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## ANNOTATED BIBLIOGRAPHY

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### Recently Published or Reported Material Relating to the Foundation's Work

#### BOOKS, PAMPHLETS AND PERIODICALS

- Aeschlimann, Christopher John, "The Arbitrability of Patent Controversies," *Journal of the Patent Office Society*, Vol. 44, No. 10 (October 1962) pp. 655-663.
- "It would therefore appear that even with respect to patent controversies federal courts are required, upon application of one of the parties and upon being satisfied that the issue involved is referable to arbitration under a written agreement, to grant a stay of judicial proceedings pending arbitration in accordance with 9 USC 3 . . ."
- Bowes, T. L., "Views of European Lawyers," *American Patent Law Association Bulletin*, (October-November 1962) pp. 496-502.
- The author presents some practical views of European patent attorneys with respect to the contemplated Common Market Patent and the Common Market Antitrust Regulation. This paper was presented as part of a panel discussion at the Annual Meeting of the American Patent Law Association in Washington, D.C. in October 1962.
- Bryant, S. W., "The Patent Mess," *Fortune* (September 1962) pp. 111-113, 226-232.
- "The government spends \$12 billion a year to encourage inventions, but its administration of patents is tortuous, confused, inconsistent. DOD has one policy, AEC another, NASA another; and U. S. courts, where a lot of patent cases land, have almost as many ideas as there are judges."
- Burck, G., "Hitching the Economy to the Infinite," *Fortune* (June 1962) pp. 123-125, 267-274.
- "The 'fallout' of products promises to be fabulous. But the impact on the economy also has a disturbing side."
- Carter, Chauncey P., "Trademarks Never Die . . .," *Journal of the Patent Office Society*, Vol. 44, No. 10 (October 1962) pp. 711-714.
- The author discusses some of

the background of early trademarks and identifies some of the oldest live registrations.

Daddario, Emilio Q., "Patents in the Space Age" (Mimeographed).

An address by Congressman Daddario, Chairman of the Special Subcommittee on Patents and Scientific Inventions of the House Committee on Science and Astronautics, before meetings on "Government Contracting and Your Patent Rights" sponsored by the Government Patent Policy Committee of the Patent, Trademark and Copyright Section of the State Bar of Texas and the Texas Manufacturers Association in Houston and Dallas in November of 1962.

Evans, George A., "Value of Patents in a Going Business," *Journal of the Patent Office Society*, Vol. 44, No. 8 (August 1962) pp. 564-572.

"A good sound business of any magnitude has a well established level of patent activity, the major effects of which are felt primarily in the period five to ten years later. There is no reason to believe that patents are going to be less valuable in the future."

Foster, Scott R., "Inadequate Disclosure of Utility under Nuclear Patent Application," *Journal of the Patent Office Society*, Vol. 44, No. 8 (August 1962) pp. 503-511.

The author concludes, "that some examiners are over extend-

ing the rejection of nuclear applications on the ground that they lack an adequate disclosure of utility and that perhaps in many instances such rejection could not be met by one or more of the . . . decisions of the Board of Appeals."

Frishauf, S. H.—P. Bassard, "Industrial Property in the Former French Overseas Territories," *Journal of the Patent Office Society*, Vol. 44, No. 11 (November 1962) pp. 754-766.

"There is concern that each of the newly independent states will institute its own legislation relating to industrial property without taking into account its neighbors or continuity of previous private rights. The world would then observe the birth of more than a dozen national patent offices and trademark bureaus, with procedures which will be so varied as to be unworkable.

"It is thus important that the new states understand the necessity of both national and treaty legislation relating to intellectual property; and that such legislation is in their own interest; that they may receive all necessary aid for the proposal and enactment of legislation; and that a general framework of legislation should be established under which the national legislation may have freedom to operate."

Guzzardi, W., Jr., "G. E. Astride

Two Worlds," *Fortune* (June 1962) pp. 127-132, 255-262.

The nature and scope of G. E.'s endeavor in Nation's defense.

Hauptman, Gunter A., "How Does an Inventor Find a Patent Attorney or Agent?," *Journal of the Patent Office Society*, "Vol. 44, No. 9 (September 1962) pp. 629-634.

"In summary, an inventor's hunt for a patent practitioner would be simplified if:

1. The existing lawyer referral system is utilized;
2. A separate patent lawyer referral service panel, within the existing lawyer referral framework, is set up according to areas of technical competence;
3. All referral service advertising mentions the existence of specialist panels (without necessarily identifying them);
4. The patent panel is advertised in local technical publications (viz., professional society chapter bulletins, amateur radio club news letters, etc.) and national popular technical magazines;
5. It is emphasized by distribution of informative Patent Office booklets, that patent lawyers are not the only qualified patent practitioners."

Hickman, Kenneth C. D., "Unsuccessful Inventors: A Great National Resource," *Journal of the Patent Office Society*, Vol. 44, No. 10 (October 1962) pp. 664-673.

"You patent attorneys need the 'little man,' the ultimately unsuccessful inventor. . . . If you and he both wish to survive you have a great missionary task right directly in front of you. It is to devise a code of ethics, a code of decency in the dealings between the little inventor and the big industrial firm."

Hildreth, Ronald B., "Contributory Infringement," *Journal of the Patent Office Society*, Vol. 44, No. 8 (August 1962) pp. 512-543.

". . . if a third party assists another in the infringement of a patent, he is . . . subject to liability. This . . . doctrine of contributory infringement . . . , which originally was based upon the common law, has been modified by the decisions of the Supreme Court in the *Mercoid* Cases and the subsequent statutory provisions in the 1952 Act. It is the purpose of this paper to determine the status of contributory infringement in view of these modifications. Furthermore, the *Aro* case will also be analyzed to consider its effect upon the instant doctrine and also the specific area of 'repair or reconstruction' therein."

Ladas, Stephen P., "Antitrust Law

in the Common Market with Special Reference to Industrial Property Agreements," *Ohio State Law Journal*, Vol. 23, No. 4 (1962) pp. 709-751.

"It is proposed in this paper to discuss only the incidents of the Rules Governing Competition of the Treaty of Rome, and the implementing Regulations, on industrial property. To this end, it is necessary to first view the policies of the Common Market in the context of which the Treaty provisions were adopted and are to be interpreted; then to give a brief analysis of the provisions in question; and lastly, to suggest their application to industrial property agreements and the procedure established by the Regulations." Includes a lucid and concise discussion of "Articles 85 and 86 of the Treaty" and provocative sections on the application of these articles to industrial property agreements relating to patents, trademarks, and know-how. The penultimate section is devoted to "Exclusive Distributor Agreements." There are illuminating comparisons throughout the paper to the German antitrust law.

Lang, Edward H., "Requirements of Rule 131 Affidavits to Antedate References Cited Against Generic Chemical Claims," *Journal of the Patent Office Society*, Vol. 44, No. 8 (August 1962) pp. 551-563.

". . . the C.C.P.A. had already

decided that to entitle a party to a patent or genus he must prove he was in possession of the generic invention before his opponent invented either the genus or the species. This, however, did not settle the question as to what constituted being in possession of the generic invention. The principle purpose of this paper is to discuss this question."

Laude, Kurt E., "The Compensation for Employee Inventions in Germany," *Journal of the Patent Office Society*, Vol. 44, No. 11 (November 1962) pp. 772-781.

"In Germany—like in other countries, e.g. Switzerland or Austria—an employee who makes an invention is entitled to a compensation if and when the employer takes over the invention and uses it . . . on July 20, 1959, 'Rules for the Determination of the Compensation for Inventions made by Employees in Private Service' were enacted. . . . The following [paper] is a brief outline of the above Rules which may be of interest not only in considering the situation in Germany but also for generally appraising employee inventions."

Lessing, L., "The Voyage to the Moon," *Fortune* (June 1962) pp. 117-122, 279-290.

Most intricate mobilization of government, science, and industry ever attempted outside of war.

Neumeyer, Frederick, "Employees' Rights in Their Inventions," *Journal of the Patent Office Society*, Vol. 44, No. 10 (October 1962) pp. 674-710.

The author discusses the regulation of the rights of employers and employees in various countries in connection with inventions made by the latter in the course of their employment. The legal situation of employee inventors in these countries is classified and examined in the following four groups: 1. "... the insertion of provisions concerning employee inventors into patent law"; 2. "... the so-called Law of Obligations"; 3. "... a special law devoted exclusively to the rights and obligations of employee inventors and their employers, and the legal problems arising from these relations"; and 4. "... precedents established by the courts and by official boards specially instituted to give guidance in the matter." Under the "Regulation by Patent Law (Classical Type)" are considered Austria, Canada, Japan, the Netherlands, and Italy; under "Regulation by Patent Law (Socialist Type)," the Soviet Union, the German Democratic Republic, Czechoslovakia, Poland; under "Regulation by Law of Contracts," Switzerland; under "Regulation by Special Law," Sweden, Denmark, the Federal Republic of Germany; and under "Regula-

tion by Judicial Precedents," the United Kingdom, and the United States.

Pirri, Vincent P., "Does Statutory Basis Exist For Rule 131?," *Journal of the Patent Office Society*, Vol. 44, No. 11 (November 1962) pp. 730-753.

"By his own strategy and tactics, he [patent attorney] has lent credence to the proposition that a utility showing or disclosure is a requisite element in an affidavit under Rule 131 (*providing* the invention does not possess art obvious utility). If this be true, the basis for such a proposition must be found, not in the Rules of Practice, but in the United States Code, Title 35. One of the primary purposes of this article is to ascertain whether such basis exists. . . . It is, therefore, another primary purpose of this article to attempt to establish the metes and bounds with regard to the language of Rule 131."

Prusak, Leonard P., "The Lawyer's Role in Industrial Management," *Journal of the Patent Office Society*, Vol. 44, No. 12 (December 1962) pp. 787-802.

"The lawyer who ventures into the urgent atmosphere of American industry cannot, as his predecessors may have, walk under the halo of a barrister whose function is limited to the solution of profound legal problems of nontech-

nical nature. He must instead prepare himself to discharge a variety of duties, not the least of which include participation in management, active contact with the research function and, ultimately, mediation between the two groups with the purpose in mind that flow of communication can be translated into meaningful action, rather than remaining as if in a vacuum."

Robbins, Leonard J., "The European Patent Convention," *American Patent Law Association Bulletin* (October-November 1962) pp. 463-480.

"I propose to divide this talk into four main parts—first, a very brief review of the history of the proposal; second, an analysis of the main procedural and substantive aspects with some comments on practical problems; third, what may or can be the position of outsiders, and in particular the United States, with respect to this Convention; and fourth, an estimation of the future situation." This paper was presented as part of a panel discussion at the Annual Meeting of the American Patent Law Association in Washington, D.C. in October 1962.

Scher, Alexander V., "What Foreign Patent Attorneys Think of American Patent Practice," *Journal of the Patent Office Society*, Vol. 44, No. 8 (August 1962) pp. 544-550.

"Last year a small group of

American patent attorneys engaged in foreign patent practice decided to contact those of their friends abroad who were actively engaged in filing patent and trademark applications in the United States for the purpose of obtaining their frank opinions of conditions which they encounter in the United States Patent Office. . . . A total of 31 answers was received from Argentina, Belgium, Brazil, France, W. Germany, Great Britain, Holland, Israel, Italy, Japan and New Zealand. The largest number of answers (and the most complete and interesting ones) came from Germany, Great Britain and Italy."

Siekman, P., "The Fantastic Weaponry," *Fortune* (June 1962) pp. 157-160, 214-224.

The need for recognizing military's role in the space effort of this Nation.

Slayter, Games, "Two-Phase Materials," *Scientific American*, Vol. 206, No. 1 (January 1962) pp. 124-134.

The remarkable strength of glass fibers embedded in plastic focuses attention on the whole conception of materials in which a substance of high tensile strength is combined with one of greater elasticity. This principle is being put to use to produce materials with unique qualities far superior to anything found in nature.

Slowinski, Walter A., "Registration Under Articles 85 and 86 ('Rules of Competition') of the Treaty of Rome," *American Patent Law Association Bulletin* (October-November 1962) pp. 480-495.

The author discusses some practical procedural details of registration of agreements, decisions of associations of enterprises, and concerted practices with the E.E.C. authorities. Includes a bibliography. This paper was presented as part of a panel discussion at the Annual Meeting of the American Patent Law Association in Washington, D.C. in October 1962.

Smith, A. S., "Canaveral, Industry's Trial by Fire," *Fortune* (June 1962) pp. 135-139, 200-212.

"Cram 36,000 connections into one 'black-box,' assign a small army to fitting it all together for one space shot—then stand back for the moment of truth at the world's most demanding test lab."

Wade, Worth and Louis Chereau, *How to Exploit Patents and Know-How in Europe*, Advance House, Pennsylvania, 1962.

This is a practical handbook for the executive, inventor, research person, and their attorneys. The language is simple and concise, and the book contains neither footnotes nor citations. The text concludes with a bibli-

ography and a comprehensive check-list for negotiating licenses on patents, trademarks, and know-how. In his review of the book for the *American Bar Association Journal*, Howard I. Forman describes it as follows:

"The book is divided into two parts. Section A, which contains 16 chapters, sets the stage with eye-opening discussions of the differences between American and European markets, and the effect of European trade groups on American business. The value of European patents, problems involved in licensing such patents, as well as technical know-how and services, and the law governing employee inventions in Europe are among the succeeding subjects which are covered. This is followed with an analysis of European anti-trust legislation and a discussion of their litigation and arbitration practices.

"The second part, Section B, devotes separate chapters to each of 18 European and Scandinavian countries. Such points are treated as the kinds of inventions which will have appeal in each of these countries, the kinds of patents obtainable, the laws governing the working of patents and compulsory granting of licenses, as well as any restrictive business or trade laws."

Whitmore, Harold B., "The Significance of Compact Prosecution," *Journal of the Patent Office Soci-*

*ety*, Vol. 44, No. 11 (November 1962) pp. 719-729.

“In one sentence, compact prosecution means changing afterthoughts into forethoughts. It means that all of the searching which was inefficiently spread out over two or three actions previously will be concentrated, wher-

ever possible, into the first action; and it means that your first response will—we hope—in the words of the notice, consolidate the planning and prosecution of all claims of any desired wording or scope which were not already in the original application into the first response.”