this character, the court may go outside and beyond the claims of the interfering patents, and consider generally the two inventions or structures, taken as a whole; and complainants cite, as an authority upon this point, the case of *Garratt* v. *Seibert*, 98 U. S. 75. In that case, however, the answer did not deny, but rather admitted, an interference of the patents, and it is therefore not an authority against the general doctrine which the courts have laid down upon this point.

Bill dismissed.

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## BRICKILL *et al.* *v.* CITY OF BUFFALO *et al.*

(*Circuit Court, N. D. New York.* February 27, 1892.)

PATENTS FOR INVENTIONS—INFRINGEMENT—STATE STATUTES OF LIMITATIONS.

State statutes of limitation do not apply to actions at law for the infringement of patents.

At Law. Action by William A. Brickill and others against the city of Buffalo and others to recover damages for infringement of a patent.

*Raphael J. Moses, Jr.*, *James A. Hudson*, and *Samuel W. Smith*, for plaintiffs.

*George M. Browne* and *Philip A. Laing*, for defendants.

*Albert H. Walker*, *amicus curiæ*.

COXE, District Judge. The only question argued is whether the state statute of limitations applies to actions for the infringement of patents. This question has been examined now, as well as on former occasions, with the result that, in my judgment, the weight of precedent and reason is in favor of the proposition that the state statutes do not apply. I shall so rule if I preside at the trial of this action. The question, however, has never been decided by the supreme court or by any of the circuit courts of appeals, so far as I am aware, and there is great contrariety of opinion in the circuit courts. *May* v. *County of Logan*, 30 Fed. Rep. 250, and cases cited on page 257. The defendants should, therefore, be permitted to save the point. It is thought that the rights of both parties can best be protected if the formal ruling is postponed until the trial. *Adams* v. *Stamping Co.*, 25 Fed. Rep. 270. A decision of the circuit court of appeals will, so far, at least, as the second circuit is concerned, settle the question, which should be presented to that tribunal unembarrassed by any technicalities of pleading. To sustain the demurrer now might tend to complicate the situation should a review become necessary.

## BRICKILL *et al. v.* CITY OF HARTFORD *et al.*

(*Circuit Court, D. Connecticut.* February 22, 1892.)

1. PATENTS FOR INVENTIONS—UNCERTAINTY OF CLAIM—WATER HEATER FOR FIRE-ENGINES.
   Letters patent No. 81,132, issued August 8, 1868, to William A. Brickill, consist of a water heater connected with the boiler of a steam fire-engine by two detachable pipes, one carrying the cold water to the heater and the other returning it, heated, to the boiler, thus "maintaining a free circulation between the boiler and heater," and keeping the water in the boiler always hot, so as to expedite the generation of steam on a fire-call. Pipes controlled by cocks connect the heater with a water-tank, and when the engine is away the same circulation is established and maintained between the heater and the tank, "the object being to preserve the coil or heater." The claim is for the "combination, with a steam fire-engine, of a heating apparatus, constructed substantially as described, for the purposes fully set forth." *Held*, that it sufficiently appears that the tank is a part of the heater, and not a separate element of the combination, and the patent is not void on its face for uncertainty.
2. SAME—COMBINATION.
   Construing the tank as part of the heating apparatus, the claim cannot be said to show on its face only an unpatentable aggregation of parts, since there is a joint and co-operating action between the heater and the boiler, and the action of each influences the action of the other.
3. SAME—LIMITATIONS—STATE STATUTES.
   State statutes of limitation are not applicable, even in the absence of a federal statute, to actions at law in the federal courts to recover damages for infringement of patents.

At Law. Action by William A. Brickill and others against the city of Hartford and others to recover damages for the infringement of a patent. Heard on demurrer to the complaint. Overruled.

*Raphael J. Moses, Jr.*, and *James A. Hudson*, for plaintiffs.

*Timothy E. Steele*, City Atty., and *Albert H. Walker*, for defendants.

SHIPMAN, District Judge. This is an action at law to recover damages for the alleged infringement of letters patent No. 81,132, dated August 18, 1868, to William A. Brickill, for an improved feed water heater for steam fire-engines. The present hearing is upon a demurrer to the plaintiffs' complaint. Before the date of the alleged invention, or of any similar device, the only method of keeping the water in a steam fire-engine in readiness to be immediately converted into steam when the summons came to extinguish a fire was by placing and keeping fire in the engine. That it was desirable to have the engine in readiness for immediate service is self-evident. That keeping a continuous fire in the engine was expensive, and might also be otherwise injurious, is also manifest. The object of Brickill's improvement was to have a detachable heater, which would continuously be in use, and supply the engine with hot water while it was in the engine-house, and could be detached when the engine was summoned to extinguish a fire. The specification says:

"The nature of the present invention consists in combining with a steam fire-engine a water heater, so constructed and connected to the boiler of a steam fire-engine that the water in the same is made to pass through the heater, and become heated, so that steam may be more rapidly generated than if my invention were not used in connection with the engine. The object of