

sale. The debtor's ownership is not divested by a levy, and the sheriff merely has the custody. *Banker v. Caldwell*, 3 Minn. 94.

The protection afforded by the common law to literary labor is accorded to alien friend and citizen alike. *Palmer v. De Witt*, 47 N. Y. 532; s. c. 36 How. Pr. 222; s. c. 40 How. Pr. 293; s. c. 5 Abb. Pr. (N. S.) 130; s. c. 2 Sweeny 530.

### **Dramatic Compositions.**

A manuscript of a dramatic composition is equally under the protection of the law with any other work. *Keene v. Kimball*, 82 Mass. 545; s. c. 23 Law Rep. 669.

The rights of an author of a drama in his composition are twofold. He is entitled to the profit arising from its performance, and also from the sale of the manuscript or the printing and publishing it. *Palmer v. De Witt*, 47 N. Y. 532; s. c. 36 How. Pr. 222; s. c. 40 How. Pr. 293; s. c. 5 Abb. Pr. (N. S.) 130; s. c. 2 Sweeny 530.

The permission to act a play at a public theatre does not amount to an abandonment by an author of his title to it, or to a dedication of it to the public. *Palmer v. De Witt*, 47 N. Y. 532; s. c. 36 How. Pr. 222; s. c. 40 How. Pr. 293; s. c. 5 Abb. Pr. (N. S.) 130; s. c. 2 Sweeny 530.

The performance of a play in public, with the consent of the author, for a compensation, is no evidence of his abandonment of the manuscript to the public. *Boucicault v. Fox*, 5 Blatch. 87; *contra*, *Keene v. Kimball*, 82 Mass. 545; s. c. 23 Law Rep. 339.

A performance of a play at a theatre is a general publication. *Keene v. Wheatley*, 4 Phila. 157; s. c. 9 A. L. Reg. 331.

If a general publication of a play does not enable others to represent it through a retention of the words in their memory, the author's proprietorship continues. *Keene v. Wheatley*, 4 Phila. 157; s. c. 9 A. L. Reg. 331; *Boucicault v. Wood*, 2 Biss. 34; s. c. 16 A. L. Reg. 539; *Roberts v. Myers*, 23 Law Rep. 396; s. c. 17 Leg. Int. 405; *Keene v. Clarke*, 5 Robt. 38; *Crowe v. Aiken*, 2 Biss. 208; s. c. 4 A. L. Rev. 450; *vide Keene v. Kimball*, 82 Mass. 545; s. c. 23 Law Rep. 339.

If a play is represented in public, and a spectator retains it by memory alone and publishes it, the exclusive right is gone. *Palmer v. De Witt*, 5 Abb. Pr. (N. S.) 130; s. c. 36 How. Pr. 222; s. c. 40 How. Pr. 293; s. c. 2 Sweeny 530; s. c. 47 N. Y. 532; *contra*, *Tompkins v. Halleck*, 133 Mass. 32.

The evidence must clearly establish the fact that the copy of the play was produced from memory, and negative any other conclusion. *Crowe v. Aiken*, 2 Biss. 208; s. c. 4 A. L. Rev. 450.

A spectator of a play has no right to cause its reproduction by phonographic or other *verbatim* reports, independent of memory. *Keene v. Clarke*, 5 Robt. 38; *Crowe v. Aiken*, 2 Biss. 208; s. c. 4 A. L. Rev. 450.

An intent to abandon a dramatic composition to the public is inferable from frequent and continued representations for a long time and at differ-

ent places. *Keene v. Clarke*, 5 Robt. 38; *Keene v. Kimball*, 82 Mass. 545; s. c. 23 Law Rep. 339.

A play once published by its author may be represented on the stage by any person without infringement upon the author's right. *Keene v. Kimball*, 82 Mass. 545; s. c. 23 Law Rep. 339.

The publication of the piano score of an opera is not such a publication of the opera as will give another the right to use the unpublished libretto of the opera or the unpublished operatic score. *Goldmark v. Collmer*, 15 C. L. N. 67.

Although the piano score of an opera has been published, yet this does not give another the right to use it as a basis for composing an orchestra score and a libretto, and thus put the opera on the stage. *Goldmark v. Collmer*, 15 C. L. N. 67.

If the airs and harmonies of an opera are published with a piano accompaniment, a person who performs the opera with an orchestration prepared by another does not infringe the rights of the author. *Carte v. Ford*, 15 Fed. Rep. 439; *contra*, *Thomas v. Lennon*, 14 Fed. Rep. 849.

### Letters.

The author of any letter, whether it is a literary composition, or a familiar letter, or a letter of business, possesses the sole and exclusive copyright therein. *Folsom v. Marsh*, 2 Story 100; *Woolsey v. Judd*, 4 Duer 379; *Grigsby v. Breckenridge*, 2 Bush 480; *Denis v. Leclerc*, 1 Orleans T. R. 297; *contra*, *Wetmore v. Scovill*, 3 Edw. Ch. 515; *Hoyt v. Mackenzie*, 3 Barb. Ch. 320.

By sending a letter the author parts with his right to the possession, control, or reclamation thereof without the consent of the receiver, and gives the latter the exclusive right to read and keep it. *Grigsby v. Breckenridge*, 2 Bush 480.

The author has a right to publish the letter, if he keeps or can procure a copy; but the recipient is not bound to keep the original for his transcription, inspection, or other use. *Grigsby v. Breckenridge*, 2 Bush 480.

The possession of a letter addressed to the Christian name of the possessor is *prima facie* evidence of title and ownership. *Tefft v. Marsh*, 1 W. Va. 38.

The recipient of a letter has a right to keep it, or destroy it, or dispose of it in any other way than by publication. *Grigsby v. Breckenridge*, 2 Bush 480.

The recipient may read a letter to a friend, or deposit it for safe-keeping, without violating the author's right of publication. *Grigsby v. Breckenridge*, 2 Bush 480.

A person to whom a letter is addressed has no right to publish it, except to protect or vindicate himself. *Folsom v. Marsh*, 2 Story 100.

The government has the right to give publicity to letters addressed to any of the departments by a public officer, even against the will of the writer. *Folsom v. Marsh*, 2 Story 100.



A *feme covert* has the right, as between herself and her husband, to keep and dispose of a confidential letter addressed to her, and not affecting his rights, regardless of his will, whether received before or after marriage. *Grigsby v. Breckenridge*, 2 Bush 480.

A *feme covert*, when she is about to die, may give and deliver a letter addressed to her by another, and after such alienation the letter will not constitute any portion of her estate which can pass to her executor or administrator. *Grigsby v. Breckenbridge*, 2 Bush 480.

Although letters pass to an executor or administrator, yet they are not assets in his hands which may be sold to pay debts, but come to his possession solely for the purpose of being transferred to the widow or next of kin. *Eyre v. Higbee*, 22 How. Pr. 198; s. c. 35 Barb. 502.

SEC. 4968. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

*Statute Revised*—July 8, 1870, ch. 230, § 104, 16 Stat. 215.

*Prior Statutes*—May 31, 1790, ch. 15, § 2, 1 Stat. 124.—April 29, 1802, ch. 36, § 4, 2 Stat. 172.—February 3, 1831, ch. 16, § 13, 4 Stat. 439.

Although the plates were engraved more than two years before the institution of the suit, yet every printing for sale is a new infraction of the right, and if such printing was within two years before the suit was brought, the defendant is liable. *Reed v. Carusi*, Taney 72.

SEC. 4969. In all actions arising under the laws respecting copyrights, the defendant may plead the general issue, and give the special matter in evidence.

*Statute Revised*—July 8, 1870, ch. 230, § 105, 16 Stat. 215.

*Prior Statutes*—May 31, 1790, ch. 15, § 6, 1 Stat. 126.—February 3, 1831, ch. 16, § 10, 4 Stat. 438.

SEC. 4970. The circuit courts, and district courts having the jurisdiction of circuit courts, shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by the laws respecting copyrights, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

*Statute Revised*—July 8, 1870, ch. 230, § 160, 16 Stat. 215.

*Prior Statutes*—February 15, 1819, ch. 19, § 1, 3 Stat. 481.—February 3, 1831, ch. 16, § 9, 4 Stat. 438.

### Parties.

A party who has an equitable title to a copyright may maintain a bill. *Little v. Gould*, 2 Blatch. 165; *Folsom v. Marsh*, 2 Story 100; *Little v. Gould*, 2 Blatch. 362.

The assignee of the right to act and represent a drama within certain territory and for a limited time may maintain an action in his own name, without joining the assignor. *Roberts v. Myers*, 23 Law Rep. 396; s. c. 17 Leg. Int. 405.

A party who surreptitiously obtained a copy of a play can not enjoin another who fraudulently obtains a transcript of his copy. *Martinetti v. Maguire*, 1 Deady 216; s. c. 1 Abb. C. C. 356.

A vendor is liable for the sale of a book which invades the copyright of another. *Greene v. Bishop*, 1 Cliff. 186.

### Pleading.

Instances of similarity or identity should be brought before the court by affidavit, and not by allegations in the bill. *Farmer v. Calvert Publishing Co.*, 1 Flippin 228; s. c. 5 A. L. T. 168.

Inconsistent pleading is matter of form, and can be taken advantage of only by special demurrer. *Atwill v. Ferrett*, 2 Blatch. 39.

A special demurrer which does not point out precisely the parts of the bill intended to be embraced by it is insufficient. *Atwill v. Ferrett*, 2 Blatch. 39.

A general demurrer to the whole bill will be overruled if any independent part of the bill is sufficient. *Atwill v. Ferrett*, 2 Blatch. 39.

An answer may consist in part of a demurrer and in part of a reply. *Pierpont v. Fowle*, 2 W. & M. 23.

One defendant can not object on the ground that his co-defendants are required to answer matters involved in a suit at law against him, especially when they reside out of the district. *Atwill v. Ferrett*, 2 Blatch. 39.

If an averment in the bill that the complainant is a citizen of the United States is not denied in the answer, it will be considered as admitted. *Webb v. Powers*, 2 W. & M. 497.

Where the answer is responsive to the bill it is conclusive, unless it is overcome by the testimony of two witnesses, or of one witness and equivalent circumstances. *Emerson v. Davies*, 3 Story 768.

If the complainant sets the cause down for hearing on bill and answer, everything well pleaded in the answer is thereby admitted to be true. *Parton v. Prang*, 2 O. G. 619; s. c. 3 Cliff. 537; s. c. 6 A. L. T. 105.

### Discovery and Account.

The court may compel a party to disclose the sums received for sales of the work, and account for the same. *Pierpont v. Fowle*, 2 W. & M. 23.



A defendant can not be compelled to make discoveries in answer to a bill which seeks to enforce penalties and forfeitures against him by means of such discoveries. *Atwill v. Ferrett*, 2 Blatch. 39.

A discovery will not be decreed in aid of an action of trespass, for the complainant can not maintain such action. *Atwill v. Ferrett*, 2 Blatch. 39.

If the defendant answers, it is too late to raise the objection that the discovery may render him liable to a penalty or forfeiture. *Farmer v. Calvert Publishing Co.*, 1 Flippin 228 ; s. c. 5 A. L. T. 168.

An injunction and an account of the profits may be awarded, although the complainant did not expressly waive the forfeiture and penalty in the bill. *Farmer v. Calvert Publishing Co.*, 1 Flippin 228 ; s. c. 5 A. L. T. 168.

The right to an account is an incident of a right to an injunction, and an account may be ordered under a prayer for general relief. *Stevens v. Gladding*, 17 How. 447 ; *Stevens v. Cady*, 2 Curt. 200.

If there is no prayer for an account or for general relief, no decree can be made for profits. *Stevens v. Cady*, 2 Curt. 200.

If the infringer sold on commission, he must account for the commissions so received as profits. *Stevens v. Gladding*, 2 Curt. 608.

### Issues.

When the rights of the parties depend on the construction of a written instrument, the court will decide the controversy, without directing an issue to be tried at law. *Pierpont v. Fowle*, 2 W. & M. 23.

On an issue to a jury the bill and answer can not be read in evidence by the defendant, unless it is so ordered by the court at the time of directing the issue. *King v. Force*, 2 Cranch C. C. 208.

### Preliminary Injunction.

A motion for a preliminary injunction will be disposed of on the affidavits filed by the parties, and will not be referred to a master. *Smith v. Johnson*, 4 Blatch. 252.

On motion for a preliminary injunction, affidavits taken to be used in the cause may be so used, although they are not entitled in the case. *Shook v. Rankin*, 6 Biss. 477.

A preliminary injunction may be granted although the questions involved have never been settled by any prior adjudication. *Little v. Gould*, 2 Blatch. 165.

Where an infringement is palpable and a provisional injunction will not be attended with serious injury, it is not ordinarily refused as to so much of the work as is a plain infringement of the prior publication. *Banks v. McDivett*, 13 Blatch. 163 ; s. c. 8 O. G. 860.

If the questions involved are grave, they will not be determined on motion for a preliminary injunction, but will be postponed till the final hearing. *Miller v. McElroy*, 2 Penn. L. J. 305 ; s. c. 1 A. L. Reg. 198 ; *Myers v. Callaghan*, 5 Fed. Rep. 726 ; s. c. 10 Biss. 139.

Where a question is doubtful, a decision on a motion for an injunction may be suspended and an issue sent to be tried at law. *Jollie v. Jaques*, 1 Blatch. 618.

The doubt which will justify a refusal to grant a preliminary injunction must be a serious doubt remaining after a faithful investigation of the law and the facts. *Little v. Gould*, 2 Blatch. 165.

If there is nothing to identify or distinguish the parts in which the complainant claims a copyright, and the defendant's affidavits deny the equities of the bill, a preliminary injunction will not be granted. *Flint v. Jones*, 1 W. N. 334.

If there are doubts in regard to the infringement of a copyright, the defendant may be allowed to give bond instead of awarding a preliminary injunction. *Hubbard v. Thompson*, 14 Fed. Rep. 689.

Whether the doubt arises upon a question of fact or upon a question of law is unimportant, for if there is a doubt a preliminary injunction will be refused. *Scribner v. Stoddard*, 19 A. L. Reg. 433.

If the benefit to the complainant would be small and the loss to the defendant serious, a preliminary injunction will not be granted. *Scribner v. Stoddard*, 19 A. L. Reg. 433.

If a reprint of a small article in an encyclopedia will not injure the sale of the former, a preliminary injunction will not be granted. *Scribner v. Stoddard*, 19 A. L. Reg. 433; s. c. 8 W. N. 61.

On a motion to dissolve an injunction, the complainant cannot read affidavits for the purpose of rebutting averments in the answer as to his title, but must depend upon the affidavits filed with his bill. *Farmer v. Calvert Publishing Co.*, 1 Flippin 228; s. c. 5 A. L. T. 168.

A denial of the complainant's title on information and belief, not supported by the affidavit of any person having personal knowledge, is not sufficient to entitle the defendant to a dissolution of an injunction. *Farmer v. Calvert Publishing Co.*, 1 Flippin 228; s. c. 5 A. L. T. 168.

### **Injunction.**

If the alleged infringement does not prejudice the complainant, he is not entitled to an account or an injunction. *Chase v. Sanborn*, 6 O. G. 932; s. c. 4 Cliff. 306.

If a book infringes a copyright of another book in some parts and in other parts is no infringement, the remedy will not be extended beyond the injury. *Story v. Holcombe*, 4 McLean 306; *Emerson v. Davies*, 3 Story 768.

If the motive was not culpable and the part copied can not be separated from the rest of the work, an injunction will not be awarded. *Webb v. Powers*, 2 W. & M. 497.

If the complainant aided the defendant in the publication of the work without asserting any claim under his copyright, he can not restrain the sale thereof. *Heine v. Appleton*, 4 Blatch. 125.

A defendant may be restrained from using the name of a play in adver-



tisements with the intent to lead the public to believe that the genuine play will be performed. *Shook v. Wood*, 32 Leg. Int. 264.

A party who is attached for contempt in violating a perpetual injunction cannot contest the validity of the copyright. *Drury v. Ewing*, 1 Bond 540.

### Practice.

The complainant must show that he is the author of the work, or that his title is derived from one sustaining that relation to the publication. *Greene v. Bishop*, 1 Cliff. 186.

The burden of proof is on the complainant to establish his right to copyright as well as the infringement. *Chase v. Sanborn*, 6 O. G. 932; s. c. 4 Cliff. 306.

The copyright is *prima facie* evidence that the party is the author, and the burden of proof is on the defendant to show the contrary. *Reed v. Carusi*, Tancy 72.

### Master.

The usual course is to send the case to a master before determining the merits. *Chase v. Sanborn*, 6 O. G. 932; s. c. 4 Cliff. 306; *Story v. Derby*, 4 McLean 160.

A master is required to report conclusions, and in general it is irregular for him to incorporate the details of the evidence into his report without the direction of the court. *Greene v. Bishop*, 1 Cliff. 186.

Whenever it is requested by either party, a master should specify and identify the evidence, and refer to it in such a manner as to inform the court on what state of facts his conclusions are based. *Greene v. Bishop*, 1 Cliff. 186.

Exceptions to a master's report are written enumerations of the errors alleged by the complaining party, and of the corrections he requests to have made, and they should be so framed as not merely to allege error in general terms, but should be sufficiently definite and explicit to enable the court understandingly to decide on each point in dispute. General allegations of error without pointing to any particulars are insufficient. *Greene v. Bishop*, 1 Cliff. 186.

An exception which, without any suggestion or imputation of fraud or undue influence, merely alleges that the master has arrived at a wrong conclusion on the evidence, without pointing out any specific portion of the testimony to support the allegation, can not in general be regarded as sufficient to put the finding of the master in issue, or to require the court to review and revise the same in a matter of fact dependent entirely upon the weight and effect of the evidence submitted to his consideration. *Greene v. Bishop*, 1 Cliff. 186.

Although an exception is insufficient, yet if the court is satisfied that any error has been committed by the master in the finding referred to, it may re-commit the report in order that the error may be corrected. *Greene v. Bishop*, 1 Cliff. 186.

The finding of the master in a matter of fact depending on the weight and effect of the evidence will not be interfered with unless it is clearly shown that there is manifest error. *Greene v. Bishop*, 1 Cliff. 186.

If the exceptions to the master's report are overruled, all matters found by the master and embraced in the order of reference must be taken to be true. All other matters depend on the evidence, and must be heard and determined by the court as in other cases on final hearing. *Greene v. Bishop*, 1 Cliff. 186.

**SEC. 4971.** Nothing in this chapter shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

*Statute Revised*—July 8, 1870, ch. 230, § 103, 16 Stat. 215.

*Prior Statutes*—May 31, 1790, ch. 15, § 5, 1 Stat. 125.—February 3, 1831, ch. 16, § 8, 4 Stat. 438.

The word "print" in this section embraces chromos. *Yuengling v. Schile*, 12 Fed. Rep. 97; s. c. 20 Blatch. 452.

The word "print" in this section embraces lithographs. *Yuengling v. Schile*, 12 Fed. Rep. 97; s. c. 20 Blatch. 452.



RULES OF PRACTICE  
IN THE  
UNITED STATES PATENT OFFICE.  

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APPENDIX OF FORMS.

RULES OF PRACTICE  
IN THE  
UNITED STATES PATENT OFFICE.

REVISED FEBRUARY 1, 1883.

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The following regulations, designed to be in strict accordance with the Revised Statutes relating to the grant of patents for inventions, are published for gratuitous distribution. Marginal references to corresponding provisions of the revised statutes, and of the Rules of 1878, are given for the convenience of the public and of the office.

The observance of the appended forms, in all cases to which they may be applicable, is recommended to inventors and attorneys.

Printed copies of the revised statutes relating to the grant of patents may be obtained on application to the Commissioner.

**Correspondence.**

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation or understanding, in relation to which there is disagreement or doubt.

2. All office letters must be sent in the name of the "Commissioner of Patents." All letters and other communications intended for the office must be addressed to him; if addressed to any of the other officers they will ordinarily be returned.

3. Express charges, freight, postage and all other charges on matter sent to the patent office, must be prepaid in full; otherwise it will not be received.

4. The personal attendance of applicants at the patent office is unnecessary. Their business can be transacted by correspondence.

5. The assignee of the entire interest of an invention is entitled to hold correspondence with the office to the exclusion of the inventor.



6. Where there has been an assignment of an undivided part of an invention, the inventor and the assignee will both be recognized as the proper parties to hold correspondence with the office, and all amendments and other actions in such cases must be signed by both parties; but official letters will be sent in such case to the postoffice address of the inventor, unless he shall otherwise direct.

7. When an attorney shall have filed his power of attorney, duly executed, the correspondence will be held with him.

8. A double correspondence with the inventor and an assignee, or with a principal and his attorney, or with two attorneys, can not generally be allowed.

9. A separate letter should in every case be written in relation to each distinct subject of inquiry or application. Assignments for record, final fees and orders for copies or abstracts, must be sent to the office in separate letters.

10. When a letter concerns an application, it should state the name of the applicant, the title of the invention, the serial number of the application (see Rule 31), and the date of filing the same.

11. When the letter concerns a patent, it should state the name of the patentee, the title of the invention, and the number and date of the patent.

12. No attention will be paid to *ex parte* statements or protests of persons concerning pending applications to which they are not parties, unless information of the pendency of such applications should have been voluntarily communicated by the applicants.

13. Letters received at the office will be answered, and orders for printed copies filled, without unnecessary delay. Telegrams, if not received before 3 o'clock P. M., can not ordinarily be answered until the following day.

### **Information to Correspondents.**

14. The office can not respond to inquiries as to the novelty of an alleged invention in advance of an application for a patent, nor to inquiries propounded with a view of ascertaining whether any alleged improvements have been patented, and, if so, to whom; nor can it act as an expounder of the patent law, or as counsellor for individuals, except as to questions arising within the office.

Of the propriety of making an application for a patent, the inventor must judge for himself. The office is open to him, and its records and models pertaining to all patents granted may be inspected either by himself or by any attorney or expert he may call to his aid, and its reports are widely distributed. (See Rule 216.) Further than this the office can render him no assistance until his case comes regularly before it in the manner prescribed

by law. A copy of the rules, with this section marked, sent to the individual making an inquiry of the character referred to, is intended as a respectful answer by the office. Examiners' digests are not open to public inspection.

15. Caveats and pending applications are preserved in secrecy. No information will be given, without authority, respecting the filing by any particular person of a caveat or of an application for a patent or for the reissue of a patent, the pendency of any particular case before the office, or the subject-matter of any particular application, unless it shall be necessary to the proper conduct of business before the office, as provided by Rules 97, 102, and 126. (See Rule 171.)

16. After a patent has issued, the model, specification, drawings, and all documents relating to the case are subject to general inspection, and copies, except of the model, will be furnished at the rates specified in Rule 209.

### **Attorneys.**

17. Any person of intelligence and good moral character may appear as the agent or the attorney in fact of an applicant, upon filing a proper power of attorney. As the value of patents depends largely upon the careful preparation of the specifications and claims, the assistance of competent counsel will, in most cases, be of advantage to the applicant; but the value of their services will be proportionate to their skill and honesty, and too much care cannot be exercised in their selection. The office cannot assume responsibility for the acts of attorneys, nor can it assist applicants in making selections. It will, however, be unsafe to trust those who pretend to the possession of any facilities except capacity and diligence for procuring patents in a shorter time or with broader claims than others.

18. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. No power of attorney purporting to have been given to a firm or copartnership will be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

19. Substitution or association can be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second agent to appoint a third.

20. Powers of attorney may be revoked at any stage in the proceedings of a case upon the applicant showing reasons therefor satisfactory to the Commissioner; and when so revoked the office will communicate directly with the applicant, or such other attorney as he may appoint. Attorneys will be promptly notified by the examiner in charge of the case, of the revocation



of their powers of attorney. An assignment of an undivided interest will not operate as a revocation of the power of attorney previously given, but the assignee of the entire interest may be represented by an attorney of his own selection.

21. Parties or their attorneys will be permitted to examine their cases in the attorneys' room, but not in the rooms of the examiners. Personal interviews with examiners will be permitted only as hereinafter provided. (See Rules 147, 148.)

22. Attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will ordinarily be returned. Complaints against examiners and other officers must be made in separate communications and will be promptly investigated. For gross misconduct the commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

23. Inasmuch as applications cannot be examined out of their regular order, except in accordance with the provisions of Rule 62, and members of Congress can neither examine nor act in patent cases without written powers of attorney, applicants are advised not to impose upon senators or representatives labor which will consume their time without any advantageous results.

#### Applicants.

24. 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 for more than two years prior to his application, unless the same is proved to have been abandoned: and by any person who, by his own industry, genius, efforts, and expense, has invented and produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woollen, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known nor used by others before his invention or production thereof, nor patented nor described in any printed publication, upon payment of the fees required by law and other due proceedings had. (See Rules 78 to 83.)

25. In case of the death of the inventor, the application may be made by, and the patent will issue to, his executor or admin-

istrator. In such case the oath will be made by the executor or administrator.

26. In case of an assignment of the whole interest in the invention, or of the whole interest in the patent to be granted, the patent will, if the assignment has been duly recorded, issue to the assignee; and if the assignee hold an undivided part interest, the patent will issue jointly to the inventor and the assignee; but the assignment in either case must first have been entered of record at a day not later than the date of the payment of the final fee. The application and oath must be made by the actual inventor, if alive, even if the patent is to issue to an assignee. If the inventor be dead it may be made by the executor or administrator, or by the assignee of the entire interest.

27. If it appear that the inventor, at the time of making his application, believed himself to be the first inventor or discoverer, a patent will not be refused on account of the invention or discovery, or any part thereof, having been known or used in any foreign country before his invention or discovery thereof, if it had not been before patented or described in any printed publication.

28. Joint inventors are entitled to a joint patent; neither can claim one separately. Independent inventors of distinct and independent improvements in the same machine can not obtain a joint patent for their separate inventions; nor does the fact that one furnishes the capital and another makes the invention entitle them to make application as joint inventors; but in such case they may become joint patentees, upon the conditions prescribed in Rule 26.

29. The receipt of letters patent from a foreign government will not prevent the inventor from obtaining a patent in the United States unless the invention shall have been introduced into public use in the United States more than two years prior to the application. But every patent granted for an invention which has been previously patented by the same inventor in a foreign country will be so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest unexpired term; but in no case will it be in force more than seventeen years.

### The Application.

30. Applications for letters patent of the United States must be made to the commissioner of patents. A complete application comprises the petition, specification, oath and drawings, and the model or specimen when required (see Rules 28, 48, 55, 57, 61), and first fee of \$15. The petition, specification and oath must be written in the English language.

31. No application for a patent will be placed upon the files for examination until all its parts, except the model or specimen,



are received. Every application signed or sworn to in blank, or without actual inspection of the petition and specification, or altered or partly filled up after being signed or sworn to, will, upon the discovery of such irregularity, at any time before the delivery of the patent, be stricken from the files. The completed applications of each year will be numbered in regular order, the annual series commencing on the 1st of January, 1880. The applicant will be promptly informed of the serial number of his completed application. The application must be completed and prepared for examination within two years after the filing of the petition; and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action thereon, of which notice shall have been duly mailed to him or his agent, it will be regarded as abandoned, unless it shall be shown, to the satisfaction of the commissioner, that such delay was unavoidable. (See Rules 165-167.)

32. It is desirable that all parts of the complete application should be deposited in the office at the same time, and that all the papers embraced in the application should be attached together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. (See Rule 10.)

#### THE PETITION.

33. The petition is a communication duly signed by the applicant and addressed to the commissioner of patents, stating the name and residence of the petitioner, and requesting the grant of a patent for the invention therein designated by name, with a reference to the specification for a full disclosure thereof. (For Forms and Petitions see Appendix, Forms 1-9.)

#### THE SPECIFICATION.

34. The specification is a written description of the invention or discovery, and of the manner and process of making, constructing, compounding, and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same. It must conclude with a specific and distinct claim or claims of the part, improvement, or combination which the applicant regards as his invention or discovery.

35. The following order of arrangement should be observed, when convenient, in framing the specification, such portions as refer to drawings being omitted when the invention does not admit of representation by drawings:

- (1.) Preamble giving the name and residence of the applicant, the title of the invention, and the statement required by the last clause of Rule 39;

(2.) General statement of the object and nature of the invention ;

(3.) Brief description of the drawings, showing what each view represents ;

(4.) Detailed description, explaining fully the alleged invention, and the manner of constructing, practicing, operating, and using it ;

(5.) Claim or claims ;

(6.) Signature of inventor ;

(7.) Signatures of two witnesses.

36. The detailed description above referred to must set forth the precise invention for which a patent is claimed, explaining the principle thereof and the best mode in which the applicant has contemplated applying that principle, so as to distinguish it from other inventions.

37. Where there are drawings the description will refer by figures to the different views and by letters or figures to the different parts.

38. In applications for patents upon mere improvements, the specification must particularly point out the parts to which the improvement relates, and must by explicit language distinguish between what is old and what is claimed as the improvement ; and in such cases the description and the drawings, as well as the claims, should be confined to the specific improvements and such parts as necessarily co-operate with them.

39. In every original application the applicant must distinctly state, under oath, whether the invention has been patented to himself or to others with his consent or knowledge in any country, and if it has been, the country or countries in which it has been so patented, giving the date and number of each patent, and that it has not been patented in any other country or countries than those mentioned, and that, according to his knowledge and belief, the same has not been in public use or on sale in the United States for more than two years prior to the application in this country.

40. Two or more independent inventions cannot be claimed in one application ; but where several distinct inventions are dependent upon each other and mutually contribute to produce a single result, they may be claimed in one application.

41. If several inventions, claimed in a single application, shall be found to be of such a nature that a single patent may not be issued to cover them, the inventor will be required to limit the description and claim of the pending application to whichever invention he may elect ; the other inventions may be made the subjects of separate applications, which must conform to the rules applicable to original applications. If the independence of the inventions be clear, such limitation will be made before any action upon the merits ; otherwise it may be made at any time before final action thereon, in the discretion of the examiner.



42. When an applicant makes two or more applications relating to the same subject-matter of invention, all showing, but only one claiming, the same thing, those not claiming it must contain disclaimers thereof, with references to the application claiming it.

43. The specification must be signed by the inventor or by his executor or administrator, and the signature must be attested by two witnesses. Full names must be given, and all names, whether of applicants or witnesses, must be legibly written.

44. The specification and claims and all amendments must be written in a fair, legible hand, on but one side of the paper; otherwise the office may require them to be printed; and all interlineations and erasures must be clearly marked in margin or foot-notes written on the same sheet of paper. Legal-cap paper with the lines numbered is deemed preferable, and a wide margin must always be reserved upon the left-hand side of the page, both of the specification and of the amendments. (For Forms of Specifications, see Appendix, Forms 12-15.)

#### THE OATH.

45. The applicant, if the inventor, must make oath\* or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent, and that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen, and where he resides.† An applicant for reissue must also, on his oath, state that he verily believes the original patent to be inoperative or invalid, either by reason of a defective or insufficient specification or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, and that the error arose by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention.

46. If the application be made by an executor or administrator, the form of the oath will be correspondingly changed. The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant

\* NOTE.—In all applications for letters patent filed in this Office subsequent to October 24, 1882, the signature of the applicant is required to the oath, in accordance with Form 17, page 61.

† For additional sworn statements which may be embraced in this oath or in a separate oath, see Rule 39. For form of oath, see Form 17, page 61.

may be, the oath being attested in all cases, in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. When the person before whom the oath or affirmation is made is not provided with a seal his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.\*

47. In case the applicant seeks by amendment to introduce any claim not substantially embraced in the statement of invention or claim originally presented and therefore not covered by the original oath, he will be required to file a supplemental oath to the effect that the subject-matter of the proposed amendment was part of his invention and was invented before he filed his original application; and such supplemental oath must be upon the same paper which contains the proposed amendment.

#### THE DRAWINGS.

48. The applicant for a patent is required by law to furnish a drawing of his invention where the nature of the case admits of it.

49. The drawing must be signed by the inventor or by his attorney in fact, and attested by two witnesses, and must show every feature of the invention covered by the claims, and when the invention consists of an improvement on an old machine, it must exhibit, in one or more views, the invention itself, disconnected from the old structure, and also, in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

50. Three several editions of patent-drawings are printed and published: one for office use, certified copies, &c., of the size and character of those attached to patents, the work being about 6 by 9½ inches; one reduced to half that scale, or one-fourth the surface, of which four will be printed on a page to illustrate the volumes distributed to the courts; and one reduction—to about the same scale—of a selected portion of each drawing to illustrate the Official Gazette.

This work will all be done by the photolithographic or other analogous process, and therefore the character of each original drawing must be brought as nearly as possible to a uniform standard of excellence, suited to the requirements of the process, and calculated to give the best results, in the interests of inventors, of the office, and of the public generally. The following rules will therefore be rigidly enforced, and any departure from

\* A certificate of the official character of a magistrate, stating date of appointment and term of office, may be filed in the Patent Office, which will obviate the necessity of separate certificates in individual cases.



them will be certain to cause delay in the examination of an application for letters patent :

(1.) Drawings must be made upon pure white paper of a thickness corresponding to three-sheet Bristol board. The surface of the paper must be calendered and smooth. India ink alone must be used, to secure perfectly black and solid lines.

(2.) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downward from the marginal line, a space of not less than  $1\frac{1}{2}$  inch is to be left blank for the heading of title, name, number, and date.

(3.) All drawings must be made with the pen only. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines, however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. Sectional shading should be made by oblique parallel lines, which may be about one-twentieth of an inch apart.

(4.) Drawings should be made with the fewest lines possible consistent with clearness. By the observance of this rule the effectiveness of the work after reduction will be much increased. Shading (except on sectional views) should be used only on convex and concave surfaces, where it should be used sparingly, and may even there be dispensed with if the drawing is otherwise well executed. The plane upon which a sectional view is taken should be indicated on the general view by a broken or dotted line. Heavy lines on the shade sides of objects should be used, except where they tend to thicken the work and obscure letters of reference. The light is always supposed to come from the upper left-hand corner, at an angle of forty-five degrees. Imitations of wood or surface-graining should not be attempted.

(5.) The scale to which a drawing is made ought to be large enough to show the mechanism without crowding, and two or more sheets should be used if one does not give sufficient room to accomplish this end; but the number of sheets must never be increased unless it is absolutely necessary.

(6.) Letters and figures of reference must be carefully formed. They should, if possible, measure at least one-eighth of an inch in height, so that they may bear reduction to one-twenty-fourth of an inch; and they may be much larger when there is sufficient room. They must be

so placed in the close and complex parts of drawings as not to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, where there is available space, and connected by short broken lines with the parts to which they refer. They must never appear upon shaded surfaces, and, when it is difficult to avoid this, a blank space must be left in the shading where the letter occurs, so that it shall appear perfectly distinct and separate from the work. If the same part of an invention appear in more than one view of the drawing it must always be represented by the same character, and the same character must never be used to designate different parts.

(7.) The signature of the inventor is to be placed at the lower right-hand corner of the sheet, and the signature of the witnesses at the lower left-hand corner, all within the marginal line. (See specimen drawing, page 56.) The title is to be written with pencil on the back of the sheet. The permanent names and title will be supplied subsequently by the office in uniform style.

When views are longer than the width of the sheet, the sheet is to be turned on its side, and the heading will be placed at the right, and the signatures at the left, occupying the same space and position as in the upright views, and being horizontal when the sheet is held in an upright position; and all views on the same sheet must stand in the same direction.

(8.) As a rule, one view only of each invention can be shown in the Gazette illustrations. The selection of that portion of a drawing best calculated to explain the nature of the specific improvement should be facilitated, and the final result improved, by the judicious execution of a figure with express reference to the Gazette, but which might, at the same time, serve as one of the figures referred to in the specification. For this purpose, the figure may be a plan, elevation, section or perspective view, according to the judgment of the draftsman. It must not cover a space exceeding sixteen square inches. All its parts should be especially open and distinct, with very little or no shading, and it must illustrate the invention claimed only, to the exclusion of all other details. (See specimen drawing.) When well executed, it will be used without curtailment or change; but any excessive fineness, or crowding, or unnecessary elaborateness of detail, will necessitate its exclusion from the Gazette.

(9.) Drawings should be rolled for transmission to the office, not folded. No agent's or attorney's stamp, or adver-



tisement, or written address, will be permitted upon the face of a drawing within or without the marginal line.

51. These rules are modified as to drawings for designs. (See Rules for Designs, 81, 82, 83.)

52. All reissue applications must be accompanied by new drawings, of the character required in original applications, and the inventor's name must appear upon the same in all cases of patents granted or assigned since July 8, 1870; and such drawings, if the original application was filed after July 8, 1870, shall be made upon the same scale as the original drawing or upon a larger scale, unless a reduction of scale shall be authorized by the commissioner.

53. The foregoing rules relating to drawings will be rigidly enforced; and every drawing not artistically executed in conformity therewith will be returned to the applicant; or, at the applicant's option and cost, the office will make the necessary corrections.

54. Applicants are advised to employ competent artists to make their drawings. The office will furnish the drawings at cost, as promptly as its draftsmen can make them, for applicants who cannot otherwise conveniently procure them.

No employes of the patent office, except those regularly assigned to such duty, will make any drawings, whether copies or originals, for applicants, agents, or attorneys.

#### THE MODEL.

55. Preliminary examinations will not be made for the purpose of determining whether models are required in particular cases. Applications complete in all other respects will be sent to the examining divisions, whether models are or are not furnished. A model will not be required or admitted as a part of the application until, on examination of the case in its regular order, the primary examiner shall find it to be necessary or useful, and shall file a written certificate to that effect, which will constitute an official action in the case. Models not required nor admitted, if already filed, will be returned to the applicants. When a model shall be required the examination will be suspended until it shall be filed. From a decision of the primary examiner overruling a motion to dispense with a model an appeal may be taken to the commissioner in person, under the provisions of Rule 140.

56. The model must clearly exhibit every feature of the machine which forms the subject of a claim of invention, but should not include other matter than that covered by the actual invention or improvement, unless it is necessary to the exhibition of the invention in a working model.

57. The model must be neatly and substantially made, of

durable material, metal being deemed preferable; but when a material forms an essential feature of the invention, the model will be constructed of that material. The model must not be more than one foot in length, width, or height, except in cases in which the commissioner shall admit working models of complicated machines of larger dimensions. If made of wood, it must be painted or varnished. Glue must not be used; but the parts should be so connected as to resist the action of heat or moisture. When practicable, to prevent loss, the model or specimen should have the name of the inventor permanently fixed thereon. In cases where models are not made strong and substantial, as here directed, the application will not be examined until a proper model is furnished.

58. A working model is often desirable, in order to enable the office fully and readily to understand the precise operation of the machine.

59. In all cases where an application has been rejected more than two years, the model, unless it is deemed necessary that it should be preserved in the office, may be returned to the applicant upon demand, and at his expense; and the model, in any pending case of less than two years' standing, may be returned to the applicant upon the filing of a formal abandonment of the application, signed by the applicant in person. (See Rule 165.) Models belonging to patented cases will not be taken from the office except in the custody of some sworn employee of the office specially authorized by the commissioner.

60. Models filed as exhibits, in contested cases, may be returned to the applicant. If not claimed within a reasonable time they may be disposed of, at the discretion of the commissioner.

#### SPECIMENS.

61. When the invention or discovery is a composition of matter, the applicant, if required by the commissioner, shall furnish specimens of the composition, and of its ingredients, sufficient in quantity for the purpose of experiment. In all cases where the article is not perishable, a specimen of the composition claimed, put up in proper form to be preserved by the office, must be furnished.

#### The Examination.

62. All cases in the patent office are classified and taken up for examination in regular order, those in the same class being examined and disposed of, as far as practicable, in the order in which the respective applications are completed. When, however, the invention is deemed of peculiar importance to some branch of the public service, and when, for that reason, the head



of some department of the government specially requests immediate action, the case will be taken up out of its order. Cases, with cases remanded by an appellate tribunal for further action, statements of grounds of decisions by primary examiners provided for in Rules 130 and 140, applications for extensions, for reissue, for letters patent for inventions for which foreign patents have already been obtained, and for designs, have precedence over all others in the order enumerated. Action upon such cases in the order indicated will be promptly made by the examiner in charge, to the exclusion of all other business interfering therewith.\*

63. The first step in the examination of an application will be to determine whether it is, in all respects, in proper form. If, however, the objections as to form are not vital, the examiner may proceed to the consideration of the application on its merits; but in such case he must, if possible, in his first letter to the applicant, state all his objections, whether formal or otherwise, and until the formal objections are disposed of no further action will be taken upon its merits without the order of the commissioner.

### **Rejections and References.**

64. Whenever, on examination, any claim of an application is rejected for any reason whatever, the applicant will be notified thereof, and the reason for such rejection will be fully and precisely stated, and such information and references will be given as may be useful in judging of the propriety of prosecuting his application or of altering his specification; and if, after receiving such notice, he shall persist in his claim, with or without altering his specification, the case will be re-examined. If upon re-examination it shall be again rejected, the reasons therefor will be fully and precisely stated. (See Rule 89.)

65. Upon the rejection of an application for want of novelty, the examiner must cite the best references at his command. If patents be cited, their dates and numbers, the names of the patentees, and the classes of invention must be stated. When the reference shows or describes inventions other than that claimed by the applicant, the particular part relied on will be designated as nearly as practicable. The pertinence of the reference, if not obvious, must be clearly explained and the anticipated claim specified. If printed publications be cited, the title, date, page, or plate, and place of publication, or place where a copy can be found, will be given. Where reference is made to facts within the personal knowledge of an employee of the office, the data will be as specific as possible, and the reference must be

\* NOTE.—If an application is found to contain patentable subject-matter interfering with a caveat its allowance will be suspended, as hereinafter provided in Rule 106.

supported by the affidavit of such employee, which shall be subject to contradiction, explanation, and corroboration by the affidavits of the applicant and other persons. If the patent or other printed matter, plates, or drawings, so referred to, are in the possession of the office, copies will be furnished at cost upon the order of the applicant. (See Rule 171.)

66. Whenever, in the treatment of an *ex parte* application, an adverse decision is made upon any preliminary or intermediate question, without the rejection of any claim, notice thereof, together with the reasons therefor, will be given to the applicant, in order that he may judge of the propriety of the action. If, after receiving such notice, he traverse the propriety of the action, the matter will be reconsidered.

### Amendments and Actions by Applicants.

67. Every applicant has a right to amend before or after the first rejection; and he may amend as often as the examiner presents any new references or reasons for rejection. In so amending the applicant must clearly point out all of the patentable novelty which he thinks the case presents, in view of the state of the art disclosed by the references cited or objections made. He must also show how the amendments avoid such references or objections. After such action on all the claims as shall entitle the applicant to appeal to the board of examiners-in-chief, amendments will ordinarily be allowed. If such amendments are not allowed and sufficient cause therefor must be shown, together with the reasons why they were not earlier presented, and, if insisted on these points, the examiner may admit and allow them. If the examiner shall refuse to admit and allow amendments, an appeal will lie to the commissioner,

and the applicant will be entitled to the reconsideration provided for in Rule 64. The applicant must make request therefor in writing, and must distinctly and specifically point out the supposed errors of the examiner's action. The mere allegation that the examiner has erred will not be received as a proper reason for such reconsideration. This provision does not apply to the case of a demand for re-examination upon the rejection of a claim under Rule 64.

69. In original applications, which are capable of illustration by drawing or model, all amendments of the model, drawings, or specification or of additions thereto must conform to at least one of them as they were at the time of the filing of the application. Matter not found in either involving a departure from the original invention can be shown or claimed only in a separate application. If the invention does not admit of illustration by drawing or model, amendment of the specification is permitted upon proof



satisfactory to the commissioner that the matter covered by the proposed amendment was a part of the original invention; the affidavits prescribed in Rule 47 may or may not be sufficient.

70. The specification must be amended and revised, when required, for the purpose of correcting inaccuracies of description or unnecessary prolixity, and of securing correspondence between the claim and the other parts of the specification.

71. After the completion of the application the office will not return the specification for any purpose whatever. The model or drawing\* (but not both at the same time) may be withdrawn for correction. If applicants have not preserved copies of such papers as they wish to amend, the office will furnish them on the usual terms.

72. All amendments of specifications or claims must be made on sheets of paper separate from the original. Even when the amendment consists in striking out a portion of the specification or of the claims, the same course must be observed. Erasures must not be made by the applicant. In every case of amendment the exact word or words to be stricken out or inserted must be clearly specified, and the precise point indicated where the erasure or insertion is to be made. (See Rule 44.)

73. Where an amendatory clause is amended it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the case is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to arrange the papers for printing or copying, the examiner or commissioner may require the entire specification to be rewritten. (See Rule 44.)

74. When an original or reissue application is rejected on reference to an expired or unexpired domestic patent, which substantially shows or describes but does not claim the rejected invention, or to a foreign patent, or to a printed publication, and the applicant shall make oath to facts showing a completion of the invention before the filing of the application for the domestic patent, or before the date of the foreign patent, or before the date at which the printed publication was made, and shall also make oath that he does not know and does not believe that the invention has been in public use or on sale in this country for more than two years prior to his application, and that he has never abandoned the invention, then the patent or publication cited will not bar the grant of a patent to the applicant, *except upon interference, as provided in Rule 94.*

75. When an application is rejected on reference to an expired or unexpired domestic patent which shows or describes, but does not claim, the rejected invention, or to a foreign patent, or to a printed publication, or to facts within the personal knowledge

\*NOTE.—Drawings will in no instance be returned to an applicant or his authorized agent unless a model has been filed and accepted by the examiner as a part of the application.

of an employee of the office, set forth in an affidavit of such employee, or on the ground of public use or sale, or upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative, or frivolous, or injurious to public health or morals, affidavits or depositions supporting or traversing these references or objections may be received; but they will be received in no other cases, without special permission of the commissioner. (See Rule 86.)

76. If an applicant neglect to prosecute his application for two years after the date when the last official notice of any action by the office was mailed to him, the application will be held to be abandoned, as set forth in Rule 165.

77. Applications in interference can be amended only as provided in Rules 104, 124, 125. After notice of allowance of an application for a patent, no amendments will be received, nor will the examiner have any jurisdiction over the application, unless by authority of the commissioner. Amendments not affecting the merits may be made after allowance and after payment of the final fee, on the recommendation of the primary examiner, approved by the commissioner, without withdrawing the application from issue. (See Rule 160.)

### **Designs.**

78. A patent for a design may be granted to any person, whether citizen or alien, in the cases specified in Rule 24, upon payment of the duty required by law, and other due proceedings had, as in other cases of inventions or discoveries.

79. Patents for designs are granted for the term of three and one-half years, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

80. The proceedings in applications for patents for designs are substantially the same as in applications for other patents. The specification must distinctly point out the characteristic features of the design, and carefully distinguish between what is old and what is believed to be new. The claims also, when the design admits of it, should be as distinct and specific as in the case of other patents. The following order of arrangement should be observed, when convenient, in framing the specification:

(1.) Preamble showing name and residence of the applicant, title of the design, and the name of the article for which the design has been invented.

(2.) Detailed description of the design as it appears in the drawing or photograph, letters or figures of reference being used.

(3.) Claim or claims.

(4.) Signature of inventor.

(5.) Signatures of two witnesses.



81. When the design can be sufficiently represented by drawings or photographs, a model will not be required.

82. Whenever a photograph or an engraving is employed to illustrate the design it must be mounted upon Bristol board, 10 by 15 inches in size, and properly signed and witnessed. The applicant will be required to furnish ten extra copies of such photograph or engraving (not mounted), of a size not exceeding 7½ inches by 11. Negatives are not required.

83. Whenever the design is represented by a drawing made to conform to the rules laid down for drawings of mechanical inventions, but one copy need be furnished. Additional copies will be supplied by the photolithographic process at the expense of the patent office.

(For Forms to be used in Applications for Design Patents, see Appendix, Forms 9 and 15.)

### Reissues.

84. A reissue is granted to the original patentee, his legal representatives, or the assignees of the entire interest, when, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his invention or discovery more than he had a right to claim as new, the original patent is inoperative or invalid, provided the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention. In the cases of patents issued and assigned prior to July 8, 1870, the applications for reissue may be made by the assignees; but in the cases of patents issued or assigned since that date the applications must be made and the specification sworn to by the inventors, if they be living.

85. The petition for a reissue must be accompanied with a certified copy of the abstract of title, giving the names of all assignees owning any undivided interest in the patent; and in case the application is made by the inventor, it must be accompanied with the written assent of such assignees.

86. Applicants will be required to file with their petitions for reissue :

“1st. A statement setting forth particularly the defects or insufficiencies in the specification which render the patent inoperative or invalid, and in cases where more was claimed and allowed than the applicant was entitled to claim as new, such part or parts must be distinctly pointed out.

“2d. In such statement the applicant must explain how such errors arose, in order that the question of inadvertence, accident or mistake may be determined.

“3d. The statement must be accompanied with the oath of the applicant that said errors arose without any fraudulent or deceptive intention.\*

\* NOTE.—See Rule 52 for instructions as to drawings in reissue applications.

“ From the decision of the examiner holding that the statement or oath is insufficient, an appeal may be taken to the commissioner in person.”

87. No new matter shall be introduced into the reissue specification, nor in case of a machine shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident or mistake.

88. The commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division of such reissued letters patent. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of Rule 49. Unless it shall be otherwise ordered by the commissioner, all the divisions of a reissue will issue simultaneously; if there be controversy as to one, the others will be withheld from issue until the controversy is ended, unless he shall otherwise order.

89. In cases of application for reissue, an original claim, if reproduced in the amended specification, is subject to re-examination, and the entire application will be revised and restricted in the same manner as original applications.

90. The application for a reissue must be accompanied by a surrender of the original patent, or, if that is lost, by an affidavit to that effect, and a certified copy of the patent; but if a reissue be refused, the original patent will, upon request, be returned to the applicant.

91. Matter which is shown and described, and might have been lawfully claimed, in an unexpired patent, but was not claimed by reason of a defect or insufficiency in the specification, arising from inadvertence, accident or mistake, and without fraud or deceptive intent, can not be subsequently claimed by the patentee in a separate patent, but only in a reissue of the original patent.

### **Interferences.**

92. An interference is a proceeding instituted for the purpose of determining the question of priority of invention between two or more parties claiming substantially the same patentable invention. 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 a patent, he may grant a patent for the same invention to another person who proves to be the prior inventor.



93. Interferences will be declared in the following cases, when all the parties claim substantially the same patentable invention :

(1.) Between two or more original applications.

(2.) Between an original application and an unexpired patent, when the applicant, having been rejected on the patent, shall file an affidavit showing that he made the invention before the patentee's application was filed.

(3.) Between an original application and an application for the reissue of a patent granted during the pendency of such original application.

(4.) Between an original application and a reissue application, when the original applicant shall file an affidavit showing that he made the invention before the patentee's original application was filed.

(5.) Between two or more applications for the reissue of patents granted on applications pending at the same time.

(6.) Between two or more applications for the reissue of patents granted on applications not pending at the same time, when the applicant for reissue of the later patent shall file an affidavit showing that he made the invention before the application on which the earlier patent was granted was filed.

(7.) Between a reissue application and an unexpired patent, if the original applications were pending at the same time, and the reissue applicant shall file an affidavit showing that he made the invention before the original application of the other patentee was filed.

(8.) Between an application for reissue of a later unexpired patent and an earlier unexpired patent granted before the original application of the later patent was filed, if the reissue applicant shall file an affidavit showing that he made the invention before the original application of the earlier patent was filed.

94. No interference will be declared between pending applications nor between a pending application and an unexpired patent unless there are conflicting claims; but where an application is involved in an interference in part and shows and describes without claiming a patentable invention claimed by another party thereto, the applicant may at any time before the time fixed for filing the statement provided for in Rule 105, on motion duly made as provided in Rule 149, file an amendment of his application duly claiming such invention, and on the admission of such amendment the invention shall be included in the interference. Such motion must be accompanied by the proposed amendment, and when in proper form will be transmitted by the examiner of interferences to the primary examiner for his determination. Upon the final determination of such motion the papers and files will be returned to the examiner of interferences, and in case the amendment shall be admitted the



primary examiner will re-declare the interference and prepare and forward to the examiner of interferences new notices of the interference, as provided in Rules 97, 101 and 102. The decision of the primary examiner will be binding upon the examiner of interferences unless reversed or modified upon appeal, as provided in Rule 118.

95. Before the declaration of interference all preliminary questions must be settled by the primary examiner, and the issue must be clearly defined; the invention which is to form the subject of the controversy must be decided to be patentable, and the claims of the respective parties must be put in such condition that they will not require alteration after the interference shall have been finally decided, unless the testimony adduced upon the trial shall necessitate or justify such change.

96. Where, however, a party who is required to put his case in a condition proper for an interference fails to do so within a reasonable time specified, the declaration of interference will not be delayed. After final judgment of priority the application of such party will be held for revision and restriction, subject to interference with other applications or new references. (See Rule 93.)

97. When an interference is found to exist and the applications are prepared therefor, the primary examiner will forward to the examiner of interferences notices of interference for all the parties, as specified in Rule 102, which will disclose the name and residence of each party, and that of his attorney, the date of the filing of his application, and, if his case be a patent, its date and number, the date of its application, the ordinals of conflicting claims, and the invention claimed, which shall be clearly and concisely defined, in so many counts or branches as may be necessary in order to include all interfering claims.●

98. Upon receipt of the notices of interference, the examiner of interferences will make an examination thereof, in order to ascertain whether the issue between the parties has been clearly defined, and whether it is otherwise correct. If he be of the opinion, upon such examination, that the notices are ambiguous in this particular, or are imperfect in any material point, he will transmit his objections to the primary examiner, who will promptly notify him of his decision to amend or not to amend them.

99. In case of a material disagreement between the examiner of interferences and the primary examiner, they shall refer the points of difference to the commissioner for decision.

100. The primary examiner will retain jurisdiction of the case until the declaration of interference is made.

101. When the notices of interference have been settled, the examiner of interferences will add thereto a designation of the time within which the statements required by Rule 105 must be filed, and will, *pro forma*, institute and declare the interference



by forwarding the notices to the several parties to the interference.

102. Notices of interference will be forwarded, by the examiner of interferences, to all the parties, or to their attorneys, or, in case the application or patent in interference has been assigned, to the assignees. When one of the parties has received a patent, a notice will be sent to the patentee and to his attorney of record. When one of the parties resides abroad and has no known agent in the United States, notice, in addition to that sent by mail, may be given by publication in the Official Gazette for such period of time as the commissioner may direct. Whenever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, the examiner in charge will notify each of said principal parties, and also the attorney, of this fact.

103. Upon the institution and declaration of the interference, as provided in Rule 101, the examiner of interferences will take jurisdiction of the same, which will then become a contested case; but the primary examiner will determine the motions mentioned in Rule 116, as therein provided.

104. An applicant involved in an interference may, before the date fixed for the filing of his statement (see Rule 105), in order to avoid the continuance of the interference, disclaim, over his own signature, attested by two witnesses, the invention of the particular matter in issue, and upon such disclaimer, and the cancellation of any claims involving such interfering matter, judgment shall be rendered against him, and the disclaimer shall be embodied in and form part of his specification. (See Rules 187, 188.)

105. Each party to the interference will be required to file a concise statement under oath, showing the date of his original conception of the invention, of its illustration by drawing or model, of its disclosure to others, of its completion, and of the extent of its use. The parties will be strictly held in their proof to the dates set up in their statements. The statement must be sealed up before filing (to be opened only by the examiner of interferences), and the name of the party filing it, the title of the case, and the subject of the invention indicated on the envelope. The statements shall not be open to the inspection of the opposing parties until both shall have been filed, or the time for filing both with any extension thereof shall have expired, nor then, unless they have been examined by the proper officer and found to be satisfactory.

106. If, on such examination, a statement is found to be defective in any particular, the party shall be notified of the defect, and a time assigned within which he must cure such defect by an amended statement; but in no case will any original or amended statement be returned after it has been once filed.

107. If either party to an interference fail to file a statement, or if the statement of either party fail to overcome the *prima facie* case made by the respective dates of application, the other may demand an immediate adjudication of the case upon the record. Where there are more than two parties to the interference, and any of them fail to file their statements, judgment may be rendered upon the record as to such parties, and the interference will proceed between the remaining parties.

108. If any party to an interference fail to file a statement, no testimony will subsequently be received from him to prove that he made the invention at a date prior to his application. The statement can in no case be used as evidence in behalf of the party making it.

109. If either party require a postponement of the time for filing the statements, he will present his motion duly served on the other parties, with his reasons therefor, supported by affidavit, prior to the day previously fixed upon. But the examiner of interferences may, in his discretion, dispense with service of notice of such motion.

110. In case of material error in the statement, arising through inadvertence or mistake, it may be corrected on motion (see Rule 149), upon showing to the satisfaction of the commissioner that its correction is essential to the ends of justice. The motion to correct the statement must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error.

111. In original proceedings in cases of interference the several parties will be presumed to have made the invention in the chronological order in which they filed their completed applications for patents clearly illustrating and describing the invention; and the burden of proof will rest upon those who shall seek to establish a different state of facts.

112. A time will be assigned in which the junior applicant shall complete his testimony in chief, and a further time in which the other party shall complete the testimony on his side, and a further time in which the junior applicant may take rebutting testimony, but shall take no other. If there be more than two parties, either patentees or applicants, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior applicants and to rebut their evidence, and also to meet the evidence of junior applicants.

113. If either party fails to take his testimony within the time assigned to him, all junior applicants having duly taken theirs, the case may, on motion duly made and served on such party, be set for hearing at any time not less than ten days after the hearing of the motion.

114. If either party desires to have the hearing postponed, he will make application for such postponement by motion (see Rule 140), and will show sufficient reason therefor by affidavit.



115. If either party desires an enlargement of the time assigned to him for taking testimony, he will make application therefor as provided for in Rule 150 (5).

116. Motions to dissolve an interference upon the ground that no interference in fact exists, or that there has been such irregularity in declaring the same as will preclude a proper determination of the question of priority between the parties, or which deny the patentability of an applicant's claim or his right to make the claim, should, if possible, be made before the day fixed for filing the statements provided for in Rules 97, 101 and 102. Such motions, when in proper form, will be transmitted by the examiner of interferences, with the files and papers, to the primary examiners for their determination, and he will return the files and papers to the examiner of interferences, with his decision, at the expiration of the time limited for appeal, if no appeal shall have been taken, or sooner if the party entitled to appeal shall file a waiver in writing of his right of appeal, and such decision will be binding on the examiner of interferences unless reversed or modified on appeal. (See Rule 118.)

117. All lawful motions, except those mentioned in Rule 116, will be made before and determined by the tribunal having jurisdiction at the time. The filing of motions will not operate as a stay of proceedings in any case. To effect this, motion should be made before the tribunal having jurisdiction of the interference, which will, sufficient ground appearing therefor, order a suspension of the interference pending the determination of such motion.

118. Appeal may be taken directly to the commissioner from decisions on all motions, except motions to dissolve interferences denying the patentability of applicants' claims, or their rights to make the claims, and other lawful motions involving the merits of the case, which, when appellable, may be appealed to the board of examiners-in-chief. From a decision affirming the patentability of the claim or the applicant's right to make the same no appeal can be taken.

119. After the interference is finally declared, it will not, except as herein otherwise provided, be determined without judgment of priority founded upon the testimony, or upon a written concession of priority by one of the parties, signed by the inventor himself, and, also, in the case of an assignment, by the assignee.

120. In their decision of the question of priority, or before such decision, the examiner of interferences and the examiners-in-chief will direct the attention of the commissioner to any matter not relating to priority which may have come to their notice, and which, in their opinion, establishes the fact that no interference exists, or that there has been irregularity in declaring the same (Rule 116), or which amounts to a statutory bar to the grant of a patent to either of the parties for the claim or claims in interference. The commissioner may, before judgment

on the question of priority of invention, suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed, and his decision will be subject to appeal, as in other cases. If the case shall not be so remanded, the primary examiner will, after judgment, consider any matter affecting the rights of either party to a patent which may have been called to his attention, unless the same shall have been previously disposed of by the commissioner.

121. A second interference will not be declared upon a new application on the same invention filed by either party, nor will a decision be set aside after judgment, except in accordance with the principles governing the granting of new trials.

122. If at any time during the pendency of an interference the primary examiner discover new references, he may request a suspension of the interference for their consideration *ex parte* until their pertinency shall be determined, when the files and papers will be returned to the examiner of interferences and the interference dissolved or reinstated in accordance with such determination.

123. The primary examiner may request a suspension of an interference for the purpose of adding new parties; but no new parties will be added after the taking of testimony without the special order of the commissioner.

124. No amendments to the specification will be received during the pendency of an interference, except as provided in Rules 94, 104, 125.

125. When a part only of the claims of an application are involved in an interference, the applicant may withdraw from his application the claims adjudged not to interfere, and file a new application therefor, if the application can be legitimately divided, and if no more of the devices claimed in one is shown or described in the other than is necessary to an intelligent understanding of the invention claimed in the latter: *Provided*, That no claim shall be made in the second application broad enough to include matter claimed in the first application as amended. (See Rule 12.)

126. When applications are declared to be in interference, the interfering parties will be permitted to see or obtain copies of the interfering claims, and of so much of the specifications as relate thereto.

127. When it shall appear, on motion duly made, and upon satisfactory proof, that, by reason of the inability or refusal of the inventor to prosecute or defend an interference, or from other cause, the ends of justice shall require that an assignee of an undivided interest in the invention be permitted to prosecute or defend the same, the commissioner may so order.



**Appeals.**

128. Every applicant for a patent or the reissue of a patent, any of the claims of whose application have been twice rejected upon grounds involving the merits of the invention, such as lack of novelty or utility, abandonment, public use, or want of identity of invention, either in amended or in reissue applications, may appeal from the decision of the primary examiner to the board of examiners-in-chief, having once paid a fee of ten dollars. The appeal must be made in writing, signed by the party, or his duly authorized agent or attorney, setting forth the points of the decision upon which the appeal is taken, and duly filed.

129. There must be two rejections of the claims as originally filed, or, if amended in matter of substance, of the amended claims, and all the claims must be passed upon, and all preliminary and intermediate questions relating to matters not affecting the merits of the invention settled, before the case is appealed to the examiners-in-chief.

130. Upon the filing of the appeal the same shall be submitted to the primary examiner, who, if he find the appeal to be regular in form, shall furnish the examiners-in-chief with a written statement of the grounds of his decision on all the points involved in the appeal, with copies of the rejected claims, and with the references applicable thereto. If the primary examiner shall decide that the appeal is not regular in form, an appeal from such decision may be taken directly to the commissioner, as provided in Rule 140.

131. The appellant shall, before the day of hearing, file a brief of the authorities and arguments on which he will rely to maintain his appeal.

132. If the appellant desire to be heard orally before the examiners-in-chief, he will so indicate when he files his appeal; a day of hearing will then be fixed, and due notice of the same given to him.

133. In contested cases the appellant shall have the right to make the opening and closing arguments unless it shall be otherwise ordered by the tribunal having jurisdiction of the case.

134. The examiners-in-chief in their decision will affirm or reverse the decision of the primary examiner only on the points on which appeal shall have been taken. (See Rule 128.) If they shall discover any apparent grounds not involved in the appeal for granting or refusing letters patent in the form claimed, or in any other form, they will annex to their decision a statement to that effect, with such recommendation as they shall deem proper.

From any judgment of the primary examiner, on points embraced in the recommendation annexed to the decision adverse to the appellant, appeal may be taken on questions involving the merits to the board of examiners-in-chief and on other questions to the commissioner, as in other cases.

If an appeal shall be taken from the decision of the examiners-in-chief to the commissioner, the commissioner, whenever in his opinion substantial justice shall require it, may, either before or after final judgment, remand the case to the primary examiner for consideration of any amendment or action based upon the recommendation annexed to the decision of the examiners-in-chief.

If the commissioner, in revising the decision of the examiners-in-chief, shall discover any apparent grounds for granting or refusing letters patent not involved in the appeal, he will, before or after final judgment, whenever, in his opinion, substantial justice shall require it, give reasonable notice thereof to the parties; and if any amendment or action based thereon shall be proposed, he will remand the case to the primary examiner for consideration.

From decisions of the primary examiner, in cases remanded, as herein provided, appeal will lie to the board of examiners-in-chief, or directly to the commissioner, as in other cases.

135. If affidavits be received, under Rule 75 or 86, after the case has been appealed, the application will be remanded to the primary examiner for reconsideration.

136. From the adverse decision of the board of examiners-in-chief appeal may be taken to the commissioner in person, upon payment of the fee of twenty dollars required by law.

137. Cases which have been heard and decided by the commissioner on appeal will not be reopened except by the commissioner; and cases which have been decided by the examiners-in-chief will not be reheard by them, when no longer pending before them, without the written authority of the commissioner.

138. Cases will be regarded as pending before a tribunal until appeal has been taken from its decision, or until the limit of appeal, which must be fixed in each case, has expired.

139. Cases which have been deliberately decided by one commissioner will not be reconsidered by his successor except in accordance with the principles which govern the granting of new trials.

140. Decisions of examiners upon preliminary or intermediate questions, not involving the merits of the case, once repeated, will be re-examined by the commissioner upon written statements of the points of appeal, and of the grounds of the examiners' decisions, as in other appeals. For appeals of this class no fee is required.

141. In cases of interference parties have the same remedy by appeal to the examiners-in-chief and to the commissioner as in *ex parte* cases; but no appeal lies in such cases from the decision of the commissioner.

142. Appeals in interference cases must be accompanied with brief statements of the reasons therefor; and both parties will



be required to file briefs of their arguments before the day of hearing. Printed briefs are in all cases preferred.

143. From the adverse decision of the commissioner upon the claims of an application an appeal may be taken to the Supreme Court of the District of Columbia sitting *in banc*. On taking such appeal, the applicant is required, under the rules of the court, to pay to the clerk of the court a docket-fee of ten dollars, and he is also required by law to lay before the court certified copies of all the original papers and evidence in the case. The petition should be filed and the fee paid at least ten days before the commencement of the term of court at which the appeal is to be heard.

144. Immediately upon taking an appeal the appellant must give notice thereof to the commissioner of patents, and file in the patent office his reasons of appeal, specifically set forth in writing. The Supreme Court of the District of Columbia having decided (see 17 O. G. 446) to entertain appeals from decisions of the commissioner of patents in cases of applications rejected, on motion by the commissioner, without previous adjudication of the question of patentability by the examiners-in-chief, *pro forma* proceedings will not hereafter be had in the patent office for the purpose of securing to applicants their right of appeal to that court.

145. The docket for the trial of cases appealed from the decision of the commissioner of patents will be called on the first day of each session of the Supreme Court of the District of Columbia in general term. These sessions are held three in each year, and begin, respectively, on the first Monday in January, the third Monday in April, and the fourth Monday in September.

(For Forms of Appeals and Rules of the Supreme Court of the District of Columbia respecting Appeals, see Appendix, Forms 35, 36.)

#### **Hearings and Interviews.**

146. Hearings will be had by the commissioner at 10 o'clock A. M., and by the board of examiners-in-chief and the examiner of interferences at 1 o'clock P. M., on the day appointed, unless some other hour be specially designated. If either party in a contested case, or the appellant in an *ex parte* case, appear at the proper time, he will be heard by the examiner of interferences or the examiners-in-chief; but a contested case will not be taken up for oral argument after the day of hearing, except by consent of both parties. If the engagements of the tribunal having jurisdiction of the case be such as to prevent it from being taken up on the day of hearing, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to one hour for each party. After a con-

tested case has been argued, nothing further relating thereto will be heard unless upon request of the tribunal having jurisdiction of the case; and all interviews for this purpose with parties in interest or their attorneys will be invariably denied.

147. Interviews with examiners concerning applications and other matters pending before the office must be had at such times, within office hours, as the respective examiners may designate, in the examiners' rooms, with the principal examiners, or, in their absence, with the assistants in charge; they will not be had at any other time or place without the written authority of the commissioner.

148. Interviews for the discussion of pending applications will not be had prior to the first official action thereon.

### **Motions.**

149. In contested cases reasonable notice of all motions, and copies of motion-papers and affidavits, must be served, as provided for in Rule 150 (2). Proof of such service must be made before the motion will be entertained by the office; and motions will not be heard in the absence of either party except upon default after due notice. Motions will be heard in the first instance by the officer or tribunal before whom the particular case may be pending; but an appeal from the decision rendered may be taken on questions involving the merits of the case to the board of examiners-in-chief; on other questions, directly to the commissioner. In original hearings, on motions, the moving parties shall have the right to make the opening and closing arguments. In contested cases the practice on points to which the rules shall not be applicable will conform, as nearly as possible, to that of the United States courts in equity proceedings.

### **Taking and Transmitting Testimony.**

150. The following rules have been established for taking and transmitting testimony in extensions, interferences and other contested cases:

(1.) Before the depositions of witnesses are taken by either party due notice shall be given to the opposite party, as hereinafter provided, of the time and place when and where the depositions will be taken, of the cause or matter in which they are to be used, and of the names and residences of the witnesses to be examined, so that the opposite party shall have full opportunity, either in person or by attorney, to cross-examine the witnesses. If the opposite party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to ob-



ject to their examination, he shall be deemed to have waived any objection to their examination based on want of notice thereof. Neither party shall take testimony in more than one place at the same time, or so nearly at the same time as not to allow reasonable time to travel from one place of examination to the other.

(2.) The notice for taking testimony or for motions must be served (unless otherwise stipulated in an instrument in writing filed in the case) upon the attorney of record, if there be one, or, if there be no attorney of record, then upon the adverse party, and it must give the opposite party reasonable time to reach the place of examination. Such service may be made by delivering a copy of the notice to the adverse party or attorney, by leaving a copy at the usual place of business of the party or attorney with some one in the employment of such party or attorney, or by leaving a copy at the party's usual place of residence with a member of his family, or by transmission by registered letter, or by express, or when it shall be shown, to the satisfaction of the commissioner, that neither of the other modes of service herein prescribed is practicable, by publication in the Official Gazette; and such notice shall, with sworn proof of the fact, time, and mode of service thereof, be attached to the deposition or depositions, whether the opposing party shall have cross-examined or not.

(3.) Each witness before testifying shall be duly sworn according to law by the officer before whom his deposition shall be taken. The depositions shall be carefully read over by the witness, or by the officer in his hearing, and shall then be subscribed by the witness, in the presence of the officer. The officer shall annex to the deposition his certificate showing (1) the due administration of the oath by the officer to the witness before the commencement of his testimony; (2) the name of the person by whom the testimony was written out, and the fact that, if not written by the officer, it was written in his presence; (3) the presence or absence of the adverse party; (4) the place, day and hour of commencing and taking the depositions; and (5) the fact that the officer was not connected, by blood or marriage, with either of the parties, nor interested directly or indirectly in the matter in controversy. The officer shall sign the certificate and affix thereto his seal of office, if he have such seal. He shall then, without delay, securely seal up all the evidence, notices and paper exhibits, inscribe upon the envelope a certificate, giving the title of the case, the name of each witness, and the date of sealing, address the package, and forward the same to the commissioner of patents. If the weight or bulk of an exhibit shall exclude it from the envelope, it shall be

authenticated by the officer and transmitted in a separate package, marked and addressed as above provided.

(4.) In cases of extension, where no opposition shall be made, *ex parte* testimony will be received from the applicant; and such testimony as may have been taken by the applicant prior to notice of opposition will be received, unless taken within thirty days after filing the petition for the extension. But upon receiving notice of opposition, the applicant shall immediately give notice to the opposing party or parties of the names and residences of the witnesses whose testimony shall have been thus taken.

(5.) If either party shall be unable to procure the testimony of a witness within the time limited, any motion which he may make for an extension of his time must be accompanied by a statement, under oath, of the cause of such inability, the name of such witness, the facts expected to be proved by him, the steps which have been taken to procure said testimony, and the dates at which efforts have been made to procure it. (See Rule 149.)

(6.) When a party relies upon a caveat to establish the date of his invention, the caveat itself, or a certified copy thereof, must be filed in evidence, with due notice to the opposite party.

(7.) Upon notice given to the opposite party before the closing of the testimony, any official record, and any special matter contained in a printed publication, if competent evidence and pertinent to the issue, may be used as evidence at the hearing.

151. The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The testimony must be taken upon legal-cap or foolscap paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet.

152. The testimony will be taken in answer to interrogatories, with the questions and answers committed to writing in their regular order by the officer, or, in his presence, by some person not interested in the case, either as a party thereto or as attorney. But, with the written consent of the parties, the depositions may be written out by other persons in the presence of the officer. No officer who is connected by blood or marriage with either of the parties, or interested, directly or indirectly, in the matter in controversy, either as counsel, attorney, agent, or otherwise, is competent to take depositions, unless with the written consent of all the parties.

153. By leave of the commissioner, first obtained, testimony may be taken in foreign countries:

(1.) Such permission will be granted only upon motion duly made. (See Rule 149.)



The motion must designate a place for the examination of the witnesses at which an officer duly qualified to take testimony under the laws of the United States in a foreign country shall reside, and it must be accompanied by a statement, under oath, that the motion is made in good faith, and not for purposes of delay or of vexing or harassing any party to the case; it must also set forth the names of the witnesses, the particular facts to which it is expected each will testify, and the grounds on which is based the belief that each will so testify.

(2.) It must appear that the testimony desired is material and competent, and that it cannot be taken in this country at all, or cannot be taken here without hardship and injury to the moving party greatly exceeding that to which the opposite party will be exposed by the taking of such testimony abroad.

(3.) Upon the granting of such motion, a time will be set within which the moving party shall file in duplicate the interrogatories to be propounded to each witness and serve a copy of the same upon each adverse party, who may, within a designated time, file, in duplicate, cross-interrogatories. Objections to any of the interrogatories or cross-interrogatories may be filed at any time before the depositions are taken, and will be considered and determined upon the hearing of the case.

(4.) As soon as the interrogatories and cross-interrogatories are decided to be in proper form, the commissioner will cause them to be forwarded to the proper officer, with the request that, upon payment of, or satisfactory security for, his official fees, he notify the witnesses named to appear before him within a designated time and make answer thereto under oath; and that he reduce their answers to writing, and transmit the same, under his official seal and signature, to the commissioner of patents, with the certificate prescribed in Rule 150 (3).

(5.) By stipulation of the parties the requirements of paragraph (3) as to written interrogatories and cross-interrogatories may be dispensed with, and the testimony may be taken before the proper officer upon oral interrogatories by the parties or their agents.

(6.) Unless false swearing in the giving of such testimony before the officer taking it shall be punishable as perjury, under the laws of the foreign state where it shall be taken, it will not stand on the same footing, in the patent office, as testimony duly taken in the United States; but its weight in each case will be determined by the tribunal having jurisdiction of such case.

154. No evidence touching the matter at issue will be considered on the hearing which shall not have been taken and filed

in compliance with these rules. But no notice will be taken of any merely formal or technical objection which shall not appear to have wrought a substantial injury to the party raising it; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof to the office, and also to the opposite party, informing him at the same time that, unless it should be removed, he should urge his objection at the hearing. This rule is not to be so construed as to modify established rules of evidence, which will be applied strictly in all practice before the office.

155. The law requires the clerks of the various courts of the United States to issue subpoenas to secure the attendance of witnesses whose depositions are desired as evidence in contested cases in the patent office.

156. After testimony is filed in the office it may be inspected by any party to the case, but it can not be withdrawn for the purpose of printing. It may be printed by some one specially designated by the office for that purpose, under proper restrictions.

157. Six or more printed copies of the testimony must be furnished—five for the use of the office, and one for the use of each of the opposing parties. These copies must be filed not less than one week before the day of hearing. They will have wide margins, with the names of the witnesses at the top of the pages over their testimony, and will contain indexes with the names of all witnesses, and references to the pages where their testimony may be found, and also to the pages where copies of papers and documents introduced as exhibits are shown. Printing can only be dispensed with on special application based upon satisfactory reasons, in which case manuscript copies must be furnished—one for the office and one for each adverse party.

158. It is desirable that arguments and briefs in all contested cases should be submitted in printed form, and filed before the hearing. If either party fail to comply with this regulation, no extension of time will be granted for the purpose, except upon consent of the adverse party.

### **Issue.**

159. If, on examination, it shall appear that the applicant is justly entitled to a patent under the law, a notice of allowance will be sent him, calling for the payment of the final fee, upon the receipt of which, within the time fixed by law, the patent will be prepared for issue. (See Rules 212, 213.)

160. After notice of the allowance of an application is given, the case will not be withdrawn from issue except by approval of the commissioner, and if withdrawn for further action on the part of the office, a new notice of allowance will be given.



When the final fee has been paid upon an application for letters patent, and the case has received its date and number, it will not be withdrawn or suspended from issue on account of any mistake or change of purpose of the applicant or his attorney, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reason except mistake on the part of this office, or fraud, or illegality in the application, or for interference. (See Rule 77.)

### **Date, Duration, and Form of Patents.**

161. Every patent will bear date as of a day not later than six months from the time at which the application was passed and allowed and notice thereof was mailed to the applicant or his agent, if within that period the final fee be paid to the commissioner of patents, or if it be paid to the treasurer, or any of the assistant treasurers or designated depositaries of the United States, and the certificate promptly forwarded to the commissioner of patents; and if the final fee be not paid within that period, the patent will be withheld. (See Rule 169.)

A patent will not be antedated.

162. Every patent will contain a short title of the invention or discovery, indicating its nature and object, and a grant to the patentee, his heirs and assigns, for the term of seventeen years, of the exclusive right to make, use and vend the invention or discovery throughout the United States and the territories thereof. But if the invention shall have been previously patented abroad, the term of the patent will expire with the term of the foreign patent. The duration of a design patent may be for the term of three and a half, seven or fourteen years, as provided in Rule 79. A copy of the specification and drawings will be annexed to the patent and form part thereof.

### **Delivery.**

163. The patent will be delivered or mailed, on the day of its date, to the patentee, unless there be an attorney of record, in which case it will be delivered to him or the patentee, as the attorney may request; but it will not, without a special request to that effect, be delivered to an associate or substitute attorney.

### **Correction of Errors in Letters Patent.**

164. Where a mistake, incurred through the fault of the office, is clearly disclosed by the records or files of the office, a certificate, showing the fact and nature of such mistake, signed by the Secretary of the Interior, countersigned by the commissioner of patents, and sealed with the seal of the patent office,

will, at the request of the patentee or his assignee, be indorsed without charge upon the letters patent, and recorded in the records of patents, and a printed copy thereof attached to each printed copy of the specification and drawings.

Where a mistake, incurred through the fault of the office, constitutes a sufficient legal ground for a reissue, such reissue will be made, for the correction of such mistake only, without charge of office fees, at the request of the patentee.

Mistakes not incurred through the fault of the office, and not affording legal grounds for reissue, will not be corrected after the delivery of the letters patent to the patentee or his agent.

No changes or corrections will be made in letters patent after the delivery thereof to the patentee or his agent, except as above provided.

### **Abandoned, Forfeited, and Renewed Applications.**

165. An abandoned application is one which has not been completed and prepared for examination within two years after the filing of the petition, or which the applicant has failed to prosecute within two years after any action therein, of which notice has been duly given (see Rules 31 and 76), or which the applicant has expressly abandoned by filing, in the office, a written declaration of abandonment, signed by himself, identifying his application by title of invention and date of filing. (See Rule 59.)

Prosecution of an application, to save it from abandonment, must include such proper action as the condition of the case may require.

166. Before an application abandoned by failure to complete or prosecute can be renewed, it must be shown to the satisfaction of the commissioner that the delay in the prosecution of the same was unavoidable.

167. When a new application is filed in place of an abandoned or rejected application, a new specification, oath, drawing, and fee will be required; but the old model, if suitable, may be used.

168. A forfeited application is one upon which a patent has been withheld for failure to pay the final fee within the prescribed time. (See Rule 161.)

169. Where the patent has been withheld by reason of non-payment of the final fee, any person, whether inventor or assignee, who has an interest in the invention for which such patent was ordered to issue, may file a new application for the same invention; but such second application must be made within two years after the allowance of the original application. Upon the hearing of such new application abandonment will be considered as a question of fact.

170. In such renewal the oath, petition, specification, drawing, and model of the original application may be used for the second



application ; but a new fee will be required. The second application will not be regarded as a continuation of the original one, but will bear date from the time of renewal, and be subject to examination like an original application.

171. Forfeited and abandoned applications will not be cited as references. But when an applicant makes claim to an invention previously claimed by and allowed to another, whose application has become forfeited by reason of the non-payment of the final fee within six months from the date of the letter of allowance, he will be notified that unless he shall file an affidavit, showing that he made the invention before such previously allowed application was filed, his own application will not be passed to issue.

Where more than one such subsequent applicant claims the invention thus previously allowed, each will be required to file the affidavit above mentioned within a reasonable specified time, before an interference can be declared between such later applications.

No notice will be given to applicants, while their cases remain forfeited, of the filing of subsequent applications. Certified copies of the files in cases of rejected and abandoned applications may be furnished to applicants or to other persons when specifically ordered by the commissioner.

### **Extensions.**

172. No patent granted since March 2, 1861, can be extended except by act of Congress.

173. When a patent has been so extended, subject to the further decision of the commissioner, the subsequent proceedings will be conducted in accordance with the following rules :

174. Any person may oppose an application for extension, but must give notice of such opposition to the applicant or his attorney of record within the time hereinafter named, and furnish him with a statement of his reasons of opposition. After such notice he will be regarded as a party in the case, and will be entitled to notice of the time and place of taking testimony, to a list of the names and residences of the witnesses whose testimony may have been taken before service of his notice of opposition, and to a copy of the application and of any other papers on file, upon payment of the cost thereof. He must also immediately file a copy of such notice and reasons of opposition, with proof of service of the same, in the patent office.

175. If the extension is opposed on the ground of lack of novelty in the invention, the reasons of opposition must contain a specific statement of any and all matter relied upon for this purpose.

176. The applicant for an extension must furnish to the office a statement, in writing, under oath, of the ascertained value of

the invention, and of his receipts and expenditures on account thereof, both in this and in foreign countries. This statement must be detailed and particular, unless sufficient reasons are shown for a failure to make it so. It must in all cases be filed with the petition.

177. Such statement must also be accompanied with a certified abstract of title and a declaration under oath, setting forth the extent of the applicant's interest in the extension sought.

178. The questions which arise on each application for an extension are:

(1.) Was the invention new and useful when patented?

(2.) Is it valuable and important to the public, and to what extent?

(3.) Has the inventor been reasonably remunerated for the time, ingenuity, and expense bestowed upon the invention, and upon its introduction into use? If not, has his failure to be so remunerated arisen from neglect or fault on his part?

(4.) What will be the effect of the proposed extension upon the public interests?

179. No proof will be required from the applicant upon the first question unless the invention is assailed upon those points by opponents.

180. To enable the commissioner to come to a correct conclusion in regard to the second point of inquiry, the applicant must, if possible, present the testimony of disinterested persons taken under oath. This testimony must distinguish carefully between the specific devices covered by the claims of the patent and the general machine in which those devices may be incorporated.

181. Upon the third point of inquiry the applicant, having by his own oath shown his receipts and expenditures on account of the invention, must also show, by testimony under oath, that he has taken all reasonable measures to introduce his invention into general use; and that, without neglect or fault on his part, he has failed to obtain from the use and sale of the invention a reasonable remuneration for the time, ingenuity, and expense bestowed on the same, and on its introduction into use.

182. In case of opposition to the extension of a patent both parties may take testimony, each giving reasonable notice to the other of the time and place of taking the same. The testimony will be taken according to the rules hereinafter prescribed.

183. Any person desiring to oppose an extension must serve his notice of opposition, and file his reasons therefor, at least ten days before the day fixed for the closing of the testimony; but parties who have not entered formal opposition in time to put in testimony may, at the discretion of the commissioner, be permitted to appear on the day of hearing, and make argument upon the record in opposition to the grant of the extension. In



such case good cause for the neglect to make formal opposition must be shown.

184. In contested cases no testimony will be received, unless by consent, which has been taken within thirty days next after the filing of the petition for the extension.

185. Service of notice to take testimony must be made as provided for in Rule 150 (2). Where notice to take testimony has already been given to an opponent, and a new opponent subsequently gives notice of his intention to oppose, the examination need not be postponed, but notice thereof may be given to such subsequent opponent by mail or by telegraph. But this rule does not apply to *ex parte* examinations, nor to those of which no notice is given before service of notice of opposition.

186. In the notice of application for extension a day will be fixed for the closing of testimony, and the day of hearing will also be named. Applications for postponement of the day of hearing, or for further time for taking testimony, must be made and supported in accordance with the rules to be observed in other contested cases; but no postponement will be granted whereby any risk of delaying the decision until the expiration of the patent may be incurred. Upon the closing of the testimony the application will be referred without delay to the examiner in charge of the class to which the invention belongs for the report required by law; and such report shall be made not less than five days before the day of hearing. As this report is intended for the information of the commissioner, neither the parties nor their attorneys will be permitted to make oral arguments before the examiner. In contested cases briefs are deemed desirable, and these should always be filed at least five days before the day of hearing.

#### **Disclaimers.**

187. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he or they shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the patent office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such dis-

claimer shall affect any action pending at the time of filing the same, except as to the question of unreasonable neglect or delay in filing it.

188. Such disclaimers must be distinguished from those which are embodied in original or reissue applications, as at first filed or subsequently amended, referring to matter shown or described, but to which the disclaimant does not choose to claim title, and also from those made to avoid the continuance of interferences, which require no fee, but must, like all other disclaimers, be signed by the applicants in person and duly witnessed. (See Rule 104. For Forms of Disclaimers, see Appendix, Forms 27, 28.)

### **Caveats.**

189. A caveat, under the patent law, is a notice given to the office of the caveator's claim as inventor, in order to prevent the grant of a patent to another for the same alleged invention upon an application filed during the life of the caveat without notice to the caveator.

190. Any citizen of the United States who has made a new invention or discovery and desires further time to mature the same, may, on payment of a fee of ten dollars, file in the patent office a caveat setting forth the object and the distinguishing characteristics of the invention, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof.

191. An alien has the same privilege, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

192. The caveat must comprise a specification, oath, and, when the nature of the case admits of it, a drawing, and, like the application, must be limited to a single invention or improvement.

193. The same particularity of description is not required in a caveat as in an application for a patent; but the caveat must set forth the object of the invention and the distinguishing characteristics thereof, and it should be sufficiently precise to enable the office to judge whether there is a probable interference when a subsequent application is filed. If upon examination a caveat be found defective in this respect, amendment will be required. Without compliance with Rules 190, 192, 193, and 195, the caveator will not be entitled to the notice provided for in Rule 196.

194. The oath of the caveator must set forth that he is a citizen of the United States, or, if he be an alien, that he has resided for one year last past within the United States, and has made oath of his intention to become a citizen thereof, and that



he believes himself the original and first inventor of the art, machine, or improvement set forth in his caveat.

195. When practicable, the caveat should be accompanied by full and accurate drawings, separate from the specification, well executed on tracing muslin or paper that may be folded. (See Rule 50.)

196. If at any time within one year after the filing or renewal of a caveat another person shall file an application with which such caveat would in any manner interfere, and if, within the year, the application shall be found patentable, then such application will be suspended, and notice thereof will be sent to the person filing the caveat, who, if he shall file a complete application within the prescribed time, will be entitled to an interference with the previous application, for the purpose of proving priority of invention, and obtaining the patent, if he be adjudged the prior inventor. The caveator, if he would avail himself of his caveat, must file his application within three months from the expiration of the time regularly required for the transmission to him of the notice deposited in the post-office at Washington; and the day when the time for filing expires will be mentioned in the notice or indorsed thereon.

197. The caveator will not be entitled to notice of any application pending at the time of filing his caveat, nor of any application filed after the expiration of one year from the date of the filing or renewal thereof. The caveat may be renewed by the payment of a second caveat fee of ten dollars, and it will continue in force for one year from the date of the payment of such second fee. Subsequent renewals may be made with like effect. If a caveat be not renewed, it will still be preserved in the secret archives of the office.

198. A caveat confers no rights and affords no protection except as to notice of an interfering application filed during its life, giving the caveator the opportunity of proving priority of invention if he so desires. It may be used as evidence in contests, as provided in Rule 150 (6).

199. There is no provision of law making the caveat assignable, although the alleged invention therein set forth is assignable, and the caveat may be used as means of identifying the invention transferred in an assignment.

200. Caveat papers cannot be withdrawn from the office after they have once been filed; but copies of the papers may be obtained at the usual rates by the caveator or any person duly authorized by him. Additional papers, if containing new matter, must be filed as a separate caveat with another fee. (For Caveat Forms, see Appendix, Forms 10, 16.)

### Assignments.

201. Every patent or any interest therein shall be assignable in law by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States.

202. Interests in patents may be vested in assignees, in grantees of exclusive sectional rights and mortgagees, and in licensees.

(1.) An assignee is a transferee of the whole interest of the original patent, or of an undivided part of such whole interest, extending to every portion of the United States. The assignment must be written or printed and duly signed.

(2.) A grantee acquires by the grant the exclusive right, under the patent, to make and use, and to grant to others the right to make and use, the thing patented, within and throughout some specified part of the United States, excluding the patentee therefrom. The grant must be written or printed and duly signed.

(3.) A mortgage must be written or printed and duly signed.

(4.) A licensee takes an interest less than or different from either of the others. A license may be oral, or written or printed and duly signed.

203. An assignment, grant, or conveyance 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.

204. No instrument will be recorded which does not, in the judgment of the commissioner, amount to an assignment, grant, mortgage, lien, encumbrance, or license, or affect the title of the patent or invention to which it relates.

205. Assignments which are made conditional on the performance of certain stipulations, as the payment of money, if recorded in the office, are regarded as absolute assignments, until cancelled with the written consent of both parties, or by the decree of a competent court. The office has no means of determining whether such conditions have been fulfilled.

206. In every case where it is desired that the patent shall issue to an assignee, the assignment must be recorded in the patent office at a date not later than the day on which the final fee is paid. The date of the record is the date of the receipt of the assignment at the office.

207. The receipt of assignments is not generally acknowledged by the office. They are recorded in regular order as promptly as possible, and then transmitted to the persons entitled to them. (For Form of Assignment, see Appendix, Forms 37-42.)



**Office Fees.**

208. Nearly all the fees payable to the patent office are positively required by law to be paid in advance—that is, upon making application for any action by the office for which a fee is payable. For the sake of uniformity and convenience, the remaining fees will be required to be paid in the same manner.

209. The following is the schedule of fees:

On filing every application for a design patent.....	\$10 00
On issuing a design patent for three years and six months, no further charge.	
On issuing a design patent for seven years.....	5 00
On issuing a design patent for fourteen years.....	20 00
On filing every caveat.....	10 00
On filing every application for a patent for an invention or discovery.....	15 00
On issuing each original patent for an invention or dis- covery .....	20 00
On filing a disclaimer.....	10 00
On filing every application for a reissue.....	30 00
On filing every application for a division of a reissue....	30 00
On filing every application for an extension.....	50 00
On the grant of every extension.....	50 00
On filing an appeal from a primary examiner to the ex- aminers-in-chief.....	10 00
On filing an appeal to the Commissioner from the exam- iners-in-chief.....	20 00
For certified copies of patents or other instruments, ex- cept copies of printed patents sold by the office, for every hundred words.....	10
For certified copies of printed patents sold by the office, 10 cents for every 100 words, less the price actually paid for such copies without certification.	
For certified copies of drawings, the reasonable cost of making them.	
For recording an assignment of 300 words or less.....	1 00
For recording an assignment of more than 300 and not more than 1000 words.....	2 00
For recording every assignment of more than 1000 words..	3 00
For uncertified copies of the specifications and accom- panying drawings of all patents which are in print :	
Single copies.....	25
Twenty copies or more, whether of one or several patents, per copy* .....	10
For uncertified copies of the specifications and drawings of patents not in print, the reasonable cost of making the same.	

\*NOTE.—For the convenience of the office and of persons desiring printed copies of specifications and drawings, blank orders, or “coupons,” have been

For copies of matter in any foreign language, per 100 words .....	20
For translations, per 100 words.....!	50
For assistance to attorneys in examination of records, one hour or less.....	50
Each additional hour.....	50
For assistance to attorneys in examination of patents and other works in the Scientific Library, one hour or less.	1 00
Each additional hour.....	1 00

210. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the inventor; otherwise an extra charge will be made for the time consumed in making any search for such assignment.

211. No person will be allowed to make copies or tracings from the files or records of the office. Such copies will be furnished, when ordered, at the rates already specified.

212. The money required for office fees may be paid to the commissioner, or to the treasurer, or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the secretary of the treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor, which shall be transmitted to the patent office. When this can not be done without much inconvenience, the money may be remitted by mail, and in every such case the letter should state the exact amount inclosed. Letters containing money may be registered. Postoffice money-orders now afford a safe and convenient mode of transmitting fees. All such orders should be made payable to the "Commissioner of Patents."

213. The weekly issue will close on Thursday, and the patents of that issue will bear date as of the third Tuesday thereafter. If the final fee in any application is not paid on or before Thursday, the patent will not go to issue until the following week.

214. All money sent by mail, either to or from the patent office, will be at the risk of the sender. In no case should money be sent inclosed with models. All payments to or by the office must be made in specie, treasury-notes, national-bank notes, certificates of deposit, or post-office money-orders.

prepared, which will be sold, on application to the chief clerk, at the rate of 10 cents each, in lots of 20 or more. Stub-books, containing 50 or 100 such orders, can be furnished at the same rate, and the orders printed on postal cards at the same rate *plus* the cost of the cards.

These orders, whenever presented properly filled up, are good for one copy each of the specification and drawings of any United States patent issued since November 20, 1866, or for a copy of the drawing of any United States patent from the earliest dates. Prior to the date given, the specifications were not printed.



## REPAYMENT OF MONEY.

215. Money paid by actual mistake, such as a payment in excess, or when not required by law, or by neglect or misinformation on the part of the office, will be refunded; but a mere change of purpose after the payment of money, and when a party desires to withdraw his application for a patent, or for the registration of a trade-mark, or an appeal, will not entitle a party to demand such a return.

**Publications.**

216. The "Official Gazette," a weekly publication which has been issued since 1872, takes the place of the old "Patent Office Report." It contains the claims of all patents issued, including reissues, with portions of the drawings selected to illustrate the claims, and also lists of design patents, together with decisions of the courts and of the commissioner, and other special matters of interest to inventors.

The Gazette is furnished to subscribers at the rate of \$5 per annum. When it is sent abroad an additional charge of \$2 will be made for the payment of postage. But representatives and senators are each entitled to designate eight public libraries to which it will be sent without charge. Single copies are furnished for 10 cents each.

An index is published annually, which is sent to all subscribers and designated libraries without additional cost.

Printed volumes are issued monthly, containing the entire specifications and drawings of all patents issued during the previous month. These are authenticated by the seal of the office, and may be used as evidence throughout the United States. One copy is deposited in each State library, and one copy in the custody of the clerk of each United States district court, for general reference.

**Library Regulations.**

217. No persons are allowed to enter the alcoves, or take books from the library, except officers of the bureau and members of the examining corps.

All books taken from the library must be entered in a register kept for the purpose, and returned on the call of the librarian.

Any book lost or defaced must be replaced by a copy of the same.

Patentees and others doing business with the office can examine the books only in the library hall.

Translations will be made only for official use.

Persons will be allowed to make notes or extracts, but not copies or tracings from works in the library. Such copies will be furnished at the usual rates.

### **Amendments of the Rules.**

218. All amendments of the foregoing rules will be published in the Official Gazette.

E. M. MARBLE,  
*Commissioner of Patents.*

Approved :

C. SCHURZ,  
*Secretary of the Interior.*

NOTE.—Rules 101, 116, 117, 118, 120 and 171 of those amended subsequent to the revision of December 1, 1879, and prior to the revision of September 1, 1880, were approved by A. Bell, Acting Secretary of the Interior.

Rules 39, 46, 85, 86, 94, 124, and 171, amended subsequent to the revision of September 1, 1880, and prior to the revision of April 15, 1882, were approved by S. J. Kirkwood, Secretary of the Interior.

Rules 20, 26, 39, 47, and 59, amended subsequent to the revision of April 15, 1882, and prior to the revision of February 1, 1883, were approved by H. M. Teller, Secretary of the Interior.



# RULES AND FORMS

*Adopted by the United States Patent Office for  
the Registration of Trade-Marks under  
the Act of March 3, 1881.*

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## WHO MAY OBTAIN REGISTRATION.

1. (a.) Any person, firm, or corporation domiciled in the United States or located in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States,\* and who is entitled to the exclusive use of any trade-mark and uses the same in commerce with foreign nations or with Indian tribes.

(b.) Any citizen or resident of this country wishing the protection of his trade-mark in any foreign country the laws of which require registration in the United States as a condition precedent.

## STATUTORY REQUIREMENTS.

2. Every applicant for registration of a trade-mark must cause to be recorded in the patent office—

(a.) The name, domicile, and place of business or location of the firm or corporation desiring the protection of the trade-mark, and the residence and citizenship of individual applicants.

(b.) The class of merchandise and the particular description of goods comprised in such class to which the trade-mark has been appropriated.

(c.) A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been applied and used.

(d.) The length of time during which the trade-mark has been used by the applicant on the class of goods described.

3. A fee of twenty-five dollars is required on filing each application, except in the cases hereinafter named. (See pars. 16 and 17.)

## THE APPLICATION.

4. An application for the registration of a trade-mark will consist of a statement and specification, a declaration or oath,

\*The following countries have treaties with the United States at this time, viz: Russia, Belgium, France, Austria, the German Empire, and Great Britain.

and the fac-simile, with duplicates thereof. The statement and declaration should be written on one side of the paper only.

5. These should be preceded by a brief letter of advice requesting registration and signed by the applicant.

6. The statement should announce the full name, citizenship, domicile, residence, and place of business of the applicant (or if the applicant be a corporation, under the laws of what State or nation incorporated), with a full and clear specification of the trade-mark, particularly discriminating between its essential and non-essential features. It should also state from what time the trade-mark has been used by the applicant, the class of merchandise, and the particular goods comprised in such class to which the trade-mark is appropriated, and the manner in which the trade-mark has been applied to the goods.

7. The declaration should be in the form of an oath by the person, or by a member of the firm, or by an officer of the corporation making the application, to the effect that the party has at the time of filing his application a right to the use of the trade-mark described in the statement; that no other person, firm, or corporation has a right to such use, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in lawful commerce with foreign nations or Indian tribes, one or more of which should be particularly named; and that it is truly represented in the fac-simile presented for registry.

8. This oath may be taken within the United States, before a notary public, justice of the peace, or the judge or clerk of any court of record. In any foreign country it may be taken before the secretary of a legation or consular officer of the United States, or before any person duly qualified by the laws of the country to administer oaths, whose official character shall be certified by a representative of the United States having an official seal.

#### FAC-SIMILES TO BE FILED.

9. Where the trade-mark can be represented by a fac-simile which conforms to the rules for drawings of mechanical patents,\* such a drawing may be furnished by applicant, and the additional copies will be produced by the photo-lithographic process at the expense of the office. Or the applicant may furnish one fac-simile of the trade-mark, mounted on a card ten by fifteen inches in size, and ten additional copies upon flexible paper, not mounted; but in all cases the sheet containing the mounted fac-simile or the drawing must be signed by the applicant or his authorized attorney, and authenticated by two witnesses.

\* These rules are furnished on application by letter to the Commissioner.



## PROCEEDINGS IN THE OFFICE.

10. All applications for registration are considered in the first instance by the trade-mark examiner. An adverse decision by such examiner upon the applicant's right to registration will be reviewed by the commissioner in person upon petition without fee.

11. No trade-mark will be registered unless it shall be made to appear that the same is used as such by the applicant in commerce with foreign nations or with Indian tribes, or is within the provisions of a treaty, convention, or declaration with a foreign power, nor which is merely the name of the applicant, nor which is identical with a known or registered trade-mark owned by another and appropriated to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion in the mind of the public or to deceive purchasers.

12. In case of conflicting applications for registration, or in any dispute as to the right to use which may arise between an applicant and a prior registrant, the office will declare an interference, in order that the parties may have opportunity to prove priority of adoption or right; and the proceedings on such interference will follow, as nearly as practicable, the practice in interferences upon applications for patents; but each applicant and registrant will be held to the date of adoption alleged in the statement filed with his application. On the petition of any party dissatisfied with the decision of the examiner of interferences the case will be reviewed by the commissioner without fee.

13. When these requirements have been complied with, and the office has adjudged the trade-mark lawfully registrable, a certificate will be issued by the commissioner, under seal of the Interior Department, to the effect that applicant has complied with the law, and that he is entitled to the protection of his trade-mark in such case made and provided. Attached to the certificate will be a fac-simile of the trade-mark and a printed copy of the statement and declaration.

14. The protection for such trade-mark will remain in force for thirty years, and may, upon the payment of a second fee, be renewed for thirty years longer, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of any foreign country for a shorter period, in which case it will cease to have force in this country, by virtue of the registration, at the same time that the trade-mark ceases to be exclusive property elsewhere.

15. The right to the use of any trade-mark is assignable by an instrument in writing, and such assignment of a registered trade-mark must be recorded in the patent office within sixty days after its execution, in default of which it may be void as against any subsequent purchaser or mortgagee for a valuable considera-

tion, without notice. No particular form of assignment or conveyance is prescribed, but the trade-mark must be identified by the certificate number.

16. Owners of trade-marks for which protection has been sought by registering them in the patent office under the act of July 8, 1870 (declared unconstitutional by the Supreme Court of the United States), may register the same for the same goods, without fee, on compliance with the foregoing requirements. With each application of this character a specific reference to the date and number of the former certificate is required.

17. Applicants whose cases were filed under the act of 1870, either prior to or since the decision of the Supreme Court declaring it unconstitutional, which are now pending before the office, are advised to prepare applications in conformity with the law and foregoing rules. On the receipt of such an application, referring to the date of the one formerly filed, all fees paid thereon will be duly applied. Those who have paid only \$10 as a first fee are advised that the law does not provide for a division of the legal fee of \$25, and that the remainder of the entire fee is required before the application can be entertained.

COPIES AND PUBLICATIONS.

18. Printed copies of the statement and declaration in each case, with a duplicate of the trade-mark, can be furnished by the office.

The Official Gazette of the patent office, published weekly, will contain a list of all trade-marks registered, with the name and address of the registrant, a brief statement of the essential features of the trade-mark, and the particular description of goods to which it is applied.

FEEES.

19. On filing an application for registration of the trade-mark.....	\$25 00
For recording assignments—	
Under 300 words.....	1 00
Over 300 and less than 1000 words.....	2 00
Over 1000 words.....	3 00
For single printed copy of statement and declaration.	25
For single copy of Official Gazette.....	10
Annual subscription Official Gazette.....	5 00

CORRESPONDENCE.

20. All letters should be addressed to "The Commissioner of Patents"; and all remittances by postal order, check, or draft should be to his order.



21. Letters relating to pending applications should refer to the name of the applicant and date of filing. Letters relating to registered trade-marks must refer to the name of registrant, number or date of certificate, and the class of merchandise to which the trade-mark is applied.

22. The office can not undertake to respond to inquiries propounded with a view to ascertain whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give advice as to the nature and extent of the protection afforded by the law, or act as its expounder, except as questions may arise upon applications regularly filed. A copy of these rules with this paragraph marked will be regarded as a courteous answer to all such inquiries.

E. M. MARBLE,  
*Commissioner of Patents.*

Approved.

A. BELL, *Acting Secretary.*

## REGISTRATION OF PRINTS AND LABELS.

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Sections 3, 4, and 5 of the act of Congress relating to patents, trade-marks, and copyrights, approved June 18, 1874 (18 Statutes at Large, p. 78), are as follows:

“SEC. 3. That in the construction of this act the words ‘engraving, cut, and print’ shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright and prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.

“SEC. 4. That all laws and parts of laws inconsistent with the foregoing provisions be and the same are hereby repealed.

“SEC. 5. That this act shall take effect on and after the first day of August, eighteen hundred and seventy-four.”

The words “prints” and “labels” as used in this act, so far as it relates to registration in the Patent Office, are construed as synonymous, and are defined as any device, picture, word or words, figure or figures (not a trade-mark) impressed or stamped directly upon the articles of manufacture, or upon a slip or piece of paper or other material, to be attached in any manner to manufactured articles, or to bottles, boxes, and packages containing them, to indicate the contents of the package, the name of the manufacturer or the place of manufacture, the quality of goods, directions for use, &c.

By the words “articles of manufacture” (to which such print or label is applicable by this act) is meant all vendible commodities produced by hand, machinery, or art.

But no such print or label can be registered unless it properly belongs to an article of commerce, and be as above defined; nor can the same be registered as such print or label when it amounts to a lawful trade-mark, or when its use in connection with the article to which it is applied is arbitrary or fanciful.

To entitle the owner of any such print or label to register the same in this office, it is necessary that five copies of the same be



filed, one of which copies shall be certified under the seal of the Commissioner of Patents, and returned to the registrant.

The certificate of such registration will continue in force for twenty-eight years.

The fee for registration of a print or label is six dollars, to be paid in the same manner as fees for patents.

The benefits of this act seem to have been originally confined to citizens or residents of the United States; but appear to be extended to British subjects and citizens of Germany by existing treaties.

E. M. MARBLE,  
*Commissioner of Patents.*

Approved, May 2, 1881.

S. J. KIRKWOOD, *Secretary.*

## APPENDIX OF FORMS.

### Petitions.

#### 1. BY A SOLE INVENTOR.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at S., in the county of M., and State of N. [or subject, &c.], prays that letters patent be granted to him for the improvement in sewing machines set forth in the annexed specification.

A. B.

#### 2. BY JOINT INVENTORS.

*To the Commissioner of Patents :*

Your petitioners, A. B. and C. D., citizens of the United States, residing respectively at L., in the county of M., and State of N., and at G., in the county of H., and State of I. [or subject, &c.], pray that letters patent may be granted to them, as joint inventors, for the improvement in washing machines set forth in the annexed specification.

A. B.

C. D.

#### 3. BY AN INVENTOR FOR HIMSELF AND AN ASSIGNEE.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], prays that letters patent may be granted to himself and C. D., a citizen of the United States residing at L., in the county of M., and State of N., as his assignee, for the improvement in printing presses set forth in the annexed specification.

A. B.

#### 4. PETITION WITH POWER OF ATTORNEY.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], prays that letters patent may be granted to him for the improve-



ment in lamps set forth in the annexed specification; and he hereby appoints C. D.,\* of the city of R., State of S., his attorney, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the patent office connected therewith.

A. B.

#### 5. BY AN ADMINISTRATOR.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], administrator of the estate of C. D., late a citizen of S., deceased [as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear], prays that letters patent may be granted to him for the invention of the said C. D. [improvement in fire-hose] set forth in the annexed specification.

A. B., *Administrator, &c.*

#### 6. BY AN EXECUTOR.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], executor of the last will and testament of C. D., late a citizen of S., deceased [as by reference to the duly certified copy of letters testamentary, hereto annexed, will more fully appear], prays that letters patent may be granted to him for the invention of the said C. D. [improvement in churns], set forth in the annexed specification.

A. B., *Executor, &c.*

#### 7. FOR A REISSUE (BY THE INVENTOR).

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], prays that he may be allowed to surrender the letters patent for an improvement in coal-scuttles, granted to him May 16, 1867, whereof he is now sole owner [or whereof C. D., on whose behalf and with whose assent this application is made, is now sole owner, by assignment], and that letters patent may be reissued

\* If the power of attorney is to a firm, the name of each member of the firm must be given in full.

to him [or the said C. D.] for the same invention, upon the annexed amended specification. With this petition is filed an abstract of title, duly certified, as required in such cases.

A. B.

ASSENT OF ASSIGNEE TO REISSUE.

The undersigned, assignee of the entire [or of an undivided] interest in the above-mentioned letters patent, hereby assents to the accompanying application.

C. D.

8. FOR A REISSUE (BY ASSIGNEE).

(To be used only when the inventor is dead or the original patent was issued and assigned prior to July 8, 1870.)

*To the Commissioner of Patents :*

Your petitioners, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], and C. D., a citizen of the United States residing at H., in the county of I. and State of K. [or subject, &c.], pray that they may be allowed to surrender the letters patent for an improvement in coal-scuttles, granted May 16, 1867, to E. F., now deceased, whereof they are now owners, by assignment, of the entire interest, and that the letters patent may be reissued to them for the same invention, upon the annexed amended specification. With this petition is filed an abstract of title [or an order for making and filing the same, &c.].

A. B.

9. FOR LETTERS PATENT FOR A DESIGN.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], prays that letters patent may be granted to him for the term of three and one-half years [or seven years, or fourteen years]\* for the new and original design for carpets set forth in the annexed specification.

A. B.

10. CAVEAT.

The petition of A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c., see Rule 191], represents :

That he has made certain improvements in cotton-gins, and that he is now engaged in making experiments for the purpose of

\* Sec. 4931 R. S. requires the election to be made in the original application.



perfecting the same, preparatory to applying for letters patent therefor. He therefore prays that the subjoined description of his invention may be filed as a caveat in the confidential archives of the patent office.

A. B.

#### 11. FOR THE RENEWAL OF A FORFEITED APPLICATION.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], represents that on May 8, 1868, he filed an application for letters patent for an improvement in fences, serial number 885, which application was allowed July 7, 1868, but that he failed to make payment of the final fee within the time allowed by law. He now makes renewed application for letters patent for said invention, and prays that the original specification, oath, drawings and model may be used as a part of this application.

A. B.

#### **Specifications.**

#### 12. FOR AN ART OR PROCESS.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States residing at L., in the county of M. and State of N. [or subject, &c.], have invented certain new and useful improvements in purifying and increasing the illuminating power of gas without appreciable loss of bulk (for which I have received letters patent in England, No. 750, dated July 6, 1878\*); and I do hereby declare that the following is a full, clear and exact description of the invention, which will enable others skilled in the art to which it appertains to make and use the same.

Heretofore gas has been purified by passing it through animal charcoal, but when this is used alone, after a short time it loses its power of absorbing impurities, and must then be washed with steam or water, or have atmospheric air blown through it, or be revived by heat. Used alone, animal charcoal also reduces the candle-power of the gas passed through it and diminishes its bulk.

The object of my invention is thoroughly to purify illuminating gas, to make the operation continuous, and to purify the gas without detracting from its illuminating power, and without causing any appreciable diminution in bulk; and to this end my invention consists in increasing the power of animal charcoal to eliminate from illuminating gas those substances which are con-

\* NOTE.—If no foreign patent has been obtained, the words in parenthesis should be omitted.

sidered impurities, in charging the charcoal with a substance which will prevent it from depriving the gas of illuminants, and in passing the gas to be purified with atmospheric air through the animal charcoal.

To carry my invention into effect, I moisten the charcoal (which may be either new or spent) with coal-tar, or with coal-tar and water, or in some cases with water only, and then charge this mass into one or more vessels, which then constitute the purifiers. I may put the mass into the vessels while still wet, or, unless water alone is used, after it has dried. Through these vessels the gas is to pass; but before it is admitted I introduce into it at the retorts, or at the stand-pipe or mains beyond, in order to insure a thorough admixture, a small quantity of atmospheric air—say from eight-tenths to two and a half per cent. of the bulk of the gas to be purified. The quantity of air will depend directly upon the impurities of the gas. Any suitable mixing device for thoroughly mixing the admitted air with the gas may be located at any point in the mains between the retorts and the bone-black purifiers, or even at the point of admission to the purifier. For water-gas the charcoal wet with water alone will suffice, air being introduced into the gas.

The oxygen of the air partly unites with the sulphur to form soluble salts, and the rest combines totally with the hydrogen of the sulphuretted and other hydrogen sulphur compounds to form water, and part of the sulphur of the sulphuretted hydrogen and other sulphur compounds is precipitated in a free state in the charcoal, while its nitrogen partly goes to form, with part of the remaining hydrogen, ammonia bases. No free oxygen passes off with the purified gas, while if any nitrogen goes over, the quantity is so small that it is not detrimental.

By the application of air in this manner the process is rendered continuous, as the charcoal is kept constantly active for a great length of time.

When the absorbing power of the charcoal finally becomes exhausted, it may either be sold for the valuable ammoniacal salts it contains, or it may be revived, or be washed and freed from sulphur by a suitable sulphur solvent for re-use.

By charging the bone-black with coal-tar, I prevent it from taking out of the gas any olefiant gas or other heavy hydrocarbons serving as illuminants.

I may treat the black, either before or after putting it into the vessels, as may be most convenient or suitable, with any substance correlative to the illuminants of the gas—that is, with any substance which will impregnate the black in such a manner that it will not take up such illuminants. I have particularly described coal-tar because that is most readily at hand; but its hydrocarbon distillates or the benzole series will answer.

In the case of coal-gas, not only is the sulphuretted hydrogen with which it is contaminated taken up, as just described, but



the illuminating power of the gas, which is somewhat reduced if passed through dry animal charcoal or bone-black, is not decreased when air is used and the animal charcoal or bone-black is wet with tar, but is actually improved, inasmuch as it gives a whiter flame, of the same candle-power as the gas not passed through animal charcoal or bone-black at all.

By the old method, when purification was effected by the use of lime, the sulphuretted hydrogen and carbonic acid were absorbed by the lime, and the result was, of course, a loss of the original bulk of the gas. Now, by my process the sulphur and hydrogen are separated, the sulphur remaining in the charcoal and the hydrogen passing through with the gas while the carbonic acid passes through entire; and although it passes through unchanged, it is sufficiently carburetted not to detract from the illuminating power of the gas. I thus have practically the same bulk of gas after purification as before this operation, and loss is prevented without detriment to the consumer.

A striking advantage of my process is, that it unites the scrubbing and purifying operations, for the gas may be passed directly from the condenser into my purifiers.

To eliminate sulphuretted hydrogen, I may also mix with the charcoal a substance which will of itself decompose sulphuretted hydrogen contained in gas, such as oxide of iron, tin, manganese ore, &c.

When the gas issues from my purifiers it is entirely free from ammoniacal and sulphur compounds, and is nearly inodorous.

When the charcoal is removed from the purifiers it is also inodorous, and is in no sense offensive and disgusting like gas-lime.

Having fully described my invention, what I desire to claim, and secure by letters patent, is—

1. In the purification of illuminating gas by means of animal charcoal, the process of preventing absorption of illuminants of the gas by the charcoal, which consists in supplying the charcoal with a suitable correlative to such illuminants, as described.

2. The process of purifying illuminating gas, which consists in mixing the same with air and then passing it through animal charcoal impregnated with coal-tar, all substantially as described.

A. B.

Witnesses:

P. G.

J. D.

### 13. FOR A MACHINE.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], have invented a new and useful meat-chopping machine (for which I have obtained a patent in Great Britain, No. 870,

bearing date June 24, 1878), of which the following is a specification :

My invention relates to improvements in meat-chopping machines in which vertically reciprocating knives operate in conjunction with a rotating chopping-block; and the objects of my improvements are, first, to provide a continuously lubricated bearing for the block; second, to afford facilities for the proper adjustment of the knives independently of each other in respect to the face of the block; and third, to reduce the friction of the reciprocating rod which carries the knives.

I attain these objects by the mechanism illustrated in the accompanying drawing, in which—

Figure 1 is a vertical section of the entire machine; Fig. 2 a top view of the machine as it appears after the removal of the chopping-block and knives; Fig. 3 a vertical section of a part of the machine on the line 1, 2 (Fig. 2), and Fig. 4 a detailed view in perspective of the reciprocating cross-head and its knives.

Similar letters refer to similar parts throughout the several views.

The table or plate A, its legs or standards B B, and the hanger *a*, secured to the under side of the table, constitute the frame work of the machine. In the hanger *a* turns the shaft D, carrying a fly-wheel, E, a crank-pin on the hub of which is connected by a link, *b*, to a pin passing through a cross-head, G, and to the latter is secured a rod, H, having at its upper end a cross-head, I, carrying the adjustable chopping-knives *d d*, referred to hereafter.

The cross-head G, reciprocated by the shaft D, is provided with anti-friction rollers *e e*, adapted to guides *f f*, secured to the under side of the table A, so that the reciprocation of this cross-head may be accompanied with as little friction as possible.

To the under side of a wooden chopping-block, J, is secured an annular rib, *h*, adapted to and bearing in an annular groove, *i*, in the table A. (See Fig. 2.) This annular groove or channel is not of the same depth throughout, but communicates at one or more points (two in the present instance), with pockets or receptacles *j j*, deeper than the groove and containing supplies of oil, in contact with which the rib *h* rotates so that the continuous lubrication of the groove and rib is assured. The rod H passes through and is guided by a central stand, K, secured to the table A, and projecting through a central opening in the chopping-block without being in contact therewith, the upper portion of the said stand being contained within a cover, *k*, which is secured to the block, and which prevents particles of meat from escaping through the central opening of the same.

The cross-head I, previously referred to, and shown in perspective in Fig. 4, is vertically adjustable on the rod H, and can be retained after adjustment by a set screw, *a*, the upper end of the rod being threaded for the reception of nuts, which resist the



shocks imparted to the cross-head when the knives are brought into violent contact with the meat on the chopping-block.

The knives *d d* are adjustable independently of each other and of the said cross-head, so that the coincidence of the cutting-edge of each knife with the face of the chopping-block may always be assured.

I prefer to carry out this feature of my invention in the manner shown in Fig. 4, where it will be seen that two screw-rods, *m m*, rise vertically from the back of each knife and pass through lugs *n n*, on the cross-head, each rod being furnished with two nuts, one above and the other below the lug through which it passes. The most accurate adjustment of the knives can be effected by the manipulation of these nuts.

A circular casing, *p*, is secured to the chopping-block so as to form on the same a trough, *P*, for keeping the meat within proper bounds; and on the edge of the annular rib *h*, secured to the bottom of the block, are teeth for receiving those of a pinion, *q*, which may be driven by the shaft *D*, through the medium of any suitable system of gearing, that shown in the drawing forming no part of my present invention.

This shaft *D* may be driven by a belt passing round the pulleys *s*, or it may be driven by hand from a shaft, *W*, furnished at one end with a handle, *t*, and at the other with a cog-wheel, *R*, gearing into a pinion on the said shaft *D*.

A platform, *T*, may be hinged as at *w* to one edge of the table *A* to support a vessel in which the chopped meat can be deposited. The means by which it may be supported, and the most convenient method of disposing of it when not in use, are shown in Fig. 1.

I am aware that, prior to my invention, meat-chopping machines have been made with vertically reciprocating knives, operating in conjunction with rotating chopping-blocks. I, therefore, do not claim such a combination broadly, but what I do claim as my invention, and desire to secure by letters patent, is:

1. The combination in a meat-chopping machine of a rotary chopping-block having an annular rib, *h*, with a table or plate having an annular recess, *i*, and a pocket or pockets, *j*, communicating with the said recess, all substantially as set forth.

2. In a meat-chopping machine the combination of a rotary chopping-block with a reciprocating cross-head carrying knives *d d*, each of which is vertically adjustable on the said cross-head independently of the other, substantially as described.

3. The knife *d* having two screw-heads, *m m*, attached to its back, substantially as shown, for the purpose specified.

4. The combination in a meat-chopping machine of the reciprocating rod *H*, carrying the knives *d d*, the cross-head *C* secured to the said rod and having anti-friction rollers *c e*, with

guides *f f*, adapted to the said rollers, all substantially as set forth.

A. B.

Witnesses:

C. D.

E. F.

#### 14. FOR A COMPOSITION OF MATTER.

*To all whom it may concern:*

Be it known that I, A. B., a citizen of the United States residing at L., in the county of M. and State of N. [or subject, &c.], have invented a new and useful composition of matter to be used for the removal of hair and grease from hides preparatory to tanning, of which the following is a specification:

My composition consists of the following ingredients, combined in the proportions stated, viz:

Pure water.....	500 gallons
Unslacked lime.....	32 gallons
Soda-ash.....	100 pounds
Saltpetre.....	20 pounds
Flowers of sulphur.....	10 pounds

These ingredients are to be thoroughly mingled by agitation.

In using the above-named composition the hides should first be freed from all salt and impurities, by soaking green hides one day and dry hides eight days, and then placing the hides so cleaned in the said solution, and allowing them to remain in it 48 hours. The hides are then to be removed from the solution and unhaired in the usual way.

By the use of the above composition the hair is speedily and thoroughly loosened, and the hides, while retaining all of that portion of the substance which can be converted into leather, are at the same time entirely cleaned from grease and other substances which would prevent them from being tanned quickly.

I am aware that a composition consisting of soda-ash, water, lime, and sulphur has been used for the same purpose, and that a patent therefor was granted to C. D., July 10, 1875, No. 95,726. I am also aware that saltpetre has been used in depilatory processes; but I am not aware that all of the ingredients of my composition, in the proportions stated, have been used together.

What I claim, and desire to secure by letters patent of the United States, is—

The herein-described composition of matter to be used for depilating hides and preparing them for being tanned, consisting of water, unslacked lime, soda-ash, saltpetre, and flowers of sulphur, in the proportions specified.

A. B.

Witnesses:

C. D.

E. F.



## 15. FOR A DESIGN.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, &c.], have invented, and produced a new and original design for watch-cases or lockets, of which the following is a specification, reference being had to the accompanying drawings, forming part thereof.

Figure 1 is a sectional view of my newly designed case, Fig. 2 a side elevation of same, and Fig. 3 an edge view, these three views being deemed necessary to fully illustrate my design.

Heretofore watch-cases and lockets have been made which presented, when viewed in elevation, as in Fig. 2, a scalloped outline or periphery, some being made to imitate shells. In these the scallops extend entirely across from lid to lid, and in a watch-case the centre which holds the movements is also scalloped to correspond.

The leading feature of my design consists in a raised or "struck up" scalloped surface, the outlines of which, when viewed in elevation, as in Fig. 2, will fall entirely within the circular outline or circumference of the centre.

A is the centre of the case, which is circular in its general contour, and BB are the lids. These are also circular in their outer contour where they join the centre, but have scallops CCC formed in some way upon them, substantially as represented in the several figures. The indented outline of the scalloped surface falls within the outer contour line of the case, thus presenting to the eye the combined effect of a smooth circular outline or centre and an indented or scalloped outline within it.

I claim :

1. The design for a watch-case or locket herein shown and described, the same consisting of the raised scallops CCC on the lid, forming an indented outline wholly within the circular outline of the edge of the lid and the centre A.

2. The design for a watch-case or locket herein shown and described, the same consisting of a circular lid, B, having a connected series of raised scallops, CCC, the contour of the same being entirely within the contour of the lid.

A. B.

Witnesses :

C. D.

E. F.

## 16. FOR A CAVEAT.

*To the Commissioner of Patents :*

Be it known that I, A. B., a citizen of the United States residing at L., in the county of M., and State of N., [or subject, &c.

See Rule 191], having invented an improvement in velocipedes, and desiring further to mature the same, file this my caveat therefor, and pray protection of my right until I shall have matured my invention.

The following is a description of my newly invented velocipede, which is as full, clear, and exact as I am able at this time to give, reference being had to the drawing hereto annexed.

This invention relates to that class of velocipedes in which there are two wheels connected by a beam forming a saddle for the rider, the feet being applied to cranks that revolve the front wheel.

The object of my invention is to render it unnecessary to turn the front wheel so much as heretofore, and at the same time to facilitate the turning of sharp curves. This I accomplish by fitting the front and the hind wheels on vertical pivots, and connecting them by means of a diagonal bar, as shown in the drawing, so that the turning of the front wheel also turns the back wheel with a position at an angle with the beams, thereby enabling it easily to turn a curve.

In the drawing, A is the front wheel, B the hind wheel, and C the standards extending from the axle of the front wheel to the vertical pivot E, in the beam F, and D is the cross-bar upon the end of E, by which the steering is done. The hind wheel B is also fitted with jaws G and a vertical pivot H.

A. B.

Witnesses :

C. D.  
E. F.

### Oaths.

#### 17. BY AN INVENTOR.

(To follow specification.)

STATE OF \_\_\_\_\_, *County of*, \_\_\_\_\_, *ss* :

\_\_\_\_\_, the above-named petitioner, citizen of<sup>1</sup> \_\_\_\_\_, and resident of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of \_\_\_\_\_ being duly sworn (or affirmed), depose and say that<sup>2</sup> \_\_\_\_\_ verily believe<sup>3</sup> \_\_\_\_\_ to be the original, first, and<sup>4</sup> \_\_\_\_\_ inventor of the improvement in<sup>5</sup> \_\_\_\_\_ described and claimed in the foregoing specification; that the same has not been patented to \_\_\_\_\_, or

<sup>1</sup> If the applicant be an alien, he will state of what foreign or sovereign state he is a citizen or subject.

<sup>2</sup> "He" or "they."

<sup>4</sup> "Sole" or "joint."

<sup>5</sup> "Himself" or "themselves."

<sup>3</sup> "Himself" or "themselves."

<sup>5</sup> Insert title of invention.



to others with'—— knowledge or consent, except in the following countries: "———"

that the same has not to<sup>3</sup> —— knowledge been in public use or on sale in the United States for more than two years prior to this application, and<sup>4</sup> —— do not know and do not believe that the same was ever known or used prior to<sup>5</sup> —— invention thereof.

(Inventor's full name): —— ———.

Sworn to and subscribed before me this —— day of ——, 188—.

[L. s.] (Signature of justice or notary): —— ———.

(Official character): —— ———.

[For officers before whom the oath may be made see Rule 46. If the applicant be an alien, the oath will show of what foreign state or sovereign he is a citizen or subject.

If the applicants claim to be *joint inventors*, the oath will show "that they verily believe themselves to be the original, first, and joint inventors," &c.

If the inventor be dead, the oath will be made by the administrator or executor, who will declare his belief that the party named as inventor was the original and first inventor.]

#### 19. BY AN APPLICANT FOR A REISSUE (INVENTOR).

STATE OF I., *County of K.*, ss:

A. B., the above-named petitioner, being duly sworn [or affirmed], deposes and says that he verily believes that his aforesaid letters patent are inoperative [or invalid, or both] by reason of a defective [or insufficient] specification [or both, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new], and that the error arose by inadvertence [accident or mistake], without any fraudulent or deceptive intent; that he is the sole owner of said letters patent; [or, that E. F. is the sole owner of said letters patent, and that this application is made on the behalf and with the consent of said E. F.;] and that he verily believes himself to be the first and original inventor of the improvement set forth and claimed in this amended specification, and does not believe that the same was ever before known or used.

A. B.

Sworn to and subscribed before me this 26th day of July, 1869.

C. D.,

(*Title of office.*)

<sup>1</sup> "His" or "their."

<sup>2</sup> Here insert, if previously patented, the country or countries in which it has been so patented, giving the date and number of each patent. If not previously patented, erase the words "except in the following countries," and insert the words "in any country."

<sup>3</sup> "His" or "their."

<sup>4</sup> "He" or "they."

<sup>5</sup> "His" or "their."

## 20. BY AN APPLICANT FOR A REISSUE (ASSIGNEE).

(To be used only when the inventor is dead or in cases of patents issued and assigned prior to July 8, 1870.)

STATE OF I., *County of K.*, ss:

A. B. and C. D., the above-named petitioners, being duly sworn [or affirmed], depose and say that they verily believe that the aforesaid letters patent granted to E. F. are [here follows Form 19, *mutatis mutandis*]; that the entire title to said letters patent is vested in them; and that they verily believe the said E. F. to be the first and original inventor of the invention set forth and claimed in the foregoing amended specification; and that the said E. F. is now deceased.

A. B.  
C. D.

Sworn to and subscribed before me this 14th day of November, 1869.

A. B.,  
(*Title of office.*)

## 21. SUPPLEMENTAL OATH TO ACCOMPANY A NEW OR AN ENLARGED CLAIM.

STATE OF I., *County of K.*, ss:

A. B., whose application for letters patent for an improvement in seed-drills (Serial Number 4526) was filed in the United States Patent Office on or about the 15th day of March, 1869, being duly sworn [or affirmed], deposes and says that he verily believes himself to be the original and first inventor of the improvement as described and claimed in the foregoing amendment, in addition to that which was embraced in the claims originally made, and that he does not know and does not believe that the same was ever before known or used, and that the matter sought to be inserted formed a part of his original invention at the date of filing said application.

A. B.

Sworn to and subscribed before me this 11th day of July, 1870.

C. D.  
(*Official title.*)

## 22. OATH AS TO THE LOSS OF LETTERS PATENT.

STATE OF I., *County of K.*, ss:

A. B., of said county, being duly sworn [or affirmed], doth depose and say that the letters patent No. 12,213, granted to



him, and bearing date on the 9th day of January, A. D. 1855, have been either lost or destroyed; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and that he has not been able to find them.

A. B.

Subscribed and sworn to before me this 5th day of October, 1868.

C. D.  
(*Official title.*)

### 23. OATH OF ADMINISTRATOR AS TO THE LOSS OF LETTERS PATENT.

STATE OF I., *County of K.*, ss:

A. B., of said county, being duly sworn, doth depose and say that he is administrator of the estate of E. F., deceased, late of L., in said county; that the letters patent No. 12,219, granted to said E. F., and bearing date of the 9th day of January, A. D. 1855, have been lost or destroyed, as he verily believes; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and especially among the papers of the decedent, and that he has not been able to find said letters patent.

A. B.,  
*Administrator, &c.*

Subscribed and sworn to before me this 5th day of October, 1868.

C. D.  
(*Official title.*)

### 24. POWER OF ATTORNEY AFTER APPLICATION FILED.

If the power of attorney be given at any time other than that of making application for letters patent, it will be in substantially the following form:

*To the Commissioner of Patents:*

The undersigned having, on or about the 20th day of July, 1859, made application for letters patent for an improvement in horse-powers (Serial Number 982), hereby appoints C. D.,\* of L., in the county of M., and State of N., his attorney, with full power of substitution and revocation, to prosecute said application, to make alterations and amendments therein, to receive the

\* See foot-note page 49.

patent, and to transact all business in the patent office connected therewith.

Signed at L., in the county of M., State of N., this 6th day of June, 1879.

A. B.

## 25. REVOCATION OF POWER OF ATTORNEY.

*To the Commissioner of Patents :*

The undersigned having, on or about the 26th day of December, 1867, appointed C. D., of L., in the county of M., and State of N., his attorney to prosecute an application for letters patent, which application was filed on or about the first day of June, 1868, for an improvement in the running gear of wagons (Serial Number 870), hereby revokes the power of attorney then given.

Signed at L., in the county of M., and State of N., this 21st day of July, 1869.

A. B.

## 26. AMENDMENT.\*

*To the Commissioner of Patents :*

In the matter of my application for letters patent for an improvement in sewing-machines, filed May 1, 1879 (Serial Number 540), I hereby amend my specification as follows :

By striking out all between the 5th and 20th lines, inclusive, of page 3 ;

By inserting the words *connected with* after the word " and " in the 1st line of the 2d claim ; and

By striking out the 3d claim, and substituting therefor the following :

" 3. The combination, with the driving-shaft, the needle-bar, and mechanism for reciprocating the same, of the shuttle-carrier, the shuttle-lever, and a cam carried by the driving-shaft, whereby the proper reciprocating movement is imparted to the shuttle-carrier, and the needle-bar is caused to operate in unison therewith, substantially as described."

Signed at L., in the county of M., and State of N.

A. B.,

By S. Z.,

*His Attorney in Fact.*

## Disclaimers.

### 27. DISCLAIMER AFTER PATENT.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, &c.]

\* NOTE.—In the preparation of all amendments a separate paragraph should be devoted to each distinct erasure or insertion, in order to aid the office in making the entry of the amendment into the case to which it pertains.



represents that in the matter of a certain improvement in printing-presses, for which letters patent in the United States No. 75,000 were granted to C. D., on the 12th day of June, 1879, he is [here state the exact interest of the disclaimant; if assignee, set out liber and page where assignment is recorded], and that he has reason to believe that, through inadvertence [accident or mistake], the specification and claim of said letters patent are too broad, including that of which said patentee was not the first inventor. Your petitioner, therefore, hereby enters his disclaimer to that part of the claim in said specification which is in the following words, to wit:

“ I also claim the sleeves A B, having each a friction-cam, C, and connected, respectively, by means of chains or cords K L and M N, with an oscillatory lever, to operate substantially as herein shown and described.”

A. B.

Witness:

C. D.

## 28. DISCLAIMER DURING INTERFERENCE.

### *Interference.*

A. B )  
 vs. ) Before the examiner of interferences.  
 C. D. )  
 Subject-matter: Sewing-machines.

*To the Commissioner of Patents:*

SIR:—In the matter of the interference above noted, under the provisions of and for the purpose set forth in Rule 104, I disclaim [set forth the matter as given in declaration of interference], as I am not the first inventor thereof, and I herewith transmit an amendment to my application (Serial Number 1556), for the purpose of having the above disclaimer embodied as part of my specification.

Signed at L., in the county of M., and State of N., this 15th day of June, 1879.

A. B.

Witnesses:

E. F.

G. H.

### **Appeals.**

## 29. FROM A PRINCIPAL EXAMINER TO THE EXAMINERS-IN-CHIEF.

*To the Commissioner of Patents:*

SIR:—I hereby appeal to the examiners-in-chief from the decision of the principal examiner in the matter of my application for letters patent for an improvement in wagon-brakes, filed

January 10, 1869, which on the 20th day of July, 1869, was rejected the second time. The following are the points of the decision on which the appeal is taken: [Here follows a statement of the points on which the appeal is taken, as provided in Rule 128.]

[Place and date of signing.]

A. B.

### 30. FROM A PRINCIPAL EXAMINER TO THE COMMISSIONER.

*To the Commissioner of Patents:*

SIR: I hereby appeal to you in person from the decision of the principal examiner, made in April, 1879, in the case of my application for letters patent for an improvement in harvesters, filed January 10, 1879, wherein he refused to consider the case upon its merits until certain alleged inaccuracies of expression in the specification should be corrected. The following are the points of the decision on which the appeal is taken: [Here follow points on which the appeal is taken.]

[Place and date of signing.]

A. B.

### 31. FROM THE EXAMINERS-IN-CHIEF TO THE COMMISSIONER.

*To the Commissioner of Patents:*

SIR: I hereby appeal to you in person from the decision of the examiners-in-chief, made April 7, 1879, in the interference between my application for letters patent for improvement in sewing machines and the letters patent of A. B., in which priority of invention was awarded to said A. B. The following are assigned for reasons of appeal: [Here should follow an explicit statement of the alleged errors in the decision of the examiners-in-chief.]

C. D.

### 32. FROM THE EXAMINER IN CHARGE OF INTERFERENCES TO THE EXAMINERS-IN-CHIEF.

*To the Commissioner of Patents:*

SIR: I hereby appeal to the examiners-in-chief from the decision of the examiner of interferences in the matter of the interference between my application for letters patent for improvement in sewing-machines and the letters patent of A. B., in which priority of invention was awarded to said A. B. The following are assigned for reasons of appeal: [Here should follow an explicit statement of the alleged errors in the decision of the examiner of interferences.]

C. D.



## 33. FROM THE EXAMINERS-IN-CHIEF TO THE COMMISSIONER.

*To the Commissioner of Patents :*

SIR: We hereby appeal to the commissioner in person from the decision of the examiners-in-chief in the matter of our application for the reissue of letters patent for an improvement in cotton presses, granted to A. B., May 18, 1865. The following are assigned for reasons of appeal: [Here follow the reasons as in Form 31.]

C. D.  
E. F.

## 34. FROM THE COMMISSIONER TO THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

WASHINGTON, D. C., *July 20, 1871.*

*To the Supreme Court of the District of Columbia, in banc :*

The petition of A. B., of L., in the county of M. and State of N., respectfully sheweth: That he has heretofore invented a new and useful improvement in velocipedes; that on or about the 1st day of May, 1870, he applied to the patent office of the United States for a patent for the same [or for the reissue of a patent granted therefor under date of June 10, 1862], and complied with the requirements of the several acts of Congress, and with the rules of the patent office prescribed in such cases; that his said application was rejected by the commissioner of patents, on appeal to him, on or about June 20, 1871; that he has filed in said office due notice to the commissioner of patents of this his appeal, accompanied with the reasons of appeal; and that the commissioner has furnished him with complete copies of all the original papers and evidence in the case, all of which, together with a copy of the reasons of appeal, accompany this petition, and are to be taken as a part hereof.

And the said A. B. prays that his said appeal may be heard and determined by your honorable court at such early time as may be appointed for that purpose; and that the commissioner of patents may be duly notified of the same, and directed in what manner to give notice thereof to the parties interested.

A. B.

*To the Commissioner of Patents :*

A. B., of L., in the county of M. and State of N., hereby gives notice that he has appealed from your decision, rendered on or about the 20th day of June, 1871, rejecting his application for a patent [or for a reissue of a patent granted to him June 10, 1862] for an improvement in velocipedes; and of this you are respectfully requested to take notice.

And the said A. B. assigns the following reason for appealing from the said decision of the commissioner of patents, viz:

[Here follow reasons, which should be full and explicit, and constitute a brief of the appellant's argument.]

A. B.

### 35. PRELIMINARY STATEMENT.

A. B. } Interference in the U. S. patent office.  
 vs. } Preliminary statement of A. B.  
 C. D. }

A. B., of L., in the county of M. and State of N., being duly sworn, doth depose and say that he is a party to the interference declared by the commissioner of patents, July 3, 1879, between A. B.'s application for letters patent, filed May 6, 1879, and the patent for C. D., granted April 20, 1879, for a twine machine; that he conceived the invention set forth in the declaration of interference, on or about the 1st of June, 1877; that during the said month he made drawings of the invention and explained it to others; that he made a model showing the invention on or about July 20, 1877; that he embodied it in a full-sized machine, which was completed on or about August 15, 1877; that on the 21st day of the last-named month he successfully operated the said machine at his shop in the town of L., county of M. and State of N., and that he has since continued to use the same machine, and has also manufactured others for use and sale.

A. B.

Subscribed and sworn to before me this 10th day of April, 1879.

E. F.,  
 (Official title.)

### 36. RULES OF THE SUPREME COURT IN APPEALS FROM THE COMMISSIONER OF PATENTS, ADOPTED NOVEMBER 30, 1870.

1. The appellant's petition shall be addressed to the court, and shall be substantially as follows:

*"To the Supreme Court of the District of Columbia, in banc, \_\_\_\_\_, 187—.*

*"The petition of \_\_\_\_\_, a citizen of \_\_\_\_\_, in the [State, Territory, district] of \_\_\_\_\_, respectfully shows as follows:*

*"(1.) About the \_\_\_\_\_ day of \_\_\_\_\_, 18—, I invented [describe the subject of the desired patent in the identical words of the application to the patent office.]*

*"(2.) On the \_\_\_\_\_ day of \_\_\_\_\_, 18—, in the manner prescribed by law, I presented my application to the patent office, praying that a patent be issued to me for said invention.*



“(3.) Such proceedings were had in said office, upon said application, that on the \_\_\_\_\_ day of \_\_\_\_\_, it was rejected by the commissioner of patents.

“(4.) I thereupon appealed to this court, and gave notice thereof to the commissioner, and filed in his office the following reasons for said appeal :

“(5.) The commissioner of patents has furnished me a complete copy of all the proceedings in his office upon my said application, which copy has been filed herewith, and is to be taken as part hereof.

“(6.) And thereupon I pray that the court do revise and reverse said decision, to the end that justice may be done in the premises.

“ \_\_\_\_\_ .”

2. This petition shall be filed in the clerk's office of this court ; and as soon as the petitioner has made the deposit required by law at the commencement of suits in this court, or said deposit has been dispensed with, the clerk shall enter the case in a docket to be provided by him for the purpose, and in which a brief of said filing and of all subsequent proceedings in the case shall be entered as and when they successively occur, down to and including the final decision.

3. The clerk shall provide a minute-book of his office, in which he shall record every order, rule, judgment or decree of the court in each case, in the order of time in which said proceedings occur ; and of this book there shall be two alphabetical indexes, one showing the name of the party applying for the patent, and the other designating the invention by its subject-matter or name.

4. The cases in the docket of causes shall be successively numbered from No. 1 onward, and each case shall also be designated by the number assigned to it on the records of the patent office.

5. This docket shall be called for the trial of the cases thereon on the first day of each session of this court in general term, provided the petition has been filed ten days before the commencement of the term.

6. The opinions of the court, when written, shall be kept by the clerk, in the order of their delivery and in a temporary book-file, indexed ; and when so many have been delivered as will make a volume of convenient size, he shall cause them to be bound.

7. The clerk shall furnish to any applicant a copy of any paper in any of said appeals on payment of the lawful fees.

8. Hearings of said appeals shall be subject to the rules of the court provided for other causes therein.

9. When the testimony of the commissioner, or of any examiner, touching the principles of invention in question, shall be deemed necessary, it shall be taken orally in open court, unless otherwise ordered by the court. And, in such case, the court

may order it to be reduced to writing, and filed or entered on its minutes, if it think proper.

10. The final judgment or order of the court shall not recite any of the facts made to appear in the case, but shall be to the following effect:

“This appeal having been heard upon the record from the patent office [and upon the testimony of the commissioner of patents] [of one of the examiners] [touching the principles of the invention], and having been argued by [counsel for] the petitioner and [for] the commissioner:

“It is thereupon ordered and adjudged that the [petition be dismissed] [commissioner do issue to the petitioner a patent] [as prayed], [granting the petitioner (*so and so*)].

“And that the clerk of this court transmit to the commissioner of patents a copy of this decree duly authenticated.”

### Assignments.

#### 37. OF AN ENTIRE INTEREST IN AN INVENTION BEFORE THE ISSUE OF LETTERS PATENT.

Whereas I, A. B., of L., county of M., State of N., have invented a certain new and useful improvement in harvesters [giving title of the same], for which I am about to make application for letters patent of the United States; and whereas G. D., of R., county of S., State of N., is desirous of acquiring an interest in said invention, and in the letters patent to be obtained therefor.

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of five thousand dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said A. B., have sold, assigned, and transferred, and by these presents do sell, assign, and transfer unto the said G. D., the full and exclusive right to the said invention, as fully set forth and described in the specification prepared and executed by me preparatory to obtaining letters patent of the United States therefor; and I do hereby authorize and request the commissioner of patents to issue the said letters patent to the said G. D., as the assignee of my entire right, title, and interest in and to the same, for the sole use and behoof of the said G. D. and his legal representatives.

In testimony whereof I have hereunto set my hand and affixed my seal this 4th day of May, A. D. 1879.

A. B. [SEAL.]

In presence of—

O. P.

S. T.



## 38. OF THE ENTIRE INTEREST IN LETTERS PATENT.

Whereas I, A. B., of L., county of M., State of N., did obtain letters patent of the United States for an improvement in car wheels, which letters patent are numbered 95,000, and bear date the 5th day of June, in the year one thousand eight hundred and sixty-nine, and whereas I am now the sole owner of said patent and of all rights under the same; and whereas E. F., of R., county of S., State of N., is desirous of acquiring the entire interest in the same:

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of five thousand dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said C. D., have sold, assigned, and transferred, and by these presents do sell, assign, and transfer unto the said E. F., the whole right, title, and interest in and to the said improvement in car wheels, and in and to the letters patent therefor aforesaid; the same to be held and enjoyed by the said E. F., for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted [thus including extension], as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I have hereunto set my hand and affixed my seal at L., in the county of M., and State of N., this 25th day of July, A. D. 1878.

A. B. [SEAL.]

In presence of—  
N. P.  
O. T.

## 39. OF AN UNDIVIDED INTEREST IN LETTERS PATENT.

Whereas I, A. B., of L., county of M., State of N., did obtain letters patent of the United States for an improvement in hay-rakes, which letters patent are numbered 89,920, and bear date the 3d day of August, in the year one thousand eight hundred and sixty; and whereas C. D., of R., county of S., State of N., is desirous of acquiring an interest in the same:

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of five hundred dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said A. B., have sold, assigned, and transferred, and by these presents do sell, assign, and transfer unto the said D. E., the undivided one-half part of the whole right, title, and interest in and to the said invention, and in and to the letters patent therefor aforesaid; the said undivided one-half part to be held and enjoyed by the said C. D., for his own use and behoof, and for

the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted [thus including extension], as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I have hereunto set my hand and affixed my seal at L., in the county of M., and State of N., this 7th day of June, A. D. 1862.

A. B. [SEAL.]

In the presence of—

N. P.

O. T.

#### 40. TERRITORIAL INTEREST AFTER GRANT OF PATENT.

Whereas I, A. B., of L., county of M., State of N., did obtain letters patent of the United States for improvement in grain-binders, which letters patent are numbered 87,564, and bear date the 8th day of June, in the year one thousand eight hundred and sixty; and whereas I am now the sole owner of the said patent and of all rights under the same in the below recited territory; and whereas C. D., of R., county of S., State of N., is desirous of acquiring an interest in the same:

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of five thousand dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said A. B., have sold, assigned and transferred, and by these presents do sell, assign, and transfer, unto the said C. D., all the right, title, and interest in and to the said invention, as secured to me by said letters patent, for, to, and in the State of N., and for, to, or in no other place or places; the same to be held and enjoyed by the said C. D. within and throughout the above-specified territory, but not elsewhere, for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted [thus including extension], as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I have hereunto set my hand and affixed my seal at L., in the county of M., and State of N., this 3d day of May, A. D. 1861.

A. B. [SEAL.]

In the presence of—

S. T.

R. D.

#### 41. LICENSE—SHOP RIGHT.

In consideration of the sum of fifty dollars, to be paid by the firm of S. J. & Co., of L., in the county of M., State of N., I do



hereby license and empower the said S. J. & Co. to manufacture in said L. [or other place agreed upon] the improvement in cotton-seed planters, for which letters patent of the United States No. 71,846 were granted to me November 13, 1868, and to sell the machines so manufactured throughout the United States, to the full end of the term for which said letters patent are granted.

Signed at L., in the county of M., and State of N., this 22d day of April, 1869.

A. B.

#### 42. LICENSE—NOT EXCLUSIVE—WITH ROYALTY.

This agreement, made this 12th day of September, 1868, between A. B., of L., in the county of M., and State of N., party of the first part, and C. D. & Co., of O., in the county of R., and State of S., party of the second part, witnesseth, that whereas letters patent of the United States No. 67,540, for an improvement in horse-rakes were granted to the party of the first part, dated October 4, 1867; and whereas the party of the second part is desirous of manufacturing horse-rakes, containing said patented improvement: Now, therefore, the parties have agreed as follows:

I. The party of the first part hereby licenses and empowers the party of the second part to manufacture, subject to the conditions hereinafter named, at their factory in O., and in no other place or places, to the end of the term for which said letters patent were granted, horse-rakes containing the patented improvements, and to sell the same within the United States.

II. The party of the second part agrees to make full and true returns to the party of the first part, under oath, upon the first day of July and January in each year, of all horse-rakes containing the patented improvements manufactured by them.

III. The party of the second part agrees to pay to the party of the first part five dollars as a license-fee upon every horse-rake manufactured by said party of the second part containing the patented improvements; provided, that if the said fee be paid upon the days provided herein for semi-annual returns, or within ten days thereafter, a discount of fifty per cent. shall be made from said fee for prompt payment.

IV. Upon a failure of the party of the second part to make returns or to make payment of license-fees, as herein provided, for thirty days after the days herein named, the party of the first part may terminate this license by serving a written notice upon the party of the second part; but the party of the second part shall not thereby be discharged from any liability to the party of the first part for any license-fees due at the time of the service of said notice.

In witness whereof the parties above named have hereunto set their hands the day and year first above written, at L., in the county of M., and State of N.

A. B.

C. D. & CO.

**Extensions.**

## 43. APPLICATION FOR AN EXTENSION (BY A PATENTEE).

*To the Commissioner of Patents :*

Your petitioner, A. B., now residing at L., in the county of M., and State of N., prays that letters patent No. 12,841, for an improvement in steam-engines, granted to him August 17, 1853, may be extended, in pursuance of an act of Congress approved January 25, 1878, a certified copy of which is hereto annexed.

Signed at L., in the county of M., and State of N.

A. B.

[Append copy.]

## 44. APPLICATION FOR AN EXTENSION (BY AN ADMINISTRATOR).

*To the Commissioner of Patents :*

Your petitioner, A. B., of L., in the county of M., and State of N., administrator of the estate of C. D., late of R., in the county of S., and State of N., deceased (as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear), prays that letters patent No. 12,842, for an improvement in stoves, granted to said C. D., August 24, 1853, may be extended, in pursuance of an act of Congress approved June 1, 1878, a certified copy of which is hereto annexed.

Signed at L., in the county of M., and State of N.

A. B., *Administrator.*

[Append copy.]

## 45. STATEMENT AND ACCOUNT.

In the matter of the application of A. B., of L., county of M., and State of N., executrix of the last will and testament of C. D., late of R., in the county of S., and State of N., deceased, for extension of letters patent No. 10,817, granted to him January 9, 1855, for improvements in mowing machines.

*To the Commissioner of Patents :*

The applicant respectfully represents that, prior to obtaining the letters patent now sought to be extended, the said C. D. was a farmer; that his attention was called to the subject of mowing machines by the difficulty experienced in cutting grass by the machines then in use; that, after numerous patient and costly experiments, he succeeded in perfecting his invention and in obtaining his patent. He immediately made arrangements to manufacture the improvement, and for this purpose sold three-fourths of his farm. He then, with others, built a factory and commenced operations; but two years afterward the establish-



ment was destroyed by fire, without insurance. In the exposure at the fire C. D. contracted a disease which confined him to the house for three years, when he died, leaving applicant, his executrix and widow, with a large family and small means. Nevertheless, applicant made every effort to induce manufacturers to use the improvement, and at last succeeded in inducing the firm of E. T. & Co., of R., in the county of S., and State of N., to recommence the manufacture of the machines. But after four years the firm failed, being largely in debt to applicant for royalties. After this it became impossible for applicant to do anything with the invention. She wrote to several manufacturers, and made personal application to others, but found them unwilling to make arrangements to pay royalties, or to use the invention in any way, unless she would sell the patent, including the extension, for a nominal sum. She states, however, that she has at length succeeded in perfecting an agreement with G. H. & Co., of T., in the county of W., and State of N., conditioned upon the extension, whereby the said firm agreed to manufacture the patented machines, and to pay her a royalty of three dollars upon each one made. Aside from the interest so vested in G. H. & Co., the entire interest in the extension remains vested in her, and she has made no assignment, contract, or agreement of any kind for the sale or assignment of the extended term to any person whatsoever.

The following is believed to be a correct statement of receipts and expenditures, and is as full as it is possible to make it:

*Receipts.*

From profits from business (for particulars of which see Schedule A).....	\$1,236 00
From royalties from E. T. & Co. (for details of which see Schedule B).....	2,341 50
From sale of shop-right to L. M.....	250 00
	\$3,827 50
Total receipts.....	\$3,827 50

*Expenditures.*

Expense of procuring patent.....	250 00
	\$3,577 50
Net receipts.....	\$3,577 50

The invention is exceedingly useful, as will be abundantly proved. The testimony will show that it has been introduced upon 20,000 mowing machines, and has increased the value of said machines not less than three dollars each. It is evident, therefore, that the public have been greatly benefited by the use of this invention; while the fact that C. D. invested his

entire time and means and finally lost his life in the prosecution of his invention is respectfully submitted as proof that he has not been adequately remunerated for his time, ingenuity, and expense bestowed upon this invention and the introduction thereof into use.

A. B., *Executrix*.

46. OATH BY AN APPLICANT FOR EXTENSION (PATENTEE).

STATE OF M., *County of N.*, ss :

A. B., the above-named applicant, being duly sworn [or affirmed] deposes and says that the foregoing statement and account by him signed are correct and true to the best of his knowledge and belief.

A. B.

Sworn to and subscribed before me at L., in said county, this 1st day of November, A. D. 1868.

C. D.,  
[*Official title.*]

47. OATH BY AN APPLICANT FOR AN EXTENSION (EXECUTOR).

STATE OF M., *County of N.*, ss :

A. B., executor of the last will and testament of C. D., deceased, being duly sworn [or affirmed], deposes and says that the foregoing statement and account by him subscribed are correct and true, to the best of his information, knowledge, and belief.

A. B., *Executor, &c.*

Sworn to and subscribed before me at L., in said county, this 20th day of May, 1869.

C. D.,  
[*Official title.*]

48. REASONS OF OPPOSITION TO AN EXTENSION (BY INDIVIDUALS).

In the matter of the application of A. B. for an extension of letters patent for improvements in sewing-machines, No. 12,213, dated May 15, 1855.

*To the Commissioner of Patents :*

We wish to oppose the application above referred to, for the following reasons, viz :

1. Applicant was not the original and first inventor of the improvement claimed by him in said letters patent, the same having been fully described in the English patent No. 27 of the year 1853.



2. If said alleged invention was ever made by applicant, which we deny, it is not useful.

3. Said invention is not valuable nor important to the public.

4. Applicant has been adequately remunerated for his time, ingenuity, and expense in originating and perfecting his alleged invention.

5. Applicant has not used due diligence in introducing his alleged invention into general use.

6. Applicant has assigned to other parties all interest in the extension; and the extension, if granted, would not be for his benefit.

(See assignment to C. D., dated April 1, 1864; recorded June 2, 1864, in liber J<sup>o</sup>, page 217.)

7. The statement and account filed by applicant do not present a true statement of his receipts and expenditures.

E. F.  
G. H.  
I. K.

### Depositions.

#### 49. NOTICE OF TAKING TESTIMONY.

BOSTON, MASS., *March 29, 1869.*

In the matter of the interference between the application of A. B. for a paper-collar machine, and the patent No. 25,038, granted December 15, 1868, to C. D., now pending before the commissioner of patents.

SIR:—You are hereby notified that on Wednesday, March 31, 1869, at the office of E. F., esq., No. 30 Court street, Boston, Mass., at nine o'clock in the forenoon, I shall proceed to take the testimony of G. H., J. K., and L. M., all of B., as witnesses in my behalf.

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

A. B.,  
By R. S., *his Attorney.*

[Place and date of signing.]

#### *Proof of service.*

STATE OF M., *County of N., ss :*

Personally appeared before me, a justice of the peace [or other officer], the above-named A. B., who, being duly sworn, deposes and says that he served the above notice upon O. P., the attorney of the said C. D., at one o'clock P. M. of the 30th day of March,

1869, by leaving a copy at his office in R., in the county of S., and State of N., in charge of his partner, R. S.

A. B.

Sworn to and subscribed before me at L., in the county of M. and State of N., this 31st day of March, 1869.

E. F.,  
[*Official title.*]

[Service may be acknowledged by the party upon whom it is made as follows:

Service of the above notice acknowledged this 30th of March, 1869.

C. D.,  
By E. F., *his Attorney.*]

#### 50. FORM OF DEPOSITION.

Before the commissioner of patents, in the matter of the interference between the application of A. B. for a paper-collar machine and letters patent No. 85,038, granted December 15, 1868, to C. D.

Depositions of witnesses examined on behalf of A. B., pursuant to the annexed notice, at the office of E. F., No. 30 Court street, Boston, Mass., on Wednesday, March 31, 1869. Present, S. T., esq., on behalf of A. B., and V. W., esq., on behalf of C. D.

G. H., being duly sworn [or affirmed], doth depose and say, in answer to interrogatories proposed to him by S. T., esq., counsel for A. B., as follows, to wit:

Question 1. What is your name, age, residence, and occupation?

Answer 1. My name is G. H.; I am forty-three years of age; I am a manufacturer of paper collars, and reside at C., in the State of M.

Question 2, &c. \* \* \* \* \*

And in answer to cross-interrogatories proposed to him by V. W., esq., counsel for C. D., he saith:

Cross-question 1. How long have you known A. B.?

Answer 1. \* \* \* \* \*

G. H.

#### 51. CERTIFICATE OF OFFICER.

(To follow deposition.)

STATE OF M., *County of N.*, ss:

I, A. B., a notary public within and for the county of M., and State of N. [or other officer, as the case may be], do hereby certify that the foregoing deposition of C. D. was [or depositions



of C. D., E. F., &c., were] taken on behalf of G. H., in pursuance of the notice hereto annexed, before me at —, in the city [or town, &c.] of K., in said county, on the — day [or days] of August, 1879; that said witness [or each of said witnesses] was by me duly sworn before the commencement of his testimony; that the testimony of said witness [or each of said witnesses] was written out by myself [or by O. P. in my presence]; that the opposing party, X. Y., was present [or absent] during the taking said testimony, that said testimony was taken at —, and was commenced at 9 o'clock A. M., on the 21st of August, 1879, was continued pursuant to adjournment on the 22d, 23d, [&c.], and was concluded on the 28th of said month; that I am not connected by blood or marriage with either of said parties, nor interested directly or indirectly in the matter in controversy.

In testimony whereof I have hereunto set my hand and affixed my seal of office, at —, in said county, this 1st day of September, 1879.

S. T.  
[Official title.]

The magistrate will then append to the deposition the notice under which it was taken, and will seal up the testimony, and direct it to the commissioner of patents, placing upon the envelope a certificate, in substance as follows:

I hereby certify that the within deposition of G. H. [if the package contains more than one deposition give all the names], relating to the matter of interference between A. B. and C. D., was taken, sealed up, and addressed to the commissioner of patents by me this 26th day of April, A. D. 1869.

E. F.,  
[Official title.]

## 52. LETTER OF ADVICE FOR REGISTRATION OF TRADE-MARK.

*To the Commissioner of Patents:*

The undersigned presents herewith a fac-simile of his lawful trade-mark, and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the law in such cases made and provided.

A. B.

### STATEMENT.

*To all whom it may concern:*

Be it known that I, A. B.,\* a citizen of the United States resid-

\* The first paragraph of the statement should be modified to conform to the circumstances of each applicant. If a firm, the domicile and place of business are required; if a corporation, under what State or other laws incorporated, where located and place of business; if a person not an American citizen, of what country he is a citizen [or subject, as the case may be], &c.

ing at ———, in the county of ———, and State of ———, and doing business at ———, have adopted for my use a trade-mark for ——— [as the case may be] of which the following is a full, clear, and exact specification:

My trade-mark consists of the letters and words [or arbitrary symbols, as the case may be] ———. These have generally been arranged as shown in the accompanying fac-simile. [*Here give a full description of the fac-simile, including all its features.*] But ——— may be omitted and ——— changed at pleasure without materially altering the character of my trade-mark, the essential features of which are ———.

This trade-mark I have used continuously in my business since ———, 18--.

The class of merchandise to which this trade-mark is appropriated is ———, and the particular description of goods comprised in such class on which I use the said trade-mark is ———\*. It has been my practice to [*here state fully the manner of applying it to the goods*] [*or the packages containing them*].

A. B.

Witnesses:

C. D.

E. F.

#### DECLARATION.

STATE OF ———, COUNTY OF ———, ss.

A. B., being duly sworn, deposes and says that he is the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that he has at this time a right to the use of the trade-mark therein described; that no other person, firm or corporation has the right to such use either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that it is used by him in commerce with foreign nations or Indian tribes, and particularly with ——— [*here name one or more foreign nations or Indian tribes, or both, as the case may be*]; and that the description and fac-similes presented for record truly represents the trade-mark sought to be registered.

A. B.

Sworn and subscribed before me, a ———, this ——— day of ———, 18—.

G. H., J. P.

If the application is made by a firm or corporation, this declaration should be modified accordingly.

\* The description of the goods on which the trade-mark is used should be in the same language in the first and last paragraphs of the statement.



**Form of Application for Registration of Prints and Labels.**

[Making necessary changes to suit each case.]

53. FOR AN INDIVIDUAL.

*To the Commissioner of Patents :*

The undersigned, A. B., of the city of Brooklyn, county of Kings, and State of New York, a citizen of the United States [or resident therein, as the case may be], hereby furnishes five copies of a label [or print, as the case may be], to be used for \_\_\_\_\_, of which he is the sole proprietor. The title of said label [or print] is \_\_\_\_\_, and the said label [or print] consists of the words and figures as follows, to wit: \_\_\_\_\_ [Description.]

And he hereby requests that the said print [or label] be registered in the Patent Office in accordance with the act of Congress to that effect, approved June 18, 1874.

\_\_\_\_\_,  
*Proprietor.*

BROOKLYN, N. Y., August 1, 1874.

54. FOR A CORPORATION.

*To the Commissioner of Patents :*

The applicant, a corporation created by authority of the laws of the State of New York [or other authority, as the case may be], and doing business at \_\_\_\_\_, in said State, hereby furnishes five copies of a label [or print, as the case may be], to be used for \_\_\_\_\_, of which it is the sole proprietor. The title of said print is \_\_\_\_\_, and the said label consists of the words and figures as follows, to wit: \_\_\_\_\_ [Description.]

And it is hereby requested that the said label [or print] be registered in the Patent Office, in accordance with the act of Congress to that effect, approved June 18, 1874.

[L. s.] Witness the seal of said corporation at \_\_\_\_\_, \_\_\_\_\_, 1874.

\_\_\_\_\_,  
*President [or other officer.]*

**55. Assignment of Copyright.**

This indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 187\_\_\_\_, between \_\_\_\_\_, of \_\_\_\_\_, in the State of \_\_\_\_\_, of the first part, and \_\_\_\_\_, of \_\_\_\_\_, in the State of \_\_\_\_\_, of the second part.

Whereas the said \_\_\_\_\_ has written and compiled a book entitled \_\_\_\_\_, for which he obtained a copyright on the \_\_\_\_\_ day of \_\_\_\_\_, 187\_\_\_\_.

Now, this indenture witnesseth that the said \_\_\_\_\_, for and in consideration of the sum of \_\_\_\_\_ dollars, to him in hand paid by the said \_\_\_\_\_, the receipt whereof is hereby acknowledged, has bargained, sold, and assigned, and by these presents doth bargain, sell, and assign unto the said \_\_\_\_\_, all the said book, and all copyright, title, interest, property, claim and demand of, in and to the same, to have and to hold the said book, copyright, and all the profit, benefit and advantage that shall or may arise by and from printing, reprinting, publishing and vending the same, unto the said \_\_\_\_\_, his heirs, executors, administrators and assigns, forever.

In witness whereof, the said party of the first part hath herenunto set his hand and seal, the day and year first above written.

Signed, sealed and delivered }  
in the presence of \_\_\_\_\_ . }

[SEAL.]

### 56. Declaration in Case for the Infringement of a Patent.

To answer to A. of B., in the county of S., in the district of \_\_\_\_\_, manufacturer, in a plea of trespass on the case, for that the plaintiff was the original and first inventor [or discoverer] of a certain new and useful art [machine, manufacture, composition of matter, or improvement on any art, machine, &c., taking the words of the statute most applicable to the subject of the invention] in the letters patent hereinafter mentioned and fully described, the same being a new and useful [here insert the title or description given in the letters patent], which was not known or used before his said invention [or discovery], and which was not, at the time of his application for a patent as hereinafter mentioned, in public use or on sale with his consent or allowance; and the plaintiff being so, as aforesaid, the inventor [or discoverer] thereof, and being also a citizen of the United States [if the fact is so], on the \_\_\_\_\_ day of [here insert the date of the patent], upon due application therefor, did obtain certain letters patent therefor in due form of law under the seal of the patent office of the United States, signed by the Secretary of State and countersigned by the Commissioner of Patents of the United States, bearing date the day and year aforesaid, whereby there was secured to him, his heirs, administrators, executors or assigns, for the term of fourteen years from and after the date of the patent, the full and exclusive right and liberty of making, using and vending to others to be used, the said invention [machine, improvement or discovery] as by the said letters patent, in court to be produced, will fully appear. And the plaintiff further says, that from the time of the granting to him of the said letters patent, hitherto, he has made, used and vended to others to be used [or he has made, or, has used, or, has vended to others to be used, as the case may be]



the said invention [machine, improvement or discovery] to his great advantage and profit [or if he has not made, used or vended, then, instead of the above averments, may be substituted after the word "hitherto," "the said exclusive right has been and now is of great value to him, to wit, of the value of \$       ]."

Yet the said D., well knowing the premises, but continuing to injure the plaintiff, did, on the [some day after the date of the patent], and at divers times before and afterwards, during the said term of fourteen years mentioned in said letters patent, and before the purchase of this writ, at C., in the county of M., in said district of       , unlawfully and wrongfully, and without the consent or allowance, and against the will of the plaintiff, make [use and vend to others to be used, or did make, or did use, or did vend to others to be used, as the case may be] the said invention [machine, improvement or discovery] in violation and infringement of the exclusive right so secured to the plaintiff by said letters patent as aforesaid, and contrary to the form of the statute of the United States, in such case made and provided, whereby the plaintiff has been greatly injured and deprived of great profits and advantages which he might and otherwise would have derived from said invention, and has sustained actual damage to the amount of \$       , and by force of the statute aforesaid, an action has accrued to him to recover the said actual damage, and such additional amount, not exceeding in the whole three times the amount of such actual damages, as the court may see fit to order and adjudge, yet the said D., though requested, has never paid the same or any part thereof to the plaintiff, but hath refused, and yet refuses so to do.

### **57. Declaration Where There is an Assignment.**

To answer unto H. L., a citizen of the same State, in a plea of trespass on the case, &c. And thereupon the said H. L., plaintiff in this action, by W. S., his attorney, complains, for that whereas, heretofore, to wit, on the        day of       , in the year       , at the district of        aforesaid, a certain J. N., of       , in the State of       , a citizen of the United States, being the original and first inventor of a new and useful improvement in dredging machines not known or used before his said invention or discovery, and not at the time of his application hereinafter mentioned for a patent, in public use or on sale with his consent and allowance, did duly apply for and there was duly granted to the said J. N., letters patent of the said United States, bearing date the day and year aforesaid, signed by C. B. S., then Secretary of the Interior of the said United States, and countersigned by D. P. H., then the Commissioner of Patents of the said United States, and sealed with the seal of the patent office of the said United States, granting according to law: to the said J. N., his heirs, administrators,

or assigns, for the term of seventeen years from the said day of \_\_\_\_\_, in the year aforesaid, the full and exclusive liberty of making, constructing, using, and vending to others to be used, the said new and useful improvement in dredging machines, to wit, at the district aforesaid, as by the said letters patent, reference thereto being had, will, among other things, more fully and at large appear, and which said letters patent the said plaintiff now brings here into court, and which said letters patent are duly recorded in the patent office aforesaid, and whereas also the said J. N. afterwards, to wit day of \_\_\_\_\_, in the year \_\_\_\_\_, and while the said letters patent were still in force and unexpired, to wit, at the district aforesaid, by a certain power of attorney in that behalf, under his hand and seal, having date the day and year last aforesaid, did make, constitute and appoint T. S. of \_\_\_\_\_, in the State of \_\_\_\_\_, his lawful agent in his behalf, to sell to any person whomsoever in the said United States, the right to manufacture, construct, sell or use the said new and useful improvement in dredging machines, which said power of attorney, afterwards to wit, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, was duly recorded in the said patent office, to wit, at the district aforesaid, and which the said plaintiff now brings here into court, and whereas, also, afterwards to wit, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, and while the said letters patent were still in force and unexpired, and the said power of attorney was still in force and unrevoked, to wit, at the district aforesaid, the said J. N., by his sealed assignment in due form of law, by and through the said T. S., his agent as aforesaid, bearing date the day and year last aforesaid, and which the said plaintiff now brings here into court, for the consideration therein mentioned, did, among other things, assign, transfer and set over unto the said plaintiff H. L., his executors, administrators and assigns, all the right, title, interest, property, claim and demand which he the said J. N. had in the invention and improvement as secured to him by the said letters patent, for, to and in the State of Virginia and the District of Columbia, with full, entire and complete right to manufacture, construct, sell and use the said improvement in dredging machines in and for the said State of Virginia and the District of Columbia, the same to be held and enjoyed by the said plaintiff for his own use and behoof, and for the use and behoof of his legal representatives, for and to the full end of the term for which said letters patent were or might be granted, as fully and entirely as the same would have been held and enjoyed by the said J. N., had the said assignment and sale not been made, which said assignment, afterwards, to wit, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, was duly recorded in the said patent office, to wit, at the \_\_\_\_\_ district aforesaid. And the said plaintiff in fact saith, that the said assignment in and for the said State of Virginia, was, at the time of said assignment, and from thence hitherto has been, and still is, at the commencement of this suit, of great value to him the said plaintiff, to wit, of the



value of \$ \_\_\_\_\_, to wit, at the \_\_\_\_\_ district aforesaid. Yet the defendant well knowing the premises, but contriving and wrongfully and injuriously intending to injure the said plaintiff, and to deprive him of the benefit, profits and advantages which he might and otherwise would have derived from manufacturing, making, using and selling the said new and useful improvement and invention in the State of Virginia aforesaid, after the making of said letters patent, and of the said power of attorney, and of the assignment aforesaid, to wit, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, and on divers other days and times between that day and the day of the commencement of this suit, to wit, at the \_\_\_\_\_ district aforesaid, within the term of years in the said letters patent mentioned, and while the said letters patent and the said assignment to the said plaintiff were both in force and unexpired, unlawfully, unjustly, without the leave or license and against the will of the said plaintiff, did within the State of Virginia aforesaid, use the said new and useful improvement in dredging machines, in divers, to wit; five other dredging machines, in violation of the said letters patent and of the rights of the said plaintiff as such assignee as aforesaid, and thereby the said plaintiff has been greatly injured and deprived of great part, of great value, to wit, \$ \_\_\_\_\_, of the benefits, profits and advantages which he might and otherwise would have acquired and had as such assignee as aforesaid, to wit, at the \_\_\_\_\_ district aforesaid, to the damage of the said plaintiff \$ \_\_\_\_\_, and therefore he brings his suit, &c.

### 58. Plea of General Issue with Notice.

The said defendant, by \_\_\_\_\_, his attorney, comes and defends the force and injury, &c., and says he is not guilty of the trespass specified in the said plaintiff's declaration in manner and form as the said plaintiff hath above thereof complained, &c., and of this the said defendant puts himself on the country.

And the said defendant files herewith, in compliance with the exigency of the statute in such case made and provided, the following notice in writing of special matters of defence intended to be relied on by the defendant at the trial of this cause.

*To \_\_\_\_\_, Attorney for the plaintiff in the above cause:*

Take notice, that the defendant, under the general issue, will give in evidence at the trial of this cause, the following matter to wit:

1. That the patentee was not the original and first inventor or discoverer of the thing patented to him by the United States, and described in the patent in the declaration mentioned, but that the said alleged invention of said plaintiff was described anterior to the supposed discovery thereof by the said plaintiff in the specifi-

cation of the following English patents, viz: [Here insert name of patentee and number and date of patent.]

Also, that the thing patented, or a substantial part thereof, claimed as new, was described anterior to the supposed discovery thereof by the plaintiff in the following public works, viz: [Here insert the title of the work and give the number of the volume and the page.

2. And the said defendant will offer in evidence various facts tending to prove that the said plaintiff surreptitiously and unjustly obtained said patent for that which was in fact invented or discovered by \_\_\_\_\_, of the town of \_\_\_\_\_, in the State of \_\_\_\_\_, who was then using reasonable diligence in adapting and perfecting his said invention or discovery.

### 59. Supplemental Notice.

SIR: In addition to the public works specified in a notice of special matter intended to be relied on at the trial of the above cause, and served on you on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, you are hereby notified that the following public works, viz.: [Here insert as in original notice] will also be relied on for the purpose of proving that the said plaintiff was not the original and first inventor of that for which he obtained the patent mentioned in the declaration, and that the thing so patented, or a material and substantial part thereof claimed as new, was described anterior to the supposed discovery thereof by the said plaintiff in the said public work, and which was published in the year 18\_\_\_\_.

\_\_\_\_\_, \_\_\_\_\_,  
*Atty. for Defendant.*

To \_\_\_\_\_, \_\_\_\_\_,  
*Atty. for Plaintiff.*

### 60. Bill to Restrain Infringement of Patent.

*To the Honorable the Justices of the Circuit Court of the United States for the \_\_\_\_\_ Circuit within and for the \_\_\_\_\_ District of \_\_\_\_\_.*

#### IN EQUITY.

M. M., Executrix of the last will and testament of J. M. and R. G. E., of the \_\_\_\_\_ and county of \_\_\_\_\_ State of \_\_\_\_\_, citizen of the United States, bring this their bill against \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_, county of \_\_\_\_\_, State of \_\_\_\_\_.

And thereupon your orators complain and say, that heretofore, and before the \_\_\_\_\_ of \_\_\_\_\_, 18\_\_\_\_, the said J. M. and R. G. E., being then citizens of the United States, were the true, original and first inventors or discoverers of a certain new and useful invention, to wit, an improved machine for sawing thin boards, &c.,



and that the said invention was not known or used by others before their invention or discovery thereof, and was not at the time of the application for letters patent therefor in public use or on sale with the consent or allowance of the said J. M. and said R. G. E., as the inventors or discoverers thereof, contrary to the provisions of the statutes of the United States in such case made and provided.

That, being such inventors, the said J. M. and said R. G. E. made application in writing to the Commissioner of Patents of the United States, for the granting of letters patent for said invention, and accompanied the same with a written description of the said invention or discovery, and the manner and process of making and using the same, in such full, clear and exact terms as to enable any person skilled in the art or science to which the said invention or discovery appertains, or with which it is most nearly connected, to make and use the same, and with a specification of the parts and improvements and combinations which they claimed as their invention, and with drawings and models and written references explaining the said invention or discovery, and explaining the principle and mode in which they contemplated the application of the principle by which it might be distinguished from other inventions; which said description was signed by the said J. M. and said R. G. E., and attested by two witnesses, and filed in the patent office.

That the said J. M. and said R. G. E. made oath that they verily believed that they then were the original and first inventors or discoverers of the invention or discovery, for which they then solicited a patent, and that they did not know or believe that the same was ever before known or used; and also that, that they then were citizens of the United States.

And the said J. M. and said R. G. E., at the same time paid into the treasury of the United States the sum of thirty dollars, and received a receipt therefor, and then and there also duly complied in all other respects with all the necessary conditions and requirements of the statutes of the United States in such case made and provided, prior to the granting of the letters patent hereinafter mentioned.

That on the        day of        , 18    , letters patent of the United States, bearing date on that day were issued to the said J. M. and said R. G. E., according to law, whereby there was granted to them, their heirs, executors, administrators or assigns, for the term of fourteen years, from the        day of        , 18    , the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the invention or discovery aforesaid, a description whereof was given in the words of the said J. M. and said R. G. E. in the said schedule annexed to the said letters patent, and was made part of the same.

And the said letters patent were issued in the name of the United States of America, and were sealed with the seal of the

patent office of the United States, and were signed by the Secretary of the Interior, and were countersigned by the Commissioner of Patents, and were numbered 10965, and were issued and delivered to the said J. M. and R. G. E.

That thereupon after the issuing of the said letters patent as aforesaid, the said J. M. and said R. G. E. put the said invention into use, by making, using and vending the same to others, and licensing large numbers of such machines.

And your orators pray, that said letters patent, and the schedule annexed thereto, as aforesaid, may be deemed and taken as part of their bill, and to the originals of which, or a duly authenticated copy thereof, now in your orators' possession and ready to be produced, they crave leave to refer.

And your orators further show, that on the            day of            , 18            , on the application of the said J. M. and said R. G. E., they having then and there duly complied in all respects with the provisions of the statutes in such case made and provided, and paid the fees required by law, the said letters patent were extended for the term of seven years from the            day of            , 18            , pursuant to the statute in such case made and provided.

And your orators further show, that since the obtaining of said extension of said letters patent, the said J. M. has died, leaving a will, whereby he appointed the said M. M., who is the widow of said J. M., deceased, his sole executrix, and the said M. M. has duly qualified as said executrix.

And your orators further show, that prior to the commencement of this present suit, your orators duly filed in the patent office of the United States a disclaimer of the part of the first claim of said letters patent, to which said disclaimer your orators crave leave to refer.

And your orators further show, that said letters patent have been in controversy before the Circuit Court of the United States for the            District of            , in various actions and suits at law and in equity founded thereon, viz.: 1st. One action at law wherein            and            were plaintiffs, and            and            were defendants. 2d. One suit in equity, wherein            and            , executrix, were complainants, and            and            were defendants. That said first mentioned action at law came on for trial before the Honorable            and a jury, at the            term of said Circuit Court, in the year 18            . Said defendants were represented by counsel, and vigorously contested said action, denied infringement of said letters patent, and denied the novelty of the invention therein described, and attempted to prove that the said invention had been previously known to be used by            and            .

That nevertheless the said jury rendered a verdict in favor of the said plaintiffs upon all the issues in said action, and sustained the validity of said letters patent, and the charge of the infringe-



ment thereof, and assessed the plaintiffs' damages at the sum of five thousand dollars.

That said suit in equity came on for hearing before the Honorable \_\_\_\_\_, at the \_\_\_\_\_ term of said Circuit Court in the year 18\_\_\_\_, the said defendants respectively denying infringement of said letters patent, and also denying the novelty of the inventions therein described, and setting up various and separate defences thereto, contending that the same had been previously known to and used by C. T. at Troy, Batestown and Cohoes, New York, I. S. at New York, J. L. N. at Yonkers and New York, D. D. at Albany, J. H., H. McC, and J. M. at Cohoes, C. M. W. at Franklin, Mass., G. W. C. at Franklin, Mass., A. M. at Franklin, Mass., W. R. at Franklin, Mass., E. W. R. at New York, A. B. at Hillsborough, New Hampshire, G. H. at Brooklyn, New York, J. B. G. at the city of New York, R. D. at the city of New York, and H. J. N. at the City of New York, and had been described in a certain printed publication called \_\_\_\_\_, published in London, 18\_\_\_\_, at vol. 2, pages 804 to 816, and in letters patent of the United States, to P. C. dated \_\_\_\_\_, 18\_\_\_\_, and \_\_\_\_\_, and in letters patent of the Kingdom of Great Britain, to A. E. L. B., dated \_\_\_\_\_, 18\_\_\_\_, sealed \_\_\_\_\_, 18\_\_\_\_, and in letters patent of the United States to M. A. and J. S., dated \_\_\_\_\_, 18\_\_\_\_.

The said suits were argued by counsel at said term; and thereupon, upon consideration thereof, decisions were rendered in said several suits, decreeing that said letters patent were valid, and that the defendants had severally infringed the same, and directing perpetual injunctions and accounts of profits.

And your orators have ever since the date of the said letters-patent, been and now are entitled to all the rights, interests and privileges thereby secured unto them in and to the said invention or discovery, in the said letters patent, and assignments and extension particularly set forth, and are, and ever since the date thereof have been entitled to the exclusive use of the said invention and improvement.

And your orators further show unto your honors, that the said invention or discovery so patented, aforesaid, unto the said J. M. and the said R. G. E., is of very great utility; and that the same has been extensively introduced into public use, and that the public have generally acquiesced in your orators' exclusive right to the same; and your orators would, but for the wrongful acts the said defendant and others acting in concert with him, have made large gains, profits and advantages, from the manufacture, use and sale of the said invention; and your orators would, but for the wrongful acts and doings of the said defendant and others acting in concert with him, now be enabled to use the said invention, to which they are entitled to the exclusive right as aforesaid with profit and advantage, but that by the said wrongful acts and doings they are now prevented and hindered from so doing.

And your orators further show unto your honors, upon information and belief, that the said defendant, well knowing the premises, and the rights and privileges secured unto your orators, and in order to deprive them of the profits, benefits and advantages which might and otherwise would have accrued to them, at \_\_\_\_\_, and within the said \_\_\_\_\_ district of \_\_\_\_\_, and without license or permission of your orators, or either of them, \_\_\_\_\_ the said defendant has, ever since the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, unlawfully and wrongfully made or caused to be made, sold or caused to be sold, used or caused to be used

each and all containing the said invention, discovery, improvements and combinations, consisting as therein and in the schedule set forth, of the employment or use of the deflecting plate E E, both placed at the sides of the saw as therein shown, for the purpose therein described. 2d. The employment of the clamps I I, as therein shown substantially as and for the purpose described, and also the employment of an adjustable bed, F, with clamps as described in combination with the saw, when the saw has a stiffening plate in line with said bed, as and for the purpose described, the exclusive right to which is secured to your orators, as hereinbefore set forth, and which said unlawful making, use and sale by the defendant as aforesaid, is a violation and infringement of your orator's exclusive rights and privileges, and that the said defendant has derived and received, and is still deriving and receiving from such use great gain and profits, but to what amount your orators are ignorant and can not set forth, but your orators believe the same to be about the full sum of \_\_\_\_\_ thousand dollars, and so charge the fact to be, and pray that the defendant may be required to make a disclosure of all such gains and profits.

And your orators in like manner aver that the defendant though requested to desist from such unlawful use, and to pay your orators such gains and profits as the defendant has actually made, refuse so to do, by means whereof your orators are and have been greatly injured, and are now prevented from putting the said invention or discovery into successful operation, and are deprived and prevented from receiving the gains and profits to which they are lawfully entitled, from the exclusive rights and privileges so granted and secured to them as aforesaid, and which they would have derived and acquired, and would now derive and acquire, but for the said wrongful acts of the said defendant.

And your orators pray that the said defendant may be compelled by a decree of this honorable court, to account for and pay over unto your orators all such gains and profits as have accrued or arisen to, or been earned or received by the said defendant, and all such gains and profits as your orators would have received, but for the said wrongful acts and doings of the said defendant.

And that the said defendant, his attorneys, solicitors, clerks,



servants, agents and workmen may be perpetually enjoined and restrained by the decree of this court from directly or indirectly making or causing to be made, using or causing to be used, or vending to others to be used in any manner, any machines containing or embodying the said invention granted by the said letters patent, as issued, and extended and assigned as aforesaid unto your orators, and from infringing upon or violating the said letters patent by the use or sale of the said machines, in any way whatsoever. And that all such infringing machines may be forthwith destroyed, or delivered up to your orators, and that the said defendant may be decreed to pay the costs of this suit, and that your orators may have such other relief as the equity of the case may require, and as to your honors may seem meet.

To the end, therefore, that the said defendant may, if he can, show why your orators should not have the relief hereby prayed, and may full, true, direct and perfect answer make, according to the best of his or his clerks', agents', or workmen's knowledge, remembrance, information and belief, to the several matters hereinbefore averred and set forth as fully and particularly as if the same were here repeated paragraph by paragraph, and he and they thereto severally and specifically interrogated, and especially that said defendant answer and set forth :

*First.* Whether the said J. M. and R. G. E. were not, prior to the        day of        , 18    , the true, first and original inventors or discoverers of the said invention or discovery, described in said letters patent, and every material part thereof, and if not, who was or were the true, original or first inventor and inventors of the same, and if any other person or persons was or were the true, first and original inventor or inventors of the same, where he or they reside, and where and when he or they invented or discovered the same, and how the invention or discovery of such other person or persons, if any, differed, it at all, from the said invention or discovery of said J. M. and R. G. E.

*Second.* Whether the said defendant has at any time, and if so, where and when, made, sold, used, or caused to be made, sold or used, any circular saw or saws, having, employing or using deflecting plates, one or both placed at the sides of the saw, as and for the purpose described in said letters patent, or if the circular saw or deflecting plates differed from those described in said letters patent, in what particulars they differed therefrom, or in what respect they were differently applied or combined from those described in said letters patent, if at all.

*Third.* Whether said defendant has at any time, and if so, where and when, made, sold, used, or caused to be made, sold or used, in connection with a circular saw or saws, or with deflecting plates substantially as described in said letters patent, or both, any clamp or clamps substantially as and for the purpose described in said letters patent, and if said defendant has used a clamp or clamps in connection with a circular saw or deflecting plates, in

what respect such clamp or clamps differed from the clamps described in said letters patent, and in what respect they were differently applied to or combined with such saw or deflecting plates, if at all.

*Fourth.* Whether the machine or machines now in use by the defendant, for the purpose of sawing or resawing thin boards, was and is not substantially similar to the machine described in said letters patent; and if not, how the same differs therefrom.

*Fifth.* Whether the defendant has not made large gains and profits from the use of such saw and deflecting plates and clamps, and if so, to what amount.

May it please your Honors to grant to your orators a writ of *subpœna ad respondendum*, issuing out of and under the seal of this honorable court, directed to the said defendant, commanding him to be and appear, and make answer to this bill of complaint, and to perform and abide by such order and decree herein, as to this court may seem required by the principles of equity and good conscience.

May it also please your Honors to grant to your orators a provisional or preliminary injunction issuing out of and under the seal of this honorable court, enjoining and restraining the defendant, and his attorneys, solicitors, clerks, servants, workmen and agents to the same purport, tenor and effect hereinbefore prayed for, in regard to said perpetual injunction.

And your orators will ever pray, &c.

•

\_\_\_\_\_,  
Complainants' Solicitors.

NOTE.—The defendant is required to answer the interrogatories numbered respectively 1, 2, 3, 4, 5.

UNITED STATES OF AMERICA, } ss. :  
District of

On this \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_, before me came R. G. E., to me personally known, who, being by me duly sworn, did depose and say, that he is one of the complainants in the foregoing bill of complaint named, and that he has read the said bill, subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except as to matters which are therein stated to be on information and belief, and as to those matters, he believes it to be true.

### **61. Bill to Restrain the Infringement of Copyrights.**

To the \_\_\_\_\_ Judges of the Circuit Court of \_\_\_\_\_ United States for  
the \_\_\_\_\_ .

The bill of complaint of C. F., T. G. \_\_\_\_\_ and L. T., printers and publishers, and copartners doing business under the name



and style of F., W. & T., and J. S., gentleman, all of C., in the county of M., in said \_\_\_\_\_, and all being citizens of the United States, shows that the said J. S. is and heretofore at the time of the infringement hereinafterwards mentioned, was proprietor of the copyright of a work of which the said J. S. is the author and compiler, entitled \_\_\_\_\_, consisting of \_\_\_\_\_ volumes, of all which volumes respectively the copyright was taken out by said J. S. previous to the publication thereof respectively, and secured according to law, the said J. S., at the time of taking out and securing said copyrights respectively, and still being a citizen of the United States, and the term of each and all of which copyrights has still more than eight years to run; and that said F. W. & T., before the infringement hereinafterwards complained of, had, by an agreement with said J. S., undertaken and become interested in and assumed a part of the risk and responsibility of the publication of said work, and have ever since continued, and still continue, to be thus interested, and that ever since the first publication of the several volumes of said work, the public have been supplied with copies of the same by said J. S., and the publishers of the same, at reasonable prices; and that said J. S. and said F. W. & T. have incurred very large expenses upon said publication, and have been and are in receipt of large amounts, the proceeds of the sale of said work to reimburse their expenses and remunerate their labor and care bestowed upon the same.

And your orators further show, that they, your orators, being in the receipt of large sums, the proceeds of the sale of said work as aforesaid, under said copyrights, B. M., N. C. and T. H. W. all of B., in the county of S., in said \_\_\_\_\_, and G. P. L., of C., in the county of M., in the district of N. H., booksellers, being copartners under the name, style and firm of M., C., L. & W., and also C. W. U., of S. in the county of E., in said district of \_\_\_\_\_, clerk, all of them well knowing that the said J. S. held such copyrights, and said F., W. and T. were interested in the said publication, and deliberately, after due notice, intending to infringe said copyrights at said B., on \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, eighteen hundred \_\_\_\_\_, and at divers times before and since the said \_\_\_\_\_ day of \_\_\_\_\_, without the allowance and consent of your orators, or either of them, published and exposed to sale and sold a work in \_\_\_\_\_ volumes, entitled "\_\_\_\_\_", in the form of an autobiography, the narrative being to a great extent, conducted by himself in extracts and selections from his own writing, with portraits and other engravings, consisting of \_\_\_\_\_ pages in the whole, which they still continue to expose to sale, having had due notice, and well knowing that the same is a copy from, and an infringement and piracy of, said \_\_\_\_\_, so published by your orators as aforesaid. And your orators aver, that \_\_\_\_\_ pages of said piratical work were copied *verbatim et literatim* from the said work so edited and compiled by said J. S., as aforesaid, and so published by your orators as

aforesaid, consisting of matter which was published originally by said J. S., under his said copyright, and which had never before been published or printed, and which he, the said J. S., and his assigns, had the exclusive right and privilege to print, publish and sell, and expose to sale; and that many other parts of said piratical work, published by said parties complained of, besides pages, are infringements upon said J. S.'s copyrights, whereby your orators have sustained great damage, detriment and injury.

And your orators further show, that said M., C., L. & W. and U. still continue, and threaten hereafter to continue to print, publish and expose to sale and sell copies of the said piratical work, the protests, expostulations and warnings of your orators to them to the contrary notwithstanding.

All which actions, doings and pretences are contrary to equity and good conscience, and tend to the wrong and injury of your orators in the premises. In consideration whereof, and forasmuch as your orators are remediless in the premises at law, and can not have adequate relief save in a court of equity, where matters of this and the like nature are properly cognizable and relievable, and to the end that the said M., C., L. & W. and U. may appear and answer all and singular the matters and things hereinbefore set forth and complained of, particularly how many copies of said piratical work they have sold, and what number they have on hand; and that they be restrained by injunction issuing from this court, from selling or exposing to sale, or causing or being in any way concerned in the selling or exposing to sale, or otherwise disposing of any copies of said piratical work, and that they be ordered and decreed to render an account of the copies of the same that they have sold, and to pay over the profits of such sales to the plaintiffs, and that they be ordered to surrender and deliver up the copies on hand and the stereotype plates of said piratical work to an officer of this court, to be cancelled and destroyed, and be ordered to pay the plaintiffs their costs; and that your orators may have such other and further relief as to this honorable court may seem meet, or as equity may require—may it please this honorable court to grant to your orators a writ of *subpœna* directed to the said M., C., L. & W. and U. commanding them, at a certain day, and under a certain penalty to be therein inserted, personally to be and appear before this honorable court, then and there to answer the premises, and to stand and abide such order and decree therein as to this honorable court shall seem agreeable to equity and good conscience.

P. & R.

By their solicitors.



**62. Bill for an Account and Injunction against the  
Illegal use of a Trade-mark.**

*Circuit Court of the United States for the District of .*  
*To the Judges of the Circuit Court of the United States*  
*for the District of .*

A. B. and C. D., of , and citizens of the State of , bring this their bill against E. F., of , and a citizen of the State of . And thereupon your orators humbly complaining, show unto your honors, that they are the assignees and successors in business of & Co., a firm which was composed of and your orators, and which firm was formerly engaged in the manufacture and sale of sewing machines in ; and for the period of more than five years, your orators and their predecessors had been engaged in the manufacture and sale of sewing machines at the same place; and that during the whole period of time of such manufacture and sale by them, they had exclusively used, and your orators are now using, and had, and still have, the right so to use, a certain trade-mark for said sewing machines, which trade-mark was printed on paper of an ultramarine ground, on which is represented a view of the Princess Penelope weaving, and the name "Penelope," which is the essential part of said mark printed thereon; and that no person, firm or corporation, except the said and your orators, have had at any time heretofore, and none except your orators now have any right to use the said trade-mark or any trade-mark essentially the same.

They further show to your honors that on the said day of in the year of , being entitled as aforesaid to the exclusive use of said trade-mark, and desiring to secure to themselves full and lawful protection for the same by due registration thereof in the United States patent office, according to law, your orators did deposit in said patent office of the United States, for registration, their trade-mark aforesaid for sewing machines; and having fully complied with all the requirements of the act of Congress, in such cases made and provided, the trade-mark aforesaid was on the day of , in the year , duly and lawfully registered and recorded in said United States patent office, with protection to remain in force for thirty years from said date, all of which, with an accurate copy and description of said trade-mark and the declaration of a member of the firm, on which it was registered, will more fully and at large appear from copies from the patent office, duly certified by , commissioner of patents, under his seal of office, and herewith filed as part of this bill, marked ; and thereupon protection in the exclusive use of the trade-mark aforesaid previously held and enjoyed by your orators, was secured to them for the period of thirty years from said day of , in the year .

Your orators further respectfully show unto your honors, that

since your orators have had the exclusive right to use the said trade-mark, to wit, from the day of , in the year , to the present time, the said , of , in the State of , has been manufacturing sewing machines in said city of , and has been unlawfully and without your orators' consent using, in the sale thereof, a trade-mark substantially like, and indeed almost identical with, that of your orators.

And your orators do further show that they hold and estimate their said trade-mark at the price and value of thousand dollars, but can not with certainty state the exact amount of their loss and injury, suffered by reason of said wrongful acts of the defendant, but believe the same to be the full sum of thousand dollars, and do so charge the fact.

To the end therefore, that your orators may obtain relief in the premises in this honorable court, where alone adequate relief can be afforded, they pray :

1st. That the said E. F. may be made a defendant to this bill, and compelled to answer each and every allegation thereof on oath, as fully and to the same extent as if he were directly and particularly interrogated as to each allegation.

2d. That he may be compelled to render, before a commissioner of this court, a full, true and perfect account of all profits of every description which he has made, or might have made, by the use of the simulated trade-mark aforesaid, or by the use of any other trade-mark for sewing machines having thereon as a constituent part thereof, the word "Penelope," or a representation of the Princess Penelope weaving, or any trade-mark having such near resemblance to that of your orators, as aforesaid, as might be calculated to deceive; and that he, said E. F., be decreed to pay over to them all such profits.

3d. That the said commissioner be required to ascertain and report to this court, also, what loss and damage has been inflicted upon your orators by reason of the infringement of their rights, and the interference aforesaid with the right of exclusive use of the trade-mark first above mentioned, and that the said E. F. be also decreed to pay them such damages.

4th. And may it please your honors to grant unto your orators a restraining against the said defendant, enjoining and restraining him, his clerks, attorneys, agents and servants from using the simulated trade-mark aforesaid, or any other trade-mark containing the word "Penelope," or being substantially the same with that of your orators.

5th. And that your orators may obtain the relief prayed for, and all such further or other relief as the nature of their case may require, may it please your honors to grant to your orators the writ of subpoena against the said E. F., &c.

\_\_\_\_\_,  
Solicitor for Complainant.

C D. [for the firm.]



UNITED STATES OF AMERICA, }  
*District of* . } ss. :

At the city of , in the county of , and district aforesaid, this day of , in the year , personally appeared before me , U. S. commissioner for said district, the above-named C. D., and made oath that the facts set forth in the foregoing bill, so far as they purport to be stated as of his own knowledge, are true, and so far as they purport to be stated on information and belief, he believes it to be true.

Given under my hand this day of , in the year .

[L. s.] *U. S. Commissioner for District of* .

### 63. Order of Reference to a Master in a Copyright Case.

It is hereby ordered, this day of , 18 , that this cause be referred to , a master of this court, to examine and report the coincidences and differences of the complainant's and defendant's books; how far the defendant has used the complainant's book in compiling his own, and how far he has made use of the similar or the same materials, independently of any use or with how great a use of the complainant's book, and to report the evidence in the case as far as either party may request, and his conclusion thereupon whether the whole or any part, and if any, what parts of the defendant's book is an infringement of the complainant's copyright.

### 64. Order to Show Cause.

Upon reading the bill of complaint herein, with the affidavit of , and on motion of , solicitor for the complainant, it is hereby ordered, this day of , 18 , that the defendant show cause, if any he has, before the judge of said court, at , in the said , district of , on the day of , 18 , at o'clock A. M., or as soon thereafter as counsel can be heard, why an injunction should not issue pursuant to the prayer of said bill.

### 65. Order for Preliminary Injunction.

The bill of complaint and the affidavits filed by the respective parties having been read, and the arguments of the counsel for the respective parties having been heard and duly considered by the court, and it appearing that letters patent of the United States, No. , were issued in due form of law on the day of , 18 , to , for , and that the said defendant has infringed the rights secured by the aforesaid letters patent by manufacturing, making and selling to , manufactured and made

according to said letters patent, contrary to the form of the statute in such case made and provided :

Now, therefore, it is hereby ordered, adjudged and decreed, this        day of        , 18    , that an injunction be issued pursuant to the prayer of the bill herein, strictly commanding and enjoining the said defendant        , his clerks, attorneys, agents, servants and workmen, that they forthwith and until the further order, judgment and decree of this court, desist from making, using and selling any        substantially as described and claimed in the said letters patent.

### 66. Interlocutory Decree.

This cause came on to be finally heard at this        term, upon the pleadings and proofs, and was argued by the counsel for the respective parties, and the pleadings and proofs having been duly considered, it is hereby, this        day of        , 18    , ORDERED, ADJUDGED AND DECREED as follows, viz., that the letters patent referred to in the complainant's bill, being letters patent of the United States granted unto        , for a machine        , dated        day of        18    , No.        , is a good and valid patent, and that the said        , were the inventors of the improvements therein described and claimed therein, and that the said defendant has infringed the said patent, and upon the exclusive rights of the complainants under the same.

And it is further ORDERED, ADJUDGED AND DECREED that the defendants above named, and each of them, their servants, agents, operators and workmen, and each and every one of them be, and they are hereby perpetually enjoined and restrained from either directly or indirectly making, constructing, using or vending to others to be used, the machine known as the \_\_\_\_\_, or any machine whether known by that name or any other, constructed and operated in the manner and upon the principles described in said letters patent of the United States, bearing date the        day of        , 18    , No.        , and described in said letters patent as an improved machine for sawing thin boards, &c., which said letters patent are the foundation of these proceedings.

And it is further ORDERED, ADJUDGED AND DECREED that the complainants recover of the defendants the profits which they have received or made, or which have accrued to them from said infringement by the manufacture, use or sale of the improvement described and secured by said letters patent at any and all times since the        day of        , 18    , and also the damages which the complainants have sustained thereby.

And as it does not appear to the court what said profits and damages are, it is further ORDERED, ADJUDGED AND DECREED that this cause be referred to        , a master of this court, to take and



report to the court an account of the profits which the defendants have received or which have arisen or accrued to them from the manufacture, use or sale of said improvement, or from said infringement, and to ascertain and report the damages which the complainants have sustained thereby since the day of , 18 , from the papers and evidence in the cause, and from any evidence which either party may produce before him of the same, and when he shall have taken an account of said profits and assessed the damages therein, he shall return the same to this court for further action in the premises.

And it is further ORDERED, ADJUDGED AND DECREED that the complainants on such accounting, have the right to cause an examination of the defendants *ore tenus* or otherwise, and also the production of the books, vouchers and documents of said defendants, and that the said defendants attend before the said master from time to time within the district, as said master shall direct.

And it is ordered that the question of increase of damages and all other questions be reserved until the coming in of the master's report.

And it is ordered that the parties and master may apply upon due notice to the court, upon the foot of the decree, for such other and further order of instruction as may be necessary.

And it is further ORDERED, ADJUDGED AND DECREED that the complainants recover of defendants the costs of this suit, to be taxed.

### 67. Master's Report.

To the Honorable , Judges of said court:

In pursuance of a decretal order made and entered in this cause on the day of , A. D. 18 , by which it was referred to of , one of the masters of the court, to take and state an account of the gains and profits made by the defendant in the manufacture, use and sale of , described in the complainant's bill of complaint:

I, , a master in said court, do respectfully report that I have proceeded to investigate the matters so referred to me, and that pursuant to a notice duly given, I have been attended by the parties, complainant and defendant, and their respective counsel in the above case, and that after taking due proofs I find and report that .

I do therefore respectfully report that the said defendant should be decreed to pay to the said complainant the sum of dollars, besides costs to be taxed.

I respectfully refer to schedules A, B, C, hereto annexed, as making a part of this my report.

All of which is respectfully submitted.

Dated , 18 .

— —, *Master.*

### 68. Exceptions to Master's Report.

Exceptions taken by the complainant [or defendant] to the report made herein by \_\_\_\_\_, one of the masters of the court to whom the cause was referred by an order of this court, made and entered on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, which report bears date the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

*First exception.* For that the said master in said report \_\_\_\_\_, whereas the said master should have \_\_\_\_\_.

*Second exception.* For that, &c.

### 69. Final Decree.

This cause having come to be heard upon the report of \_\_\_\_\_, Esq., one of the masters of this court, to whom it was referred to ascertain and report \_\_\_\_\_, which report bears date the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, and also upon exceptions taken to the said report on the part of said complainant, and also on the part of said defendant:

It is ordered, adjudged and decreed, this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, that the said defendant pay to the said complainant the sum of \_\_\_\_\_ dollars.

And it is further ordered, adjudged and decreed that the said defendant pay to the said complainant his costs in this suit, to be taxed, and that the complainant have execution for such costs and for the sums above decreed to be paid to said complainant as aforesaid.



# INDEX.

# INDEX.

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- ABANDONMENT, no patent when there is an, 49.  
by failure to prosecute application, 158, 530.  
    pay fee, 162.  
    renew rejected application, 563.  
what constitutes, 343.  
result of intention, 344.  
by acquiescence, 344.  
before application for patent, 129, 345.  
no presumption of, 346.  
lapse of time is not, 346.  
mere sale within two years is not, 346.  
    declaration not conclusive, 346.  
none by use, without inventor's knowledge, 347.  
of parts of combination, 347.  
none by failure to prosecute, 347.  
    delay in applying for patent, 348.  
    delays in the patent office, 348.  
by withdrawal of application, 349.  
after granting a patent, 350.
- ACCOUNT granted in equity, 18.  
after expiration of patent, 20.  
    death of infringer, 20.  
where a discovery is sought, 20.  
although there is an action at law, 20.  
for profits, 372.  
decree for, 428.  
reference to master, 428.  
down to time of hearing, 428.  
where one defendant leaves the partnership, 429.  
effect of release of one infringer, 429.  
mode of estimating profits, 430.  
burden of proof on plaintiff, 430.  
in repairing machines, 431.  
difference between cost and yield, 431.



ACCOUNT—*continued.*

- not what could have been made by reasonable diligence, 432.
- by licensee in case of reissue, 433.
- after reissue, 433.
- for an improvement, 433.
- saving from loss, 434.
- interest allowed, 434.
- deductions, 434.
- apportionment of expenses, 435.
- in case of trade-mark, 488.
- copyright, 521, 523.

## ACTION AT LAW, jurisdiction of circuit court, 18.

- in case of contract, 19.
- for infringement of patent, 325.
- parties, 274.
- by license, 275.
- for infringement before assignment, 275.
- joinder of plaintiffs, 275.
- declaration, 326.
- plea, 328.
- notice, 330.
- demurrer, 332.
- concealment to deceive public, 332.
- obtaining patents surreptitiously, 333.
- novelty, 336.
- prior use, 336.
- abandonment, 343.
- notice of previous knowledge, 350.
- burden of proof, 351.
- presumption from patent, 353.
- evidence, 355.
- parol evidence, 361.
- experts, 362.
- estoppel, 364.
- province of jury, 366.
- practice, 368.
- arrest of judgment, 370.
- new trial, 370.
- who liable, 310.
- measure of damages, 315.
- defendant's profits, 316.
- plaintiff's loss, 318.
- license fee, 319.

**ACTION AT LAW**—*continued.*

- items of damages, 320.
- damages on reissue, 322.
- nominal damages, 322.
- increase of damages, 323.
- for infringement of trade-mark, 488.
  - unregistered trade-mark, 489.
  - copyright to book, 513.
  - dramatic composition, 515.
  - publication of manuscript, 516.

**ACTION FOR PENALTY** for falsely making article as patented, 207.

- for fraudulent register of trade-mark, 488.
  - omission to deposit book, 510.
  - falsely claiming copyright, 512.
  - infringement of copyright, 513.
- limitation on action for, 521.

**ADMINISTRATORS.** *See* EXECUTORS.**AFFIDAVITS**, to support application, 536.

- to application for patent, 155.
- on interference, 215, 220.
- in support for motion for injunction, 393.
- to resist injunction, 394.
- in rebuttal, 395.
- no reply to rebuttal, 395.

**ALIENS** may file caveat, 210.

- register trade-mark, 479.
- when entitled to copyright, 493.

**AMBIGUITY** renders patent void, 146.

- alternative claim invalid, 147.

**AMENDMENT** of specification, 212.

- upon rejection, 541.
- during pendency of interference, 549.
- of caveat, 567.
- supplemental oath to, 567.
- in case of reissue, 238, 546.
- of bill in equity, 380.
- of answer, 384.

**APPEAL TO COMMISSIONER** from examiners in chief, 233.

- who may take, 233.
- additional evidence, 234.
- regulation of, 555.
- in interference cases, 547, 550.
- hearing of, 556.



**APPEAL TO COMMISSIONER**—*continued.*

in trade-mark cases, 576.

on decision of motions, 557.

**APPEAL TO EXAMINERS IN CHIEF**, when allowed, 230.

effect of, 231.

no amendments after, 231.

action on, 232.

when cause remanded, 232.

to commissioner in person instead of, 232.

regulation of, 554.

proceedings for, 554.

proceedings on, 555.

only after two rejections, 555.

rehearing, 556.

in case of interference, 214.

**APPEAL TO SUPREME COURT**, when allowed, 23.

without regard to sum in controversy, 23.

only from final decree, 27.

what exceptions considered, 27.

appeal bond, 27.

**APPEAL FROM COMMISSIONER TO SUPREME COURT OF**

D. C. when allowed, 234.

what question considered on, 235.

regulation of, 556.

notice of, 236.

notice of to commissioner, 236.

copies to be filed in court, 236.

when to be heard, 556.

practice on hearing, 236.

certificate of decision, 236.

when not proper remedy, 237.

bill in equity after rejection of patent by, 237.

**APPLICATION—FOR PATENT**, who may make, 49, 532.

to be in writing, 134.

requisites of, 134.

to be signed and attested, 134.

requirements of, a prerequisite, 135.

clearness in, 135, 147.

description of mode of construction, 139.

claim, 140.

for a composition, 141.

for an improvement, 142.

for a combination, 145.

APPLICATION—FOR PATENT—*continued.*

what defects in, render patent void, 146.  
 division of, 152.  
 to be accompanied by drawings, 153.  
 specimens of composition, 154.  
 model, 155.  
   th of applicant, 155.  
 regulation of, 533.  
 must be completed within two years, 158, 545, 563.  
 notice of rejection, 212.  
 interference, 214.  
 amendment of, 212, 543.  
 correction of drawing or model, 540.  
 preparation of, 533.  
 to contain but one invention, 535.  
 prosecuted correspondence, 529.  
   by assignee, 160, 569.  
   by executor or administrator, 161.  
 to be kept secret, 531.  
 information after grant of patent, 530.  
 division on interference, 249.  
 when to be made,

FOR REISSUE, requirements, 546.  
 accompanied by abstract of title, 546.  
 when allowed, 548.  
 who may be made,  
 practice on, 263.

FOR TRADE-MARKS, who may be made, 479, 574.  
 requirements,  
 to be verified,

ARGUMENTS, to be made in patent office, 554, 555.  
 not allowed in certain cases, 566.

ART, patent allowed for,  
 definition of,  
 must be practical, 99.  
 includes process, 100.

ASSIGNEE, when patent issued to, 160, 533, 569.  
 may prosecute application with inventor, 533.  
 may correspond with patent office, 530.  
 may apply for reissue, 238, 244.  
 may sue at law, 275.  
 may maintain bill in equity, 374.



**ASSIGNEE—continued.**

- may unite in disclaimer, 271.
- rights not affected by surrender, 244.
- rights after an extension, 465.
- of right to use trade-mark, 489.
- of right to copyright, 504.

**ASSIGNMENT—OF COPYRIGHT, must be in writing, 504.**

- when to be recorded, 504.
- parol promise to make, 504.
- of separate part, 504.
- does not pass right of renewal, 505.
- contracts relating to publication, 505.

**OF PATENTS, must be in writing, 163, 569.**

- what may be recorded, 178, 569.
- must be recorded before grant to assignee, 160, 569.
- of territorial rights, 170, 569.
- licenses not recorded, 178, 569.
- within what time to be recorded, 163.
- interest may be vested in only three classes of persons, 164.
- monopoly not divisible, 164.
- construction of, 165.
- special terms in, 168.
- by agent, 171.
- by corporation, 171.
- by administrator or executor, 172.
- by estoppel, 173.
- before grant of patent, 174.
- of right to an extension, 175.
- provision for recording directory, 178.
- unrecorded, binds parties, 178.
- unrecorded, valid against wrong-doer, 179.
- unrecorded, valid against purchaser with notice, 179.
- license, 180.
- construction of license, 181.
- license assignable, 185.
- rights of purchaser of patented article, 188.
- licensee estopped, 190.
- forfeiture of license, 192.
- rights of joint owners, 193.
- defence to action on contract, 194.
- recovery of purchase money, 198.
- effect of fraud, 199.

ASSIGNMENT—OF PATENTS—*continued.*

relief in equity, 203.

by judgment, 324, 421.

FOR TRADE-MARK, provision for, 490.

regulation of, 574.

within what time to be recorded, 490, 576.

## ATTACHMENT, when granted, 425.

when party liable for contempt, 426.

fine, 427.

## ATTORNEY, may prosecute application, 531.

who may be, 531.

power of substitution, 531.

must exhibit power, 531.

when may examine papers, 531.

correspondence with, 529.

revocation of power to, 531.

can not represent conflicting patents, 531.

excluded for misconduct, 13, 532.

## AUTHOR, entitled to copyright, 493.

only citizen or resident protected, 493.

rights of alien, 497.

in what may be protected, 493.

who is, 496.

right at common law, 516.

right lost by publication, 517.

right to renewal, 503.

BILL IN EQUITY. *See* EQUITY.

## BOOK, copyright of, 493.

what, subject of copyright, 493.

definition of, 494, 495.

daily paper, 494.

chart, 496.

label, 496.

judicial decisions, 496.

infringement of, 498.

infringement of compilation, 500.

## BRIEFS required in interference cases, 555.

## CAVEAT, when allowed, 209.

who may make, 209, 567.

requisites in, 567.

must embrace but one invention, 567.



**CAVEAT**--*continued.*

- oath in, 567.
- no amendment of, 567.
- accompanied by drawings, 568.
- renewal of, 568.
- notice of conflicting application, 568.
- when counter application to be filed, 568.
- interference declared, 568.
- must be filed if relied on as proof, 568.
- effect of, 210.
- effect of omission to give notice, 211.

**CHANCERY.** *See* EQUITY.**CHANGE**, when patentable, 55.

- mere reduction in size, 55, 57.
- mere, of material, 56, 58.
- mere, of form, 56.
- of location, 56, 58.
- mere application to new use, 59.
- mere duplication, 61.

**CHART.** *See* MAP.**CIRCUIT COURTS**, original jurisdiction in patent cases, 18.

- original jurisdiction in copyright cases, 18.
- in trade-mark cases, 488.
- without regard to citizenship, 18.
- account after expiration of patent, 20.
- account after death of infringer, 20.
- jurisdiction in cases of contracts, 20.
- junior patentee to construe prior patent, 22.
- can not vacate patent on information, 22.
- will not enforce penalties, 22.
- when jurisdiction exclusive, 28.
- on refusal to grant patent, 237.
- in case of interfering patents, 272.
- pleading in action at law, 325.
- may grant injunctions, 372.
- injunction to prevent infringement of a copyright, 521.

**CLAIM**, must follow specification, 140, 534.

- must be given in reasons for appeal, 555.
- when withdrawn on interference, 553.
- construction of, 36.

**COMBINATION**, novelty in, 76.

- are patentable, 103.
- must be more than mere aggregation, 104.

**COMBINATION**—*continued.*

- reissue of patent for, 257, 267.
- no disclaimer of, 270.
- equivalent in case of, 287.
- infringement of patent for, 303.
- patent for, and parts at the same time, 112, 151.
- specification for, 145.

**COMMISSIONER**, how appointed, 9.

- who to act during absence or sickness of, 4.
- who to act in case of death or resignation of, 4.
- salary of, 10.
- to give bond, 10.
- cannot take interest in patent, 10.
- duties of, 11.
- to establish rules, 11.
- to classify articles, 12.
- to restore or sell models, 12.
- refuse to recognize attorney for misconduct, 13.
- require papers to be written legibly, 13.
- what he may print, 13.
- what to distribute gratuitously, 14.
- print additional copies of specifications and drawings, 14.
- to furnish volumes to executive departments, 15.
- to fix prices for uncertified copies, 16.
- to report to congress, 16.
- custody of collections of exploring expedition, 16.
- to grant certified copies, 30.
- to countersign patents, 35.
- to issue patent, 157.
- may withhold patent for good cause, 157.
- may excuse delay to prosecute application, 158.
- to give notice of rejection of application, 212.
- to declare interference, 214.
- to establish rules for taking affidavits, 228.
- appeal on interlocutory questions, 214.
  - from decision of examiners, 233, 555.
  - on motions, 557.
  - from examiner of trade-marks, 576.
  - from to Supreme Court, 234, 556.
- may grant reissue, 238.

**COMPOSITION**, patentable, 49.

- specification for, 140.
- when specimens required, 154, 541.



**COMPOSITION**—*continued*.

reissue of patent for, 254, 257.

infringement of patent for, 295.

**CONCEALMENT**, deprives of right to priority, 91.

fraudulent vitiates patent, 325, 332.

**CONGRESS**, power of, to secure the right of authors and inventors, 1.

power to, confined to United States, 1.

limited to authors and inventors, 1.

may protect by special act, 2.

may grant extension, 2.

secure the rights of assignees, 2.

not authorized the recall of rights, 2.

retrospective grants, 2,

**CONSTITUTION**, power given congress by, 1,

excludes State interference with copyrights, 1.

State can not interfere with sale of patent, 3.

State may regulate sale of dangerous articles, 3.

**CONSTRUCTION** of patent laws, 35.

of special acts, 35.

rules for, of patents, 36.

what may be referred to in construing, 39.

of patents in special instances, 43.

**COPIES** of patents to be printed by commissioner, 13.

of patents for gratuitous distribution, 14.

additional of patents, 14.

prices for uncertified, 1

how certified, 30.

to be evidence, 30.

of foreign patents to be evidence, 52.

printed copies evidence, 32.

of trade-marks evidence, 487.

of record of copyright, 508.

of drawings to accompany applications, 153, 574.

of drawings for trade-marks, to accompany application, 574.

of papers for amendment, 543.

specifications, drawings and patents, 544.

of books in the library, 572.

of testimony in contested cases, 557.

orders for, 557.

**COPYRIGHT**, congress may protect, 1.

jurisdiction of circuit courts over actions for, 18, 22.

exclusive jurisdiction of circuit courts in actions for, 28, 30.

COPYRIGHT—*continued.*

- records kept by librarian of congress, 492.
- how copies of records authenticated, 493.
- bond of librarian, 493.
- report of librarian, 493.
- who entitled to copyright, 493, 496.
- subjects of copyright, 493.
- infringement, 498.
- when of cut or print, 502.
- for what term granted, 503.
- renewal of, 503.
- assignment of, 504.
- agreement with publisher, 504.
- not liable to execution, 505.
- not passed by sale of engraved plate, 505.
- rights of joint owners, 506.
- deposit of title before publication, 506.
- deposit of copy within ten days after publication, 506, 509.
- record of title, 507.
- fees of librarian, 508.
- two copies of best edition sent to librarian, 508.
- penalty for failure to send copies to librarian, 510.
- postmaster to give receipt for copies, 510.
- no action unless notice of copyright, 510.
- penalty for false notice of copyright, 512.
  - infringement in book, 513.
    - of in other works, 513.
    - of dramatic composition, 515.
- action for publication of manuscript, 516.
- rights of author at common law, 516.
- what is publication at common law, 517.
- manuscript not liable to execution, 517.
  - of dramatic composition, 519.
- letters, 520.
- letters not assets, 521.
- limitation of actions for infringements, 521.
- pleading the general issue, 521.
- injunction to restrain infringement, 521.
- parties to bill in equity, 522,
- pleading, 522.
- discovery and account, 522.
- issues to be tried at law, 523.
- preliminary injunction, 523.



**COPYRIGHT**—*continued.*

- perpetual injunction, 524.
- practice, 525.
- master, 525.
- what importations allowed, 526.

**CORPORATION**, assignment by, 171.

- liable as infringer, 310.
- liability of municipal, 312.

**CORRESPONDENCE**, application prosecuted by, 529.

- rules for, 529.
- must be addressed to commissioner, 529.
- a separate letter required for each distinct matter, 529.
- must be in writing, 529.
- with assignee or attorney, 530.
- with attorney only, 531.
- postage to be prepaid, 529.
- no acknowledgment of receipt of assignments, 530.

**COSTS**, full allowed, 33.

- in case of disclaimer, 33, 449.
- what allowed in equity, 446.
- what are taxable, 447.

**COURT.** *See* CIRCUIT COURT, SUPREME COURT, STATE COURT.**CREDITORS** may reach patent-right on supplemental proceedings, 168.

- can not levy on copyright, 505.
- can not levy on manuscript, 519.

**DAMAGES FOR INFRINGEMENT OF COPYRIGHT**, to book, 513.

- to other works, 513.
- to dramatic composition, 513.
- to manuscript, 516.

**DAMAGES FOR INFRINGEMENT OF PATENT**, actual allowed, 274.

- no fixed rule, 315.
- not vindictive or speculative, 316.
- defendant's profits, 316.
- when on entire machine, 317.
- allowance for improvement by defendant, 317.
- defendant's profits not conclusive, 317.
- plaintiff's loss, 318.
- profits lost by plaintiff, 319.
- a grantee of mere right to construct, 319.
- license fee, 319.

**DAMAGES FOR INFRINGEMENT OF PATENT**—*continued.*

- royalty not proper when use limited, 320.
- items allowed, 320.
- loss of use of capital, 320.
- condition of parties not taken into account, 320.
- for improvement, 321.
- interest, 321.
- only for period of infringement, 321.
- expense or counsel fee not allowed, 321.
- only for using prior to writ, 322.
- remission of excess, 322.
- in case of reissue, 322.
- burden of proof, 322.
- when nominal allowed, 322.
- increase of, 323.
- omission to file disclaimer, 323.
- in equity, 438.
- omission to mark articles patented, 206.

**DAMAGES FOR INFRINGEMENT OF TRADE-MARK**, when allowed, 488.**DATE OF PATENT**, when to bear date, 48, 562.**DECLARATION.** *See* ACTION AT LAW.**DEDICATION.** *See* ABANDONMENT.**DEPOSITIONS**, commissioner may make rules for taking, 229.

- clerk to issue subpoena for witness, 229.
- fees of witness, 230.
- punishment for refusal to testify, 230
- rules for taking and transmitting, 557.
- folios to be numbered, 559.
- mode of taking, 559.
- evidence not considered unless properly taken, 560.
- access to testimony, 561.
- effect of informality in, 216.
- ex parte*, not allowed, 221.
- on motion for a preliminary injunction, 392.

**DESCRIPTION.** *See* SPECIFICATION.**DESIGNS**, patent allowed for, 470.

- requires invention, 470.
- must be new, 470.
- when combination patentable, 471.
- when an infringement, 471.
- trade-mark not patentable as, 473.
- not for drawing annexed to patent, 474.
- mere substitution of one color for another, 474.



**DESIGNS—continued.**

practice, 474.

to whom granted, 470, 545.

models dispensed with, 475.

for what time, 475, 545.

proceedings for, 545.

preparation of drawings, 545.

extension of, 475.

provisions relating to patents applicable to, 475.

**DISCLAIMER, when allowed, 268, 449.**

for mistake of law or fact, 269.

none where part claimed is not separable, 269.

necessary, only when part claimed is material, 269.

recovery without disclaimer, 270.

in case of combination, 270.

when filed, 271.

injunction without, 271.

who may file, 271.

effect of delay, 272.

what is unreasonable delay, 272.

costs, 33, 449.

regulations of, 566.

**DISCOVERIES. See INVENTION.****DRAMATIC COMPOSITION, copyright of, 493.**

indecent, not subject to copyright, 495.

translation of, 498.

infringement, 499.

penalty for infringing, 513.

right to, in manuscript, 519.

**DRAWINGS, when required, 153, 537.**

to be attested, 153.

references to, 154.

used in construing claim, 39.

rules for preparation of, 537.

new with reissue, 540, 547.

referred to in specification, 535.

preparation by artists, 537, 540.

three editions printed by the office, 537.

amended on reissue by model only, 546.

**ENGRAVINGS. See COPYRIGHT.****EQUITY, jurisdiction in patent and copyright cases, 18.**

jurisdiction after expiration of patent, 19.

jurisdiction after death of defendant, 20.

**EQUITY**—*continued.*

- although remedy at law, 20.
- can not enforce right under contract, 21.
- can not entertain action by junior patentee against prior patent, 22.
- can not entertain information to annual patent, 22.
- will not enforce forfeiture, 22.
- may compel issue of patent, 237.
- in case of interfering patents, 272.
- may grant injunction, 372.
- parties in, 373.
- bill of complaint, 378.
- new bill after reissue, 380.
- bill sworn to, 380.
- bill for subsequent infringements, 380.
- supplemental bill, 381.
- cross bill, 382.
- demurrer, 382.
- plea, 383.
- answer, 383.
- sending issues to jury, 390.
- motion for preliminary injunction, 392.
- affidavits on motion for preliminary injunction, 394.
- proof of prior suit, 396.
- proof of continuous use, 400.
- granting of preliminary injunction, 403.
- effect of inconvenience, 404.
- bond to stay injunction, 405.
- postponement of doubtful questions, 408.
- effect of laches, 412.
- dissolution of injunction, 414.
- perpetual injunction, 415.
- practice in, 418.
- rights of licensee, 423.
- attachment for contempt, 425.
- profits, 428.
- deductions, 435.
- damages, 438.
- master's report, 439.
- rehearing, 441.
- costs, 446.
- what costs are taxable, 447.
- relief against infringement of trade-marks, 487.



**EQUITY**—*continued.*

relief of copyright, 521.

**EQUIVALENTS**, what are, 285.

substitution of not substantial change, 285.

in composition, 287.

in process, 288.

in combination, 288.

**ESTOPPEL**, assignment by, 173.

of patentee, 182.

of licensee, 190.

not by offer to take license, 364.

arising from patent, 365.

**EVIDENCE**, certified copies, 30.

copies of foreign patents, 32.

printed copies, 32.

on interference, 220, 557.

in patent cases, 355.

parol evidence to vary written agreement, 361.

of experts, 362.

copies of trade-marks, 487.

copies of copyright, 508.

in copyright cases, 516.

**EXAMINATION OF APPLICATIONS**, order of, 541.

renewed after first rejection, 542.

on reissue, 546.

attorney must have power to, 531.

**EXAMINERS**, number of, 6.

number of, in chief, 9.

duties of, 11.

appeal from primary, 214, 230.

appeal from examiners in chief, 233.

**EXCEPTIONS**, to testimony in patent office, 566.

bill of, in action at law, 24.

to evidence, 24.

to instructions, 25.

**EXECUTORS**, when patent issued to, 161, 532.

trust not expressed on face of patent, 161.

right to extension, 453.

assignment by, 172.

right to sue, 376.

**EXPERIMENTS**, not invention, 86.

abandoned, 86.

when an infringement, 303.

- EXPERTS**, testimony of, 362.  
to what facts allowed, 363.  
value of, 363.  
jury not bound by, 364.
- EXTENSION**, when allowed, 453.  
to executor, 454.  
who may apply for, 454.  
statement, 455, 564.  
value, 456.  
prior profits, 457.  
notice of application, 459.  
reference for examination, 460.  
decision of commissioner, 460.  
how far grant conclusive, 460.  
practice in granting, 462.  
want of diligence in obtaining remuneration, 465.  
who entitled to benefit of, 465.  
right of owner of machine, 468.  
assignment of, 176.  
reissue of, 241.  
of designs, 475.  
of trade-marks, 487.  
of copyright, 503.  
regulation of, 564.  
opposition to, 565.  
testimony on application for, 566.  
closing of testimony, 566.  
hearing, 566.  
hearing of parties who have not entered opposition, 566.  
have precedence in examination, 542.
- FEES**, for patents, 476.  
for design patents, 476.  
for caveat, 476.  
for reissue, 476.  
for disclaimer, 476.  
for extension, 476.  
for appeal, 476.  
for drawings, 477.  
for copies, 476.  
for recording assignment, 476.  
for trade-mark, 480.  
for copyrights, 508.



**FEEs**—*continued.*

- for recording assignment of copyright, 509.
- to whom patent fees paid, 477.
- refunding fees paid by mistake, 478.
- regulations of, 570.
- at owner's risk when sent by mail, 571.
- on appeal to Supreme Court of D. C., 556.
- when final fee paid, 571.

**FIRST INVENTOR**, must be, to obtain patent, 78.

- in relation to foreign countries, 79.
- date of invention, 79.
- reducing to practice, 80, 121.
- diligence in perfecting invention, 90, 124.
- loses right by concealment, 91.
- effect of foreign description, 451.

**FOREIGNER.** *See* ALIEN.**FOREIGN PATENT**, does not prevent patent, 131, 533.

- from what time American patent to date, 131.
- when distinct inventions in one patent, 133.
- when description in, bars patent, 451.
- not private patent, 452.
- application should state that inventor has, 533.
- have precedence, 533.

**FORFEITURES**, for infringement of copyright of book, 513.

- for infringement of other copyrights, 513.
- equity not enforce, 22.

**FORMS.**

**AMENDMENT** to specification, 595.

**APPEAL** from examiners to examiner in chief, 596.

a principal examiner to commissioner, 597.

examiner of trade-marks to commissioner, 597.

examiner in charge of interferences to examiner  
in chief, 597.

examiner in chief to commissioner, 597.

commissioner to Supreme Court District of  
Columbia, 598.

**APPEALS**, rules of Supreme Court in, from Commissioner of  
patents, 599.

**APPLICATION** for registration of a label, 612.

trade-mark, 610.

**ASSENT** of assignee to reissue, 583.

**ASSIGNMENT** of entire interest in invention, before issue of  
letters patent, 601.

letters patent, 602.

FORMS—*continued.*

- ASSIGNMENT of undivided interest in letters patent, 602.  
     territorial interest, after grant of patent, 603.  
     copyright, 612.  
     license, shop right, 603.  
         not exclusive, with royalty, 604.
- ATTORNEY, power of, 594.  
     revocation of, 595.
- BILL to restrain infringement of patent, 617.  
     copyrights, 623.  
     for account and injunction against illegal use of trade-  
     mark, 626.
- CAVEAT, 583.
- COPYRIGHT, assignment of, 612.  
     bill to restrain infringement of, 623.  
     order of reference to master in, 628.
- DECLARATION in case for infringement of patent, 613.  
     where there is an assignment, 614.
- DECREE, interlocutory, 629.  
     final, 631.
- DEPOSITION, notice of taking testimony, 608.  
     form of, 609.  
     certificate of officer, 609.
- DISCLAIMER, after patent, 595.  
     during interference, 596.
- EXTENSION, application by patentee, 605.  
     by administrator, 605.  
     statement of account, 605.  
     reasons of opposition, 607.
- EXCEPTIONS to master's report, 631.
- FINAL decree, 631.
- INTERFERENCE, preliminary statement, 599.
- INTERLOCUTORY decree, 629.
- LICENSE, shop right, 603.  
     not exclusive, with royalty, 604.
- MASTER, order of reference to, in copyright case, 628.
- MASTER'S report, 630.  
     exceptions to, 631.
- NOTICE, supplemental, 617.
- OATH, by inventor, 591.  
     an applicant for a reissue (inventor), 592.  
     (assignee), 593.  
     extension (patentee), 607.  
     (executor), 607.



**FORMS—continued.**

- OATH** of applicant for registration of trade-mark, 610.  
 supplemental, to accompany new or enlarged claim,  
 593.  
 as to the loss of letters patent, 593.  
 of administrator as to loss of letters patent, 594.  
 supplemental to new or enlarged claim, 593.
- ORDER** of reference to master in a copyright case, 628.  
 to show cause, 628.  
 for preliminary injunction, 628.
- PETITION** by sole inventor, 581.  
 joint inventors, 581.  
 inventor for himself and assignee, 581.  
 administrator, 582.  
 executor, 582.  
 with power of attorney, 581.  
 for a reissue by inventor, 582.  
     assignee, 583.  
 extension by patentee, 605.  
     administrator, 605.  
 letters patent for a design, 583.  
     for caveat, 583.  
 registration of a trade-mark, 610.  
 for renewal of an application, 584.
- PLEA** of general issue, with notice, 616.
- POWER** of attorney, 595.  
     revocation of, 595.
- PRINTS AND LABELS** application for registration (individual),  
 612.  
     (corporation),  
 612.
- REGISTRATION** of label, application for by individual, 612.  
     corporation, 612.
- REISSUE**, assent of assignee to, 583.
- REPORT**, master's, 630.  
     exceptions to, 631.
- RULES** of Supreme Court in appeals from commissioner of  
 patents, 599.
- SPECIFICATION** for a machine, 586.  
     process, 584.  
     composition of matter, 589.  
     design, 590.  
     a caveat, 590.

**FORMS**—*continued.*

**SPECIFICATION** for a trade-mark, 610.  
    amendment to, 595.

**STATEMENT** and account for extension, 605.

**SUPPLEMENTAL** notice, 617.

**TRADE-MARK**, letter for registration of, 610.

**FRAUD**, in contract for patent right, 199.

    in obtaining reissue, 262.

    granting extension, 462.

    in description of invention, 324.

    in obtaining trade-mark, 489.

**GENERAL ISSUE**, when allowed in patent cases, 325.

    defences under, without notice, 330.

    in actions for infringement of copyright, 521.

**GRANTEE**, who is, 164.

    may maintain suit in his own name, 275, 374.

**HEARING** of cases before commissioner, 556.

    before primary examiner, 554.

    before interference examiner, 555.

    before Supreme Court, 556.

**IMPORTATION**, when allowed, 526.

**IMPROVEMENT**, when patentable, 107.

    inventor may take out patent for, 109.

    specification of, 142.

    not justify use of prior patent, 296.

    allowance to defendant for, 316.

    for infringement of, 321.

    profits on, 433.

    deduction for by defendant, 437.

**INFORMATION**, of reasons for rejection, 542.

    in interferences, 551.

    not of applications, 529.

    when not given, 530.

**INFRINGEMENT OF COPYRIGHT**, what is, 498.

    translation, 498.

    abridgment, 499.

    of compilation, 501.

    penalty for, of books, 513.

        other works, 513.

        dramatic composition, 515.

        manuscript, 516.



**INFRINGEMENT OF PATENTS**, what is, 276.

not affected by motive, 277.

by combining inventions with other machinery, 278.

by dividing invention, 278, 295.

shown by result, 279.

not question of superiority, 280.

formal change, 282.

equivalents, 285.

mere mechanical skill, 289.

when there is, 291.

of process, 294.

of composition, 295.

by later patent, 296.

of one claim sufficient, 296.

improvement not justified, 296.

when none, 298.

effect of accident, 300.

experiment, 303.

of combination, 303.

by license, 308.

right of purchaser of product, 308.

who commit, 310.

damages for, 274.

when enjoined, 372.

**INFRINGEMENT OF TRADE-MARK**, remedy for, 488.**INJUNCTION**, of infringement of patent, 372.

motion for preliminary, 392.

affidavits on motion for, 393.

effect of prior suit, 396.

effect of prior use, 400.

power to grant preliminary, 403.

effect of inconvenience, 405.

court may require bond of complainant, 406.

stayed on giving bond, 406.

effect of doubt, 407.

decision of doubtful points postponed, 408.

construction of deed, 409.

when defendant resides out of district, 410.

effect of acquiescence, 412.

dissolution of, 414.

perpetual, 415.

for infringement of trade-mark, 488.

copyright, 521.

- INTERCOURSE** with office to be in writing, 529.  
 personal, with examiners, discouraged, 529.
- INTERFERENCES**, when declared, 214, 547.  
 decision of patent office on, not final, 215.  
 what is, 216.  
 preliminary statement, 218, 549.  
 duty of examiner, 219.  
 evidence, 220.  
 dissolution, 223, 552.  
 rehearing, 225.  
 decision, 228.  
 on reissue, 218.  
 appeal to examiners in chief, 230, 554.  
 appeal to commissioner, 233, 554.  
 only when subject is patentable, 555.  
 claim must be complete before declaration of, 554.  
 judgment in default of preliminary statement, 554.  
 further proceedings, 555.  
 notice of, 555.  
 presumption in favor of first applicant, 555.  
 order of taking testimony, 555.  
 motion to dissolve, 555.  
 inspection of claims, 555.  
 withdrawing claims, 555.  
 amendment of specification, 555.  
 when second granted, 555.
- INVENTION**, discovery synonymous with, 49.  
 what is, 49.  
 more than skill of ordinary mechanic, 50, 114.  
 amount of mental labor, 51.  
 utility, evidence of, 54.  
 shown by change, 54, 115.  
 mere change of form, 56.  
 change in size, 57.  
 change of location, 58.  
 change in mode of making, 58.  
 change of elements, 59.  
 application to new use, 59.  
 duplication, 61.  
 effect of suggestions, 63, 117.  
 joint, 66.
- JOINT INVENTION**, entitled to joint patent, 533.  
 what is, 66.



- JOINT OWNERSHIP**, copartnership between, 193.  
 rights of each, 193.  
 license by, 194.  
 of copyright, 506.  
 effect of agreement between, 506.
- JUDICIAL DECISIONS**, not subject of copyright, 494.
- JURISDICTION**. *See* **CIRCUIT COURT**, **SUPREME COURT**, **STATE COURT**.
- JURY**, must accept construction of patent by court, 47.  
 to pass on abandonment, 366.  
 to decide infringement, 366.  
 to determine whether description is sufficient, 366.  
 to determine novelty, 367.  
 credibility of witnesses, 368.  
 not bound by opinion of experts, 364.  
 issues out of chancery to, 390.  
 special, 449.
- LABEL**, not subject of copyright, 493, 502.  
 registration, of 502.  
 different from trade-mark, 502.  
 rules for, 579.
- LETTERS**, rights of author, 520.  
 rights of recipient, 520.  
 right of *feme covert*, 521.  
 passed to executor, 521.
- LIBRARY**, purchase of books for, 12.  
 rules for consulting, 572.  
 deposit of book and title in congressional, 506, 509.
- LICENSE**, what is, 164.  
 need not be recorded, 178.  
 prevails over subsequent assignment, 179.  
 for separate acts, 181.  
 when inferred, 183.  
 grant to use a, 185.  
 may arise by estoppel, 182.  
 construction of, 183.  
 no warranty of validity of a patent, 184.  
 of right to use gives right to repair, 185.  
 when assignable, 186.  
 purchase of patented article, 188.  
 when licensee estopped, 190.  
 licensee can not impeach validity of patent, 190.

**LICENSE**—*continued.*

- forfeiture of, 192.
- need not join in surrender, 246.
- not affected by surrender, 244.
- can not maintain action at law, 275.
- when licensee an infringer, 308.
- licensee may enjoin patentee from infringing, 374.
- when licensee party to suit in equity, 374.
- licensor estopped, 192.

**MACHINE**, subject of patent, 49.

- kinds of patentable, 102.
- what patentable as, 102.
- embraces combination, 103.

**MANUFACTURE**, subject of patent, 49.

- product patentable, 106.

**MANUSCRIPT**, publication of prohibited, 516.

- right of author at common law, 516.
- what is publication of, 517.
- not liable to execution, 518.
- dramatic composition, 519.
- letters, 520.
- assignee of alien not protected, 516.

**MAP**, copyright of, 493.

- surveys for government, 501.
- notice of copyright, 510.
- penalty for infringing, 513.

**MARKS**, on patented article, 206.

- penalty for affixing fraudulently, 207.
- in case of copyrights, 512.
- penalty for fraudulent of copyrights, 512.

**MISTAKE**, money paid in refunded, 571.

- correction of by surrender, 241.
- secretary must sign patent after correction, 36.

**MODEL**, when required, 155, 540.

- construction of, 540.
- working desirable, 541.
- when returned to applicant, 12, 541.
- amended by drawing on reissue, 239, 547.
- for design patents, 475, 545.

**MONEYS**, to whom paid, 341, 570.

- at owner's risk when sent by mail, 571.
- when refunded, 571.



**MOTION**, for preliminary injunction, 392.

notice of in patent office, 557.

proof of service, 557.

by whom heard, 557.

appeal to commissioner, 557.

to postpone preliminary statement, 550.

for hearing in extension cases, 565.

in interference cases, 550.

to dissolve interference, 550.

general rules for, 557.

**MUSICAL COMPOSITION**, subject of copyright, 493.

must be new, 496.

penalty for infringement of, 513.

**NEWSPAPER**, not subject of copyright, 495.

**NEW TRIAL**, when granted, 370.

when verdict against evidence, 370.

irregular conduct of jury, 371.

discovery of new evidence, 371.

in interference cases, 227.

**NOTICE**, of appeal from commissioner, 555.

motions in contested cases, 557.

interferences, 550.

to caveator, 210, 568.

to opponent of extension, 564.

opposition to extension, 565.

taking testimony on extension, 565.

service of, 565.

what proof of service required, 557.

proof of service attached to deposition, 558.

exception to testimony, 560.

**NOTICE UNDER GENERAL ISSUE**, of what notice may be given, 325.

what defence without, 330

particularity of, 331.

supplemental, 331.

no evidence without, 332.

notice of previous knowledge, 325, 350.

notice of books, 334.

**NOVELTY**, requisite to patent, 67, 118.

not merely new in commercial sense, 70.

there must be new principle, 71.

superiority, 71.

production of prior machine, 74.

**NOVELTY**—*continued.*

- tested by result, 75.
- in combination, 76.
- concealed invention, 91.
- knowledge, 108.
- description, 130, 333.
- description in foreign country, 451.

**OATH**, to application, 155, 536.

- who may administer, 155, 383.
- not essential to validity of patent, 156.
- recital of in patent conclusive, 156.
- effect of absence of date, 156.
- new on division of application, 157.
- supplemental to amendment, 537.
- to application for extension, 453, 563.
- to caveat, 567.

**OMISSION**, of material parts that render patent void, 146.**PARTIES**, to action at law, 195.

- to bill in equity, 372, 522.

**PATENT**, how issued, 35.

- what to contain, 36.
- rules for construction of, 36.
- what referred to in construing, 39.
- construction in special instances, 43.
- when to bear date, 48, 562.
- for what granted, 49.
- invention, 49.
- novelty, 67.
- priority, 78.
- utility, 92.
- what is patentable, 97.
- principle, 97.
- art, 99.
- process, 100.
- machine, 102.
- combination, 103.
- manufacture, 106.
- improvement, 107.
- knowledge, 108.
- when embraces several inventions, 111, 152.
- separate claims, 113.



**PATENT**—*continued.*

- only one valid patent, 113.
- error in Christian name, 114.
- specification, 134.
- clearness requisite in, 135.
- claim, 140.
- specification of composition, 141.
  - for improvement, 142.
  - combination, 145.
- what defects render void, 146.
- commissioner may withhold, 157.
- reissue, 238.
- disclaimer, 191, 449.
- effect of foreign, 131.
- prior description in foreign, 450.
- extension, 453.
- for designs, 470.
- who may obtain, 532.
- when inventor dies, 161, 532.
- joint inventors, 533.
- to assignee, 160, 533.
- proceedings to obtain, 533.
- for inventions patented abroad, 131.
- withheld for final fee, 563.
- on renewed applications, 158, 563.
- reissue for remainder of term, 563.
- division on the reissue, 546.
- return when reissue refused, 547.

**PENALTIES**, for fraudulent marks on patent, 207.

- for omitting to send copy of book to librarian, 510.
- for fraudulent claim of copyright, 512.
- for infringement of copyright to book, 513.
- for infringement of other copyrights, 513.
  - dramatic composition, 515.
- limitation of actions for, 521.

**PHOTOGRAPH**, subject of copyright, 493.

- not a print, cut or engraving, 496.
- an infringement of an engraving, 513.

**PRELIMINARY STATEMENT**, regulations of, 549.

- amendment of, 219.

**PRESUMPTION**, from patent, 352.

- how far extends, 354.
- from subsequent patent, 355.

- PRINCIPLE**, not patentable, 97.  
    difference in, necessary to render machine patentable, 72.  
    infringement when principle the same, 209.
- PRINTS**, subject of copyright, 352.  
    definition of, 502.
- PROCESS**, patentable as an art, 99.  
    what is, 100.  
    instances of, 102.  
    reissue of patent for, 260.  
    infringement of, 291.
- PRODUCT**, when patentable, 106.  
    separate patent for process and product, 112.  
    purchaser of, not bound by covenant in license, 138.  
    sale of, no infringement of machine, 308.
- PROFERT**, practice to make, 327.  
    form of, 327.
- PROFITS**, account of, 428.  
    to what time, 428.  
    no fixed rule for, 430.  
    complainant must prove, 431.  
    difference between cost and yield, 431.  
    in case of reissue, 433.  
    of improvement, 433.  
    interest on, 435.  
    deductions, 435.  
    defendants considered in estimating damages, 316.
- PROOF**, burden of, on plaintiff to prove infringement, 351.  
    on patentee to explain ambiguity, 352.  
    on defendant to show want of novelty, 352.  
    on defendant to prove specification defective, 353.
- RECORD**, of assignment of patent, 163.  
    when necessary, 178.  
    when unrecorded assignment valid, 179.  
    license need not be recorded, 178.  
    unrecorded, valid against purchaser with notice, 130.  
    of assignment of trade-mark, 491.  
    of assignment of copyright, 504.
- RE-EXAMINATION** of claim after rejection, 212, 542.
- REFERENCE**, in drawing, not essential to validity of patent, 154.  
    directions for, in drawing, 537.  
    on rejection of patent for want of novelty, 542.
- REHEARING**, in interference cases, 225, 549.  
    of case in equity, 441.



**REISSUE**, when allowed, 238.

practice in making, 242.

only for unexpired term, 243.

application for, withdrawn, 243.

who may make, 171, 175, 546.

surrender can not affect rights of third parties, 244.

patentee and assignee should unite, 245.

grantee not join, 246.

licensee need not join, 246.

valid when made with consent of assignee, 245.

to administrator or executor, 247.

when decision of commissioner conclusive, 247.

presumption in favor of reissue, 249.

how far conclusive, 248.

must be for same invention as original, 249.

mere variation of description, 253.

can not embrace new matter, 256.

change from machine to process, 257.

for process, may embrace process and product, 258.

for combination, 258.

separate patents, 239, 260, 547.

for process, 260.

both original and reissue must be put in evidence, 261.

fraud in granting, 262.

effect of, 262.

prior use can not authorize use after, 263.

operate only from time of grant, 264.

prior suits terminated by, 263.

does not affect prior judgment, 263.

no recovery of money paid under prior judgment, 264.

practice in granting, 264.

terminates pending suit in equity, 380.

irregularity in filing supplemental bill waived by answer, 381.

when inventor or assignee must sign application for, 546.

what must accompany petition, 546.

original must be surrendered, 547.

drawing and model amended only by each other, 547.

when corrections on sworn statements allowed, 239, 268.

have precedence in order of examination, 542, 546.

original claim subject to re-examination, 546.

**REJECTION OF APPLICATION**, notice to applicant, 212.

abandonment by elapse of two years after, 158, 563.

renewal of application after, 158, 563.

- REPAIR**, owner of machine may make, 310.  
 right to make after extension, 468.  
 does not include replacing, 468.
- RESULT**, not patentable, 99.  
 evidence of novelty, 75.  
 obtaining of by different means, no infringement, 299.  
 evidence of difference from patent, 281.
- SECRETARY OF INTERIOR**, charged with business relating to  
 patents, 7.  
 to sign patents, 35.  
 to re-sign after alteration, 36.
- SERVICE**, of notice in contested cases, 549.  
 of notice of intention to oppose extension, 564, 565.  
 of notice of time and place of taking testimony, 558.
- SIGNATURE**, to application for, 534, 539.  
 to drawings, 539.  
 to drawings for designs, 545.  
 to drawings for trade-marks, 575.
- SPECIFICATION**, referred to in construing claim, 40.  
 should be consistent with title, 43.  
 requisites of, 134.  
 clearness required in, 135, 147.  
 mode of construction, 139.  
 claim, 140.  
 for composition, 141.  
 for improvement, 142.  
 for combination, 145.  
 what defects in, render patent void, 146.
- SPECIMENS** of ingredients, when required, 154.
- STATE COURTS**, no action for use of patented invention, 28.  
 can not enjoin judgment for infringement, 28.  
 may incidentally inquire into validity of patent, 28.  
 may entertain action for fraud in sale of patent, 29.  
 may restrain publication of secret invention, 29.  
 may enforce performance of contract, 29.  
 may rescind contract, 29.  
 may entertain action for fraud in asserting infringement, 29.  
 may entertain suit for breach of warranty or contract, 29.  
 may entertain actions relating to manuscript, 31.  
 can not enjoin infringement, 28.  
 can not restrain issue of circulars, 28.  
 can not entertain action for infringement, 28.  
 no set-off for infringement, 29.



- SUBPŒNA, clerks to issue for witness, 229, 531.
- SUBSTITUTION, of one material for another, not patentable, 55.  
of one attorney for another, 531.
- SUGGESTIONS, when they defeat patent, 63.  
by employe, 65.
- SUPREME COURT, jurisdiction on appeal or writ of error, 23.
- SUPREME COURT OF D. C., appeal from commissioner, 234.  
notice of appeal, 235.  
reasons of appeal, 235.  
notice of hearing, 236.  
to what questions limited, 236.  
certificate, 236.  
no appeal in interference cases, 555.
- TESTIMONY, in interference cases, 551. •  
postponement of taking, 551.  
in extension cases, 455, 565.  
notice of taking, in extension cases, 565.  
when not received in extension cases, 566.  
when *ex parte* depositions may be used, 559.  
notice of taking and service, 566, 558.  
closing same and postponement, 566.  
general rules for taking, 559.  
notice of taking, 559.  
proof of service of notice, 559.  
notice to be attached to deposition, 558.  
how certified, 558.  
how closed and forwarded, 558.  
rules for drawing up deposition, 559.  
proceeding for further time to take, 559.  
caveat must be produced, 559.  
must be pursuant to rule, 560.  
when open to inspection, 561.  
printing of, 561. •  
attendance of witnesses, how secured, 229, 561.
- TRADE-MARK, who may register, 479, 574.  
proceedings for, 479, 574.  
what may be registered, 481, 575.  
application for, to be verified, 481.  
interference in trade-mark cases, 486.  
time of receipt of application noted, 481.  
certified copies evidence, 487.  
for what term allowed, 487, 576.

**TRADE-MARK**—*continued.*

- renewal of, 488.
- remedy for infringement, 488.
- no remedy if fraudulent, 489.
- liability for fraudulent registration, 489.
- remedy in State courts preserved, 489.
- right after expiration of term, 490.
- assignment of, 490, 576,
- drawings of, 575.
- assignment to be recorded within sixty days, 576.

**USE**, not necessary to perfect invention, 89.

- prior use to defeat patent must be public, 108.
- in foreign does not affect patent, 450.
- for more than two years. renders patent void, 325, 336.
- computation of time of prior use, 338.
- for less than two years, does not invalidate patent, 338.
- prior use must be public, 339.
- experimental use not forfeit patent, 340.
- use by patentee for more than two years, 343.
- single instance of prior use sufficient, 341.
- prior use must be a perfect machine, 342.

**UTILITY**, what required to support patent, 92.

- degree not essential, 92.
- a question of fact, 95.
- saving of labor, 95.
- presumption of, from grant of patent, 353.

**WITHDRAWAL** of model, 12.

- none of specifications, 544.

**WITNESS**, how attendance secured, 223, 561.**WORKMAN**, when infringer, 311, 377.**WRIT OF ERROR**, when allowed, 23.

- citation, 23.
- bill of exceptions, 24.
- exceptions to evidence, 24.
- exceptions to instructions, 25.
- practice, 26.

WHOLE NUMBER OF PAGES, 885.