

Case No. 10,789.

PASSAIC ZINC CO. V. SPEAR ET AL.

[32 Leg. Int. 362; 23 Pittsb. Leg. J. 34.]

Circuit Court, E. D. Pennsylvania. Oct. 4, 1875.

PATENTS—NOVELTY.

Where the process described and claimed is proved to have been practiced by others some time before the date of the patent, and before the period anterior to that when the patentee claims to have discovered it, the bill in equity will be dismissed.

{This was a bill in equity by the Passaic Zinc Company against Spear & Richards.}

L. C. Cleeman and George H. Fletcher, for complainants.

Edward L. Perkins and Charles B. Collier, for respondents.

McKENNAN, Circuit Judge. The decisive question in this case is one of fact, and it would be a superfluous task to collate and discuss the proofs touching it. It is sufficient to say that they satisfactorily show that the process described and claimed in the complainants' patent was practiced by others some time before the date of the patent, and the period anterior to that, when the patentee claims to have discovered it.

The bill must, therefore, be dismissed with costs.

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