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PATENT TRUSTS.

A decision of unusual interest and possible importance has recently been made by Judge Baker, of the United States Court for the District of Indiana. It upheld by the Supreme Court, it is likely nullify, to a great extent, the existing laws relating to patents.

By the eighth section of the Constitution, Congress is empowered "To promote the progress of science and the useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries."

Here is a clear and express provision by which a special class of trusts or monopolies may be set up, which are to be exercised and enjoyed by the individuals to whom they are granted.

It remained for Congress to provide suitable enactments for carrying into practical effect these constitutional monopolies; and this has been done in the series of statutes known as the patent laws.

In accordance with the constitutional declaration, these laws provide that the original and first inventor of any new and useful improvement may obtain a patent and enjoy the exclusive right to make, sell and use his invention, and grant rights to others to make, sell and use during the short period of seventeen years, after which, the invention becomes public property and all the people are free to use it.

The object of the framers of the Constitution was to stimulate the studying out of new inventions, so that the people at large might be always supplied with multiplied successions of new and diversified industries; for by industry we thrive; by industry the resources of a country are developed, and the people made wealthy, happy and contented.

The marvelous industrial growth of this country, and its fame throughout the world as the originator and exemplifier of new industries, attests the wisdom of the fathers in writing into the Constitution that provision by which exclusive privileges—monopolies or trusts, if any one prefers so to call them—might be granted to authors of new inventions.

The decision of Judge Baker to which we have referred is that given in the case of the National Harrow Company, a New Jersey corporation, agents for or owners of a number of harrow patents, forming, it is alleged, a harrow trust. The company sued certain parties in Indiana for infringement of one of their patents.

"So far as I can perceive, the complainant is organized to receive assignments of the legal title of harrow patents, to grant back licenses to assignors to use and enjoy the same, to collect from each member of the combination or trust \$1 as a license fee for each harrow manufactured and sold, to regulate and control the price at which harrows may be sold by the members of the combination, and to prosecute and defend all suits involving the alleged infringement of such assigned patents.

"It seems to me that such a combination is illegal and that its purposes are violative of sound public policy. The common law forbids the organization of such combinations composed of numerous corporations and firms. They are dangerous to the peace and good order of society, and they arrogate to themselves the exercise of powers destructive of the right of free competition in the markets of the country, and by their aggregate power and influence imperil the free and pure administration of justice.

"Complainant says that its title to the patent in question is valid, and that it has a lawful right to its protection from invasion by a stranger, regardless of the objects and purposes of the combination which it represents. On the other hand, the defendants contend that to give its title protection would be to give aid to the unlawful purposes of the combination. In suits at law it is doubtless true, as a general proposition, that a wrongdoer will not be permitted to dispute the legal title of one in possession of money or property by showing that the title thereto was unlawfully acquired, or that the owner intends to apply it to an unlawful use.

It seems to me that the court cannot sustain the present bill without giving aid to the unlawful combination or trust represented by the complainant. The question is not free from doubt; but in case of doubt I feel it my duty to resolve it in such a way as will not lend the countenance of the court to the creation of combinations, trusts or monopolies. They have already grown to alarming proportions, and courts, to the full extent of their powers, ought to discountenance and repress them."

If this is good law, it would seem that the provision of the Constitution and the laws of Congress concerning patents are of less value than has been supposed. Every patent granted is a monopoly or trust. Very few inventors or their agents are manufacturers. In general, the chief aim of every patentee is to establish a trust, or, in other words, to hold the exclusive control of the prices for which his invention may be used by others; and in this way he is supposed to be able to gather in the reward which the Constitution and the patent laws have promised him.

Whether an inventor or his agent or assign owns one harrow patent or eighty-one patents makes no difference in respect to his right to the protection of the laws that secure to him the exclusive control of his inventions.

The substance of Judge Baker's ruling appears to be that patents are trusts; that trusts and monopolies have grown to alarming proportions; therefore, patentees of new inventions, or their assigns, in their pursuit of infringers, are to be discountenanced, repressed, deprived of their constitutional rights and thrown out of court without a hearing.

Temporary patent trusts were regarded by the framers of the Constitution as highly expedient and desirable methods to promote the prosperity of the country. An experience of a hundred years confirms the soundness of their judgment. More than seven-eighths of our manufacturing industries were founded on patent trusts. Almost every new industry that springs up in these days has a patent monopoly for its basis. Is it possible Judge Baker is correct when he denounces these trusts as dangerous to the peace and good order of society, illegal, and violative of sound public policy?

That patent trusts are, for the short time they exist, destructive of the right of free competition in the markets of the country, we unhesitatingly admit. They were expressly intended to be destructive of competition. In no other way could the inventor enjoy the exclusive right to make, use and sell his invention.

That the free and pure administration of justice was not only imperiled, but actually denied, in the patent trust case above cited, we are also compelled, with reluctance, to admit. But we hope and believe no such miscarriage will take place in the higher court to which an appeal will doubtless be taken.

THE HEAVENS IN APRIL.

Venus is queen of the evening. In the course of the winter we have seen the celestial primacy pass from Mars to Jupiter, and now Jupiter in turn yields place and Venus asserts her superiority over her great belted brother. Still, conspicuous and beautiful as she appears, Venus is only at the beginning of her career as the evening star. During the coming month she will gain nearly 17 per cent in brilliancy. In the telescope she presents the form of a gibbous moon. It is much to be regretted that so little attention is paid to the study of Venus in the great observatories of the world. It is true that the excessive brilliancy of the planet renders the detection of its surface markings difficult, yet that fact should not deter those who have instruments of great power at their command from doing the very best that can be done to discern the real features of a globe which, at regular periods, not only approaches the earth nearer than any other planet ever does, but which, most of all, resembles our planet in magnitude and situation. All things considered, it seems to me that we should look to Venus rather than to Mars for an analogue of the earth. Venus gets almost twice as much light and heat from the sun as the earth receives. Mars gets less than half as much as the earth. Remembering the vivific power of the sunbeams, which way should we look for life? We do not go toward the frozen poles, but toward the glowing equator, when we seek the wonders of animate existence.

At the beginning of the month Venus is in Aries; at the end in Taurus.

Jupiter remains at the feet of the Twins, moving slowly eastward, and at the close of the month he will be almost between the two third magnitude stars Mu and Eta Geminorum. His cloud-enveloped globe still presents a magnificent appearance when viewed with a good telescope.

Mars, stripped of his splendors, and hardly recognizable in his abasement as the brilliant red orb that commanded all eyes last autumn, is approaching the prince of the planets as if to pay him obeisance. On the 25th they will be in conjunction, Mars passing on the north side of Jupiter, at a distance of a little less than a degree and a half. After that date their po-