

not profitably for its purposes, and not a financial success. It cannot be disregarded as having been wholly abandoned.

The connection to be broken by these machines between the body of the type and the jet is so small, and the movements necessary to break it are so slight, that it would seem difficult to tell that the separation was not effected in the Mason machine by the lengthwise motion before the blocks would be separated far enough to do it by the crosswise motion; especially as the recesses do not appear to be adapted to hold the jet firmly down in its place as cast in the lower mold so but that it might follow the crosswise motion of the body of the type till separated by the lengthwise motion, without being separated by the crosswise movement. That it operated to break crosswise unexpectedly, instead of lengthwise, as the inventor intended, does not seem to be established beyond any reasonable doubt, as is necessary in proving anticipation to defeat a patent. So, this anticipation must stand upon the Mason patent itself, which appears to be for the peculiar shaped recesses in the jet mold for drawing the jet away from the body of the type, and loosening it in the mold, rather than for holding it in the mold while the body of the type is broken away from it; as the use under it must be considered to have produced merely that operation. The other alleged anticipations are so much more remote than this that no discussion of them, after disposition of this, seems to be at all necessary. None of them comes anywhere near holding the jet in the lower half of the mold while the body of the type is carried away in the upper half, and separated from it. The claims involved are, in this view, considered to be valid for these improvements.

The denial of infringement has not been made prominent at the argument, the principal contention being as to the validity and scope of the claims, which being established, the plaintiff is entitled to a decree. Decree for plaintiff.

## NEW YORK FILTER MFG. CO. v. LOOMIS-MANNING FILTER CO.

(Circuit Court, S. D. New York. February 26, 1898.)

### 1. PATENTS—PRELIMINARY INJUNCTION—EFFECT OF PRIOR DECISIONS.

On motion for a preliminary injunction, where the validity of complainant's patent has been established by repeated adjudications, and no new evidence is offered, the question is not an open one.

### 2. SAME—SUITS FOR INFRINGEMENT—LACHES.

Where the owner of a patent proceeds with reasonable diligence in the prosecution of test suits for infringement, he will not be held guilty of laches which will defeat suits against other infringers because such suits are not commenced until the validity of his patent has been established.

### 3. SAME—IMPROVEMENT IN WATER FILTERS.

The Hyatt patent, No. 293,740, for an improvement in the art of filtration of water, held valid and infringed, on motion for preliminary injunction.

This is a suit in equity by the New York Filter Manufacturing Company against the Loomis-Manning Filter Company for the infringement

of the Hyatt patent, No. 293,740, for an improvement in the art of filtration of water. Heard on motion for preliminary injunction.

Myron H. Phelps and John R. Bennett, for the motion.  
Charles J. Bonaparte, opposed.

LACOMBE, Circuit Judge. The validity of the patent has been established by repeated adjudications; some of them upon evidence of the identical alleged anticipating device here relied on. No new case against validity is made out, and the earlier decisions are to be followed. Infringement seems clear, and indeed is not disputed. The only objection seriously urged to the granting of the relief asked for is laches in not sooner proceeding against defendant and its predecessors, who have been openly infringing for years. But complainants have been reasonably diligent in prosecuting other infringers, and sustaining the validity of the patent upon two successive appeals to the circuit court of appeals. Under the rule followed in this circuit, laches is not made out. *Edison Electric Light Co. v. Sawyer-Man Electric Co.*, 3 O. C. A. 605, 53 Fed. 597; *Same v. Mt. Morris Electric Light Co.*, 57 Fed. 644. I do not find anything in the suggestion of an equitable estoppel by reason of the letter of the National Water Purifying Company, written to one of defendant's predecessors at a time when the last-named company was fighting the patent. It cannot be assumed that any improper use will be made of the preliminary injunction, and the order will, of course, be strictly confined to the relief prayed for in the bill, which is against using, selling, practicing, etc., "the inventions and discoveries of the patent," of which invention an essential feature is the use of a coagulant. Making, using, or selling filters which do not require or employ a coagulant will, of course, not be covered by such an injunction. Motion granted.

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#### NEW YORK FILTER MFG. CO. v. JACKSON.

(Circuit Court, E. D. Missouri, E. D. December 27, 1898.)

No. 4,159.

#### 1. PATENTS—PRELIMINARY INJUNCTIONS—DECISIONS OF OTHER COURTS.

Where a patent has been before the courts of other circuits in a number of contested cases, and its validity has been uniformly sustained, it is not an open question upon a motion for a preliminary injunction, unless a new defense is interposed, and the evidence in support of it is so cogent and persuasive as to lead the court to the conclusion that it would have induced a contrary decision, had it been presented in the other suits.

#### 2. SAME—SUIT FOR INFRINGEMENT—LACHES.

Where defendant was notified by complainant, upon entering on the manufacture of an article, that complainant claimed a monopoly thereon under its patent, and was advised of such fact thereafter from time to time during litigation over the patent, a delay of five years in bringing suit for the infringement, during all of which time complainant was engaged in litigation with other infringers, is not such laches as will bar relief.