

[186] 2. That a level of invention, a minimum threshold of difficulty, or of difference, can be laid down for all patentable invention, so as to exclude the products of mere ordinary ingenuity or unusual learning or labor.

[187] 3. That the inventor or inventors can be named, and all their helpers, teachers, and suggestors can be ignored.

[188] 4. That inventions are made by personal inventors, and not by the corporations or Government bureaus which hire them, set their tasks and provide everything needed for the accomplishment aside from their minds and labors. Some other countries do not have this premise, but grant patents to corporations or any proper owner of an invention.

[189] 5. That the patentee, if not a corporation, is a businessman, fully able to protect his own interests; and that the market in which he sells his invention or patent is a normal, competitive one, not a restricted, monopsonistic one.²²⁴

[190] 6. That a chance to make money by the great gamble of a patent, is all the system need provide to stimulate invention in the needed fields.

[191] These last two assumptions are ones whose truth increases with the progress of capitalism, because when patents are gathered into corporation portfolios of dozens or hundreds, their aleatory character declines, by the averaging principle of large numbers, and the business capacity of the patentee improves. But assumptions 4, 7, 8, 9, and 12 probably wane in their truth.

[192] 7. That all patents must be alike in terms, and no distinctions made, simply awarding a patent to every invention and refusing one to every non-invention. The reason for this is the following:

[193] 8. That while private enterprise is flexible, clever, and almost always beneficent, Government is venal or stupid, so that its liberties must be extremely restricted. We want a government of laws, not of men, and so the laws must be as simple and uniform as possible, lest men pervert them, especially bureaucrats and bribers.

[194] 9. But that outside the confines of the patent law businessmen should be left free to do practically anything they wish with their patents, patenting, and inventing. Only the monopolization of an industry by amassing patents is to be interfered with.

[195] 10. That when permission to use a patented invention is needed in order to work another patent, *or for any other reason* of public benefit, the patentee can be trusted promptly to grant a license, or to work his patent himself, at a proper fee and in proper quantity and manner, in his own and the public interest. That patentees never fail in wisdom, capacity, or obedience to law.

[196] 11. That the patentee's private interest always coincides with the longrun public interest, according to the standard assumption of *laissez-faire*.

[197] 12. That patents are infallible and inviolable; or at least that if wrong be done, a court trial and perhaps a retrial on appeal will repair the wrong and social damage that had been done.