

Case No. 1,545.

BLISS v. BROOKLYN.

{10 Blatchf. 217.}¹

Circuit Court, E. D. New York.

Nov. 5, 1872.

COSTS—SECURITY FOR—DILATORY MOTION.

When a suit in equity has been once heard, on issue joined, and is opened for a further hearing, on an amended answer only as a matter of favor, it is too late to move for security for costs on the ground of the non-residence of the plaintiff, that having appeared on the face of the original bill.

{Cited in *Southwestern Brush Electric Light & Power Co. v. Louisiana Electric Light Co.*, 45 Fed. 896.}

{In equity. Suit by William H. Bliss against the city of Brooklyn to enjoin infringement of letters patent granted to plaintiff February 25, 1862, and reissued, and for an accounting. There was a decree for plaintiff for an accounting (*Bliss v. Brooklyn*, Case No. 1,544), and defendant moves to compel plaintiff to file security for costs. Motion denied.}

William C. Witter, for plaintiff.

Benjamin E. Valentine, for defendant.

BENEDICT, District Judge. It is too late to move for security for costs in this case, which has been once heard, on issue joined, and which is now open for a further hearing, upon an amended answer, only as a matter of favor, and when the non-residence of plaintiff appeared on the face of the original bill. The motion for security is, therefore, denied.

{NOTE. For other cases involving the patent in this suit, see note to *Bliss v. Haight*, Case No. 1,548.}

¹ [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]