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PATENT TRUSTS.

A decision of unusual interest and possible importance has recently been made by Judge Baker, of the 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 authors and inventors, the exclusive right to their re-countenance and repress them." spective writings and discoveries."

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 years, after which, the invention becomes public prop- his inventions. erty and all the people are free to use it.

The object of the framers of the Constitution was to sources of a country are developed, and the people thrown out of court without a hearing. 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. This provision of our great charter is positive and permanent; at any rate, it cannot be changed without the assent of present Union.

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. The defense was, not that they did not inwhose object was not to manufacture harrows, but to policy and which the court ought not to aid or enter- which an appeal will doubtless be taken. tain. Judge Baker accepted the defendants' plea and the bill for infringement was dismissed. The judge ruled as follows:

"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 de-

and pure administration of justice.

suits at law it is doubt less true, as a general proposition, ence, that a wrongdoer will not be permitted to dispute the legal title of one in possession of money or property the end in Taurus. by showing that the title thereto was unlawfully ac- Jupiter remains at the feet of the Twins, moving quired, or that the owner intends to apply it to an un slowly eastward, and at the close of the month he will lawful use. I have strong doubts whether this rule be almost between the two third magnitude stars Mu ought to apply to a suit in equity, where nothing but and Eta Geminorum. His cloud-enveloped globe still clean hands and a good conscience will move the court presents a magnificent appearance when viewed with a to act. The combination represented by the com-good telescope. any way give aid to the purposes of such combinathan a degree and a half. After that date their po-

tions. 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. United States Court for the District of Indiana. If 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 empowered "To promote the progress of science and have already grown to alarming proportions, and the useful arts, by securing for limited times, to courts, to the full extent of their powers, ought to dis-

If this is good law, it would seem that the provision Here is a clear and express provision by which a spe- of the Constitution and the laws of Congress concerncial class of trusts or monopolies may be set up, which | ing 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 patent and enjoy the exclusive right to make, sell and ! one harrow patent or eighty-one patents makes no use his invention, and grant rights to others to make, difference in respect to his right to the protection of sell and use during the short period of seventeen the laws that secure to him the exclusive control of

The substance of Judge Baker's ruling appears to be that patents are trusts; that trusts and monopstimulate the studying out of new inventions, so that olies have grown to alarming proportions; therefore, the people at large might be always supplied with patentees of new inventions, or their assigns, in their multiplied successions of new and diversified indus- pursuit of infringers, are to be discountenanced, retries; for by industry we thrive; by industry the re-pressed, deprived of their constitutional rights and

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 seveneighths 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 be denounces these trusts as dangerous to the peace three-fourths of the forty-four States composing the 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 fringe, but that the Harrow Company was a trust, not only imperiled, but actually denied, in the patent trust case above cited, we are also compelled, with recontrol the trade in and put up the price of harrows; luctance, to admit. But we hope and believe no such objects which, they pleaded, were contrary to public miscarriage will take place in the higher court to

**** 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 fend all suits involving the alleged infringement of to be regretted that so little attention is paid to the study of Venus in the great observatories of the world. "It seems to me that such a combination is illegal It is true that the excessive brilliancy of the planet competition in the markets of the country, and by does, but which, most of all, resembles our planet in their aggregate power and influence imperil the free magnitude and situation. All things considered, it seems to me that we should look to Venus rather than "Complainant says that its title to the patent in to Mars for an analogue of the earth. Venus gets question is valid, and that it has a lawful right to its almost twice as much light and heat from the sun as protection from invasion by a stranger, regardless of the earth receives. Mars gets less than half as much as the objects and purposes of the combination which it the earth. Remembering the vivific power of the sunrepresents. On the other hand, the defendants con-beams, which way should we look for life? We do not tend that to give its title protection would be to give go toward the frozen poles. but toward the glowing aid to the unlawful purposes of the combination. In equator, when we seek the wonders of animate exist-

At the beginning of the month Venus is in Aries; at

plainant is not illegal in any other sense except that: Mars, stripped of his splendors, and hardly recogthe law will not lend its aid to the accomplishment of nizable in his abasement as the brilliant red orb that its purposes. The common law does not prohibit the commanded all eyes last autumn, is approaching the making of such combinations. It merely declines prince of the planets as if to pay him obeisance. On after they have been made to recognize their validity the 25th they will be in conjunction, Mars passing on by refusing to make any decree or order which will in the north side of Jupiter, at a distance of a little less