

# OPTICAL SOCIETY

ROCHESTER SECTION

## ROSA News

November 2011

### ROSA 2011-2012 Council Members

#### President

Julie Bentley

#### Past President

Rick Plympton

#### President Elect

Chris Palmer

#### Secretary

Cristina Canavesi

#### Treasurer

Jessica Nelson

#### Education

Steve Jacobs

#### Program Co-Chairs

Ted Mooney

Damon Diehl

#### House Co-Chairs

Melissa Geng

Monica Sears

#### IT Chair

Blair Unger

#### Councilors at Large

Stephanie Bloch

Mari de Wit

Joe Vornehm

Cisca Sugiro

### Membership Renewal and Website Updates

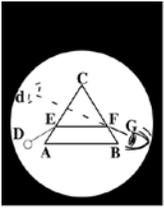
We are in the process of updating our website <http://www.osarochester.org/> and improving our on-line membership renewal process. In September, the council voted to change the membership period from June/May to January/December and extend your current 2011 membership an extra 6 months to expire on Dec. 31, 2011. More details on the website updates and the on-line renewal process will appear in next month's newsletter. If you have any feedback or suggestions for things you would like to see on the website please send your comments to [webmaster@osarochester.org](mailto:webmaster@osarochester.org).

### A Bit of History ... by Mari de Wit

This month's spotlight is on Elmer Jefferson Bissell who served as our third local ROSA president in 1917. Elmer Bissell was born on October 31, 1861 (for the statisticians among us: that is almost 150 years to date). Dr. Bissell grew up in Rochester and attended Rochester public schools. He later studied medicine at the University of Michigan, receiving his degree in that celebrated institution in 1883. He was an ophthalmic surgeon by trade and, interestingly enough, he resigned from the OSA membership only 4 years after becoming our local president. From the minutes of the 8th Annual (national) OSA meeting on Oct. 26-27, 1923 (where they kept track of membership in great detail) under "list of losses by resignation" I found E. J. Bissell. A detailed biography for Dr. Bissell is at the end of the newsletter.

*Did you know...* that at the start of the National OSA and our Local Chapter "In attendance at the organizing meeting 23 November 1915, were P. G. Nutting, HT. Kellner, F. E. Ross, C. H. Frederick, Howard Minchin, Adolph Lomb, F. B. Saegmuller, W. B. Rayton, and L. A. Jones. Dr. Nutting called the meeting to order. Dr. Kellner was chosen temporary chairman and L. A. Jones was temporary secretary. The first motion adopted was "that an Optical Society be formed." The second motion was "that steps be taken to form a local section of a general organization." The committee to draft a constitution and by-laws was Nutting, Lomb, Rayton, and Jones. Six additional men were invited to be charter members: J. N. Blanchard, Professor Henry E. Lawrence, Edward Bausch, *E. J. Bissell*, George M. Saegmuller, and M. B. Hodgson. All except Professor Lawrence signed the constitution on 7 December 1915. The first officers were Nutting, President; Kellner and Minchin, Vice-presidents; Lomb, Treasurer; Ross, Corresponding Secretary; Jones, Recording Secretary; Bissell, Frederick, Rayton and F. B. Saegmuller, Council-at-Large. The first program committee was Kellner, Minchin and Jones."

In the May 1916 election, Kellner moved to President, Bissell to Vice-President, Nutting became Corresponding Secretary (but by December he was gone-to Pittsburgh, where he arranged the first annual meeting of the national society 28 December 1916), and Dr. Mees joined the Council. Notable among their twice a month series of meetings were those addressed by Professor Richtmyer of Cornell on "Cooperation in Research" 21 November (which was published on page 1 of volume 1 of the Journal in 1917) and by Professor James P. C. Southall of Columbia University, "A Survey of the Historical Development of Optical Science," which was "intended by the speaker to arouse greater interest in the study of optics in America." Thus ended the first year of the Optical Society.



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## The America Invents Act: How will it Impact You? ... by Dr. Bettinger and Mr. Greener

The most extensive reform of the United States patent system in decades, the America Invents Act (“AIA”), will go into effect in multiple phases over the next 18 months. The AIA will result in significant changes to both the patenting process and patent litigation, and could have a considerable impact on both large corporations and the garage inventor alike. Below we look at several aspects of the patent system that will be affected by the AIA.

### *First-to-File System*

The United States patent system is the only system in the world to function under a “first-to-invent” system, meaning that under certain circumstances the first person to invent can be awarded a patent, even over a second inventor who was actually the first to file a patent application. On March 16, 2013, the United States will join the rest of the world and officially switch to a first-to-file system, in which a patent will be awarded to the first inventor to file an application for that invention.

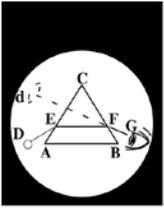
### *Broader Definition of Prior Art*

Another major change to the patent system is to the definition of “prior art,” which is a public disclosure that contains the subject matter of the patent application. The AIA states that the disclosure of an invention in a patent or printed publication, or the public use or sale of that invention, prior to the filing date of the application qualifies as prior art. Under the existing system, sales and public use of the invention *outside* the United States do not qualify as prior art. Under the AIA, sales and public use will be considered invalidating prior art regardless of where in the world (or, presumably, outer space) it occurs. Further, the AIA states that an inventor is not entitled to a patent if the invention is “otherwise available to the public” in ways other than a publication, a sale, or a public use. While it remains to be seen what this phrase entails, it appears to be a “catch-all” that will ultimately broaden the scope of potential prior art.

### *The Inventor Grace Period*

The AIA also keeps the inventor grace period, a unique and well-established feature of the United States patent system. Under this provision, the inventor has a one-year grace period to file a patent application following her public disclosure of the invention.

Although an inventor’s public disclosure will not prevent her from filing a patent application within one year of the disclosure, it is not immediately clear from the language of the AIA whether an inventor’s public disclosure will also prevent independent third-party disclosures from being considered prior art. For example, let’s assume that Inventor A discloses her invention during a convention held on January 1, 2015; she now has until January 1, 2016 to file her application. Her previous disclosure – and anything that derives from it, such as a newspaper article – does not qualify as invalidating prior art. However, if Inventor B independently publishes his results in a journal article on January 2, 2015, it is unclear whether the article will be considered invalidating prior art. If not, this creates a clear incentive for inventors to publicly disclose their inventions as soon as possible, effectively creating what some have termed a “first-to-publish” system. Future rulemaking by the Patent and Trademark Office will likely offer insight into this issue.



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## *Other Changes to the Patent System*

In addition to the above, the AIA will result in a number of other significant changes to the United States patent system, including, for example:

- An overhaul of the post-grant review process for issued patents;
- Virtual patent marking;
- Elimination of the best mode defense in litigation;
- Expanding the prior commercial use defense; and
- Restrictions on joinder of multiple defendants in a single patent infringement lawsuit.

We will examine some of these other important changes in future newsletters.

Dr. Blaine Bettinger ([bbettinger@bsk.com](mailto:bbettinger@bsk.com)) & Mr. William Greener ([wgreener@bsk.com](mailto:wgreener@bsk.com))  
Bond Schoeneck & King ([www.bsk.com](http://www.bsk.com))

Dr. Bettinger is an associate (Syracuse office), and Mr. Greener a partner (Ithaca and Rochester offices), with Bond Schoeneck & King, a full service, business-oriented law firm headquartered in Syracuse, NY. Dr. Bettinger earned a B.S., *cum laude*, in Biology from St. Lawrence University, a Ph.D. in Biochemistry and Molecular Biology from SUNY Upstate Medical University, and a J.D., *magna cum laude* from Syracuse University College of Law. Mr. Greener has a B.S. in Physics, an M.S. in Optics from the Institute of Optics, U. of Rochester, and a J.D., *cum laude*, from SUNY Buffalo. Blaine and Bill are both registered US patent attorneys. Bill is a member of OSA.

## **DR. BISSELL BIOGRAPHY continued from page 1...**

BISSELL, ELMER JEFFERSON, Rochester, New York, was born in Vernon, New York, October 31, 1861, the son of T. J. Bissell, D.D., and Mary J. (Bourne) Bissell. He attended the public schools of Rochester and later studied medicine in the University of Michigan, receiving his degree in that celebrated institution in 1883. Dr. Bissell took post-graduate courses in ear and eye hospitals in this country and Europe. In 1884 he held the position of assistant physician in the ear and eye department in the University of Michigan, and was an ophthalmic and aural surgeon to the Rochester Homœopathic Hospital. He was ex-president of the American Ophthalmological, Otological and Laryngological Society.

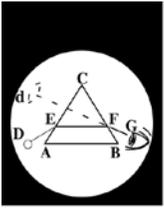
*Source : History of Homœopathy by William Harvey King*

### Ophthalmic Surgery

Transactions Of World Congress Of Homoeopathic Physicians & Surgeons By Pemberton Dudley Volume: 1893 May / June; Author: Elmer J Bissell

*...Dr. Bissell...in closing the discussion, said: The question has been asked me regarding the special preparation of cocaine. I have had no special connection with it, and have not seen it used in our work. I do not think it is superior to any other anaesthetic agents that we have, and it is unpleasant to use, in soiling the clothing and staining, although it may be used. I think in one or two cases it has acted unfavorably, seemingly aggravating the case, and was probably used too strong; but I immediately discarded it and took something else.*

*...Dr. Bissell: If I may be pardoned a word, a point that has greatly impressed me of late is the work along the orthoptic line that we are to do after we have operated.*



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American Homeopathic Ophthalmological, Otological and Laryngological Society.

Secretary: Elmer J. Bissell. M.D Rochester. N. Y. (1897)

Censor: Elmer J. Bissell. M.D Rochester. N. Y. (1897)

President: Elmer J. Bissell. M.D Rochester. N. Y. (1899)

PROCEEDINGS OF THE TWELFTH ANNUAL MEETING OF THE AMERICAN HOMOEOPATHIC, OPHTHALMOLOGICAL, OTOLOGICAL AND LARYNGOLOGICAL SOCIETY, HELD IN ATLANTIC CITY, N. J., JUNE 19TH AND 20TH, 1899.

First Day. — Morning Session.

The society met in the Hotel Dennis, and the first session was called to order at 10.40 A.M., Monday, June 19th, by the President, Dr. Elmer J. Bissell, with the following remarks :

*...Previous to giving my Annual Address, I wish to say that I concluded after looking over the long program that you came here to hear each other rather than to hear me. I have, therefore, reduced my address to very small proportions, in order that you may have a longer time for the exchange of thoughts among yourselves.*

*Dr. Bissell then presented the President's Address, and followed it by declaring the Society open for the transaction of business:*

*...Everyone interested in either of the departments as represented in the society will find it of the greatest service and value to become a member.... The same special railroad rates will be arranged for those attending the meetings of our society, and special hotel rates can also be obtained.... We urge everyone to make an early effort to not only prepare a paper, but to make this trip a part of his summer outing.*

## OTHER ACHIEVEMENTS & REFERENCES:

# AHOOLS President's Annual Address— Our Specialties as Related to Mental Development and Modern Educational Methods. By Elmer J. Bissell, M.D

# Elmer Bissell was an ophthalmologist. I believe that he was later involved in setting up an institute in Birmingham, Alabama, and has a road named after him on which Children's Hospital of Alabama. Children's Hospital Neurology is located.

- 1) [http://books.google.com/books?id=Fh-gAAAAMAAJ&pg=PA159&lpg=PA159&dq=Elmer+J.+Bissell+ophthalmology+-cleveland+-birmingham&source=bl&ots=cyO9\\_LHzog&sig=-yKG9R7eUYHWOcFI9scqjNMR1yc&hl=en&ei=K26rTt22Jorkggfv-YzwDw&sa=X&oi=book\\_result&ct=result&resnum=8&ved=0CDkQ6AEwBw#v=onepage&q&f=false](http://books.google.com/books?id=Fh-gAAAAMAAJ&pg=PA159&lpg=PA159&dq=Elmer+J.+Bissell+ophthalmology+-cleveland+-birmingham&source=bl&ots=cyO9_LHzog&sig=-yKG9R7eUYHWOcFI9scqjNMR1yc&hl=en&ei=K26rTt22Jorkggfv-YzwDw&sa=X&oi=book_result&ct=result&resnum=8&ved=0CDkQ6AEwBw#v=onepage&q&f=false)
- 2) <http://query.nytimes.com/gst/abstract.html?res=F50617FC355D11738DDDA90A94DE405B8985F0D3>
- 3) [http://books.google.com/books/about/Transactions\\_of\\_the\\_World\\_s\\_Congress\\_of.html?id=QgpRfaWMg5UC](http://books.google.com/books/about/Transactions_of_the_World_s_Congress_of.html?id=QgpRfaWMg5UC)
- 4) <http://www.homeoint.org/history/bio/b/bissellej.htm>
- 5) New York Times Published: June 20, 1899  
<http://query.nytimes.com/mem/archive-free/pdf?res=F50617FC355D11738DDDA90A94DE405B8985F0D3>