PRIORITY OF INVENTION.

The fact that a patent has been granted is not full evidence that the patentee was the first inventor. If another individual comes forward, applies for a patent, and proves that he invented the thing prior to the invention thereof by the existing patentee, then the Commissioner of Patents will issue a grant to the second applicant. Two patents will thus exist for the same invention, the first of which, if not voluntarily abandoned by the holder, will, by due process of law, be adjudged invalid.

INTERFERENCE.

Where two different persons simultaneously apply for a patent for the same invention, or when a second inventor asks a patent for a thing already patented by another, the Commissioner of Patents will, either on his own volition or on request of the applicant, declare that *interference* exists; whereupon the Commissioner issues a notice to all the parties concerned, calling upon them to produce testimony, within a specified time, as to their respective dates of invention. This is done by witnesses, examined on behalf of the parties before any judge, justice or other officer qualified to administer oaths. The opposing party has the right to appear and cross-examine the witnesses in person or by counsel. The Commissioner awards the patent to whoever proves priority of invention.

In determining priority of invention, a variety of points are often to be taken into consideration. If the invention was experimentally shown at a prior date, but abandoned, such fact will not be conclusive proof of priority against a subsequent applicant who has gone steadily forward, and brought the invention into useful operation. Nor will the mere suggestion of the thing at a prior date, nor the mere drawing of the same upon paper, always be received as conclusive evidence of priority.

The circumstances which may affect the decision of the Commissioner are various, so that skill and experience, on the part of the attorney who examines or cross-examines the witnesses, is very desirable. After the testimony is submitted, the parties have the right to put in written arguments in support of their cases, reviewing the evidence, citing law points, &c.

The proper preparation of these arguments requires a knowledge of previous decisions in similar cases, and a thorough acquaintance with the law, rules and practice of the Patent Office. Attorneys who are inexperienced in patent business should never undertake to manage interferences.

ABANDONMENT.

After the expiration of two years from the date of a patent, it is then too late for a subsequent applicant to come forward and, by proving priority, receive a patent. In such cases the Commissioner of Patents holds that the prior inventor, by permitting the public exposure for two years, at the Patent Office, of a model and drawings of the invention, without setting up any claim to the invention, has virtually abandoned the improvement, and is not entitled to the protection of the law.

ANNULLING OF PATENTS.

The Commissioner of Patents has no power to annul an existing patent. He can order an interference to be declared between an existing patent and a pending application for a patent for the same invention, and then require testimony from each party in order to substantiate the question of priority of invention. If this is proved by the applicant for the pending case, the Commissioner exercises the right to grant the second patent. The evidence produced in the examination would confer a *prima facie* right upon the successful party.

RE-ISSUES.

The Patent Office is sometimes more averse to the first granting of a patent with a broad claim than it is to allow the inventor to increase his claim by a *re-issue*. It also sometimes happens, after the first issue of a patent, that the claim is not as broad as the inventor was entitled to; or it happens that an infringer, by some peculiar quibble, renders it doubtful whether, from the wording of the original claim, the patent would be fully established on a trial at law. To meet such cases, as well as to correct any mistakes that may appear in a patent, the law provides for a *re-issue* of the document, with a new specification, new drawings, new claims, &c. It has become quite common for the holders of valuable patents when infringed, to obtain a re-issue, before a suit is brought, with claims so worded as squarely to meet the infringer. In other cases where parties are using an invention without infringing, because not then covered by the claim of the patent, it is a practice to have the grant re-issued, with a claim that will render any further use an infringement. In such cases the users are generally willing to pay the patentee liberally rather than stand a suit at law.

Again: where the manufacture of a particular device is *intended* to be commenced, a re-issue is sometime obtained as a measure of intimidation.

The owner or assignee of a patent has the same right to apply for and obtain a re-issue as the original patentee. The government fee, payable on applying for a re-issue, is $15. The fees of attorneys for preparing and conducting such cases are exceedingly variable. Our limited space forbids further discussion of the subject. Those who are desirous of obtaining re-issues are invited to correspond with us. We have had much success in cases of this character.

USING PATENTED DEVICES AFTER EXTENSION.

The benefit of an extended patent inures solely to the original inventor and patentee, or to his legal representatives. An assignee for the first term of the patent only, cannot exercise any right or interest under the extended patent. This question has been determined by a decision of the U. S. Supreme Court. Assignees, however, who were using patented machines at the time of the extension, still possess the right to use the same specific machines under the extended term of the patent, but this right does not cover the manufacture of new machines or their sale to other persons.

The language of the law on this point is as follows: "And the benefit of such renewal shall extend to assignees and grantees of the right to *use* the thing patented to the extent of their respective interests therein." This clause obviously permits only the using of the invention according to the interest in it, which is the *machine* and nothing more.

LICENSE LAWS OF STATES.

With a view to protect their own manufactures, certain of our States have passed laws regulating the conditions upon which goods may be sold by itinerating merchants or peddlers within their limits. Persons interested in the sale of patented articles have often supposed that these laws could not prevent them from selling such articles, as, otherwise, the laws would conflict with our United States patent code, which gives to patentees and their assignees the exclusive right to make, use, and sell their inventions in all States and Territories within the jurisdiction of the United States Supreme Court. In this opinion they are evidently mistaken, as each State exercises the right to decide *what* shall be sold, and *how* it shall be sold, within its borders. Therefore peddlers of patented articles cannot sell them in any State where such laws exist, without obtaining a license from the proper authorities.

RIGHTS OF CITIZENS WHO HAVE REMOVED FROM THE UNITED STATES.

It not unfrequently happens that natives of the United States remove to the adjoining provinces, and remain there without taking any legal measures to dissever their former political connection. Sometimes inventors have applied to us to know what rights they possess under such circumstances. The following opinion from the United States Attorney-General will enable all to decide for themselves how far removal has affected their citizenship. He says:—

"There is no statute or other law of the United States which prevents either a native or a naturalized citizen from severing his political connection with the government, if he see proper to do so, in time of peace, and for a purpose not directly injurious to the interests of the country. There is no mode of renunciation prescribed. In my opinion, if he emigrates, carries his family and effects with him, manifests a plain intention not to return, takes up his permanent residence abroad, and assumes the obligation of a subject to a foreign government, this would imply a dissolution of his previous relations with the United States, and I do not think we could or would afterward claim from him any of the duties of a citizen."

COPIES.

Messrs. MUNN & Co. will furnish, on short notice, copies of the full drawings and specifications of *any patent ever granted by the United States government*, except those destroyed by the burning of the Patent Office in 1836, and never restored. The expense of such copies is not much: the cost depends upon the amount of labor involved.

Copies of *the claims* of any patentee we are always ready to furnish for $1 each patent.

To Patent Agents and Lawyers.

We have at our command the combined facilities of the two largest patent agencies in the country, one being located at New York, and the other at Washington. These facilities include the constant daily access to all the official records, assignments, extensions, books, models, and papers pertaining to nearly all the American patents ever granted, and to thousands of rejected cases and foreign patents. In addition to this, we have the advantage of many years' experience in the business, during which we have, and do now maintain, a palpable pre-eminence over all other establishments of the kind in the world.

We mention these facts for the benefit of our brother agents, wherever they may happen to be located, and would say that the combined advantages of our agencies *are always at their service*. Our position in regard to this, as respects facilities for conducting patent business, is somewhat the same as that occupied by the leading mercantile importers in the seaboard cities in relation to the procuring of goods for country merchants. All the original sources for information and action are at our fingers' ends.

To other patent agents and lawyers we shall be happy to render every assistance in our power in any matters relating to patent business (as we are frequently having occasion to do), whether it be in the prosecution of rejected cases, the preparation of specifications, drawings, assignments, searches of the records, extensions, re-issues, appeals, &c.

In new applications it will generally be advisable to have their papers pass through our hands for revision before being sent to the Patent Office, for it is usually more difficult to straighten a case after it has been improperly submitted, than before the documents are filed. Some agents may find it convenient to have us prepare the patent papers from beginning to end. When this is desired, the model should be forwarded to us. Copies of any desired claims, or the patents, with drawings in full, we can promptly furnish.

Our brother agents are, no doubt, frequently applied to for their opinions relative to the novelty and patentability of new inventions. But such has been the wonderful augmentation of improvements within the past ten years, that few persons can give an opinion worth a straw, unless it is based upon or backed up by *a thorough special examination of the models and patents at Washington*. We therefore advise all agents to recommend their clients to have a *preliminary examination* made at Washington, to ascertain whether their invention is actually new. This service will be promptly rendered by us and, including a written report, will cost but a small fee. The client's name need not appear; a sketch and description of the improvement is all that we need. We shall be pleased to correspond with patent agents, at all times, and to furnish any further information, by way of making arrangements, that they desire. Address MUNN & Co., New York.

In respect to taking out foreign patents we would also say that our facilities are of the most extensive and complete character. We employ the most experienced attorneys abroad, so that those who commit business to our care will nowhere have it exposed to the risks of irresponsible and incompetent sub-agents.

The Patent Agency Business.

Such is the simplicity of the American patent law that the drawings and specifications of applications for patents can just as readily be prepared, if the party is competent, at a distance from the capital, as within its immediate precincts. The result is that applicants unwisely attempt to prepare their own papers; hundreds more employ country lawyers or notaries public, or justices of the peace, or other inexperienced agents, while the remainder entrust their business to the Scientific American Patent Agency and the few other skillful houses who make the preparation of patent papers their speciality. If inventors were more careful at the start to avoid the employment of ignorant persons, they would often save themselves from trouble, delay and exorbitant expense. Many a poor countryman is induced to make a weary and expensive pilgrimage to Washington, under the supposition that no other method exists whereby to correct the stupid errors contained in his papers and by reason of which his patent is refused. And he innocently supposes that on his arrival he will be received with open arms by all the government officials, from the President down to the doorkeepers of the Patent Office. He imagines that he has only to confront the Commissioner or the Examining-officer, when all difficulties will vanish as by magic, and the patent be issued to him on the spot!

But the reality is otherwise. The applicant is informed by the attending official that until his papers are properly corrected and presented, his case will not be considered; he will be told that his explanations, if intended as amendments, must be put in writing; that he had better employ some competent party to put his ideas into shape; and that under no circumstances can a patent be issued to him on the spot, because, first, the case must be officially examined in secret, and second, about two weeks' time is required to prepare and record the document before it can be issued.

If the applicant is a prudent person, his next step of course, will be to find some competent attorney to straighten and present his case aright. As he issues from the spacious portico of the Patent Office, the sign of "MUNN & CO., SOLICITORS OF PATENTS, SCIENTIFIC AMERICAN OFFICE," upon the opposite corner, strikes his eye; somebody must be employed; the name is familiar to his ear; it is a well known, experienced firm; it is the most successful agency in the country, for obtaining patents. He crosses the street, enters their office, makes known his business, and his troubles are rapidly brought to a close.

The personal attendance of an inventor at Washington is generally unnecessary, as all the business can be readily and thoroughly arranged by correspondence. Those, however, who prefer to visit Washington upon patent business, or who desire any aid or assistance, are invited to call at our office in that city. We shall at all times be happy to serve them. Hundred of rejected and defectively prepared cases are annually argued and corrected by us, and our success in this especial branch of business has been *very great*. Inventors who propose to visit Washington would do well to preserve this page of our paper, in order the better to keep the locality of MUNN & Co.'s office in mind.

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