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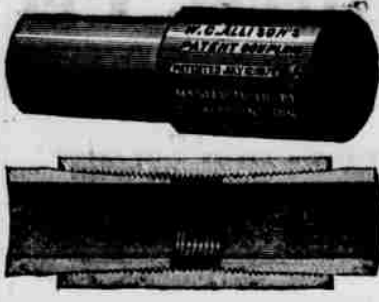


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The following is the decision rendered by Judge Grier on the twenty-second (22) day of September, 1889, in the United States Circuit Court at Philadelphia. The case was argued three days by Charles M. Kelley of New York, B. F. Lucas and S. A. Purviance of Pittsburgh, for defendants, and George Harding of Philadelphia, and George H. Carley, of Pittsburgh, for plaintiffs.

OPINION OF JUDGE GRIER

As I write with difficulty I can only state the conclusions to which my mind has come after a careful examination of this case. The complainant has exhibited a patent dated 25th of April, 1885. This is prima facie evidence of a good title, and puts on the respondents the burden of proof that the patent is void or worthless. I need not repeat my remarks in the case of Good-year vs. Day (2 Wall, U. C. Rep. 255), but now adopt them as affording a rule of decision which applies clearly to the present case.

As the infringement of the patent is admitted, the only question will be as to the validity of complainant's patent of April 25, 1885. "I was after speculation had been reduced to practice," and after repeated experiments, that the complainant succeeded in over coming the objections and ignorance of the people on the subject, and persuading the public that his invention was useful after he had established its great utility and value "when his genius and patient perseverance, in spite of sneers and scoffs," were completely successful, that Reed, who had before made experiments on the same subject, and was unsuccessful, and after purchasing one or more complainant's torpedoes, he applied on the 1st of November, 1887, for a patent for substantially the same combination of devices and machine contained in complainant's patent; On the 15th of the same month the respondents formed three lives into a company of incorporation called "The Reed Torpedo Company," the purpose of printing the complainant's invention, and supporting the expenses of litigation, and thus defraud him of the fruits. They have preserved, even after the preliminary injunction was properly granted by the district judge.

Let a decree be entered for complainant for a perpetual injunction; and a Master, appointed to take an account accordingly of the profits of the well.

R. C. GRIER, Judge.

NOTE.—The passage referred to by Judge Grier in his former decision, 3 Wallace, p. 259, adopted as applicable to this case was as follows:

"It is usually the case, when any valuable discovery is made, or any new machine of great utility is invented, that the attention of the public has been turned to that success, and that many persons have been making researches and experiments. Philosophers and mechanics may have in some measure anticipated in their speculations the possibility or probability of such discovery or invention; many experiments have been successfully tried, coming very near, yet falling short of the desired result. They have produced nothing better. The invention when perfected may truly be said to be the culminating point of many experiments, not only by the inventor, but by many others. It may have profited indirectly by the successful experiments and failures of others, but it gives them no right to claim a share of the honor of the profit of the successful inventor. It is the product of his mind, and the result of his labor. When the experiment has resulted in discovery and when that discovery has been perfected by patient and continued experiments, when some new compound, manufacture, or machine has been thus produced, which is useful to the public, and the rights thereto become a public benefit, and entitled to a patent, have at length succeeded, in spite of sneers and scoffs, some valuable invention or discovery, how seldom is it followed by reward! Every one who has the honor, while speculators, swindlers, and rates rob him of the profits. Every successful experimenter who did or did not come to the same who can invent an improvement or vary its form claims a right to prize the original discovery. We need not summon Morse, or Blanchard, or Wood, nor to prove that this is the usual history of every great discovery or invention."

CAUTION.

The public is cautioned against employing any but the regular authorized Agents of the Company, since the Roberts' Patent covers the use of the Torpedo and all explosive materials for oil wells, and the use of such materials by other parties is a direct infringement of their rights. Any party who infringes any of the ROBERTS' PATENTS will be dealt with according to law, and as acting unlawfully and knowingly in defiance of law and the decisions of the Courts.

The Company have re-organized their business with a view to accommodate Oil Men in every part of the Oil Region. They have employed the most efficient Agents and Assistants that can be procured for the business. Each Torpedo is labeled with the date of patents, together with the price of the Torpedo, and signed by an officer of the Company. Every Operator wishing a Torpedo may know its price and whether it came from our office. Operators will confer a favor by reporting to this Office any negligence of Agents.

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