

POPE MANUF'G CO. V. MARQUA AND  
OTHERS.\*

*Circuit Court, S. D. Ohio, W. D.*      March 6, 1883.

1. REISSUES INVALID BECAUSE OF UNREASONABLE DELAY IN APPLYING FOR THEM.

On demurrer to bill of complaint, upon reissued patents, one of which was reissued 13 and the other 11 years after the originals were issued, *had*, that the right to have the patents reissued had been abandoned and lost by unreasonable delay, and that the reissues are, therefore, invalid.

2. SUITS ON PATENTS—MULTIFARIOUSNESS OF BILL.

When the bill of complaint seeks relief upon two patents and fails to show that they are capable of conjoint use or have been in fact so used by defendants, *quære*, whether the bill is multifarious.

3. Reissues Nos. 7,972 and 8,252, for improvements in velocipedes, *held* invalid.

In Equity. Suits on reissues Nos. 7,972 and 8,252, for improvements in velocipedes. The original patents were Nos. 59,915 and 46,705, respectively.

*Coburn & Thacker*, for complainant.

*Stem & Peek* and *Wood & Boyd*, for respondents.

BAXTER, J. This is a bill to restrain further infringement and recover for past infringement of two reissued patents. The original of one of them was issued on the seventh of March, 1865, and was reissued May 28, 1878. The original of the other was issued twentieth December, 1866, and was reissued November 27, 1877. The bill is demurred to.

Complainant fails to show by his bill that the two inventions alleged to have been infringed are capable of conjoint use, or that they have in fact been so used by defendant. For the want of this averment it is insisted that the bill is multifarious, etc. 3 Fisher,

63; 6 Fisher, 286; and *Gamewell, etc., Co. v. City of Chillicothe*, 7 FED. REP. 354-5.

I am inclined to think the demurrer is well taken. But in view of another question raised by the demurrer, which is clearly fatal, I have not fully considered, nor have I deemed it necessary to decide, whether the bill is or is not multifarious.

One of the patents was reissued 13 and the other 11 years after the original. The right to this reissue had been abandoned and lost by unreasonable delay. *Bantz v. Frantz*, 105 U. S. 160, and *Miller v. Bridgeport Brass Co.* 104 U. S. 350, decided at the last term of the United States supreme court. The reissued letters sued on are therefore invalid. Complainant's bill will be dismissed, with costs.

\* Reported by J. C. Harper, Esq., of the Cincinnati bar.

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