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The declarations and conversations of a person made at the time of exhibiting and explaining his invention are a part of the res gestae, and admissible to prove priority of invention	297

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Admissions made by a person in an offer of compromise, voluntarily made without any pending negotiation, and without stating it to be without prejudice, are admissible against him	297
Conversations and declarations of a party in the statement of an invention will be deemed an assertion of his right at that time, as an inventor, to the extent only of the facts and details which he then makes known	39
Reissue: Disclaimer.	
A reissue is not authorized unless the original patent is inoperative or invalid from a defective or insufficient specification, or the claim of the patentee exceeds his right. (Act 1870, § 53.)	280
The commissioner, on the application for a reissue, cannot look beyond the patents as originally granted, with the specifications, diagrams, models, etc., filed or deposited to ascertain the invention. (Act 1836.)	280
If the patent does not relate to a machine, the only modification that can be made is to make the claim and specification correspond	280
While enlargement by the use of new instrumentalities is forbidden in a reissue, restriction by the disuse of some of the old is allowable	855
Where the patent is for a process, reissues for a compound are invalid	280
A reissue of a patent for an improvement in the manufacture of hard rubber <i>held</i> void as including other vulcanizable gums than Indian rubber	712
A patent may be reissued in several parts. (Act March 3, 1837, § 5.)	712
If a patent is reissued in divisional parts, each division must be for some distinct and separate part of that invention	280
An original patent for a process <i>held</i> properly reissued in two patents, one for a process and the other for the product	729

A second reissue on surrender of the first must be limited to the invention embraced in the first reissue	280
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Duration: Extension: Renewal.	
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The provision that "notice of the day set for the hearing of the case shall be published, as now required by law, for at least sixty days," <i>held</i> to be satisfied by a publication for three successive weeks commencing sixty days before the hearing	130
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A renewal to a person as administrator is conclusive on the courts, in the trial of the validity of such renewal, that such person was administrator	646
Use of the invention by the infringer before the renewal is no justification of an infringement thereafter	677
After an extension of a patent under Act July 4, 1836, § 18, the original patent becomes virtually a patent for the term of 21 years	318
A law extending a patent is binding on the courts until repealed, though alleged to have been procured by fraud and misrepresentation	317
An equitable interest in the applicant is sufficient to sustain an extension	130
A stipulation that the applicant should be interested to the extent of one-half the proceeds from sales or uses of the patented invention is sufficient	130
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The fact that a person was an assignee under the original term of letters patent furnishes no presumption that he is interested in the extended term	696
The assignee of a patent has no interest in an extension by act of congress unless so expressly agreed	314
Where the act contains no reservations in their favor, they cannot continue to use their patented machines	317
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An assignment of an interest in a patent, reserving to the grantor the whole and sole power of disposal, conveys no legal title, but the assignee is only a cestui trust, to the extent of his interest, in the profits	677



A grant by a patentee of the exclusive right under his patent, for the unexpired terms of all “patents or renewals of patents owned by him, or in which he may have an interest, issued or to be issued,” carries the right to extensions of such patents, including extensions of patents issued to him	649
Words “to be held to the full end of the term for which said letters patent are or may be granted,” when used in the habendum of the deed, considered	130, 135
An assignment of an interest in a patent, made by a receiver, appointed by a state court, of the property of the owner of the patent, conveys no title to the assignee, because the assignment is not a written instrument signed by the owner of the patent	772
The right, franchise, or-monopoly granted by a patent, is by the statute made divisible in the category of its locality only	664
An assignment of an invention before the issuing of a patent is valid under Act March 3, 1837, § 6, though made after an appeal from the commissioner’s decision rejecting the application	110
The assignee may file a bill to annul the patent issued to another, and to have one granted to himself. (Act July 4, 1836, § 16; Act March 3, 1839, § 10.)	110
It is not necessary that the assignment should be recorded in the patent office before the filing of the bill. It is enough if it be recorded at any time before the issuing of the patent	110
There can be no assignment of an interest in an extension before its grant	314
A bona fide purchaser for valuable consideration without notice takes a good title as against a person holding a contract for an interest made before the grant	314
The assignment of an exclusive territorial right must be in writing, and recorded within three months, to defeat the title of a subsequent purchaser without notice and for a valuable consideration. (Act July 4, 1836, § 11.)	314
Within the three months an unrecorded prior assignment in writing will prevail	314
Rights of parties determined in the case of conflicting assignments of rights in an extended patent where one party failed to fulfill his agreement	307
An assignment of a right of action under a patent need not be recorded	129
The commissioner’s certificate that the annexed “is a true copy,” annexed to various assignments of a patent, attached so as to constitute one document, applies to all of such assignments	646
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The purchaser of the right to make, use, and vend the invention in a particular place buys a portion of the franchise which the patent confers	638
The grantee from a licensee must pay the license fees stipulated in the license from the patentee	674

But he will not be enjoined from acting under the license because of failure of his grantor to pay license fees accrued before the conveyance, nor is he liable therefor	674
The impairment of profits of a licensee by the use of the invention by others, though unlawful, is a good defense to a suit for license fees, where it was stipulated that the fees should cease if the licensee's profits were impaired by use by others	678
If a patented machine is torn down, and afterwards rebuilt, and in the rebuilding changed so as to lose its identity and become substantially a new construction, its owner will not be authorized to use it under a license limited to the original machine	841
Sale of patented machine or product.	
On the sale and unconditional delivery of a patented article it passes outside of the monopoly of the patent	638
On the sale, by the patentee of a process and product, of the patented article, the purchaser may use the materials of which it is composed for the manufacture of any articles not themselves protected by a patent	638
And this is the case although the patented article was bought of the patentee's licensee, who was restricted by the license to a use of the patented product different from that to which it was devoted by the purchaser	638
The sale or use of the product of a patented machine is no violation of the exclusive right to use, construct, or sell the machine itself	664

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The product and the process being both new and patentable, the patentee may prohibit the sale or use of the composition, unless when purchased from persons licensed by him to use the process and vend the product	664
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Proper tests for determining infringement of a patent for a design	*827
A simple, economical invention is not anticipated by a complex and expensive one	839
The invention of an improvement gives no right to use the original machine 1015,	1019
It is not material that the original machine was so inferior to other machines used for the same purpose as to have no intrinsic value	1019
Where two machines are substantially the same, and operate in the same manner to produce the same kind of result, they must be, in principle, the same	1015
A patent for a combination is not infringed unless defendant uses, constructs, and operates it in substantially the same way as under the patent. To change the form and obtain a new manner of operating, or to obtain a new and useful result, is subject to a patent	826
A patent for a dental plate <i>held</i> infringed by replacing parts by new parts made of the materials and in the mode described in the patent	740
A patent for vulcanized rubber is not infringed by the use of a substance which is rendered plastic, and not hardened by heat	735
A dental plate made of celluloid <i>held</i> not an infringement of a patent for a vulcanite plate 733; contra,	740
Facts <i>held</i> not to constitute a dedication of a patented product to a patented use—Who liable.	646
The managing directors of a manufacturing corporation, under whose direction it manufactures and sells infringing articles, and its selling agents, are responsible for such infringement, and will be restrained by injunction	711
A person who used a driven well for household or other purposes on his property <i>held</i> liable to an injunction and accounting. Otherwise as to one who boarded with his mother, and contributed to the expenses of the family	1109
An admission that a third person had a right to grant a license will estop the owners from prosecuting those who relied thereon	130
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The fact that there is a remedy at law will not prevent relief in equity under Act July 4, 1836, § 17	696
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The court will not decide the question of infringement summarily, where it admits of doubt, or the facts are in dispute. Otherwise where the solution depends only upon the construction of the patent	664
Possession of sufficient duration and exclusiveness may be a sufficient foundation without a trial at law	664
Not granted where complainant's assignor had never done anything with the patent in the state, and defendants bought their machines in good faith	135
Not granted where defendant is acting under letters patent which cover his process or machine	684
Not granted where defendant shows a belief that he has a just defense, and is not a willful pirate of the plaintiff's invention.	684
Denied where it appears that the infringing articles were manufactured and sold in another district, in which defendant resided	673
Granted, as of course, where the validity of complainant's patent has been established by protracted and expensive litigation, and the proof of infringement is clear,	309, 329, 1107
Validity of patent Will be considered as prima facie established by prior adjudication in another court in which it was fully contested and sustained	692
Abandonment of defense will not detract from the force or effect of a verdict or judgment at law where plaintiff made a plain case	664
Whether acquiescence can be inferred from failure to bring suit against defendant during the pendency of other suits against other parties, considered	1107
The bill need not contain a special prayer for an interlocutory injunction	707
Allegations in the affidavits in answer to the motion may be rebutted by proper testimony	707
—Defenses.	
Want of utility may be a good reason for not issuing a patent, but is no cause for avoiding it	1015, 1019
Where the defense is that the patentee is not the first inventor, the answer in equity must allege the names and places of residence of those relied on to prove the fact	925
The defense that the specification did not set forth the invention in full, clear, and exact terms must be made by the answer, to be available, where the record shows that application was made to the court to amend in that particular	712
Proof of fraud in obtaining an extension will not avail respondents, shown to have consented to the acts complained of	712
The bill need not aver that the patentee had marked the articles made or vended under the patent as required by Act March 2, 1861, § 13	629

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To prevent the recovery of damages it must appear, either from the bill or in the proofs, that the patentee has made or vended the articles under the patent	629
After defendant shows failure of the patentee to mark the articles, plaintiff has the burden of showing that defendant continued to make and vend the articles after notice of infringement	629
The failure to mark patented articles does not affect the right to an injunction. It only takes away the right to damages	629
—Procedure.	
The executor to whom the patent was issued, though not the sole executor named in the inventor's will, may maintain suit thereon	712
An action at law may properly be brought in the name of the patentee, in behalf of his licensee, who is damaged by the infringement. (Act July 4, 1836, § 14.)	699
Replication in an action so brought, where defendant sets up a release from the patentee	699
A mere licensee, or a party interested as cestui que trust in the profits of the patent, need not be made a party to the suit for an infringement	677
The party who is immediately injured by the infringement, and who is equitably entitled to the fruits of the recovery, may be joined with the owner of the legal title	629, 664
The bill may be properly verified by the equitable owner of the patent	629

Where the suit is brought in the name of the holder of the legal title for the benefit of an exclusive licensee; it will not be discontinued without the latter's consent, but the court may compel him to give security for costs	642
A bill for the infringement of two patents owned by plaintiff by one article manufactured by defendant is not bad for multifariousness	385
The fact that the assignment of one of the patents embraces other territory, than that in question does not make the bill bad	385
Plaintiff must allege all the facts to show title	1019
The description of the machine as stated in the specification need not be set out where the declaration describes plaintiff's improvement in the words of the patent	1019
The issue tendered by respondent must be clear and unconditional	925
An amendment in a suit by a patentee by adding an exclusive licensee as plaintiff not allowed	648
A plea by a single defendant, alleging that the sales of the infringing articles were made by himself and another, <i>held</i> bad in not alleging that such other person was living, and within the jurisdiction of the court	725
The court will not send the case to a jury where, after a hearing on full proofs, it is well satisfied of the originality of the invention, the regularity of the patent, and of the fact of infringement	678
Where the patent is sustained, and infringement found, but only nominal damages are given on a reference, plaintiff is entitled to costs, except of the reference, report, exceptions, and hearing thereon	40, 45
—Evidence.	
Proof of title derived from an administrator	129
Letters patent are prima facie evidence that the patentee was the first inventor, as against a subsequent patentee	735
A consent by defendant to a judgment on making a settlement by taking a license under the patent <i>held</i> an admission of the validity of the patent	677
Testimony of prior use and printed publications, of which no notice was given in the answer, can be considered only to show the state of the art	160
If it should appear that such testimony clearly established the invalidity of the patent, the court might grant the respondent leave to amend	160
Proof of mere finding of infringing machines in defendant's possession will support a finding for plaintiff where the answer does not explicitly deny infringement	129
The court ought to be fully convinced, by a clear preponderance of evidence, before declaring a patent void on the ground of prior knowledge and use	130
—Decree, and its effect.	

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A cessation to use the infringing article is no bar to an injunction and account	631
In a suit for infringement against a person Who had bought his infringing machine from one against whom complainant had obtained a decree for profits and damages, <i>held</i> that injunction would not issue on defendant's giving security to pay any decree rendered against him	348
Payment of the prior decree will vest the right to further use in defendant —Accounting: Damages.	348
The court can decree an account of profits in a suit in equity, brought after the patent has expired, notwithstanding an injunction cannot be granted, and the bill is not one for a discovery	772
In an action at law the question of damages is exclusively for the jury. Plaintiffs are entitled to actual damages	985
The jury must find the actual damages sustained by the plaintiff, which the court will treble	1015
In order to find actual damages, the jury must find, in the evidence, the facts or data from which such actual damages are to be deduced	642
The uniform license fee fixed by the patentee will constitute the actual damage of the patentee	642
Method of measuring damages where there is no fixed and uniform license fee	642
Report of master set aside on the ground that what he had reported as an established license fee was not shown to have been such	1175
It is no answer to a claim of damages that defendant made no profits by his infringement	749
Where plaintiff retains a close monopoly of his invention, damages are computed by investigating defendant's profits: but where he grants licenses the uniform rate of fee will control	749
The measure "of damages for infringement of a patent for an improvement are the profits arising from the improvement, not the profits arising from the entire machine	879, 882, 930
The patentee must give evidence tending to apportion the defendant's profits and the patentee's damages between the patented and unpatented features of the article sold, or show that its entire marketable value was due to the patented feature	40, 45, 879, *882
Where plaintiff fails to show the profits arising from the use or sale of the improvement, nominal damages only can be recovered	879, *882
Where plaintiff fails to give such evidence, he will not be allowed, after a finding of nominal damages, to put in other evidence	40
It is not the province of the master or the court to suggest the proper line of proof to adopt	45



Profits or losses from the use of the structure as a whole cannot be considered	930
A loss made on infringing mechanisms not counted on in the bill, cannot be considered	930
The question of profits is not effected by the fact that defendant made the infringing contrivance cheaper than he could make the contrivance in the exact form and shape described in the patent	930
Defendant must account for the profits on repairs sold upon infringing mechanisms previously made and sold by him	930
The amount paid by defendant in satisfaction of complainant's rights against purchasers from defendant is not a legitimate "charge against the manufacture, and cannot be deducted in accounting for profits	930
Expenses of commencing and closing out the business are not properly chargeable to the patent	642
—Violation of injunction.	
Injunction against infringement of patents <i>held</i> to be violated by fitting up machinery for another, and keeping it in running order, in a factory known to be manufacturing the infringing articles	701
After imprisonment for 50 days, defendant, without means of paying fine, was released on his own recognizance	705
Various particular inventions and patents.	
Bungs. No. 87,163, for improved method of rendering wooden bungs impervious to liquids and gases, <i>held</i> valid	160



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Carburetter. No. 93,268, for improved apparatus for carburetting air, <i>held</i> valid and infringed 350; contra,	352
Dental plate. No. 43,009 (reissued No. 1,904), for improvement in artificial gums and palates, <i>held</i> valid and infringed	735, 743, 743
Design for handles of table spoons and forks. Patent to Gorham and others, <i>held</i> not infringed	*827
Explosive compounds. Reissues Nos. 4,818. 4,819, <i>held</i> to be invalid as for compounds where the original patent was for a process	280
Furnaces. No. 45,803, for improved method of desulphurizing and oxydizing metallic ores, <i>held</i> to interfere with No. 41,897, for improvement in stoves	539
Harvester. No. 74,342, for improvement, <i>held</i> valid and infringed	921
Horse powers. Reissue No. 1,322, for improvement, <i>held</i> not infringed	1014
India rubber. No. 3,633 (reissued No. 156, and No. 1,085), for improvement in manufacture of India rubber fabrics, <i>held</i> valid and infringed 638,	712
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Photographic shield. No. 21,829, <i>held</i> valid	772
Pitching barrels. No. 42,580, for improved method of pitching inside of barrels, <i>held</i> valid and infringed	839, 841
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Planing machines. Woodworth's patent and reissue <i>held</i> valid and infringed	317,
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Articles for a voyage from Salem, Mass., to Goree and a market, and back to a final port of discharge in the United States, do not authorize an intermediate trading voyage among the islands and on the coast of Africa	163
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A minor may recover his wages as seaman upon a libel promoted by his father as <i>prochein ami</i> , where the father has agreed that the son may receive his own wages	895
The voyage ends when the vessel is safely moored at her port of final destination	965
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The crew of a steamer, comprised of sharesmen and strikers engaged in porgy fishing, have a maritime lien upon the vessel for their wages, but the master does not	895
Such crew, upon being refused payment for their services at the time agreed upon, may enforce their lien upon the vessel before their term of service has expired	895
The 10 days' exemption from arrest of a ship under Rev. St. §§ 4546, 4547, is waived by appearance, claim and answer without protest, after that time has elapsed	895
The provisions of Rev. St. §§ 4546, 4547, apply only to merchant ships and their masters and crews	895
Title 51, Rev. St ("Regulation of Fisheries"), does not apply to vessels and crews engaged in porgy fishing	895
The crew of a fishing vessel, not having signed shipping articles as required by title 51, Rev. St., may collect their shares or wages	895



Title 53, § 4612, Rev. St., applies only to merchant vessels	895
A stipulation that seamen shall not sue for wages until the vessel is unladen, if fairly made, is binding upon them	965
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The maritime rule that desertion works a forfeiture is not imperative; and the court may consider palliating circumstances, not amounting to justification, and mitigate the penalty to reasonable indemnity to the owners	341
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Where a set-off or defense to a debt was available at law, and the party omitted by laches to take advantage of it, it seems a court of equity will not relieve him	1144
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