

BETWEEN:—

THE LUXFER PRISM COMPANY, } PLAINTIFFS;
LIMITED }

1902
July 15.

AND

GEORGE MACLAIRE WEBSTER, }
AND THOMAS JESSE PARKES, } DEFENDANTS.
TRADING UNDER THE NAME, STYLE }
AND FIRM OF WEBSTER BROS. & }
PARKES }

Patent for invention—Prisms for deflecting light—Anticipation—Novelty.

A patent for prisms intended for use in deflecting the course of rays of light falling obliquely or horizontally on glass placed vertically, as in the ordinary windows of houses and shops, is not void for anticipation by reason of prior patents for prisms for use where the light falls vertically or obliquely on glass placed horizontally, as in pavements.

Semble, that if the former patent were to be broadly construed as for a device for deflecting the course of light passing through glass it would fail for want of novelty.

THIS was an action for infringement of Canadian letters-patent, No. 57,152, for alleged new and useful improvements in prismatic glass.

May 2nd, 1902.

The case came on for trial at Toronto.

C. Robinson, K.C and *Britton Osler* for the plaintiffs;

A. R. Oughtred for the defendants.

THE JUDGE OF THE EXCHEQUER COURT now (July 15th, 1902) delivered judgment.

This action is brought by the plaintiffs against the defendants to restrain the latter from infringing the

1902 patents mentioned in the statement of claim, and for
 THE LUXFER damages
 PRISM Co. By agreement between the parties the issue is
 v. WEBSTER. limited to patent numbered 57,152 granted on the 21st
 Reasons of August, 1897, to Frank C. Soper for alleged new
 for and useful improvents in prismatic glass; and with
 Judgment. reference to that patent the only questions in contro-
 versy are as to whether or not the alleged invention was
 anticipated by the Nain and Waddell patent, numbered
 1121, issued from the English Patent Office, or by the
 the Jacob patent, numbered 458,850, issued from the
 United States Patent Office. If any attempt were made
 to give the Soper patent a broad construction as a
 device for deflecting the course of light passing through
 glass the conclusion would, I think, be inevitable that
 the patent failed for want of novelty. But the prisms
 made under the Nain and Waddell, and under the
 Jacobs patents, were intended to be used where the
 light falls vertically or obliquely on glass placed
 horizontally, as in pavements; and the prisms made
 under the Soper patent are intended for use in deflect-
 ing the course of rays of light falling obliquely or
 horizontally on glass placed vertically, as in the
 ordinary windows of houses and shops. The former
 depended principally for their effectiveness upon the
 principle of internal or total reflection of prisms having
 certain angles; the latter upon the principle of refraction
 only. It seems to me, therefore, that it is not
 possible to say that either of the two patents men-
 tioned is an anticipation of the Soper patent, if the
 latter is limited, as I think it should be, to the par-
 ticular devices described and intended for the special
 uses to which they are put.

It is possible that if the enquiry had taken a wider
 range evidence would have been available to show

that this patent construed in that narrow way has been anticipated; but that is not an issue at present; and it is proper to confine oneself to the issues the parties have seen fit to submit for decision.

There will be judgment for the plaintiffs on the issues in controversy.

1902
 THE LUXFER
 PRISM CO.
 v.
 WEBSTER.
 ———
 Reasons
 for
 Judgment.
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Judgment accordingly.

Solicitors for plaintiffs: *McCarthy, Osler, Hoskin and Creelman.*

Solicitors for defendants: *Hutchinson & Oughtred.*