

Patent Office Speech – Local Boy Does Good
by Russ Allen

You might wonder how I went from doing some online research of old patents from the comfort of my own home to taking a four-day trip to a city just outside the nation’s capital and giving a speech at the U.S. patent office. Those of you with really good memories will remember the presentation on patent searching that I gave with Ralph Brendler at the Fall 2007 Meet in Springfield, Missouri. For everyone else, including anyone who did not attend the meet, I’d like to mention that I have an interest in patents and trademarks. In fact, over the past few years I have been corresponding with a small group of patent librarians spread out across the country. Patent librarians are librarians with additional training specific to patents and trademarks. Most states have at least one library designated as a patent library. These libraries are listed on the United States Patent Office website, uspto.gov.

My correspondence with the small group of patent librarians began while I was researching tape measures produced by Crogan Manufacturing of Bangor, Maine. Some were patented and one was trademarked. (My first article about Crogan Manufacturing was published in the March 2010 issue of *Gristmill*, and I’m working on a follow-up article.) I would email questions to the patent librarians and whoever was the most knowledgeable would reply. I also shared with them anything unusual I found or anything funny that happened during my research. One funny situation I relayed to the librarians was about the time I came across a patentee I know. Most of the patents I come across are many decades old, so naturally nearly all of their patentees are not still alive. One fateful day I decided to look up the patents of Lee Valley, a modern-day hand plane manufacturer. I nearly fell out of my chair when I came across our own member Paul Hamler’s patent for a scraper plane insert! The patent is assigned to Lee Valley. Paul didn’t disclose the terms of the agreement but he did autograph the insert I purchased from Lee Valley (figure 1).



After corresponding with the librarians for three or four years, one of the librarians told me that they have an annual conference at the national patent office in Alexandria, Virginia. This office is where the librarians receive additional training in patents and trademarks from the patent office staff. He went on to say that they try to find compelling guest speakers, and he asked if I was interested in speaking at the 2013 conference. To indirectly answer that question I would like to say that as of this writing I have just returned from that trip! I spoke to a group of about 30 patent librarians; the one from Fairbanks, Alaska, traveled the farthest to get to the conference.

About a third of my 45-minute speech contained material that I covered at the Fall 2007 meet. Another third covered the related things I’ve been working on since 2007. The final third focused on trademarks. I have the patent librarians to thank for sparking my interest in trademarks. In fact, they helped me find the “One-Man” trademark of Crogan Manufacturing.

Patent Number: 5,694,696
Date of Patent: Dec. 9, 1997

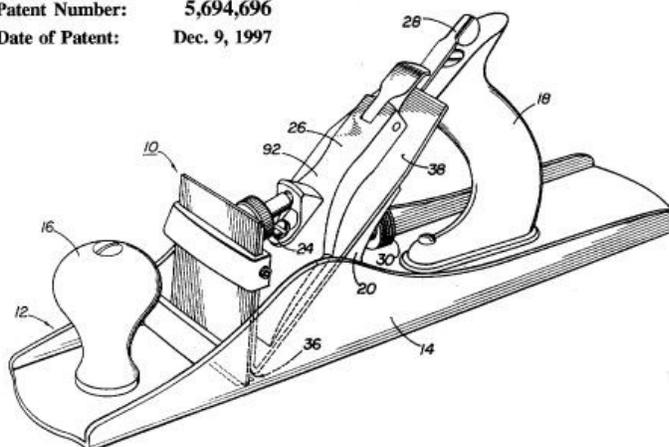


Figure 1

It turns out that trademark searching can be harder than patent searching ever was. The patent librarians were interested in hearing about my tips and tricks to find registration certificates for old, inactive trademarks. When a trademark is granted, a registration certificate is issued, which is similar to what’s issued when a patent is granted.

A trademark can be renewed indefinitely by continued use in commerce. The registration certificate for an active trademark, such as the “Coca-Cola” trademark granted in 1893, is relatively easy to find. Inactive trademarks have no legal standing, and some of their registration certificates are not online. Of the nearly 4.4 million trademarks that have been granted, roughly 20,000 registration certificates are not online. Especially troubling is that two of the major gaps in what is available chronologically are for trademarks granted in 1933 and 1934. For 1933, approximately one third of the registration certificates are not online; for 1934, half are not online. Those gaps contain a wealth of tool-related trademarks. The trademarks applied for and granted can be found in patent gazettes, approximately 50 percent of which are online. The registration certificates for the six Disston keystone trademarks (portions of which are shown in figure 2) are not online. Through my patent librarian contacts I was able to obtain scans of their registration certificates. These and other Disston trademarks comprised my display at the 2009 Spring Meet in Lexington, Kentucky.

Registered Dec. 5, 1933 Trade-Mark 308,510

Henry Disston & Sons, Incorporated, Tacony,
Philadelphia, Pa.

Application July 22, 1933. Serial No. 340,004



Registered Dec. 5, 1933 Trade-Mark 308,511

Henry Disston & Sons, Incorporated, Tacony,
Philadelphia, Pa.

Application July 22, 1933. Serial No. 340,005



Registered Dec. 5, 1933 Trade-Mark 308,512

Henry Disston & Sons, Incorporated, Tacony,
Philadelphia, Pa.

Application July 22, 1933. Serial No. 340,006



Registered Dec. 5, 1933 Trade-Mark 308,513

Henry Disston & Sons, Incorporated, Tacony,
Philadelphia, Pa.

Application July 22, 1933. Serial No. 340,007



Registered Dec. 5, 1933 Trade-Mark 308,514

Henry Disston & Sons, Incorporated, Tacony,
Philadelphia, Pa.

Application July 22, 1933. Serial No. 340,008



Registered Dec. 5, 1933 Trade-Mark 308,515

Henry Disston & Sons, Incorporated, Tacony,
Philadelphia, Pa.

Application July 22, 1933. Serial No. 340,009



Figure 2

My speech at the conference seemed to be well received (or maybe they were just incredibly polite!). After I spoke the librarians asked questions for about ten minutes. But there was more to the trip than speaking at the conference.

For one thing, I was able to meet in person the three librarians whom I had been corresponding with, and the facility itself was incredible. Virginia is one of four states that does not have a designated patent library. It does, however, have the Public Search Facility, which is located in one of the U.S. Patent Office buildings and contains some truly amazing things, such as handwritten journals that were originally used to track the progress of trademarks. The journals go all the way back to 1870, when trademarks began. The earliest ones were entirely handwritten (figure 3). At some point after 1920 the entries became a mixture of typing and handwriting.

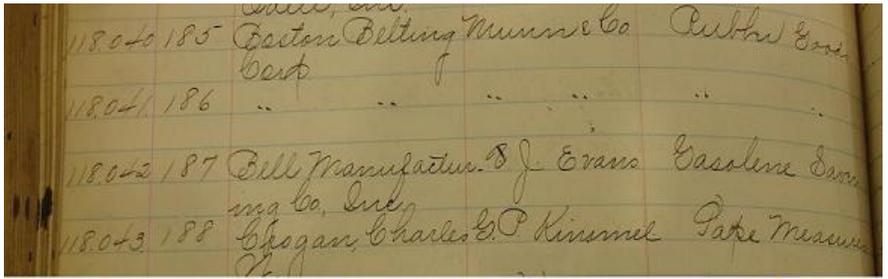
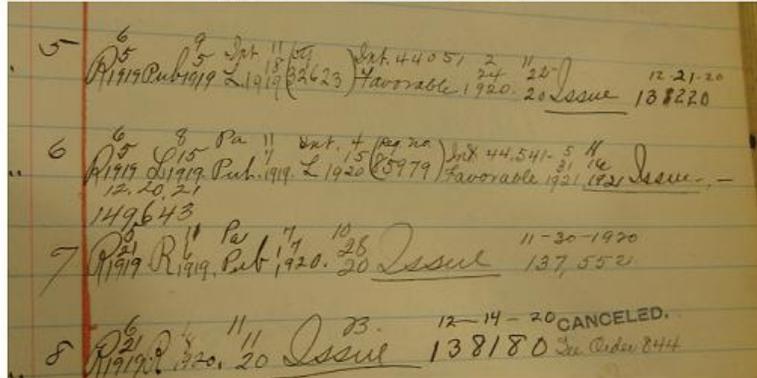


Figure 3—Journal page and facing page showing the handwritten entry for Crogan’s One Man Trademark (last line). It was serial number 118043, which was registered on December 14th, 1920, with registration number 138180. The registration certificate is available online and appears in my article in the March 2010 Gristmill.



I used these journals to figure out whether trademarks I was looking for were ever issued. The journals provide a list of each trademark applied for by its serial number. This number was then published in the weekly patent gazettes. Before 1905, the patent office issued trademarks as it saw fit. Starting in 1905, potential trademarks were published in the weekly patent gazettes. (Interestingly enough, I did find an instance where there was a typo in the patent gazette [figure 4]. It misstated the company’s name.) In any case, after each gazette was published, holders of a similar trademark were given 30 days to oppose the registration. If the published trademark was not opposed or if the opposition was denied, the trademark was granted and given a registration number. So these handwritten journals are the only source I know of that provide a way to look up a serial number to see if the trademark was granted or was successfully opposed. It’s unfortunate that the journals have not been scanned and put online.

FEBRUARY 24, 1931

CLASS 14

Metals and Metal Castings and Forgings

Ser. No. 301,765. SILVER STEEL CASTINGS CO., Milwaukee, Wis. Filed May 30, 1930.

MIRACULOUY

For Iron and Steel Alloys, Castings, Forgings, Pressings, and Stampings.
Claims use since Oct. 1, 1929.

301765

Singer

SILVER STEEL CASTINGS CO MAY 30-30
MILWAUKEE WIS
IRON & STEEL ALLOYS CASTINGS FORGINGS
PRESSINGS & STAMPINGS "MIRACULOUY"

ALBERT J FINE
111 W MONROE ST
CHICAGO ILL

Pat. 1197 Pub. 1919
Pat. 1197 Pub. 1920
Issue 5-12-31
283017

Figure 4

In another case I couldn’t find a trademark Starrett applied for (figure 5). The journal showed that it was never granted. Its registration was successfully opposed. There was some sort of opposition number in the journal but the librarian helping me did not know how to look up who opposed the registration. The opposition had to have come from a competitor that was granted a similar trademark, but which one was it? The same thing happened to a trademark EC Atkins applied for (figure 6). It was also successfully opposed.

JULY 11, 1933

Ser. No. 337,894. THE L. S. STARRETT COMPANY, Athol, Mass. Filed May 16, 1933.

PIONEER

For Measuring Tools and Devices—Namely, Combination Squares.
Claims use since Apr. 26, 1933.

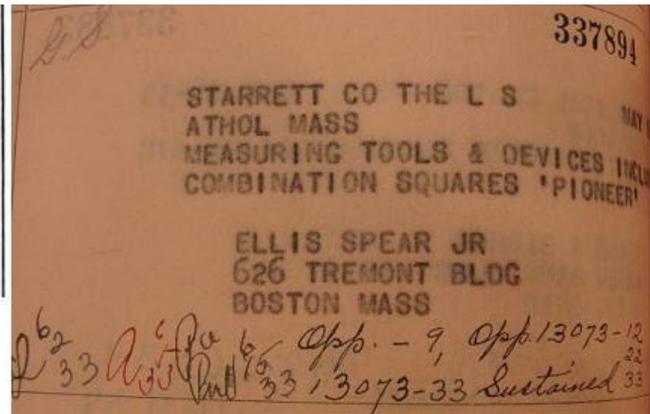


Figure 5

NOVEMBER 12, 1935

Ser. No. 362,101. E. C. ATKINS AND COMPANY, Indianapolis, Ind. Filed Mar. 4, 1935. Under 10-year proviso.

SHEFFIELD

Applicant is owner of trade-mark registration Certificate No. 108,735, issued Feb. 22, 1916, under the 10-year proviso of the act of Feb. 20, 1905.

For Saws of All Kinds and Particularly Hand Saws, Compass Saws, Keyhole Saws, Cross Cut Saws, Mitre Saws, Back Saws, Dovetail Saws, Pruning Saws, Butcher Saws, Kitchen Saws, and Circular Saws.

Claims use since Oct. 1, 1893.

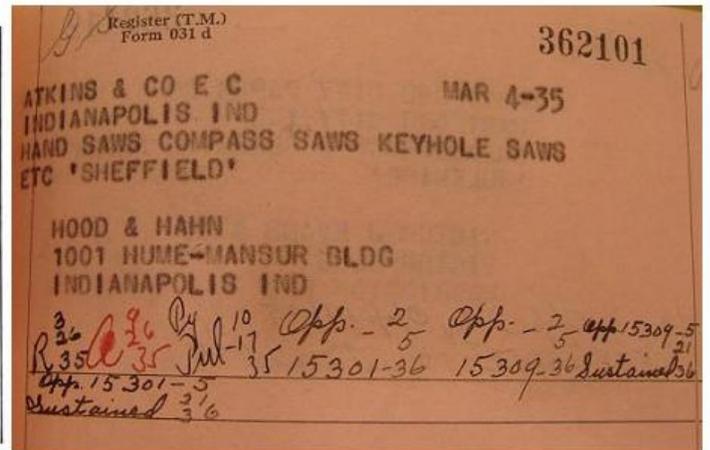


Figure 6

Anyway, in order for these oppositions to be successful, there had to have been the likelihood of confusion if the trademarks being applied for were granted. An example of this is with a trademark the Pennsylvania Saw Company tried to obtain. Disston successfully opposed the registration. It was ruled that the Pennsylvania Saw's Quaker figure was too similar to Disston's Quaker (figure 7). To quote the ruling, "Since Disston's use predated Pennsylvania Saw's use, only Disston is entitled to registration."

Disston

Penn Saw



Figure 7

During my trip to Virginia, I also visited the location of the previous patent office, which is now the Smithsonian Museum of Art. The museum has a small display of patent models titled, "Inventing a Better Mousetrap: Patent Models from the Rothschild Collection." The marquee item is the model Kopas and Bauer submitted in order to patent their mouse trap in 1870, complete with model mouse and piece of cheese (figure 8). In order to obtain a patent, models were required until 1880. It was wonderful to see these pieces of history in person. I would have included pictures here, but photographs of the exhibit were not allowed.

On a personal note, the trip also allowed me to reconnect with a childhood friend who lives in the area. There was no foreshadowing then, but as a grown up she writes and edits other people's work. In the interest of full disclosure I'd like to acknowledge the editorial help of Anne Kotchek. This article would not have been the same without her help.

Also as a word of caution, I should warn you to be careful what you tell Mel Ring. The next thing you know you may be asked to write something up for the Gristmill! Mel was present when I asked Carl Bilderback for a photograph of a saw etch. I had wanted to show the librarians some of the trademarked etches I had found, but I doubted that any of them would know what a saw etch was without being shown a picture. All in all, it was a wonderful trip. I had the time of my life.

Kopas & Bauer,
Cage Trap.
No. 102,133. Patented Apr. 19. 1870.

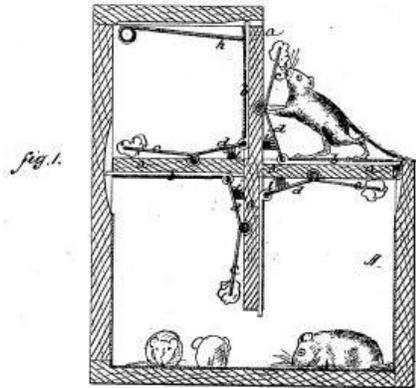


Figure 8

¹Arizona, Idaho, and Oregon are the other states without a patent library.