

FRANKFORT WHISKY PROCESS CO. *v.*  
PEPPER AND OTHERS.

*Circuit Court, S. D. New York.* 1885.

PATENTS FOR INVENTIONS—SUIT FOR  
UNAUTHORIZED USE—PARTIES.

Where the former owner of a patent has disposed of all interest in the same, reserving the right to specified uses of the invention, he has no interest in the patent, and is not a necessary party plaintiff in an action against third parties for an unauthorized use of such invention.

WALLACE, J. The ground of demurrer assigned is that Allen, the former owner of the patent upon which the suit is founded, has not been joined as a party complainant. In the instrument conveying the patent to the complainant, Allen, the then owner, reserved the right to himself to use and to license others to use the process patented “to mash an aggregate of 4,000 bushels of grain in each and every 24 hours, and convert the same into distilled spirits,” and also to license the proprietors of certain specified distilleries to use the patented process. The conveyance was a grant of the patent, with a reservation of a license to the grantor; and is in legal effect as though the grantor had made an unqualified transfer of the patent to the complainant, and had at the same time received from the complainant a license back. Allen is not a necessary party to a suit by the complainant against third persons to restrain infringement.

The demurrer is overruled, with costs.

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