

sponding parts of adjacent boxes by thin strips of wood, about an eighth of an inch wide, which are not covered by metal. Each box has thus its own metal front, and is disconnected from every other box by an unprotected strip of wood. The metallic covering of any one box does not join the metallic covering of any other box. As in the original infringing boxes, the sides of each box near its front are protected by a metallic casing or flange. At first sight, this new series seems to be an unsubstantial alteration of the infringing boxes, and to be justly liable to the charge of being a fruitless attempt to evade the patent. A more careful examination of the subject has led me to another conclusion.

The first and broadest claim of the reissue is for the combination, substantially as specified, of a series of metallic door-frames and doors with a series of wooden pigeon-holes, whereby a series of post-office boxes with a continuous metallic frontage is formed." The plaintiff's frames are made with such wide flanges that the whole wooden front is covered with a metallic front; or, in the language of the specification, "when all the frames are in place, a continuous metallic frontage, protecting the wood-work, is presented upon the outside of the series of boxes." The defendant's first infringing boxes were a series of separate boxes with metallic door-frames, the flanges of the frames being so wide that a continuous metallic frontage was formed. "A continuous metallic frontage" does not mean a front without cracks or without joints at the edges of each frame, and a wafer of wood which should be inserted at the top or sides of each frame to separate each side from the adjoining frame would be a mere evasion of the patented invention. In the language of the plaintiff's expert, the metallic frontage is to be "practically continuous,—that is, continuous to effect the purpose secured by the continuity of surface described in the patent;" and by a continuous metallic frontage is meant one so practically continuous as to substantially effect the purpose desired to be obtained by continuity.

The question in the case becomes one of fact, and I am of opinion that the defendant's new boxes, as shown in the exhibits, are not practically continuous, and that, were it not for the metallic covering of the sides, the metallic frontage would not cause security, but the wooden partitions or strips of wood would be an element of weakness. The continuity of the metallic frontage is substantially interrupted by the wooden strips which separate the boxes from each other, and if the Yale boxes were separated in the manner of the new Scovill boxes and without the metallic sheathing upon the front part of the

sides of the boxes, the value and security of the Yale box would be seriously impaired. The metallic casing or flange upon the outside of the sides of the Scovill box has an office, viz., that of protection to the wood-work against outside attack, which the metallic ear upon the inside of the Yale box does not have.

The motions are denied.

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GOULD *v.* SPICER and others.

(Circuit Court, D. Rhode Island. August 3, 1882.)

PATENTS FOR INVENTIONS—REISSUE—VOID FOR VARIANCE.

In Equity.

*Thomas W. Clarke*, for complainant.

*Benjamin F. Thurston*, for defendants.

Before GRAY and COLT, JJ.

GRAY, Justice. In the original patent the only invention claimed or described, or appearing upon its face to have been intended to be claimed or described, is an arrangement of grate-bars, with projections on the under side of each end, in combination with two rotary cams, coming in contact with such projections. The reissue, so far as it relates to the seven new claims introduced therein, is void, because of its variance from the original patent; and it is unnecessary to consider the other grave objections to the validity of the reissue, founded on the lapse of time before it was applied for. But the validity of the claim made in the original patent, and distinctly repeated in the reissue, is not affected.

The result is that the first demurrer, which goes to the whole bill, must be overruled, and the second demurrer, filed in accordance with the thirty-second rule in equity, and limited to that part of the bill which sets forth the invalid claims, must be sustained, and the case stand for replication and proofs upon the first claim.