mitted a severance of ownership and right of use, if the patentee has chosen to dissever them, and if his intent is not doubtful. For instance: a license to use a machine implies the right to make and own it; and yet, if the owner neglects to pay the license fee, he may be restrained from using a machine to which his title is undoubted. One who is licensed to make, use, and sell machines for the term of the patent, and no longer, sells a machine with the right to use it. The purchaser owns the machine; but if the patent is extended, he has no right to use it, during the extended term, without a further license from the patentee. *Mitchell* v. *Hawley*, 16 Wall. 544. In many other cases the ownership of the machine will not necessarily carry with it the right to use it without the permission of the patentee. See *Jenkins* v. *Greenwald*, 2 Fisher, 37; *Woodworth* v. *Curtis*, 2 Wood. & M. 524; *Steam Cutter Co.* v. *Sheldon*, 10 Blatchf. 1.

We find that this somewhat imperfect contract means that the defendants take, in part payment of their debt, the seven machines at their cost, and may use them without royalty until Aprll 1, 1878, and on payment of the stipulated royalty for that time to July 1, 1880; and that no arrangement is made for the remainder of the term; that it was not intended that the defendants should thereafter use the machines without payment of royalty unless some new bargain should be made; and that this limitation is not repugnant to the grant. The result is that the decree must be for the complainants.

ZINSSER and others *v.* COOLEDGE and others.

(*Circuit Court, S. D. New York.* July 18, 1883.)

PATENTS FOR INVENTIONS—PRELIMINARY INJUNCTION—INFRINGEMENT.

A preliminary injunction is only granted to restrain injury in its nature irreparable.

In Equity.

A. v. Briesen, for orators.

Edward Fitch, for defendants.

WHEELER, J. A preliminary injunction is granted only to restrain injury in its nature irreparable. The orators' patent would not be infringed without employing means for the introduction of steam into the mixer or hopper. The defendants do not employ any such device, and disclaim any intention of doing so. They did at one time employ steam in a manner that might be an infringement and might not. Whether it was or not is so doubtful as to make it seem most proper to leave that question to the hearing. The orators are not now in any danger of any irreparable injury. Motion denied.

HICKS v. OTTO and others.

(*Circuit Court, S. D. New York.* July 25, 1883.)

PATENTS FOR INVENTIONS—AMENDMENTS.

Motion for an amendment to answer, and commission to take testimony in a foreign country to prove who is the original inventor of a patent, will not be allowed when the affidavits filed by plaintiff show that there is no evidence to sustain the amendment.

In Equity.

Von Briesen & Steele, for defendants.

Frost & Coe, for orator.

WHEELER, J. The motion of defendants, now heard, for an amendment of the answer, and a commission to take the testimony of Denton, in London, to show that he, and not Peroni, is the original inventor of improvements in thermometers, patented to the orator as assignee of Peroni, must be denied. While such motions are granted with liberality, some prospect is required that there is evidence to support the amendment which can be had. Here, the affidavit of Denton, filed by the orator in opposition to the motion, stating that he does not claim to be and is not, and that Peroni is, the original inventor, and his refusal to make an affidavit for the defendants to the contrary, on their application, show that there is no such prospect. Motion denied.

URNER v. KAYTON and others.

(*Circuit Court, S. D. New York.* August 2, 1883.)

PATENTS—INFRINGEMENT—MASTER'S FEES—ACCOUNTING.

Where defendants have been adjudged to be infringers, and decreed to account for the gains and profits and damages of their infringement, they must go forward in the accounting and bear the necessary expenses of so doing, including the master's fee.

In Equity.

John A. Shields, master, *pro se*.

Andrew Comstock, for orator.

Wetmore & Jenner, for defendants.

WHEELER, J. This cause has now been heard on motion of the master for payment of his fees on the accounting. It is agreed that his fees amount to $150. Each party insists that the other should pay them. The question now is, not how the costs shall finally be allowed and taxed in favor of either party against the other, which can be determined properly only at the making of the final decree, but is, which party shall pay these fees in the first instance? As the defend-