

11FED.CAS.—20

Case No. 5,965.

HALSEY V. GARLICK ET AL.

{12 O. G. 1026.}

Circuit Court, N. D. New York.

Aug. 22, 1877.

PATENTS—INFRINGEMENT—DECREE.

Reissue letters patent No. 6,660, granted Edgar Huson, September 28, 1875, for improvement in wagon-gearing, examined and sustained.

{This was a bill in equity by Eliza G. Halsey against Alfred S. Garlick, Frederick Coleman, and Noah R. Osgood for the alleged infringement of reissued letters patent No. 6,660, granted to Edgar Huson, September 28, 1875. The original patent, No. 16,648, was granted to Huson, February 17 1857.}

WHEELER, District Judge. This cause has been submitted on bill, answer, replication, proofs, and briefs of counsel. The only point insisted on in behalf of the defendants is, that the patent is void, because the patentee was not the original inventor of the improvement in wagon-gearing for which he obtained the patent, and because it was in actual use at the time he claimed to have invented it. Upon consideration of the evidence it is not found that he was not the original inventor, nor that it was in actual use at that time. It is therefore considered that the patent of the oratrix is valid, and that the defendants have infringed it. Wherefore it is ordered that a decree be entered for the oratrix to restrain the defendants from further infringement, and for an account of the profits received by the defendants, and of the damages sustained by the oratrix by reason of the infringement, and appointing the Hon. Charles Mason special master, to take the account and, on the coming in of his report, for the payment of the sum reported by the defendants to the oratrix, with costs.

Decretal Order.—Aug. 23, 1877.

This cause having heretofore been submitted on bill, answer, replication, proofs, and briefs, by counsel for the respective parties, on the pleadings and proofs, and the court having considered the same, and being of the opinion that Edgar Huson was the first and original inventor of Huson's improved platform-wagon gear, as described and claimed in the patent set forth in the complainant's bill of complaint, adjudges and decrees that the defendants have infringed the said patent in making and vending the said improved platform-wagon gear, as charged in the bill of complaint, and that the said complainant is entitled to have a perpetual injunction to restrain said defendants, their agents, servants, and all claiming or holding under or through them, from making, vending, or using, or in any manner disposing of, wagons embracing the invention or improvements described in said letters patent—namely, "Huson's Improved Platform-Wagon Gearing." And it is further adjudged and decreed that the cause be referred to the Hon. Charles Mason, Esq.,

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the clerk of this court, as special master to ascertain and report the number of wagons made, also the number sold by the defendants embracing within their construction the platform in the patent described, since the 28th day of September, A. D. 1875, and the damages complainant has sustained, or use and profits the defendants have derived, by reason of such infringement since the time last aforesaid, and, upon the coming in and confirmation of the said report, that said complainant have a decree and execution for the amount found due to her, the said complainant, and also for the costs in this suit to be taxed.