

ants, because derived from the patentee by an independent license. The fact that this license was granted by the patentee to the Dale Tile Manufacturing Company with the consent of the other complainants, does not alter the character of the respective interests of the parties in the subject-matter. There is, therefore, a misjoinder of parties complainant.

The demurrer is allowed.

See S. C. *ante*, 297.

UNION STONE CO. v. ALLEN and others.*

Circuit Court, E. D. Pennsylvania. November 17, 1882.)

1. PATENTS—IMPROVEMENT UPON FORMER INVENTION—INFRINGEMENT.

An addition, even though an improvement, made to a patented invention, does not confer upon a subsequent patentee the right to use the device described in the former patent.

2. SAME—OIL-STONE HOLDERS.

The patent (No. 102,218) for oil-stone holders is infringed by the patent (No. 224,970,) for hand tools for dressing millstones, even though the latter may be an improvement upon the former by the addition of a bar back of the stone.

In Equity. Hearing on bill, answer, and proofs.

Bill to restrain an alleged infringement of patent No. 102,218, issued April 26, 1870, to Homer Brown, for an improvement in oil-stone holders, assigned to complainant. Respondents denied that complainant's patent possessed any patentable novelty over the well-known joiners' and carpenters' bench vise, and also denied the alleged infringement, and alleged that the device made and sold by respondents was constructed under letters patent No. 224,970, issued February 24, 1880, to William L. Tetter, one of the respondents, for an improvement in hand tools for dressing millstones, which, they claimed, did not include the "pointed feet" described in complainant's patent, and was further distinguished by having a detachable handle and also a solid-metal plate between and in contact with the block and the clamping-rod.

George E. Betton, for complainant.

Joseph P. Gross, for respondents.

*Reported by Albert B. Guilbert, Esq., of the Philadelphia bar.

BUTLER, D. J. Little need be said in disposing of this case. The plaintiff's patent is for an "improvement in oil-stone holders." The presumption of novelty, arising from the letters, is not overcome by anything shown. A comparison of the two holders—plaintiff's and defendant's—leaves no room to doubt that the latter contains the elements of the former. The use for which the defendant's "tool," as he denominates it, is intended, is unimportant, as is also the manner of using it. The plaintiff is entitled to every use to which his invention may be applied. The defendant cannot have the benefit of the plaintiff's holder, even though he may have improved it by the addition of a bar, back of the stone. It would be unprofitable to discuss the law or testimony of the case at greater length.

The plaintiff must have a decree.

THE S. M. WHIPPLE.

(District Court, D. California. February 11, 1881.)

1. BOATS AND VESSELS—LIEN FOR SUPPLIES.

Under a state law which gives a lien on vessels plying the interior waters of the state for materials and supplies furnished to the vessel, for her use, and on her credit, where such supplies were ordered by the master appointed by the owner, the law confers a lien.

2. SAME—CHARTERED VESSEL—NOTICE TO DEALERS.

Where the owner, who charters a vessel to third parties and under the terms of the charter-party appoints the master for the term of the contract, seeks to displace the lien given by statute for materials and supplies furnished the vessel by setting up a private agreement by which the master was deprived of the authority to create liens on the vessel, he should show by clear proof that explicit and unequivocal notice of the facts was given to persons dealing with the vessel.

Milton Andros, for appellant.

G. M. Williams, for claimant.

G. D. Hall and *W. W. Morrow*, for several intervenors.

HOFFMAN, D. J. It is not denied that the supplies were furnished and the repairs made as set forth in the libel of the libellant and those of the intervenors.

At the time these debts were contracted, the vessel was under charter to *G. A. Carleton* and *J. C. Spencer*. By the terms of the charter *Carleton & Spencer* agreed to pay "all bills for wages, coal, supplies, and wharfage, accruing against the steamer during the period of the