreciate the fact that in all my experience with patent agents, the obtaining of my patent on "Mucilage Spreader," in twenty-three days from the date of application, you have broken the record for promptness, and ability in your profession. I assure you it gives me pleasure to make mention of you in this manner. PHILLO E. DANIELS.

San Francisco, March 9, 1899.

Having had some varied experience in procuring patents

for my inventions, it gives me great pleasure to testify to the professional ability and business-like methods of Mr. F. M. Wright, who is at present handling my patent cases. In particular I have been favorably impressed with the thoroughness with which Mr. Wright grasps the essential and vital features of an invention, and the lucid and convincing style in which he presents them to the Patent Office. He has been notably prompt in official action and has treated me straightforwardly as a client. I have found Mr. Wright reasonable in his charges. I believe him to be thoroughly reliable in every way, and can confidentially recommend him to other inventors.

C. W. TUDOR DAVIES.

2151 San Antonio Ave., Alameda, Cal., Oct. 14, 1898.

To Whom It May Concern: It gives me sincere pleasure to say that I have employed the services of Francis M. Wright, Esq., as patent attorney in several inventions of mine, and can, and do, attest the fact that he is most trustworthy and competent. Indeed, I may say, in all truth, that I have found no one in San Francisco who has ever performed his work in this direction as satisfactorily as Mr. Wright has done, and I shall most certainly continue to employ his services in any patent work that I may hereafter have in hand. His wide experience as an examiner in the United States Patent Office, as well as his abilities in his profession, eminently fit him for successful work, and render him worthy of the confidence of his clientage. Respectfully,

WILLARD B. FARWELL.

San Francisco, March 27, 1899.

Mr. F. M. Wright—Dear Sir: Having obtained several patents through your management, it gives me great pleasure to state that your handling of them has been quite satisfactory to me—having had considerable trouble with other patent attorneys. I think I am able to form a fairly good judgment now about what is required to draw up claims so as to get an invention covered as broadly as possible, and will say that I hold a good opinion of your ability and integrity, so far as the same have come under my observation, and I shall always be willing to recommend you to my friends. Yours sincerely,

HENRY H. GORTER,
Master Mechanic S. F. Fire Dept.

February 3, 1899.

To Whom It My Concern: I have had F. M. Wright,

of 723 Market Street, San Francisco, attending to patent business before the United States Patent Office for me in a number of cases, and I regard him as one of the ablest men in that line I have ever met. I can recommend him to any one who needs an attorney in the patent business.

F. M. GRAHAM.

220 South Ninth St., San Jose, Cal.

February 6, 1900.

To Whom It May Concern: I have known Mr. Francis M. Wright for the past two years as a Patent Attorney, having secured Patents through his efforts, and I consider him to be one of the ablest Patent Attorneys on this Coast. He is honest, persevering, and untiring in his efforts for his clients.

I cheerfully recommend him to any one requiring the services of a very capable and conscientious gentleman and attorney.

E. W. HUTCHINSON.

114a 11th St., San Francisco.

King's Institute of Vibration, 138 McAllister St.,
San Francisco, Cal., Dec. 4, 1900.

Francis M. Wright, Esq.—Dear Sir: I wish to express my appreciation of the able manner in which you have conducted my applications and secured allowances for patents. The first application seemed to be one which presented much difficulty to my former attorney, the claims allowed being unsatisfactory to me. After placing the matter in your hands I found that you were able to meet all the technicalities of the case, drafting the broadest and most comprehensive and at the same time most concise claims to meet and cover most thoroughly all the requirements of my invention.

Respectfully yours,

F. KING.

Mr. F. M. Wright—Dear Sir: Allow me to say as briefly as possible that, after trying to get a patent myself, after repeated rejections I sent the case to an advertising firm in Washington, but they could see no prospect of getting the patent. I then placed it in your hands, and to-day, April 15, 1899, I have received notice that my claim has been allowed. Yours truly,

IRA G. LEEK,

724½ Market St., San Francisco.

Feb. 10, 1900.

Mr. Francis M. Wright—Dear Sir:—Understanding that

you are about issuing another edition of your pamphlets on Patents for circulation among inventors, it gives me pleasure to state that you have handled my various applications, domestic and foreign, in a manner highly satisfactory to me and creditable to yourself. My inventions are in line of special Sewing Machines in which I have been engaged about 30 years, and are generally complicated and difficult to describe and claim on account of the great number of Patents already in existence, and to do this requires ability of a high order as well as a thorough knowledge of Patent Law, both of which you possess, and I am better satisfied with your work than with that of any other attorney I have ever employed in my experience. To all those needing the service of a careful, conscientious and thoroughly competent attorney I shall always be glad to recommend you. Yours,

F. T. LEILICH.

27 Guerrero St., San Francisco.

Oakland, Feb. 7, 1900.

Francis M. Wright, Pat. Atty., 723 Market St., S. F., Cal.—Dear Sir: I wish to heartily thank you for your promptness in bringing to a successful issue my application in the Patent Office which had been delayed for nearly two years through another attorney. I had thought the case almost hopeless. I feel that my business will always be safe and carefully attended to if in your hands and you can count me among your appreciative clients in the future.

Very respectfully,

L. S. MANNING.

502 E. 15th Street.

San Francisco, Cal., Feb. 5, 1900.

To Whom It May Concern: This is to certify that F. M. Wright, Patent Attorney, of San Francisco, California, has obtained for me two good patents. During my business with Mr. Wright, I have found him very careful in getting up plans and specifications, and more particularly in getting the claims, which is of vital importance to an inventor, as a patent without good claims is of very little worth. For the last fifteen (15) years I have been engaging Patent Attorneys living in Washington and the East to do my business, but after consulting with Mr. Wright, I find it very advantageous to have an attorney, as it were, right at one's elbow. From my past experience with Mr. Wright as Patent Attorney, I can conscientiously recommend him to any one desiring his services.

Yours very respectfully,

W. A. MERRALLS,

Manager Merralls Mill Co.

San Francisco, Cal., Feb. 8, 1900.

Mr. Francis M. Wright—Dear Sir: Reasoning from my own experience in San Francisco, it has occurred to me that there may be many Eastern people, strangers in San Francisco, who might desire advice in Patent matters, but who do not know upon whom to call. To any such it would give me great pleasure to give them the benefit of my experience.

Something over a year ago I had inventions I wished to protect by patents. At first I thought I must return East, where all my patent business has been done, but upon reflection, I decided to try a California solicitor. I called at your office. I have been pleased with your efficient manner of handling patent cases and drawing claims which cover the invention and still meet the approval of the Patent Office at Washington. Please accept my thanks for the satisfactory services you have rendered me in the past, and I trust that neither myself or any of my Eastern friends when in need of advice in patent matters, need to return to the East, but can find in your office talent equal to any of the Eastern offices.

Yours respectfully,

P. W. PRATT,
Pacific Coast Representative of the Elastic Tip Co.

San Francisco, Cal., March 27, 1899.

Mr. Francis M. Wright—Dear Sir: I gladly testify to the ability and promptness with which you prosecuted my applications for patents. You have always explained everything very clearly, and I am satisfied that all patentable points are covered in the claims as broadly as possible.

Respectfully,

GEO. RISCHMULLER,
3446 19th Street.

Manufacturer of Rischmuller's Patent Door Opener and Closer.

Minnewawa Vineyard, Fresno, Cal., Feb. 5, 1900.

To Whom It May Concern: I have employed Mr. F. M. Wright as a Patent Attorney, and his services have been entirely satisfactory. I regard him as an honest, careful and conscientious attorney. DR. W. N. SHERMAN.

San Francisco, Cal., Feb. 12, 1900.

It gives me pleasure to state to whom it may concern that for about one year past Mr. Francis M. Wright has conducted a large Patent business for the Climax Manufacturing Company and also for myself personally, and has

been our attorney for much other business requiring skill and rare judgment. He has at all times been conscientious and untiring in his efforts, thoroughly capable professionally, and has given utmost satisfaction to our company in all things. Other patent attorneys have been employed by us in the past, but Mr. Wright has been the most successful in securing stronger patents than any before employed. I shall be glad to answer any inquiries from inventors seeking the services of a patent attorney, regarding the ability and other sterling qualifications of Mr. Wright.

JAS. G. SIMONTON,
Sec. Climax Manufacturing Company, Mills Bldg.

Angels Camp, Nov. 5, 1900.

It is with pleasure that I recommend from personal knowledge the professional services of Mr. Francis M. Wright. He has secured for me a splendid patent for my Stamp Mill Attachment, the application being allowed very quickly, and I have now employed him to make applications for two more patents of a different character. My experience with him warrants me in saying that he is superior to any attorney I have heretofore employed.

LOUIS R. TULLOCH.

Electric Gas Regulator Co.,
San Francisco, Cal., March 2, 1899.

Mr. Francis M. Wright—Dear Sir: Having had many years' experience as an inventor and a patentee, I desire to thank you for the great service you have rendered me in obtaining "letters patent," which protect, and thus maintain the dignity, character and value of patents. The "Electric Controller for Gas Regulators," U. S. L. P. No. 602,548, dated April 19, 1898, obtained by you, has been often expeted in behalf of purchasers and pronounced without a flaw. Wishing you continued success, I remain yours very truly,

W. E. H. WILLIAMS.

SOME REFERENCES.

James H. M. Akard.....	178	Saginaw St.,	S. F.
B. R. Albertsen.....	1885	Sutter St.,	S. F.
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 C. Hollenbeck.....Section Five Oil Co., Bakersfield
 Ed. De Groat.....Campbell
 George Lemont.....Chico
 A. R. Arnot.....Colusa
 John Vasey.....Emeryville
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 F. A. Matthews.....Eureka
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 Prentice H. Bottoms.....1146 P St., Fresno
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 Jean Le Gay.....335 Baahmer St., Fruitvale
 A. Washburne.....Route 1, Box 216, Fruitvale
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 H. L. McDuffee.....Gilroy
 J. Francis Moore.....Hoquiam, Wash.
 H. E. La Plant.....Kennet, Cal.
 H. A. Brisco.....Lindsay, Tulare Co. Cal.
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 J. H. Leggett.....Oroville
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 John Fatjo.....Santa Clara
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 Donly C. Gray.....Visalia
 John W. Macaulay....care Mineral King Fruit Co., Visalia

Wright's Patent Agency

933-7 Monadnock Bldg., San Francisco

SCHEDULE OF CHARGES.

(In Ordinary Cases)

	Government Fees	Agency Fees	Total
Patent	\$35 00	\$45 00	\$80 00
Reissue	30 00	45 00	75 00
Design Patent, 3½ years.....	10 00	25 00	35 00
Design Patent, 7 years.....	15 00	25 00	40 00
Design Patent, 14 years.....	30 00	25 00	55 00
Trade Marks	10 00	12 00	22 00
Appeal to Board	10 00	20 00	30 00
Appeal to Commissioner.....	20 00	30 00	50 00
Preliminary Examination			6 00
Assignment, Preparing and Recording			5 00
Abstract of Title			5 00

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