

### III. Folding Bed

In 1916, the owners of various patents related to folding beds and other similar devices entered into an agreement providing exclusive license to the Seng Company to manufacture and sell under the pool patents. Of the total royalties, 33 percent was allocated to the Pullman Couch Company. The license contract was signed by the Davoplane Bed Company (7 patents), the Pullman Couch Company (13 patents) and two inventors. The Seng Company paid a fixed percentage to the pool. Pool members split the royalty according to a pre-defined formula in the pooling agreement.<sup>119</sup>

### IV. Airplane

In 1917, the US government needed to purchase more airplanes to use in World War I. Holders of the early patents for airplane production and various intermediate goods needed for it were charging exorbitant royalties for the use of their patents. Besides, production of aircraft in the United States had nearly come to a halt as airplane producers sued each other for patent violations. In March of that year there were two developments leading to the formation of the Manufacturers Airplane Association (MAA).<sup>120</sup>

An advisory panel, headed by then-Assistant Secretary of the Navy Franklin D. Roosevelt, recommended the formation of the patent pool. Consequently, congress passed the Naval Appropriation Act of the Fiscal Year 1918, which included \$1,000,000 for the purchase of airplane patents. Every major producer of airplanes became a member of the Manufacturers Aircraft Association. Members would pay \$200 in royalties to the MAA. Of the money paid in royalties about 10% were put into a fund to pay for administration of the patent pool.<sup>121</sup>

- 119 Serafino D., "Early Pools Associated with Monopolies and Cartels (1856-1919)" in "Survey of Patent Pools Demonstrates Variety of Purposes and Management Structures", Knowledge Ecology International Studies, June 2007, p. 9, at: <http://www.keionline.org/content/view/69/>
- 120 More on the Manufacturer's Aircraft Association available at: <http://www.cptech.org/cm/maa.html>
- 121 For a more comprehensive overview on the importance of patents in the global market for civil aircraft, from an historical and legal perspective, see: Begemann A., "Die Rolle von Patenten in der zivilen Luftfahrtindustrie aus historischer und rechtsvergleichender Sicht", Utz Herbert ed., Jan. 2008.

## V. Radio

In 1924, an organization first named the Associated Radio Manufacturers, and later the Radio Corporation of America,<sup>122</sup> merged the radio interests of American Marconi, General Electric, American Telephone and Telegraph (AT&T) and Westinghouse. This pooling agreement was designed to control the licensing of the large number of radio patents, so that each member could have access to all the relevant patents necessary to build radio transmitters, antennas and receivers. The pool led to the establishment of radio parts standardization, airway frequency locations and television transmission standards.

This consolidation and standardization of radio technology<sup>123</sup> allowed the Radio Manufacturers Association (RMA) to control the essential technology that aspiring radio manufacturers would need to supply the sudden public appetite for radio, which, during the early part of the 20's, was growing rapidly. It also allowed RCA and other RMA patent owners to litigate against infringers from a strong, consolidated position. One of the benefits of this control was the ability to standardize the manufacture of electronic parts. This allowed manufacturers to make parts that could be used by radio producers interchangeably.<sup>124</sup>

## VI. Hartford-Empire

However, the recently arising suspicion and misconception of patent pools was still persistent and political driven efforts to investigate and break up pools accelerated after some well-publicized hearings striking those kinds of agreements throughout the late 1930s. The famous US Supreme Court decision in the *Hartford-Empire* case<sup>125</sup> is still recalled for the harshness of Justice Hugo Black's outburst, holding against patent pools that "the history of this country has perhaps never witnessed a more completely successful economic tyranny over any field of industry than that accomplished by the pool members". This statement was widely perceived as ushering in an era of regulatory intolerance against these arrangements. As a con-

122 In 1950, the organization changed its name again to Television Manufacturers Association (TMA), then to the Radio Electronics Television Manufacturers Association (RETMA), in 1953. In 1957, the name became the Electronics Industries Association (EIA), now known as the Electronic Industries Alliance. Still quite active as a standards agency, among other things, the EIA maintains an Internet website at: <http://www.eia.org/>.

123 More on the Radio Manufacturers Association available at: <http://www.netsonian.com/antiqueradio/radiodocs/RETMA/ccodeindex.htm>

124 Burns R., "British Television: The Formative Years", Published by IET, 1986, p. 337 *et seq.*

125 *Hartford-Empire Co. v. United States*, 324 U.S. 570 (1945), available at: <http://supreme.justia.com/us/324/570/case.html>; for more information see also the opinion of the court delivered by Mr. Justice Roberts, available at: <http://www.ripon.edu/faculty/bowenj/antitrust/hart-emp.htm>