

UNITED STATES DAIRY CO. AND OTHERS V.  
SMITH.

*Circuit Court, S. D. New York.* August 4, 1880.

PATENTS FOR INVENTIONS—PATENT NO.  
146,012—MOTION FOR INJUNCTION DENIED.

BLATCHFORD, J. Patent No. 146,012 seems to make the use of the udder necessary in divisions 6 and 7 of the specification, in obtaining from margarine the resulting material. There is no suggestion that it may be dispensed with, or that any good result can be obtained without using it. In the reissue the udder is omitted in the description, and in claims 5 and 6, and then it is stated that the use is “expedient.” If the use of the word “expedient” brings in the udder 98 as parts of claims 5 and 6, the defendant does not infringe. If the use of the udder is no part of those claims, then the reissue, as to those claims, claims inventions not suggested or indicated in No. 146,012, and is invalid. It may be that the proofs for final hearing may put the case in a different aspect, but, as the case now stands, the foregoing considerations are sufficient to require that the motion for injunction be denied. The same disposition is made of the motions as to Flagg and Boker.