

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Petition for pro-
longation of the Bower-Barff Patent; de-
livered 10th July 1895.*

Present :

LORD WATSON.

LORD HOBHOUSE.

LORD MACNAGHTEN.

LORD DAVEY.

SIR RICHARD COUCH.

[*Delivered by Lord Watson.*]

THE Petition in the present case appears to their Lordships to be defective in substance, inasmuch as it does not disclose the amount of the profits, if any, which have been made by the Inventors and their Assignees in the various Countries in which they have secured an exclusive privilege. At the same time their Lordships are not inclined to reject the Petition upon that ground, because the accounts which have been lodged do give information with regard to profits derived from some of the foreign patents which their Lordships consider sufficient to enable them to dispose of this application. The accounts show that the original Inventors have received substantial remuneration. They have sold their Patent in Great Britain, in France, and in America for sums amounting in all to 30,000*l.*, and even after allowing a reasonable deduction for those items which they have disbursed, there still remains to the good a very considerable sum of money; and it must be borne in mind that if the Patentees were here claiming an extension they would be obliged to account for the profits that have been made in

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France and America by the use of the Patent in those Countries during the continuance of the American and French Patents.

But the more important question which arises in this case appears to their Lordships to be whether the Petitioners, the Bower-Barff Rustless Iron Company Limited, who are the Assignees of the British Patent, are in a position to maintain this application for its extension.

The cases of *Claridge's Patent* (7 Moore 394) and of *Norton's Patent* (1 Moore N.S. 339) appear to their Lordships to establish the principle that an Assignee who has acquired a Patent as the subject of a commercial adventure is not entitled to obtain a prolongation when the Inventor himself could have no legitimate interest in making such an application. In one of those cases the judgment of this Board went expressly upon the ground that the Applicants were a Commercial Company, and that the original inventor was dead, and could have no further interest in the Patent. In this case one of the original Patentees is dead. The others are alive, but they are for all practical purposes, and for all the purposes of the present question, in the same position as if they were dead, because they can no longer have an interest to ask for a prolongation on their own account, seeing that they have been sufficiently remunerated at the expense of the public. There is no case in which this Board has granted an extension of a Patent to an Assignee which did not directly or indirectly tend towards the benefit of an original Inventor who would, had there been no assignment, have been in a position to claim an extension himself. In this case the Inventors are not in that position, and as their Lordships do not see any reason for departing from the principle already recognised by the Board in similar applications, they will humbly advise Her Majesty to dismiss this Petition.