

v. Graff, 133 U. S. 702, 10 Sup. Ct. Rep. 378, where the supreme court says: "A prior foreign patent operates under our law to limit the duration of a subsequent patent here, but that is all. The sale of articles in the United States under a United States patent cannot be controlled by foreign laws." The motion for an injunction against the defendants McDonald and E. J. Willis is granted. Inasmuch as it does not appear that they had any interest in the sale of the infringing machine, they are not liable to account.

TARR et al. v. ROSENSTEIN et al.

(Circuit Court of Appeals, First Circuit. October 19, 1892.)

No. 34.

**1. SUPERSEDEAS BOND—LIABILITY ON.**

A supersedeas bond, conditioned according to the statute for prosecuting an appeal with effect and answering all damages and costs, covers, not merely compensation for the delay arising from the appeal, but also the amount of the decree appealed from, so far as the latter directs the payment of money by appellant to appellee. 51 Fed. Rep. 368, affirmed.

**2. SAME—INTEREST—MONEY DEPOSITED IN COURT.**

But in an action on the bond neither the principal nor sureties can be mulcted beyond what was adjudged as the result of the appeal; and where a sum deposited in court by a receiver was there retained pending an appeal, and no provision was made for interest thereon in the mandate or the decree entered in pursuance thereof, no such interest could be recovered in an action on the supersedeas bond. 51 Fed. Rep. 368, affirmed.

**3. SAME—LIABILITY OF SURETIES—EFFECT OF TRUSTEE PROCESS.**

A decree for the payment of money by defendant to complainant was affirmed on appeal, and the decree entered in pursuance of the mandate allowed interest from the date of the appeal. Notice was at once given to the sureties on the supersedeas bond that plaintiff looked to them for payment of the decree. Two days later the sureties were summoned as trustees in a suit against the plaintiff, but gave no attention to the same, and were defaulted therein. *Held* that, as they were in actual personal default to plaintiff from the date of receiving the notice, they could not escape payment of interest to him because of the trustee process, especially as they did not set aside and cause to remain idle any fund to meet the decree or the judgment in the trustee action. 51 Fed. Rep. 368, affirmed.

**4. SAME—FEDERAL AND STATE COURTS.**

No restraint or embarrassment can lawfully be put on the enforcement of judgments or decrees of the federal courts by means of trustee process issued by a state court; and, as execution could have issued against the principal debtor upon the decree entered in pursuance of the mandate, the enforcement of such decree against his sureties could not be prevented by the trustee suit, for, while execution could not have gone against them, they were so intimately connected with him as to stand in the same position. 51 Fed. Rep. 368, affirmed.

In Error to the Circuit Court of the United States for the District of Massachusetts.

Action by Julius W. Rosenstein and others against Robert Tarr, principal, and William C. Dolliver and John S. Dolliver, sureties, on a supersedeas bond. Judgment for plaintiffs. See 51 Fed. Rep. 368, where a full statement of the facts will be found. Defendants bring error. Affirmed.

Benjamin F. Butler and Eugene J. Hadley, (Eugene J. Hadley, of counsel,) for plaintiffs in error.

William F. Slocum and Winfield S. Slocum, for defendants in error.

Before COLT, Circuit Judge, and NELSON and WEBB, District Judges.

PER CURIAM. We agree with the learned circuit judge who decided this case in the court below, for the reasons stated in his opinion, that the trustee proceedings afford no ground for withholding from the defendants in error the benefit of the supersedeas bond, and that they are entitled to interest on the full amount of the decree entered June 28, 1890, without deduction on account of the trustee proceedings. Judgment affirmed, with interest and costs.

---

FEATHERSTONE v. GEORGE R. BIDWELL CYCLE CO.

(Circuit Court, S. D. New York, October 1, 1892.)

No. 5,136.

1. PATENTS FOR INVENTIONS—ANTICIPATION—PNEUMATIC CYCLE TIRES.

Claim 4 of reissued patent No. 11,153, granted March 24, 1891, to John B. Dunlop, upon original patent issued to him September 9, 1890, covers, in substance, the union of an inflated, expansible tubular tire to the rim of a cycle wheel by means of a nonexpansible confining envelope surrounding the tire, and having flaps, which are turned over and cemented to the inner surface of the rim. *Held*, that this claim was not anticipated by patent No. 5,104, issued May 28, 1847, to Robert W. Thompson, for an improvement in carriage wheels, etc., claiming a rubber tube, a covering of canvas, and an outer casing, consisting of two strips of leather, one bolted to the outer side of the felly, and fastened to the other strip by rivets or by leather thongs.

2. SAME—INVENTION—PRIOR ART.

There was nothing in the prior state of the art, as shown either by the nine patents issued in 1889 to A. W. Thomas, or by other patents, to render such claim invalid for want of invention, especially in view of the fact that this tire was the first one commercially adopted, and that it went into immediate and very extensive use.

3. SAME.

But, in view of the prior state of the art as shown by the foregoing patents, and especially by the Wilkins patent, there was no invention in the additional element added by the fifth claim of the Dunlop patent, namely, an "outward protective covering of India rubber, the edges of which are secured to the inner surface of the rim, as set forth."

4. SAME—REISSUE—ESTOPPEL—APPLICATION—FALSE STATEMENT.

In his affidavits accompanying the application for the original American patent Dunlop swore that the invention was the same as that covered by the British patent issued to him in 1889. Defendants claimed, however, that the first claim of the reissue is identical with a prior English patent issued to the patentee in 1888. *Held* that, even if this were true, and the affidavit consequently false, there being no other evidence of fraud, the whole of the reissue was not invalidated thereby, it appearing that the question of identity may have been a doubtful one, which the applicant would probably leave to his attorney.

5. SAME—ESTOPPEL.

After the issue of the original American patent, and before his application for the reissue, the patentee applied for a second American patent, swearing that the invention therein claimed had never been patented, with his knowledge or consent, in any country. This statement was untrue as to part of the claims, for they had been described in the English patent of 1889. *Held*, that this false statement, in the absence of the other elements of an estoppel, did not preclude the patentee from asserting the claims of the reissue.

6. SAME—REISSUE—VALIDITY—SAME INVENTION.

On an examination of the patents it sufficiently appears that the invention covered by the fourth and fifth claims of the reissue was the same invention intended to be secured by the original patent of September 9, 1890.