



Pennock v. Dialogue

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Issue

Can the patent on the invention be invalidated if the invention was disclosed to the public and was in use of the public before it was patented?

Holding

Yes, because inventions known or used in US are not patentable

Rule

Sec 102 (a)

Facts

The plaintiff's invention was in the art of making tubes or hose for conveying air, water, and other fluids. The invention, for which the patent right was claimed, was completed in 1811; and the letters patent were obtained in 1818. In this interval, upwards of thirteen thousand feet of hose, constructed according to the invention of the patentees, had been made and sold in the city of Philadelphia.

Analysis

An inventor can abandon his invention and surrender or dedicate it to the public. This inchoate right, thus once gone cannot afterwards be resumed at his pleasure as it goes into the public domain.

The main object of the patent system is to “promote the progress of science and useful arts” and this could be done best by giving the public at large right to make, use and construct the thing invented at as early a period as possible, having due regards to the rights of the inventors.

If an inventor should be permitted to hold back from the knowledge of the public the secrets of the invention, if he should for a long period of years retain the monopoly and apply for the exclusive right only when the danger of competition forces him to do, then

this would materially retard the progress of science and useful arts and give a premium to those who should be least prompt to communicate their discoveries. For this very reason , Sec 102 (a) forces the inventor to put the public in possession of his secret and commence the running of the period, lest he will loose the exclusive right. The use as is explained in Sec 101 (a) should always be public use and can never be secret or surreptitious use in fraud of the inventor.