

INGALLS *v.* TICE.*Circuit Court, S. D. New York.*

May 2, 1882.

## PATENTS FOR INVENTIONS.

Where the patentee entered into an agreement whereby he granted to complainants the sole right to sell the patented articles within certain specified territory, it does not grant any part of the legal estate in the patent. The right of the patentee, not only to make and use, but to authorize others to make and use, the articles within the specified territory, remains intact.

*F. H. Angier*, for plaintiff.

*Kuntzman & Yeaman*, for defendant.

WALLACE, C. J. The demurrer must be sustained on the ground that the bill does not show the complainants to have such an interest in the patent as is necessary to enable them to maintain suit for an infringement. The allegation of the bill in this behalf is that the patentee, for a valuable consideration, entered into a written agreement with the complainants "whereby the patentee granted unto said complainants the sole and exclusive right to sell said patented article" within certain specified territory. The written agreement is not set forth. Its legal effect cannot be extended by inference beyond the fair purport of its terms as alleged. It does not purport to transfer to the complainants the right to manufacture the patented articles in the territory described, or the sole right to use the article in that territory. Not being a transfer of an undivided part of a whole patent, or of the exclusive right to the whole patent, for a particular territory, it is simply a license. *Gayler v. Wilder*, 10 How. 477. It is a grant or permission for a limited use of the invention within certain territorial limits. The complainants did not acquire any part of the legal estate in the patent. They could not authorize others to make the patented articles. The right of the patentee,

not only to make and use, but to authorize others to make and use, the articles within the specified territory, remains intact. As the patentee is not a party to the suit, the complainants cannot maintain their bill.  
Demurrer sustained.

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