

WELLING *v.* LA BAU.
SAME *v.* GOOTH.

Circuit Court, S. D. New York. June 15, 1882.

PATENTS FOR INVENTIONS—PRIOR USE.

Where the defences of prior use and anticipation are not established, injunction for the infringement of the patent will be granted.

WALLACE, C. J. The defences of prior use and anticipation are not well established. In view of the state of the art, the three patents of the complainant in controversy are to be limited to the composition of the specific ingredients in the substantial proportions described. The proofs fail to establish infringement of either patent, except No. 5,940. As to that patent a decree is ordered for an injunction and accounting; the injury upon the accounting to be confined to infringement consisting of the use of shellac and talc in equal parts substantially.

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