

claims against them as partners, while a citizen of Colorado would be denied that right.

Upon the whole case, we are constrained to hold that the motion for a new trial must be sustained, and a verdict must be entered for the defendant, and it is so ordered.

See *Sonstiby v. Keeley*, 11 FED. REP. 578, and note, 581.

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ROGERS *v.* MARSHALL.

(*Circuit Court, D. Colorado.* June 14, 1882.)

INTERLOCUTORY DECREE—REHEARING—PRACTICE.

On a petition for a rehearing upon an interlocutory decree in chancery, the court will, as a matter of course, continue the temporary execution of the decree till the hearing can be had, where to proceed under it might involve large expense, and but little time must elapse before such hearing can be had.

*L. S. Dixon*, for plaintiff.

*Wells, Smith & Macon*, for defendants.

MCCRARY, C. J., (*orally.*) Some time ago the court entered an interlocutory decree in this case, which settled, if it shall stand, some of the rights of the parties. It is a very important case, involving a large sum, and questions that are not entirely free from difficulty and doubt.

A petition for rehearing upon that interlocutory decree has been filed, and the court has ordered it to be heard, and fixed a time for hearing. The question now is whether the court shall suspend the execution of the interlocutory decree in the interim. It provides for an accounting, and to proceed under it might involve large expense, which in the end might be useless, and besides might cause an exposure of the private affairs of defendants, which, if the court should set aside the interlocutory decree, would not be a thing we ought to do.

The time is short, (the day for hearing is the twentieth of July,) and I apprehend no serious injury will result from a suspension of the accounting in the mean time. I think it is the rule almost without exception, that where a court entertains an application to set aside an interlocutory decree in a case in chancery, it will, as a matter of course, pending the hearing upon that application, suspend the execution of the decree. The order which has already been made

suspending temporarily the execution of this decree will be continued until the hearing can be had. I say this without expressing any opinion at all upon the merits of the application to set aside the interlocutory decree. I have not looked into the case sufficiently to form or express an opinion one way or the other upon the merits of the application.

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MACKAY and others v. JACKMAN.

SAME v. SCOTT SOLE SEWING-MACHINE Co. and others.

SAME v. LEHMAN and others.

(Circuit Court, S. D. New York. April 15, 1882.)

PATENTS FOR INVENTIONS.

A mere process for making an article is not of itself a patentable invention.

*Elias Merriam and J. J. Storrow*, for orator.

*J. C. Clayton*, for defendants.

WHEELER, D. J. These suits are brought upon two patents originally granted to Lyman R. Blake, dated August 14, 1860,—one, No. 29,561, for an improvement in the construction of boots and shoes; and the other, No. 29,562, for an improvement in boots and shoes. These were to run 14 years, and August 13, 1874, were extended seven years. They were acquired by the orator, and the former was reissued in No. 9,043, dated January 13, 1880, and both have expired since these suits were brought.

Before Blake's inventions boots and shoes were made by pegging through the outer sole, upper, and inner sole, by sewing a welt to the inner sole and upper, and then sewing the outer sole to the welt. Some very light shoes were made wrong side out by sewing through the inner sole, upper, and part way through the outer sole, and then turned, and some very low shoes were made by sewing common stitches directly through the inner sole, upper, and outer sole. Sewing parts of uppers and pieces of leather and cloth for other purposes together by chain-stitches made by machine, by drawing loops of the thread through the material, without drawing the rest of the thread through, was then known and practiced; but no boots or shoes made by sewing the soles and upper together by such stitches, nor any method of so sewing them together, was then known. No means to which that place was accessible for setting the stitches had then been discovered.