

1994

# Mount Olympus Waters, Inc. v. Utah State Tax Commission : Petition for Rehearing - Appellant

Utah Court of Appeals

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Kent B. Linebaugh; John N. Brems; Jardine, Linebaugh, Brown and Dunn; Attorneys for Appellant. Jan Graham; Attorney General; Mark E. Wrainwright; Assistant Attorney General; Attorneys for Appellee .

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IN THE UTAH COURT OF APPEALS

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MOUNT OLYMPUS WATERS, INC.,	)	
	)	
Petitioner - Appellant,	)	Case No. 940202-CA
	)	
vs.	)	
	)	Priority No. 15
UTAH STATE TAX COMMISSION,	)	
	)	
Respondent - Appellee.	)	

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PETITION FOR REHEARING - APPELLANT

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On Appeal From The Order Of The  
Utah State Tax Commission

---

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IN THE UTAH COURT OF APPEALS

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Attorneys for Appellant

Mount Olympus Waters, Inc. ("Mount Olympus") hereby petitions for a rehearing and claims that the Court overlooked or misapprehended Mount Olympus' argument that "pasteurization" consists of both hot and cold processes. More specifically, the Court quoted Webster's Third New International Dictionary, originally published in 1961 and reprinted virtually verbatim in the 1986 edition, to support the proposition that pasteurization is only a heat process. However, the Court failed to consider the 1983 supplement to the dictionary relied on by the Court. The supplement to Webster's Third New International Dictionary contains a definition for pasteurization that includes the use of radiation -- a pasteurization process without heat. A copy of the relevant pages from the supplement are attached hereto as Exhibit "A".

Furthermore, the Court failed to explain away the other version of Webster's Dictionary cited by Mount Olympus in their Reply Brief, which definition states that pasteurization does not require heat. Webster's New Collegiate Dictionary page 832 (1981) (a copy of which is attached hereto as Exhibit "B").<sup>1</sup> It is also significant that every version of Webster's New Collegiate Dictionary since 1981 includes a definition of pasteurization that

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<sup>1</sup>The republished editions of the Webster's Third New International Dictionary do not include the supplemental changes except when totally reprinted. On the other hand, Webster's New Collegiate Dictionary includes supplemental changes with more regularity.

does not require heat and that both Webster's Third New International Dictionary as supplemented, and Webster's New Collegiate Dictionary, predate the 1993 amendment to Utah Code Ann. § 59-12-102(15).<sup>2</sup> By sound implications, therefore, our Legislature approved and adopted the definitions contained in the then extant versions of Webster's dictionaries. The legislature is presumed to use words according to their usually accepted meaning. See Savage Industries, Inc. v. Utah State Tax Commission, 811 P.2d 664 (Utah 1991). Clearly, a usually accepted meaning of pasteurization is a process without heat as defined in the dictionaries relied upon by the Court, Mount Olympus and the Utah State Tax Commission.

Finally, three other dictionaries and one encyclopedia include timely definitions of non-heat pasteurization. For example, F. Busta, Pasteurization, McGraw-Hill Encyclopedia of Science and Technology, Vol. 13 at 154 (6th Ed. 1987), says pasteurization includes use of chemical agents to inactivate disease-causing microorganisms. Highlighted copies of the relevant pages of the dictionaries and encyclopedia are attached hereto as Exhibit "C".

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<sup>2</sup> In 1993, the Utah Legislature amended the statute to make reference to the "1987 Standard Industrial Classification Manual." Prior to 1993, the statute referred to the "1972 Standard Industrial Classification Manual."

For the reasons stated, Mount Olympus requests a rehearing on the issue of whether Mount Olympus is entitled to the statutory exemption provided in Utah Code Ann. § 59-12-104(15).

Counsel hereby certifies that this Petition for Rehearing is presented in good faith and not for delay.

Respectfully submitted this <sup>20</sup>19th day of July 1994.

JARDINE, LINEBAUGH, BROWN & DUNN  
A Professional Corporation

By: \_\_\_\_\_

Kent B Linebaugh  
John N. Brems

CERTIFICATE OF SERVICE

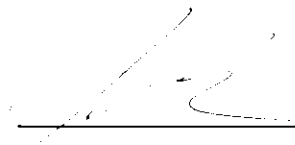
I hereby certify that on the 19<sup>th</sup> day of July 1994, I caused copies of PETITION FOR REHEARING to be served by having the same hand-delivered and left at the office of the following with a clerk or other person in charge thereof:

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EXHIBIT "A"



# 9,000 WORDS

A Supplement to  
Webster's Third  
New International Dictionary



*A Merriam-Webster®*  
MERRIAM-WEBSTER INC. *Publishers*  
Springfield, Massachusetts, U.S.A.

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## Preface

A dictionary begins to go out-of-date as soon as it is published. When Webster's Third New International Dictionary appeared in 1961, it provided as complete a coverage of contemporary American English as was then available. But the editing of the Third had begun more than a decade earlier; the language did not stand still during the editing, nor has it since. To try to keep abreast of the living language, Merriam-Webster editors added an eight-page Addenda section to Webster's Third in 1966, increased it to sixteen pages in 1971, to thirty-two in 1976, and to forty-eight in 1981.

The Addenda section serves two purposes: to record as many as space will permit of the new words and meanings that have become established since Webster's Third was edited and to enter those older words that for various reasons had been passed over in the earlier editing. 9,000 Words is essentially the most recent Addenda section of Webster's Third New International Dictionary; it contains most of the entries of its predecessor, 6,000 Words, and the new material added for 1981. It differs from the Addenda proper in that it has added a number of newer terms for which the Addenda section is physically too small. In addition the somewhat larger compass of a separate book has permitted the inclusion of a more generous selection of quoted illustrations than is possible in the Addenda proper. Still, 9,000 Words has one disadvantage of an Addenda section. It cannot be self-contained; the reader will find it necessary to consult another dictionary for terms—especially technical terms—which are unfamiliar. Every word used in 9,000 Words can be found in Webster's Third or in 9,000 Words; most can be found in a good desk dictionary like Webster's Ninth New Collegiate Dictionary.

In order to get such satisfaction and pleasure as a dictionary affords, one must learn how to use it—that is, how to interpret the information contained in each entry. This knowledge involves mainly an ability to recognize different typefaces, a number of abbreviations that occur over and over, and a few traditional dictionary devices. Every reader is therefore urged to read the Explanatory Notes that follow this preface carefully. After these the reader will find an informative section on the recent growth of English vocabulary, the fields which yield new words, the processes of word-formation, and the means by which Merriam-Webster editors record and define new words and meanings, then a list of pronunciation symbols and a list of abbreviations.

In addition to present members of the staff, the contributions of the following former members of the staff deserve acknowledgment: William C. Hale, Elizabeth A. Johnson, Hubert P. Kelsey, and Amy L. Liston.

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an object through its emission of energy (a passive microwave radiometer) — **3** : making direct use of the sun's heat (as a) without the intervention of mechanical devices (a passive solar house)

**passive immunization** *n* : the process of conferring passive immunity

**passive restraint** *n* : a restraint (as an air bag or seat-locking seat belt) that acts automatically to protect an automobile passenger during a crash

**pasteurization** *n* : partial sterilization of perishable food products (as fruit or fish) with radiation (as gamma rays)

**pasties** *\ˈpæstēz\ n pl* [*paste* to stick + *-ie*, dim. suffix] : small usu. round coverings for a woman's nipples worn esp. by a stripteaser (she popped out of a birthday cake, wearing only pasties and a black garter) — Timothy Ferriss

**pas-tina** *\pɑˈstēnə\ n* [It *pastina*, dim. of *pasta*] : very small bits of pasta used in soup or broth

**pas-tis** *\pɑˈstis, -es\ n [F]* : a French liqueur flavored with aniseed that is usu. drunk mixed with water

**pata-physics** *\pɑd-əˈfɪzɪks\ n pl but sing in constr* [F *pataphysique*] : intricate and whimsical nonsense intended as a parody of science — **pata-physics-cal** *\-əkəl\ adj* — **pata-physics-cian** *\-əˈzɪʃən\ n*

**patch** *n* : a temporary correction in a faulty computer program

**patch** *vt* : **1** : to make a patch in (a computer program) **2** : to connect (as circuits) by a patch cord

**patch-board** *\ˈpætʃ,bɔrd, -bɔrd, -bɔrd, -bɔrd\ n* : a plugboard in which circuits are interconnected by patch cords

**patch panel** *n* : PATCHBOARD

**path** *n* : a sequence of arcs in a network that can be traced continuously without retracing any arc

**patho-mor-phol-ogy** *\ˈpæθə,mɔrˈfɒlədʒi\ n* [*patho-* disease (deriv. of Gk *pathos*, lit., suffering) + *morphology*] : morphology of abnormal conditions — **patho-mor-phol-og-ical** *\-nɔrˈfɒləˈdʒɪkəl\* or **patho-mor-phol-og-ic** *\-jɪk\ adj*

**pa-tri-fo-cal** *\pɑˈtrɪˈfɒkəl, -pɑˈ- adj* [*patr-* father (fr. L *pater*) + *focal*] : gravitating toward or centered on the father : patricentric (a *patrifocal* family structure)

**patterning** *n* : physiotherapy that is designed to improve malfunctioning nervous control by means of feedback from muscular activity imposed by an outside source or induced by other muscles

**pat-zer** *\ˈpætser, -pɑˈ- n* [G *patzer* blunderer, fr. *patzen* to blunder] : an inept chess player

**paup-ette** *\pɑˈpɪet, -ˈpɒpɪet\ n [F]* : a thin slice of meat or fish wrapped around a forcemeat filling

**pay** *vb* — **pay one's dues** *also* **pay dues** : **1** : to experience life's hardships ; earn a right or position through experience, suffering, or hard work (the importance of hard work, long hours — the dues they've paid to get where they are today — Laurence Bergreen) **2** : to suffer the consequences of or penalty for an act (beware of the potential juror who has had unpleasant encounters with the law — having paid his dues he may be determined that you won't avoid yours — Robert Wieder)

**pay-cable** *\ˈpaɪˈkæbl\ n* : pay-TV sending programs through a cable television system to customers provided

with a special signal decoder — compare **SUBSCRIPTION TV**

**pay-load** *\ˈpaɪləd\ n* : the load that is carried by a spacecraft and that consists of things (as passengers or instruments) which relate directly to the purpose of the flight as opposed to things (as fuel) which are necessary for operation. *also* : the weight of such a load

**pay-out ratio** *\ˈpaɪaʊt\ n* : a ratio relating dividend payout of a company to its earnings or cash flow

**pay television** *n* : PAY-TV

**pay-TV** *\ˈpaɪˈteɪv\ n* : a service providing special non-commercial television programming (as recent movies or entertainment specials) by means of a scrambled signal over the air or through a cable system to subscribers who are provided with a signal decoding device — compare **PAY CABLE**, **SUBSCRIPTION TV**

**pazazz** *var of* PIZZAZZ

**PC** *abbr* professional corporation

**PCB** *\ˈpeɪˈseɪb\ n* [polychlorinated biphenyl] : POLYCHLORINATED BIPHENYL

**PCP** *\ˈpeɪˈseɪp\ n* : **1** [prob. fr. phencyclidine + pill] : PHENCYCLIDINE **2** : a crystalline compound C6Cl5OH : pentachlorophenol

**PCV valve** *n* [positive crankcase ventilation] : an automotive-emission control valve that recirculates gases (as from blow-by) through the combustion chambers to permit more complete combustion

**PE** *abbr* physical education

**peaceful co-existence** *\ˈkiːgˈzɪstəns(t)s\ n* : a living together in peace rather than in constant hostility (the peaceful coexistence of states with different social systems — A. P. Mendel)

**peace-nik** *\ˈpeɪˌ(ɪ)snɪk\ n* [*peace* + *-nik* one connected with] : an opponent of war (nor are all the peace-niks in Israel young — Georgiana G. Stevens). *specif.* : one who participates in antiwar demonstrations (pictures of protesting social workers, schoolteachers, peace-niks or whoever marching around carrying signs — *Wall Street Jour.*)

**peace sign** *n* : a sign made by holding the palm outward and forming a V with the index and middle fingers that is used to indicate the desire for peace or as a greeting or farewell

**peace symbol** *n* : the symbol ☺ used to signify peace

**peaches-and-cream** *adj* : of, relating to, or having a smooth wholesome complexion

**pearl** *vi* *of a surfbowd* : to make a nose dive into the trough of a wave

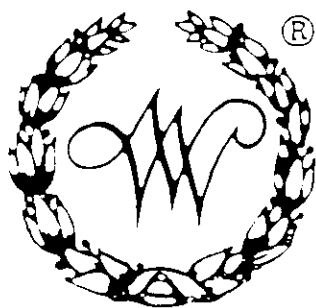
**peat-land** *\ˈpetˌlənd\ n* : land rich in peat

**Peck's bad boy** *\ˈpeks-\ n* [fr. the book *Peck's Bad Boy and his Pa* (1883) by George Wilbur Peck †1916 Am. journalist, humorist, and politician] : one whose bad behavior is a source of embarrassment or annoyance (industry, the Peck's bad boy of environmentalism — *Newsweek*)

**pedal steel** or **pedal steel guitar** *n* : a box-shaped musical instrument with legs that has usu. 10 strings which are plucked with metal finger picks and of which the pitch may be adjusted either by sliding a steel bar along them or by using foot pedals to change their tension

**pe-des-tri-an-ize** *\pəˈdestreɪnɪz\ vt* -ized; -izing : to convert into a walkway or mall — **pe-des-tri-an-iza-tion** *\pəˈdestreɪnɪzəʃən, -nɪz-\ n*

EXHIBIT "B"



ER'S New  
Collegiate  
Dictionary

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EXHIBIT "C"

THE  
AMERICAN  
HERITAGE  
DICTIONARY  
OF THE  
ENGLISH LANGUAGE

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THIRD EDITION



**HOUGHTON MIFFLIN COMPANY**

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CIP

Manufactured in the United States of America

that represents the events associated with the Passion of Jesus

**Passion Sunday** *n.* The second Sunday before Easter

**Passion-tide** (pásh'n-tid') *n.* The two weeks between Good Friday and Easter

**Passion Week** *n.* The week between Passion Sunday and Palm Sunday

**pas·si·vate** (pá'si·vát) *v.* -vated, -vating, -vates. *tr.* 1. To treat or coat with metal, especially to protect the normal activity of its surface. 2. To coat or seal, especially to be impregnated with an antioxidant, preservative, or similar material. *tr.* 3. To coat or seal with. —**pas'si·va'tion** *n.* —**pas'si·va'tor** *n.*

**pas·sive** (pá'si·v) *adj.* 1. Being or acting without action without responding or reacting in a particular manner. 2. Accepting or submitting without opposition or resistance. 3. Not participating actively in a particular event. See **SUBJECTS** at **inactive**. 4. Of a bearing, remaining certain or steady, especially that cannot bear financial stress. 5. Of a material, not being a solar heating or cooling system that uses an external medium as a heat source. 6. **Abbr. pass.** Grammar. Of a verb form or voice used to indicate that the grammatical subject is the object of the action or the effect of the verb. For example, in the sentence *They were impressed by his manner*, *were impressed* is in the passive voice. 7. Chemistry. Inert, except under special or extreme conditions. *inert*. 8. Electronics. Existing in a chain or contributing no energy or power to a circuit element. 9. Psychology. Relating to or characteristic of an inactive or submissive role in a relationship, especially a sexual relationship. —**passive** *n.* 1. **Abbr. pass.** Grammar. a. The passive voice. b. A verb in construction in the passive voice. 2. One that is submissive or inactive. Often used in the plural. "And the rest of us, we passives of the world, proceeded... as if nothing outward had happened" (Martin Gofffried). Middle English, from Old French *passif*, from Latin *passivus*, capable of suffering, from *passus*, past participle of *pati*, to suffer. See **pati** in Appendix. —**pas'sive·ly** *adv.* —**pas'sive·ness** *n.*

**passive immunity** *n.* Immunity acquired by the transfer of antibodies from another individual, as through injection of placental transfer to a fetus. —**passive immunization** *n.*

**passive resistance** *n.* Resistance by nonviolent methods, such as fasting or demonstrating in protests, to a government, an occupying power, or specific laws. —**passive resister** *n.*

**passive restraint** *n.* An automatic safety device, such as an air bag, in a motor vehicle that protects a person during a crash.

**passive smoking** *n.* The involuntary inhalation of tobacco smoke by a person, especially a nonsmoker, who occupies an area with smokers or a smoker.

**passive transfer** *n.* The transfer of skin-sensitizing antibodies from the blood of an allergic individual to that of a nonallergic individual in order to test the sensitized area for an allergic reaction to specific allergens.

**passive transport** *n.* The movement of a chemical substance across a cell membrane without expenditure of energy by the cell, as in diffusion.

**pas·siv·ism** (pá'si·vizm) *n.* Passive character, attitude, quality, or behavior. —**pas'siv·ist** *n.*

**pas·siv·i·ty** (pá'si·vité) *n.* The quality or quality of being passive, inactivity, quiescence, or submissiveness.

**pass·key** (pá'ské) *n.* 1. See **master key**. 2. See **skeleton key**.

**Pass·o·ver** (pá's'vov) *n.* Judaism. A holiday beginning on the 14th of Nisan and traditionally continuing for seven days, commemorating the exodus of the Jews from Egypt. [Translation of Hebrew *pesah*, Passah. See **PESACH**.]

**pass·port** (pá's'pört) *n.* 1. An official government document that certifies one's identity and citizenship and permits a citizen to travel abroad. 2. An official permit issued by a foreign country allowing one to transport goods into, through, or out of that country. 3. An official document issued by an allied foreign government to a ship, especially a neutral merchant ship, in time of war, authorizing it to enter and travel through certain waters freely. 4. Something that gives, in the night, a privilege of passage, entry, or acceptance. *Her lips were her passport to success.* [French *passaport*, from Old French *passer*, to pass, and *port*, port. See **PORT**.]

**pass-through** (pá's'tru) *n.* 1. An opening between two rooms, especially a smoked space between a kitchen and dining room that is used for passing food. 2. A route through which something is permitted to pass. 3. A security that passes through payments made by customers, thus providing investors with regular returns. Also called **pass-through security**. 4. See **pass-along**. —**pass-through** *adj.*

**pas·s·word** (pá's'wörd) *n.* 1. A secret word or phrase that one uses to gain admittance or access to information. 2. Computer Science. A sequence of characters required to gain access to a computer system.

**Pas·sy** (pá'sé, pá-sé) Frédéric, 1822–1912. French economist and pacifist who founded the International League for Permanent Peace (1867). In 1901 he shared the first Nobel Peace Prize.

**Passy, Paul Édouard**, 1859–1940. French philologist who founded the International Phonetic Association (1894).

**past** (pást) *adj.* 1. No longer current; gone by; over. *His youth is past*. 2. Having existed or occurred in an earlier time; bygone; past events: *in years past*. 3. a. Earlier than the present time;

see **the past**. b. Just gone by or elapsed in the past few days. 4. Having served formerly in a given capacity, especially an officer: one a past president; a past inmate of a cell. 5. **Abbr. p.** Grammar. Of relating to or being a verb tense or form used to express an action at a condition prior to the time it is expressed. —**past** *n.* 1. The time before the present. 2. a. Previous background, career, experience, and so forth of a particular person with a particular event. b. A former period of someone's life kept in mind or used for comparison with a current one. c. A bookkeeper's past. 3. **Abbr. p.** Grammar. a. The past tense. b. A verb form in the past tense. —**past** *tr.* 1. To go past. 2. To go by. *He walked past the store.* —**past** *prep.* 1. Beyond in time later than or after a point in time; a quarter past two. 2. Beyond in position; farther than. *The house is past the school, by the first stoplight.* They walked past the museum into a store. 3. a. Beyond the power, scope, extent, or influence of. *The problem is past the point of resolution.* b. Beyond in position, amount, or appropriateness. *The child is past drinking from a bottle. You're past sucking your thumb as a habit.* 4. Beyond the number or amount of. *The child walked past car 23.* See **UPON** Note at **pass**. Middle English, from past participle of *passen*, to pass. See **PASS**.]

**pas·ta** (pá'stá) *n.* 1. Pasta, a food made of wheat flour, eggs, and water, often formed into shapes and dried and used in a variety of recipes after being cooked. 2. A food or dish containing pasta as its main ingredient. *Pasta* is from late Latin *pasta*, *paste*, *pastry*, *cake*. See **PASTRY**.

**paste<sup>1</sup>** (pá'st) *n.* 1. A soft, thick mass, such as of flour and water or of starch and water, that is used as an adhesive for joining light materials, such as paper and cloth. 2. A soft, smooth, thick mixture, as: a. A mixture of water, flour, and butter or other shortening, used in making pastry. b. A food that has been pounded up; it is prepared to a smooth, creamy mass. *cherry paste*. c. A sweet, creamy candy or confection. *rolled apple paste*. 3. The moist clay or clay mixture used in making porcelain or pottery. Also called *putty*. 4. a. A hard, brilliant, lead-containing glass used in making artificial gems. b. A gem made of this glass. In this sense also called *strass*. —**paste** *tr.* **past·ed, past·ing, pastes.** 1. To cause to adhere by or as if by applying paste. 2. To cover with something by or as if by pasting; *He pasted the wall with paper.* The walls were *pasted with splashes*. Middle English, from Old French, from Late Latin *pasta*, from Greek *pasteion*, made from kneading of *pasos*, sprinkled, salted, from *passen*, to sprinkle. See **kwel** in Appendix.]

**paste<sup>2</sup>** (pá'st) *tr.* **past·ed, past·ing, pastes.** Slang. To punch or strike. —**paste** *n.* A hard blow. [Probably alteration of **BASTE**.]

**paste·board** (pá'st'boárd) *n.* 1. A thin, firm board made of sheets of paper pasted together or pressed paper pulp. 2. A card, especially: a. A ticket. b. Money. A playing card. c. A visiting card. —**pasteboard** *adj.* 1. Made of pasteboard. 2. Of inferior quality; flimsy or insubstantial.

**paste·down** (pá'st'dáwn) *n.* The act of mending the endpaper that is pasted to the cover of a book.

**pas·tel** (pá'stel) *n.* 1. a. A drawing medium of dried paste made of ground pigments and a water-based binder that is manufactured in a range of sizes. b. A drawing material. 2. a. A picture or sketch drawn with this type of material. b. The art or process of drawing with pastels. 3. A soft, delicate hue, a pale color, or a room, especially a bedroom. 4. A sketch or brief prose work. —**pastel** *adj.* 1. Of relating to or made of pastel. 2. Pale and soft in color. French, from Italian *pastello*, material made into a paste, from Late Latin *pastellus*, word dye, diminutive of *pastus*, paste. See **PASTRY**. —**pas·tel·ist**, **pas·tel·list** *n.*

**past·er** (pá'stér) *n.* 1. One that applies or covers with paste. 2. A paper stainer.

**pas·tern** (pá'stérn) *n.* 1. The part of a horse's foot between the fetlock and hoof. 2. An anal gland, especially of a dog or other quadruped. [Alteration of Middle English *pastern*, hobble, *pastern*, from Old French *pastern*, diminutive of *pasture*, pasture, rather, alteration of *pasture*, from Latin *pastura*, feminine singular of *pastus*, of herbage, from *pasco*, to shepherd. See **PASTOR**.]

**Pas·ter·nak** (pá'stér'nák) *n.* Boris Leonidovich, 1889–1967. Russian writer, novelist, and *Zhigago* (1957), a novel of dissident movements in the Russian Revolution, was awarded the Nobel Prize for literature. He was forced to refuse the 1958 Nobel Prize for literature.

**paste·up** (pá'st'up) *n.* 1. A composition of light flat sheets pasted onto a sheet of paper that is often working, as: a. A layout of an image to be printed, such as a book cover. b. A collage. 2. The art or process of making such a composition.

**Pas·teur** (pá'stúr) *n.* Louis, 1822–1895. French chemist who founded modern microbiology; invented the process of pasteurization, and developed vaccines for anthrax, rabies, and chicken cholera. —**Pas·teur·i·an** *adj.*

**Pasteur effect** *n.* The inhibiting effect of oxygen on the process of fermentation. After Louis PASTEUR.

**pas·teur·i·za·tion** (pá'stúr-i-zá'sh(ən) pá'stér) *n.* 1. The act or process of heating a beverage or other food, such as milk or beer, to a specific temperature for a specific period of time in order to kill microorganisms that could cause disease, spoilage, or undesired fermentation. 2. The act or process of destroying most microorganisms in certain foods, such as fish or clam meat, by irradiating them with gamma rays or other radiation to prevent spoilage. After Louis PASTEUR.



Louis Pasteur

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degree. Now rare. E17. 4 Beyond the reach, range, or limits of. Also (arch.), without. LME. b Beyond the ability or power of. Chiefly in not to put it past a person, think (a person) quite capable of doing a specified action or behaving in a specified way. colloq. E17.

1 G. GREENE The clock said five past ten. R. PENNELL You should have been at home by eleven. B. W. WAIN A fine hands-me-woman. Ann a little past her first youth. B. PYM The boys of six months, now a little past their best. b O. SAKS Ninety-three and he doesn't look a day past seventy. 2a E. BOWEN She looked past him into the study. P. LARKIN For past these doors are rooms. b D. ABEL The sandbanks would swerve and curve past Jack Peterson's house. I. McEWAN Caroline gathered up the tray and edged past him. G. SWIFT After leaving the churchyard, I take the minor road past Hyde. 4 C. HARE I'm past caring. G. W. TARGET This is getting past a joke.

B. adj. 1 So as to pass or go by. E19. 2 On one side, aside. Sc. & N. Ir. M19.

1 W. C. SWITH The tread of time as it hastens past. L. BRUCE They just nip at your heels when you ride past on your bike. 2 R. L. STEVENSON I'm proud to think we're havin' past siller.

Phrases & comb. march past: see MARCH n. not to put it past a person: see sense A.4b above. past it away: incompetent, incapable, or unusable by reason of age. past oneself (obs. exc. dial.) beside oneself, with rage etc. past-pointing: Med. an inability to point straight at an object or locate it accurately with the eyes closed, indicating malfunction in the cerebellum or in the labyrinth of the ear. past REDEMPTION: past address: see REDRESS n. 2

**pasta** /'pɑ:stə/ n. L19. [It., f. late L. see PASTE n.] 1 A type of dough made from durum wheat flour and water and extruded or stamped into particular shapes (and often dried if not for immediate use). Also, an Italian dish consisting largely of this and usu. a sauce. L19. 2 Mamiuana slang. L20.

**pastance** /'pɑ:stəns/ n. arch. L15 [Anglicized f. Fr. PASSE-TEMPS.] Recreation.

**paste** /peɪst/ n. & a. ME. [OFr. (mod. pâte) f. late L. pasta small square piece of a medicinal preparation f. Gk. pasta, also in pl. pasta, pasta: barley porridge, uses as n. of pastis sprinkled; f. pastum sprinkle] A n. 1 Flour moistened and kneaded; dough. Now only spec. = PASTRY 1. Now chiefly arch. & US. ME. b Any of various soft sweet mixtures made from powdered or ground ingredients and liquid. LME. c A spreadable mixture of seasoned finely ground meat, fish, etc. E19. 2 gen. Any moist but fairly stiff mixture, made esp. from a powder and liquid; spec. arch. a poultice. LME. 3 A mixture of flour, water, etc., used as an adhesive for sticking esp. wallpaper and other light materials. LME. 4 b = PASTEBOARD n. 1. Also, a head-dress made of this. Only in 16. 4 Heavy, very clear flint glass used for making imitation gems; an imitation gem or (collect.) imitation gems made of this. M17. 5 fig. The material of which a person is said to be made. arch. M17. 6 A mixture of clay, water, etc., used for making pottery; esp. one based on kaolin for making porcelain. M18.

1c *broccoli-paste, meat-paste, shrimp-paste*, etc. Italian paste: see ITALIAN a. 2 L. CHAMBERLAIN Cream together the egg yolk and the mustard to make a smooth paste. Vienna paste: see VIENNA 1. 3 What? Hang new wallpaper using a paste which incorporates a mildicide. seasons and paste: see SEASONS 1. 4 LITTON The diamonds went to the jeweller's, and Lady Frances wore paste. T. H. WHITE The combs and brushes sparkled with ornaments in cut paste. b hard paste: see HARD a. soft paste: see SOFT a.

Comb. paste-bodied a. of Chinese porcelain, made of a fine white clay, paste grain Bookbinding split sheepskin coated with paste or glue to harden it and improve the grain, paste-wash n. & v. Bookbinding (a) n. a coating of paste diluted with water, used to improve the grain of the leather. b v. apply paste-wash to leather prior to decoration, paste-water = paste-wash n. above.

B. attrib. or as adj. Made of paste; adorned with a gem or gems of paste. L18.

W. ILLING High-heeled shoes with paste or diamond buckles.

**paste** /peɪst/ v. M16. [f. the n.] 1 v.t. Cause to adhere (as) by means of paste; stick or fasten with paste. Also foll. by down, on, over, together, etc. M16. b Computing. Insert or reproduce at a new location (already existing text). Freq. assoc. w. cut. L20. 2 v.t. Cover (stn) with material pasted on. E17. 3 v.t. Beat, thrash, strike hard. Obsolete but a ball hard. slang. M19.

1 V. WOODS Her husband read the placard pasted on the brick. 3 K. O. CANNALAS cleaned up, pasting him with vicious shots.

Comb. paste-downing, a piece of paper used as a lining inside the cover of a book, now, the part of the endpaper which is pasted to the inside of the cover; paste-in a correction or illustration printed separately from the main text of a book and pasted to the margin of the relevant page by its inner edge. paste-over a piece of paper pasted over text to cancel it, the use of a paste-over or paste-overs. paste-up (a) a plan of a page with sections of text etc. either pasted on or represented by outlines; a document prepared for copying in this way; (b) gen. any piece of paper or card with a newspaper etc. clipping pasted on it.

**pastor** n. a) a person who preaches something, b) a piece of adhesive paper; spec. an adhesive label. M18.

**pasteboard** /'peɪstbɔ:rd/ n. & a. E16. [f. PASTE n. or v. + BOARD n.] A n. 11 Stuff material made by pasting sheets of paper together (and, now, compressing them). Also, now rare, a piece of this, spec. a board or cover of a book. E16. b fig. This as the type of something flimsy, unsubstantial, or counterfeit (cf. sense B 2 below). E19. 2 slang. a A visiting-card. M19. b A playing-card. M19. c A train ticket. M19. 113. Usu. w. hyphen. A board on which paste or dough is rolled out. M19. B. attrib. or as adj. 1 Made of pasteboard. L16. 2 fig. Unsubstantial, unreal, counterfeit. M17.

**pastel** /'pɑ:stəl/ n. & a. L16. [Fr. f. It. pastello dim. of pasta paste f. late L. see PASTE n. & a., -EL-; in sense 1 of the n. partly f. Prov. pastel] A n. 1 The plant woad, *Isatis tinctoria*, the blue dye obtained from it. L16. 2 A crayon made of a dry paste made from ground pigments and gum-water. L16. 3 A drawing made with a pastel or pastels. Also, the art of drawing with pastels. M19. 4 A pale and subdued shade of a colour. L19.

2 in pastel drawn with a pastel or pastels. 3 M. MOORCOCK On the eggshell walls hang more pastels of the seaside.

B. adj. Of a pale or subdued shade or colour. L19.

P. SCOTT Pastel colours such as salmon pink.

**pastellist** /'pɑ:stəlɪst/ n. Also **pastelist**. L19. [f. prec. + -IST.] An artist who works with pastels.

**pastern** /'pɑ:stərn/ n. Ong. **†pastron**. ME. [OFr. *pasturon* (mod. *pasturon*), f. *pasture* dial. *pasture* hobbler, ult. f. med. L. *pastoria*, -ium use as n. of fem. and neut. of L. *pastor* pertaining to a shepherd, f. as PASTOR.] 1 A shackle fixed on the foot of a horse (esp. one not broken in) or other pastured animal. ME-E17. 2 The part of a horse's foot between the fetlock and the hoof. LME. b The corresponding part in other quadrupeds, transf. the human ankle. M16. c In full *pastern-bone*. Either of the two phalangeal bones in the foot of a horse. *upper or great, and lower or small pastern* between the cannon-bone and the coffin-bone. E17.

Comb. *pastern-joint* the joint or articulation between the cannon-bone and the great pastern-bone.

**†pasterned** a. having pasterns of a specified kind etc.

**Pasteur** /'pɑ:stɔ:ʀ/ foreign **pastoriz** n. M20. [Louis Pasteur (1822-95), Fr. scientist.] Med., Biochem., etc. Used attrib. and (formerly) in possess. to designate apparatus and methods devised by Pasteur and effects discovered by him.

**Pasteur effect** the inhibition of fermentation by oxygen, in favour of respiration. **Pasteur flask** a glass flask with an elongated neck bent downwards to reduce the entry of micro-organisms from the air.

**Pasteur pipette** a glass pipette which at one end has a rubber bulb and at the other terminates in a capillary tube; ong. spec. a sterilized pipette of this kind. **Pasteur treatment** = PASTEURISM.

**pasteurella** /'pɑ:stɔ:ʀələ, -stjə-, pa- n. Pl. -llae -li-, -llas. E20. [mod. L. f. prec. + -ELLA after *salmonella*.] Bacteriol. A small rodlike Gram-negative bacterium of the genus *Pasteurella*,

which includes those causing plague and other acute infectious diseases in people and warm-blooded animals.

**pasteurellosis** /'pɑ:stɔ:ʀələʊsɪs, -pa- n. Pl. -lloses -lloisɪz. E20 [f. prec. + -OSIS] Med. & Vet. Med. An infection produced by a bacterium of the genus *Pasteurella*.

**pasteurise** v. var. of PASTEURIZE

**Pasteurism** /'pɑ:stɔ:ʀɪzəm, -stjə-, -pɑ:st- n. L19. [f. PASTEUR + -ISM] Med. A therapeutic method, esp. for babies, involving successive inoculations with attenuated virus gradually increasing in virulence. Also called *Pasteur treatment*.

**pasteurize** /'pɑ:stjəʀaɪz, -stjə-, -pɑ:st- v. t. Also -ise. L19. [f. PASTEUR + -IZE.] Subject (milk, wine, etc.) to a process of partial sterilization, usu. involving heat treatment or irradiation, so as to kill most of the micro-organisms present, making it safe for consumption and improving its keeping quality. Freq. as *pasteurized* ppl. a.

**pasteurization** n. L19. **pasteurizer** n. an apparatus for pasteurizing milk. L19.

**pasticcio** /'pɑ:stɪtʃiəʊ, -stjə-, -pɑ:st- n. Pl. -os. M18. [It. = pie, pastry, f. Proto-Romance, f. late L. *pasta* PASTE n.] = PASTICHE n.

**pastiche** /'pɑ:stɪʃ/ n. & v. L19. [Fr. f. as prec.] A n. A medley of various things; spec. (a) a picture or a musical composition made up of pieces derived from or imitating various sources, (b) a literary or other work of art composed in the style of a well-known author, artist, etc. L19.

R. GITTINGS Nearly every poem was a pastiche of a different poet. *Alhambra* A 17th-century pastiche made up from two different Roman statues.

B. v. t. & v. i. Copy or imitate the style of (an artist, author, etc.). M20.

**pasticheur** /'pɑ:stɪʃɔ:ʀ/ n. E20 [Fr., f. prec. + -EUR -OR.] An artist who imitates the style of another artist.

**pastie** /'peɪstɪ/ n. slang. M20 [f. PASTE v. + -IE.] A decorative covering for the nipple worn by a stripper. Usu. in pl.

**pastiglia** /'pɑ:stɪglɪə, -stjə-, -pɑ:st- n. E20. [It. = paste.] Intricately moulded gesso used in the decoration of furniture, caskets, etc., in Renaissance Italy.

**pastil** n. var. of PASTILLE

**pastillage** /'pɑ:stɪlɪdʒ, -stjə-, -pɑ:st- n. E20. [Fr., lit. 'compression of paste into blocks'.] Ceramics. Decoration consisting of slip dribbled from a thin tube or a spouted vessel.

**pastille** /'pɑ:stɪl, -stjə-, -pɑ:st- n. Also **pastil**. M17. [Fr. f. L. *pasillus* little leaf or roll, lozenge, dim. of *pasus* leaf.] 1 A small pellet of aromatic paste burnt as a perfume or as a fumigator, deodorizer, or disinfectant. M17. 2 A small flat, usually round, sweet, often coated with sugar and sometimes medicated; a lozenge. M17. b Med. A small disc of bismuth platinocyanide whose gradual change of colour when exposed to X-rays was formerly used as an indication of the dose delivered. E20.

Comb. *pastille burner* an ornamental ceramic container in which to burn aromatic pastilles.

**pastime** /'pɑ:stɑɪm/ n. & v. L15. [f. PASS v. + TIME n.] A n. 1 That which serves to pass the time agreeably; recreation. arch. L15. 2 A particular form of (enjoyable) recreation; a hobby; a sport; a game. L15. 3 A passing or elapsing of time; a space of time. L15. E16.

1 T. HARDY The children had been given this Friday afternoon for pastime. 2 K. CLARK Generations of amateurs have indulged in the involved pastime of book collecting. A. HARDING I should like to make drawing or painting the means of supporting myself, rather than mere pastimes.

B. v. t. 1 v. i. Pass one's time pleasantly; amuse oneself. Only in 16. 1b v. t. Divert, amuse. Only in L16. 2 v. t. Amuse oneself with. rare. M19.

†**pastinate** v. t. LME. M18. [L. *pastinatus* -pa. ppl stem of *pastinare* dig see -ATE<sup>3</sup>] Dig, esp. in preparation for planting.

**pastiness** /'peɪstɪnɪs/ n. E17. [f. PASTY a. + -NESS.] The quality or condition of being pasty.

**pasting** /'peɪstɪŋ/ n. L16. [f. PASTE v. + -ING<sup>1</sup>] 1

b but, d dog, f few, g get, h he, j yes, k cat, l leg, m man, n no, p pen, r red, s sit, t top, v van, w we, z zoo, / she, ʒ vision, θ thin, ð this, ñ ring, tʃ chip, dʒ jar



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or appetite. 2. **a.** Ardent love. **b.** Strong sexual desire; lust. **c.** The object of such love or desire. 3. **a.** Boundless enthusiasm. **b.** The object of such enthusiasm. 4. **Passion.** The sufferings of Christ following the Last Supper and including the Crucifixion. [*< Lat. passus, p.p. of pati, to suffer.*] —**pas'sion-ate** *adj.* —**pas'sion-less** *adj.*

**pass-ive** (pás'iv) *adj.* 1. Not active but acted upon. 2. **Accepting** without resistance; submissive. 3. **Gram.** Denoting a verb form or voice used to indicate that the grammatical subject is the object of the action. —*n.* **Gram.** 1. The passive voice. 2. A verb or construction in the passive voice. [*< Lat. passivus, capable of suffering.*] —**pas'sive-ly** *adv.* —**pas'siv-ly** (pá-siv'l-ē) or **pas'sive-ness** *n.*

**pass-key** (pás'kē) *n.* A master key.  
**Pass-over** (pás'óvər) *n.* A Jewish festival celebrated in the spring and commemorating the Exodus from Egypt.

**pass-port** (pás'pört, -pört') *n.* An official governmental document that certifies the identity and citizenship of an individual traveling abroad. [*Fr. passeport.*]

**pass-word** (pás'wörd) *n.* A secret word or phrase spoken to a guard to gain admission.

**past** (pást) *adj.* 1. No longer current; over. 2. Having existed or occurred in an earlier time; bygone. 3. **a.** Earlier than the present time; ago: *forty years past.* **b.** Just gone by: *in the past month.* 4. **Gram.** Of or denoting a verb tense or form used to express an action or condition prior to the time it is expressed. —*n.* 1. The time before the present. 2. A person's history, background, or former activities. 3. **Gram.** **a.** The past tense. **b.** A verb form in the past tense. —*adv.* So as to pass by or go beyond: *He walked past.* —*prep.* 1. By and beyond: *walk past the theater.* 2. Beyond in position, time, extent, or amount. [*ME < p.p. of passen, to pass.*]

**pas-ta** (pá'stā) *n.* 1. Paste or dough made of flour and water, as in macaroni and ravioli. 2. A prepared dish of pasta. [*Ital. < LLat.*]

**paste** (pást) *n.* 1. A smooth, viscous adhesive, as that made of flour and water. 2. Dough, as that used in making pastry. 3. A food made by pounding or grinding: *almond paste.* 4. Moistened clay used in making porcelain or pottery. 5. A hard, brilliant glass used in making artificial gems. —*v.* **pasted, past-ing.** 1. To cause to adhere by applying paste. 2. *Slang.* To punch; hit. [*< LLat. pasta.*]

**paste-board** (pást'bórd, -bórd') *n.* A thin, firm material made of sheets of paper pasted together.

**pas-tel** (pá-stél') *n.* 1. **a.** A dried paste made of ground and mixed pigment. **b.** A crayon of pastel. 2. A picture or sketch drawn with a pastel crayon. 3. A light or pale tint. [*LLat. pastelus, woad < pasta, paste.*]

**pas-tern** (pás'tərn) *n.* The part of a horse's foot between the fetlock and hoof. [*< OFr. pasturon < pasture, pasture.*]

**pas-tour-i-za-tion** (pás'chó-rí-zá'shən) *n.* The process of destroying most disease-producing microorganisms and limiting fermentation in liquids such as milk and beer by partial or complete sterilization. [*< Louis Pasteur (1822-95).*] —**pas'tour-ize**' (pás'chó-ríz') *v.*

**pas-tiche** (pá-stésh', pá-) *n.* A dramatic, literary, or musical piece made up of selections from various works. [*< Ital. pasticcio.*]

**pas-tile** (pá-stél') *n.* Also **pas-tíl** (pás'tíl) *n.* A small medicated or aromatic tablet; lozenge. [*< Lat. pastillus.*]

**pas-time** (pás'tím) *n.* An activity that occupies one's time pleasantly.

**pas-tor** (pás'tər) *n.* A Christian minister who is the leader of a congregation. [*< Lat., shepherd.*] —**pas'torate** (-tər-ē) *n.*

**pas-toral** (pás'tər-əl) *adj.* 1. Of or pertaining to shepherds, herdsmen, etc. 2. Of or pertaining to rural life. 3. Of or pertaining to a pastor or his duties. —*n.* A literary or other artistic work that portrays rural life, usu. in an idealized manner.

**pas-to-ral** (pás'tə-rál, -rál', pás'-) *n.* A musical composition with a pastoral theme. [*Ital.*]

**-past participle** *n.* A participle that indicates completed action and that is used as an adjective and to form the passive voice and the perfect tenses.

**pas-trami** (pə-strá'mē) *n.* A highly seasoned smoked cut of beef, usu. from the breast or shoulder. [*Yiddish < Rum. pastramă.*]

**pas-try** (pá'strē) *n., pl. -tries.* 1. A baked paste of flour, water, and shortening used for the crusts of such foods as pies and tarts. 2. Baked foods made with pastry.

**pas-turage** (pás'char-ij) *n.* 1. Grass or other plants eaten by grazing animals. 2. Grazing land.

**pas-ture** (pás'chər) *n.* 1. Plants such as grass eaten by grazing animals. 2. A piece of land on which animals graze. —*v.* **-tured, -tur-ing.** 1. To herd (animals) into a pasture to graze. 2. To graze. [*< Lat. pastus, p.p. of pascere, to feed.*]

**pas-ty** (pá'stē) *adj.* **-er, -est.** 1. Resembling paste, as in color. 2. Pale and unhealthy-looking.

**pat** (pát) *v.* **pat-ted, pat-ting.** 1. **a.** To tap lightly with a flat implement. **b.** To stroke gently, esp. as a gesture of affection. 2. To mold by tapping lightly with the hands or a flat implement. —*n.* 1. A light stroke or tap. 2. The sound made by a pat. 3. A small mass: *a pat of butter.* —*adj.* 1. Precisely suited. 2. Prepared and ready for use: *a pat answer.* 3. Facile; glib. —*adv.* 1. Without changing position; steadfastly: *standing pat.* 2. Perfectly; precisely: *had the instructions down pat.* [*< ME patte, a light blow.*] —**pat-ly** *adv.* —**pat'ness** *n.*

**pa-ta-ca** (pə-tá'kə) *n.* See table at currency. [*Port.*]

**patch** (pách) *n.* 1. A small piece of material affixed to another piece to conceal or reinforce a weakened or worn area. 2. A cloth badge affixed to a sleeve to indicate the military unit to which one belongs. 3. **a.** A dressing or bandage for a wound. **b.** A small shield of cloth worn over an injured eye. 4. A small piece of land. 5. A small area that differs from the whole: *a patch of blue sky.* —*v.* 1. To put a patch on. 2. To repair or put together, esp. hastily. —*phrasal verb.* **patch up.** To settle: *patched up a quarrel.* [*ME pacche.*]

**patch test** *n.* A test for allergic sensitivity

á pat á pay á care á father é pet é be í pit í tie í pier ó pot ó toe ó paw, for, or noise oo took oo boot ou out th thin th this ú cut ú urge yoo abuse zh vision ˘ about, item, adlib, gallop, circus

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tions with septicemia and meningitis. *Pasteurella daemana*, *P. "gas,"* *P. "new species,"* or *P. pneumotropica* (type Henriksen), *P. canis*, and *P. stomatis* may cause similar, though generally less severe, infections in humans after contact with domestic or wild animals. Other *Pasteurella* species appear to be confined to particular hosts. For example, *P. canaliculata* and *P. salmon* (*Haemophilus salmon*) and several unnamed species infect birds. The control of pasteurellosis in domestic animals is an economically important task, but the problems of zoonotic pathogens are widely unresolved. See *Haemophilus*, *Streptococcus*.

The bovine pathogen *P. haemolytica*, the human parasite *P. uretica*, and *P. pneumotropica* (types Jawetz and Heyd), which are common in rodents and some other mammals, do not belong strictly to the genus *Pasteurella* but are closely related to the *Actinobacillus* group. *Pasteurella aerogenes* (frequently occurring in swine) and the *Pasteurella*-like "SP" group (which may affect painted pigs and humans) are not true pasteurellas, and their precise taxonomic positions at the genus level are presently unknown. The etiologic agent of plague is no longer classified as a *Pasteurella* species but has been transferred to the genus *Yersinia*. See *Yersinia*.

Although many resistant *Pasteurella* strains have been encountered, human *Pasteurella* infections are as a rule readily sensitive to the penicillins and a variety of other chemotherapeutic agents. See *Antibiotics*; *Diseases*; *Gram*; *Microorganisms*; *Pathology*.

Water-Manning

**Bibliography.** G. R. Carter, Genus *Pasteurella* Frevisan 1887, in N. R. Krieg and J. G. Holt (eds.), *Bergey's Manual of Systematic Bacteriology*, vol. 1, 1984; M. Kilian, W. Frederiksen, and E. L. Biberstein (eds.), *Haemophilus, Pasteurella and Actinobacillus*, 1987.

## Pasteurization

The treatment of foods or beverages with mild heat, irradiation, or chemical agents to improve keeping quality or to inactivate disease-causing microorganisms. Originally, Louis Pasteur observed that spoilage of wine and beer could be prevented by heating them a few minutes at 122–140 F (50–60 C). Today pasteurization as a thermal treatment is applied to many foods, including liquid eggs, crab, fruit juices, pickles, sauerkraut, smoked fish, beer, wine, and dairy products. In foods consumed directly, destruction of pathogens to protect consumer health is paramount, while in products without public health hazards, control of spoilage microorganisms is primary. In fermentation processes, the raw material may be pasteurized to eliminate microorganisms that produce abnormal end products, or the final product may be heated to stop the fermentation at the desired level. In many cases, such as with some dairy products, mild heat treatments are used for all of these purposes.

Milk and dairy products probably represent the most widespread use of pasteurization. Several time-temperature combinations have been approved as equivalent: 145 F (63 C) for 30 min; 161 F (72 C) for 15 s; 194 F (89 C) for 1 s; 194 F (90 C) for 0.5 s; 204 F (94 C) for 0.1 s; 204 F (96 C) for 0.05 s; or 212 F (100 C) for 0.01 s. These precise heat treatments are based on the destruction of the rickettsia *Coxiella burnetii*, which is considered the most heat-

resistant nonsporulating pathogen found in milk. Absolute control of the thermal treatment is essential for safety. Pasteurization of milk has successfully eliminated the spread of diseases such as diphtheria, tuberculosis, and influenza. Although pasteurized milk is safe, *Brucella abortus* and *Brucella melitensis* (Milk) have been reported.

James F. Busta

## Patent

Common designation for letters patent, which is a certificate of grant by a government of an exclusive right with respect to an invention for a limited period of time. A United States patent confers the right to exclude others from making, using, or selling the patented subject matter in the United States and its territories. Portions of these rights deriving naturally from it may be licensed separately, as the rights to use, to make, to have made, and to lease. Any violation of this right is an infringement.

An essential substantive condition which must be satisfied before a patent will be granted is the presence of patentable invention or discovery. To be patentable, an invention or discovery must relate to a prescribed category of contributions, such as process, machine, manufacture, composition of matter, plant, or design. In the United States there are different classes of patents for different members of these categories.

**Utility patents.** Utility patents, which include electrical, mechanical, and chemical patents, are the most familiar; they each have a term beginning upon issue and ending 17 years later. This 17-year class of patent is granted (or issued) for a process, manufacture, machine, or composition of matter which meets the statutory criteria. A process may, for example, be a method of inducing or promoting a chemical reaction or of producing a desired physical result (such as differential specific gravity, or separation by flotation).

"Manufacture" means any article of manufacture, and includes even diverse items as waveguides, transistors, fishing reels, mammals, nations, and eorks. "Machines" has its broadest conventional meaning, and "composition of matter" includes, for example, drugs and alloys; patentability is not precluded by the fact that the subject matter is alive. This class of patent affords protection for the invention and normally a range of equivalents for doing substantially the same thing in substantially the same way. Thus mere changes in form, material, inversion, or rearrangement will not avoid infringement of the utility patent. A straightforward substitution of one active device for another, as a transistor for an electronic tube, is not normally such a change as to avoid infringement of a utility patent.

**Design patent.** This class of patent is granted for any new, original, and ornamental design for an article of manufacture. If the exact form or shape is determined by function, rather than ornamental considerations, it is not proper subject matter for a design patent. To make the utility patent, the design patent may be avoided by a change in appearance, although the essential function may be retained. The design patent is issued for 14 years.

**Plant patents.** This class of patent is granted to one who discovers and asexually reproduces any distinct and new variety of plant other than a tuber-prop-