

PATENT INFRINGEMENT CASES.

United States Circuit Court—Eastern District of Pennsylvania, in Equity.

Reeves vs. Keystone Bridge Company, J. H. Linville and others.

This was a suit for infringement of the complainant's patent of June 17, 1862. The patent is for an improvement in the construction of columns, shafts, braces, etc., and the invention consists in the use of three or four wrought iron bars of such shapes and dimensions that, when arranged together in the direction of their length and fastened by rivets or bolts through their flanges, they form a hollow shaft or column.

The respondents admitted the making and using of the column described in the patent, but denied its novelty on the following grounds:

1. That the invention was originally made by Jacob H. Linville and John H. Piper.
2. That it was described in the *Allgemeine Bauzeitung* for September, 1861.
3. That it was illustrated by a drawing in the *Dreyfuss Album* bearing the imprint of 1861.

We regret that our space will not permit us to give the opinion by McKennan, Circuit Judge, in full. Its essential features follow:

It appeared in regard to the first allegation that, on the 14th of January, 1862, a patent was granted to J. H. Linville for an improvement in iron truss bridges, which consists of a post composed of two rolled plates of wrought iron, semi-octagonal in form, secured by rivets passing through its diameter, or by bands shrunk around it, binding the plates firmly to distance pieces interposed between them at suitable distances to spring them apart at the middle, and terminating in cast iron bases and capitals. This was held by the judge to be essentially distinguishable from the complainant's post. It next appeared that in 1865 Linville, in conjunction with Piper, applied for and obtained a patent nominally for improvements in his post of 1862, but, really changing its fundamental organization, and seeking to fix its invention in 1860, and in fact describing and appropriating the distinctive features of Reeves' post, which had been patented three years before. It was shown in evidence that in 1860 Linville and Piper were engaged together in getting up plans for a proposed railroad bridge, and that sketches of various forms of posts, including those described in the patents of 1862 and 1865, were made; that the sketches of the post described in the 1865 patent were preserved for a time, but were lost, and, in fact, that nothing beyond making the sketches was done to embody or carry out the alleged invention until the patent of 1865 was applied for. After an exhaustive consideration of the question whether or not these sketches would carry back the date of the invention to the time when they were made, the Judge held that, whether they are to be considered as an incomplete invention not prosecuted with the required diligence, or as an experiment actually abandoned, they cannot impair the right of Reeves to be treated as the first inventor.

In regard to the second allegation, it was held that a column, constituted as described in the publication referred to, differs from Reeves' column in the necessary elements composing it and in its principles; and respecting the third reference, as it did not appear that the book was published before the patentee's invention, it was held, as evidence, to be altogether inconsequential.

The complainant is entitled to an allowance of the prayers of his bill, and a decree will therefore be entered for a perpetual injunction and an account, with costs.

George Harding and R. C. McMurtrie, Esqs., for the complainant.  
C. B. Collier and Theodore Cuyler, Esqs., for respondents.

The Keystone Bridge Company vs. The Phoenix Iron Company.

This was a case of alleged infringements of Linville's and Linville and Piper's patents of 1862 and 1865, referred to in the preceding case.

In the opinion delivered by McKennan, Circuit Judge, his Honor did not deem it necessary to consider the alleged infringements of certain claims, in view of the decision just rendered in the case of Reeves vs. The Keystone Bridge Company, and after pointing out the essential difference between the bars claimed by the complainants and those made by the respondents, dismissed the patent of 1862 from further consideration. In regard to the third claim in the patent of 1865, which is for "the use, for the lower chords of truss frames, of wide and thin rolled bars, with enlarged ends formed by upsetting the iron, when heated, by compression into molds of the required shape," the respondents were proved to have only made round bars which were not employed or adapted to give vertical support to the roadway, which is an important function of the complainant's lower chords and the reason of their peculiar conformation. Further, it is not to be doubted that the patent is limited to the use of the chords in bridge structures. This is distinctly set forth in the specification where it is stated: "We do not claim the upsetting of bars in the manner described, nor any particular mode of performing the operation, but merely the use of chord bars," etc. Thus the exclusive right to make chord bars in any mode is disclaimed. In effect, they declare that any one may lawfully make the bars, and that no encroachment upon their rights is committed until the bars are used by being put into a bridge. Now, the respondents are iron manufacturers, and it was shown that the bridge in question was built by Kellogg & Clark, who obtained the iron for it from the respondents, and that the bottom chords used were like those claimed by the complainants. It was held that this proof of infringement fell far short of fixing any accountability upon the respondents, who made the bars, but did not use them. They only did what they had a legal right to do, and did not thereby assume any responsibility for the wrongful acts, or become involved in the unlawful purposes, of others. Bill dismissed, with costs.

C. B. Collier and Theodore Cuyler, Esqs., for complainants.  
George Harding and R. C. McMurtrie, Esqs., for respondents.

United States Circuit Court.—Maine.—Miller vs. Androscoggin Pulp Company.

The defendants in this case were charged with an infringement of letters patent for a new and useful improvement in reducing wood to paper pulp, for which letters patent were issued, August 10, 1858, to Henry Voelter, assignor to Alberto Pagenstecher.

The Voelter patent is for an improvement in the art of reducing wood into pulp for use in paper, and also for certain improvements in machinery therefor.

In all the processes used prior to the present invention the wood has been acted upon by the stone in one of two ways: namely, either by causing the surface of the stone to act upon the ends of the fibers, the surface of the stone moving substantially in a plane perpendicular to the fibers of the wood; or, secondly, by acting upon the fibers in such a direction that they were severed diagonally, the surface of the stone moving diagonally across the fibers.

The first plan, in fact, made powder of the wood. The pulp had no practical length, and on trial proved worthless, or nearly so. The second plan was carried out by the use of a stone revolving like an ordinary grindstone, the wood being applied upon the cylindrical surface thereof, with the fibers perpendicular, or nearly so, to planes passing through the axis of the stone and the point or locality where the grinding was performed; and this plan also failed because the fibers were cut off in lines diagonal to their own length, and were consequently too short to make good pulp.

This improvement consists in grinding or rather tearing out the fibers from the bundle of fibers which makes up a piece of wood, by acting upon them by a grinding surface which moves substantially across the fibers and in the same plane with them without cutting or severing the fibers either perpendicularly or diagonally to their length as heretofore. The defense claimed that substantially the same process was shown in other patents. The invention is regarded as one of importance. Judge Shepley held the patent to be valid, and granted an injunction.

NEW BOOKS AND PUBLICATIONS.

THE AMERICAN NEWSPAPER DIRECTORY: Containing Accurate Lists of all the Newspapers and Periodicals published in the United States and Territories, and the Dominion of Canada and British Colonies of North America; together with a Description of the Towns and Cities in which they are Published. New York: Geo. P. Rowell & Co., Publishers and Newspaper Advertising Agents, No. 41 Park Row.

This book is already well known to the public, more especially to advertisers and publishers; and the new edition is corrected up to this date, and contains the full and accurate information claimed for it on the title page. Messrs. Rowell and Co. deserve credit, not only for compiling a trustworthy guide to the newspaper world, but also for the production of so handsomely printed a volume.

THE IMMIGRANT BUILDER; OR, PRACTICAL HINTS TO HANDY MEN: Showing clearly how to Plan and Construct Dwellings, in the Bush, on the Prairie, or elsewhere, Cheaply and Well, with Wood, Earth, or Gravel. Copiously Illustrated. By C. P. Dwyer, Architect, Editor of "Sloan's Architectural Review," Author of the "Economic Builder," etc. Price \$1.50. Philadelphia: Claxton, Remsen, and Haffelfinger.

This book will be useful to thousands who are now pushing their fortunes on the western prairies, and to many of whom the question of a comfortable home is of chief importance, and its absence the greatest hardship. We shall probably make extracts from this volume in a future publication.

FOURTH ANNUAL REPORT ON THE NOXIOUS, BENEFICIAL, AND OTHER INSECTS OF THE STATE OF MISSOURI. By Charles V. Riley, State Entomologist. Regan & Edwards, Public Printers, Jefferson City, Mo.

This is an able and comprehensive report on the above subject, for the year 1871, made to the Missouri Board of Agriculture. It contains about 150 pages, with explanatory illustrations, and is indexed.

THE SIGN PAINTER'S GUIDE. By James T. Gardiner. Published by the Author. Cincinnati.

This little work is written with the view of helping sign painters in acquiring an adequate knowledge of their business, including glass gliding, pearl work, etc. It contains, besides, much general information, many valuable receipts, and instructions for using Callow's patent graining apparatus.

THE SCIENCE OF ÆSTHETICS; OR THE NATURE, KINDS, LAWS, AND USES OF BEAUTY. By Henry N. Day. Published by Charles C. Chatfield & Co., New Haven, Conn.

This treatise on the "general subject of beauty as perfect form" was specially prepared by the author in view of the demand for text books in this department of study. It is an elegant volume of over 400 pages, and is adorned with several fine engravings.

SELECTIONS FROM FAVORITE PRESCRIPTIONS OF LIVING AMERICAN PRACTITIONERS. By Horace Green, M.D., LL.D. New York: John Wiley & Son, 15 Astor Place.

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