

v.3, no.3-11 WHITE v. S. HARRIS & SONS
MANUFACTURING CO.

Circuit Court, D. Massachusetts. July 19, 1880.

1. PATENT No.
220,126—INJUNCTION—LICENSE—ESTOPPEL.

In Equity.

Myers & Warner, for complainant.

Thos. H. Dodge, for defendants.

LOWELL, C. J. The complainant's patent, No. 220,126, is recent, and has not been litigated, and the affidavits give us to understand that its validity is seriously contested. This is reason enough for not granting a preliminary injunction.

It is said that the defendants are estopped by having accepted a license from the complainant. But the only license asked for or taken was to sell certain goods which the defendants had on hand when the patent was obtained, which seems to be rather in the nature of a compromise to save trouble, than a deliberate acknowledgment of the validity of the patent. But, if the defendants are estopped to dispute the patent, there is a serious doubt of the infringement. The ¹⁶² articles complained of are made under patent No. 221,721, which Judge Blatchford has lately said, in refusing a similar motion, do not, at first sight, appear to infringe the patent of the complainant. *White v. Noyes*, 2 FED. REP. 782.

Preliminary injunction refused.

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