

Case No. 17,648.

WILDER V. GAYLER ET AL.

{1 Blatchf. 511;¹ 1 Fish. Pat. Rep. 317.}

Circuit Court, S. D. New York.

Oct. Term, 1849.

PATENTS—INFRINGEMENT SUITS—MONTHLY ACCOUNTS OF SALES.

1. An order in a patent suit in equity, requiring the defendant to file a monthly account, on oath, of all “iron safes hereafter manufactured or sold by him.” will be sufficiently complied with, by giving the inside dimensions of the safes, without stating the prices at which they were sold, or the names of the purchasers.
2. A knowledge of the names, in such a case, is not essential to an ascertainment of the amount of business done in the article, or of the profits.
3. It is sufficient to describe the articles in the account, so that persons in the trade can determine their value in the market, with a view to the amount of profits.

In this case, a bill was filed [by Benjamin G. Wilder against Charles J. Gayler and Leonard Brown] for an account and an injunction, for an infringement of a patent granted to Daniel Fitzgerald, June 1st, 1843, for an “improvement in fire-proof chests and safes.” On an application by the plaintiff for a provisional injunction, the court, made an order, that the defendant Gayler “render and file in the office of the cleric of this court, monthly from the date of this order, a just, full and true account in writing of all iron safes made with plaster of Paris in whole or in part, hereafter manufactured or sold by him or his agents, the said account in writing to be verified by the oath of said Gayler, and that, in default thereof, an injunction issue pursuant to the prayer of the bill.” The plaintiff now applied again for an injunction, on various grounds, and, among others, that the defendant Gayler had failed to comply with the order.

J. B. Staples, for plaintiff.

George Sullivan, for defendants.

NELSON, Circuit Justice. I am inclined to think that the accounts rendered monthly of the safes manufactured and sold by the defendant Gayler, afford a reasonable compliance with the terms of the order, although they give no description of the safes except their inside dimensions, and do not state the prices at which they were sold or the names of the purchasers. The only doubt is, whether the names of the purchasers of the safes should not be given. But the order does not, in terms, require it, and perhaps should not, as a knowledge of the names is not essential to an ascertainment of the amount of business done in the manufacture and sale of the article, or of the profits arising therefrom. It seems, also, that, according to the course of the trade, the description of the safes by their inside dimensions, as given in the accounts, is sufficient to enable persons in the trade to determine the value or price of them in the market, with a view to the amount of profits. Motion denied.

WILDER v. GAYLER et al.

{For other cases, involving this patent, see note to Rich v. Lippincott, Case No. 11,758. See, also, 10 How. (51 U. S.) 477.}

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