

# NAM

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# NEWS

NATIONAL

ASSOCIATION OF MANUFACTURERS

SECTION THREE

PATENTS

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## OOMS IS FIRM BELIEVER IN U. S. PATENT SYSTEM; STRESSES INCENTIVE FEATURES

**T**HE new patent commissioner, Casper William Ooms, is inclined to scoff at fears that he will inaugurate radical reforms that might change the historic concept of the American patent.

He takes the position that even if he wished to follow such a course he has no legal authority. The power of the Patent Office has been defined by the Constitution and by statute, he says, and any changes he may make will have to be within his authority.

Mr. Ooms, prominent Chicago patent attorney, began his duties amid more interest and concern from business and industry than any new commissioner has received in half a century.

Reason for the interest and concern lies in the strong fight waged by a powerful patent reform group for control of the U. S. Patent Office.

Leaders of the reform group are a number of Department of Justice attorneys who are in general agreement that the U. S. patent system should be drastically revised, and who believe that many of their theories could be put into effect by administrative measures, rather than legislative changes.

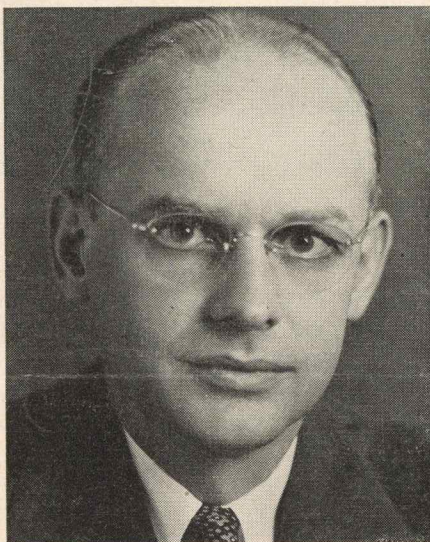
Mr. Ooms had scarcely taken his oath of office before both the reform group and its opposition were claiming him as a supporter.

Washington was flooded with reports that Mr. Ooms planned to work closely with the Justice Department, Anti-Trust Division, in administering his new office.

Friends of Mr. Ooms in Chicago, on the other hand, are equally emphatic that there is nothing to fear from the new commissioner, that while he is not a "stand-patter" in his patent views, he is far from being a radical.

Mr. Ooms, himself, would not discuss in detail his plans, on the ground that he wished to familiarize himself thoroughly with the workings and established procedures before even considering any changes in policy.

*New Patent Chief*



Casper W. Ooms

He did, however, have this to say for industry:

1 — That he is taking office without having made any commitments to any individual or group regarding the policies he will follow.

2 — That he is a firm believer in the American patent system, and that he considers it one of the greatest assets that small business has.

3 — That the restrictive features of our

patent system have been greatly over-emphasized in public discussion in the last few years, and that not enough emphasis has been placed on the incentive features. These latter he regards as of paramount importance.

4 — That he feels some changes in the policies of the Patent Office may be necessary. He is especially anxious to inaugurate a "speed-up" program, which would be designed to shorten the long delays that often result between the time of application and the issuance of a patent.

Mr. Ooms is a pleasant-appearing, baldish man of 43, who seems deliberate and judicial one minute, brisk and alert the next. He speaks slowly and clearly, in the pronounced accents of the native Midwesterner.

He was born in Chicago, graduated from Knox College and took his law at the University of Chicago. For two and a half years he served as law clerk in the Circuit Court of Appeals, then took a position in the firm of Williams, Bradbury, McCaleb and Hinkle, a patent law firm. Six years later he left to become a partner in the firm of Bowden and Ooms, which specialized in Federal litigation, including patent and tax matters. In 1940 he helped organize the firm of Dawson, Ooms and Booth, which has one of the successful patent law practices in the middle west.

Among the outstanding cases in which he has figured was the Mercoid patent suit, which attracted considerable attention in patent circles. He represented the Mid-continent Investment Co., owner of the Mercoid patents, when the suit was before the Supreme Court. He also figured prominently in the Precision Instrument Mfg. Co. case, which he fought in the Supreme Court.

Mr. Ooms is married and has two children, Van Doorn, 10, and Suzanne, 5.

## Dr. Bush Declares Five Basic Principles Underlie Government Research Program

In his report, "Science—the Endless Frontier," recommending a National Research Foundation, Dr. Vannevar Bush, director of the Office of Scientific Research and Development, said, "there are certain basic principles which must underlie the program of Government support for scientific research and education if such support is to be effective and if it is to avoid impairing the very things we seek to foster." Following are these principles:

"1—Whatever the extent of support may be, there must be stability of funds over a period of years so that long-range programs may be undertaken.

"2—The agency to administer such funds should be composed of citizens selected only on the basis of their interest in and capacity to promote the work of the agency. They should be persons of broad interest in and understanding of the peculiarities of scientific research and education.

"3—The agency should promote research through contracts or grants to organizations outside the Federal Government. It should not operate any laboratories of its own.

"4—Support of basic research in the public and private colleges, universities and research institutes must leave the internal control of policy, personnel and the method and scope of the research to the institutions themselves. This is of the utmost importance.

"5—While assuring complete independence and freedom for the nature, scope and methodology of research carried on in the institutions receiving public funds, and while retaining discretion in the allocation of funds among such institutions, the Foundation proposed herein must be responsible to the President and the Congress. Only through such responsibility can we maintain the proper relationship between science and other aspects of a democratic system. The usual controls of audits, reports, budgeting and the like should, of course, apply to the administrative and fiscal operations of the Foundation, subject, however, to such adjustments in procedure as are necessary to meet the special requirements of research."

### Patent Applications Rise

Patent applications for the fiscal year ended June 30, 1945, totaled 59,661, according to figures released by the Commerce Department. This shows a marked increase over the two previous fiscal years; in 1944 there were 49,034 and in 1943, 42,703, which was the low point for about 30 years.

Research Program Author



Dr. Vannevar Bush

### HOUSE COMMITTEE FAVORS RECORDING BILL

Legislation to provide for recording in the Patent Office of agreements pertaining to patents, long advocated by NAM, has been approved by the House Committee on Patents and will be up for vote by the House of Representatives when it reconvenes.

R. J. Dearborn, chairman of the NAM Committee on Patents and president of the Texaco Development Corp., testified at the House Committee's hearing on the legislation and the measure now meets virtually all of NAM's recommendations. The redraft of the Bill is H. R. 3756, substituted for H. R. 2632. The sponsor is Rep. Boykin (Dem. Ala.), chairman of the House committee.

Salient features of the bill are:

1—It provides for recording of all patent agreements to which one of the parties is a resident of a foreign country.

2—Domestic licenses and agreements are to be recorded if they "include or recite any restriction as to price, quantity of production, geographical area or field of use, or any restriction beyond that inherent in the patent grant."

3—On the public register is to be only such information as relates to title of a patent. All other information is available to the Government only.

Such legislation has been advocated by NAM "to remove the suspicion that manufacturers are entering into patent agreements contrary to public interest from the standpoint of antitrust laws and foreign policy."

Also reported out by the House Committee is a bill providing for registration of patents available for licensing and sale—H. R. 3757, substituted for H. R. 2630, also by Rep. Boykin. In his testimony, Mr. Dearborn said the measure is aimed at a desirable objective and since it is optional with the patent owner whether he lists his patent, the register is approved by NAM. Such a register already has been set up by the Patent Office and a dozen or more patents are listed for license or sale in each weekly issue of the Official Gazette.

The 20-year bill, designed to prevent excessively long pendency of patent applications, was not reported out by the House Committee although hearings were held on this measure along with the two others. The bill was endorsed by NAM.

The Voorhis (D. Cal.) bills, H. R. 97 and H. R. 3462, are now considered dead issues, but inasmuch as they deal with recurring proposals for compulsory licensing, cancellation of patents under certain conditions and Government intervention in private litigation, NAM is filing a written opposition for the record which is to be printed by the House Judiciary Committee, of which Rep. Walters (D. Pa.) is chairman.

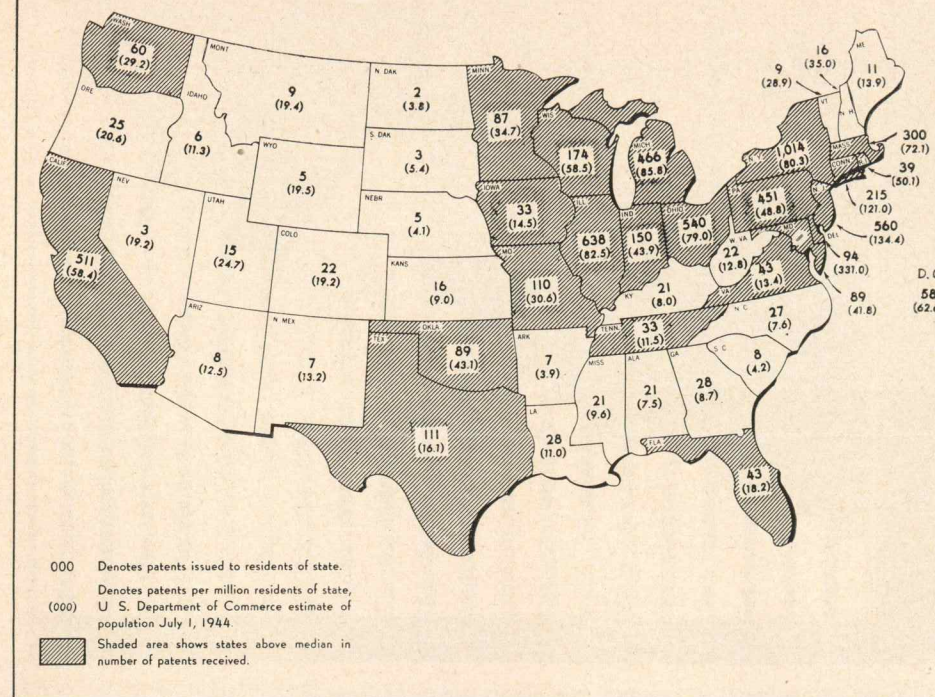
Among recent bills introduced is one by Rep. Hartley (R. N. J.), which would provide that: "Patentability of inventions and discoveries, including discoveries due to research, and improvements thereof, shall be determined objectively by the nature of the contribution to the advancement of the art, and not subjectively by the nature of the mental process by which the invention or discovery, or the improvement thereof, may have been accomplished."

This follows a recommendation of the National Patent Planning Commission, approved in principle by NAM.

More than 30 patent bills are pending in Congress. Most of them are not expected to receive serious consideration. Further legislation may be expected when Secretary Wallace's four-man committee makes its report.

## GEOGRAPHICAL DISTRIBUTION OF UNITED STATES PATENTS

(Based on the 6,253 patents issued to Americans in the second quarter of 1945—April 3 to June 26, inclusive)



## NAM Survey Shows Wide Diffusion of Patent Ownership Throughout Country

Patent ownership is widely diffused throughout the country, according to an NAM survey of patents issued in the second quarter of 1945.

Every state in the Union was represented in the 6,253 United States patents issued to Americans between April 3 and June 26, according to the NAM survey. States receiving most patents were scattered from coast to coast—New York, Illinois, New Jersey, Ohio, California and Michigan in that order. On a per capita basis, the highest ranking states were Delaware, New Jersey, Connecticut, Michigan and Illinois, in that order.

New York's high number of patents may be credited mostly to its large population, inasmuch as that state has about 10 per cent of the total population and received 16 per cent of the patents issued. Delaware, ranking first in patents per capita, received only 1.5 per cent of all patents issued.

Research activities of the Government were reflected in the high number of patents issued to residents of the District of Columbia. Washington, D. C., ranked above 30 states in total number of patents, and only eight exceeded it on a per capita basis.

"No corporation, industry or section of the country has a monopoly on inventions and research," said R. J. Dearborn, chairman of the NAM Committee on Patents.

"Inventors, of course, make up a larger part of the population in industrial states, just as farmers do in agricultural states. The results of the research and invention, however, benefit all of the country.

"All of our industries, jobs and incomes are to a large extent based on patented inventions. This is as true for the clerk of the retail store, the garage mechanic or a salesman as it is for the factory employee.

"Our civilization is based on science. Patent protection to stimulate scientific and technological progress will be more important after the war than ever before. It will be vital to thousands of small companies which cannot compete successfully against the abundant resources and facilities of large corporations unless patents protect their new inventions and discoveries against piracy."

While geographical distribution of patent ownership roughly corresponds to geo-

graphical distribution of manufacturing and industrial research laboratories, a study by the Patent Office in 1938 showed that 42.9 per cent of all United States patents were granted to independent inventors. The same survey showed that 5.4 per cent were issued to foreign corporations, 35.5 per cent to small corporations and 17.2 per cent to large corporations with assets of more than 50 million dollars.

## BRIGHT FUTURE FACES INDEPENDENT INVENTOR

A golden opportunity for the independent inventor working on postwar products and processes is seen by George E. Folk, NAM's patent adviser, who has been following the progress of invention for more than 40 years.

"Industry gets many of its most revolutionary ideas from independent inventors not connected with its own laboratories," Mr. Folk says. "The growth of research laboratories has been an important factor in our economy, but their work has to a considerable extent been the development and perfection to a commercial stage of ideas originating wholly independently of them. Many new industries of the last 25 years have been founded on original conceptions of independent inventors. We may expect the new industries of tomorrow to come from the same source."

Mr. Folk cites the following outstanding examples of achievements by independent inventors:

"The pioneer of the frozen food industry was Clarence Birdseye, a biologist.

"Of three revolutionary telephone inventions since Bell's first patent, two were by 'outsiders,' according to Dr. Frank B. Jewett, former president of the Bell Telephone Laboratories.

"Philo T. Farnsworth, a pioneer in television, began as an independent inventor in 1922.

"Recordak, on which V-mail is based was patented by George L. McCarthy, a bank clerk.

"John C. Garand invented the Garand rifle while a member of the New York National Guard.

"Polaroid, glass which kills glare, was invented by Edwin H. Land, a university student.

"Lee DeForest was a struggling independent inventor experimenting in a cheap furnished room in Chicago when he invented the three-electron vacuum tube which today is basic to all radio and electronics."

Manufacturers say that 70 per cent of all important inventions in automobile manufacturing have come from inventors outside the automobile company laboratories.

## IS GETS BILLS ON RESEARCH PROGRAM

tical bills have been introduced in Congress to provide for a National Science Foundation as recommended by the National Research and Development Council's report to the President, "The Endless Frontier."

by Senator Magnuson (D. W. Va.), H. R. 3860, have been referred to the Committee on Inter-Continental Commerce.

report, published July 19, 1940, at the request of the late President Roosevelt. It recommended a Government agency, along the lines of the Office of Scientific Research and Development, to provide Government support for basic research in colleges, universities, non-profit organizations for research and civilian use, and scholarships to develop scientific research. It recommended that the Government coordinate Government research that it should not operate any technical facilities of its own.

### Basic Research

position on legislation to carry out the recommendations will have been decided by the Patent Committee of the House of Representatives after careful consideration. "I believe that industry must realize that this country faces a serious shortage of funds from some source for basic research," said R. J. Dearborn, Chairman of the NAM Committee on Patents, and President of the Texaco Development Company.

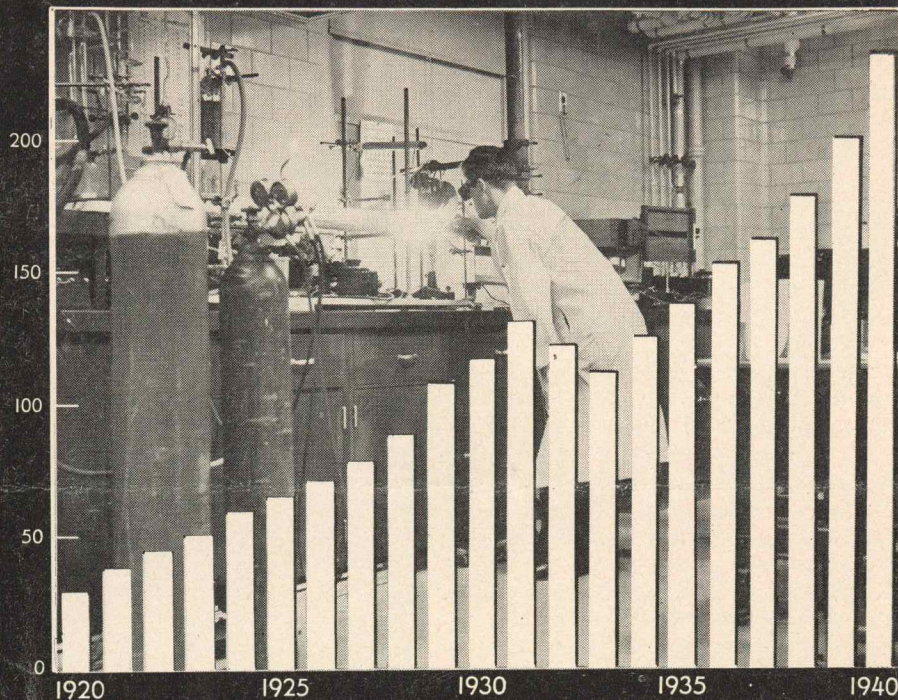
Basic research has grown about 100% since World War I, but basic scientific research which has been financed by endowments to universities and foundations in the past has not increased. "The axes now prevent the accumulation of funds such as those which have been the support for university endowment education and research. New means must be found for the shortage."

Proposed legislation is of particular importance from the patent standpoint in that it gives authority to the Foundation

to acquire property by purchase, or otherwise, in the case of property of by sale, lease, loan, gift, or real and personal property, if necessary for, or resulting from, scientific research or scientific development without regard to the provisions relating to the acquisition, disposition of property by the

## INDUSTRIAL RESEARCH EXPENDITURES

MILLIONS OF DOLLARS



Industry's expenditures for research grew almost tenfold between 1920 and 1940, according to the National Research Council. In 1940, industry contributed two out of every three dollars spent for scientific research in the United States.

United States."

George E. Folk, NAM patent adviser, called attention to the fact that this is broad enough to include acquisition of patents as well as other property.

### Funds Not Stipulated

Dr. Bush recommended a program which he estimated would cost 33 million dollars the first year and grow to 122.5 million dollars by the fifth year. The proposed legislation provides for appropriation "annually to the Foundation, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act."

As recommended by Dr. Bush, the legislation would provide for a board of nine members, appointed by the President, to serve without compensation. The director of the Foundation, to be paid \$15,000 a year, would be appointed by the board and responsible to it.

The Foundation would be empowered to carry out programs relating to (1) medical research; (2) physical sciences; (3) national defense; (4) scientific personnel and education; and (5) publications and scientific collaboration. It would also be empowered to create additional divisions as it deems necessary, and pre-

scribe the powers and duties of such divisions.

One of the provisions of the proposed legislation is that "the Foundation shall not itself operate any scientific or technical facilities of its own."

### Oppose Kilgore Bill

Senator Kilgore (D. W. Va.) has introduced for himself, Senator Johnson (D. Colo.) and Senator Pepper (D. Fla.) S. 1297, which would provide for the establishment of a National Science Foundation. This legislation is much broader in scope than the Magnuson bill and contains many of the provisions which Senator Kilgore has repeatedly sought as chairman of the Subcommittee on War Mobilization of the Senate Military Affairs Committee, and which have been opposed by NAM.

"The Kilgore bill should not be enacted," Mr. Dearborn said.

### America Leads

"There is no indication that German synthetic rubber techniques will be of material help to the American rubber industry because our present processes are superior in so many respects." — Rubber Reserve report by John Collyer and Stanley Crossland.