

PUTNAM AND ANOTHER V. HOLLENDER AND
ANOTHER.*

Circuit Court, S. D. New York. March 1, 1882.

PRACTICE—MOTION FOR
ATTACHMENT—INFRINGEMENT.

Where it is doubtful whether defendant's device infringes complainant's patent, such question is not to be determined in a summary way on a motion for attachment, but must be tried on pleadings and proofs in a new suit.

In Equity. Motion for attachment.

A. v. Briesen, for plaintiffs.

F. H. Betts and *E. Fitch*, for defendants.

BLATCHFORD, C. J. I do not deem it necessary or proper, in deciding this motion for attachment, to say more than that, on the construction heretofore given to the plaintiffs' patent by this court, it is not satisfactorily established that the defendants' new stopper infringes that patent. For the purposes of this suit, three pivotal connections are necessary, and it is at least doubtful whether such new stopper has more than two. The case is one in which, on well established principles, the questions involved must be tried on pleadings and proofs, in a new suit, and not in a summary manner in this suit.

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

This volume of American Law was transcribed for use
on the Internet

through a contribution from [Joseph Gratz](#). ■