

WALLICKS *v.* CANTRELL AND OTHERS.\*

*Circuit Court, E. D. Pennsylvania.*      May 3, 1882.

PATENT—APPARATUS      FOR      ENAMELLING  
MOULDINGS.

Letters patent No. 163, 825 for an improvement in apparatus for enamelling mouldings sustained.

Bill for an Injunction to Restrain the Infringement of a Patent.

*Charles Howson*, for complainant.

*J. W. Shortlidge*, for defendants.

BUTLER, D. J. A very few lines will explain our views of this case. Letters patent No. 163, 825, for an “improvement in apparatus for enamelling mouldings” were issued to the plaintiff May 25, 1875, containing a single claim, as follows: “An enamelling-box divided into two compartments by a slotted partition, and having openings at the end, in a line with the slot in the partition, all substantially as, and for, the purpose set forth.” The bill charges infringement of this patent. The defences set up, and urged at the hearing, were *first*, that the patent is invalid, and, *second*, that the defendants have not infringed. The first was based principally on an allegation of prior use. As respects this it is sufficient to say that in our judgment, the allegation is not sustained. A written review of the testimony would be of no value.

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A careful examination has satisfied us that its weight is against the defendants, while the burden of proof is on them.

The suggested objection to the claim, is unfounded. The claim embraces nothing that should not have been included. It covers simply the peculiar enamelling-box invented and constructed by the plaintiff, and shown by the model.

That the defendants' device infringes the plaintiff's we cannot doubt. It was designed for the same purpose, and accomplishes it in the same way, and substantially by the same means. The mechanical appliances are virtually undistinguishable, and the mode of operation and result are identical. Without the expert testimony,—which is very positive,—this conclusion is fully sustained by inspection of the two boxes and their work.

A decree must be entered accordingly.

\* Reported by Frank P. Prichard, Esq., of the Philadelphia bar.

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