

HEYSINGER *ET AL.* V. ROUSS.

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

December 10, 1889.

PATENTS FOR INVENTIONS—RES ADJUDICATA.

The question of the validity of a patent is *res adjudicata*, where it has been adjudicated by another judge of the same circuit, and the parties to the two action are the same, and the records substantially identical.

In Equity.

*Joshua Pusey*, for complainants.

*John J. Jennings*, for defendant.

COXE, J. This is an infringement suit, based upon letters patent No. 218,300, granted to Mills and Hershey, August 5, 1879, for an improvement in hair-crimpers. The patent was declared invalid by Judge in the circuit court for the district of Connecticut. *Hershey v. blakesley*, 33 Fed. Rep. 922. That the parties to that action are, in legal contemplation, the same as the parties to the suit at bar, and that the records in the two actions are substantially identical, is conceded. The defendant has taken some additional testimony, but the complainant's proofs are the same in every respect as those presented in *Hershey v. Blakesley*, I have examined the record and briefs, to discover a plausible theory upon which the two causes can be distinguished, so as to justify a re-examination of the issues presented, I find none. The court is now asked to pass upon the same question which, after deliberate and careful consideration, has been decided by another judge of the same circuit, upon precisely the same testimony. There is no precedent for such a course. The matter is *Res Judicata*. The bill is dismissed.