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UNITED STATES OF AMERICA.

Circuit Court of the United States.

DISTRICT OF NEW YORK.

IN EQUITY.

OPINION, DECREE & INJUNCTION,

IN THE CASE OF

MARCUS ORMSBEE

*vs.*

JOHN WOOD.

NEW YORK:

PRINTED BY T. F. LESLIE & CO., 335 BROADWAY.

1868.







TO  
PHOTOGRAPHERS,  
STOCK DEALERS,  
And Manufacturers of  
Multiplying Cameras.

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After a very expensive and protracted litigation, my rights have been fully established, as will be seen by the Opinion, Decree and Injunction of the Court, copies of which are hereto appended.

You are hereby cautioned against using, making, or vending any Multiplying Camera in future, without my License, as I shall prosecute, with the utmost rigor of the law, each and every infraction of my patent rights.

MARCUS ORMSBEE.

350 Bowery, New York.

January, 1868.







# OPINION.

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## U. S. Circuit Court :

*Southern District of New York.*

MARCUS ORMSBEE,

vs.

JOHN WOOD.

} In Equity.

BLATCHFORD, J. This is a final hearing on pleadings and proofs, on a bill filed upon Letters Patent, re-issued to Albert S. Southworth, of Boston, Massachusetts, September 25th, 1860, for a "plate holder for Cameras." The original Patent was issued to Southworth, as inventor, April 10th, 1855. The re-issued Patent was assigned by Southworth to Simon Wing and the Plaintiff, December 8th, 1860, and on the same day Wing conveyed to the plaintiff the exclusive right under the same, for the City of New York. The alleged infringement took place in the City of New York. The invention covers what is commonly known in the Photographic Art as the multiplying Camera or plate holder. Before this invention it was customary to use a separate plate for each impression, the plate being removed from the Camera and replaced by another, when several impressions of the same object were to be taken. This invention consists in bringing successively into the field of the lens of the Camera the different portions of a single plate, or several smaller plates. This is done by a peculiar management of a frame, in which the plate holder is permitted to slide, the position of the plate holder being definitely indicated to the operator, so that he can quickly and accurately adjust the plate or plates. The claim of the re-issued patent is "bringing the different portions of a single plate or several smaller plates successively into the field of the lens of the Camera, substantially in the manner and for the purpose specified."

Various defences are set up in the answer of the defendants, but no testimony has been taken to sustain them. They are substantially the same defences that were set up in the suit in Equity of Simon Wing vs. Charles F. Richardson, decided in the Circuit Court of the United States, for the district of Massachusetts, in June 1865, by Mr. Justice Clifford, which was a bill founded on the same re-issued



patent. In that case it was decided, (1) that the patentee invented the improvement claimed; (2) that the re-issued patent was for the same invention as that described in the original patent; (3) that the defense of abandonment was not proved; (4) that the patent was not open to objection as patenting a principle or result; (5) that the patentee was the first inventor of the improvement.

The infringement in the present case is proved, and there must be a decree for a perpetual injunction, in accordance with the prayer of the bill, and for a reference to a master to take and state an account of the profits derived by the defendant from the infringement.

W. J. A. FULLER and LEON ABBETT for the plaintiff.

N. APPLETON and C. M. KELLER for the defendant.

MARCUS ORMSBEE

vs.

JULIUS BRILL.

} The same Decree.

THE SAME

vs.

F. BALCH.

} The same Decree.

THE SAME

vs.

KRAFT and KRAFT.

} The same Decree.

Filed, January 8th, 1868.

## DECREE.

At a stated Term of the Circuit Court of the United States of America, for the Second Circuit and Southern District of New York, on the eighth day of January 1868.

Present. The Honorable SAMUEL BLATCHFORD, Judge.

MARCUS ORMSBEE

vs.

JOHN WOOD.

} In Equity.

This cause came on to be heard upon the bill, answer, and replication and proofs exhibited by the parties, and the same having been argued by Counsel and considered by the Court, it is now found and hereby ordered, adjudged and decreed, that the Re-issued Letters



Patent, granted September 25th, 1860, unto Albert S. Southworth, referred to in the complainant's bill, is a good and valid Patent, and that the said Albert S. Southworth was the original and first inventor of the invention described and claimed in the said Patent, and also that the defendant has infringed the said Re-issued Letters Patent. and the exclusive right of the complainant under the same.

And it is further ordered, adjudged and decreed, that the complainant do recover of the defendant, the profits, gains, and advantages which the said defendant has received or made, or which have arisen or accrued to him, from said infringement of the said Re-issued Letters Patent, by the manufacture, use, or sale of the improvement described and secured by the aforesaid Re-issued Letters Patent.

And it is further ordered, adjudged, and decreed, that the said complainant do recover of the defendant his costs and charges and disbursements in this suit to be taxed.

And it is further ordered, adjudged and decreed, that it be referred to Kenneth G. White, one of the masters of this Court, residing in the City of New York, to ascertain and take and state and report to the Court, an account of the gains, profits, and advantages which the said defendant has received, or which have arisen or accrued to him since September 25th, 1860, from infringing the exclusive right of the said complainant under the said Re-issued Letters Patent, by the manufacture, use and sale of said invention patented in said Re-issued Letters Patent.

And it is further ordered, adjudged and decreed, that the complainant on such accounting have the right to cause an examination of said defendant, *ore tenus*, or otherwise, and also the production of all his books, vouchers, and documents, and that the said defendant attend for such purpose before said master, from time to time, as said master shall direct.

And it is further ordered, adjudged, and decreed, that a perpetual injunction be issued in this snit, against the said defendant, commanding and enjoining him from making, using, or vending to others to be used directly or indirectly any Photographic Camera that moves the plate over the focus of the lens or the lens over the surface of the plate, or that brings the different portions of a single plate or several smaller plates successively into the field of the lens of the Camera, or in any manner counterfeiting or imitating the said invention or any part thereof, or any Photographic Cameras made or used in connection therewith, substantially as described and claimed in the said Re-issued Letters Patent.



# INJUNCTION.

THE PRESIDENT OF THE UNITED STATES

TO

JOHN WOOD,

His Clerks, Attorneys, Agents, Servants and Workmen:

GREETING:—

Whereas, it has been represented to us in our Circuit Court of the United States, for the Second Circuit and Southern District of New York, that Letters Patent of the United States were re-issued, in due form of Law, on the 25th day of September 1860, to Albert S. Southworth, for a new and useful improvement in Photographic Cameras, said Letters Patent being known and described as Re-issue No. 1049. And that you, the said John Wood, have infringed the rights secured by the aforesaid Re-issued Letters Patent, by using Photographic Cameras, embracing in their construction and mode of operation the said improvements, substantially as claimed and set forth in the said Re-issued Letters Patent, contrary to the form of the Statute in such case made and provided:

Now therefore, We do strictly command and enjoin you, the said John Wood, your Clerks, Attorneys, Agents, Servants and Workmen, under the pains and penalties which may fall on you in case of disobedience, that you forthwith and forever desist from using, making or vending to others to be used, directly or indirectly, any Photographic Cameras that move the plate over the focus of the lens, or the lens over the surface of the plate, or that bring the different portions of a single plate, or several smaller plates, successively into the field of the lens of the Camera, or in any manner counterfeiting or imitating the said invention or any part thereof, or any Photographic Cameras made or used in accordance therewith, substantially as described and claimed in the said Re-issued Letters Patent.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the City of New York, this fourteenth day of January, 1868.

{ SEAL OF  
THE COURT. }

KENNETH G. WHITE, Clerk.



New York, Feb. 1, 1868,

THIS IS TO CERTIFY, that, we the undersigned, Manufacturers and Dealers in Photographic Materials, have discontinued the sale of Multiplying Camera Boxes, which infringe on the ORMSBEE & WING Patent, except when parties ordering the same comply with the provision named below; legal notice having been given us this day to that effect. All parties ordering Boxes with sliding movement which infringe on said patent, must remit \$50.00 with their order, when a License signed by the Patentee to use the same will be furnished with the Box.

WILLARD MAN'F'G CO., New York.  
Per S. H. Willard, Sec'y.

E. & H. T. ANTHONY & CO. “

CHAPMAN & WILCOX. “

SCOVILL MAN'F'G CO., “  
Sam'l Holmes, Agent.

HOLMES, BOOTH & HAYDENS, “  
H. H. Hayden, V. Pres.

WILLIAM B. HOLMES. “

WILLIAM H. LEWIS. “


BENJ. FRENCH & CO. Boston.

GEO. S. BRYANT & CO. “

DODGE, COLLIER & PERKINS. “



# TO PHOTOGRAPHERS.



Your particular attention is called to the fact that the foregoing OPINION, DECREE, and INJUNCTION is not only the defeat of the individuals therein named, but of the extensive Association formed in N. Y. City for the avowed purpose of contesting at law my patent rights. This decision, is FINAL, and a virtual end of the efforts of the aforesaid combination. It is obvious, therefore, that any further legal contest will be utterly useless, and can only result in the defeat of any one sufficiently insane to incur further litigation.

The Certificate, on the preceeding page, shows that this decision is acquiesced in by the most prominent Stock Dealers of the country, and that they regard it as the end of this protracted contest.