

SMITH v. HIGGINS.

Circuit Court, S. D. New York.

1856.

PATENTS—INFRINGEMENT—DAMAGES—THEORY.

1. The general rule is, that the patentee or his assignee, in case of an infringement or appropriation of his invention by another without his license, is entitled to the actual damages he has sustained by reason of such infringement.
2. The theory or principle in respect to damages is, that a third person who adopts, appropriates, or uses the improvement of another, interferes with his custom, his monopoly, or, rather, property, and affects the benefits which he would otherwise be entitled to.
3. The rule excludes any exaggerated or vindictive damages which are sometimes allowed in cases of wilful trespass.
4. In order to constitute an infringement, it is not necessary that the arrangement and combination of the party charged with the infringement should be the same to the eye, or in point of fact. If they embody the ideas of the patentee, and the machinery of the defendant operates by such adoption and appropriation, then though the arrangement may be apparently different, in reality and in judgment of law, an infringement exists.

{Cited in Law, Pat. Dig. 238, 369, to the points as stated above. Nowhere reported; opinion not now accessible.}

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