

RECENT DECISIONS RELATING TO PATENTS.
United States Circuit Court.—Eastern District of Pennsylvania.

COMBINED PATENTS CAN COMPANY vs. LLOYD.

Butler, J. McKennan, J., concurring.

The statute of 1870, relating to reissues, authorizes the insertion of new claims, founded upon the original invention as exhibited by the specifications or drawings, in reissues, when the omission results from "inadvertence, accident, or mistake," and where the claimant has not by some act or omission estopped himself from exercising the right to amend.

The question whether a patent is "inoperative or invalid by reason of defective or insufficient description or specification," and whether such defect has arisen by "inadvertence, accident, or mistake, and without any fraudulent or deceptive intention," appears from the decisions of the Court to be submitted finally to the judgment of the Commissioner wherever the circumstances bring it within the jurisdiction conferred upon him by the statute.

Where additional matter is claimed, however, which does not appear by reference to the patent or contemporary records to be embraced in the invention, or where it appears by such reference that the alleged omission "could not have occurred through inadvertence or mistake," as said by the Court in *James vs. Campbell et al.*, the case is not within the jurisdiction of the Commissioner, and a reissue for additional claims may be declared void.

Where the only mistake suggested is an omission of a claim, and the patentee neglects for thirteen years to file his application for reissue, *Held* that he must be regarded, in view of his conduct, as intending to dedicate such invention to the public, and he is estopped from asserting his claim to such invention in a reissue.

Mr. E. N. Dickerson, for the complainant.

Mr. Henry Baldwin, Jr., for the defendant.

On the 30th day of August, 1864, a patent, No. 43,979, was issued to August Destouy for a new and useful improvement in the manufacture of metal mouldings, in which the claims, two in number, read as follows:

- "1. The T-shaped metal moulding, made substantially as and for the purpose specified.
- "2. The jaws, B and D D', either straight or curved, and tool, C, constructed and operating substantially as herein set forth, for the purpose of imparting to the mouldings the final touch before they are applied to the article to be ornamented."

On the 17th day of April, 1877, the patent was surrendered, and a reissue, No. 7,609, granted to Herman Miller, with the claims enlarged and multiplied to four in number, the third and fourth, which were new, reading as follows:

- "3. The combination, with a table having a stationary jaw or angle, of movable jaws operating, as shown and described, to compress the bent metal against said stationary jaw.
- "4. The combination, with a table having a stationary jaw or anvil and movable jaws, as described, of treadles connected with said movable jaws by levers, substantially as and for the purposes herein set forth."

Bill dismissed.

United States Circuit Court.—Northern District of Illinois.

PATENT FEATHER DUSTERS.—NATIONAL FEATHER DUSTER COMPANY vs. HIBBARD.

Blodgett, D. J.:

This is a bill in equity, framed under section 4,918 of the Revised Statutes of the United States, for the purpose of setting aside and declaring void a patent issued by the United States to Susan M. Hibbard, for an improvement in feather dusters, dated May 30, 1873, and numbered 177,933, upon the ground that the patentee, Susan M. Hibbard, was not the inventor of the device described in and covered by the patent.

The complainant claims to be the owner of patent No. 154,985, issued by the United States on the 15th of September, 1874, to William H. Curwin, Charles J. Sauter, and William W. Clark, as assignees of George W. Hibbard, for an improvement in feather dusters, and charges that George W. Hibbard is the husband of the defendant, Susan M. Hibbard, and that after the said George had made the invention described in the letters patent No. 154,985, and before the issue of his patent, he sold and assigned his invention and his right to a patent thereto to the parties named therein, to wit, Curwin, Sauter, and Clark, and the patent was duly issued to them as assignees of George W. Hibbard; and that after said George W. had made the invention described in his patent and sold the same, as stated, he and the said Susan M., his wife, colluded together to obtain the letters patent which were issued to said Susan upon the pretext and false assumption that said Susan was the real inventor of the device covered by the first issued letters patent. And the bill prays that the patent so issued to said Susan M. in violation of the exclusive rights of the complainants in the invention therein described may be canceled and set aside.

The peculiar feature which characterizes both these patents is a feather duster made of turkey feathers, or the feathers of our ordinary domestic fowls adapted to such purpose, made pliable by removing the pithy part or body from the stem of the feathers so as to adapt the feathers more perfectly to such use when combined with the other elements to form a duster or brush.

The proof in this case shows conclusively that Mrs. Susan M. Hibbard knew of the fact that her husband had applied

for a patent upon this device; knew also that he was poor and unable to pay the expense of obtaining a patent, and that he made the bargain with Curwin and Sauter to advance the expenses and obtain the patent, on condition that they should become half owners thereof. She also knew of the negotiations between her husband and Clark for the sale of the other half of the patent and made no objection to the negotiation, and knew that her husband was to receive what was considered very liberal pay for the remaining half of the patent, and the only objection she ever made to the negotiation was that she insisted that the purchase money to be paid by Clark should be given to her, not because she was the inventor or had anything to do with the invention of the duster to be covered by the patent, but because her husband, being an improvident man, would squander the money, which she wished to use in the purchase of a home for the family. During all the negotiations between her husband and Curwin and Sauter and her husband and Clark she never claimed or pretended, or by any conduct on her part insinuated, that the invention was in any degree her own, but allowed these men to invest their money in the procurement of the patent, and Clark pay for the unsold half of the patent, upon the understanding—to which she seems to have been as fully a party as her husband—that he was the inventor of the duster to be covered by the patent. It seems to me that the proof shows that Mrs. Hibbard, in allowing her husband to deal with Curwin, Sauter, and Clark as the original and first inventor of this device, has so far conceded or admitted him to be the original inventor thereof as that she should be estopped from now claiming otherwise, and especially claiming that she and not her husband was the inventor. If there were no other features in the case, therefore, than the conduct of Mrs. Hibbard toward the persons with whom her husband dealt, I should think it enough to cancel this patent as against the patent previously issued to him.

But the case is, perhaps, susceptible of solution upon another ground. It appears from the proof that George W. Hibbard, for some time prior to the alleged invention described in his patent, had been engaged in the manufacture of dusters from turkey feathers by setting them in their natural condition into a handle, so as to make a brush or duster; that some little time prior to the 10th of February, 1874, he conceived the idea of making a better duster by softening the stems of turkey feathers and rendering them more pliable, so as to make a feather duster which would supersede or take the place of dusters then and theretofore made from ostrich feathers, his idea being that if he could make turkey feathers or the feathers of our common fowls pliable he could use them in place of foreign feathers and make as good if not a better duster. He experimented some time in this direction with chemicals for the purpose of softening the stem or rib of these feathers, and, not succeeding to his satisfaction in any of these experiments, was discussing the subject on one occasion with his wife, when she suggested to try cutting or shaving down the stem of the feathers, so as to make them pliable and limber. The suggestion was at once acted upon and a duster made which proved satisfactory, and the patent issued to his assignees was obtained for this device as the invention of George W. Hibbard.

Mrs. Hibbard's sole claim to the invention covered by her patent, which is the same as that covered by the patent of her husband, is that "the suggestion or idea of cutting or trimming these feathers down so as to make them limber first came from her, and upon this fact she claimed and obtained the patent in controversy.

The specifications and claims in the two patents are substantially the same, and are for:

"As an improved article of manufacture, a feather duster having the stems of the feathers split longitudinally, and a part thereof severed from the remaining part, substantially as specified."

The patent, it will be seen, is for this new article of manufacture—namely, a feather duster made of split feathers. It is not upon split feathers as such or upon the process of splitting feathers, but upon a combination of the split feathers with the other elements by which a duster is made. The idea of a feather duster, to be made of feathers of the common turkey or other domestic fowls, seems clearly to have originated with George W. Hibbard. The *desideratum* was to make these feathers pliable. He was seeking to accomplish this when the suggestion was made to him by Mrs. Hibbard to try cutting or splitting them. The proof on the part of Mrs. Hibbard fails to show, indeed it falls far short of showing, that she ever made a feather duster or thought of making one from turkey feathers made pliable by splitting them until after her husband had been for some time at work in that direction. The most the proof does show is that she suggested the mode of making feathers limber and pliable which were used for the purpose of making the feather dusters described in this patent. The successful feather duster covered by both these patents was, it seems to me from the proof, the invention of George W. Hibbard. While he was experimenting—I may say, perhaps, groping—for some method of rendering his feathers pliable, Mrs. Hibbard suggested the experiment of splitting the feathers. He acted upon that suggestion, and finding that the feathers were thereby made pliable, combined them with the other material and made the feather duster which before that time had only had existence in his mind. Although Mrs. Hibbard may have made a valuable suggestion in the progress of the experiment, yet that does not make her the inventor. (*Agawam Company vs. Jordan*, 7 Wall., 602; *Pitts vs. Hall*, 2 Blatchf., 229.)

For these reasons, but mainly upon the ground of the estoppel, which I think the most cogent, the bill of the complainant will be sustained and a decree entered setting aside the patent issued to Susan M. Hibbard.

Inauguration of the Sibley Mill, Augusta, Ga.

An interesting event in the history of cotton manufacturing in Augusta, Ga., took place on Wednesday, February 22. On that day, in the presence of a large number of invited guests and interested spectators, the head gates of the canal were raised, water turned on, and the entire machinery of this magnificent structure was set in motion. The Sibley Mill is without doubt the most elegant as well as the most thoroughly equipped mill in the South, and, in fact, in all the details that go to make up a handsome, complete, and convenient mill it has no superior in America. The main building is 530 feet long, 76 feet wide, and four stories high, with commodious picker house, dye house, finishing room, and store house. In the construction and arrangement of these buildings the greatest possible attention has been given for the convenient and economical handling of the cotton, from its arrival on the premises till its departure in the shape of manufactured goods. On the upper floor is the opening and mixing room, with a capacity for 50 bales of cotton, the floors being laid with slate to allow the dirt to fall through. On this floor also is the warping and spinning machinery. The third floor is occupied by the cotton bins and picker rooms, in which are four breaker and four finisher pickers, from the works of the Kitson Machine Company of Lowell, Mass., separated by a substantial brick wall from the card room, which contains eight double sections of nine cards each, in all 144 Foss & Pevey cards. The second and first floors will be occupied by 1,000 looms, about 200 of which are Crompton's fancy looms; the others, together with the carding, spinning, and warping machinery, being built by the Lowell Machine Shop, Lowell, Mass. The rooms are all high, well lighted, admirably ventilated, and fitted with every convenience for the comfort of the operatives. In front of the main entrance stands the office building, a handsome two story structure, having on the first floor offices for the president, superintendent, and general business, and on the upper floor a capacious designing room. In front of the office stands, as a monument of the past, the giant chimney of the Augusta Powder Mills, the property of the Confederate Survivors' Association, standing guard over an industry of peace, as it once did during the manufacture of munitions of war. Near by the main building, and overlooking the grounds, is the residence of the superintendent, and at the other end of the mill are six brick tenements for the overseers, while across the canal the company has fifteen acres of land on which are built twenty houses of four tenements each for operatives. The capital stock of the company is \$1,000,000. The officers are William C. Sibley, president; Jones S. Davis, superintendent. Mr. Davis is well known among northern manufacturers.—*Industrial South.*

On the Electric Transmission of Power to Great Distances.

BY MARCEL DEPREZ.*

Such experiments as have been made on the transmission of power by electricity have always been to short distances.

In the Noisiel applications the distance did not exceed three kilometers, the two stations being connected by cables of feeble resistance.

In the different applications known there has never been a power greater than that of six to eight horses transmitted to a distance of five kilometers, with machinery weighing about 500 kilogrammes.

It has often been asserted that transmission to great distances is impracticable. It may be interesting, then, to state an experiment that I have recently made.

With Gramme machines of a small type, weighing about 100 kilogrammes, and modified according to principles that I have indicated, I have obtained an effective power of 37 kilogrammeters, the resistance interposed between the motor and receiver being 786 ohms, representing a distance of 78.6 kilometers of ordinary telegraphic wire.

In order to bring this result into stronger relief I place the different elements of this experiment side by side with those of an analogous experiment made by Mr. Fontaine with larger machines, and the results of which he has published:

	Velocity.	Effective Power.	Power per Revolution.	Performance.	Resistance Interposed.
	Revolutions	Kgm.	Kgm.		Ohms.
Fontaine ...	1,570	21.5	0.8	0.38	4.65
Deprez.....	2,300	38.0	1.0	0.25	786.0

This transmission took place without the occurrence of any spark on the brushes, the machines remaining perfectly cold, and without there having been any necessity of taking special precautions for the insulation of the conductors.

The result of 0.25 obtained is only that derived from the first experiment. I have not yet had time to study the best conditions of velocity, of static effort, and of electromotive power. There is nothing theoretically to prevent the result reached being better, and I am certain of soon realizing it. However, I have thought it well to announce now, without waiting any longer, a result in electrical transmission which has hitherto been considered as impracticable.

* Note communicated to the Academie des Sciences, February 18, 1882.