

**Case No. 2,070.**

BRYCE v. DORR et al.

[3 McLean, 582;<sup>1</sup> 2 Robb, Pat. Cas. 302.]

Circuit Court, D. Michigan.

June Term, 1845.

**PATENTS—INFRINGEMENT—WHAT CONSTITUTES—DAMAGES.**

1. A patent right is infringed, by making the thing patented, though employed by another to do so.

[Cited in Potter v. Crowell, Case No. 11,323.] [See Delano v. Scott, Case No. 3,753.]

2. But where the thing was made without the knowledge of its having been patented, more than nominal damages should not be given.

[Cited in Hogg v. Emerson, 11 How. (52 U. S.) 608.]

[At law. Action by Bryce against Dorr and Jones for damages for infringement of patent. Verdict for plaintiff.]

Mr. Douglass, for plaintiff.

Joy & Porter, for defendants.

**OPINION OF THE COURT.** This action is brought for the violation of a patent right, by the defendants, in casting at their foundry water wheels for mills. It was proved that several wheels were cast on the same principle of the plaintiff's patent. The model was furnished by Sage. Only two wheels were cast after the defendants came to the knowledge of the plaintiff's patent.

As the defendants were employed by Sage to cast the wheels, it was insisted that the action should have been brought against him, and was not maintainable against the defendants. But the court held the defendants were liable for an infringement of the patent. But, as the defendants had cast but a few wheels, and with the exception of two of them, had acted without a knowledge of the plaintiff's right, they suggested to the jury that nominal damages were all that the plaintiff could demand. Nominal damages were found.

<sup>1</sup> [Reported by Hon. John McLean, Circuit Justice.]

This volume of American Law was transcribed for use on the Internet through a contribution from [Google](#). 