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PATENT MEDICINES.

The experience of every patent solicitor includes the preparation of applications for letters patent on mixtures designed to be used in medicine. The pharmacist, in his mercantile relations with the community, finds that a very large portion of his business consists in selling a quantity of well known ready-made mixtures, all of which by him are grouped under the term "patent medicines." These include the vast number of proprietary remedies for the cure of the ills which flesh is heir to, which remedies are of secret composition generally, and are frowned upon by the regular medical practitioners. Any one who for a moment considers the meaning of the term patent will see at once that it is grossly misapplied in the case of anything secret. A thing patented is a thing divulged. The medical profession very properly may raise objections to sundry secret medicines, as opposed to the ethics of their calling, but a medicine patented has its composition disclosed. Any one, for a nominal sum, can procure from Washington a specification describing its composition.

It would seem that it is not a departure from ethics for a physician to patent any medicine whose composition may involve the exercise on his part of invention.

Every physician has his own favorite prescriptions, and it would seem that the ground thus taken would expose the community to the abuse of being flooded with innumerable patents for medicines, and that prescription after prescription would become the property of some specific doctor.

But it so happens that the patent law, which may be treated from some aspects of the case as an embodiment of ethics, with numerous decisions of the highest courts of the land to elucidate its doctrines, steps in here and makes the patenting of a medicine exceedingly difficult. The history of these applications in the Patent Office is in most cases a rejection on formulated grounds. The application generally describes a mixture of well known medicines. In official letters from the Patent Office examiner in these cases apt descriptions and characterizations of these mixtures are to be found. The examiner will term the subject of the application perhaps "an inventory of items assembled regardless of synergistic effects or chemical union." The mixture may be stated to be "merely numerically novel," and as involving only the skill and ingenuity of a pharmacist or physician. The medicine, it will be stated, can be made by any one possessing the skill of the calling of a pharmacist or physician, and, therefore, is not the creative work of the inventor. The examiner will require the application to show, in brief, some new and distinctive product having new properties resulting from the compounding. This is rarely shown, and the application is rejected.

So much in line with each other do the numerous applications for patent medicines fall, that the Patent Office has adopted a fixed practice, that of rejecting all applications for medical compounds which can be regarded as in the nature of physicians' prescriptions, and as descriptive of mere assemblages of well known ingredients which have well known effects on the human system. The Patent Office has even gone so far as to use a practically stereotyped form of rejection of those compounds, emphasizing the fact that the proper subject matter of a patent, whatever it is for, must be able to endure the relative tests of the presence of invention as well as of novelty and utility. The majority of these cases are disposed of unfavorably for want of invention and for being mere aggregations of known things, not showing the required statutory elements. There is therefore no mystery attending the treatment of these cases. It will be seen that they fall exactly into line with applications for mechanical devices. In them, as in mechanical devices, one great proof of invention is the presence of a true combination of parts as distinguished from an aggregation. A distinctly new result must be shown. In a case of mechanics it is obvious that the showing a new result is far simpler than in the case of a medicine. The results of a medicine have to be demonstrated on so complicated an organism as the human frame, and the subjective element preponderates in the trial. In other words, the result produced depends largely upon the subject upon whom it is tried. It is therefore very difficult to prove the presence of invention by results. Even in mechanical cases this is often not the easiest thing to do, but when the human system becomes the subject, it is a hundredfold more so.

There is, however, an indirect species of protection open to the devisor of a prescription or a formula which is unpatentable. This protection is afforded by the trade mark laws. Under the provisions of this law he may register a trade mark in connection with his compound and thereby obtain standing in the United States courts for protection for the use of such title, prima facie evidence of which will be afforded by his letters of registration. Some trade marks are enormously valuable, the business energy of their proprietors having made a simple name worth many thousands of dollars. The right of protection in the use of a trade mark rests in the common law, but the registration of it by a competent patent solicitor of course immensely increases its value.

It is here that another frequent error is made. Many applicants imagine that a trade mark in some mysterious manner protects them in the use of a compound or preparation. This it does not do. It protects them in the use of the name or trade mark designation, and it is only indirectly that it can protect them in the thing bearing its trade mark, imitation of which might be shown to indicate a desire on the part of the competitor to copy the appearance of the article and hence to trench upon the trade mark.

The United States Patent Office is ready to grant letters patent for medicines which fulfill the statutory requirements. But in foreign countries this protection is often refused, the statutes forbidding the granting of patents for such compounds.

It seems clear that it may be considered an open question in professional ethics whether a physician should patent a remedy, assuming that he has one which is patentable. Synthetic medicines, prepared by chemical processes, often coal tar products, are now invading the field of Nature's simples, and it is possible that there may yet be a number of patentable medical compounds invented, to replace quinine and other vegetable alkaloids and extracts. But now, of all the so-called patent medicines, very few are really patented at all, and they are supposed to be, and often are, of unknown and secret composition. Protection by patenting, which involves disclosure of their composition, is the last thing their proprietors would think of. It is such secrecy that is opposed to every fundamental principle of medical ethics.

PROCEEDINGS OF THE AMERICAN ASSOCIATION AT BUFFALO, N. Y.

For the fourth time the city of Buffalo has opened her hospitable doors to receive the American Association for the Advancement of Science, and has given a hearty welcome to the hundreds of men and women who assemble to enjoy an interchange of the varied fruits of scientific research. The general session of the American Association for the Advancement of Science was opened on Monday, August 24, with prayer by Bishop Fowler of the Methodist Episcopal Church, followed by an address of welcome from General Jewett, the Mayor of Buffalo, and from Dr. Roswell Park, the president of the Buffalo Society of Natural Sciences. Attention was called to the fact that Buffalo was a great commercial center, more tonnage entering and leaving its harbor than any other in the world, with the exception of Liverpool. The institutions of this metropolis by the lakes were described, particularly the society represented by Dr. Park, and which is really doing an important work that reaches many thousands of people. This has been a famous year for conventions, especially of a political sort, a fact that caused the city aid to be denied that might otherwise have been expected. But public-spirited citizens amply atoned for this by their liberality. Prof. E. D. Cope, the renowned paleontologist and comparative anatomist, and who has the honor this year of being the President of the American Association for the Advancement of Science, responded to the addresses of welcome and gave an outline of the objects of the Association. He said that while many of the scientists assembled were teachers, the prime object of the organization was not teaching, but the advancement of science by the increase of knowledge; to penetrate the unknown; to understand with certainty the mutual relations of the various parts of the universe; and to ascertain the highest principles of nature. Some of us are attracted by a certain love of the beautiful, whether it be the beauty of perfect mechanism, of form, or of law in operation; others have an interest in the origin and destiny of the human race; others are adventurous explorers, while many others simply desire to know. Science has a high utilitarian value, and it also promotes human happiness. The man of science pursues the truth wherever it may lead, and often gains unexpected benefits. Scientific methods require a reasonable use of the results of observation and experiment. Thus correct habits of thought are formed; we study facts first, and then draw our inferences. Theories should not be valued for any more than they are worth. Labor brings its substantial reward, but there is a pleasure in activity itself. Scientific men teach that the mental life is worth living and gives as much pleasure as the physical life. They demand free thought, as well as thought that is careful and judicious and beneficial. The future of science will be greater than its past; and its honest, diligent cultivation will more largely affect the national life than it has ever done heretofore.

The address of Miss Alice C. Fletcher, before the Section of Anthropology, will be found in part in the SCIENTIFIC AMERICAN SUPPLEMENT.

Before the Section of Physics an address was given by Vice-President Mees on "Electrolysis and Some Outstanding Problems in Molecular Dynamics." He reviewed the history of the century that has elapsed since the first note was made of chemical action having been