

conditions therein contained, and all benefit and advantage to arise therefrom.

Articles bearing the last mentioned date were entered into between Seybold, Gibson, and Gottwails, who formed a partnership under the name of "Eclipse Office Furniture Co." for carrying on the business of the manufacturing of files, cabinets, and office furniture. Part of the assets brought into the partnership consisted of the last mentioned license to manufacture plaintiff's invention, though there was no formal consent by plaintiff to its transfer to the new firm, nor any express reference to it in the articles.

On 24th April, 1893, a new partnership was formed under the same name, by the introduction of other partners, with a view to the incorporation of a joint stock company, the manufacturing of the invention being continued by them as if under the license.

In June, 1893, the partners procured such a company to be incorporated under the name of the "Eclipse Office Furniture Company, Limited," for the purpose, inter alia, of acquiring and extending the business theretofore carried on by the partnership. Letters patent incorporating defendants were issued on 28th June, 1893. And on 12th July, 1893, the partners, by deed, assigned and transferred to the company their interest in the business, together with "all the goods, chattels, patents of invention, goodwill, book debts, and other assets of the business."

There was no formal assent by plaintiff to this transfer or to that of 24th April, 1893, but the manufacture of the invention was continued, and it is to be assumed that plaintiff was satisfied, in some way, for his royalties up to the end of the year 1893. In March, 1894, Seybold, the general manager of the company, went to Washington, D.C., and proposed to plaintiff a new agreement and license, which was afterwards provisionally executed by the company and forwarded to plaintiff for acceptance.

This instrument, while in other respects like that of June, 1892, provided that "during the first year beginning on 1st January, 1894, the royalty so paid by the parties of the second part to the party of the first part should not be less than \$200, even though less than 2,000 file boxes or holders be so sold by the parties of the second part, and during the second and following years the royalty so paid should not be less than \$300," and it was further provided, differing in this respect also from the former agreement, that defendants should be at liberty to terminate the agreement at any time previous to the expiration of the patent, upon giving 12 months' notice in writing of their intention