

U.S. NATIONAL PATENT PLANNING COMMISSION: SECOND REPORT

IN its first report on the American patent system, the National Patent Planning Commission directed attention to certain aspects of the general operation of the patent laws. The present report* deals with the administration of patents that have come to be owned outright by the Government and also with the respective rights of the Government and its employees and contractors in inventions evolved during the employment or contractual relationship.

On the matter of government-owned patents, the Commission recommends that the Government should "as a general rule continue to pursue the historic policy of not exercising the right to exclude conferred by patents which it owns; of not attempting to exclude its own citizens from engaging in any enterprise; of not seeking to derive revenue from patents, and of not undertaking control by means of patents. Inventions covered by patents owned by the Government should be available for commercial and industrial exploitation by anyone, with, however, the recourse open to the Government to take different action in exceptional cases". In recommending the Government to continue to follow this historic policy and to make inventions covered by Government-owned patents available for exploitation by anyone, the Commission recognizes that there are many patents on inventions developed by, or for, the Government that would be of great public benefit if they were commercially exploited. What prevents such inventions from being commercially exploited, however, is that manufacturers are generally unwilling to make substantial investments in commercializing them if they are also available to competitors. The Commission therefore recommends that suitable legislation should be enacted to confer on the Government the power to grant exclusive licences or to assign Government-owned patents "under appropriate conditions and safeguards whenever it is determined that such action is necessary to assure the commercial development of an invention of a Government-owned patent".

On the policy to be followed regarding the respective rights in employee inventions, the Commission finds that Government policy has not been uniform; but, even so, recommends that it should not be governed by rigid rules prescribed in advance for all departments and all cases. The opinion is expressed that it should be a matter primarily for departmental treatment and in the two extreme cases, first, when an employee is employed to invent and, secondly, when an employee makes an unrelated invention by use of his own time and facilities, the rule of the general law should be followed. In departments confronted with substantial patent problems, general regulations should be maintained or promulgated.

In the report it is stated that a considerable amount of governmentally subsidized research in connexion with the War is being conducted by educational institutions and by private concerns under Government contracts, and that patent rights resulting from such research have been disposed of in various ways. A common feature of these ways is a contractual

clause by which the Government has the option of obtaining licences on reasonable terms; but the Commission expresses the opinion that a uniform patent clause is unfeasible and undesirable, and that each case should be decided in accordance with the facts involved.

In order to correlate the patent policies and practices of the various Government agencies, the Commission recommends that there should be established a central control body, in the Executive Office of the President, having the following principal powers, functions and duties:

(a) Promulgating general policies and supervising and approving departmental policies regarding employee inventions, and determining disputed cases.

(b) Supervising and approving the manner of disposing of patent rights by the individual departments, including granting exclusive licences and selling Government-owned patents.

(c) Instructing and advising departments and agencies, collecting information, conducting investigations, and making appropriate recommendations.

In commenting in *Nature* (153, 12; 1944) on the First Report of the National Patent Planning Commission, it was pointed out that the numerous important technical changes recommended by the Commission were almost uniformly such as to bring the American patent system more closely into accord with that of Great Britain; the same comment is applicable to the present report. The British Government, acting through the Department of Scientific and Industrial Research and the Imperial Trust for Encouragement of Industrial Research, possesses power, which the Commission recommends should be conferred on the Government of the United States, to assign or to license patents owned by it. Further, the procedure suggested by the Commission for dealing with employee inventions is in close agreement with the procedure established many years ago in Britain as a result of the report of the Inter-Departmental Committee on Patents presided over by Sir Kenneth Lee. WILLIAM S. JARRATT.

THE MENISCUS TELESCOPE

IN the Soviet Union at the present time, a novel system of telescope construction is engaging the interest of astronomers and those concerned with the erection of telescopes, whether for research observatories or for instructional purposes in schools. The system, called the meniscus catadioptric system, was worked out in 1941 by Dr. D. D. Maksutov, of the State Optical Institute. The principles involved and the advantages to be derived therefrom have been described by Dr. Maksutov in an article¹ which appeared recently in the journal *Nauka i Zhizn*, published by the Academy of Sciences of the U.S.S.R.

In its simplest form, the optical system of a meniscus telescope comprises a single thick meniscus lens, with spherical surfaces concave to incident light, which is placed some distance in front of a concave, silvered or aluminized, spherical mirror. The meniscus is a diverging lens of exceedingly low power but it produces appreciable spherical aberration. Parallel rays, for example, from a star, falling upon the meniscus, remain nearly parallel after transmission and are reflected back by the mirror to form an image between the mirror and the meniscus.

Spherical aberration is produced both by the

* Government-owned Patents and Inventions of Government Employees and Contractors. Second Report of the National Patent Planning Commission. Pp. 27. (Washington, D.C., 1944.)