

invention is not of the pans, or the plates, or the seams, but of the whole manufacture. The nearest previous approach to it in kind was the cluster with the rims riveted to the plate; and the nearest in principle was the bottom of the wash-boiler. Such a bottom, with two or four pits, as the evidence shows were made, would be awkward to use for, and hardly suggestive of, these small cake-pans. The rivets in the riveted cluster might be the equivalent of the double-seam joint, as a mere mode of fastening pieces of sheet-metal together in some places, for some purposes; but it would not be the equivalent in this place for this purpose. An even and smooth union was required; the riveted joint was rough and uneven; the double-seam joint there was nearly all that was desirable in these respects; and although not a new thing it was new in this place, and more than mere mechanical skill was requisite to the construction and arrangement of the necessary parts for successfully putting it there. It is no answer to the patent that all the parts were known before, if they were not known in that connection and arrangement before. *Smith v. Goodyear Co.* 93 U. S. 486; *Wallace v. Noyes*, 13 Fed. Rep. 172.

The defendant insists that, if the patent is valid, as there were double-seam joints, and cake-pans, and clusters of cake-pans fastened in a plate before, it can only cover Firth's precise mode of uniting the cake-pans in a cluster to the plate by the double-seam joint. *Ry. Co. v. Sayles*, 97 U. S. 554. This is doubtless true; and the defendant would not be liable if his mode was left to the orators who own the patent. His mode is the use of the double-seam joint there. The defendant has not left that but has taken it. His mode of using it has been changed, and perhaps improved upon, and that improvement has been patented, and perhaps properly patented, but that gives no right to what was before patented.

Let there be a decree for the orators for an injunction, and an account, with costs.

MUNSON v. MAYOR, ETC., OF NEW YORK.

(Circuit Court S. D. New York. 1884.)

PATENTS FOR INVENTIONS—SUSPENSION OF INJUNCTION—PUBLIC INTEREST—INCONSISTENT CONTENTIONS.

After a final decree establishing an exclusive right to the use of a patent and awarding an injunction to protect it, the injunctions will not be suspended while the decree stands unreversed, unless some extraordinary cause outside of the interests of the parties is shown. Public necessity may be a cause for such suspension; but the defendant, after insisting that the invention is of no use and benefit, and thus defeating the orator's claim for substantial damages on account of infringement, will not be heard to allege that it is of such public importance as to warrant a court in suspending the injunction.

In Equity.

Royal S. Crane, for orator.

Frederic H. Betts, for defendant.

WHEELER, J. This cause has now been heard on a motion to suspend the injunction heretofore granted, during the pendency of an appeal from the final decree awarding to the orator a merely nominal sum for profits and damages, and a small balance of costs of the suit. After a decree on final hearing, establishing an exclusive right, and awarding an injunction to protect the right, the injunction is not suspended unless some extraordinary cause is shown to exist outside the rights of the parties established by the decree. *Potter v. Mack*, 3 Fisher, Pat. Cas. 428; *Brown v. Deere*, 6 FED. REP. 487. This patent is for a register to preserve for safety, and convenience of reference, paid bonds and coupons. The defendant used the patented register for this purpose as any corporation, partnership, or individual issuing and redeeming coupon bonds would. The use by the defendant is not public any more than such use would be, nor any more than any business transaction of the city is. The city is a public municipal corporation, and a large part of the public have a pecuniary interest in its financial transactions of all kinds, and this is all the interest of the public in this question. It does not affect the convenience, enjoyment, or business of the individuals composing the public, at all. It touches only the convenience of the officers whose duty it is to preserve the bonds and coupons safely, and refer to them when necessary. On the accounting it was insisted on behalf of the defendant that this convenience was of no value or benefit, and with such success that a decree has been entered to that effect. It does not now seem to be equitable and just, in view of that result, to allow that a deprivation of that convenience is too grievous to be borne. The orator, as the case now stands, is entitled to the exclusive use of his patented invention. If the injunction should be suspended during the appeal, and the decree be affirmed, the orator would be left to another accounting, either in a new suit or under some order in this one, which, if it should follow the former result, would be much worse than fruitless. The appeal really involves nothing, so far, but the costs of suit. There seems to be no reason why the orator's right to his monopoly should not be protected in the usual modes; in fact, it does not appear that they can be fully protected but by this injunction; the motion cannot therefore justly be sustained.

Motion denied.

DRYFOOS v. WIESE.¹

(Circuit Court, S. D. New York. January 24, 1884.)

1. PATENTS FOR INVENTIONS—INFRINGEMENT—CLAIMS IN REISSUES NOT FOUND IN THE ORIGINAL.

A claim of a second reissue of letters patent *held* invalid as going beyond the invention shown in the original. But where a new claim contained in a first reissue was brought forward into the second, it being valid in the first reissue, *held*, not avoided by the invalid claim of the second reissue.

2. SAME.

Complaint for infringement of reissued letters patent No. 9,097, granted February 24, 1880, to August Beck, assignor to the orator, for an improvement in quilting-machines, dismissed.

In Equity.

Edmond Wetmore, for plaintiff.

Gilbert M. Plympton, for defendant.

WHEELER, J. This suit is brought upon reissued letters patent No. 9,097, granted February 24, 1880, to August Beck, assignor, to the orator, for an improvement in quilting-machines. The original was No. 190,184, dated May 1, 1877. It was reissued in No. 8,063, dated January 29, 1878, and surrendered for the reissue in suit. The improvement was, and is stated in the original and reissues to be, for improvements on the quilting-machine shown in letters patent No. 159,884, dated February 16, 1875, granted to the same inventor. That machine was for quilting by gangs of needles in zigzag parallel lines, and was fed by cylindrical rolls having an intermittent rotary motion, which would move the cloth while the needles were out of it, and could be arranged to feed in straight lines, direct or oblique. The original of the patent in suit showed different mechanism for actuating the feed-rolls, so that the length of stitch could be varied at pleasure, and conical rolls having an intermittent motion to feed the conical bodies of skirts and skirt borders in a circular direction, when the needles were out of the cloth, as well as cylindrical rolls for straight goods, and other improvements upon other parts of the machine; and had claims for the feed mechanism, and improvements upon the other parts of the machine, but none of the conical feed-rolls. The first reissue further described the conical feed-rolls as made of such taper as to conform to the shape of the skirt or border to be quilted, and claimed the combination of the series of needles with the conical feed-rolls acting intermittently, in place of one of the other claims. The reissue in suit still further describes the conical feed-rolls as the embodiment of a feed device which extends substantially throughout the width of the conical strip of goods, and as it departs from the shorter curved edge and approaches the longer curved edge is adapted to have a proportionately increased range of feed-movement, so that it will feed the conical strip of goods in the requisite curved path evenly and without any injurious strain or drag, and further claims

¹ Affirmed See 8 Sup. Ct. Rep. 354.