

APPENDIX OF FORMS

FORM 1. SUMMONS.

United States District Court for the Southern District of New York

CIVIL ACTION, FILE NUMBER

A. B., PLAINTIFF }
v. } *Summons*
C. D., DEFENDANT }

To the above-named Defendant:

You are hereby summoned and required to serve upon, plaintiff's attorney, whose address is, an answer to the complaint which is herewith served upon you, within 20¹ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

.....,
Clerk of Court.

[Seal of the U. S. District Court]

Dated

(This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.)

¹If the United States or an officer or agency thereof is a defendant, the time to be inserted as to it is 60 days.

FORM 19. MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, OF LACK OF SERVICE OF PROCESS, OF IMPROPER VENUE, AND OF LACK OF JURISDICTION UNDER RULE 12 (b).

The defendant moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.
2. To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds (a) that the defendant is a cor-

poration organized under the laws of Delaware and was not and is not subject to service of process within the Southern District of New York, and (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M. N. and X. Y. hereto annexed as Exhibit A and Exhibit B, respectively.

3. To dismiss the action on the ground that it is in the wrong district because (a) the jurisdiction of this court is invoked solely on the ground that the action arises under the Constitution and laws of the United States and (b) the defendant is a corporation incorporated under the laws of the State of Delaware and is an inhabitant thereof.

4. To dismiss the action on the ground that the court lacks jurisdiction because the amount actually in controversy is less than three thousand dollars exclusive of interest and costs.

Signed:
Attorney for Defendant.

Address:

Notice of Motion

To:
Attorney for Plaintiff.

.....

Please take notice, that the undersigned will bring the above motion on for hearing before this Court at Room, United States Court House, Foley Square, City of New York, on the day of, 19...., at 10 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.

Signed:
Attorney for Defendant.

Address:

NOTE

The above motion and notice of motion may be combined and denominated Notice of Motion. See Rule 7 (b).

FORM 22. MOTION TO BRING IN THIRD-PARTY DEFENDANT.

(Form for motion remains unchanged)

Exhibit A

United States District Court for the Southern District of New York

CIVIL ACTION, FILE NUMBER

A. B., PLAINTIFF	}	<i>Summons</i>
v.		
C. D., DEFENDANT AND THIRD-PARTY PLAINTIFF		
v.		
E. F., THIRD-PARTY DEFENDANT		

To the above-named Third-Party Defendant:

You are hereby summoned and required to serve upon
, plaintiff's attorney, whose address is
, and upon
 who is attorney for C. D., defendant and third-party plaintiff, and
 whose address is, an answer to the
 third-party complaint which is herewith served upon you and an
 answer to the complaint of the plaintiff, a copy of which is herewith
 served upon you, within 20 days after the service of this summons
 upon you exclusive of the day of service. If you fail to do so, judg-
 ment by default will be taken against you for the relief demanded
 in the third-party complaint.

.....,
 Clerk of Court.

[Seal of District Court]
 Dated

FORM 23. MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24.

(Based upon the complaint, Form 16)

United States District Court for the Southern District of New York

CIVIL ACTION, FILE NUMBER

A. B., PLAINTIFF	}	<i>Motion to intervene as a defendant</i>
<i>v.</i>		
C. D., DEFENDANT		
E. F., APPLICANT FOR INTERVENTION		

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the ground that he is the manufacturer and vendor to the defendant, as well as to others, of the articles alleged in the complaint to be an infringement of plaintiff's patent, and as such has a defense to plaintiff's claim presenting both questions of law and of fact which are common to the main action.⁴

Signed:,
Attorney for E. F., Applicant for Intervention.
Address:

Notice of Motion

(Contents the same as in Form 19)

United States District Court for the Southern District of New York

CIVIL ACTION, FILE NUMBER

A. B., PLAINTIFF	}	<i>Intervener's answer</i>
<i>v.</i>		
C. D., DEFENDANT		
E. F., INTERVENER		

First Defense

Intervener admits the allegations stated in paragraphs 1 and 4 of the complaint; denies the allegations in paragraph 3, and denies the allegations in paragraph 2 in so far as they assert the legality of the issuance of the Letters Patent to plaintiff.

⁴For other grounds of intervention, either of right or in the discretion of the court, see Rule 24 (a) and (b).

Second Defense

Plaintiff is not the first inventor of the articles covered by the Letters Patent specified in his complaint, since articles substantially identical in character were previously patented in Letters Patent granted to intervener on January 5, 1920.

Signed:

Attorney for E. F., Intervener.

Address:

FORM 27. NOTICE OF APPEAL TO COURT OF APPEALS UNDER
RULE 73 (b).

Notice is hereby given that C. D. and E. F., defendants above named, hereby appeal to the United States Court of Appeals for the Second Circuit [from the Order (describing it)] [from the final judgment] entered in this action on,
19.....

Signed:

Attorney for Appellants C. D. and E. F.

Address:

NOTE

Use either the material in the first set of brackets or that in the second, as the case requires. If the appeal is from a part only of an order or judgment that part must be specified.

Rule 73 (b) does not require the appellee to be named. It does require the clerk to notify all other parties than appellant.

