WARLEY PARROTT

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an inventor to act promptly once he has made an invention and to file an application for the same in the Patent Office before the expiration of one year from the time the invention was published or publicly used. If he does not do so and the same invention is disclosed through a publication, then the inventor will lose his rights to a patent even though he may have actually made the invention first.

"Besides the requirement of newness, that is, distinction over all prior patents and publication as we have just considered, the invention to be patentable must also be useful. This means that it is capable of use or operation and is not just an idea which in actual use would be impractical. The degree of usefulness is immaterial so long as the invention has not been previously disclosed. In some cases which involve questions of patentability over prior disclosures the degree of usefulness may become significant; for example, if it can be shown that the invention although disclosed in principal before has answered a long felt commercial need and has enjoyed substantial commercial success, such factors are sometimes considered in weighing and determining the question of patentability.

"One of the questions which is very commonly asked of a patent lawyer by an applicant for a patent is wether he has the right to bring suit against an infringer before his patent issues and the answer is unequivocably "No." The right to sue for infringement matures only with issuance of the patent and damages collectable for infringement in most all cases cannot cover infringing operations prior to issuance of the patent. This provision of the law might sometimes work a hardship on an inventor whose idea has been imitated and large profits made before he can obtain issuance of his patent. There is a relief for this, however, in that the Patent Office will upon a verified showing of infringement examine the patent application in question forthwith and issue the patent if the the invention proves patentable.

"You may be interested in a few brief comments about the United States Patent Office in Washington where all applications for patents are filed and prosecuted. Prior to 1925 the Patent Office was a part of the Department of the Interior but in 1925 it was transferred to the Department of Commerce by Executive Order of President Coolidge and it has remained under the Department of Commerce's jurisdiction since that time. The Head of the Patent Office is the Commissioner of Patents who administers all activities of the Patent Office. The primary function of the Patent Office is, of course, to examine applications for patent filed by inventors and determine whether the invention in question is patentable over the related prior art patents which have previously been granted. This is done by a corps of EXAMINERS, about 800 in number at the present time. There are at present 69 patent divisions, a trademark division, and a design patent division, each of which is headed by a Chief Examiner and under him a number of assistant Examiners. These Examiners are technically trained men and usually study law at one of the law schools in Washington. Each division examines inventions of a certain class of subject matter. For example, carbon chemistry is in Division 6, Plastics in Division 64, Paper Manufacturer in Division 56, Textile Machinery in Division 21, etc.

"In pre-war times the Examining Corps could keep fairly up to date with their examination of patent applications, that is, within a few months' time. Since the war there has been a tremendous upsurge of patent activity. In 1946 there were filed 92,000 patent applications and only 27,000 patents issued.

"In our hurry and scurry of modern times, we seem to have lost the opportunity of art for the use of levity in our patent system but this was not so in the early days. Someone in the Chemists Club in New York City recently made a collection of rather amusing patents which were issued along about 1860 to 1900. I have abstracts of a few of those here and believe they would prove interesting, if not surprising, to you.

"One of these is for a time-alarm bed. It is U. S. patent No. 479,307 issued to G. Q. Seaman. Its specification reads in part as follows: 'The occupant of the bed need not have any concern about being awakened, as he may sleep calmly on without listening for the alarm; but at the time at which the alarm is set the downward movement of the lever allows the leaf to swing inward, and the occupant is spilled upon the floor.'

"Another one for a hair tonic is: F. W. E. Muller, U. S. patent No. 939,431, Nov. 9, 1909. It specifies as follows: 'A hair tonic consisting of pure water ten per cent, an extract of ripe black currants, twenty-five per cent, granulated sugar five per cent, best corn whiskey forty per cent, and port wine twenty per cent, substantially as described'."

While these are of interest I am sure they are not typical of the patents of our day and time and the hard work which lies behind most of them. Thomas A. Edison, who was one of the most prolific inventors of all times, once said and I quote:

"Restlessness and discontent are the first necessities of progress. I never did anything worth doing by accident, nor did any of my inventions come by accident."