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PATENTS



AUG 20 1892
CITY OF NEW YORK
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GEORGE A. MOSHER,
Attorney (AND) Counselor at Law,
No. 17 First Street,
TROY, . Y.

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To the Inventor:

In response to inquiries from inventors in many parts of New York and adjoining states, I have prepared the following pages, designed to explain the subjects most frequently inquired about, and to give all necessary information regarding the protection of inventions.

I have not attempted a discussion of the patent law; but present this book simply as a *guide* to lead the inventor in the path where success may be attained, and to warn him of the pitfalls that have betrayed so many of his predecessors.

An invention, *if fully protected* by letters patent, forms the foundation upon which a profitable business may be built. The measure of the inventor's success will depend upon his ability and energy in building up and conducting such a business, or in disposing of his invention to others.

Should a profitable business be established the patent pirate will sap the foundation if he can; and if there is a weak point in the patent he will surely find it.

The best patent obtainable is none too good for a valuable invention; and buyers of patents are each year becoming better educated as to the difference between good and poor patent protection.

Any desired information not found herein will be cheerfully granted on application in person or by mail.

Respectfully,

GEORGE A. MOSHER,

17 First St., Troy, N. Y.

PATENTS.

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.

Patents are granted in the United States for the term of 17 years, and cannot be extended except by special act of Congress. The application for a patent should be made by the inventor, or, in the event of the inventor's death, by his administrator or executor.

If two persons have *together* made an invention they are joint inventors, and should together apply for the patent; but, if a sole inventor has given an interest in the invention to another person, the inventor alone must make the application, and he may convey by a deed or assignment the interest agreed upon.

The application comprises a petition, oath, drawings, and specification, with one or more claims. The petition, oath and specification must each be signed by the inventor.

The petition is a formal request for the grant of the patent. The oath must contain a statement of facts sufficient to show that the applicant is the first inventor and is entitled to a patent. The oath should be made before a Notary Public, with a seal.

DRAWINGS.

The drawings of the invention must be made with a pen on smooth white bristol-board.

Clearness is the main qualification, and should be attained with as few lines as possible. Every line must be made with India ink, and be intensely black. Fancy shading of any kind is objectionable.

Much skill and care are required in the preparation of the drawings to meet the requirements of the Patent Office; and as models are now seldom required, the drawing furnishes the only illustration of the invention to the Examiner.

The drawings which accompany applications filed by me are made by an experienced and competent draftsman, under my personal direction and supervision; and every feature of the invention is clearly and unmistakably represented.

SPECIFICATION.

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 the invention or discovery appertains, or with which it is most nearly connected, to make, construct, compound, and use the same. It must set forth the precise invention for which a patent is solicited, explain the principle thereof, and the best mode in which the applicant has contemplated applying that principle, in such manner as to distinguish it from other inventions.

In addition to the preferred form, it is usually advisable to show in the drawings and explain in the specifications one or more *modified* forms of the invention, thereby laying the foundation for a broad claim.

The preparation of a specification involves a thorough knowledge of mechanical principles,

as well as a familiarity with the patent laws and the requirements of the Patent Office that can only be acquired by actual experience.

CLAIMS.

The protection afforded by a patent is tested by the claim; and the interpretation of the claim depends largely upon the wording of the specification.

If a claim is too broad and includes more than the real invention it is invalid, and will not be sustained by the courts. On the other hand, a claim may be so limited as to cover only a portion of the invention, in which case the unprotected features of the invention may be used by competitors without infringing the patent.

The perfect claim is one whose terms include only the essential elements of the invention, and distinguish it from all prior devices.

Several claims are frequently necessary to cover every feature of the invention; but each claim must be judged solely on its own merits, and will stand or fall independently of the others. The patent for every successful invention must be able to withstand the attacks of patent pirates and would-be infringers. Many such stand ready at all times to deprive the inventor of any portion of his invention, which an unskillfully drawn claim may have left exposed.

So many worthless patents have been granted during recent years that business men no longer think of purchasing an invention without submitting the patent to a competent patent attorney for an examination as to its scope and validity, which depend largely upon the skill with which it is prepared. If an invention is meritorious and the claim can bear careful examination, there should be no obstacle to prevent the inventor from reaping a fair reward

for his ingenuity and skill. Not only are his chances good for selling the patent, but would-be infringers seeing no way to avoid the claim will seek other fields.

CHARGES.

The total cost of a patent is usually \$65, payable in instalments as the case proceeds. The first instalment is \$20, which should be paid when I am retained to prepare the case. As soon as the papers are prepared I submit them to the inventor, for approval and signature. When such papers are signed and returned to me they should be accompanied by the second instalment of fees, \$25. This makes the cost of filing an *application* for a patent \$45, of which \$15 is the government fee, \$5 the cost of the drawing, and \$25 my fee for preparing the case. These charges also cover all ordinary amendments in the prosecution of the case in the patent office. The remaining \$20, which is the final government fee, need not be paid till after the case has been officially allowed. At any time within six months after the date of allowance, this final payment may be made and the patent obtained.

The time required to secure a letter of allowance varies from two or three weeks to several months, and depends first upon the class to which the invention belongs, and secondly upon the obstacles encountered in the Patent Office.

Where the invention is complicated in its nature, it necessarily requires more labor in preparing the application, and may require more than one sheet of drawings. In such cases the charges are proportionate to the difficulty of the case, but will always be as low as is consistent with faithful work; and in no case will any extra expense be incurred, either

in preparing the application or afterward, without first notifying the applicant.

APPEALS.

When an application for a patent has been finally rejected by the examiner in charge, the only recourse is to make an appeal to the board of Examiners-in-Chief; and should the Examiners-in-Chief also refuse the patent, an appeal may be taken to the Commissioner of Patents. Appeals cost from \$25 upwards, according to the nature of the case. If the specification is properly prepared and a carefully drawn amendment filed when required, an appeal will seldom be found necessary.

In my experience as attorney in hundreds of cases I have found that a meritorious application which cannot be successfully prosecuted without an appeal is a rare exception.

INTERFERENCE.

When two or more separate applications by different inventors are on file at the same time in the Patent Office, an interference is declared between such applications.

Sworn statements of the date of invention, reduction to practice, manufacture, etc., must be filed by each party; and afterwards each party may take the testimony of witnesses to substantiate his statement.

Interference is sometimes declared between a pending application and a patent already issued for the same invention.

Interferences are not of frequent occurrence; but it is always well to carefully preserve all sketches and models, with their dates, for use, should it become necessary to prove the date of the invention.

The patent is always awarded to the first inventor, unless it appears that he has abandoned the invention by delay. The inventor

who first files his application has an advantage over a later applicant; and should the *first* inventor neglect to apply for a patent until after a later inventor has filed an application for the same invention, he must prove not only that he was the first to make the invention but that he used reasonable diligence in perfecting the same and applying for a patent thereon.

Delay is dangerous.

CAVEAT.

The filing of a caveat in the Patent Office prevents during its life the issue of a patent for the same invention to anyone without the knowledge of the caveator.

The object of the caveat is to give the inventor further time to test and perfect his invention and prevent the same from being patented by a competitor without his knowledge.

Should any person file an application for a patent for an invention embodied in a caveat, such application is held in the Patent Office and notice sent to the caveator giving him three months within which to complete his invention and file his application for patent.

The filing of a caveat gives no exclusive right to the invention. This can only be secured by a patent; and the application for a patent should be made as soon as the invention is perfected. Delay in making application for a patent is always dangerous. A caveat can only be filed by a citizen of the United States or an alien who has resided in this country one year and declared his intention to become a citizen.

A caveat must contain a drawing of the invention and brief description or specification, which should be carefully prepared to meet the requirements of the Patent Office.

The total cost of a caveat is \$25, and it continues in force one year. Upon payment of a government fee of \$10 yearly the caveat may be renewed from year to year.

A sketch or photograph and description are usually sufficient to enable me to prepare a caveat, and I can usually mail the papers complete for signature the day following receipt of instructions and the above fee of \$25.

MODELS.

Models are now seldom required by the Patent Office, and need only be furnished when the Commissioner expressly requires them.

A model, however, is usually an aid to the attorney in preparing the specification and drawings, and may be furnished by the inventor when convenient; but it is rarely necessary that an inventor should incur the expense of making a model especially for use in preparing the application, as a careful sketch or drawing with the inventor's description will usually be sufficient to enable the attorney to fully understand the invention.

REISSUES.

Where the original patent is invalid or inoperative, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his invention more or less than he had a right to claim as new, provided the error has arisen through inadvertence, accident or mistake, the original patent may be surrendered and reissued in a corrected form.

The application for a reissue should be made without delay and within two years after the date of the original patent. The reissued patent must be for the same invention as the original, and must contain no new matter.

The reissue does not prolong the life of the

patent, as it is only granted for the unexpired portion of the original term.

Reissued patents are regarded with disfavor by the courts; and in view of recent decisions are advisable only in exceptional cases.

An inventor can no longer secure a patent regardless of its protective value and trust to a reissue at some future time to regain for him all his neglected rights. Such a course now involves a risk of losing the whole invention.

The only safe procedure is to secure the original patent with the best claims possible.

Reissues cost from \$65, upwards.

DESIGNS.

A patent may also be obtained 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 woolen, 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 or used by others before his invention or production thereof, nor patented or described in any printed publication.

A design comprises only the shape and ornamentation of an article, that is its *appearance*; and is entirely independent of its mechanical construction, the use for which it is intended or the material of which it is made.

Design patents are granted for a term of $3\frac{1}{2}$, 7 or 14 years, as the applicant may elect in his petition, and the term cannot be changed after patent is granted.

The specification for a design application must clearly describe the essential features of the design, and a drawing is required whenever the design admits of illustration.

The usual cost of a design patent is \$30 for 3½ years, \$35 for seven years, and \$50 for 14 years, which amount in each case includes the government fee, required to be paid in advance, and my charge for preparing the specification and drawing.

Upon receipt of a model or photograph showing the design, accompanied by a brief description and \$20, I will prepare the necessary papers and forward them to the inventor for approval and signature. If satisfactory, he will sign them and return to me with the balance due, which will be either \$10, \$15 or \$30, according to the term of patent. This completes the cost of the patent, as no final government fee is required in design cases.

Especial attention is called to the liberality of the laws relating to the protection of designs. A broad and valid design patent can frequently be obtained for an article that has no novelty of mechanism or function, and which cannot be protected by a patent in the ordinary manner.

ASSIGNMENTS, LICENSES.

An inventor may grant a license to another person, or sell and assign any portion of his right either before or after patent issues.

Assignments must be recorded in the Patent Office, and if recorded before the patent issues the name of the assignee will appear in the patent, if so requested in the assignment.

In ordering a license or assignment always send me the full name and residence of both parties, the date and number of the patent, if issued, the territory covered by the license or the interest assigned, and five dollars, the

amount of my charge, which also includes the government fee for recording the assignment.

COPIES OF PATENTS.

I will send to any address upon receipt of fifteen cents, stamps or money, a complete printed copy of the specification and drawings of any U. S. patent published, or a copy of the Official Gazette of the Patent Office. The Official Gazette is published every Tuesday, and contains the claims and portions of the drawings of all patents issued on the day of its publication. About five hundred patents are issued each week, Tuesday being the only issue day.

In ordering copies always give the date of the Official Gazette desired, and the number or date of the patent desired, and name of the inventor.

PRELIMINARY EXAMINATIONS.

A preliminary examination, sometimes called a search, is of value when an inventor has doubts as to the novelty of his invention, and wishes to ascertain the probability of obtaining a patent before incurring the expense of a formal application. The examination consists of an inspection of United States patents in the class to which the invention belongs, and relates only to patentability, not to infringement.

I will cause such an examination to be made upon receipt of \$5 and a model or sketch with brief description of the invention; and can generally report the results within three or four days.

Preliminary examinations cannot be guaranteed; but I have never yet failed to secure a patent after making a favorable report.

INFRINGEMENTS.

A search to determine the scope and validity

of a patent must be much more complete than the preliminary examination before mentioned; and much care and good judgment are required to give a reliable opinion as to infringement and validity of a patent. The expense of a thorough search of foreign as well as American patents, and a carefully written opinion based upon the results of the search, depends upon the amount of time and labor required, and will vary from \$25 to \$50 or more.

An extensive experience in patent litigation, both as expert and counsel, and a familiarity with the laws and court decisions relating to patents, give me every facility for furnishing reliable opinions as to validity and infringement; and for conducting the prosecution or defense of patent suits.

TRADEMARK.

Any person, firm or corporation may secure the exclusive right to a trademark by registering such mark in the Patent Office. A trademark consists of an arbitrary word or words, or a symbol applied to merchandise, or packages containing merchandise. Words that merely describe the article to which they are applied cannot be registered as a trademark.

To secure registration, the trademark must have been used in commerce with an Indian tribe or some foreign country, as Canada. Its commercial use is frequently limited to a few articles so marked sold in Canada before application is made for registration here.

The application must contain a description of the mark, a statement of its use, and affidavit, all to be signed by the proprietor or applicant. An ink drawing is also required.

The term of a trademark is thirty years, and it may be renewed for a further term of thirty years, if application is made within six months before the expiration of the original term.

The cost of a trademark is \$45, which includes the government fee, \$25, and my charge, \$20, for preparing the drawing and various papers. To procure registration of a trademark I must be informed of the name of the proprietor, the date since which the mark has been continuously used, the class of merchandise to which it is applied, the manner in which the mark is applied and the name of a foreign country where goods so marked have been sold. With this information send a copy of the mark and \$25 and I will prepare and send the papers to you for signature. The balance of \$20 is then due and completes the cost of registration.

COPYRIGHTS.

The author or proprietor of a book, map, chart, dramatic or musical composition, engraving, print, painting, drawing, statuary or design for a work of the fine arts, may secure an exclusive right to the same by entry in the office of the Librarian of Congress for copyright.

The entry is made by depositing with the librarian, *before publication*, a printed copy of the title page of the book, or the title and description of the work of art. Within ten days *after publication* two complete copies of the work must also be sent to the Librarian to complete the entry. The original term of a copyright is twenty-eight years, and it may be renewed for a further term of fourteen years.

The total cost of a copyright is \$5.

FOREIGN PATENTS.

Foreign countries, as a rule, grant a patent to the first applicant, whether he be the inventor or not; and in some of the principal foreign countries a valid patent cannot be obtained after a patent has been published elsewhere.

To enable an inventor to secure valid foreign patents the United States patent law permits an application to remain unpublished in the secret archives of the Patent Office for a period not exceeding six months after it has been officially allowed. This gives the inventor ample time to prepare to take out his foreign patents in advance of all other persons.

Inventions which become of value here should be of value in England, France, Germany, Canada and other progressive countries as well.

Foreign patents are granted for various terms, from five to twenty years, in different countries. The first cost in most countries is hardly more than the cost of United States patents, and depends somewhat upon the length of the specification, which must be translated. Much depends upon the care with which the translation is made, and it should only be entrusted to an expert linguist who is familiar with mechanical terms and phrases. Particulars as to duration of patent, cost, etc., in any country or group of countries furnished free on request.

ATTORNEYS.

The Patent Office rules contain the following excellent advice to inventors: "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. It will 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."

The Commissioner of Patents has also called

attention to the evils which result from the employment of attorneys who receive no fees for their services until the patent is allowed. In such cases the main object of the attorney is to obtain the allowance of a claim, regardless of its quality, in the shortest time possible, in order that the contingent fee may be secured. No sacrifice of the inventor's rights is considered too great if it hastens the desired letter of allowance; and the inventor usually finds, when too late, that his claim is valueless, and the patent will not bear the careful inspection of the prospective purchaser, or of the courts. Unnecessary delay in securing a patent should always be avoided; but in the desire for haste, the importance of securing the *best claim* to which the inventor is entitled should never be overlooked. A weak patent is usually incurable, and at best can only be remedied by a reissue of uncertain validity. If your invention is worth patenting at all, it is advisable to employ competent counsel and secure the best protection possible.

LIBRARY.

No trouble and expense have been spared in perfecting a working library, and I believe I now have the only complete office library of patents in the state.

The Patent Office reports alone occupy more than 150 feet of shelf room, and include certified copies of all existing United States patents, and of all expired patents granted since 1870.

I have thus at hand the specifications and drawings in full of nearly 400,000 patents, comprising 350 volumes. Besides these complete certified copies I have the annual index and report of the Commissioner of Patents dating back to 1844; and bound copies of the Official Gazette of the Patent Office from its first issue to date, more than fifty volumes.

In addition to the Patent Office reports, I have at hand the principal text books on the law of patents; English and American patent cases in full; complete decisions of the Commissioner of Patents and the United States courts in patent and trademark cases, and the best mechanical dictionaries and cyclopædias published.

This vast storehouse of patent information is always at the service of my clients. I have found its use invaluable in the preparation of cases for the patent office, and as a ready source of information at all times.

SUGGESTIONS.

In sending a model always carefully pack and address the same, and send either by mail or express, fully prepaid.

Always remit money by certified check, draft or postoffice or express money order, made payable to me. Never inclose money itself in the box with a model, nor in an envelope sent by mail, unless registered. To avoid mistakes it is best to affix your full name and address to each communication.

Questions relating to patents will be cheerfully and freely answered at all times, but where information is requested to be sent by mail it is customary and courteous to inclose stamps sufficient to pay the return postage.

PERSONAL INTERVIEWS.

The importance of a personal interview with the attorney who is to prepare an application for patent depends entirely upon the nature of the invention.

In ordinary cases a simple model or sketch, accompanied by such written explanations as the inventor may make, will be sufficient to enable me to prepare the case.

In cases more difficult in their nature a consultation is always of great value, and in especially complicated cases cannot be dispensed with.

While my experience and office facilities give me the most favorable opportunities for transacting all kinds of patent business by mail, I would advise every client residing within a reasonable distance of Troy, to make a personal visit to my office.

A careful discussion of the invention frequently brings forth ideas of value to both inventor and attorney, and will always more than repay the inventor for any trouble attendant upon the journey.

My office, No. 17 First street, corner of State street, is open every day, Sundays and holidays excepted, from 9 A. M. to 6 P. M., and on holidays from 9 A. M. to 12 M.

REFERENCES.

I do not ask the confidence of manufacturers and inventors without giving them some assurance that their trust will not be misplaced. I have resided in Troy for many years, and my standing and responsibility are well known to the people of this vicinity.

For the benefit of those who reside at a distance, and may wish to make inquiry about me, I give the following references, comprising many of the largest manufacturing houses in Troy, who have intrusted me with their patent business, and a few of my clients in various other localities.

Allen Brothers.....	Sandy Hill
American Currycomb Co.....	Troy
Banker & White.....	Troy
William Barker... .	Troy
M. L. Barnes & Co.	Troy
Barnum Bros. Co.....	Troy
H. Clay Bascom	Lansingburgh

John S. Becker.....	Easton
Thomas H. Bell.....	Albany
Albert C. Betts.....	Brunswick
Bradt & Shipman.....	Gloversville and DeKalb, Ill.
Henry F. Brink.....	Coon's Station
James M. Bromley.....	Plattsburgh
Chas. A. Brown & Co.....	Troy
James A. Buck.....	Crescent
George W. Burr.....	Round Lake
Bussey & McLeod Stove Co.....	Troy
Button Boiler Co.....	Waterford
Cary Manufacturing Co.....	Mechanicville
Lee Chamberlin.....	Troy
Adelbert Chambers.....	Troy
Cluett, Coon & Co.....	Troy
Adam Clute.....	West Troy
Cohoes Dye Works, Urban Weldon.....	Cohoes
Cohoes Galvanized Iron Works.....	Cohoes
Brommie Copeland.....	Salem
Covert Manufacturing Co.....	West Troy
James F. Cowee.....	Troy
Cunningham & Young Co.....	Troy
Thomas Curley.....	Troy
Curtis & Co.....	Troy
Crampton & Belden.....	Green Island
Daly & Horan.....	Troy
Hon. C. F. Doyle.....	Cohoes
Oliver Duesler.....	Argusville
Cornelius Dwyer.....	Amsterdam
W. Eddy & Sons.....	Greenwich
Eddy Valve Co.....	Waterford
George W. Farrell.....	Ausable Forks
Farrell Spring Co.....	Albany
Federal Ballot-box Co.....	Boston, Mass.
Fellows & Co.....	Troy
Rev. A. C. Ferguson.....	Saratoga
Adelbert Filkins.....	Round Lake
Hon. A. B. Gardenier.....	Valatie
Gillespie Brothers.....	Hoosick Falls
Griswold Bros.....	Troy
Charles H. Harden.....	South Hartford
William A. Harder.....	Lansingburgh
Harderfold Fabric Co.....	Troy
Harmon & Rice.....	West Troy and Canton
John F. Harris.....	Fort Edward
E. A. Hartshorn.....	Schaghticoke
C. W. Hart & Co.....	Troy
Henky & Smith.....	Schenectady
Howland & Co.....	Sandy Hill
Arthur S. Johnston.....	Waterford
Joubert & White.....	Glens Falls
William P. Kellogg.....	Troy
Knowlson & Kelly.....	Troy
William Kemp & Son.....	Troy

Henry Lobdell & Co.....	Troy
Ludlow Valve Co	Troy
Zeph F. Magill.....	Troy
I. H. Mambert	Watervliet
Manning & Peckham	Troy
Samuel McCleary.....	Watervliet Center
C. H. McClellan.....	Troy
McDermott & Barnum	Troy
Meneely Bell Co.....	Troy
Rev. J. H. Munsell.....	Schenectady
National Machine Co.....	New York
National Storage Battery Co.....	Troy
Palmer Hardware Mfg. Co.....	Troy
Peabody & Parks.....	Troy
Amos L. Pomeroy	Sand Lake
Benjamin Poole.....	Topsfield, Mass.
William F. Redding	King's Station
Dr. J. L. Rich.....	Greenwich
Rob Roy Hosiery Co.....	Troy
Elbert Rodgers.....	Hornellsville
Ross Valve Co.....	Troy
Sandy Hill Iron and Brass Works.....	Sandy Hill
Andrew Scotland.....	Maltaville
Theodore S. Sherman.....	Castleton, Vt.
Henry C. Shields	Troy
Charles E. Smith.....	Cambridge
Col. S. P. Smith.....	Waterford
E. M. Staples.....	Springfield, Mass.
Samuel S. Stevens.....	North Hoosick
Surdam & Co.....	North Bennington, Vt.
Shepard Tappin	Troy
Samuel T. Teachout.....	Cohoes
Tim & Co.	Troy
Tolhurst & Son.....	Troy
Trojan Button Fastener Co.....	Troy
Troy & Lansingburgh R. R. Co.....	Troy
Troy Malleable Iron Co.....	Troy
Troy Mowing Machine Co.....	Troy
Troy Nickel Works.....	Troy
Troy Steam Laundry Co.	Troy
Troy Steel and Iron Co.....	Troy
United Shirt and Collar Co.....	Troy
William Van Kleeck	Lansingburgh
James A. Van Voast.....	Schenectady
Vedder Pattern Works	Troy
Andrew T. Veeder	Schenectady
Victor Mower Co.....	Valatie
Wales & Crane	Troy
Walsh Rail Joint Co.....	Troy
Wilber Shirt and Collar Co.....	Troy
Wild Mfg. Co.....	Valatie
Wood & Lewis	Troy
Ignatius Wylie.....	Albany

CONTENTS.

	PAGE
To the Inventor.....	I
Patents.....	2
Drawings.....	2—3
Specification.....	3—4
Claims.....	4—5
Charges.....	5—6
Appeals.....	6
Interference.....	6—7
Caveat.....	7—8
Models.....	8
Reissues.....	8—9
Designs.....	9—10
Assignments—Licenses.....	10—11
Copies of Patents.....	11
Preliminary Examinations.....	11
Infringements.....	11—12
Trademarks.....	12—13
Copyrights.....	13
Foreign Patents.....	13—14
Attorneys.....	14—15
Library.....	15—16
Suggestions.....	16
Personal Interviews.....	16—17
References.....	17—19



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“WHATEVER IS WORTH DOING AT ALL,
IS WORTH DOING WELL.”

CHESTERFIELD.