

exposition of it given by the order of the minister of commerce is correct. It seems to me that Gramme Electrical Co. v. Arnoux & H. Electric Co., supra, has been overruled by Bate Refrigerating Co. v. Hammond Co. and Pohl v. Brewing Co., supra.

The pleas of the defendants are overruled, with costs.

BROWN FOLDING MACH. CO. et al. v. STONEMETZ PRINTERS' MACH. CO.

(Circuit Court of Appeals, Third Circuit. November 10, 1893.)

No. 27.

PATENTS FOR INVENTIONS—PRINTING PRESS AND FOLDING MACHINE—CARRYING MECHANISM.

Letters patent No. 343,677, granted June 15, 1886, to John A. Stonemetz for improvements in a mechanism for carrying sheets of paper from a printing press to a folding machine, said improved mechanism being so constructed that it may be folded when not in use upon the folding machine by means of holes in the carrying mechanism which engage with pins on the folding machine, are infringed, as to all the claims, by a device manufactured under letters patent No. 331,762, issued December 8, 1885, to R. T. Brown, for folding such a connecting mechanism upon the folding machine by means of hinges. 57 Fed. Rep. 601, affirmed.

Appeal from the Circuit Court of the United States for the Western District of Pennsylvania.

In Equity. Bill by the Stonemetz Printers' Machinery Company against the Brown Folding Machine Company and others for infringement of letters patent, and for relief on the ground of interference. A demurrer to the bill was overruled. 46 Fed. Rep. 72. A cross bill was filed, and thereafter stricken from the record. *Id.* 851. There was a final decree for complainant as to infringement, but for defendants as to the interference. See 57 Fed. Rep. 601. Defendants appeal from so much of the decree as is against them. Affirmed.

James K. Hallock, for appellants.

J. C. Sturgeon, for appellee.

Before DALLAS, Circuit Judge, and BUTLER and GREEN, District Judges.

BUTLER, District Judge. The bill charges infringement of Stonemetz's patent No. 343,677, of June 15, 1886; and also an interference between this patent and two others issued to R. T. Brown (owned by the defendants) on July 14, 1885, and December 8, 1885, respectively, numbered 331,762, and 332,444. The circuit court having sustained the former charge and dismissed the latter, the defendants appealed, and assign as error so much of the decree as is against them.

The only question involved is one of fact: Was Stonemetz first to invent the device covered by his patent? While there is some contention that he was anticipated by others than Brown, the main reliance is on Brown. A careful examination of the evidence

has satisfied us that the conclusion reached by the circuit court is right. The anticipatory devices set up, other than Brown's, present no difficulty whatever. They show nothing suggestive of Stonemetz's device. As between Stonemetz and Brown the proofs do not leave the mind in doubt that the former was the original inventor. Brown's disclaimer, in taking his patent, No. 331,762, is of itself, a sufficient answer to the claim now made in his favor. The statement of facts and analysis of testimony made by the circuit court are entirely satisfactory; and to avoid unnecessary enlargement we adopt them. The decree is affirmed.

EDISON ELECTRIC LIGHT CO. et al. v. MT. MORRIS ELECTRIC LIGHT CO. et al.

SAME v. UNITED ELECTRIC LIGHT & POWER CO.

(Circuit Court of Appeals, Second Circuit. November 8, 1893.)

1. PATENTS FOR INVENTIONS—INJUNCTION—LACHES.

Persons who establish a plant for the use of infringing electric lamps pending a suit to test the validity of the patent, which is brought and pressed with reasonable diligence, have no equities to prevent an injunction because the patentee delayed suing them until the patent was sustained in the test suit. 57 Fed. Rep. 642, affirmed.

2. SAME—EQUITIES—INFRINGEMENT USERS—LICENSEES.

An equity to be supplied with electric lamps by the manufacturing patent owner, at reasonable rates, may arise in favor of one who, pending a suit to test the patent, and while foreign decisions thereon were conflicting, has purchased from an infringing manufacturer an expensive plant, requiring the lamp for its operation; but this equity does not apply as between an exclusive licensee for a given territory, who has expended large sums on the faith of the patent, and an infringer, who has invaded such territory pending the test suit. 57 Fed. Rep. 642, affirmed; Edison Electric Light Co. v. Sawyer-Man Electric Co., 3 C. C. A. 605, 53 Fed. Rep. 592, limited.

3. SAME—PECUNIARY LOSS.

The fact that an infringing user of an electric lamp necessary to the operation of its plant has made great expenditures looking to future extensions of its business is no ground for refusing to enjoin it from going into new territory and buildings, or from continuing to light buildings which it first lighted after the patent was sustained by the circuit court in a test case; and the great pecuniary loss which the infringer would suffer by an unqualified injunction only gives it an equity to be allowed to use the patented lamp, for a reasonable compensation, in the buildings it had lighted prior to the decision in the test suit. 57 Fed. Rep. 642, modified.

Appeals from the Circuit Court of the United States for the Southern District of New York.

In Equity. Bills by the Edison Electric Light Company and the Edison Electric Illuminating Company of New York against the Mt. Morris Electric Light Company and others, and the United Electric Light & Power Company, for infringement of a patent. Preliminary injunctions were granted below, (57 Fed. Rep. 642,) and defendants appeal from the orders granting the same. Modified.