Terhune Vs. Phillips

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Court : US Supreme Court

Decided On : 1878

Appeal No. : 99 U.S. 592

Appellant : Terhune

Respondent : Phillips

Judgement :

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Terhune v. Phillips

99 U.S. 592

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

SYLLABUS

The Court will take judicial notice of a thing which is in the common knowledge and use of the people through the country. It therefore holds that reissued letters patent No. 5748, granted to Matthias Terhune Jan. 27, 1874, for an alleged new

and useful improvement in corner sockets for showcases, are void for want of novelty.

This was a bill in equity by Matthias Terhune against John Phillips and Wellington Phillips praying for an injunction restraining them from using or vending or in any manner putting into practical operation or use the corner sockets for showcases for an improvement in which reissued letters patent No. 5748 had been granted to the complainant by the United States, Jan. 27, 1874.

It appears by the specification forming a part of the letters patent that the invention for which they were granted

"has for its object to provide a means for connecting the ends of the horizontal and vertical members of a showcase frame, and to that end it consists in a metallic corner piece, provided with sockets adapted to receive the ends of the different members, whereby the same are firmly connected at the corners of the case."

The court below dismissed the bill, whereupon the complainant brought the case here.

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MR. JUSTICE SWAYNE delivered the opinion of the Court.

The determination of this case is controlled by *Brown v. Piper,* 91 U. S. 37 . We cannot fail to take judicial notice that the thing patented was known and in general use long before the issuing of the patent. The substitution of metal for wood was destitute both of patentable invention and utility. The admission of improper testimony, if it occurred, was therefore immaterial. The case of the appellant as it appears in the record, without any testimony, is clear and conclusive against him.

Decree affirmed.