

Case No. 17,393.

WELLS V. GILL ET AL.
SAME V. YATES ET AL.

[1 Ban. & A. 77.]¹

Circuit Court, D. New Jersey.

March, 1874.

INFRINGEMENT OF PATENTS—HAT MACHINES.

The complainant's reissued patent for improvement in machines for making hat-bodies, having been adjudged valid in the case of *Wells v. Jacques* [Case No. 17,398], it was *held* that the defendants' machine infringed the patent, although their arrangement for conducting, or projecting, or getting the fur from the brush or picker to the exhaust cone, might be in some respects novel, and an improvement on the complainant's machine.

[Cited in *Norton v. Jensen*, 1 C. C. A. 455, 49 Fed. 863.]

[These were bills in equity by Eliza Wells against John Gill and others, and Henry J. Yates and others, for infringement of a patent.]

Henry Traphagen, for complainant.

A. S. Hubbell, for defendants.

NIXON, District Judge. The observations which I deemed it proper to make, in reference to the construction of the Wells' patent in *Wells v. Jacques* [Case No. 17,398] render it quite unnecessary that I should travel over the same ground in, the above cases. Holding all the claims of the Wells' reissue valid, the only remaining question is, whether the use of the Gill machine is an infringement.

It may be true, as the counsel for the defendants so ably contended, that the arrangements of the devices in the Gill machine for conducting or projecting or getting the fur from the brush or picker to the exhaust cone, are, in some respects novel, and an improvement in efficiency, on the Wells machine; yet they are practically useless, except in combination with the constituents of the complainant's reissued patent and cannot be used without infringing some of its claims, particularly the fourth.

This appears quite as clearly from the admissions of the defendants' principal witnesses, as from the direct testimony of the complainant's expert.

Let there be a decree for the complainant in each of the above stated cases, and an order for an injunction and account, according to the prayer, of the bill.

[For other cases involving this patent, see note to *Burr v. Cowperthwaite*, Case No. 2,188.]

¹ [Reported by Hubert A. Banning, Esq., and Henry Arden, Esq., and here reprinted by permission.]