

"most devouring rate" of 2 per cent per month interest, would be to inflict unendurable oppression.

The demurrer must be sustained upon this ground, and it is unnecessary to consider the other grounds relied on. It is so ordered.

MUNDY v. LIDGERWOOD MANUF'G Co.

(Circuit Court, S. D. New York. May 5, 1884.)

PATENT LAW—DENIAL OF COSTS UNDER ST. § 4922.

St. § 4922, applies to patentees without original right, and not to such as have had their rights impaired by their neglect.

In Equity.

Ernest Webb, for complainant.

L. Gifford, for defendant company.

WHEELER, J. The statute, (section 4922,) denying costs in patent cases unless disclaimer is entered at the patent-office before commencement of the suit, is, by its terms, applicable only to patents in which the patentee has, in his specification, claimed to be the original and first inventor of substantial parts of the thing patented, of which he was not such inventor. The orator did not abandon the new and expanded claims of his reissue on that ground, but because of his laches in applying for the reissue. The statute, therefore, does not apply to this case. And, as no hearing was had upon the abandoned claims, no other ground for denying costs is made apparent. The decree is therefore signed, without requiring a disclaimer or denying costs.

BATE REFRIGERATING Co. v. GILLETT and others.

(Circuit Court, D. New Jersey. March 25, 1884.)

1. FOREIGN STATUTES IN A UNITED STATES COURT—CONSTRUCTION.

A statute of another country, when considered by our courts, carries the construction given it by the courts of that country.

2. PATENT LAW—CONSTRUCTION OF SECTION 4887, REV. ST.

A patent issued successively by Canada and the United States, and afterwards declared void *ab initio* by a Canadian court, does not by that fact expire in this country, but will be regarded as if it had never existed in Canada at all.

On Motion to Vacate Order, etc.

Dickerson & Dickerson, for the motion.

John R. Bennett, contra.

NIXON, J. After the validity of complainant's patent was sustained by a decree of the court entered November 14, 1881, the defendants filed a petition setting forth that the letters patent, for the infringement of which the suit had been brought, were letters patent of the United States, numbered 197,314, granted to John J. Bate, of New York, on the twentieth of November, 1877, for the full term of 17 years; that prior thereto, to-wit, January 19, 1877, letters patent of the dominion of Canada, No. 6,938, had been issued to said Bate for the same invention, for the term of five years from that date; that the term of the foreign patent had expired on January 9, 1882, by reason whereof the United States letters patent had terminated at the same time as the Canadian patent, under section 4887 of the Revised Statutes. The petition further alleged that, the invention of Bate having been previously patented by him in Canada, the United States letters patent should have been so limited on their face as to expire at the same time as the foreign patent; and that the granting of the patent in the United States for the full term of 17 years was in direct violation of said section of the patent act, by reason thereof the same was null and void *ab initio*. The petition prayed that the injunction before ordered and issued should be dissolved. After consideration of the case, the court held that the domestic patent expired at the end of the life of the foreign patent, and dissolved the injunction. See *Bate Ref. Co. v. Gillett*, 13 FED. REP. 553. As it did not seem necessary to the decision of the case, no opinion was expressed upon the second allegation of the petition, that the American patent was void *ab initio* because the term was not limited upon its face to the life of the foreign patent.

A motion has now been made and heard to vacate the order dissolving the injunction and to reinstate the same upon two grounds: (1) Because the superior court for Lower Canada, in the province of Quebec, on a *scire facias* issued by the attorney general (Sir Archibald Campbell) in and for the dominion of Canada, had decided that said letters patent No. 6,938, issued to said Bate, January 9, 1877,