

lished to my satisfaction. It rather seems to me that all that was there done by the workmen was to trim off the ends of the objectionable spikes,—such as were too long and thin to drive,—in order to put them in form to pass inspection. No particular method was observed; much less, the peculiar method described and claimed in this patent. The other named defense, however, raises a serious question, in view of the late decision of the supreme court in *Locomotive Works v. Medart*, 158 U. S. 68, 72, 15 Sup. Ct. 745. In the opinion of the court in that case it is declared:

"It may be said, in general, that processes of manufacture which involve chemical or other similar elemental action are patentable, though mechanism may be necessary in the application or carrying out of such process, while those which consist solely in the operation of a machine are not."

Now, the specification of patent No. 413,342 contains a description of the machine covered by patent No. 413,341, and of no other device; and the question presented is whether patent No. 413,342 is for a patentable method, or merely for the operation of the described machine, within the definition of patentability laid down by the supreme court in the case cited. Upon this question I do not feel called upon to express an opinion, for the reason that the plaintiffs are shown to be entitled to, and they will be allowed, an injunction against the defendants with respect to their infringing spike and their infringing machines, and generally against infringement of the spike patent and machine patent, and this will afford the plaintiffs all the relief that they now need. The decree may be without prejudice to the plaintiffs' rights under the method patent. Let a decree be drawn in favor of the plaintiffs in accordance with the views expressed in the foregoing opinion.

ADAMS et al. v. TANNAGE PATENT CO.

(Circuit Court of Appeals, Third Circuit. May 10, 1897.)

1. PATENTS—PRELIMINARY INJUNCTION—PRIOR ADJUDICATION.

A patentee should not, on motion to dissolve a preliminary injunction, be deprived of the advantage he holds, as the owner of a patent adjudged valid by a court of appeals, upon anything less than thoroughly convincing additional proofs. 77 Fed. 191, affirmed.

2. SAME—PROCESSES FOR TAWING LEATHER.

The Schultz patents, Nos. 291,784 and 291,785, for processes of tawing leather, *held* (on appeal from a refusal to dissolve a preliminary injunction) not anticipated, and valid and infringed. 77 Fed. 191, affirmed.

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

This was a suit in equity by the Tannage Patent Company against William W. Adams and others for alleged infringement of letters patent Nos. 291,784 and 291,785, issued January 8, 1884, to Augustus Schultz, for processes of tawing hides and skins. The cause was heard below on motion to dissolve a preliminary injunction, and the motion was denied. 77 Fed. 191. The defendants have appealed.

Hector T. Fenton, for appellants.

Charles Howson, for appellee.

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

DALLAS, Circuit Judge. This is an appeal from an order denying a motion to dissolve a preliminary injunction restraining the appellants from infringing two patents (Nos. 291,784 and 291,785) issued to Augustus Schultz on January 8, 1884, for a process for tawing hides and skins. The validity of these patents was earnestly assailed before this court in the case of Tannage Patent Co. v. Zahn, 17 C. C. A. 552, 70 Fed. 1003. They were then sustained, and we have now no doubt that this was rightly done. That litigation seems to have been observed with much interest by those engaged in the business concerned, and it is quite evident that some of them are not disposed to abide by its result. But we think it should be regarded as a finality until sufficient reason for departing from it shall have been made to plainly appear, and that the appellee should not, upon a motion to dissolve a preliminary injunction, be deprived of the advantage it holds as the owner of a patent adjudged by a court of appeals to be valid, upon anything less than thoroughly convincing additional proofs.

We have examined the new evidence adduced in this case, but do not feel called upon on this appeal from an interlocutory order to refer to it in detail. If it had been introduced in the Zahn Case, it would not have induced a different decision. It was all considered by the circuit court, and the patent which seems to have been chiefly relied upon there, and which has been mainly pressed here, was particularly discussed by the learned judge below. We are entirely satisfied with his conclusion. The objection that the plaintiff is not entitled to maintain this suit because it does not itself manufacture is without force. Its right to sue for the protection of its licensees is unquestionable. The decree is affirmed.

SHARPLES et al. v. MOSELEY & STODDARD MANUF'G CO. et al.

(Circuit Court of Appeals, Second Circuit. May 26, 1897.)

1. PATENTS—VALIDITY AND INFRINGEMENT—CENTRIFUGAL MILK SEPARATORS.

The Sharples reissue, No. 11,311 (original No. 442,461), for a centrifugal milk-separating machine, of which the distinguishing features are the simultaneous driving of the vessel and heating of the milk by a jet of steam or other similar motive power applied directly to the vessel, without the use of a driving spindle, *held* valid as to claims 4 and 5; and said claims *held* to be infringed by a rotary "milk tester," in which these distinctive features are used. 75 Fed. 595, affirmed.

2. SAME.

The Sharples patent, No. 458,194, for a rotary milk-testing apparatus, construed as to claim 3, of which the distinctive feature is an annular casing fixed to the frame outside the pockets, against which the jet of steam is delivered, and which aids in concentrating the steam about the bottles; and said claim *held* not infringed by a machine made in accordance with the Stoddard patent, No. 484,685. 75 Fed. 595, reversed.

Appeal from the Circuit Court of the United States for the District of Vermont.