

PARKER v. BAMKER.

{6 McLean, 631.}¹

Circuit Court, S. D. Ohio.

Oct. Term, 1855.

PATENTS—PLEADING—FAILURE TO ANSWER—DAMAGES—PROFITS.

1. When no answer is made to an alleged infringement of a patent, the charge is admitted.
2. One-fourth of the proceeds being estimated as the profits of the mill, the damages were estimated at that amount.

This is an action for damages, by the plaintiff [Zebulon Parker, against Thomas Bamker], for the infringement of plaintiff's patent in using his percussion water wheel for mills, etc. No plea being filed, the charge in the declaration was admitted. A witness being sworn, proved the use of the wheel three months in the year; that 3,000 feet of plank would be sawed in a day, and he estimated one-fourth of the proceeds for the expense of the mill, one-fourth to keep the 1115 mill in repair, one-fourth for the hire of a sawyer, and the other fourth for profit, which amounted, in five years, to the sum of \$460, for which the jury found a verdict. Judgment.

Several other cases were decided on the same principle.

Mr. Stanbery, for plaintiff.

{For other cases involving this patent see note to Parker v. Hatfield, Case No. 10,736.}

¹ [Reported by Hon. John McLean, Circuit Justice.]