

The Moore Filter Company - - - - - *Appellants*

v.

The Great Boulder Proprietary Gold Mines, Limited - - *Respondents*

FROM

THE SUPREME COURT OF WESTERN AUSTRALIA.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 29TH APRIL, 1921.

Present at the Hearing :

VISCOUNT HALDANE.

LORD BUCKMASTER.

LORD SHAW.

[*Delivered by* VISCOUNT HALDANE.]

This case was heard by the Supreme Court of Western Australia, before Burnside, J., who tried the action. Much evidence was called, and the trial occupied many days. The result was expressed in a full and careful judgment delivered by the learned Judge. With the result come to their Lordships find themselves in agreement.

The question which arises is whether the appellants possessed a valid patent, and if so, whether it was infringed by the respondents. The patent, which was granted in 1903, expired in 1917, so that the action, which was commenced in 1918, was for damages only. The original grantee of the patent was one George Moore, who assigned it to the appellants in 1907.

The invention to protect which the patent was taken out was a process and a mechanical arrangement for carrying it out, by the use of which a cake of solid material is caused to form on a filter in a manner convenient for subsequent treatment with a washing fluid, whereby valuable liquid held within the pores of the cake is ultimately recovered, the cake being finally dislodged from the filter, which is then ready for a repetition of the process with further fluid in which more material particles are suspended. The mechanical force used is that of suction and impulse, produced by an air pump. The invention was to be employed normally as an adjunct to the cyanide method of obtaining gold by solution, and thus separated from the solid and insoluble matter in the gangue or rubbish in which it lies. The gangue forms with the cyanide solution of the gold a slime, and it is this slime which is treated by the appellants' process with a view to separating out the pure solution of gold for final treatment, whereby the dissolved gold may be recovered.

The appellants' claim was not for any new or pioneer conception, carried out by a particular method or its mechanical equivalents. It was merely for a new arrangement of familiar factors. Such a claim may of course be good, but the test of its validity is whether the fresh method of combination claimed is really a new and useful one, arising out of further invention and clearly and separately described, or whether what is claimed has already been discovered and published. In their Lordships' opinion, as in that of Burnside, J., who tried the action, the appellants' specification contains neither fresh knowledge nor any really new combination of known factors, but had in substance been anticipated by a series of patents in a period between 1897 and 1902. Of these, one of the most important is the patent taken out in England by Thompson in 1902, which made a process analogous to that of Moore known to the world. By Thompson's patent the process recommended was, like that subsequently recommended by Moore, the separation of liquids from solids by the suspension of a filter plate, with suction through it, and the subsequent forcing of fluid through the plate, which had become thus encrusted with solid material from the slime in which the plate was suspended, so as to detach the solid material and cleanse the plate for further use in the initial stage of the process. In other specifications belonging to the period antecedent to that of the appellants' patent such processes are also described. Those of Koneman, Nicholas, Symonds and Fraser all set out methods embodying some or all of those mechanical devices suggested by Moore. It is plain that at the time when the latter made his claim he could claim invention of no more than some new and valuable combination of known elements in processes which had been already announced.

Moore's patent, that on which the appellants sue, contains no less than twenty-five claiming clauses. Of these, several assert title to the very principle embodied in the earlier patents which have been referred to. Others claim the mechanical contrivances already announced by Thompson and others. For instance, Moore's sixth claim is for a "filter comprising a filtering medium, a tube communicating therewith, a pump for producing a drawing action within said tube, and a pump for producing a reverse or blowing action of air therein." All this occurs in Thompson's specification. It may be that Moore has suggested certain small mechanical improvements on the existing and known means of carrying out principles which had already become matter of general knowledge. But their Lordships are satisfied that no person, even of high technical skill, reading his specification could have told to what he limited his claim for new invention, or could have avoided drawing the inference that Moore was claiming the whole principle. Whether or not some of the suggestions scattered about in the specification might, taken in isolation, have proved useful and possible subjects of a very differently framed patent, their Lordships are satisfied that Burnside, J., was right in the conclusion he came to, that the appellants' actual patent was invalid.

They will humbly advise His Majesty that the appeal should be dismissed with costs.

In the Privy Council.

THE MOORE FILTER COMPANY

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THE GREAT BOULDER PROPRIETARY GOLD
MINES, LIMITED.

DELIVERED BY VISCOUNT HALDANE.

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