

WAKEMAN, JR., *v.* HUNGERFORD AND  
OTHERS.

*Circuit Court, S. D. New York.*

1883.

VERDICT CONCLUSIVE—SUBMISSION OF  
QUESTION OF FACT.

Where a clear question of fact is submitted to a jury by the court their finding ought not to be disturbed.

This is a motion for a new trial. The action was brought to recover damages for the infringement of a patent for coffee-scouring machines. It was tried at the April circuit, in New York, and the plaintiff had a verdict. The defendants contended that they did not infringe, because one of the elements of plaintiff's combination—the ribs—was omitted in their machine. The plaintiff's experts testified that the machines operated precisely alike, and that the coffee and other substances accumulating in the space left by the defendants between the spikes in the outer cylinder operated to form a rib, which was a mechanical equivalent for the plaintiff's device. The defendants' experts denied this. The question was left to the jury.

*Francis Forbes*, for the motion.

*Abram Wakeman*, opposed.

COXE, J. I have examined with care the questions presented by this motion, and I am convinced that no error was committed on the trial of sufficient gravity to justify the court in setting aside the verdict. The propositions advanced by the plaintiff on the trial were sustained by testimony; so were the propositions of the defendants. There was, then, a clear question of fact, which it was the duty of the court to submit to the jury, and their finding, in such circumstances, ought not to be disturbed. The motion is denied.

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