

MACAULAY *v.* WHITE SEWING MACHINE
CO. AND OTHERS.*

Circuit Court, S. D. New York. December 14, 1881.

1. LETTERS PATENT—VIOLATION OF INJUNCTION.

Where defendant rendered itself amenable to the jurisdiction of the court by appearing in the action, and was enjoined from manufacturing or selling articles infringing upon complainant's patent, *held*, that the injunction was violated by the sale of such articles *outside* of the territorial jurisdiction of the court, whether they were sent within such jurisdiction or not.

In Equity.

F. H. Betts, for plaintiff.

S. A. Duncan and *S. J. Gordon*, for defendants.

BLATCHFORD, C. J. The injunction was served on Mr. Baylor and on the company. Although it was not served on Mr. White personally, he knew of its service. He, as president of the company, directed the doing of what the company did in violating the injunction. He did not intend to have the injunction violated; but it was violated by the company by selling machines at Cleveland and sending them from there to purchasers. Whether they were sent by it within the territorial jurisdiction of this court or not, the company made itself amenable to the jurisdiction of this court by appearing in this suit. The advice that it was no violation of the injunction for the company to sell machines at Cleveland so long as such machines were not sent by it within the territorial jurisdiction of this court, was erroneous advice. Moreover, some of the machines so sold were sent by the company to places within this district, although Mr. White thought that this district comprised only the city of New York. Mr. White acted for the company. I do not think he ought to be punished personally. But the company must pay a fine of \$250, which will go to the plaintiff towards his expenses and counsel fees about this motion. The

profits and damages from the infringement involved in the violation will remain to be accounted for in the suit. Mr. Baylor did not violate the injunction.

* Reported by S. Nelson White, Esq., of the New York bar.

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