

STEPHENSON *v.* THE SECOND AVENUE
RAILROAD COMPANY.

Circuit Court, S. D. New York. January 20, 1880.

PATENT—RE-ISSUE—INDENTITY OF INVENTION.

Infringement of Patent.

WHEELER, J. The only real question presented at the hearing of this cause upon the pleadings as drawn, under the law, and the evidence admissible in support of them, is whether the re-issued patent No. 6,697, dated October 11, 1875, is for the same invention as that for which the original patent No. 61,482, dated January 22, 1867, was granted. Upon a careful examination of each, although there are several things mentioned and described in the specification of the re-issue not mentioned or described in that of the original, and although the claims are quite different, there is nothing mentioned or described in the specification of the re-issue not shown in the drawings or model of the original, so far as has been observed, and there is no element of any combination, or arrangement, or device, claimed in the re-issue that is not either mentioned or described in the original as performing, or intended to perform, the office assigned to it in the reissue. Therefore it cannot be held that the re-issue is for any different invention from that described in the original.

Let a decree be entered for the orator for a injunction against further infringement of any of the patents described in the bill except No. 1,959, dated June 14, 1864, for a design, which has expired, and for an account according to the prayer of the bill, with costs.

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