

BRUSH ELECTRIC CO. v. BRUSH-SWAN ELECTRIC LIGHT CO.

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

August 22, 1890.

EQUITY PRACTICE—CROSS-BILL.

Where a defendant asks leave to file a cross-bill, and for an injunction against the complainant, leave to file the cross-bill may be given without determining the right to the injunction.

In Equity. On motion for leave to file cross-bill. See 41 Fed. Rep. 163.

*Carter, Hughes & Cravath*, for complainant.

*G. H. & F. L. Crawford*, for defendant.

LACOMBE, Circuit Judge. When this motion was decided upon the first argument, it was treated as an application for a stay or injunction, the practical effect of which, if granted, would be to suspend, if not to cancel, the operation of Judge COXE'S decree. That such stay was sought as ancillary only to the main relief asked for was a circumstance not sufficiently

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considered, partly through the inadvertence of the court, and partly because the oral argument was mainly directed to the question whether such stay should or should not be granted. Upon the reargument, the fact is made plain that what is really asked for is leave to file a cross-bill. In view of the averments contained in the cross-bill submitted on the argument, that relief should be granted. Whether or not sufficient can be shown to entitle the complainant to an injunction staying the operation of Judge COXE'S decree may be determined when the proofs are in, or as a separate motion.