HAYDEN v. JAMES.

Case No. 6,260.

Circuit Court, District of Columbia. 1860.

PATENTS—WITHDRAWAL UNDER A MISTAKE—ABANDONMENT—DISCLAIMER—TESTIMONY AS TO UTILITY—JOINDER OF IMPROVEMENTS IN ONE PATENT.

1. If a party, upon a mistaken rejection of his claim by the patent office, withdraw his application, and receive the return fee of $20.00, and acting under such mistake of his rights, occasioned by the error of the patent office, suffer his invention to go into public use, even for several years, and afterward, upon discovering his mistake, apply for and obtain a patent the withdrawal under such circumstances will not be an abandonment of his right; but the second application, by operation of law relates back to the date of the first application, so as to cut off the forfeiture which otherwise would have happened by the long intermediate public use.

2. The disclaimer of part of an invention, provided such disclaimer arose from inadvertency, accident, or mistake, will not prevent the patentee

from embracing the part so disclaimed in a reissue of his patent.

{Cited in Hussey v. Bradley, Case No. 6,946.}

3. Upon the application for a patent, the testimony of practical men as to the utility of the invention is entitled to consideration.

4. A party may unite as many improvements having relation to the same thing in one patent, as he pleases, but he may make each improvement the subject of a separate patent if he chooses.

{Cited in Law, Dig. 153, 249, 311, 503, to the points as stated above. Nowhere more fully reported; opinion not now accessible.}

{See Case No. 6,256.}