The Professional Approach

Harness, Charles Leonard

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About Harness:

Charles Leonard Harness (December 29, 1915 - September 20, 2005) was an American science fiction writer. He was born in Texas, earned degrees in chemistry and law, and worked as a patent attorney in Connecticut and Washington, DC, for 35 years. Harness' first story, "Time Trap" (1948), is unusual for a first story in that it shows many of his recurring themes, among them art, time travel, and a hero undergoing a quasi-transcendental experience. Several of Harness' works draw on his background as a lawyer. Among his best known stories are "The Rose", "An Ornament to his Profession", "The Alchemist", and "Stalemate in Time". Brian Aldiss mentioned Harness' Flight into Yesterday as a leading example of the "widescreen baroque" style in science fiction, along with Alfred Bester's The Demolished Man and The Stars My Destination. His story "The New Reality" has been called "SF's best Adam & Eve story" by Brian Stableford. His novel Redworld is one of the very few science fiction novels where all characters are aliens. Harness' ideas influenced numerous writers and he continued to write up to 2001, gathering nominations for multiple Hugo and Nebula awards. In 2004 he was named Author Emeritus by SFWA, but he declined the banquet invitation due to being unable to travel and was honored by SFWA as an "Author of Distinction". His admirers find his relative obscurity extremely perplexing. Source: Wikipedia

"Sometimes," said Helix Spardleton, Esquire, "a patent case gets away from you. As the attorney in the case, you never quite see it the same as everybody else. You stand isolated and alone, unable to persuade the Patent Examiners, the Board, the courts, possibly even the inventor, to accept your view of the case. Nothing you do or say matches anyone else's thinking, and you begin to wonder what's the matter with everyone."

I nodded. This was my favorite time of day. It was early evening in Washington, D.C., and my boss, Helix Spardleton, patent attorney extraordinary, was relaxing. His feet were up on one corner of his desk, his cigar was in the Contemplation Position, and the smoke curled slowly toward the ceiling. His office was a good room in which to relax. It was filled with fine, old well-scratched furniture, and the walls were lined with books, and there was the comfortable picture of Justice Holmes on the wall looking down with rare approval on what he saw. Susan, our secretary, had made the last coffee of the day, and had kicked off her shoes the better to enjoy it. The three of us just sat in the deepening dusk, and talked. We didn't even turn on a light. It was a shame I wasn't paying close attention to Mr. Spardleton.

I said, "Yes, I know what you mean about other people's not seeing things the same way you do. I've seen something like it at work with some of my friends just before they get married. They think their brides are just about the most beautiful women in the world, when they are really quite homely—wouldn't even hold a candle to our Susan here."

Mr. Spardleton looked at me and then at Susan, and Susan looked at him and then at me in that sober wide-eyed way she has, and then they looked at each other and smiled. I guess they realized that I had said something pretty funny.

Mr. Spardleton said, "I understand why you think of the situation in terms of brides, but I always think of it in terms of a proud father who sees nothing but perfection in his newborn son."

"Yes," I said, "that's a good way to put it, too."

"There are," he continued through a cloud of gentle smoke, "two different ways in which a patent case can get away from the attorney. The first doesn't happen very often, but when it does it has a tendency to set the world on fire. That's the case that has true merit to it—high invention, if you will—but the invention is so subtle that nobody can see its importance. Only the attorney who wraps the case around his heart can appreciate its vast potential. He goes through the prosecution before the Patent Office and possibly before the courts shouting high praises of the

invention, but all the tribunals turn a deaf ear. Sometimes the attorney finally reaches Nirvana; the invention comes into its own. It shakes the world, just as the attorney had always known it would."

I nodded and said, "Elias Howe and his sewing machine, McCormick and his reaper, Colt and his pistol." Mr. Spardleton had taught me well.

"The other way is more common," he continued. "There the attorney never sees the case in its true light. He is blinded by something in it and thinks it is greater than it is. He wastes a lot of time trying to persuade everybody that this very ordinary invention is the wonder of the decade. He thinks of the invention the way a father does of a wayward son—he sees none of its faults, only its virtues, and he magnifies those."

I shifted into a more comfortable position in my deep chair. Mr. Spardleton must have thought I was going to say something. He looked at me and added hastily, "Or rather, as you'd have it, the way a bridegroom looks at his prospective bride. That better?"

"Oh yes. Those fellows are really blinded. They just can't see anything the way it really is."

Mr. Spardleton said, "Most patent attorneys are unable to tell the difference between the two ways a case can get away from them, once they get caught in it. They always think that nobody else agrees with them because nobody else understands the case. It is quite a blow when it turns out that they are the one who has been wrong all along. Yes, sometimes an understanding of the facts is as difficult as an understanding of the law."

"Yes," I said sleepily. "Sure must be."

If I had known better that evening, I would never have allowed myself to get so sleepy. I should have listened for the meaning in Mr. Spardleton's words instead of merely listening to the words themselves. I have seen Patent Examiners act that way—they hear the words, but the meaning does not come through. We locked the doors and went home, then. How I wish I had listened!

Dr. Nathaniel Marchare is unquestionably the greatest organic chemist the world has seen since Emil Fischer. His laboratories in Alexandria, Virginia, constantly pour out a host of exceedingly important inventions. The chemists, physicists, physical chemists, and biologists who work under him are all dedicated men and women, gifted with that scientific insight that so often produces simple solutions to great problems. Dr. Marchare and his people are the principal clients of the firm of Helix Spardleton, Patent Attorney, and as such they are very important to me.

Nevertheless, I always get a queasy feeling in my stomach when Dr. Marchare excitedly calls up Mr. Spardleton, and Mr. Spardleton turns him over to me.

Dr. Marchare is a very nice person, not at all mad as people are prone to say. He is tall and gaunt and slightly wall-eyed, and he seems to live in a great, flopping laboratory smock, and his hair is always wild, and he seems to look around you rather than at you, but he is a very nice person and not at all mad. His main trouble is he does not understand the workings of the United States Patent System. After I have explained to him the operation of the Patent Law on some particular situation, Dr. Marchare frequently begins to mutter to himself as if I were no longer in the same room with him, and I find this most discouraging. As if this were not bad enough, many of Dr. Marchare's scientists have acquired the same habit.

It was a bright fall morning when this particular call came through. I hadn't heard the phone ring, nor did I hear Mr. Spardleton answer it in response to Susan's buzz. But some sixth sense brought me upright in my chair when I heard Mr. Spardleton say, "Well, how are things out in the Washington suburbs this morning?"

I felt the hairs tingle at the base of my neck, and I knew that Mr. Spardleton was talking to Dr. Marchare. I heard, "Certainly, why don't I send Mr. Saddle out. He's worked with Callahan before—on that Pigeon Scarer Case, as I recall—and the two of them can decide what to do. That sound all right?"

I am afraid it sounded all right, because there was some chitchat and then the sound of the phone's banging into its cradle, and Mr. Spardleton's booming voice, "Oh, Mr. Saddle. Will you come in here a moment, please?"

I took a quick swallow of milk of magnesia, an excellent antacid, and went in. Mr. Spardleton was busy so he came right to the point. "They've got some kind of problem out at the Marchare Laboratory—don't know whether to file a patent application right now, or wait until the invention is more fully developed. Will you hop out there and get them straightened out? Callahan is the chemist, and you know him pretty well."

I certainly did. Callahan's name always reminded me of the time I took testimony in Sing Sing Prison on a Callahan application in Interference. But I nodded numbly and went back to my office and finished the bottle of milk of magnesia and caught a cab to the Marchare Laboratory.

It was cool in the lab and the air smelled faintly of solvents. I liked the smell, and I sniffed it deeply and tried to distinguish one from the other. My chemistry professor had often told me that I had the best nose he had run across in twenty-five years of teaching. I picked out the pungent, aromatic odor of toluene and the hospital smell of diethyl ether, and I thought I could detect the heavy odor of lauryl alcohol. Underneath them all was a rich, sweet smell that I had smelled before, but I couldn't tell what it was. I decided it was a lactone, and let it go at that. I nodded as I went past the receptionist, and her smile made me feel uncomfortable again, just as it always did; there was too much of a leer in it. I never stopped to tell her where I was going; I just went in unannounced.

I went up the stairs and down the hall to Callahan's lab, next to Dr. Marchare's. I went in. Henry Callahan stood at a bench pouring a colorless liquid down a chromatographic column. He looked over at me and said, "Well, Carl Saddle. How are you, man? Nice to see you."

Callahan was a big man, heavy-set, with bright blue eyes, and a shock of light-brown hair. For all his bulk he moved lightly as befitted a former stroke on the Penn crew. I was fond of Callahan, even with all the trouble his inventions caused me; I knew he couldn't help it. I said, "Hello Henry. How have you been?" And we exchanged some more amenities.

Finally he said, "Carl, we have quite a problem here, and we don't know what to do about it. Here's the situation."

I swallowed, and took out my notebook and pencil, and laid my pocket slide rule in front of me. I always put the slide rule out where the inventor can see it to remind him that he is talking to another technical man, not just a lawyer. This helps make him stick to the facts. I didn't need the rule with Callahan, but habit is hard to break.

Callahan said, "Some time ago I made a polyester, used adipic acid and an amino alcohol. On a hunch I dropped in an aluminum alkyl, and then pushed the polymerization along with both ultraviolet and heat. Got a stiff gel out of the pot and drew it into a quarter of a pound of fibers. I only had time to determine that the fibers were amorphous—no time to draw them further to see if they would develop crystallinity. I put them in an open-mouth jar which I later found had been used to store mercury. One evening I took them out and found they had developed crystallinity on standing. Furthermore, the fibrous ends had split, and the split ends seemed to be tacky—seemed a natural to me to make a sheet of paper out of it."

I nodded as I worked furiously on my notes. All of Marchare's people talked that way. They did the most fantastic things sometimes, and then talked about them as if anyone would have done the same thing. I had complained about this oddity to Mr. Spardleton when I first came to work for him; I was used to inventions that were made in understandable ways. He had smiled and asked me to quote the last sentence of 35 U.S.C. 103, the statute that set forth the conditions for patentability. It was a good thing I had memorized the statute. I recited the last sentence, "Patentability shall not be negatived by the manner in which the invention is made." Well, here it was again.

I asked Callahan, "Did you make a sheet of paper out of it?"

"Sure did. Made a hand sheet in a twelve-by-twelve inch mold. Pressed it out, dried it, then got busy again so I couldn't test it for a week. When I did I started working nights to see if I could duplicate my results. Just finished this morning. Here's the hand sheet, the second one."

He handed me a sheet of paper, snow-white in color. I put aside my pencil and notebook to examine it. As I took it in my hand it was obvious that it was something unusual. It was softer than a cleansing tissue, and probably even more flexible. I rubbed it between my fingers, and it had the most remarkable feel of any paper I had ever felt—soft and clinging and cool, and exceedingly pleasant. I knew the paper chemists called this property "hand." Callahan's paper had the most remarkable hand I had ever seen.

"Tear it in half," Callahan said.

I took the sheet between my thumbs and forefingers and gingerly pulled, expecting the light and soft sheet to part easily. Nothing happened. I pulled harder, and still nothing. I smiled at Callahan, got a better grip, and gave it a yank. Then I twisted opposite corners around my fingers and frankly pulled at it. The absurd sheet refused to tear, and I realized how ridiculous I must look to Callahan to be unable to tear a flimsy sheet of paper. I suppose I lost my temper a little. I gathered as much of the paper as I could in each hand, bent over to put my hands on the inside of my knees, and pulled until I heard my back muscles crack. I let out my breath explosively and looked helplessly at Callahan.

He said, "Don't feel bad, Carl. Nobody has been able to tear it."

"You mean it?" I asked. I found myself puffing; I had not realized I was straining so hard.

"Yup. That paper has a tensile of 2,800 pounds per square inch, and a tear strength equally unbelievable."

I looked at the little sheet and great possibilities began to occur to me. "Clothing," I said. "Great heavens, think what this will do for the clothing industry. No more weaving. Just run this stuff off on a paper machine at five hundred feet per minute." I stopped and looked at Callahan and said, "You will be able to make it on a paper-making machine, won't you?"

"As far as I know."

"Good," I said. "When can we try it in the pilot plant."

"Well, that's where the problem comes in, Carl. I have to leave for the West Coast tomorrow, and I'll be gone for six months. There's nobody else around here to take it through the pilot plant. What's worse, one of my technicians left this morning to take a job with Lafe Rude Consultants, Inc., up in Boston. The technician is an ethical man, and all that, but I'm afraid the word will be out on this paper now."

My heart sank. Callahan said, "I've already started another of my technicians, John Bostick, on the process to make certain he can repeat my work. But that's all we can do for a few months around here. The laboratories have never been so busy. What do you think we ought to do?"

The answer was obvious. "We've got to file a patent application right away. It isn't ready to file, but we've got to do it anyway."

Callahan said, "Oh, we're in good shape. We *know* it works."

I nodded and said, "What acids other than adipic will work?"

"Oh, azoleic, sebacic, a few others, I suppose."

"What else other than amino alcohols? What other catalysts? Do you really need mercury vapor? Will some other metallic vapor do? What about temperature variations in making the polyester? How long a cure time? How much ultraviolet? Will the fibers be better if you draw them more? Can you get those tacky fiber ends in any other way? Can you improve them? What about the sheet-making conditions? Does oxygen in the air catalyze… ?"

Callahan held up his hands and said, "O.K., O.K., we don't know anything about it. But we're not going to find out these things until we open a research program, and we can't open a program for at least six months. In the meantime that technician may … "

I held up my hands this time, and he fell quiet. We stood silently until I asked, "All the information in your notebooks, Henry?"

He nodded, and I continued, "Well, I'll be back tomorrow to talk to you and Bostick. We'll just have to file a patent application on what we have."

We chatted a while about his work on the West Coast, and then we shook hands and I left. I had a few moments to think in the cab before I talked with Mr. Spardleton. Here I was in that situation that a patent attorney dreads. I had an incomplete invention, one that required a great deal of work before it could be filed, yet I had to file now in the incomplete condition. With it all, here was a most significant invention, one that would make the world take notice. This was one of the rare ones, I could feel it in my bones. It was obviously an industry-founder, a landmark invention on a par with the greatest, even in its incomplete condition. By golly, I was going to do a job on this one.

Mr. Spardleton was in a bad mood when I entered his office. I didn't have a chance to say a thing before he bellowed at me, "Mr. Saddle, do you know what a plasticizer is?"

"Why, ah, yes. It is a material, generally a solvent, that softens and renders another material more flexible."

"That's right." His fist banged on the desk. "Yet here," he waved an Office Action at me, "is an Examiner who says that the term 'plasticizer' is indefinite, and I must give a list of suitable plasticizers when he knows that Rule 118 forbids me to put in such a list. Can you imagine? He is saying in effect that a chemist who works with synthetic resins does not know what a plasticizer is, and I must take him by the hand and teach him something he learned in freshman chemistry. It has nothing to do with the invention, either. I am claiming a new kind of lens holder, and I point out that the interior of the holder may be coated if desired with a plasticized synthetic resin coating. My, I don't know what the Office is coming to. The Patent Office is the only institution in the world that does not know the meaning of the phrase 'room temperature'. Some day… . What's the matter, Mr. Saddle?"

I had pulled up a chair and hunched down in it. Mr. Spardleton recognized the symptoms. He put down the offending Office Action and settled back and waited for me to tell him my troubles.

I said, "I've got a hot invention. It is a paper that will replace cloth, strong, flexible, cheap too. We've only made one version of it, though, and I have to file an application right away because one of Callahan's technicians left, and we can't risk waiting."

He nodded, and I went on, describing to him all the details of the invention and the situation. When I finished I stared morosely at the floor. Mr. Spardleton said, "What's the problem? File a quick application now, and later on when you have more information, abandon it and file a good, full-scale application."

I looked at him in surprise and said, "But somebody else has just as much information as we have, and he may start to experiment right away. That technician knows as much as we do. In another six months they could file a complete application and beat us out on dates; they'd be first with the complete application."

"Well, what do you propose to do about it?"

I shrugged. "I'll have to make up as good an application as I can right now. We'll make some guesses at how the research would go, and put it in."

"Oh now, look. You don't know"—he began ticking off the points on his fingers—"if you really need the trialkyl aluminum, or the mercury-treated glass surface, or the heat, or the radiation, or any combination of them. You don't have any idea of the conditions that are necessary to produce this paper."

"I know."

"All you've got is a single example that works. If you make your claims broader than that one example, the Examiner will reject you for lack of disclosure. This is basic in patent law. Ex parte Cameron, Rule 71, and 35 U.S.C. 112 will do for a starter."

But I hadn't worked with Mr. Spardleton for nine years for nothing, and he had taught me how to play this game pretty well. I sat up straighter in my chair and said, "Yes, but in Ex parte Dicke and Moncrieff the disclosure of nitric acid as a shrinking agent for yarns was enough to support a claim for shrinking agents broadly; the claim did not have to be limited to nitric acid."

"Only because nitric acid was already known to be a shrinking agent for yarns."

I said, "Well, adipic acid is a known polyester ingredient."

"And all the other ingredients?"

I did then what he had carefully taught me to do when I was losing an argument: I quickly shifted to another point. "In Ex parte Tabb the applicant merely disclosed raisins and raisin oil, but that was enough to support claims to 'dried fruit' and 'edible oil'."

"But in that case the Board of Appeals said they allowed such terminology only because the equivalency of the substances could be foreseen by

those skilled in the art, foreseen with certainty, too. Can you say that about your substances?"

I hesitated before I answered, and that was all he needed to take over. "A large number of ingredients was recited in In re Ellis, and since there was no evidence to show that they all would not work, the applicant was allowed broad claims. But you'd have trouble making your guessed-at ingredients stick. In the case of Corona Cord Tire Company v. Dovan, the court said the patentee was entitled to his broader claims because he proved he had tested a reasonable number of the members of a chemical class. Have you?"

I started to answer, but Mr. Spardleton was in full swing now, and he said to me, "No, sir, you haven't. You are not ready to put in broad claims on a half-baked invention."

It was the "half-baked" that did it. Controlling my temper I rose to my feet and said in a purposeful, quiet voice, "I think I see clearly how this case should be handled in this situation. I shall prepare it in that manner, and file it, and prosecute it, and obtain a strong patent on a pathfinder invention. I'll keep you posted." I turned and walked out. Just as I passed through the door I thought I heard him say softly, "Attaboy, Carl," but I must have been mistaken. Mr. Spardleton never calls me Carl.

I got right at it the very next morning. I opened the office myself and began studying my notes to see how broad a claim I could write for the Tearproof Paper Case. I listed all the ingredients in one column, and then filled up the adjacent columns with all the possible substitutes I could think of. I didn't even know it when Susan arrived at the office, stood in my doorway for a moment, and then tip-toed away. Later on Mr. Spardleton looked in on me, and I wasn't aware of that, either. It was ten o'clock before I finally came up for air, and then I dashed out to the Marchare Laboratory for another talk with Callahan. I explained how I was going to handle the case to make sure we got a good, broad patent application into the Patent Office.

"Can you do that?" he asked.

"Oh, yes. We can put in all the things we think will work, but if we are wrong we are in some degree of trouble. But I feel that with both of us working on this we ought to be able to turn out a good sound job. I'll keep sending you drafts out in San Francisco until we finally get one we think good enough to file. But we can't waste time. This is a hot one, and we want to get it in as soon as possible."

He shrugged his shoulders, and we sat down to work on my lists. Neither one of us realized it when lunch time came and went. But that's the way it is with world-beater inventions; they sweep you along. Early that afternoon I dictated my first draft to Susan. Callahan and I went over the draft, and then he left for San Francisco. The next time around we had to use air mail. With each new draft we added more to the basic information we had, rounding out the invention in ever greater detail. I added example after example, being careful to state them in the present tense; I did not want to give the impression that the examples had actually been run.

In a month's time I checked with John Bostick. Bostick had been able to duplicate Callahan's work, and we had three more, flimsy, diaphanous sheets that could not be torn by human hands. That was all I needed. Now I knew that anyone could duplicate the Tearproof Paper, and I had at least one, good, substantial working example for my patent application. The knowledge gave me greater confidence in the alternate materials and procedures that Callahan and I had dreamed up. I prepared a final draft containing twenty-three pages of detailed specification and eleven examples and topped it all off with forty-six claims. It was a magnificent application, considering what I had to start with. I handed it to Mr. Spardleton and sat down to hear what he had to say about it.

I watched him out of the corner of my eye as he read it, and I had the pleasure of seeing his cigar slowly swing outward until the glowing end was almost beneath one of his ears. This, I knew, was his Amazed Position, and it was rare indeed that I or anyone else ever saw it. Mr. Spardleton was a man who does not amaze easily.

He finished and looked up at me and said, "I assume this is the same invention you told me about last month?" When I nodded he continued, "And I further assume that you have no experimental data in addition to that you described last month?" Again I nodded, and he said, "All of this is paperwork with the exception of Example I?" I nodded again, and he put the draft down in front of him and stared at it.

I began to grow uncomfortable in the silence. Then he said, so softly that I could hardly hear him, "I remember, many, many years ago, answering the phone, Cliff Norbright—great chemist—telling me he had smelled phenol when he heated ethylene chlorohydrin in the presence of holmium-treated silica gel in a test tube. I wrote the greatest patent application of the age based on that evidence. Just like this one." He laid a hand on it, and shook his head, and smiled.

"There is no crude guesswork on this product," I said. "The work has been duplicated, and I've seen many specimens of this paper. I tell you, sir, there never has been anything like it. Why, even Callahan … "

"Yes, tell me about Dr. Callahan. He is usually a pretty conservative fellow. How does he feel about this completely untried product?"

I sat up straighter. "This is not an untried product, Mr. Spardleton. It has been made and duplicated. It has all the properties that the application says it has. And Dr. Callahan has just as much faith in it as I have."

Mr. Spardleton looked at me, and smiled, and slowly handed over the draft. "Mr. Saddle, I wish you all the best in your prosecution of this case. Please call on me if there is anything I can do to help. In any way, don't hesitate to call on me."

I stood up and took the draft and turned to go, but Mr. Spardleton thrust his hand out. I shook it and said, "Is anything wrong with it?"

"Not that I am able to see, Mr. Saddle. It is a most remarkable job, and bespeaks of ingenuity, resourcefulness, and skill. You have come a long way to be able to write such an application."

I didn't know what to say, so I smiled and bobbed my head and walked out still looking at him and smiling, which made it necessary for me to walk sideways, and thus made me look, I suppose, somewhat like a crab.

Susan put the case in final form. We sent the papers to California for Callahan's signature, then we filed the case, and things got back to normal with me. It was a great relief not to have the strain on me night and day. That's the trouble with an important case. You live with it too much.

It was seven months before I got the first Office Action in the Case. I read the first few paragraphs and they were quite normal. They rejected the Case in the usual manner by citing prior patents that had nothing to do with my application. This kind of thing was just part of the game of prosecution in which the Patent Examiner makes rejections because that is what he is supposed to do no matter what the invention; they don't have to make much sense. But then came a paragraph that went way beyond good sense and proper rejection technique. It said:

The specification is objected to as containing large portions that are merely laudatory. See Ex parte Grieg, 181 OG 266, and Ex parte Wellington 113 OG 2218. These portions are superfluous and should be deleted, Ex parte Ball, 1902 CD 326. The specification is unnecessarily prolix throughout and contains an unduly large number of embodiments, Ex parte Blakemen, 98 OG 791. Shortening is required.

I didn't wait. I grabbed the file of the Case and almost ran over to the Patent Office to straighten out the Examiner on a few things. As usual, Herbert Krome was the Examiner, so I charged up to his desk and immediately began explaining to him the importance of the Tearproof Paper Case. He seemed to pay no attention to me, but I knew him; he was listening. When I finally paused to let him say something, he looked at me quizzically and said, "Mr. Saddle, aren't you aware of the Notice of October 11, 1955?"

I looked at him blankly and said, "What's that?"

"It says that interviews with Examiners are not to be held on Fridays except in exceptional circumstances."

I gulped and said, "Is today Friday?"

He pushed his desk calendar toward me. It was Friday all right, and the thirteenth at that. I was too embarrassed to speak, and I got up and began to walk out. Mr. Krome called after me. "This must be an important case, Mr. Saddle. I'll expect to see you the first thing Monday." I nodded, and left.

By Monday, my embarrassment had not diminished. I had really done an unheard-of thing in patent prosecution. In patent prosecution, the patent attorney has six months to respond to an Office Action. Since attorneys carry a docket of cases adapted to fill all their time, an attorney in most instances requires the full six months to respond to an outstanding Office Action. Industrious attorneys with relatively light dockets might respond in five months' time. This may also happen when the attorney is trying to get a little ahead so he can go on a vacation. There are rare instances of record when an attorney had taken some action in three or four months. But here, in the Tearproof Paper Case, I had actually gone for an interview on the very first day. I couldn't possibly go back on the following Monday; my pride would not allow me. I waited until Tuesday.

By that time I had gone over the entire rejection and planned my complete response to the Examiner. I sat down with Mr. Krome on Tuesday morning and talked steadily for fifteen minutes before I realized he was watching me instead of paying attention to the case. I said, "What's the matter."

He said wonderingly, "I've never seen you like this before. You are acting almost as unreasonably as an inventor. You don't even want to hear what I have to say about this case. You should relax, Mr. Saddle. You are here as an advocate, not as a midwife."

"I don't think that's very funny, Mr. Krome," I proceeded to explain the high merit of the case, and he seemed to listen then. Before I left he promised to give the case careful consideration. This was all he ever promised, so I thanked him and went back to my office. I filed my amendment in the case the next day. It was eight months before I got the next Office Action.

Callahan returned in six months and immediately opened a project on the Tearproof Paper. The two of us sat down together to determine the best way to handle the research.

I said, "Henry, we have already drawn up a complete research program. All we have to do is follow it."

"We have?" Callahan was surprised.

"Sure." And I laid out in front of him a copy of our patent application, and riffled through its pages. "All we have to do is go through all the examples here to make certain they all work. If they do, the program will be complete, except for the product itself and commercial production. Our patent application will make the best research guide we could get."

"Why certainly," said Callahan. "We have already spent a great deal of time working out all kinds of substitute and equivalent reactions. It's all here. Good. I'll set it up."

Callahan began distributing the work to various groups, and I went back to my office. Every Friday afternoon thereafter I went out to the laboratories to see how things were coming along. They came along well. From the beginning the actual results reached by the research teams matched the predictions we had made in our patent application. At the Friday afternoon meetings Callahan and I got into the habit of tossing pleased and knowing glances at each other as the streams of data continued to confirm our work. Several months rolled happily by. Then came a letter from the Lafe Rude Consultants, Inc., up in Boston. The letter said that their people understood that the Marchare Laboratories had under development a remarkably strong paper, and they would be very much interested in discussing licensing possibilities with us. I grabbed the letter and stormed into Mr. Spardleton's office.

"Just read this," I almost yelled as I handed him the letter. "This is the outfit that hired Callahan's technician. Now they know all about the Tearproof Paper. That technician has told them everything. I think we ought to sue them—inducing disclosure of trade secrets, or something." I added a great deal more as Mr. Spardleton finished the letter and sat holding it looking up at me as I paced back and forth in front of his desk.

As I walked and talked, I finally became conscious of the fact that Mr. Spardleton was waiting for me to finish; I could tell by the expression on his face. I pulled up in front of him and fell quiet.

He said, "Don't you feel it is significant that this letter was sent to us, lawyers for Marchare Laboratories, rather than direct to the Laboratories?"

I thought about it, and he continued, "Furthermore, as I understand it, the Lafe Rude people have a good reputation."

That was right, too, and I saw what he was driving at. People of good reputation don't try to pull a fast one by immediately alerting the lawyers for the other side. In fact, when I stopped to think about it, I could see that they were bending over backwards to be careful in this situation.

Mr. Spardleton said, as he handed back the letter, "I suggest you clear with Dr. Marchare, and then make arrangements to talk to these people and see if you can negotiate some kind of profitable license. Marchare is pretty fully committed right now, and I don't think he has time to exploit this paper, even if it turns out to amount to something."

I looked at him, aghast that he should still be doubtful of the paper at this late stage of the game. He saw my look and said, "Oops, I mean this milestone in paper technology once it is announced to the world."

That seemed better, more to the point. I called Dr. Marchare and found that Mr. Spardleton was right, as usual. Dr. Marchare would welcome a beneficial licensing arrangement. I then called the Rude Associates on the phone; it seemed more expeditious than writing. I set up a meeting date as soon as possible, one week away.

The day before I left for Boston I checked in with Callahan to make certain all of our data were correct. We went over every aspect of the Tearproof Paper Case. I picked out a dozen good samples of the paper of varying composition and thickness and put them in my briefcase along with a copy of the patent application. I had decided that I might even show them a copy of the application if it might help show what a marvelous discovery we had made. Callahan and I shook hands solemnly, and he wished me the best of luck. I went back to my office for a final quick check, got interested in Zabell's book, and went home without my briefcase. There was no harm done. My plane did not leave until ten in the morning and I had planned to go back to the office anyway. I said good-by to Susan and Mr. Spardleton, retrieved my briefcase from over by the radiator where Susan had put it the night before, and caught the plane.

It was a cold damp day, and the threat of rain was in the air. In Boston I caught a cab for the Massachusetts Avenue laboratories of Rude Associates. Dr. Rude himself was at the meeting, along with half a dozen of his associates. Dr. Rude was a small man, dapper, totally unlike a research chemist, and his speech and manner were as impeccable as his dress. Only his hands were a giveaway; they were stained with yellow and black stains that looked completely out of place on the man. Dr. Rude opened the meeting with an explanation concerning the technician he had hired from the Marchare Laboratories two years earlier. "Just a week ago," said Dr. Rude, "we put him on a problem of paper chemistry. He told us that the properties we sought—and more—had already been found by your laboratory. He said no more, and we would not have allowed him to say any more, except that you were the patent lawyer who was working on the case. That is all we know about it. We hope you have something of mutual interest, but we don't know any more than what I have told you."

I said, "Thank you, Dr. Rude. I understand how it was. I assure you it never crossed our minds down in Washington that anything could have been out of line in any manner whatsoever."

The assembled group smiled, and I smiled back, and we all felt friendly with one another. Dr. Rude cleared his throat and said, "Well, is there anything you can tell us about this tearpr … about a paper having some of these very interesting properties?"

I said, "There is a great deal I can tell you about the paper we have, but suppose I let you see some specimens before I say anything. There's nothing like the actual goods themselves to do most of the talking."

We all laughed as I took half a dozen twelve-by-twelve hand sheets out of my briefcase and passed them around the table. I watched the chemists finger the sheets, savoring their soft coolness, and I heard the whispered comments, "good hand," "excellent softness," "fine color," and a few others. Dr. Rude said, "Are these 'breaking samples', Mr. Saddle? Do you mind if we tear them?"

Well, you can see that this was the question I was waiting for. I sat back and allowed a slight smile to play over my face. I said, "Oh no, gentlemen. Go ahead and tear them."

I saw several of the people take the sheets between their thumbs and forefingers, and gently pull. I saw the sheets tighten momentarily, and then—as if the sheets were no more than ordinary cleansing tissue—I saw the fibers pull apart as each man easily tore the sheet in half.

I felt the blood drain from my face, and it seemed to me that my pounding heart must have been visible right through my clothes. I swallowed and tried to say something, although I had no clear idea of what I was going to say. Words would not come. I leaned over and took another sheet from my briefcase and tugged at it. It tore in half with practically no effort. I took another, same results, and still another. I dimly realized that all the people at the meeting were staring at me, but I wasn't concerned. I knew something must be wrong with all the specimens; possibly I had placed regular cleaning tissues in my briefcase, or maybe Susan … but even as I thought it I knew such a mistake was impossible.

I reached over and tried tearing one of the sheets I had passed out to the others. It tore into quarters as easily as it had torn into halves. That finished me. I leaned back and looked around at the silent group and wondered what Mr. Spardleton would have said at a time like that. I started to smile and discovered that my original smile was still frozen on my face. I stood up and began retrieving the torn papers; they passed them back to me without saying anything. I replaced them in my briefcase, closed it, said, "Gentlemen, Christmas falls on Friday this year," and walked out.

It was raining outside, but I scarcely noticed. I hailed a cab to the Logan Airport, changed my reservations to an earlier plane, and returned to Washington. It was a slow trip. The planes were stacked up in the rain at the Washington International Airport, but I did not notice the passage of time. I was too stunned to think clearly, but I kept trying. I got quite wet in Washington, but I was in a hurry to see Mr. Spardleton and I did not bother to change my clothes.

I burst into his office. He looked up and said, "Well, I didn't expect to see you until tomorrow. How did… ?" He saw my face.

I plopped my briefcase on his desk and pulled out all the specimens and dumped them in front of him. I said, "Just look at these. This 'Tearproof Paper' has deteriorated. These specimens are useless. Right in front of all the Rude chemists, they go bad. Most of them are new ones, too. How can this be possible? Just look at them."

Mr. Spardleton picked up one of the sheets, rubbed it, and then tugged at it gently to tear it. It did not tear. He pulled harder, and then harder, and it did not tear. I stared at him in disbelief and said, "Oh, Mr. Spardleton, this is no time to play games with me."

I took one of the sheets and yanked it, and almost cut my fingers. I bent over and put my hands on my knees to get better leverage just as I

had the very first time, but the sheet would not tear. I threw it on the desk and tried another with the same results. One after another I ran through them all while Mr. Spardleton sat back and watched me. I was wild-eyed when I finished.

Mr. Spardleton said, "Mr. Saddle, would you mind telling me what has happened?"

I pulled up a chair, groped for my voice, and finally got the story out. He looked at me strangely, tried to tear another of those miserable little sheets, and said, "Mr. Saddle, do you feel all right?"

In Boston I had been completely deflated and bewildered, but now I was mad. I grabbed up the phone and called Callahan. I had barely started to pour out the story when he said, "I'm glad you called, Carl. We seem to have run into something on this paper thing. Looks bad. Can you come out?"

"Be right there." I hung up.

Mr. Spardleton went out with me; he didn't want me to go anywhere alone. Callahan was holding two sheets up to the light when we went into his lab. He said, "Two identical sheets, except for the moisture content. Moisture is the devil. One of these is dry, the other contains three per cent moisture. Here's the dry one." He tore it in half effortlessly. "Here's the moist one." And he strained at it, but it would not tear. "We just ran across this effect last night, and finished checking it out an hour ago. Have you been to Rude Associates yet?"

I nodded.

"Too bad. We'll have to show them what can happen."

Mr. Spardleton said, "They already know."

Callahan said, "This kicks the whole thing in the head. The paper can never be more than a laboratory curiosity, as far as we can see. The sun, a dry climate, heat, any of these things will drive off the moisture, and the paper will lose its strength. There's no way we can market a product like that when it might lose its strength at any time. I'm afraid the 'Tearproof Paper' must join the huge list of fine products that can't be sold because of one small flaw."

It was Mr. Spardleton who steered me out of the labs. He slipped an arm through mine and said, "You can refile the patent application and add this information about the moisture content. You ought to get the patent without too much trouble even if the product is of no commercial value."

I nodded as we stood in the rain waiting for a cab.

He said, "I never told you what happened in that Phenol Case of mine many years ago. It turned out that the man at the next bench had spilled a little phenol on the bench top. That's what my inventor smelled; there never was any phenol in the test tube. We all fall over the facts of a case now and then." He squeezed my arm, and the rain did not seem to fall quite as hard.

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