

Case No. 11,324.

POTTER ET AL. V. DAVIS SEWING-MACH. CO.

{3 Fish. Pat. Cas. 472.}¹

Circuit Court, S. D. New York.

Nov., 1868.

PATENTS—INFRINGEMENT.

The “assistant or helper” described in the patent granted to Job A. Davis, October 9, 1866, is an equivalent for and an infringement of one of the feeding surfaces patented to Allen B. Wilson, November 12, 1850. It may not be as perfect and efficient as the arrangement of Wilson, but it operates upon the same principle.

This was a motion [by Orlando B. Potter, Nathaniel Wheeler, and others] for a provisional injunction to restrain the defendants [Davis Sewing-Machine Company] from infringing letters patent for an “improvement in sewing machines,” granted to Allen B. Wilson, November 12, 1850 [No. 7,776], reissued January 22, 1856 [No. 346], and extended for seven years from November 12, 1864.

S. J. Gordon and Geo. Gifford, for complainants.

S. D. Law, for defendant.

NELSON, Circuit Justice. The bill in this case is founded upon the extension of the reissued patents to A. B. Wilson, January 22, 1856, No. 346, and of December 9, 1856, No. 414, for new and useful improvements in the sewing machine. The only question that we consider material to notice is that of infringement. It is insisted, on behalf of the defendants, that no part of the feed motion of A. B. Wilson is embodied in their machine. The feeding device as claimed by them is what is commonly known as the needle feed, the cloth being advanced stitch by stitch by a lateral motion of the needle while in the cloth.

A recent improvement upon this needle feed, by Job A. Davis, and which is used by the defendants,

it is insisted, for the complainants, does embody it. The patentee describes it as follows: which consists in the application and use of a device which acts as an assistant or helper to the needle, and which keeps the fabric, while being sewed, smooth, and prevents it gathering or bunching as the feed is effected, and which also holds the fabric and prevents its rising as the needle is withdrawn." The patent was granted October 9, 1866. This "assistant or helper" is an upright piece constructed alongside and in front of the needle, and suspended to the pressure bar with a foot resting on the cloth to be sewed, which is between it and the sliding plate that covers the shuttle race, and moves forward with the needle, as alleged by the patentee, to keep the cloth smooth while being sewed, but by the complainants as acting as a feeder to the needle upon the same principle as in the patents of A. B. Wilson.

The foot of this helper is made to bear with a yielding pressure upon the surface of the sliding plate, so as to grasp the cloth between the two surfaces sufficiently to advance it stitch by stitch in the working of the machine, at the same time that the needle is moved laterally. This feed motion of the helper may not be as perfect and efficient as the arrangement of A. B. Wilson, but that it exerts a material influence in effecting it is not to be denied, upon the evidence including the practical working of the machine before us at the argument. We think, therefore, the complainants 1145 are entitled to an injunction as it respects the use of this arrangement in the defendants' machine. The defendants complain that there has been delay in the making of this motion, which has led them into expense as the result of the injunction. But, it should be remembered that their patent is recent, that they were early warned against the use of the invention, and that they have chosen to disregard the

warning and to take all the responsibilities attending it.
Injunction granted.

{For other cases involving this Patent, see note to
Potter v. Whitney, Case No. 11,341.}

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