Where an employé contracts to assign to his employer all inventions made by him during his employment, he will not be enjoined from using such inventions to the injury of his employer, where the evidence fails to show any invention made by the employé during the term of his employment[9].

A patentee who conveys his patent rights, in respect to a secret chemical preparation on condition of his being paid a certain royalty, and being employed by his grantee at specified salary, so long as his services are rendered solely in his employer's interests and are satisfactory, is justified in terminating the contract, if the employer fails to perform his obligations under the contract. A court of equity therefore will not restrain him from revealing the secret of his preparation to persons with whom he forms a partnership, after exercising his right of leaving the employment[10].

In the United States the cognizance of actions at law or bills in equity which involve the question of the validity of a patent,

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Naturally it seeks to protect itself from abuse of these results. The protection sought is a fair one for the interests of the company. Does this protection interfere with the interests of the public? Sales of secret processes are not within the principle or the mischief of restraints of trade at all. By the very transaction in such cases, the public gains on the one side what is lost on the other, and, unless such a bargain was treated as outside the doctrine of general restraint of trade, there could be no sale of secret processes of manufacture. Bowen L.J. in *Ammunition Co.* v. *Nordenfelt*, (1893) 1 Ch. 630."

An additional point expressly decided by the lower court and agreed to incidentally by the Court of Appeals was, that such a contract does not entitle the employer to the use of an improvement, made and perfected at a time when such employé is not in the employment, without making reasonable and just compensation.

For another case in which, a similar conclusion was arrived with regard to a contract of the same general type, see *Thibodeau* v. *Hildreth* (1902) 124 Fed. 892, 60 C.C.A. 78, 63 L.R.A. 48, Aff'g (1902) 117 Fed. 146. There it was held that an agreement by an employé, in consideration of his employment, that the employer should have the benefit of all inventions made by him while so employed, and that he would keep the same forever secret, if required by the employer, was not unconscionable, nor against public policy, and that the employé was not entitled to have it cancelled on that ground after he has left the employment.

For another instance of an express contract of service, providing that the patent of an employé should become the property of the employer, see *Mallory* v. *Mackaye* (1897) 86 Fed. 122.

[9] *Universal Talking-Mach. Co.* v. *English* (1901) 34 Misc. 342, 69 N.Y. Supp. 813.

[10] *New York Chemical Co.* v. *Halleck* (1891) 1 N.Y. Supp. 517.