OFFICE OF THE

Robinson Electric Railway Signal Company,

St. Petersburg, Pa., August 3d, 1874.

DEAR SIR:—I would call your attention to the following INFRINGEMENT NOTICE, which has been served on the parties to whom it is addressed:—

"OFFICE OF THE ROBINSON ELECTRIC RAILWAY SIGNAL COMPANY,
"ST. PETERSBURG, PA., JULY 28th, 1874.

"*Messrs. Frank L. Pope, Stephen C. Hendrickson, James N. Ashley, and James D. Lincoln,*
"*38 Vesey Street, New York,*

"GENTLEMEN:—Your attention is hereby called to re-issued letters patent, No. 5958, dated July 7th, 1874, granted to William Robinson, and now owned by the Robinson Electric Railway Signal Company. The original of said patent was granted to said Robinson on the twentieth day of August, 1872, No. 130,661. A copy of said re-issued letters patent is enclosed herewith for reference.

"You are hereby formally notified that in constructing and using, or authorizing others to use, certain electric signaling apparatus on the Lehigh Valley Railroad, near Mauch Chunk, in the State of Pennsylvania, and also in constructing and using, or authorizing others to use, similar apparatus, at a certain point on the Chicago & North-western Railway, you have been and are infringing said letters patent.

"To be more specific, you are hereby notified that you infringe said re-issued letters patent as follows:

"*First.*—You infringe the first claim of said patent by using in combination 'a constant circuit, a magnet or magnets operated or controlled without actually opening the circuit of said magnets, and an Electric Railway Signal or Signals.'

"*Second.*—You infringe the second claim of said patent by using 'a visual or semaphoric signal in combination with a constant circuit, composed, in part, of a rail or rails of a railroad track.'

"*Third.*—You infringe the fourth claim of said patent by using 'an additional or secondary circuit in combination with a primary circuit, composed, in part, of a rail or rails of the track.'

"*Fourth.*—You infringe the tenth claim of said patent by using the combination therein described of a battery, a magnet, the rails of a track, and the conductors connecting said magnet and battery to the rails. The fact that you have added a magnet within one of the battery wires and a battery within one of the magnet wires of this circuit gives you no authority to use the circuit, which is unaltered.

"*Fifth.*—You infringe the eleventh claim of said patent by using 'an additional or secondary circuit in combination with a magnet, wire connections, a battery, and section of rails of a railroad track,' as specifically described in said claim.

"*Sixth.*—You infringe the twelfth claim of said patent by using 'a railway signal or series of signals in combination with a constant circuit, charged, in its normal condition.' It is immaterial whether the circuit is charged with active electricity, as we use it, or with electricity in equilibrium, as you use it: it is charged in either case.

"*Seventh.*—Furthermore, you are hereby notified that you infringe the second claim of re-issued patent No. 4274, granted to William Robinson, February 21st, 1871, the original of which was granted to said Robinson July 19th, 1870, antedated July 8th, 1870, No. 105,494.

"You infringe said claim by using a lever for directly actuating the signal, in combination with said signal and a 'circuit-closer of a battery, arranged so as to operate the signal by the action of the passing vehicle.' You will observe that this claim is in a certain combination, and is not limited to a circuit-closer of any specific construction. In your case your circuit-closer consists in a short section of rails bridged by the wheels and axle of a car.

"*Eighth.*—You are also hereby notified that you infringe letters patent No. 108,633, granted to said Robinson on the twenty-fifth day of October, 1870. You infringe the fourth claim of said patent by using 'the combination of an additional circuit for operating an additional signal, with the primary circuit under control of the train.'

"Without being further specific, it is believed that you infringe, also, the second, fourth, fifth, seventh, eighth, and ninth claims of letters patent No. 109,549, granted to said Robinson on the twenty-second day of November, 1870.

"All of the above-described patents are now owned and controlled by the Robinson Electric Railway Signal Company, of this place.

"You are hereby formally notified that you must immediately discontinue the use of said electric signaling apparatus, and any other, if such there be, of a similar character, which you may have in operation. You are further notified that you must not, under any circumstances, construct or put in operation hereafter any apparatus in any manner infringing any of our said patents.

"This notice is final. If you fail to at once observe its requirements we will bring suit against you for infringement, based on one or more of said patents, as we are determined henceforth to protect and enforce our said patents against further infringement on your part.

"Yours, truly,

"WILLIAM ROBINSON,
"*General Manager Robinson Electric Railway Signal Company.*"

In view of the facts stated in the above notice, you are cautioned against negotiating with Pope & Co., or any other party unauthorized by us, for the construction, use, or even *testing*, of electric signaling apparatus, agreeing in any respect with that described above, as we will prosecute all parties hereafter infringing our patents in any manner.

Very respectfully, yours,

WILLIAM ROBINSON,
General Manager Robinson Electric Railway Signal Company.

It is proper here to state the motives which have prompted the above notice. For some two years Pope & Co. have been putting up and testing electric signals under different systems, not wholly or in any essential respect their own; and in so doing every automatic signal put up by them, without exception, has been an infringement of one or more of our patents. Nevertheless, convinced that if left to himself, Mr. Pope's circuits and science would strangle him, we took no particular notice of the infringements. The soundness of our conviction seems demonstrated by such testimony as the following:

A general superintendent, on whose road Pope placed several signals for testing, on being asked, "How did Pope's Automatic Signals work on your road?" replied, "They did not work at all." Another superintendent of the same road says: "Pope's signal is not worth fighting for; it is not worth a 'baubee.'" The superintendent of another road says: "Their signal is not giving us satisfaction."

Thus, so far as we have been able to ascertain, Pope & Co. have never put up a signal of any kind which has worked with entire success and satisfaction. We did not, therefore, consider it worth while heretofore to interfere with them. Our long forbearance, however, seems to have been misconstrued, and these parties finally concluded it would be safe to attempt further encroachments upon our rights; in what manner will be understood from what follows:

A patent was granted to F. L. Pope for a system of rail signaling on July 16th, 1872. The application for this, and Mr. Robinson's application for his system, were pending before the Patent Office at the same time; yet the question was not raised as to which was the earlier inventor, as the systems were considered to be essentially different, involving different principles of operation, neither system interfering with or covering the other. Our United States patent was dated August 20th, 1872, a little more than a month after the date of Pope's patent, whereas our French patent was dated February 29th, 1872, nearly five months *prior* to the date of Pope's patent. Mr. Robinson invented the system on which Mr. Pope received his patent, earlier, it is believed, than Mr. Pope did, and promptly abandoned it, as too utterly worthless and absurd, as it is, for serious consideration. Whether Robinson or Pope, however, were the earlier inventor of the so-called Pope system is immaterial, as neither was the original inventor. This has been clearly demonstrated by Mr. Robinson in the illustrated paper herewith enclosed, in which, Figure 2, the system patented by Pope, is clearly and fully described *verbatim* from the English Patent Records of 1868. In Mr. Pope's patent there is absolutely nothing

novel or patentable of a material nature: the patent is and was, therefore, null and void *ab initio*, as we shall show. Furthermore, Mr. Robinson clearly demonstrated, by actual and repeated experiments, that the apparatus would not work in accordance with the method described in said patent: the patent is and was, for this reason, also null and void *ab initio*, as will be shown hereafter. The strongest possible corroborative evidence of the non-working of the system is found in the fact that Pope has never put a signal in operation in accordance with his said patent. Any statement of his to the contrary should not be credited, as he has already been convicted, by his own evidence, of misrepresentation on the subject. [See letter of Pope, published in "The Iron Age" of January 29th, and of Robinson, in "The Iron Age" of February 19th, 1874.]

Notwithstanding the above facts, Pope & Co., with an effrontery born only of desperation, saw fit to send a letter, in January last, to a railroad company using our signals, claiming that said signals were an infringement of their said patent; and another, to the same effect, to our manufacturers. The latter of these especially was a specimen of legal acumen worthy of its source. It warned them that they must not make and sell to us "visual and alarm signals and *batteries*," forsooth! because we would add to these other essential parts, and thus infringe their patent. We have not heard whether Pope's Bulls have also been aimed at rolling-mills, notifying them that they must not roll rails, or railroad companies, that they must not use wheels and axles on their cars, because the rails and wheels and axles may be used in some combination to infringe their precious patent! and we use all of the above elements, as well as *batteries*, in operating our signals.

Now as to the legal status of the patent granted to Pope, July 16th, 1872, which, it is claimed, we infringe. [See enclosed paper for specific descriptions of Pope's method and ours.] Since a *verbatim* description of Pope's apparatus is given in the British Patent Office Records of 1868, No. 447, [see enclosed paper,] it comes within the prohibition of the United States patent laws, 1870, section 24, which provides that no person shall be entitled to a patent on any invention or discovery "described in any printed publication in this or any foreign country, before his invention or discovery thereof."

On this subject his Honor, Justice Clifford, of the United States Supreme Court, says:—"Persons seeking redress for the unlawful use of patented inventions must allege and *prove* that they are the *original* and *first* inventors of the same, and that the party defendant is guilty of the alleged infringement."—*Opinion in Mitchell* vs. *Tilghman, United States Patent Office Gazette, volume 5, No. 11.*

On the second point—want of utility, which is shown to be inherent in Pope's method—the same high authority, in the same case, says:—"Inventions, in order that they may be the proper subjects of letters patent, must be *new* and *useful*." * * * * "There are two modes, says Mr. Curtis, in which the utility of an invention may be impeached, the second of which is where it appears that it is not capable of being used to effect the object proposed."

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"Whoever discovers," &c., "is entitled to a patent for his invention, provided he specifies the means he uses in a manner so full and exact that any one skilled in the science to which it appertains can, by using the means he specifies, without any addition to or subtraction from the described means, produce precisely the result he describes. Such description must be correct, as *it is settled law that the patent is void if the described result cannot be obtained by the described means.*"—*O'Reilly* vs. *Morse, 15 How., 119; Curtis on Patents, 189.*

In the above case the following are the *dicta* of the court:

"*Dictum.* The claim in every patent must be construed to be limited to the method or process described in the specification."

"*Dictum.* A patent is invalid if the result which is predicted cannot be obtained by the means described."

It is shown [enclosed paper] that the principles of operation between Pope's system and Robinson's are different, and this constitutes the very important difference between complete and absolute failure on the one hand, and complete and absolute success on the other.

On this subject, Curtis on Patents, (fourth edition, section 331,) says:—"Patent laws have for their leading purpose the encouragement of useful inventions. Practical utility is their object, and it would be strange if, with such object in view, the law should consider two things substantially the same, which, practically and in reference to their utility, are substantially different."

It is scarcely necessary to cite further authorities, which are numerous, on the subject.

On learning of the sending by Pope & Co. of the letters above referred to, Mr. Robinson, under date of February 9th, 1874, wrote to them a letter, of which the following is an extract:

"I wish you distinctly to understand that I shall continue to put in operation electric railway signals, under my patents, giving full authority to railroad companies to use the same." * * * * * *

"If, however, you feel aggrieved at my course in putting up signals, under my own system and in accordance with undoubted legal authority, and desire to bring your patent into court to test my authority, I shall be perfectly willing; and if you will sue me I will afford every facility for bringing the matter to an early judicial decision. I am fully responsible and amply able to satisfy any judgment you may obtain against me."

Notwithstanding the above candid invitation, Pope & Co. have shown no disposition to sue us or any party manufacturing or using signals under our authority. For this reason we have been unable to get their patent before the courts, in order to have it judicially annulled, since the law gives us no authority to force it into court, and they do not seem inclined to submit it to adjudication, although our signals complained of are now, and have been for a year past, in continuous operation.

As signals cannot be operated in accordance with Pope's patent, the pertinent question may here be asked, How have Pope & Co. been operating, or attempting to operate, signals? First, they used line wires and short sections of rails for closing circuits, substantially as described in Bull's English patent of 1860, [Figure 1, enclosed paper,] making modifications in the details only. These modifications brought the system within the scope of our patents. Second and later, they have used the constant circuit described in Figure 4, and thus have been infringing our patents by the wholesale.

In view of all the circumstances attending the extraordinary course of these parties, we are reluctantly forced to the conviction that their course is prompted, not by a desire for justice, but solely with a hope of being able to levy black-mail, and to secure advantages to which they know they are not entitled. Their course, in connection with their worthless patent, has been such as to leave open to us no positive legal redress, as far as their letters are concerned. We, therefore, feel called upon to publish this paper, exposing their machinations, and to bring the power of our own patents to bear to crush out their iniquitous infringements.

In regard to our system, it is only necessary to say that it is practically without competition. In utility, simplicity, and perfect working it is unapproached and unapproachable. On double-track roads we use no line wires whatever, working for miles through the rails. We will put up the signals on reasonable terms, and will forfeit $500 for every case of failure.

Full descriptive circulars will be forwarded on application.