

*Agreement with
Gardiner Hubbard,
George Bradley,
Charles Cheever,
Hilborne Roosevelt,
and Uriah Painter*

This memorandum of agreement entered into this thirtieth day of January, Eighteen Hundred and Seventy Eight, between Thomas A Edison of Menlo Park, Middlesex County State of New Jersey, party of the first part and Gardiner G. Hubbard of Boston State of Massachusetts, G. L. Bradley of Providence State of Rhode Island, Chas A Cheever of the City County and State of New York, Hilbourne L Roosevelt of the City County and State of New York, and U H Painter of Washington, District of Columbia, parties of the second part.

*Witnesseth:—
Whereas the said party of the first part is the inventor of a new method for recording and reproducing therefrom the human voice and other sounds by causing such sounds to vibrate a mobile body the movements of which are recorded by indentation, displacement, subtraction from, or deposit upon any material and the reproduction of the movements of such mobile body by causing it to record or a copy thereof to give motion to another or the same body and which is more particularly set forth in the specifications of his patent for which he did apply for in the United States*

[New York?,] January 30, 1878^{1a}

This memorandum of agreement entered into this Thirtieth day of January, Eighteen Hundred and Seventy Eight by and^b between Thomas A Edison, of Menlo Park Middlesex County State of New Jersey, party of the first part and Gardiner G. Hubbard of Boston, State of Massachusetts, G. L. Bradley² of Providence, State of Rhode Island, Chas A Cheever of the City County and State of New York, Hilbourne L Roosevelt³ of the City County and State of New York, and U H Painter of Washington, District of Columbia,⁴ parties of the second part.

Witnesseth:—

whereas the said party of the first part is the inventor of a new method for recording and reproducing therefrom the human voice and other sounds by causing such sounds to vibrate a mobile body the movements of which are recorded by indentation, displacement, subtraction from, or deposit

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upon any material⁵ and the reproduction⁶ of the movements of such mobile body by causing its record or a copy thereof to give motion to another or the same body and which is more particularly set forth in the specifications of his patent for which he did apply for in the United States Patent Office December 15th 1877⁷ and— whereas the said parties of the second part are desirous of engaging in the business of manufacturing or having manufactured and selling within the United States of America the Phonographic apparatus and method invented by the party of the first part for every purpose to which it can or may be applied except to Watches Clocks, Toys of every description⁸

Therefore be it agreed that for and in consideration of the sum of Ten Thousand Dollars in hand paid to the said party of the first part the receipt of which is hereby acknowledged and for other and further valuable considerations stipulations and agreements hereinafter set forth: The said Edison grants to the said parties of the second part collectively but not individually the sole and exclusive license and right to manufacture or cause to be manufactured and sell within the United States of America only and for consumption and use in the United States of America only and not for export, consumption or use in any foreign Country. The phonetic apparatus covered by the application dated December 15, 1877 as herein set forth, for every purpose to which it may be applied except Clocks and Watches and Toys, certain rights and licenses to manufacture and sell within the United States the said invention of the said party, of the first part when applied to Clocks and watches having previous to this contract been granted by the said Edison jointly to Daniel N Somers⁹ of the City County and State of New York and H J Davies¹⁰ of Brooklyn, Kings County State of New York a copy of which contract is hereto annexed and certain rights and licenses to manufacture and sell within the United States the Phonetic apparatus of the said Edison when applied to Toys for the use of Children granted by the said Edison to Oliver D Russell¹¹ of the City County and State of New York previous to this contract a copy of which is also hereto annexed, which contracts rights and licenses the said parties of the second part hereby agree to except¹² from and recognise as not herein granted to them the said right and licenses hereby granted to the said parties of the second part and this contract is to continue during the existence of the patent providing however that the said parties of the second part do separately or collectively within one year

from the date hereof furnish for the purpose of the said business a capital of not less than Fifty Thousand Dollars to be used for the sole object of manufacturing and selling the Phonographic apparatus of the said Edison within the United States and to build up a permanent business in the manufacture and sale of such apparatus and the parties of the second part shall will¹³ and truly pay to the said Edison twenty per cent on the actual selling price of all apparatus or articles made sold or delivered and shall make true and correct returns under oath on or before the fifteenth day of each and every month of all sales of such apparatus made and sold or delivered during the previous month and allow the said Edison to have access to the Books and accounts at all reasonable times. It is expressly agreed and understood by the said parties of the second part that the main consideration to the said Edison in this contract is the twenty per cent royalty on the actual selling price of all apparatus containing the phonetic invention¹⁴ of the said Edison to be paid by them the said parties of the second part to the said party of the first part promptly and at the time herein mentioned and that the sum of Ten Thousand Dollars paid to the said Edison is the consideration to the said Edison to enter into this contract and grant the exclusive privileges herein set forth to the said parties of the second part

It is known¹⁵ understood and agreed that the said sum of Ten Thousand Dollars is to be used by the said Edison to perfect the said Phonographic invention so as to render it of great practical value for many uses such as the reproduction of speeches and musical compositions. If the said Edison shall not within one year from the date hereof succeed in so developing and perfecting a satisfactory apparatus for dictating letters or reproducing musical compositions then and in that case the parties of the second part shall have the privilege of terminating this agreement upon written notice to the party of the first part to that effect and this agreement shall then cease and become null and void providing the said Edison shall at the time of receiving said notice or within fifteen days thereafter pay to the party of the second part the sum of Eight Thousand Dollars (\$8000) In the event of the said Edison upon such notice failing to pay the Eight Thousand Dollars as herein above stated then and in that case this agreement shall continue in force the same as if said notice had not been given by the party of the second part. And it is further agreed that if the said Edison shall not return to the party of the sec-

ond part Eight Thousand Dollars (\$8000) as herein before provided for the said party of the second part shall still have the right to terminate this agreement¹⁶ It is further agreed that they the said parties of the second part will use reasonable diligence in prosecuting and establishing a permanent business for the sale of such apparatus in the United States as herein provided. It is further agreed that if the said parties of the second part fail to render a true and correct monthly statement of all sales for each and every month during the continuance of this contract as herein provided after the manufacture and sale of the article has commenced or fails to pay the royalty of twenty per cent on the selling price of all articles or apparatus containing the invention of the said Edison as aforesaid at the periods herein mentioned or do not use reasonable diligence in establishing and prosecuting the business of making and selling such apparatus within the United States then the said Edison shall have the right to terminate this agreement and it shall be null and void and all rights and licenses, and the said parties of the second part shall have no claims upon the said Edison for any money that may have been paid to him. It is further agreed, that if at the expiration of one year from the date hereof the said parties of the second part shall have failed to furnish Fifty Thousand Dollars (\$50 000) for the purpose aforesaid, then the said Edison shall have the right to terminate this agreement but shall have no further claim upon the said parties of the second part¹⁷

It is further agreed that the said Edison will at his own expense protect as far as lays within his power the said invention from piracy or infringement and all improvements upon apparatus for the recording and reproducing of the human voice or other sounds except when such improvements relate to and are for specific use in telegraphy and solely adapted thereto and Clocks Watches and Toys aforesaid which may be made by the said Edison within seventeen years from the date hereof are to come within the provisions of this contract and the said Edison is to receive the percentage before mentioned upon all articles containing said improvements. To enable the said Edison to receive a just and equitable consideration through the medium of the twenty per cent royalty to be paid him, It is hereby expressly agreed that the minimum selling price for each and every apparatus for the recording and reproduction of the Human voice or musical sounds shall not be less than Eighty Dollars, but if at any future time it can be shown to the satisfaction of the said Edison that it would be advantageous to both parties to this contract to sell at a lesser

sum or should any other person at any future time device¹⁸ and^d apparatus for a similar purpose not an infringement of the invention of the said Edison and render it necessary by its competition in the Market to sell at a lesser sum than the said Edison shall name a lesser sum to enable the said parties of the second part to compete with the said other apparatus with profit but no discrimination in the matter of price shall be made between any corporation or individual where such corporation desire to buy and use in their business and not for resale to others

In witness whereof^e we have hereunto set our hands and seals, this Thirtieth day of January 1878

Gardiner G. Hubbard	Hilbourne L. Rosevelt
Geo L Bradley	Chas A Cheever
U H Painter	Thos A. Edison
Witness W K Applebaugh ¹⁹ for H.L.R. C.A.C. G.G.H & TAE	
Witness R W. Devonshire ²⁰	

ADDENDUM^f

Menlo Park N.J. February 20 1878.²¹

In consideration of services performed and to be performed by Chas Batchelor of Menlo Park N.J. in perfecting the Phonographic apparatus above mentioned, I hereby agree to pay to the said Batchelor his heirs or legal representatives ten 10^g per cent, of all monies which I may receive from royalties from the sale of machines under the above contract. It being understood that under the above recited contract, the said Edison receives but fifteen per cent of the twenty per cent therein mentioned, he the said Edison being under contract to pay U H Painter of Washington D.C. five per cent of the said twenty per cent for services performed in obtaining such contract. It is understood that the said Batchelor is not to receive any part of the ten thousand dollars paid to the said Edison to aid him in experimenting= This contract shall be binding upon the heirs or legal representatives of the said Edison

Thos. A. Edison

Witness Wm Carman^{22h}

D (copy), NjWOE, Batchelor, Unbound Documents 1878 (*TAEM* 92:260). Another copy of this agreement is in DF (*TAEM* 19:16) and a printed version is in DF (*TAEM* 51:762). ^aDate from text, form altered; "Copy" in top left corner. ^b"by and" interlined above. ^cInterlined above. ^d"d" was erased. ^eObscured erased word. ^fAddendum is ADS. ^gCircled. ^hSignature enclosed in left brace.

1. Although dated 30 January, this contract was not completed until the beginning of February. Doc. 1191; Hubbard to Painter, 31 Jan. 1878, UHP; a draft is in DF (*TAEM* 19:2).

2. George Bradley, a metallurgist and financier, was then organizing the New England Telephone Co. to market the Bell telephone in those states. *NCAB* 14:440; Tosiello 1979, 194–206.

3. Hilborne Roosevelt (1849–1886) was a first cousin of Theodore Roosevelt and a pioneer in the development of the electric organ. He had several electrical patents to his credit, including electrical devices for organs and telephone improvements. Along with Charles Cheever he organized the Telephone Company of New York. *DAB*, s.v. “Roosevelt, Hilborne”; Tosiello 1979, 215–16.

Roosevelt had first met Edison on 22 December. On 22 January he sent Edison an organ for use in his phonograph experiments, and three days later Edison recorded a notebook entry related to it:

I notice in organ pipes that the slot through which the wind passes is provided with teeth I propose to try this on the edges of the hole in the Telephone= Mr Roosevelt says it makes the tone purer gets rid of the hissing sounds= This may be good for phonograph also= [Vol. 14:22, Lab. (*TAEM* 4:169)]

Cat. 1233:22, 356, Batchelor (*TAEM* 90:64, 231); “That Wonderful Edison,” *New York World*, 29 Mar. 1878, Cat. 1240, item 463, Batchelor (*TAEM* 94:147).

4. This is “West Chester, State of Pennsylvania” in the printed version. DF (*TAEM* 51:762).

5. Edison’s phonograph patent (U.S. Pat. 200,521) contained no explicit reference to any method that would remove material from the recording medium. His failure to include this point became the basis for an important legal contest. See *American Graphophone v. U. S. Phonograph Co.*, (*TAEM* 116:316).

6. This is “production” in the printed version. DF (*TAEM* 51:762).

7. U.S. Pat. 200,521 issued on 19 February.

8. Regarding Edison’s contracts for the use of phonographs with clocks and toys see Doc. 1168 n. 7.

9. Daniel McLean Somers (1841–1912) was a former Park Commissioner of Brooklyn and a director of the Brooklyn Public Library. He was a member of the firm of Somers Brothers, tin manufacturers with a large factory in Brooklyn. The plant was absorbed by Steel Trust in which Mr. Somers was a large shareholder. Obituary, *New York Times*, 30 Aug. 1912, p. 9.

10. Henry J. Davies, a New York clockmaker who had been one of the incorporators of the Ansonia Clock Co. on 21 December 1877 in New York City, was general superintendent of the company in 1878. Letterhead of Ansonia Clock Co., 5 Feb. 1878, DF (*TAEM* 18:913); Bailey n.d., 13.

11. Nothing is known of Russell apart from his contract with Edison.

12. This is “accept” in the printed version. DF (*TAEM* 51:259).

13. This is “well” in the printed version. DF (*TAEM* 51:259).

14. This meant the selling price of the phonograph only and did not include supplies such as foil, recording points, etc.

15. This is “however” in the printed version. DF (*TAEM* 51:259).

16. This sentence is one of two clauses that George Bradley wanted added to the contract. Doc. 1191; Bradley to Hubbard, 25 Jan. 1878, Box 1205, NjWAT.

17. This sentence is one of two clauses that George Bradley wanted added to the contract. Doc. 1191; Bradley to Hubbard, 25 Jan. 1878, Box 1205, NjWAT.

18. This is “devise” in the draft. DF (*TAEM* 19:11).

19. William K. Applebaugh had been an assistant superintendent of Gold and Stock Telegraph Co., in charge of private lines and the bank department, and later took an active interest in the Manhattan Quotation Telegraph Co. and the Domestic Telegraph Co. At this time he was apparently connected with the Telephone Company of New York. Applebaugh was one of the incorporators of the Edison Speaking Phonograph Co. and was placed in charge of demonstrating machines at its offices in March. “Private Telegraphy,” *Telegr.* 9 (1873): 19; Reid 1879, 622, 633; “The Phonograph,” *Sci. Am.* 38 (1878): 193; Articles of Incorporation, DF (*TAEM* 51:771).

20. Devonshire worked in the offices of the Bell Telephone Co. in Boston. Thomas Watson to Hubbard, 3 Sept. 1877, General Manager’s Letterbook; Watson to Hubbard, 12 Apr. 1878, Box 1205; both NjWAT.

21. On the same day, a similar addendum was added to another copy of this contract providing James Adams with five percent of Edison’s royalties. DF (*TAEM* 19:24).

22. William Carman began working in the Menlo Park laboratory office as a bookkeeper and sometime secretary in early February. See *TAEB* 3:6 n. 5; Cat. 1185, Accts. (*TAEM* 22:549).