

Case No. 4,060. DRAKE v. CUNNINGHAM.
[1 McA. Pat. Cas. 378.]

Circuit Court, District of Columbia.

Feb., 1855.

PATENTS—JURISDICTION ON APPEAL FROM COMMISSIONER'S DECISION.

[The statute confers no jurisdiction on the judge to hear and determine any appeal on behalf of a patentee from a decision of the commissioner of patents against his claim of priority.]

[This was an appeal by Oliver P. Drake from a decision of the commissioner of patents,

DRAKE v. CUNNINGHAM.

In an interference proceeding, awarding priority of invention to Charles Cunningham, assignor to John C. Pedrick.]

R. H. Eddy, for appellant

N. G. Suethen, for appellee.

MORSELL, Circuit Judge. This is the case of an appeal by a patentee, which is opposed by the appellee on the ground of want of jurisdiction in the judge to entertain an appeal from the decision of the commissioner of patents in said case. It has been on several occasions decided, and the question must now be considered as settled, that the act of congress confers no jurisdiction on the judge to hear and determine any appeal on behalf of a patentee from a decision of the commissioner of patents against his priority of claim, as in the present instance. The said appeal must therefore be dismissed; and the same is so certified by me to the honorable commissioner accordingly, and all the papers returned.