facturing the fasteners of McGill, and getting him into the company. Mr. Willard continued actively in the management of the defendant until 1887. From 1881 to 1887 he had charge of its New York store, where all the goods were sold. McGill has had a desk in the New York store since it has been at No. 25 Chambers street. When the defendant moved to Chambers street was not stated. After the contract of March 21, 1876, McGill furnished the defendant with the form, style, and dates of all the original labels which they used upon paper fasteners. The original matter of the label in controversy, and the dates, were furnished by him while Mr. Willard was in the New York store. No original label was gotten up without consultation with him. McGill was a patent solicitor, was the patentee and the licensor, and the defendant and Mr. Willard relied upon him for information in regard to all the details connected with these patents, supposed that they were valid, and that the articles in these boxes were being manufactured under the patents, the dates of which were furnished by McGill. The executive officers took it for granted that the fastener business was properly conducted, so far as patents and stamps were concerned. McGill became a director in the defendant corporation in 1884, and continued to be such by successive annual re-elections, until and including 1890. He never was an agent of the defendant. There was no lack of good faith and no intention to deceive the public on the part of the defendant, unless McGill knew that his patents did not include the fasteners in the boxes, and his knowledge is to be held to have been the knowledge of the defendant. The case, upon the part of the plaintiff, turns upon McGill's knowledge and its effect, because it is virtually conceded that the executive and administrative officers of the defendant had no knowledge or opinion resulting from their own investigation of the subject. Inasmuch as Col. Earle, a very competent expert, has testified that, in his opinion, the fasteners are included in the claims of 162,184 and 286,143, it cannot be found that McGill knew, or had reason to know, the contrary. It would be very natural that he should coincide in that opinion. As he was a patent solicitor, and was well acquainted, not only with his own inventions, but with the patents which described them, and with the significance of the claims of a patent, and as it is substantially admitted that No. 199,085 does not describe the fasteners in controversy, it follows that he must have known that the date of January 8, 1878, should not have been placed upon the boxes. I do not consider it incumbent upon me to consider the legal effect of stamping an article as patented under three patents, with the dates thereof, when the article was believed by the person who authorized the stamping to be patented under two only of the patents, but prefer to confine myself to a report in regard to the effect of McGill's knowledge upon the defendant, upon the assumption that, if it had an effect, it would be prejudicial. This knowledge was acquired, and the boxes began to be stamped with the dates which have been described, before he became a director in the defendant company. What he originated with respect to the stamps upon the boxes in controversy was not done as a director, but before he became such. In the

suggestions, advice, and directions which he gave in regard to the labels, he was not acting as an agent of the company; he was acting in connection with it, for his own benefit as licensor, upon business in which both he and the company were mutually interested. It asked and obtained his directions, because he was interested in the success of the business, and, it supposed, had the requisite knowledge to give proper information. The knowledge which he then or afterwards had was not acquired or used while he was acting for the company in the capacity of an agent or as one of its directors.

Three questions of law arise upon the foregoing facts.

1. Is the defendant corporation affected or bound by the knowledge of McGill, who has been, since 1884, a director of the corporation? His knowledge is not the knowledge of the defendant, because the knowledge of a director does not affect the corporation, unless in a matter wherein he is acting officially as a director, or is engaged in its behalf in its business. "In order to affect a corporation by the knowledge of a fact by one of its directors, it is necessary he should have such knowledge, while acting officially, in the business of the corporation, unless he is acting at the same time under some special authority, conferred on him, other than what he would possess as merely one of the directors." Beach, Joint-Stock Corp. 69; *Bank* v. *Payne*, 25 Conn. 444; *Platt* v. *Axle Co.*, 41 Conn. 255; *Bank* v. *Davis*, 2 Hill, 451; *Winchester* v. *Railroad Co.*, 4 Md. 231; Story, Ag. (6th Ed.) § 140b.

2. Does the general rule that a person must be held to intend the necessary consequences of his acts require a conclusion against the defendant, it having been found that the labels were untrue, and that they were affixed to the boxes of the defendant? The rule applies to acts knowingly or consciously done, and, if the defendant knew or had adequate reason to know that its labels were untrue, it would be presumed to have intended the necessary consequences of the acts. The fact that the label was untrue does not preclude a defendant from showing that he had adequate reason to believe that it was true, and that he had taken competent and authoritative advice upon the subject.

3. Was the defendant corporation justified in relying upon the declarations of McGill, when an independent investigation would have shown that one of the named patents did not include the fasteners in the labeled boxes? Without considering the question whether a licensee can always be at liberty to follow, with impunity, the advice or suggestions of the patentee in regard to stamps upon articles claimed to have been patented, without an independent investigation, in this case McGill had not only taken out many patents upon this class of articles, but he was reputed to be a patent solicitor, and he certainly drew some of his own patents. The confidence which the defendant's manager placed in him, and which led to an adoption of the labels without personal examination of the patents, cannot be considered adequate evidence of the carelessness or recklessness in regard to representations which constitute fraud. The plaintiff offered in evidence the file-wrappers and contents of letters patent Nos. 162,183, 162,184, 286,143, and 308,368. The file-wrap-

per and contents of 162,183 were offered for the purpose of showing that McGill admitted, in 1874, that the fasteners in the boxes were public property, and that he had full knowledge of the whole subject. The other file-wrappers and contents were offered to show that McGill took out his own patents, was a shrewd patent lawyer, and his knowledge was imputable to the defendant. For the purposes offered, the defendant objected to the admission of all these papers; which objection was sustained, and all said papers were excluded for the purposes for which they were offered; to which ruling the plaintiff then and there duly excepted. An examination of the testimony shows that, theretofore, the file-wrapper and contents of 286,143 had been offered and admitted without exception.

HITCHCOCK *et al. v.* WANZER LAMP CO. *et al.*

(Circuit Court, N. D. New York. February 3, 1891.)

1. PATENTS FOR INVENTIONS—FORCE-BLAST LAMPS—INVENTION.
Letters patent No. 234,916, granted to Robert Hitchcock November 30, 1880, for an improvement in mechanical lamp-shells, covered a device intended to protect the air-forcing mechanism of force-blast lamps from drippings of oil. The specification recited that the oil reservoir was provided with a flat or slightly concave bottom, so that drops of oil could not find their way across it to drop into the works of the air blast below; that a tube or thimble projected upward from below the oil reservoir, so that oil dropping from the side of the reservoir would fall into the cavity between the tube and the lamp-shell. A prior patent described a force-blast lamp with an oil reservoir, the bottom of which overhung the air passage, and was provided with a drip angle, in which there was an annular cavity, formed by the projection of a tube into the converging sides of the lamp-shell. The drip angle formed a circle larger than the tube, so that it deflected oil into the cavity. *Held*, No. 234,916 was void for want of invention.

2. SAME—INFRINGEMENT.
As the specification and the prior patent limit the claim to a combination in which the oil reservoir has a flat or slightly concave bottom, the patent is not infringed by a lamp whose oil reservoir has not such a bottom.

In Equity.

Pollok & Mauro, for complainants.

Gifford & Brown, for defendants.

WALLACE, J. Infringement is alleged in this suit of letters patent No. 234,916, dated November 30, 1880, granted to Robert Hitchcock for an improvement in mechanical lamp-shells. The patentee states that the invention relates more particularly to that class of lamps which have a continuous current of air propelled upwards through them by mechanical means, and has for its object to protect the air-forcing mechanism of such lamps from drippings of oil, which frequently flow over the sides of the oil reservoir. He also states that—

"Heretofore it has been attempted to effect this object by introducing between the outer shell of the lamp and the oil reservoir a drip-cup, by which the overflow of oil might be intercepted and prevented from reaching the mechanism below; but this device necessarily complicates the construction of