

VACUUM OIL Co. v. BUFFALO
LUBRICATING OIL Co.

Circuit Court, N. D. New York. March 20, 1885.

1. PATENTS FOR INVENTIONS—NOVELTY—PATENT
NO. 68,426.

Claims 2 and 12 of patent No. 68,426 granted to Hiram B. Everest, on September 3, 1867, for an improvement in apparatus for distilling petroleum, *held* void for want of novelty.

2. SAME—DISCLAIMER.

After the term of a patent has expired, it is too late to file a disclaimer.

In Equity.

WALLACE, J. For the reasons stated orally at the hearing of this cause the second and twelfth claims of the patent in suit (No. 68,426, granted September 3, 1867, to Hiram B. Everest, assigned to complainant) are clearly void for want of novelty. Inasmuch as no disclaimer has been filed, it is unnecessary to consider the validity of the other claims. After the term of a patent has expired it is too late to file a disclaimer. The suit cannot therefore be maintained, and the bill is dismissed.

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