



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 23 | Number 1

Article 6

12-1-1944

Industrial Property: A General Approach to Patents, Trade-Marks, and Copyrights

Paul B. Eaton

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

Recommended Citation

Paul B. Eaton, *Industrial Property: A General Approach to Patents, Trade-Marks, and Copyrights*, 23 N.C. L. REV. 25 (1944).

Available at: <http://scholarship.law.unc.edu/nclr/vol23/iss1/6>

This Article is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized administrator of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

INDUSTRIAL PROPERTY: A GENERAL APPROACH TO PATENTS, TRADE-MARKS, AND COPYRIGHTS

PAUL B. EATON*

It seems strange that from the dawn of history and extending through the highest stage of civilization reached by the Greek, Carthaginian, and Roman Empires it was left to the English-speaking people to institute the patent system.

The first recorded history we have concerning patents was a practice in England adopted over 600 years ago of giving monopolies to persons or companies for introducing the manufacture of certain articles into England. In 1331 a patent was granted to introduce cloth-making into that country; in 1368 three clock makers were given the exclusive right to make clocks. Again in 1440 a monopoly was granted to certain Englishmen for the production of salt on a large scale. We have the first record of a mechanical patent being granted in 1618 to a man named Grump who had introduced a pump. All of these patents were not for new inventions but were for old propositions, in order to get these articles manufactured in England.

The patents in England in the sixteenth and seventeenth centuries were nothing less than monopolies pertaining to trade. During this era England was lagging behind the rest of Europe in manufacturing, and she found it highly important to increase the production of most articles at home; for Continental Europe was continuously at war, and most of the time England, too, was involved. As a result, the Crown instituted the practice of giving a monopoly to an individual or company which would agree to manufacture certain articles there. This privilege of granting special privileges gave rise to large monopolies such as the Hudson Bay Company, the East India Company, and other large concerns which had to be curbed later by the Statute of Monopolies.

Patents granted for these early monopolies were advantageous, for they placed the protection of the Crown over the grantee. These special grants were known as *letterae patentae*, the Latin for "open letters." From this name the word patent was derived, though its meaning has changed somewhat. The word patent means "open" and signifies that the secret is laid open to the public.

* Patent Attorney. Member of the Bar of Charlotte, N. C. A.B., 1917, University of North Carolina; LL.B., 1923, Georgetown University Law School.

Craft Guilds were granted patents to introduce new manufactures into England; but they became so powerful that the practice was discontinued, and patents were granted to individuals in order to combat the Guilds.

Trade monopolies were granted to courtiers and favorites. The Hudson Bay Company and East India Company were monopolies of this sort. This practice resulted in placing the necessities of life—salt, coal, iron, sulphur, steel, glass, tin, and many other articles—under their control. These favored interests had the right to search homes and suspected places to detect infringement of their privileges.

In 1601 a bill to abolish monopolies was introduced in the House of Commons; but Queen Elizabeth agreed to recall the charters of the most oppressive companies, and the bill was withdrawn. Following this, James I rescinded all charters affecting commerce; but the merchants still controlled trade and fixed prices on all commodities. Soon thereafter the courts of England held that all monopolies except those for the introduction of new trade and manufacture into the country were contrary to the common law and, therefore, void.

In 1624 the famous Statute of Monopolies was passed, dissolving all monopolies and allowing in the future only such as the Crown might grant for a limited period of 21 years. Thus we see the crystallization of the common law and the crude beginning of our law today. In 1778 Lord Mansfield laid down the rule that the inventor must give a full description of the construction of his machine and the way it functions before he could obtain a patent. This requirement is present in our patent law today.

A patent is a contract between the inventor and the government, whereby the inventor agrees to disclose his invention so that anyone skilled in the art to which it belongs may make and use the same. In return the government gives a monopoly on a "structural" or "process" patent for a period of 17 years, and for other terms in the case of "design" patents, which will be explained later. This contract gives the inventor the right to exclude others from making, selling, and using the invention for this period. A patent does not give the inventor the exclusive right to make, use, and sell his invention, for the common law gives him this right; but a patent gives him the exclusive right to exclude others from doing so.

The colonial possessions of England in America were soon to catch the spirit of protection of industries; and, as early as 1658, the Colony of Massachusetts granted a patent to Samuel Winslow for a process of making salt. The idea of protecting inventions was widespread in the colonies at the time of the Revolution. Hence, when the Constitution of 1787 was written, Article I, Section 8, was incorporated and re-

mains there today. This portion reads as follows: "Congress shall have power to promote the progress of science and the useful arts by securing for a limited time to authors and inventors the exclusive right to their respective writings and discoveries."

This Constitutional provision is the authority for Congress to establish our patent and copyright system, which now gives protection for 17 years on a patent and 28 years on a copyright. Copyrights may be renewed for a period of 28 years, but patents may not except by special act of Congress. When one speaks of "renewing a patent" he means obtaining a patent on an improvement over and above the structure of the original patented article. This "renewal" does not prevent the public from using the old structure when the patent thereon expires.

The first patent laws of the United States were enacted in 1790. France followed in 1791; Prussia in 1815; Austria in 1820; and Russia in 1833. Later all of the important European countries adopted such laws. At the present time practically all of the civilized nations have patent laws, and they are fashioned after the original patent laws of the United States.

The first patent law in our country, the Act of February 21, 1793, provided for a patent to extend for a period of 14 years. This statute remained in force about three years, and under it only about 55 patents were granted. Under it the inventor was required to take an oath that he believed himself to be the true inventor. This provision is in effect today.

The first patent granted by the United States was to Samuel Hopkins on July 31, 1790, for a process of making pearl ashes. Patent No. 2-X was granted to J. S. Samson on August 6, 1790, for candle making; patent No. 3-X was granted to Oliver Evans December 18, 1790, for a flour- and meal-making process. Thus we see that only three patents were granted in 1790, the first year of our system. In 1791 thirty-three patents were granted; in 1792, twelve; in 1793, twenty; in 1794, twenty-three.

There were 9,902 patents granted from 1790 to July 2, 1836, when all existing patent laws were repealed and a modern system initiated with the formation of a Patent Office and the office of Commissioner of Patents. Prior to 1836 all patents had been issued by the Executive Department, signed either by the President or the Secretary of State.

In 1836 a disastrous fire occurred in the Patent Office, burning all existing records and patents; and thus a new numbering was started. Inventors were urged by advertisement and otherwise to return their copies of patents to the Patent Office so that a copy of them could be made. Those which were returned were marked with an "X" fol-

lowing the number given them, but many of the inventors never took the trouble to have their copies registered.

Under the new system of numbering, Patent No. 1 was granted July 13, 1836, to J. Ruggles for a locomotive engine. Since that date there have been approximately 2,360,000 patents issued. In addition there have been granted 139,000 design patents, and over 22,500 patents have been reissued.

There are several kinds of patents. First, we have the "structural" patent, which is granted on a machine or article in which the claim defines the article by reciting the structure. Secondly, there is the "method" or "process" patent, for example, one covering a process of treating iron ore to produce a certain type of metal. Finally, there is the "composition" patent, which relates to a composition of matter, such as an alloy of metals. These three types are granted for a term of 17 years.

A "design" patent is one granted for the exterior ornamental appearance of some article such as a rug, piece of jewelry, or any other ornamental device. This type patent is issued for a period of three and one-half, seven, or fourteen years, depending upon the amount of governmental fee paid which is as follows: (1) \$10 for a three and one-half year patent; (2) \$15 for a seven year patent; and (3) \$30 for a fourteen year patent. However, the application can be filed by the payment of a \$10 fee for the three and one-half year patent with notice to the Patent Office that, before the patent is allowed, the inventor will be notified so that he can pay an additional fee and extend the term of years.

The fees for all other patents comprise a \$30 filing fee and an additional \$30 fee payable within six months from the date the patent is allowed. In case of prints and labels the registration fee is \$6, while the statutory copyright fee for a book is \$2; the fee for filing an application for registration of a trade-mark is \$15.

A registration of prints and labels and the securing of copyright on printed matter such as books can readily be handled by securing the proper forms and instructions from the Library of Congress. The registration of trade-marks and the procuring of patents, however, is a highly specialized affair and usually requires the services of a competent patent attorney.

Only a few years ago the patent laws were amended to enable one to secure a patent on a plant, such as a new type of rose, or apple tree. A patent of this nature also runs for a period of 17 years.

In addition to the above types of patents there is the "re-issue" patent, that is, a patent in which a mistake is made in the issuance of the original patent in not claiming the matter in as broad a manner

as it should have been, or in case of some other mistake. In such case a "re-issue" of the patent is applied for. In the event that the Patent Office decides favorably on the "re-issue," the old patent is surrendered and destroyed. The "re-issue" does not extend the term of the patent, but rather changes its scope from the time the "re-issue" appears to the end of the original term. A broadened "re-issue" cannot be made to cover some intervening act, as where a manufacturer sets up a business and produces an article which does not infringe the original patent. Such broadening of the claims cannot be used to stop the manufacturer who has acquired intervening rights.

From the time an invention is placed in use in a factory or any other place where employees have access to the machine, it is then considered to be in public use; and, if a valid patent is to be obtained, a patent application must be filed in the Patent Office within one year from the date of first public use. Until a few years ago the law permitted two years' use, but under the New Deal pressure against patents the term of public use was reduced to one year.

A widespread belief is that anyone can make and use for himself, or in his plant, any patented structure without infringing a patent. This is absolutely unfounded in the law. To make or use a patented structure, even in one's own plant, constitutes infringement just as if it were made and sold to someone else. The only instance where a patented structure can be made is in case of a model built for experimental purposes, and this model cannot be put to commercial use without infringing the patent.

Where an employee makes an invention, the invention belongs to him—unless he worked it out during his hours of employment for which he was paid by his employer. When the invention is developed on the time of the employer or with materials of the employer, then the employer has a "shop right," or the right to use as many of the articles or machines in his plant as he desires without paying the inventor any royalties whatever. This right of the employer is predicated upon the theory that the employee is not employed for the purpose of making inventions, but makes the invention in addition to his regular work. But if an employee is hired to develop a certain machine, then this machine and the patents therefor belong to the company; and by court action the inventor can be compelled to assign the patent to the company which employed him to make the invention.

Anyone engaged in developing an invention should keep a bound—not looseleaf—notebook and make entries therein from day to day of sketches and descriptions of his development. Each page of this book should be signed and dated by two or three witnesses as the work proceeds. This book may be very valuable in proving the date of an

invention should another try to get a patent on the same thing at approximately the same time. The famous litigation over the vacuum radio tube between De Forest and Armstrong was won by De Forest as a result of a notebook kept by him and his assistant and signed by both, which had an entry showing that the vacuum tube was invented by De Forest five days before the date of the invention by Armstrong.

If an invention is made by A, and B furnishes the money to secure the patent, if both jointly apply for the patent, the patent issuing to them jointly is void. And if A and B make an invention, and only one of them applies for a patent, the patent is likewise void. In a case where several individuals apply for a patent and discover that one or more did not contribute to the invention, the application can be amended to eliminate the superfluous parties, provided this is done before the patent issues.

Joint owners of a patent can make, use, and sell the patented structure independently of each other; and, in the absence of contract, do not have to account to the other joint owner or owners for his or their part of the profits. Joint owners of a patent cannot contract to limit output or control prices, for this would be contrary to the anti-trust laws.

When an invention is made, the first step is to have some reputable patent attorney search the records of the Patent Office to locate copies of the nearest patents on the subject. If these patents show that the proposition is patentable, then an application for a patent should be prepared by making India ink drawings and writing up a detailed description of the invention. Then claims are drafted to properly protect the invention. The care taken in drafting claims as broadly as possible determines the scope or breadth of the patent. Then the application is filed in the Patent Office, of which there are 64 divisions at the present time.

The subject matter of the invention determines to which of these divisions the patent application is assigned for examination. When the application is filed in the Patent Office, it is sent to the Application Division, which determines which particular division shall have charge of the case. When the application reaches the particular division for action, usually several months later as all applications are examined in turn, the Examiner handling this application makes a search through pertinent patents and cites the nearest patents he can find, rejecting some—if not all—of the claims and allowing a part of them.

Within six months after the Patent Office takes its action on the case, the attorney must make a response thereto. He will probably eliminate some of the claims and redraft additional ones, or change the

terminology of some of them and argue their patentability over and above the patents cited by the Patent Office.

This correspondence between the Patent Office and the attorney goes on until an issue is reached. The application then is either allowed or finally rejected in whole or in part. If it is allowed, the final government fee is paid, and the patent issues. As a general rule, the longer it takes to secure allowance of the patent, the broader the scope of the patent. This delay means that the attorney has made several responses to the Patent Office actions, arguing for the broader claims in the application to secure the broadest possible protection for his client.

When a patent is issued, most people think that it gives the right to the inventor to make the patented structure without fear of infringing any other patent. Such is not the case. A patent simply gives the inventor the right to exclude others from making his invention, regardless of patents which have heretofore issued. For example, one man might get a patent on a crutch with a rocker on the lower end thereof so that he can rock along the street instead of receiving the impact of the crutch against the pavement. Let us suppose that he gets a basic patent on the crutch with a claim reading as follows: "A crutch having a curved base piece." Later on another man discovers that this crutch with the rigid rocker on the lower end thereof is very unwieldy in going up and down stairways and in walking in crowded places. He has the idea of having his rocker on the bottom of the crutch in two pieces so that it can be folded upwardly alongside the crutch, and the crutch can be used in the conventional manner as if the rocker were not on the lower end. Then he files application for a patent and claims as follows: "A crutch having a *folding* curved base piece." In view of the fact that his claim is limited by the word "folding," the Patent Office cannot successfully reject his claim and refuse to grant him a patent because of the first crutch patent, since the first crutch patent did not have a *folding* curved base piece. However, if the second man starts to manufacture his crutch having a folding curved base piece, he will infringe the earlier patent. The reason for this is that although the second patented crutch will have a folding curved base piece, it will also have a *curved* base piece. As a result, the second patentee cannot make his crutch; and at the same time the first patentee cannot make the improvement of the second because the second patentee has a monopoly on the base piece which is folding.

With regard to royalty contracts, there are many pitfalls; and any royalty contract drafted by the general practitioner should be submitted to a patent expert for approval. The expert will know the various clauses to insert, such as a minimum royalty each year in order to keep the license alive, and whether or not the license is to be ex-

clusive or non-exclusive. Many times a non-exclusive license works to the detriment of the patent owner since he cannot secure another licensee while there is an outstanding non-exclusive licensee. All such non-exclusive licenses should contain a clause that the licensor will not grant a license to another on any more favorable terms than those set forth in the license under consideration.

Many of our famous men have been inventors, but the backbone of the patent system is the professional inventor; that is, the professional man who makes a business of planning new ways to do things or new things to do in his own patent field. Thomas Edison was one of the most prolific inventors with nearly 1100 patents to his credit, but the man who leads all is Ethan I. Dodds, who has more than 1800 patents in his name, all relating to railroading.

Abraham Lincoln, beloved President, was also an inventor and a patentee, he having secured a patent for buoing vessels over shallow places in rivers. As a young man Lincoln had made the trip down the Ohio and Mississippi Rivers by flat boat and had noticed on one of the trips many boats on the shoals of the river. As steamboats had begun to replace flat boats, he conceived the idea of attaching buoyant chambers to the sides of the boats to be inflated by the power of the engine when the steamboat went aground. The added buoyancy was supposed to lighten the draft of the vessel so that it would float off the shoal.

Lincoln was not the only man to become President of the United States who was an inventor as well, though he was the only one to take out a patent. George Washington and Thomas Jefferson were inventors also. Jefferson invented the swivel chair, a folding buggy top, a three-legged folding camp stool, and a certain modern type of plowshare, many of which are in use today. He also invented a writing desk with an adjustable top which could be folded for travelling purposes.

George Washington recorded in his diary several inventions, such as a wine coaster and a seeding plow. The first public tryout of Washington's wine coaster took place at a State dinner where diplomats and other distinguished guests hailed the President's contribution to the comfort of dining. In 1786 Washington made and used a barrel plow for sowing grain. It was a spiked roller with the harrow in the tail, which he found efficacious in breaking the clods and pulverizing the earth. Neither Washington nor Jefferson made any money from his inventions. It was beneath the dignity of a gentleman, Jefferson thought, to take money for the product of his brain and hand.

Benjamin Franklin, not regarding himself as a gentleman, or not so accepted by the standards of his day, did not hesitate to realize

financial returns on his inventions. He invented the Franklin, or cast iron fireplace, which was in use for many years after his death. It was the first coal heater which kept most of the heat from going up the chimney. Franklin also invented a mangle for pressing linens, and made a clock which showed hours, minutes, and seconds on three revolving wheels. In fact, he made the first spectacles with double lenses for reading at a distance, and suggested many improvements for air pumps, guns, and carriage wheels.

The late Samuel L. Clemens, known as Mark Twain, was also an inventor, and financed several inventions. He financed an inventor named Paige, who was trying to make a type-setting machine. Before his machine was completed, however, Mergenthaler invented his slug-casting machine, or the linotype; and all of Clemens' investment was lost. He wrote the publisher of a book intended to aid inventors as follows: "If your book tells how to exterminate inventors, send me nine editions."

From time to time there are issued patents which have a humorous side. Among these is one for automatically tipping a gentleman's hat when he meets a lady. By wrinkling his eyebrows, he sets in motion the hat tipper so that he does not have to raise his hand. Another relates to a mirror attached to a fishhook so that when a fish approaches the hook, the mirror—being convex in shape—greatly enlarges the image of the fish. Hence he thinks that another fish larger than himself will beat him to the bait, and he grabs the bait, hook, line, and sinker. Still another patent was issued for a trap, which—instead of catching the rat—puts a bell around his neck so that he will run throughout the premises and scare all the other rats away. There is a patented device which is supposed to eliminate baldness. The "hair-planter" sticks a hole in the scalp and plants the hair in the hole. A patent was also granted on a golf ball which is scented so that a bird dog can be taken along to find lost balls. Another patent was issued on a mechanical tongue to "cuss road hogs."

There is no doubt that our patent system is the best in the world. Yet today many are attempting to defeat it. First, there are those who advocate the granting of compulsory licenses. Too, it appears that our courts are attempting to rewrite our patent laws contrary to the intent of Congress. Through the protection of our patent system we have developed into the greatest industrial nation in the world, leading in the development of radio, wireless, vacuum tubes, frequency modulation, radar, the gasoline engine and steam turbine, the automatic telephone, talking pictures, cyanide process, the aeroplane, the photo-electric cell, mechanical refrigeration and air conditioning, artificial silk, flota-

tion process, hydrogenation process, and the development of many synthetic processes whereby almost any product can be artificially reproduced.

TRADE-MARKS

The development of trade-marks presents a somewhat different story from the development of patents. As has been pointed out, patents for new inventions have only been known for about 150 years, whereas trade-marks have been known and in use from the time from which "the memory of man runneth not to the contrary." In the Dark Ages stamps and certain marks were placed on the goods to identify the maker and to establish good will in connection with the article so marked. No doubt the first known artificer in brass and metal work impressed upon his products a peculiar emblem to denote the origin of his goods. The ancient Persians, Babylonians, Syrians, and Egyptians turned out many products of skilled labor; and even in Nineveh the people manufactured arms and articles of gold and silver. Many great cities sprang up in Southwest Asia as early as 1500 B.C., making rapid growth due largely to trade with India. The Hindus also impressed trade-marks on their goods, usually some kind of emblem since in those days most of the people were unable to read and write. Early Babylonians impressed the names of their kings on the walls of Babylon, and there have been found on water pipes dug up in the ancient ruins of Ostia symbols that cannot be taken for anything other than trade-marks. Charred loaves of bread excavated at Pompeii are also found to contain trade-marks printed thereon.

Some of the first decisions relating to trade-marks occurred in England about 1590. Since that time the law of trade-marks and unfair competition has been developed to a very high state.

Registration of a trade-mark in the United States Patent Office does not extend the scope of coverage, but only gives to the owner certain rights, to be described later, over and above his common law rights. Before a trade-mark can be registered, a search is made in the Patent Office to determine if the same mark is on record. Another mark is chosen if the original selection has been registered. Where one mark is registered and it is later discovered that the same mark is in use but not recorded, conflict will result in different trade territories. The trade-mark actually covers the territory in which the owner has used the mark on the goods. Hence the user of a mark in the State of Oregon, who has covered only a few states on the west coast, cannot enjoin the use of the same mark used by a concern in New York when the trade territories do not overlap. This is true whether the mark is registered in the Patent Office or not, for registration does not give nation-wide coverage as it does in the case of patents.

Registration, however, does give certain rights. An example is the introduction of the registration certificate in evidence, which makes out a *prima facie* case of the use of the mark and relieves the plaintiff from proving by depositions or witnesses the actual use of the mark. Registration gives the registrant the right to sue in a Federal District Court for infringement of the mark, even though there is no diversity in citizenship. Furthermore, where the mark is registered, treble damages may be awarded for infringement; whereas, if the mark is not registered, treble damages cannot be recovered.

If a concern intends to export goods bearing its mark, such trade-mark should be registered in prospective foreign countries immediately after its being registered in the United States. Many individuals are engaged in "pirating" trade-marks by registering them abroad. When the actual owner of the mark in this country ships his goods into those countries having the registered "pirate" trade-mark, the goods will be seized at the port of entry because they bear a trade-mark which is already registered. Many large manufacturers in this country experienced this embarrassment when they first shipped their goods into Latin America, where they found that their marks—such as *Paramount* and *Buick*—were registered in those countries by natives. The only remedy for the exporters was to purchase these registered marks from the natives at exorbitant prices.

Some of the requisites of a good trade-mark are as follows:

- (1) It must be easily spoken and easily remembered.
- (2) It must be simple in design.
- (3) It must be distinctive and attractive in appearance.
- (4) It should suggest the good quality of the merchandise to which it is affixed.
- (5) It should be unlike all other marks already in use on the same class of goods.

A trade-mark can be assigned to another, but it cannot be assigned except in connection with the good will of the business. Many transfers of trade-marks could not be recorded in the Patent Office because the transferor did not include in the transfer the good will of the business with which the mark is used. Any transfer of the assets of a corporation, or reorganization of the corporation, should mention the trade-marks and the good will of the business connected therewith.

In order to secure a valid registration of a trade-mark, the owner of the trade-mark must own the goods on which the mark is used, or at least control the goods. A shoe repair shop, for example, cannot secure a registration of a trade-mark on shoes repaired by it because the shoe repairman at no time owns the shoes which he is repairing, but merely has an equity in them for the amount of his repair bill.

Misspelling of a descriptive word does not make a mark registrable.

as sound and not spelling controls. "NEVAFALE" for a medicine cannot be registered; for, after all, it means "never fail," or a "sure cure." The Patent Office will not register a mark for a medicine if the labels bear the notation "Remedy" or "Cure." Trade-marks cannot be registered when they pertain to matters which are scandalous or immoral in nature, or when the mark or word consists of, or comprises a flag, or coat-of-arms, or other insignia of the United States or any simulation thereof, or of any state or municipality or foreign nation. Neither can any picture or design adopted by a fraternal organization be used as the subject. Furthermore geographical names or terms cannot be protected. In most instances a coined word, although it takes much advertising to establish the same, is the best trade-mark.

The power of the United States government to register trade-marks arises from that section of the Constitution which gives Congress the right to control interstate commerce. Therefore a trade-mark cannot be registered until it has been used on goods in interstate shipments. But once an interstate shipment has been effected, the federal government assumes jurisdiction so that it can register the mark in the Patent Office.

After the Trade-Mark Act of 1905 was passed, it was discovered that many foreign countries would not register trade-marks on goods coming from the United States unless it could be shown that these marks were registered in our Patent Office. Therefore in 1920 Congress passed a statute which permitted such prohibited marks to be registered in this country, provided that the one applying for registration would take an oath that he had used the mark exclusively in interstate commerce for one year prior to that time; and that, so far as he knew, that use had been exclusive. This allows registration under the 1920 Act of such descriptive or prohibited marks so as to enable the owner of the mark to present such certificate to a foreign country to prove that the mark is registered in the United States.

COPYRIGHTS

In addition to trade-marks there are other items of industrial property such as prints, labels, and copyrights. A copyright or label must be copyrighted, and cannot be registered. A registration of a trade-mark covers the actual mark used and does not cover the label associated therewith; whereas a copyright on a label or print does cover the subject matter of the label or print. Also, a copyright is of an entirely different nature in that a print or label or any printed matter which is to be copyrighted must be printed with the notice of the copyright thereon and distributed to the public. This process is called publication, and it must occur before it can be subject to copyright

and before application for copyright can be filed. Many copyrightable items are dedicated to the public by the failure of the owner to place the legal copyright notice on the first articles printed before the same have been filed in the Library of Congress. In securing copyrights the first publication of the matter should have thereon the legal or statutory notice such as "Copyright, 1944, by John Doe." Then the proper application papers, together with specimens of this copyrightable matter, should be filed immediately with the Library of Congress. The failure to place this notice on the first printing dedicates the matter to the public, and any copyright issued thereafter is void. In the case of a book the copyright notice must be placed on the title page or the page immediately following.

These are the highlights in the law pertaining to industrial property: namely, patents, trade-marks, copyrights, prints, and labels. Volumes have been written on each of the subjects. For a clear understanding of each phase of each subject a thorough digest of decisions is imperative.

One thing must be borne in mind: we have the greatest country in the world—equipped with thousands of industries and research laboratories. If the present Communistic trend against patents continues, the selfish incentive to create new and better things will be retarded. Then we shall start the tragic retrogression which would lead to the fall and disintegration of our great industrial organizations.