

NATIONAL METER CO. v. CITY OF POUGHKEEPSIE.

(Circuit Court, S. D. New York. July 9, 1896.)

PATENTS—PRELIMINARY INJUNCTION.

A defendant, who is using articles which infringe plaintiff's patent, and which have been purchased from a manufacturer, against whom the validity of the patent and the infringing character of the articles have been adjudged by the court of last resort, cannot avoid a preliminary injunction against the use thereof by showing that it will take time and trouble to find and remove from use the articles in question.

J. Edgar Bull, for the motion.

Edwin H. Brown, opposed.

LACOMBE, Circuit Judge. The validity of the patent and the infringing character of the disks complained of have been conclusively established against the manufacturer by the decision of the circuit court of appeals in the Third circuit. 12 C. C. A. 671, 65 Fed. 427. No certiorari to the supreme court having been allowed, that decision is one of the court of last resort. A few additional patents and suggested anticipations have been presented by the defendant here, who is using some of the infringing disks which were before that court, but they present no questions not fully considered in the former suit. The case is on all fours with Campbell Printing-Press & Manuf'g Co. v. Manhattan Ry. Co., 49 Fed. 930; and the defendant must desist from using the infringing disks which it bought from the manufacturer, who was defendant in the former suit. That it may take time and trouble to locate and remove them is no defense to this application. That is a risk the user of an infringing article always takes, and he may always fully protect himself by requiring a guaranty against loss from the person whose product the user buys. The record in this case shows that the city of Poughkeepsie has thus protected itself, and it should now promptly remove the infringing disks. Public convenience seems to require that this work should be done by installments, and the order may contain a clause allowing 60 days for making the necessary changes.

HEAP v. GREENE et al.

(Circuit Court, D. Massachusetts. June 22, 1896.)

No. 362.

PATENTS—LIMITATION BY PRIOR ART—CLOTH-NAPPING MACHINES.

The Grosselin patent, No. 377,151, for a machine for napping cloth, if valid at all, is limited by the prior state of the art, as shown especially in the English patent of July 24, 1823, to William Davis, and the German patent of September 1, 1878, to Moritz Jahr, to the specific methods used to produce the main result which is the general function of the machine.

This was a suit in equity by Charles Heap against Henry S. Greene and others for alleged infringement of a patent for a machine for napping cloth. Final hearing.

Edwin H. Brown, for complainant.
John L. S. Roberts and John J. Jennings, for defendants.

CARPENTER, District Judge. This is a bill in equity to enjoin an alleged infringement of the first claim of letters patent No. 377,151, issued January 31, 1888, to Henry Nicolas Grosselin, fils, for machine for napping cloth. The claim is as follows:

(1) In a gig mill, the combination, with a rotary drum consisting of heads, a shaft, and a series of card or teasing rollers journaled upon said heads, and provided with pulleys at their projecting ends, of a driving belt applied to each set of said pulleys, and devices, substantially as described, for driving said belts with varying speeds, and in different directions, as described, whereby the cards are rotated simultaneously each about its own axis and about the axis of the drum, substantially as described.

The defense is stated under several heads, but they seem to reduce themselves to two only, namely, invalidity of the patent, and non-infringement. On the first defense I shall express no opinion. On the second defense, that the respondents do not infringe, I find myself unable, without the use of drawings which are not here available, to state the differences of structure and function in the several machines under consideration in such a way as to be probably useful; and I therefore must content myself with the statement of my conclusion that the patent is so limited by the prior art and especially by the English patent to William Davis (No. 4,820), of July 24, 1823, and by the German patent to Moritz Jahr (No. 4,949), of September 1, 1878, that it must be confined to the specific methods used to produce the main result which is the general function of the patented machine, and hence that the respondents do not infringe. The bill will be dismissed with costs.

HEAP v. TREMONT & SUFFOLK MILLS.

(Circuit Court, D. Massachusetts. June 22, 1896.)

No. 234.

PATENTS—LIMITATION BY PRIOR ART—CLOTH-NAPPING MACHINES.

The Grosselin patent, No. 377,151, for a machine for napping cloth, if valid at all, is limited by the prior state of the art to the specific methods used to produce the main result which is the function of the machine. Heap v. Greene, 75 Fed. 405, followed.

This was a suit in equity by Charles Heap against the Tremont & Suffolk Mills for alleged infringement of a patent for a machine for napping cloth. On final hearing.

Edwin H. Brown, for complainant.
William A. Macleod, for defendant.

CARPENTER, District Judge. This is a bill in equity to enjoin an alleged infringement of the first three claims of letters patent No. 377,151, issued January 31, 1888, to Henry Nicolas Grosselin, fils, for machine for napping cloth. The claims are as follows: