

RECENT DECISIONS RELATING TO PATENTS, TRADE MARKS, ETC.**By the U. S. Circuit Court—Southern District of New York.****LICENSEES—NELSON v. MCMANN et al.—ELASTIC PACKING FOR JOINTS.**

1. A party who, at best, is but a mere licensee cannot maintain an action for infringement in his own name.

2. The distinction between patentees, assignees, grantees of exclusive rights, and licensees, made by the law of 1836, and thereafter defined by the courts, has not been changed by the act of 1870. A licensee cannot sue alone in his own name.

By the U. S. Circuit Court—District of Connecticut.**HICKS v. MÖLLER.—BOTTLE STOPPER.**

The patent (No. 48,300) granted to E. D. Moyer, June 20, 1865, for improvement for bottle stoppers, is not infringed by the device patented (reissue) to C. De Quillfeldt, June 5, 1877, the two devices being substantially different in construction and mode of operation.

By the U. S. Circuit Court—Northern District of New York.**GARRETSON v. CLARK et al.**

1. Where the entire value of the whole machine as a marketable article is properly and legally attributable to the patented features, the profits may be estimated by showing the profits derived from making and selling the article containing the patented features and the profits realized from the manufacture and sale of other forms of the same article not embodying the patented features.

2. The burden is on the plaintiff to lay a basis by evidence for ascertaining the proper profits or damages, and it is not the province of the master, nor of the court, to suggest any specific line of proof as proper or necessary.

By the Commissioner of Patents.**TRADE MARK.**

The term "Masonic" is not registrable as a trade-mark for cigars.

Although the noun from which this adjective was formed is old in our language, the adjective itself seems to have been contributed to the language by the order to which it applies, and its only meaning is "pertaining to the craft or mysteries of Freemasonry." Applied as a trade-mark to cigars it would be descriptive of the cigars, connecting them in origin, or use, or adaptation, with the Masonic order. The words Presbyterian, Methodist, or Roman Catholic, used as trade-marks for cigars, would stand on the same footing. Such words are not registrable as trade-marks.

TRADE-MARK.

The words "Granulated Dirt-Killer Soap" are registrable as a label, but not as a trade mark, for soap.

The word "dirt-killer" appears to be decidedly suggestive of a quality of the commodity to which the label is to be applied. In my judgment the registration of the words "Granulated Dirt-Killer Soap" as a trade-mark for soap might well be refused by the examiner, on the ground that the words are descriptive of the soap.

TRADE-MARK.

The name "Bob Ingersoll," associated with the representation of the bust and head of a man, is registrable as a trade-mark for cigars, Mr. Ingersoll having filed his consent, in writing, to the registration.

ALLEGATION OF EXAMINER.—HILL—TOY.

1. The applicant's affidavit is *prima facie* proof not only that he is an original inventor, and believes himself to be the first inventor, but also that he is the first inventor.

2. The mere allegation by the examiner that an invention has long been known and used in public, is not evidence of lack of novelty. It must be supported by affidavit, as provided in the rule of April 12, 1879.

BURGESS v. WETMORE.—MAGAZINE FIREARMS.

1. As against a prior applicant who had reduced the invention to practice before his application was filed, it is necessary for a subsequent applicant to show not only priority of conception and diligence in the prosecution of invention, but also a lawful reduction to practice.

2. A concession of priority is, under the rules, binding upon the parties to the concession, and also upon all the parties to the interference. But the rule goes no farther. It permits no party, by a concession, to fix the date of the invention of another party as against a third party to the interference. It renders no statement of foreign matter introduced into the concession legal evidence against anybody except the persons who make them.

3. The reduction of an invention to practice by a person who is not the inventor, nor the agent of the inventor, even though he may have derived his knowledge of the invention from him, is not equivalent to a reduction to practice by the inventor himself. The law accords the patent to the later applicant who connects by due diligence a prior conception, not with a reduction to practice by some one else, but with a reduction in practice by himself or his agent.

EX PARTE WINTHERLICH et al.—PROCESS OF MAKING DROP-SHOT.

1. A machine and its product cannot be joined in one application when they constitute different inventions; but

when, being inseparable in their nature, they constitute one and the same invention, they may be so joined.

2. The applicant cannot be required to suggest considerations or proofs which shall establish these relations between the machine and the product beyond the possibility of reasonable doubt. It is enough if the reasons on which he bases his claim that the two are inseparable overbalance the opposing reasons in the judgment of the tribunals having jurisdiction of the case.

3. These reasons may be suggested by the laws of nature or by the testimony of witnesses. In cases of evident conflict between the two, the former must, of course, prevail.

EX PARTE CARTER.—MANUFACTURE OF RAKES.

1. In an application for a process patent every stage or sub-process distinctly claimed, which is capable of illustration by drawing, must be illustrated; but it is not, in general, necessary to illustrate by drawings the several steps in each stage of a sub-process claimed.

2. Where the applicant claims as a single sub-process the bending of the shank of a rake and the finishing of the shoulder at the junction of the shank and rake head, it is not necessary for him to illustrate, by drawing, the blanks with the shank bent but not compressed or finished about the head.

3. If a drawing of dies used in a sub-process can fairly be regarded as essential to such a description of the sub-process as will enable those skilled in the art to practice the invention, then a drawing must be furnished, although novelty in the construction of the dies may not be claimed.

EX PARTE DINKELBIHLER.—BRUSHES.

A claim for a rotary brush, with handles at right angles to each other connected by a frame, cannot be joined with a claim for a rotary brush with handles at the opposite ends of its axis, for the two sets of handles do not co-operate with each other, nor are they used either simultaneously or successively in the accomplishment of any result.

ACTIENGESSELLSCHAFT APOLLINARIS-BRUNNEN v. SARATOGA SELTZER SPRING CO.—MOTION TO REOPEN INTERFERENCE.

1. The effect of sections 1,750 and 4,905 of the Revised Statutes is to authorize the Commissioner of Patents to establish rules for taking depositions before United States consuls in foreign countries. There is no other authority for taking depositions in interference cases. These statutory provisions do not execute themselves, nor provide for their own execution otherwise than through rules to be established by the Commissioner.

2. The rules for taking depositions in interference cases, now in force, do not apply to foreign countries.

MECHANICAL INVENTIONS.

An improvement in pitman connections, patented by Mr. Samuel Shiffett, of North River, Va., is especially adapted for use in connection with machinery for harvesting, where the reciprocation is rapid and frequent oiling is required; and it is also applicable to all kinds of machinery where a pitman or connecting-rod is made use of.

An improvement in washing machines has been patented by Mr. James Carroll, of San Francisco, Cal. The object of this invention is to provide a machine for washing clothes of all descriptions, but especially adapted for woolen clothes, because it will wash them without shrinking them.

An improvement in railway water-tanks has been patented by Mr. John D. Craig, of Vienna, Ill. The objects of the improvements are to prevent the freezing of the water in the tank from affecting the valve-stem and valve, and causing leakage and the consequent freezing and choking of the outlet-pipe; to prevent the bouncing and dancing of the valve when closed by the formation of a vacuum when the water is shut off; to adapt the outlet-pipe to the admission of the valve-stem, and to provide a hinged coupling for the extension of the outlet-pipe.

Mr. William H. Pilliner, of Elko, Nev., has patented a gold-washer and amalgamator of simple construction, designed for the purpose of obtaining gold, either in the wet or dry way, from the ores containing it. In this washer the particles of gold are rubbed into the quicksilver by the revolutions of a cylinder. A forcible contact is secured which must of itself very considerably increase the percentage of amalgamation, while the much longer exposure of the gold to the mercury, which is possible in this washer, adds still more to its advantage.

Mr. John E. Freeman, of Herkimer, N. Y., has patented an improvement in steam generators or boilers, which is so constructed that the steam will be generated very rapidly, and at the same time less fuel will be required than with boilers of the ordinary construction. It consists in the combination of cocks with the tubes connecting the tubes that form the vertical walls of the fire-chamber with the water-receiving chamber, and placed below the level of the fire-chamber, so as to be away from the heat.

Mr. Daniel Hubbard, of Oswego, N. Y., has patented a reaction turbine wheel, in which the wheel is surmounted by an air-chamber, and is set on the outside of a scroll-shaped flume that has a central aperture, through which the water is delivered into a corresponding central aperture in the wheel.

Messrs. Montague M. McGregor and James C. Croxton, of Rockwall, Texas, have patented an improved traction-engine for hauling freight upon roads and in other places, and for driving various kinds of light machinery. It is so

constructed that the boiler will be held in a vertical position, whatever be the grade of the roadway, and that will cut off steam instantly at any desired point of the piston-stroke.

What We are Doing.

Probably never in the history of the world have mechanical invention and scientific discovery been brought to bear so universally and effectually to cheapen and improve the products of industry as in the past ten years. Especially has this been the case in this country, until, with our manifold labor-saving appliances, we have been enabled to place our wares in all the leading markets of the world, competing favorably with the poorly-paid and cheap hand-labor of the older countries. The iron and steel industries are wonderful examples of the progress made, every step, from taking the ores from the mine to the finished product in tool or machine, being cheapened by labor-saving inventions; while science comes in to utilize what was formerly considered worthless and magnify results in increased values.

Blast furnaces now turn out double the product of former years without increasing the size, and from many parts of the country we have been told that iron was made at from \$11 to \$14 per ton. Considering these facts, and the facilities now known of utilizing our abundant lean and cold short ores, many of our conservative and solid manufacturers look with alarm upon the persistent efforts of some of our dealers to "talk up" prices and urge a yet greater advance. If pig iron can be made for \$14 per ton, or even at \$16, it is thought that it would be best for the interests of trade that the prices ruling for the past few weeks should not continue. The price of iron, like the price of bread, touches vitally so many industrial interests of the world that an advance of from 75 to over 100 per cent, in the face of great reductions in the cost, cannot but react in disaster.—*American Manufacturer and Iron World.*

A Bridge of Old Rails.

The *Engineering News* states that a new iron bridge to carry the carriage road over the railway at the Intercolonial station, St. Johns, N. B., is, with the exception of the hand railing, which is made of cast-iron posts and gas-pipe, built entirely of old rail. The trusses are of the form known as the "bow-string." There are two roadways, each 13 feet wide, with sidewalks outside of trusses, each 5 feet wide, protected with iron hand-railing. The top chords of the outside trusses consist of two large T rails (weighing 70 lb. to the yard), and the bottom chord of two U rails, weighing 56 pounds to the yard. The center truss consists of three large T rails on top, and three U rails in the bottom chord. The diagonals between chords are U rails secured to chords with a wrought-iron fastening, riveted into the U, surged down and fitted with bolt and nut. The floor beams are made of T rails, riveted flange to flange, and secured to chords with angle iron. The floor consists of longitudinal floor timbers, covered transversely with three inch planks.

Air as a Stimulant.

The exciting and stimulating properties of pure oxygen are well known, and every one has felt the invigorating influence of fresh air, yet no practical application has been made of these beneficial properties of a substance so cheap and universal. When the body is weak, the brain fatigued, and the whole system in a state of lassitude, just go into the open air, take a few vigorous inspirations and expirations, and the effect will be instantly perceived. The individual trying the experiment will feel invigorated and stimulated, the blood will course with freshness, the lungs will work with increased activity, the whole frame will feel revived, and nature's stimulant will be found the best.

Fever and Ague.

There are some situations where fever and ague prevails every season, and this is the case in the vicinity of creeks and swamps. An acquaintance of ours, who has resided for several years on one of these creeks, never has had a single case of fever and ague in his family, while all his neighbors have been more or less affected with it every season. He attributes his immunity from this troublesome disease to the use of a good fire in his house every chilly and damp night in summer and fall. When the Indians travel at night or early in the morning in swampy regions they cover their nose and mouth with some part of their garments to warm the air which they inhale, and this they say prevents chills and fevers.

New Method of Testing Milk.

In the *Chemiker Zeitung* we find the following method, invented by Mr. Ohm, of testing and examining milk without the use of any instruments.

About one ounce of good pulverized gypsum is mixed with a sufficient quantity of the milk that is to be tested to the consistency of a paste. By attentively watching the time that this paste requires to congeal or become set, the quality of the milk can be determined. If the milk has a specific gravity of 1,030 at 60° Fah., the mass will congeal in 10 hours, with 25 per cent of water in 2 hours, with 50 per cent of water in 1½ hours, and with 75 per cent of water in about 40 minutes.

The above results are confirmed by Prof. Reichardt, who will make further experiments to fully establish the accuracy of the above method.