

Case No. 1,490.

BLAISDELL v. PUFFER.

[4 Ban. & A. 500.]¹

Circuit Court, D. Massachusetts.

Sept., 1879.

PATENTS—INFRINGEMENT—USE OF UNNECESSARY PART OF MACHINE.

An objection, that the construction of one part of the patented apparatus, in a particular form, is unnecessary, will not avail a defendant who uses the form claimed in the patent.

[In equity. Bill by John H. Blaisdell against Calvin D. Puffer for infringement of letters patent. Temporary injunction granted.]

T. W. Clarke, for complainant

D. B. Gore, for defendant

LOWELL, Circuit Judge. As to the validity of the patent, I refer to my remarks in the case against Dows. [Blaisdell v. Dows, Case No. 1,489.]

The soda pipe or apparatus, which is exhibited as having been bought of the defendant, appears to me to infringe the fourth claim. If it be true, as was suggested at the argument, that the contraction in the chamber is unnecessary, then the defendant can easily change the form of the chamber and escape the patent; but his apparatus, as it now stands, seems to have a chamber like what was decided to be the fourth claim of the patent, and to be valid.

Temporary injunction ordered.

[NOTE. Patent No. 40,811 was granted to J. H. Blaisdell, December 8, 1863. For other cases involving this patent, see note to Case No. 1,491.]

¹ [Reported by Hubert A. Banning, Esq., and Henry Arden, Esq., and here reprinted by permission.]