This was a libel by James G. Tarr and others against the Helen Story (Arthur D. Story, claimant). From a decree of distribution, the claimant appeals.

William A. Pew, Jr., for appellant.

M. J. McNeirny, for appellees.

Before COLT and PUTNAM, Circuit Judges.

No opinion. Decree of district court reversed, with costs of this court against the appellant, and the case is remanded, with authority to that court to try the case anew.

PEOPLE'S PURE-ICE CO. et al. v. TRUMBULL et al.

TRUMBULL et al. v. FULLER et al.

(Circuit Court of Appeals, Seventh Circuit. January 16, 1896.)

Nos. 203 and 206.

Appeal from the Circuit Court of the United States for the Northern Division of the Northern District of Illinois.

For former report, see 70 Fed. 166.

William Burry, for People's Pure-Ice Co.

A. W. McDougald and W. T. Burgess, for Rollin H. Trumbull and Edwin G. Cheverton.

No opinion. Motion for modification of former opinion denied.

PHOENIX ASSUR. CO. OF LONDON v. SUMMERFIELD.

(Circuit Court of Appeals, Fourth Circuit. July 1, 1895.)

No. 126.

Error to Circuit Court of the United States for the Western District of Virginia.

Staples & Munford, for plaintiff in error.

Peatross & Harris, for defendant in error.

Settled by agreement of counsel.

PORT ROYAL & A. RY. CO. et al. v. AVERILL et al.

(Circuit Court of Appeals, Fourth Circuit. May 22, 1895.)

No. 132.

Appeal from Circuit Court of the United States for the District of South Carolina.

Mitchell & Smith, for appellants.

Appeal withdrawn without prejudice on order of court filed.

RICHMOND & D. R. CO. v. CHESTER & L. N. G. R. CO.

(Circuit Court of Appeals, Fourth Circuit. February 5, 1896.)

No. 146.

Appeal and cross appeal from Circuit Court of the United States for the District of South Carolina.

J. S. Cothran, for appellant.

A. G. Brice, for appellee.

Dismissed by consent, pursuant to the twenty-third rule (47 Fed. x.), the record not having been printed.

MOYES v. STIRLING CO.

(Circuit Court, E. D. Pennsylvania. December 19, 1895.)

No. 19.

JURISDICTION OF FEDERAL COURTS—REMOVAL OF CAUSES.

A bill in equity, filed in a state court, alleged that defendant had asserted to persons intending to purchase boilers from complainant that such boilers were an infringement of defendant's patent, and that defendant had threatened legal proceedings against such intending purchasers. It further alleged that such statements were false; that defendant would not bring suit for infringement, "in order that said statements might be answered and refuted in a court of justice"; and prayed that he might be enjoined from making such assertions in the future, and ask damages by reason of such assertions in the past. *Held*, that the substantial controversy was as to the infringement of the patent, and that the federal court had jurisdiction, and the cause was a removable one.

This was a bill in equity by Laurie M. Moyes against the Stirling Company for injunction and damages. The bill was filed in the state court of Pennsylvania, and was removed by defendant to this court. Complainant moves to remand the cause.

Paul, Biddle & Ward, for complainant.

Charles Heebner and Banning & Banning, for defendant.

DALLAS, Circuit Judge. This is a suit in equity, which was originally brought in a Pennsylvania court. It has been removed to this court by the defendants, and the plaintiff now moves for an order remanding it to the state court. There is nothing from which the nature of the suit can be ascertained except the complainant's bill. It alleges that the defendants (one of whom is a corporation, and the other its agent) have asserted to persons intending to purchase the complainant's boilers, that they are an infringement of the patented boilers of the defendant company, and that they have threatened such persons with legal proceedings. Its prayers are that the making of such assertions in the future may be restrained, and that damages by reason of their having been heretofore made may be awarded. Is the case thus presented one which cannot be determined without necessarily, and mainly, and not incidentally merely, deciding a question arising under the patent laws of the United States? In my opinion, this inquiry must be affirmatively answered. The plaintiff avers by his bill that the statements to which he objects are false, and he complains that the defendant company will not bring suit for infringement, "in order that said statements might be answered and refuted in a court of justice." This obviously means that, because the defendant company declines to sue upon the patent, the plaintiff himself has been obliged to bring this suit to obtain an adjudication of their respective rights; but it is evident that the essential question is precisely the same as it would have been if the defendant company had been the actor. The substantial controversy, notwithstanding the reversal of the position of the parties on the record, is as to the infringement of a