

unreasonable to hold that the entire license is terminable by the expiration of these patents.

On the other hand, the consideration is not without great weight that the licensor could not have intended to concede to the licensees the uncompensated use of patents, which imparted to the leased machines their chief value, and had many years to run after the lapse of two years, when the Blake patents expired, or even after the possible extension of them for seven years, for the meager consideration of a moderate royalty, payable only during these periods. However this may be, the parties have, in a subsequent part of the license, declared their own understanding of its terms, and that is decisive of its meaning. In subdivision 3, under the eighth head in the license, it is agreed "that this lease and license shall continue (provided the lessees comply with the terms thereof) until the expiration of all the letters patent which the lessees are hereby licensed to use, or any extensions as renewals of the same." This language is unambiguous, and applies to all the patents, whether specifically or generally described, the right to use which is authorized by the license. In this category are several patents, as before stated, which were embodied in, or ingrafted upon, the leased machine. The youngest of them, the Blake patent of September 6, 1870, continues in force until September 6, 1887, and must therefore be taken as the measure of the duration of the license. Of the remaining ground of defense it is sufficient to say that it is unsustainable. Nor is a more extended discussion of the pleas to the jurisdiction of the court required. The parties are citizens of different states; and the bill prays for a discovery and account. These are recognized heads of equity jurisdiction, and are cognizable in this court, although the groundwork of the relief sought is a contract touching the use of letters patent, because adequate relief cannot be obtained in a court of law.

There must therefore be a decree in favor of the complainants for discovery and an account, as prayed for; and counsel will accordingly prepare one.

UNION TUBING Co. and others v. PATTERSON Co. and others.

(Circuit Court, S. D. New York. February 9, 1885.)

1. PATENTS—REISSUE.

Reissued letters patent granted to Enoch Osgood, assignor, etc., July 30, 1872, for an improvement in process for rendering leather, etc., soft, flexible, and impervious to gas, are for the same invention described in the original, granted April 16, 1878, and valid.

2. SAME—INFRINGEMENT.

Such reissued patent is not infringed by the compound of glycerine, soap, borax, and sulphate of iron, as used by defendants in manufacturing their gas

tubing; the function of the glue in such compound being to make the tube gas-proof, of the glycerine to make it flexible, and of the other ingredients to cure the glue and glycerine so that they will not melt when subjected to heat.

In Equity.

Wetmore, Jenner & Thompson, for complainants.

Benjamin F. Thurston and Wilmarth H. Thurston, for defendant.

WALLACE, J. The reissued letters patent granted to Enoch Osgood, assignor, etc., July 30, 1872, for an improvement in processes for rendering leather, etc., soft, flexible, and impervious to gas, and which are alleged to be infringed by the defendants, are for the same invention described in the original, and the defense so far as it rests upon the invalidity of the reissue is not tenable. The specification of the original patent to Osgood, granted April 16, 1878, describes his invention as "a new and improved process of rendering leather, fibrous and porous materials, impervious to gas, preventing all gases from penetrating or escaping from such materials when made into bags, tubes, or other forms." The specification proceeds: "My invention relates to the use of glycerine for this purpose, and I carry out my invention as follows: The substances to be rendered impervious are first wrought into the desired form. When the articles are dry they are saturated with glycerine by immersion therein, or any process suitable therefor. This treatment renders them impervious to gas, preventing either its escape therefrom or penetration thereinto." The claim is: "The herein described process of rendering leather, fibrous and porous substances, impervious to gas, preventing the penetration into or the escape of gas therefrom by the application thereto of glycerine, substantially as set forth."

In the specification of the reissue, the invention is described to consist "in treating or saturating the leather, skin, cloth, or other article to be rendered pliable and gas-tight, with glycerine. The article to be prepared by my process is saturated by immersion in glycerine, with or without the aid of heat, or the glycerine may be rubbed in, or be applied by thorough brushing, or otherwise. The substances to be rendered soft and pliable, and impervious, may or may not be first wrought into the desired form before being treated with glycerine."

The claims of the reissue are as follows: (1) As a new article of manufacture, leather or skin, or their equivalent, saturated with glycerine, whereby said article is rendered impervious to gas, and soft and flexible, substantially as described. (2) The herein described process of rendering diaphragms, tubes, and vessels of leather, skin, or other fibrous and porous material, impervious to gas, soft and flexible, by saturating or treating the same with glycerine, substantially as set forth.

The real discovery of Osgood was a new treatment of leather, etc., with glycerine. He was not the inventor of glycerine. He could not patent any undiscovered property of glycerine or a result merely.