

MALTBY *v.* GRAHAM *ET AL.*

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

May 22, 1888.

PATENTS FOR INVENTIONS—INFRINGEMENT—INJUNCTION.

Injunction granted to restrain the infringement of reissued letters patent No. 5,502, granted to George J. Capewell, July 29, 1873, for a nail extractor, the validity of this patent having been twice sustained, and defendant's nail extractor being plainly an infringement.

In Equity. Bill for infringement of patent, brought by Douglass E. Maltby against John H. Graham and others. On motion for injunction.

*Francis Forbes*, for complainant.

*H. E. & Geo. H. Knight*, for defendants.

LACOMBE, J. This is an application to restrain the infringement of reissued letters patent No. 5,502, granted to George J. Capewell, July 29, 1873, for a nail extractor. The original patent was granted July 16, 1872. The patent has been twice sustained in this circuit. *Maltby v. Converse*, *Maltby v. Tool Co.* It is true that the Taft patent of 1870 (107,121) was not then before the court, but the Fish patent of 1866, (58,626,) which embodies the same principle, was then considered. The defendant's nail extractor plainly infringes. Motion granted. The propositions which defendants seek to sustain amount to a rehearing of the two cases before Judges WALLACE and SHIPMAN, and may be presented at final hearing.