

tium, of which some twenty-eight per cent is precipitated by cooling. The crystals are used in the factory for treating a fresh quantity of molasses. Strontianite is converted into the caustic form by fusing in a manner similar to working over the artificial carbonate.

Since manufacturers lay great stress on the fact that, as salts are taken away from the soil, we must call attention to the fact that the strontian process yields a mother-liquor free from sugar which is entirely equal to that made by other methods, both qualitatively and quantitatively, and that it is perfectly adapted to all the purposes to which the liquors from other processes are employed. They are used at Dessau, Waghäusel, and Zytyn, for making potash; and the attempt has also been made to obtain methyl alcohol, methylamine, and ammonia from them by dry distillation.

The following remarks are made regarding the difficulties of the process. The chief difficulty, as already mentioned, was to get a supply of strontianite; this has been entirely overcome by the discovery of new mines and the substitution of celestine. The ignition offers another difficulty, for in burning under various circumstances, every possible kind of slag is formed, causing a greater or less loss of the costly material—strontium; it can be said that this difficulty was overcome a few years ago, and that the consumption of strontium is not a large one. At each of the stations a definite stock of strontium is in use, and beside this there is a loss of six or eight tons to every hundred tons of molasses worked up.

Dr. Bittmann was not able to answer the question as to what percentage of sugar the molasses would yield by this process. Dr. Reichardt said that, although a very difficult one to answer, yet he believed that as much as thirty-eight per cent of sugar might be obtained from the molasses.—*Deutsche Industrie Zeitung.*

#### DECISIONS RELATING TO PATENTS, TRADE MARKS, ETC.

##### United States Circuit Court—Southern District of New York.

BRAINARD vs. CRAMME.—PATENT SHAVINGS WASHER.

Wallace, J.:

The original patent bears date January 5, 1869, and is for an improved machine for washing shavings in breweries.

The reissued letters bear date February 26, 1878, and herein the patentee attempts to secure to himself both a process and the apparatus for carrying out the process for washing shavings in breweries.

So far as the reissue is an attempt to secure to the patentee the process for the treatment of brewers' shavings it is entirely inoperative. The process, as described and claimed therein, is merely for the treatment of the shavings by the employment of the described apparatus. It is difficult to appreciate any practical benefit which is obtained by the patentee by calling his patent a process patent, instead of one for the machine; and it is conceded that as everything essential to the process was pointed out in the original patent nine years before the reissue, and in the meantime other inventors have occupied the ground covered by the general subject matter of the invention, what was therein pointed out and not claimed is to be deemed abandoned to the public within the recent decisions relative to reissues. As to the claims for the process, the complainant proposes to file a disclaimer.

When a process claimed in a reissue granted nine years after the original is merely the employment of the devices described in such original, and is therefore fully disclosed, and other inventors have in the meantime occupied the ground, such process must be held to be abandoned to the public.

Claims in a reissue are to be construed, if the language will reasonably bear such an interpretation, so as not to embrace any invention broader in its scope than that in the original.

Reissue No. 8,099, to Edwin D. Brainard, for washing shavings in breweries, dated February 26, 1878, sustained.

##### United States Circuit Court.—District of Maine.

NO. 166—JONES vs. BARKER et al. NO. 170—BARKER et al. vs. JONES NO. 246—BARKER et al. vs. JONES.—PATENT GREEN CORN CUTTERS.

Lowell, J.:

Winslow's patent, No. 51,379, and Jones's patent, No. 54,170, for green corn knives, declared invalid.

A suit begun upon one patent cannot be sustained upon a reissue of that patent; hence a suspension of proceedings cannot be had for the purpose of obtaining such reissue.

Reissue of letters patent, No. 55,614, dated June 19, 1866, upon enlarged claims, thirteen years after the grant of the original, declared invalid.

Claims are to be construed by the state of the art, even though the patent contains no acknowledgment of it.

These three cases, argued together, relate to patents for cutting green corn from the cob for the purpose of packing it in cans. Isaac Winslow, the uncle and predecessor of J. W. Jones, appears to have invented or introduced this industry, which has become of much importance. It was found that his process was substantially that by which other vegetable substances had been preserved, and so he lost his patent for the process. In describing his process he described a curved knife with a gauge as a convenient instrument for cutting the corn from the cob, and about twelve years afterward he obtained the patent, No. 51,379, now owned by Jones, who himself patented an improvement in the gauge, No. 54,170, also sued upon. One Lewis obtained a patent

for a machine to cut corn, No. 94,013, which has been assigned to Jones. These are the three patents relied on in suit No. 166.

The Circuit Court, sitting in Maryland, decided that the knife patents were void for want of novelty. (*Jones vs. McMurray*, 2 Hughes, 527.)

There can be no doubt that the Winslow knife was in public use for years before 1865.

The Jones patent was held, in the case first above cited, to be anticipated by the Oot paring knife, patented in 1858, No. 21,695, and I see no reason to doubt the soundness of the decision. At all events it reduces the patent to so narrow a claim that it cannot be infringed by the knives of the Barker machine.

The Lewis machine is admitted to be very crudely and imperfectly described in his specification, so much so that application was made to me to suspend this case until a reissue could be obtained. This I refused, for the reason, among others, that a suit begun upon one patent could not be sustained upon a reissue of that patent. Upon a preponderance of the evidence I am strongly inclined to think that a mechanic skilled in the art of making similar machinery could not make one of Lewis' machines.

No. 246 rests upon the patent of Burt and Dunn, dated June 19, 1866, No. 55,614, which appears to have been bought in the course of this litigation, and then to have been reissued.

The defendants do not infringe either of the original claims.

In the reissue the two claims are expanded into eight, intended and calculated to cover all combinations of cutters and scrapers in a machine of this sort. The excuse for this enlargement of the claims is that Burt and Dunn were the first persons who made a machine which effected the purpose of cutting and scraping an ear of green corn at one operation. Under former decisions of all the courts this argument might, perhaps, be accepted, though the expansion is very considerable; but the Supreme Court have lately restored the law to what they find to have been the true meaning of the act of Congress authorizing reissues. (*Miller vs. Bridgeport Brass Company*, 21 O. G., 201.) In summing up the conclusions of the court in that case Mr. Justice Bradley says, page 203:

"Now, while, as before stated, we do not deny that a claim may be enlarged in a reissued patent, we are of opinion that this can only be done when an actual mistake has occurred, not from a mere error of judgment, for that may be rectified by appeal, but a real *bona fide* mistake, inadvertently committed, such as a court of chancery in cases within its ordinary jurisdiction would correct."

He goes on to show the danger and injustice to others of such enlargements, and says that they must be applied for at once, before new inventions have been made. He intimates that two years, in analogy to the law of forfeiture, would be the utmost possible limit of time, but, as I understand the opinion, that anything like two years would be inadmissible in ordinary cases.

This reissue was obtained thirteen years after the patent was granted, and is open to all the objections pointed out in the general reasoning of the opinion, though the case itself is not exactly like the principal one.

This bill must be dismissed.

No. 170.—This case is brought upon the patent issued in 1875, No. 159,741. The machine of Barker has been found much more useful than any which preceded it.

No. 170, decree for complainant.

No. 166, bill dismissed.

No. 246, bill dismissed.

##### United States Circuit Court.—Southern District of New York.

GINTER vs. KINNEY TOBACCO COMPANY et al.—TRADE MARK.

Wallace, J.:

So far as appears upon this motion the term "straight-cut," as applied to cigarettes, is a term descriptive of the ingredients and characteristics of the article, and therefore the complainant cannot appropriate it as a trade mark and enjoin the defendants from advertising their article as "straight-cut cigarettes."

In the preparation of smoking tobacco several different processes of cutting the leaf are employed, and the product is designated by the term which describes the particular process which it has undergone, such as "straight-cut," "curly-cut," "long-cut," and "fine-cut." "Straight-cut" designates that particular product in which the plant has been so cut and treated at the time of cutting as to preserve the fibers long, even, straight, and parallel when prepared for sale or use. It is stated also that the choicer varieties of the plant are usually selected for this mode of treatment, and the product is especially desirable for cigarettes. In view of these facts it is evident that when the term is applied to cigarettes it implies that they are made of straight-cut tobacco.

In a circular of May 1, 1881, he states that his "straight-cut tobaccos are cut from the choicest varieties of Virginia gold and sun-cured leaf, and are cut to be straight in the boxes, and are very desirable for making cigarettes." He now insists that the term was selected and has been employed by his business predecessors and himself as an arbitrary designation of his particular article, and that neither his cigarettes nor the defendants' are made of straight-cut tobacco. All this, if true, does not help the complainant's case, but, to the contrary, furnishes an additional reason why he should be denied the assistance of a court of equity.

It appearing that the term "straight-cut" has a well-defined meaning in the trade as indicating a product prepared in a certain manner, and that as applied to cigarettes it fairly carries the implication that they are made of straight-cut tobacco, *Held*, that the term is descriptive of the ingredients and characteristics of the article and cannot be appropriated as a trade mark.

Nor can it be appropriated as an arbitrary designation by a dealer whose cigarettes are not made of straight-cut tobacco, since he merely misuses the term in a manner calculated to deceive the public.

No principles are better settled in the law of trade marks than that a generic term, or a name merely descriptive of the ingredients, quality, or characteristics of an article of trade, cannot be the subject of a trade mark, and that the use of a name or term which is likely to deceive the public in reference to the components or nature of the article to which it is applied will not be tolerated.

##### Herbert Spencer.

The distinguished English philosopher, Herbert Spencer, was a passenger on the steamer *Servia*, which arrived at this port Aug. 21. Mr. Spencer's sole object in making this visit is for the benefit of his health, which has long been feeble and latterly has been the occasion of much anxiety to his friends. The limit set for his stay is three months, unless he should derive marked benefit from the change of climate, which will be sincerely hoped by hosts of admirers.

Mr. Spencer is now sixty-three years of age. He was born at Derby, England, the son of a tutor in humble circumstances, but celebrated as a mathematician. He early showed great promise in mathematics, the related sciences, and a taste for the study of insects.

At seventeen he entered the service of the London and Birmingham Railway Company as engineer, but resigned the place at the end of two years to devote himself to study. About this time he gave evidence of ability as an inventor; and had his lot been cast in this country, where invention was encouraged as it was not in England, his fame might now have rested on a material rather than a metaphysical basis.

He proposed improvements in the manufacture of watches, since generally adopted; a new form of printing press; a machine for type making, and the glyptographic process of engraving. In 1843 he sought literary employment in London, but failed to get it. He had already begun to discuss philosophically "the proper sphere of government" in the *Nonconformist*, but his opinions did not take with the reading public. He was by instinct an evolutionist, and the doctrine of evolution had yet to fight its way to tolerance.

Now, thanks largely to Mr. Spencer's writings, the then despised doctrine has become the dominant one in modern philosophical thinking. Among Mr. Spencer's important works are: "Social Statics" (1850), "Principles of Psychology" and "Railway Morals and Railway Policy" (1855), "Essays" (1857), "Education: Intellectual, Moral, and Physical" (1860); "First Principles of a System of Philosophy" (1862); "Classification of the Sciences" and "Principles of Biology" (1864), "Spontaneous Generation" (1870), "The Study of Sociology" (1873), "Descriptive Sociology" (1874), and "Ceremonial Institutions" (1878). He also began, in 1874, "The Principles of Sociology," of which five parts have appeared, the last, "Political Institutions," within a few months.

Although Mr. Spencer's avowed purpose is to spend the coming three months quietly and without literary effort, we may reasonably expect that his observations will not be lost to social science. He will visit Canada and the principal cities of the United States.

##### Priming for Oil Paint.

O. Kall, of Heidelberg, prepares a substitute for boiled oil by mixing ten parts of whipped blood just as it is furnished from the slaughter-houses with one part of air-slaked lime sifted into it through a fine sieve. The two are well mixed and left standing for twenty-four hours. The dirty portion that collects on top is taken off, and the solid portion is broken loose from the lime at the bottom, the latter is stirred up with water, left to settle, and the water poured off after the lime has settled. The clear liquid is well mixed up with the solid substance before mentioned. This mass is left standing for ten or twelve days, after which a solution of permanganate of potash is added which decolorizes it and prevents putrefaction. Finally the mixture is stirred up, diluted, if necessary, with more water to give it the consistency of very thin size, then filtered, a few drops of oil of lavender added, and the preparation preserved in closed vessels. It is said to keep a long time without change. A single coat of this liquid will suffice to prepare wood or paper, as well as lime or hard plaster walls, for painting with oil colors. This substance is cheaper than linseed oil, and closes the pores of the surface so perfectly that it takes much less paint to cover it than when primed with oil.—*D. L. Zeit.*

##### Mining Engineers in Denver.

The eleventh annual meeting of the American Institute of Mining Engineers was held in Denver, Colorado, closing a ten days' session August 29. About a hundred members were present, and much time was spent in visiting the Mining Exhibition and the mineral regions of the State.