PATENTS

A BOOKLET OF INFORMATION
RELATING TO PATENTS,
TRADE-MARKS, Etc

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Cable Address ---"Patents, Wheeling"
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FOREWORD

This booklet has for its purpose to set forth somewhat more fully than can be done in the space of an ordinary letter the information desired by the average inventor when he seeks to secure legal protection for his invention. To herein answer all of the many questions which may arise in connection with patents and patent practice is obviously not contemplated, but only to present the information most frequently sought by inventors preliminary to applying for a patent, and to set forth briefly some of the essential features of the procedure which must be followed to obtain a valid patent.

WHAT A PATENT IS

A patent is the inventor's reward for his ingenuity. It is the reward offered by the government to promote the disclosure of invention, to encourage the practical reduction of ideas, to attract the attention of possible inventors to the development of ideas, to induce a train of inventive thought and emulation in individuals generally. It is a reward in the form of a government grant of the exclusive privilege to use, manufacture and sell the invention therein

claimed. It gives the patentee a monopoly of the advantages derivable from his invention for a definite term of years.

We live in an age of invention, and there is no proposition the justice of which is more evident than that the inventor desires to reap the fruits of his genius and labor. It is for this purpose that he seeks to protect himself by taking out a patent. If he would realize substantial financial benefit from his invention, HE MUST PATENT IT.

WHO MAY OBTAIN A PATENT

A patent may be obtained by any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, 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 his invention or discovery thereof, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to be abandoned.

Joint inventors are entitled to a joint patent; neither of them can alone obtain a patent for an invention jointly invented by them. The fact that one person produces the invention and another furnishes the capital does not entitle them to make application as joint inventors; the application must be made by the inventor alone, who may, however, assign a part or the whole of his interest in the invention either before or after the issue of the patent.

REQUIREMENTS IN AN APPLICATION

The Revised Statutes of the United States enact: Before any inventor shall receive a patent for his invention, he shall make application therefor in writing to the Commissioner of Patents, and shall file in the Patent Office a written description of the same in such full, clear, concise and exact terms as to enable any person skilled in the art to which it appertains, or with which it is most nearly connected, to make, construct and use the same. He must set forth the precise invention for which a patent is sought. He must explain the principle of the invention and the best mode in which he has contemplated applying that principle. He must define the invention in such manner as to distinguish it from other inventions.

The patent laws are highly technical. The subjects of invention are necessarily many and varied, and in many cases a high degree of mechanical skill and intelligence is necessary to arrive even at an understanding of the intricacies of inventions submitted. To intelligently and properly describe such inventions in the manner required by statute, and to formulate claims which adequately define them and which will afford effectual legal protection, obviously requires ability and technical skill of a high order. To prepare and prosecute applications involving inventions of simple character and narrow scope, while not requiring the same high degree of technical knowledge, involves labor which is none the less arduous and frequently requires as much real skill as more intricate cases.

Recognizing the necessity for careful and skillful work, the Commissioner of Patents advises the inventor "to employ a competent registered patent attorney, inasmuch as **the value of patents depends largely upon the skillful preparation of the specification and claims.**"

SELECTING AN ATTORNEY

A properly qualified patent attorney should have an accurate or competent knowledge of mechanics; he should be familiar with the patent laws and acquainted with the technicalities thereof, and he should be a master of logic and legal phraseology. That he should also be an attorney at law familiar with the law of evidence, as well as the patent laws, and capable of marshaling evidence in an orderly manner to produce its best effect, needs no extended argument. Few solicitors not actually called upon to prosecute or defend suits for infringements under patents can have an adequate conception either of the refinements of the patent law or of the numerous vital questions which arise and which must be met when a patent is called upon to stand the test of adjudication.

The importance to inventors of securing the services of a patent lawyer who is thoroughly reliable and who possesses the requisite experience and skill can hardly be overestimated. Such a lawyer will frankly inform the inventor if his ideas are at the outset known or found to be old and unpatentable, thereby dissipating false hopes and preventing useless expense which would otherwise attend the filing of an

application for patent. If the invention is new and patentable, such a lawyer will make the inventor's cause his own so far as to enlist every reasonable legitimate effort in the inventor's behalf.

Perhaps as much attention should be given to the fees charged as to any other one subject in selecting an attorney. Excessively high fees should be avoided, since there is no occasion for demanding them. On the other hand, very low fees should be the reverse of a recommendation, since low fees mean cheap work, and cheap professional service is always the most expensive in the end. **It is better to pay the most extravagant fees that the highest reputation makes it possible to demand, rather than place your business in the hands of an attorney who cares little about the kind of a patent he secures so far as protection of your interests is concerned.**

Many inventions are never sold because the patents issued therefor are too narrow in their scope through failure of attorneys to procure properly obtainable claims. Such patents are defective, and no intelligent investor will become interested therein.

When ready to patent your invention, employ a careful, conscientious and competent patent lawyer to attend to the business for you. Do not employ an attorney because he is willing to wait for his fee until the patent is granted or who makes his fee contingent upon success. Such attorneys are likely to unduly hasten the prosecution of your case in order to get their

fees promptly, procuring you a patent having narrow and insufficient claims, thus either rendering the patent worthless or placing you in a position where you may ultimately be called upon to assume the burden of costly litigation. And, finally, avoid doing business with those advertising attorneys whose only recommendation is the size of the business conducted, or who advertise the possession of unusual facilities for obtaining patents. The boy clerks and novices of "patent factories" do not inspire confidence and are not those with whom the average careful or successful inventor entrusts his business. Ordinary business prudence suggests that the inordinate claims and "catch-penny" methods of "prize offering" attorneys should be regarded with suspicion.

GOING TO WASHINGTON

A general impression prevails to the effect that it is advantageous to employ an attorney located in Washington, because the Patent Office is in that city. This idea is of course fostered by the small army of patent agents who have offices in Washington and whose circulars and advertisements set forth the alleged importance of such location. The absurdity of this will readily be realized when it is understood that all official communications **must be in writing.** All papers can be as carefully and expeditiously prepared in Wheeling as in Washington. Very rarely does it become necessary or even desirable to interview a Patent Office Examiner; as, if the attorney understands his

business, he can explain everything in writing, and he should do so for the protection of his client because the explanation is then a matter of record. Patents are never granted on the mere verbal statements of attorneys.

I have a thoroughly competent and reliable representative in Washington whom I instruct to act for me in all such work as the making of searches, examinations of records, and the like requiring the services of a resident attorney in Washington; and this enables me to offer all the special **so-called** advantages which may be derived by the employment of a Washington attorney. Besides, my office here enables local inventors to consult me in person. As a matter of fact, it is of much more importance that the client be near his attorney than that the attorney be near the Patent Office.

MY BUSINESS—(Established 1897)

That the experience acquired in my more than twenty-five years' practice before the Patent Office, during which time I have had occasion to familiarize myself more or less with almost every class of invention and with all the details of practice, has qualified me for performing efficient and reliable service is attested by my clientele among which are numbered some of the most important and successful manufacturing concerns in the country.

Being an attorney at law as well as a registered patent attorney, and my attention being devoted exclusively to patent and trade-mark practice, I consider that I am qualified to render

competent service. I act as counsel and represent clients in patent and trade-mark litigation not only before the Patent Office, but also in the Federal Courts of the United States and in the Court of Appeals of the District of Columbia. In this connection, it may be stated that a patent attorney or solicitor who is not also a lawyer labors under a decided disadvantage, since he can practice only before the Patent Office; he can be of no service to clients when their patents are infringed or their rights otherwise invaded so as to require litigation in court.

All business is regarded as confidential, and inventors and others when submitting their ideas or data need have no fear concerning their unauthorized disclosure.

TIME REQUIRED TO PROCURE A PATENT

No accurate estimate can be made as to the length of time which may be required to secure a patent for any particular invention. The time required will depend, first, upon the accumulation of work in the Division of the Patent Office having charge of the application. In some Divisions the work is kept nearly up to date, while in others it is frequently several months in arrears. The time required further depends on whether the attorney is willing to accept what the Office is willing to allow on the first or second examination of the case, or is disposed to fight for those claims to which he believes his client is entitled in view of the state of the art to which the invention appertains. It frequently happens that an unscrupulous attorney, in order

to hasten the allowance of patent, or to relieve himself of the labor of prosecution, will submit to the rejection of important claims, when, by well-presented argument, such claims might readily be secured. In the great majority of cases, a number of different amendments and arguments is necessary in order to secure desirable claims, and in such cases time is required to obtain results.

As the commercial value of a patent depends in a great measure upon the care and skill exercised in the prosecution of a case before the Patent Office, I prefer to perform thorough rather than hasty work, thereby securing to my clients the protection to which they are entitled, and this has frequently resulted in great advantage to my clients. I proceed on the principle that it is infinitely better to spend a little more time and care in the prosecution of a case than to sacrifice the invention sought to be protected.

PRELIMINARY EXAMINATIONS

Before applying for a patent, it is generally advisable to have a preliminary examination, or search, made of the records in the Patent Office with a view to ascertain whether or not the invention contains patentable novelty. This examination, the cost of which is usually $10.00, consists of a search of the records in the Patent Office in the class of invention to which the invention in question belongs or to which it most nearly appertains.

To enable me to make this search, a sketch,

model, or photograph of the invention, accompanied by a description of its construction and operation, should be furnished. If a sketch or drawing is furnished, the same need not be precise or artistic, but it should show the details of the device and should have the different parts designated by figures or letters, and the description should explain the construction and operation of the device, referring to the various parts by the reference figures or letters of the sketch. The objects sought to be attained by the invention should be stated. If a model is furnished, it may be of any material and of any size.

A complete search report will be promptly rendered, giving my opinion as to the patentability of the invention submitted, and copies of the nearest approaching patents found will be furnished therewith. This search is generally completed and my report thereon rendered within four or five days after receipt of the order for the search.

It must be observed that the report as to patentability is **not conclusive.** While my searches are made with a view to finding those patents coming closest to the invention submitted for investigation, and special care is exercised therein to avoid mistakes and oversights, both for my own protection and the protection of my clients, it must be understood that I do not in any case guarantee a patent. The best searchers, even Patent Office Examiners, who are experts and are supposed to be familiar with the patents which have issued in the classifications in which they act, sometimes overlook

pertinent patents. Furthermore, men will differ in their opinions. An Examiner occasionally views an invention in a different light from that of the inventor and his attorney. My search reports may be relied upon as giving the true state of the art as the same is found by careful examination to exist; and, while you can not be positively assured of the patentability of your invention when no anticipating patent is found, it is nevertheless usually advisable to have a search made, for the following reasons:

1. The search very frequently discloses an anticipation of the invention in question and thereby prevents the loss which would otherwise result from filing an application.

2. If an anticipation is disclosed, the inventor may be enabled to change his construction so that conflict will be avoided.

3. Even if the search fails to show an anticipating patent, the patents disclosed may offer valuable suggestions by which the inventor will be enabled to improve his invention.

FREE EXAMINATIONS

There are a number of attorneys who advertise free searches or reports. Such offers are baits by which only the unwary are attracted. A free search is worth just what free labor usually is worth—and that is nothing.

HOW TO APPLY

When ordering me to proceed with the preparation of the necessary drawings, specification and claims in an application for patent, you should send, if you have not already done

so, a model or sketch and description of your invention, give your full name and address, and remit $50.00 on account of fees. The application papers will then be prepared as promptly as possible and forwarded to you for your approval and signature. Upon the return of the papers properly executed, together with the first government fee of $20.00 and the balance of attorney's fees, which balance in simple cases is usually $35.00, the case will at once be filed in the Patent Office and will be vigorously prosecuted, regard being always had to the legal protection to be afforded by the patent.

After all obstacles have been successfully removed, the patent will be officially allowed. You then have six months from the date of the notice of allowance in which to pay the final government fee of $20.00, upon payment of which the patent will be passed to issue.

COST OF PATENT

As above indicated, the entire cost of securing a patent through me, if the invention is of simple character, is $125.00, payable as follows:

When application is ordered	$50.00
When the papers are approved, executed and returned to me for filing	55.00
Within six months after patent is allowed	20.00
Total cost of patent	$125.00

For inventions of intricate or complicated construction, the cost will exceed that above given, the excess depending largely upon the complexity of the invention and the extraordin-

ary work involved in the preparation of the case.

My charges, while by no means the lowest, are no higher than those of other attorneys offering like reliable services and are in all cases as moderate as the character of the work will permit. Careful, prompt, conscientious and reliable work necessitates a return at least partially commensurate with its extra value. Skilled labor brings a correspondingly high price in all fields of effort, and incompetent or indifferent service is high at any price.

REISSUES

If a patent is inoperative or invalid by reason of a defective or insufficient specification, or by reason of the patentee claiming as his invention more than he had a right to claim as new, a reissue thereof may be obtained by the original patentee, his legal representatives, or the assignee of the entire interest, provided the error in the original specification arose through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, and provided, further, that the reissue application is made promptly.

New matter cannot be introduced in a reissue. Any improvement or addition to the original invention must be the subject of a separate patent.

DESIGN PATENTS

This form of protection afforded industrial property possesses an importance too little ap-

preciated or understood by manufacturers generally. Design patents are granted for new, original and ornamental designs for articles of manufacture. They are designed to afford protection against colorable imitation of those articles of manufacture which, by the exercise of inventive genius, have been made to present beauty or artistic or esthetic excellence; to create a pleasing impression of grace, strength, symmetry, or uniqueness in form, shape, configuration, contour, or outline; or to embody features of design which, by reason of the superior appearance presented or the pleasing impression created, tend to enhance the value of the articles by inducing purchasers to select them in preference to other articles of like nature not possessing those features.

A clear realization by manufacturers generally of the advantages afforded would result in a decided increase in the number who would avail themselves of this form of patent. Knowledge that there exists an army of commercial vampires who prey upon their more progressive fellows by flagrantly imitating or counterfeiting meritorious products immediately a market is created should suffice to induce manufacturers to avail themselves whenever possible of the protection which the law relating to design patents affords.

Design patents are granted for three and one-half, seven, or fourteen years, as the applicant may elect. The cost varies with the term applied for and, including all expense, is usually as follows:

For the three and one-half year term.....$50.00
For the seven year term..... 55.00
For the fourteen year term..... 70.00

The proceedings in applications for patents for designs are practically the same as in applications for mechanical patents.

TRADE MARKS

A Trade Mark is any sign, mark, symbol, figure, word, or words applied to a vendible article of merchandise and indicative of the origin or ownership of the article. Such mark is intended to designate the goods of a particular dealer or manufacturer in such manner that they may be readily distinguished from those of his competitors.

Trade-marks are safeguards against counterfeit or inferior goods, are a growing property, constantly becoming more valuable, and cost nothing for maintenance after registry. Through long continued and extensive use a trade-mark acquires great value and not infrequently becomes the principal asset of the business in which it is used.

The Federal Trade Mark Act of 1905 renders registration of trade-marks in the Patent Office particularly advantageous. It gives the registrant a prima facie right to the trade-mark; gives the Federal Courts jurisdiction over all suits relating to registered trade-marks; affords immediate relief by way of injunction to trade-mark registrants when their rights are encroached upon or infringed; gives the Court power to assess damages which, in its discre-

tion, may be for any amount up to three times the actual damage proven, and provides for the delivery to the Court of all copies of the infringing trade-mark. An injunction granted by one court can be enforced in any part of the United States.

The term of registry is twenty years, is renewable and practically perpetual. The total cost of registration is $50.00.

In adopting a trade-mark great care should be exercised with a view to obtain assurance that the mark is one capable of exclusive appropriation—that is, one which has not already been appropriated for the same or similar goods and that it is one which can be registered in the Patent Office. A competent patent attorney should in all cases be consulted before expense is incurred in marketing goods under a new trade-mark.

PRINTS AND LABELS

Labels for bottles, boxes and packages, for medicines, compounds and every description of merchandise, and prints used in advertising merchandise may be protected by registration in Patent Office, provided they exhibit artistic or literary merit. Prints and labels cannot be registered if they bear devices capable of sequestration as a trade-mark, until after such device is registered as a trade-mark. Cost of registration, including all fees, $40.00.

ASSIGNMENTS

Every patent, or any interest therein, is assignable in law by an instrument in writing.

The owner of a patent may also grant the right to make and use the patented article throughout any specified part of the United States; and he may mortgage his interest in the patent, or license others to manufacure and sell under the patent.

An assignment, grant, mortgage, or license, must be recorded in the Patent Office within three months from its date in order to be valid against any subsequent purchaser or mortgagee, for a valuable consideration, without notice. Cost of preparing and recording an assignment of ordinary length, $7.50.

FOREIGN PATENTS

Patents covering inventions and improvements sometimes meet with a ready sale in some of the most important foreign countries. It must be understood that this applies to the more important inventions, or those which possess more than ordinary merit, and not to all the multitudinous inventions and improvements of minor importance which may warrant securing a United States patent. Aside from the cost of securing foreign patents, it should be considered that most foreign governments impose taxes upon patents and also require that working of the invention be performed within specified periods. Where the patent is not sold or actual manufacture on an industrial scale is not performed, the expense involved in keeping up the taxes and in performing the workings necessary to prevent the lapse or forfeiture of the patent may become burdensome. Therefore, the commercial possibilities

of the invention should be carefully weighed before a decision is either made to apply for or to abandon the right to obtain foreign patents.

To procure valid patents in foreign countries without affecting the life of the home patent requires a more or less thorough knowledge of the patent laws of the various countries and oftentimes calls for the exercise of considerable care. Applications should be made in most foreign countries before the United States patent is allowed to issue, but it is ordinarily advisable to delay making application until something patentable has been found in the United States application.

I have all necessary facilities for procuring patents in all patent-granting countries. Estimates of the cost for any country or countries will be quoted upon request.

COPIES OF PATENTS

I can furnish copies of any patent in print at fifteen cents each, if the number of the patent wanted is given. If the number cannot be given, furnish whatever information you have, such as name of the inventor, name of the invention, and date of the patent, and I will try to locate the patent, making a small charge for the search proportionate to the time required.

GENERAL NOTES

Term of Grant—United States patents are granted for a term of seventeen years, during which time the inventor, his successors, or assigns, has the exclusive right to manufacture

and sell the invention and the monopoly of his inventive skill.

Commercial Value—An attorney should not be asked to give his opinion as to the value of an invention, as this can never be foretold. There is no standard for estimating the commercial value of inventions. The value frequently depends more upon the "man behind" the invention than upon the invention itself; that is, upon the push, judgment and energy exercised by the inventor.

Undertaking Sale—I do not undertake the sale of patents. The selling of patents is a separate business from that of procuring them, and they cannot be consistently carried on together.

Taking a Financial Interest—In no case do I become financially interested in inventions. Besides its being unprofessional to do so, many matters are entrusted to me, and my clients would not care to feel that I had financial interests which might be antagonistic to their own.

Procuring Partners—I do not undertake to procure partners for inventors; but, after an inventor has ascertained the patentability of his device through my search report, he should have no difficulty in finding someone who, for an interest in the invention, would advance the necessary patent fees.

Further Information—Do not hesitate to write me fully when in need of information or advice relating to patent or trade-mark matters if your questions are not satisfactorily answered in the preceding pages.

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