

not seriously imperil the complainant's business. A sufficient answer is that it will not seriously imperil the defendant's business to stop infringing, and as the complainant is in the right and the defendant is in the wrong the latter should give way. The effect of the injunction upon others, not parties to the suit, cannot be considered now.

The court fully appreciates all that has been urged as to the harsh and arbitrary character of the remedy prayed for, and yet, remembering the innumerable obstacles which beset a recovery of damages and profits, it must be conceded that an injunction is the only adequate remedy left open to the inventor. It has, however, never been issued in this court except in cases where the right was clearly established. That this is such a case there can be little doubt. The circuit court of Massachusetts did not hesitate to issue an injunction in January, 1891, and the complainant's case is far stronger now. The motion is granted.

CARTER & CO., Limited, v. HOUGHTON et al.

(Circuit Court, D. Massachusetts. January 20, 1891.)

No. 2,762.

PATENTS FOR INVENTIONS—VALIDITY—ANTICIPATION—PRELIMINARY INJUNCTION—DUPLICATE MEMORANDUM SLIPS.

On motion for preliminary injunction, it is held that the first claim of letters patent No. 288,048, issued November 6, 1883, to John H. Frink for an improvement in duplicate memorandum slips, is valid, and was not anticipated by devices made either under patent No. 266,189, issued October 17, 1882, to James L. O'Connor, or reissued patent No. 10,359, granted July 24, 1883, to John R. Carter.

In Equity. Bill by Carter & Co., Limited, against S. S. Houghton and others for infringement of letters patent No. 288,048, issued November 6, 1883, to John H. Frink, for an improvement in duplicate memorandum slips. One of the defenses was that the patent was anticipated by devices made under letters patent No. 266,189, granted October 17, 1882, to James L. O'Connor, and reissued letters patent No. 10,359, dated July 24, 1883, to John R. Carter upon original patent No. 252,646, issued January 24, 1882. On motion for preliminary injunction. Granted.

Charles H. Duell and N. Caryl Ely, for complainant.
Cowen, Dickerson, Nicoll & Brown, for defendants.

COLT, Circuit Judge. In the above-entitled case the motion for a preliminary injunction is granted. The court finds the first claim of the Frink patent valid, and that it was not anticipated by the O'Connor and Carter devices.

BROWN MANUF'G CO. v. MAST et al.

(Circuit Court, S. D. Ohio, W. D. December 3, 1892.)

No. 4,230.

1. PATENTS FOR INVENTIONS—COMITY BETWEEN CIRCUITS.

The rule of comity which requires a circuit court to follow the conclusions reached in another circuit respecting the validity of a patent, except in cases of clear mistake of fact or law, or of new evidence, is not rendered inapplicable by the fact that two decisions were rendered in such other circuit,—one overruling the other on rehearing; and the last decision will be followed, as the final conclusion of that court.

2. SAME—CONSTRUCTION OF CLAIM—ANTICIPATION—CULTIVATORS.

The first claim of letters patent No. 190,816, issued May 15, 1877, to William P. Brown, for an improvement in couplings for cultivators, consisting of a pipe box provided with a projection adapted to co-operate with a spring, weight, or the draft, to rock the pipe box against or with the rear cultivators or plows, is not for a combination, but for a single part, and, as such, was anticipated by the patent of June 11, 1872, to William Haslup. *Manufacturing Co. v. Deere*, 51 Fed. Rep. 229, followed.

3. SAME—INVENTION—ANTICIPATION.

The second claim of the patent, which is for a combination of the tubular bearing in connection with the projection or rigid arm attached by a spring to the main frame of the cultivator, and an upright bearing, so that the force of the spring and the lateral swing of the beam would co-operate without conflicting, discloses patentable invention, and was not anticipated either by the Chapman patent of 1868, for a horse rake, the Plagge patent, for an improved rail guide for wagons, or the Wheeler patent, for a rake for a grain harvester. *Brown Manufacturing Co. v. Buford*, 21 Fed. Rep. 714, followed.

4. SAME—INFRINGEMENT.

This claim is infringed by a cultivator made under patent No. 260,447, issued July 4, 1882, to Berlew and Kissel, which shows a pipe box connected to the plow beam by an upright bearing, and having a rigid, upwardly projecting arm, terminating in a jaw with three holes in it, to which is fastened by a pin a stiff rod, passing through a guide piece at its top, and surrounded by a spiral spring, which, by the interposition of a washer and pin, presses the rod downward, thus acting as a counterbalance to the weight of the plow and drag beam; for the flat spring of the patent and the rod and spiral spring are well-known equivalents.

5. SAME.

Infringement is not prevented by the fact that in defendants' cultivator the arm and rod are so arranged that, when thrown rearwardly beyond the perpendicular, the spring aids the operator to depress the plows; for, while this may be an improvement on the combination of the patent, that combination is still present.

6. SAME.

Infringement is not prevented by the fact that the vertical bearing connecting the pipe box and the plow beam are arranged in defendants' cultivator so that the brackets or arms and the bolt are fixed to the pipe box, while in the patent the parts are reversed; the brackets and bolt being attached to the plow beam.

7. SAME.

Nor is infringement prevented by the fact that in the patent the stirrup which carries the vertical bearing connecting the pipe box with the plow beam is fastened to the pipe box by a loop, and is made to rigidly connect therewith by longitudinal ribs, which engage with corresponding grooves on the pipe box, thus permitting a circumferential adjustment so as to regulate the tension of the spring, while in defendants' machine the pipe box has but two ribs, one above and one below, which engage with corresponding depressions in the surrounding stirrup,—the ten-