

WHITMUN *v.* SEAMAN AND ANOTHER.

Circuit Court, S. D. New York.

—, 1880.

1. PATENT NO. 150,921, for an improvement in coal-scuttles, *held not infringed*.

In Equity.

WHEELER, D. J. This suit is brought for an alleged infringement of letters patent No. 150,921, dated May 12, 1874, granted to the orator for an improvement in coal-scuttles. As the orator is not the inventor of coal-scuttles, nor 437 of anything underlying the whole structure, his patent cannot be construed as covering the whole, but must be restricted to the particular construction invented by him in order to stand at all. *Railway Co. v. Sayles*, 97 U. S. 554. His scuttle is made with a bottom stamped out of one piece of metal, extending upwards outside of the body. The defendant's scuttle is made in substantially the same way, except that the bottom extends upwards inside of the body. Placing the body inside of the upward extension of the bottom is an important and distinctive feature in the plaintiff's invention, and is made so by his patent. Without that, a scuttle cannot be said to be his style of scuttle. He rivets the body to the bottom, and the bottom to the base, and that mode of fastening them is described in his patent. Had that been new his patent would probably have covered it, as well as the method of putting the parts together to form the scuttle. But that is an old and well-known way of fastening parts of metallic vessels together, and could not be patented to any one. His patent seems to stand well enough for his particular style of scuttle fastened in that manner, and that is all. The defendants do not make that style, and therefore do not infringe.

The bill is dismissed, with costs.

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