

Counsel for Parties.

ing rights under the Rarus patent as would be a decree upon any other form of answer."

We concur in the views thus expressed, and the result of the whole case is that the complainant failed to show any jurisdiction in the Circuit Court to try this case, and the order of the Circuit Court dismissing complainant's bill and giving judgment for the defendant is, therefore,

*Affirmed.*

BOSTON AND MONTANA CONSOLIDATED COPPER AND SILVER MINING COMPANY v. MONTANA ORE PURCHASING COMPANY.

Error to the Circuit Court of the United States for the District of Montana.

No. 102. Argued December 3, 1902.—Decided February 23, 1903.

The same counsel appeared as in No. 103.

MR. JUSTICE PECKHAM delivered the opinion of the court.

This case arises upon demurrer to the complainant's complaint. The demurrer was sustained and the complaint dismissed, and judgment given for the defendants, and thereupon the circuit judge certified the question of jurisdiction to this court.

The action was brought to recover \$500,000 damages sustained by the plaintiff in error by reason of the wrongful taking of ore of that value from the mining claim of the plaintiff in error. Substantially the same averments are made in the complaint as in the case which immediately precedes and the questions involved are the same, excepting that the former is a suit in equity and this is an action at law.

For the reasons stated in the opinion in No. 103, the judgment in this case is

*Affirmed.*

BOSTON AND MONTANA CONSOLIDATED COPPER AND SILVER MINING COMPANY v. CHILE GOLD MINING COMPANY.

Appeal from the Circuit Court of the United States for the District of Montana.

No. 104. Argued December 3, 1902.—Decided February 23, 1903.

The same counsel appeared as in No. 103.