

THATCHER HEATING CO. v. DRUMMOND ET
AL.

[3 Ban. & A. 138.]¹

Circuit Court, D. New Jersey.

Oct., 1877.

PATENTS—INFRINGEMENTS—ADMISSIONS.

Where complainants proved admissions of the defendants, (1) that they had sold a number of a certain article, and (2) that said article was substantially the same as the article described in the three claims of the complainant's patent, and no testimony was offered by the defendants, *held*, that the infringement was sufficiently proved.

[This was a bill in equity by the Thatcher Heating Company against William H. Drummond and others.]

F. C., Bowman, for complainant

A. J. Todd, for defendants.

NIXON, District Judge. This suit is brought for the alleged infringement of letters patent No. 104,376, dated June 14, 1870, granted to John M. Thatcher for "improvement in fire-place heaters." The answer of the defendants denies that the said Thatcher was the original and first inventor of the improvement described in said letters patent; and claims that the substantial matters and things set forth therein, were described in various patents and printed publications, specifically enumerated in said answer, and were in public use long anterior to the date of the said letters patent.

The complainant proved its incorporation; the issuing of letters patent to John M. Thatcher; various mesne assignments to the corporation; and the admissions of the defendants, that they had sold a number of the Burtis heaters, and that the Burtis heater was substantially the same as the heater described in the three claims of the complainant's

patent, and then rested its case. No testimony has been offered by the defendants.

The letters patent owned by the complainant are prima facie good, and the infringement is proved. There must be a decree for the complainant, an injunction, and a reference for an account.

{For another case involving this patent, see Thatcher Heating Co. v. Burtis, 12 Fed. 569.}

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