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Tyler Vs. Tuel

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Court : US Supreme Court

Decided On : 1810

Appeal No. : 10 U.S. 324

Appellant : Tyler

Respondent : Tuel

Judgement :

Tyler v. Tuel - 10 U.S. 324 (1810)
U.S. Supreme Court Tyler v. Tuel, 10 U.S. 6 Cranch 324 324 (1810)

Tyler v. Tuel

10 U.S. (6 Cranch) 324

ON CERTIFICATE OF DIVISION OF OPINION AMONG THE JUDGES

OF THE CIRCUIT COURT OF THE DISTRICT OF VERMONT

SYLLABUS

An assignee of part of a patent right cannot maintain an action on the case for the violation of the patent.

Tyler and others, as assignees of Benjamin Tyler, the original patentee of an improvement in grist mills which he called the wry fly, or side wheel.

After a verdict for the plaintiffs, the judges of the court below, upon a motion in arrest of judgment, were divided in opinion upon the question "whether the plaintiffs, by their own showing, are legal assignees to maintain this action."

There were two counts in the declaration.

The first set forth the substance of the statutes upon the subject of patents for useful discoveries, the facts necessary to entitle the patentee to a patent for his invention, and the patent itself, together with the specification, dated February 20, 1800.

The averment of the assignment of the patent right to the plaintiffs was in these words:

"And the plaintiffs further say that the said Benjamin Tyler afterwards, to-wit, on 15 May in the year last aforesaid, at said Claremont, by his certain deed of that date by him signed, sealed, and to the plaintiffs then and there by the said Benjamin delivered, and ready to be shown to the court, did in consideration of the sum of $6,000, to him before that time by the plaintiffs paid, grant, bargain, sell, assign

Page 10 U. S. 325

and set over to the plaintiffs, their executors, administrators, and assigns all the right, title, and privilege in, unto, and over the said improvement in the said patent described, and thereby vested in the said Benjamin in any part of the United States excepting in the Counties of Chittenden, Addison, Rutland, and Windham, in the State of Vermont."

The second count, omitting the recital of the statutes and of the patent, stated concisely the same facts. The averment of the assignment of the patent right was as follows:

"And the said Benjamin Tyler, afterwards and before the expiration of the said fourteen years, to-wit, at said Claremont, on 15 May, in the year last aforesaid, by his certain deed of that date by him then and there signed, sealed, and to the plaintiffs delivered, assigned to the plaintiffs the full and exclusive right and liberty of making, constructing, using, and vending to others to be used the said improvement in and throughout the United States, excepting in the Counties of Chittenden, Addison, Rutland, and Windham in the State of Vermont, as fully and amply as by said letters patent the said Benjamin Tyler was thereto entitled, and all his title and interest in and unto said improvement excepting as aforesaid. "

Page 10 U. S. 326

On a subsequent day, the Court directed the following opinion to be certified to the Circuit Court for the District of Vermont:

Page 10 U. S. 327

It is the opinion of the Court that the plaintiffs, by their own showing, are not legal assignees to maintain this action in their own names, and that the judgment of the circuit court be arrested.

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