

new arrangement as to his compensation, which had been agreed to. With this explanation of its meaning, Kearney and Tronson signed the certificate, and there is no evidence that Immer ever gave any other construction to it, or made any claim to ownership in the patent, until after this suit was brought, unless the assignment of the one-third of said patent by Immer to one Annan on April 28, 1874, and the reassignment of the same by Annan to Immer on June 23, 1875, be construed to indicate such claim.

The bill of complaint in this cause was filed March 15, 1883, by Kearney and the executrix of Luke F. Tronson, claiming to be the sole and exclusive owners of the patent. It was after this date that any notice came to the defendant that Immer set up any claim to ownership in the patent. On May 10, 1883, he assigned to the defendant corporation all the right to the reissue, and added a special release and discharge for all claims for damages for any prior infringement. The defendant, therefore, was a purchaser with notice that complainants denied the claim of Immer to ownership in the letters patent, and it is subject to all the defenses that could be set up against Immer himself. The certificate was not an assignment of the patent, or the part thereof; and, judging from its form, it was not intended by the parties to be so regarded. Whether its use should be limited to the settlement of the claim against the New Jersey Railroad it is not necessary to determine, although that seems to be its fair import. It is clearly competent, however, for the complainants to set up the same defense against the claim of ownership by the defendant corporation as they could have set up against Immer; and the testimony satisfies me that, when the patentees signed the certificate, they understood the scope and meaning of the paper to be that Immer should be entitled to receive the one-third, instead of the one-fourth, as before, of the money realized on the sale of patent-rights.

This construction of the certificate does not invest Immer or his assignee with any title, legal or equitable, in the patent itself. It simply determines the rate of compensation to which he was entitled on sales of patent-rights. I am aware that the phraseology used is capable of different construction; but I regard any other construction as aiding Immer in his attempt, by deception, to get more than the patentees intended he should have.

There must be a decree in favor of the complainants, on the plea.

ROEMER *v.* PEDDIE and others.¹SAME *v.* HEADLEY.

(Circuit Court, S. D. New York. June 3, 1886.)

1. PATENTS FOR INVENTIONS — NOVELTY — LOCK AND HANDLE FOR TRAVELING BAGS.

Letters patent No. 195,233, of September 18, 1877, to William Roemer, for improvement in combined lock and handle for traveling bags, *held* valid; following *Roemer v. Simon*, 20 Fed. Rep. 197.

2. SAME—ACCEPTANCE OF NARROW CLAIMS.

A patentee is bound by his claims. If he acquiesces in a rejection of broad claims, and accepts claims for his specific construction, he cannot be heard to enlarge the scope of his patent by construction, so as to cover devices not within its terms.

3. SAME—CONSTRUCTION OF CLAIM.

This patent construed, and *held* limited to the patentee's particular construction, and not infringed by defendant's lock-case, which had an extended bottom plate; the patentee having amended his application so as to dispense with a bottom plate.

In Equity.

Sanford H. Steele, for orator.

J. E. Hindon Hyde, for defendants.

WHEELER, J. This patent was held valid in *Roemer v. Simon*, 20 Fed. Rep. 197. No good reason for changing that conclusion has been made to appear, and it is followed now. The only question left is whether the defendants infringe. The improvement patented consists essentially in extending the sides of the lock-case to hold the handle rings of traveling bags. The bottom plate of the lock had before been extended for that purpose. By the improvement the bottom plate could be dispensed with, and the side walls of the lock-case made both to inclose the lock and hold the handle rings. The defendants use the same thing to hold the handle rings, but place the lock above it, and do not use it for the side walls of the lock-case. It becomes, by the use which they make of it, an extended bottom plate to the lock, of an improved form. If this piece was patented, and the patent is valid to cover it, the defendants do infringe. The file-wrapper and contents are made a part of the case. From them it appears that the orator, in his application for this patent, at first applied for a patent covering the combination of the lock-case with the handle rings. His claim was rejected on a reference to patent No. 177,020, granted to William Simon, which covered an extended bottom plate to the lock, to hold the handles. The claim was amended, and again rejected on the same reference, and was not granted until the specification was amended to dispense with an extended bottom plate to the lock, and the claim was confined to a

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