

WHIPPLE V. RENTON.

Case No. 17,521.
[Mc. A. Pat. Cas. 332.]

Circuit Court, District of Columbia.

1854.

PATENT-OFFICE APPEALS—JURISDICTION OF JUDGE—APPEAL BY PATENTEE.

[The court has no jurisdiction of an appeal by a patentee from a decision by the commissioner in interference proceedings awarding priority to the applicant, and granting him a patent. *Pomeroy v. Connison*, Case No. 11,259, followed.]

[This was an appeal by George A. Whipple from a decision of the commissioner of patents, in an interference proceeding awarding priority to James Renton in respect to an invention of an improvement in furnaces for making iron direct from the ore.]

J. J. Greenough, for appellant.

MORSELL, Circuit Judge. On the 23d of December, 1853, James Renton filed an application in the patent office for letters-patent for an improvement in furnaces for making iron direct from the ore, which was declared to interfere with a patent granted to the said George A. Whipple on the 10th of May, 1853; and for the trial of the issue so formed the parties were allowed to take their testimony, which being done, and the said matter fully heard, the commissioner on the 6th of June, 1854, awarded priority of invention to the said James Renton; from which said decision the said George A. Whipple hath appealed and filed his reasons of appeal. The commissioner has laid before me the grounds of his decision in writing, with the original papers and the evidence in the cause; and a time and place having been appointed for the hearing of said appeal, the party appellant by his counsel filed his argument in writing in reply to a motion to dismiss the appeal for the want of jurisdiction made by the counsel for the appellee; and the said case was thereupon submitted. This, as before said, is an appeal by a patentee from a decision of the commissioner, not refusing or rejecting, but granting, the application for letters-patent. I have carefully examined and considered the argument made in support of the jurisdiction. The point being the same which was decided by Judge Cranch in the year 1842 in the case

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of *Pomeroy v. Connison* [Case No. 11,259], on very full consideration, and followed by me since, I feel that I ought to consider the point as settled, and am therefore of opinion that I have no jurisdiction in this case, and order and direct the said appeal to be dismissed; and the same is hereby so certified by me to the commissioner, and I shall herewith return the papers to the patent office.