

WOOSTER *v.* HOWE MACHINE CO.*

Circuit Court, S. D. New York. February 10, 1882.

1. PRACTICE—EXTENSION OF TIME TO TAKE TESTIMONY.

The time to take testimony extended, where such testimony, if admissible under the answer, applies equally to other cases in which the time to put in proofs had not expired.

In Equity.

F. H. Betts, for plaintiff.

J. F. Dillon and *W. H. L. Lee*, for defendants.

BLATCHFORD, C. J. In this case, and in the cases against Schenck and the Singer Company, if these three cases stood alone, and there were not the two cases in which the three months have not expired, and in which the testimony referred to in the notice of motion has been or can be put in, I should regard the defendants as precluded by laches and by their stipulation from asking for the extension in these three cases to put in such testimony. But, as the testimony will apply to every case equally with every other case if admissible under the answer in the case, it seems proper, as the testimony is not fully closed, to allow the extension for the purpose named in the notice, subject to all objections to be made, or already made, on the record to its admissibility or relevancy, except the objection that the time to take it has expired.

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