

moisture. The defendants made the pulp abnormally dry in the first instance. They omit no step which the patent describes, and there is no substantial difference in the methods in which the process is used.

The defendants also say that the process was publicly used for more than two years before the date of the application for a patent. During the experiments which resulted in the discovery of the patented process, some poor dental plates were sold. Without going carefully into an examination of the testimony, the case is within the principles announced in *Pitts v. Hall*, 2 Blatchf. 229, and *Elizabeth v. Pavement Co.*, 97 U. S. 126.

Let there be a decree for an injunction and an accounting.

RHEUBOTTOM and another *v.* LOOMER and others.¹

(Circuit Court, D. Connecticut. March 5, 1886.)

PATENTS FOR INVENTIONS—PRIOR USE.

It was clearly proven in this case that the devices covered by patent No. 105,124, granted to Charles E. Pratt and others, July 5, 1870, for an improvement in hoop-skirts, had been manufactured and sold by others in 1863 or 1864, and hence the bill was dismissed.

In Equity.

J. E. Hindon Hyde and *Frederic H. Betts*, for plaintiffs.
William B. Wooster, for defendants.

SHIPMAN, J. This is a bill in equity to restrain the alleged infringement of letters patent No. 105,124, granted to Charles E. Pratt and others, July 5, 1870, for an improvement in hoop-skirts. The patent is now owned by the complainants. The inventor says in the specification of the patent that the invention consisted "in the employment of one or more bracing hoops attached to the back near the top, and springing around to the front, and downward to a point about the height of the knees of the wearer, as hereinafter described, in substitution of a large number of the concentric hoops, which, by this improvement, may be omitted from a short distance below the waist to the lower portion of the skirt," and thus either the necessity of sitting upon them, or of their throwing up the front part of the dress, when the wearer sits down, may be avoided. The only defense is want of novelty.

It is clearly proved that, during a period of about three months, in the year 1863 or 1864, the firm of W. E. Burlock & Co., of Birmingham, Connecticut, made and sold from 50 dozen to 100 dozen hoop-

¹ Reported by Charles C. Linthicum, Esq., of the Chicago bar.

skirts containing the patented improvement, and that in the year 1865 Townsend, Lattin & Co., of Bridgeport, Connecticut, made and sold a few such skirts. John R. Lattin was the superintendent of the factory of each of these firms, and was a member of Townsend, Lattin & Co. His testimony, and that of six other witnesses, in regard to the manufacture by W. E. Burlock & Co. established the fact beyond reasonable doubt that that firm made and sold these skirts for a few months in one of the years named. The testimony in opposition seems to me to be feeble. The manufacture by Townsend, Lattin & Co. was very small, but undoubtedly existed. It is also proved that S. A. Downs & Co., also of Birmingham, made and sold such skirts in 1864, and that Robert May, the successor of said firm, continued to make and sell the same article for a few years after 1865.

Considerable testimony was introduced by the defendants in regard to the manufacture and sale of these skirts, from 1862 to 1866, by Downs & Bassett, also of Birmingham. As the witnesses may have confounded the skirt in question with another which they made, and which was known as the "Eureka," and as the opposing testimony for the plaintiffs is stronger than it is in regard to the sales by the other firms, I make no finding on the subject of the manufacture by Downs & Bassett.

The bill is dismissed.

RUSSELL v. LAUGHLIN and others.¹

(Circuit Court, D. Maine. February 18, 1886.)

1. PATENTS FOR INVENTIONS—REISSUE.

Application for a reissue having been filed within two months after the original patent was granted, *held*, that the patentees could not be charged with want of due diligence in making the application.

2. SAME—REISSUE MUST BE FOR SAME INVENTION.

If the description in the original patent does not warrant the new claims in a reissue, then the reissue is for a different invention, and no amount of diligence in the application for the reissue can make it valid.

3. SAME—REISSUE No. 10,418, OF DECEMBER 4, 1883—SHIPS' PUMPS.

The combinations embodied in the new claims in this reissue are sufficiently described in the original patent. Such claims are valid, and the tenth, twelfth, and thirteenth claims *held* infringed.

In Equity.

Wm. H. Drury and Clarence Hale, for complainant.

Charles A. Hawley and Wilbur F. Lunt, for respondents.

COLT, J. This is a suit for infringement of reissued letters patent No. 10,418, dated December 4, 1883, granted to Albert Russell and

Reported by Charles C. Linthicum, Esq., of the Chicago bar.