

DECISIONS RELATING TO PATENTS.

United States Circuit Court.—Southern District of Ohio.

ODELL *et al.* vs. STOUT *et al.*

Sage, J., and Matthews, J.:

Letters patent, No. 250,934, for an improvement in roller mills for crushing or grinding grain, middlings, and other material, were issued December 13, 1881, and reissued (No. 10,139) June 22, 1882, to the complainant Odell, who (with Stillwell & Bierce Manufacturing Company, his licensees) sues for infringement. The object of the invention is stated in the specification to be to adjust the outer crushing or grinding rolls to or from the inner ones, and simultaneously to open or close the spouts or channels which control the discharge of grain from the hopper to the feed rolls.

The granting of a reissue is *prima facie* evidence of inadvertence, accident, or mistake, as the granting of original letters is *prima facie* evidence of invention. This evidence is not conclusive, nor is the action of the Commissioner of Patents *res adjudicata*.

The introduction into reissued letters patent of claims for the patentable parts of the combination claimed in the original letters does not invalidate the reissued letters, if the patentee was the first inventor of the patentable parts claimed, although the original patent was for the combination alone, so described and claimed that the parts were not to be used separately, but together and simultaneously.

A patentee may, under proper circumstances, by reissue, enlarge his claims so as to make them extend to the limits of his invention, but he is bound by those limits. He may not enlarge the invention.

Upon the authority of *James vs. Campbell* and other decisions of the Supreme Court, it is clear that the claim of a patent may be enlarged by a reissue if the patentee move promptly and no rights of others have intervened, and the delay in this case of six months is not unreasonable.

There is no rule fixing the precise time within which application for a reissue must be made. What is a reasonable time is a question, when a reissue is attacked, to be decided by the court upon the case presented. The rule is equitable, and therefore flexible, and to be applied according to equity.

The rule that an invention may be exhibited either in a drawing or model, so as to lay the foundation of a claim to priority (*Loom Co. vs. Higgins*) is to be taken with the qualification that it must be followed up with reasonable diligence. Merely making drawings is not such an embodiment of invention as will defeat a subsequent patent.

Patents granted between the making of a drawing by complainant and his filing an application a year afterward are not anticipated by his invention.

The invalidity of one of the claims of a reissued patent does not invalidate the entire reissue, provided the invalid claim was made in good faith. Where it appears that claims in a reissued patent were made to broaden the invention, and thereby to cover intermediate inventions or improvements, the fraud may so vitiate all the claims in the reissued patent that all will be held to be void; but one claim in a reissue may be void without necessarily invalidating the other claims.

If a defendant has, before suit brought, abandoned the manufacture and sale of an infringing machine, and the court is satisfied that the abandonment was in good faith and final, an injunction ought not to be granted. But if the defendant, after such abandonment, has engaged in the manufacture and sale of another machine which is also an infringing machine, and suit is brought for both infringements, the court will retain the whole cause under its control, and make the injunction and order to account to apply to the manufacture and sale of both.

The first claim of reissue letters patent, No. 10,139, granted to complainant Odell, June 22, 1882, for an improvement in roller mills for crushing or grinding grain, middlings, and other material, held to be invalid; the second and fourth claims sustained. Complainants required to file a disclaimer of the first claim before decree, and the decree for an injunction and account to be without costs.

The New South Wales National Park.

The government of New South Wales have followed the example set by the American people in reserving the Yellowstone Park as a ground to be kept for ever in its pristine state. The Australians have resolved to preserve one of the finest and most picturesque portions of the colony for a national park. The latter is situated in the Illawarra district, and embraces an area of 36,000 acres, having a frontage of 7½ miles to the Pacific Ocean. The park generally may be described as high table land, from which at numerous places excellent and extensive views are obtained of the ocean, Port Hacking, Botany Bay, Sydney, Randwick, etc., with deep gorges and rich flats, covered with beautiful foliage, bordering running streams of the purest fresh water. The high table lands, to some extent, consist of the comparatively barren stony heaths, and of fair to good land, the latter in areas suitable for formation of recreation, review, and encampment grounds, or of plantations of ornamental trees, etc., and readily accessible, situated at elevations of from about 350 feet to about 900 feet above high water mark.

The valleys of the principal water courses, notably of Port Hacking River and Bola Creek, are to a large extent covered with rich foliage, including cabbage tree and bangalo palms, tree-ferns, Christmas, myrtle, and other handsome

shrubs, numerous large, well grown blackbutt, woollybutt, turpentine, and other noble forest timber trees, rising at the part southerly and southeasterly above the confluence of Bola Creek with Port Hacking River, to heights up to nearly 200 feet, and bordering and adjacent beautiful streams, having occasional long reaches of deep, shaded, pure, cool, fresh water. The park will be made easily accessible from Sydney by the Illawarra Railway, now in course of construction, which will traverse a considerable portion of what may be regarded as one of the finest public recreation grounds in the world.

Bogus Gold Dust.

A few days ago there were received through the Adams Express at the Philadelphia Mint deposits "on account of Charles S. Stief, of Little Rock, Ark., and Meyer Cohen, of Nashville, Tenn.," of what appeared to be gold grains. The difference in the specific gravity between the deposits and gold of a like character attracted the attention of the clerk who had them in charge, and he exhibited them to Colonel A. Loudon Snowden, Director of the Mint, who at once declared them to be imitations, and ordered an analysis to be made. The result disclosed that the deposits were steel filings covered with gold, which was made to adhere to them by a composition of some kind, into which turpentine largely entered. It is supposed that the filings were soaked in the composition, and then put in some receptacle with thin gold leaf, and shaken up until thoroughly covered with the adhering gold. The filings, when thus treated, presented an appearance closely similar to African gold grains or North Carolina amalgam from which the quicksilver had been drawn off by retorts. Colonel Snowden, however, detected that they were imitations at a glance, from the fact that there was too great a similarity or regularity between the forms of the grains. The imitation was recognized as dangerous in its character even to the ordinary expert bullion dealer, as the gold used in the process was of the value of about a dollar an ounce of the filings—a heavier coating, Colonel Snowden remarked, than ordinary plating, and one which resisted the acid test, which test is the main reliance of the bullion buyers. It is supposed that the bogus gold is being manufactured by persons who are disposing of it in small quantities, as these two deposits assayed each about 10 ounces.

Oysters.

It may not be generally known that according to observations made by Professor Rice at the Cold Spring hatchery, a healthy, well fed oyster, the surroundings being favorable, will lay 128,000,000 eggs. Of the number that acquire a shell the percentage is very small, as nearly all the finny tribe are as fond of oyster eggs as is man of the mature bivalve. Being left to shift for themselves, they are devoured by the million before the protecting shell is formed.

The eggs hatch in less than a day, often taking no longer than four hours, and when hatched they are free to swim and roam at will, but in a few days, usually four, they begin to round up and take the shape of a clam. At this stage they settle on convenient objects, such as rocks, pieces of iron, clam or oyster shells, and in fact on anything that may be on the bottom. This is the end of the young oyster's freedom, as where it settles there it remains until torn off to be transplanted in the oysterman's beds.

But man is not the only enemy of the oyster, as the star fish lives on oysters the year round. Its mode of opening is a somewhat novel way of shucking oysters. Settling down bodily on the young or old oyster, with its five long arms arranged around the edge of the shell in such a way that the moment the oyster opens its mouth to breathe or feed the star fish injects its juice into the opening, which kills the occupant of the shell in a short time. Then commences the feast on a raw oyster. The presence of the fish and his designs are well understood by the oyster, which will keep as close as a clam for as long as a week or eight days.

The other enemy, and probably the more destructive of the two, is the drill, a small worm-like snail, that is deposited on the shell in the form of an egg, which as soon as it is hatched begins boring its way in to the unsuspecting occupant. The story is soon told when once through the pearly enamel of the stony armor of the otherwise defenseless oyster.

Again, according to the profane affidavit of an Eastern Shore oyster man, snappers and turtles are the sneak thieves of the oyster beds, whose method is different from the birds or fowls, which catch the oyster, and rising to a sufficient height in the air drop the oyster on the rocks, then follow and partake of an oyster hash. The snapper is not so fighty, but works and carries the oyster to land, where he leaves it to die from exposure, and then calls around and gets a meal good enough for anything that takes such a mean advantage of a defenseless mollusk.

Steam on London Tramways.

A satisfactory trial has taken place of one of the fifteen steam tramway locomotives now being constructed by Messrs. Merryweather & Sons, of Greenwich, for the North London tramways. These engines have cylinders 7½ inches diameter by 12 inches stroke, and are each capable of drawing three loaded cars at a speed of eight miles per hour, and at a stated working cost of 30 per cent less than horsepower. It is expected that the whole of these engines will be running in the course of the next two months.

To Imitate Furniture Wood.

After the color has been applied to the panel, take a large dusting brush of the kind used by painters, and working the reverse way of your color, lightly pass over the surface with the tips or ends so as to blend together, as it were, the light and the dark. Quickness of manipulation is essential to obtain the desired effect while the color is wet, for it dries or "sets" very quickly. Use judgment in passing over the work, so as to vary the "beating" by turning your hand according to the various directions the veins have taken when first laid on.

Next take a piece of wash leather, damped and folded, to form a round, elongated edge, and proceed to wipe out all the light parts lying between the heavy color; then with another piece of leather fastened on to the end of a stick, and brought to a point like a pencil, proceed to cut out all the finer lines. If you find that your color sets while working, you must dab it on the surface—not rub it, else you will probably wipe off all the color. As soon as the panel is dry, you can, by means of a flat fitch, proceed to put in all veins (or "worms" as they are sometimes called) which cross the grain, by using a little burnt umber diluted with beer to the necessary tint. If you want the work to have dark shades on its surface, then you must work in a little Vandyke brown. These dark shades and veins can be formed with a camel's hair or sable pencil, and blended together with the badger.

Passing on next to mahogany, we shall see by examining a piece of Honduras wood that it is much easier to imitate mahogany than oak. When the ground color is thoroughly dry, smooth and level the surface so that the brush marks shall be hardly discernible. Attention to this point will materially contribute to secure a good imitation. After this, proceed as before to remove with a damp wash leather all grease and dust. You will be able to judge whether the surface be free from grease or not, since no moisture will be absorbed by such spots, but they will appear dry and shining. If necessary, you may use soap and water. Some grainers will even rub the surface over with whiting and water, which has a good effect. Having prepared some Vandyke brown ground and mixed in beer, proceed to thinly spread it over the work, and while the color is quite wet freely dab a piece of sponge over it to gain the effect of light and dark shades, at the same time drawing the sponge a little. With your "softener" proceed next to blend the edges of the dark into the light shades, so that the eye may not perceive any broken lines or edges, and toward the finish use the softener (or badger) in the direction of the grain, or rather in the direction in which the dark veins of the mahogany are intended to run. When the work is dry, get a tint of Vandyke brown ready, and with a tool filled with a little color form the lightest of the dark veins or shades, using a drier brush to obtain the effect of a kind of over grain. These veins ought to run in the direction of the light, above and below it. A little practice will soon familiarize you with this process. To gain a nice rolled mottle, as it were, a light dab of color must be given just under the lightest portion, so as to render it solid and opaque. Next blend all well together, which can be done, in the first instance, by means of the dusting brush before mentioned, while the badger may be employed for the finishing touches. —*The Manufacturer and Builder.*

Russia's Gold Production.

According to Suess, the present gold production of the world is about \$117,000,000, two-thirds of which are gained from placer washings. From 1820 to 1850 Russia ranked first among gold producing countries, yielding at the time of the discovery of the mines of America and Australia 12·7 per cent; from 1861 to 1870, 14 per cent; and at the present time about one-fifth of the world's production. As elsewhere, gold is gained in Russia either by quartz crushing or placer washing, the yield of the latter system far exceeding that of the former.

The originally high percentage of gold in Russian placers has, with the exception of the mines of Olekminsk, invariably decreased, and in some instances the places have been exhausted. In contrast to this fact the production of gold has annually increased. This anomaly finds its explanation in the fact that the mines, successively developed, were not simultaneously exhausted; that beginning in the Ural Mountains, the gold producing center, moving gradually eastward, revealed new fields whose virgin wealth made good the decrease of the older mines; and that the amount of sand washed, as well as the extent of country worked, has constantly and enormously increased.

When to Clean the Teeth.

Of all the people who clean their teeth regularly, it is certain that a very large proportion only do so once a day, and that generally at the time of their morning ablutions. A much smaller number also do so at retiring, but the number of those make a practice of regularly brushing their teeth after eating, the most important time of all, is indeed very small. It is while eating that all little cavities or interstices between the teeth become the repositories of fragments of food, or traces of some acids in the food are left on the teeth, to cause incipient decay, and hasten it where it has already commenced. It is of course desirable to brush the teeth on rising in the morning and before retiring at night, but it is of infinite more importance that they should be thoroughly cleaned after eating.