WHITE *v.* WALBRIDGE.

(*Circuit Court, D. Vermont.* May 13, 1891.)

1. PATENTS FOR INVENTIONS—INFRINGEMENT—LENS-HOLDERS.
   The manufacture of lens-holders by defendant, which operate in substantially the same manner as those covered by complainant's patent, is an infringement, though defendant's holders are composed of a smaller number of parts than complainant's.
2. SAME—INJUNCTION.
   An injunction will issue against one who has already infringed a patent, though he denies that he intends to make any further infringement during its term.
3. SAME.
   The part manufacture of lens-holders, not constituting an infringement, with intent to complete into the patented article immediately on the expiration of the patent, will not be enjoined, as complainant's monopoly exists only during the life of his patent.

In Equity.

Franklin Scott, for orator.

James L. Martin, for defendant.

WHEELER, J. This suit is brought upon patent No. 151,576, dated June 2, 1874, for an improvement in lens frames of stereoscopes. The patent was under consideration in *White* v. *Surdam*, 41 Fed. Rep. 790, and sustained. The defendant has made and sold lens-holders of less numbers of parts than those described in the specification of the patent, but having the rabbeted groove of the first claim. This difference in the number of pieces, which operate in substantially the same way as those of the patent, is not deemed to be material. He denies that he intends to make any more during the term of the patent. If he had not already infringed, that denial would be sufficient to prevent an injunction; but, as he has infringed in this manner, an injunction to prevent further infringement in the same manner is proper.

The defendant has on hand and is making more lens-holder blanks, which can be completed into those that would infringe or those that would not; and has advertised that he would furnish those of the patent at reduced prices after the expiration of the patent. The counsel for the orator argues that this part manufacture during the term of the patent, with intent to complete into the patented article immediately on the expiration of the patent, should be restrained, because a partaker in an infringement may be holden for it. This argument, however, fails, as to this, for the reason that what is being done and so intended will never be an infringement. Till completed, these things would not infringe, and when completed the patent will not be in force to be infringed. The orator has a monopoly of making, using, and vending to others to be used, during the term only of the patent. Every one else has the right to do anything as to that during that term which stops short of the patented article itself, and to come to that as soon as may be after the expiration of the term by any preparation which does not amount to that before. This leaves to him all that his patent covers, and to others what it does not cover. Motion granted as to an injunction against completing the patented articles, and denied as to the residue.

THE JOHN DILLON.

STARIN *v.* THE JOHN DILLON.

(*District Court, D. New Jersey.* June 11, 1891.)

MARITIME LIENS—ENFORCEMENT—LACHES.

A maritime lien for repairs, based on a running account extending over nearly four years, during the whole of which time the account was largely reduced by payments made with considerable regularity, the last within a week before the libel to enforce the lien was filed, is not barred by laches, though the last repairs were made nearly a year before the filing of the libel; and the claim of the libelant should not be postponed to those of other lienors, who made repairs and furnished supplies to the vessel while the payments to libelant were being made.

In Admiralty.

Otto Crouse, for libelant.

Alexander & Ash, for lienors.

GREEN, J. The only question presented upon this argument for consideration was whether any part of the claim of the libelant should be allowed. The Dillon has been sold under a decree of this court, producing the sum of $1,125. After deducting the costs and expenses as taxed, and a preferred claim for seamen's wages, there remain in the registry of the court for distribution about $500. The claims which have been duly presented aggregate $2,062.01; the claim of the libelant being $600.50. If this claim is allowed, the lienors will receive about 25 per cent. of their claims; if disallowed, the percentage of dividend will be much larger. It is insisted by the other lienors that the claim of the libelant should be postponed to their claims, for the reason that it is stale, and that their claims should be preferred because of the laches of the libelant in not more promptly enforcing his lien. The Dillon is a steam propeller, engaged in towing in and about the harbor of New York. It is admitted that she is a domestic vessel. The claims of the lienors other than the libelant were all incurred between the 10th of January, 1890, and the 20th of September, 1890, and are for repairs or supplies. The libelant's claim is of very much longer standing. The first item is for repairs made on the 3d of September, 1887, and the last charge was on October 31, 1889. The whole account during that period, as rendered, amounted to $1,807.29, upon which indebtedness, however, payments have been made with considerable regularity at various times, amounting to $1,206.79; reducing the claim to $600.50. The last payment was made on September 12, 1890. The libel was filed September 18, 1890, within a week after the last payment on account, but more than 11 months after the last repairs were made upon the propeller by the libelant. These circumstances, the lienors insist, justify their claim for preference in payment, as they show clearly such delay by the libelant in enforcing his lien as to charge him with gross negligence, and of necessity deprive him of his right to participate in the di-