

Case No. 17,304.

WAYNE V. WINTER ET AL.

{6 McLean, 344.}¹

Circuit Court, D. Ohio.

April Term, 1855.

PATENTS—PROOF OF DATE OF APPLICATION—PATENT-OFFICE RECORDS.

1. Parol evidence is not admissible to show at what time a patent was applied for.

{Cited in *U. S. v. Scott*, 25 Fed. 473.}

2. The patent-office contains written evidence of the fact, and it must be proved by such evidence.

Mr. Miner, for plaintiff.

Stanberry & McCormick, for defendant.

MCLEAN, Circuit Justice. The plaintiff [Joseph W. Wayne] introduced the patent under which he claimed a right to a washing machine, which the defendants [T. Winter and others] were charged with infringing, dated 30th October, 1849. An assignment to the plaintiff by the patentee, on the 15th January, 1851, was shown, and which was recorded in the patent-office in 1853. The face of the wash board was covered with zinc, with numerous elevations, so as to make a rough surface on which the clothes, on being washed, are rubbed. The invention consists in extending the zinc plate with sharpened edges beyond the board on which it was laid, so that the zinc plate extended into the side pieces fastened to the board and made it firm. From the evidence it appears that, this wash board had been in use more than two years before the date of the patent, which, it was contended, was a dedication of the improvement to the public. The counsel for the plaintiff offered parol evidence to show when the patent was applied for, but the court overruled the testimony. A non suit was suffered, which was set aside on motion and payment of costs.

{For another case involving this patent, see *Wayne v. Holmes*, Case No. 17,303.}

¹ [Reported by Hon. John McLean, Circuit Justice.]