

ROEMER V. SIMON AND OTHERS.

Circuit Court, S. D. New York.

May 10, 1884.

PATENT—ADOPTION OF INVENTION FOR
PURPOSE OF ADDING TO IT, AN
INFRINGEMENT.

The taking of an invention for the purpose of adding to it is as much an infringement as would be the taking and using it without the addition.

In Equity.

A. v. Briesen, for orator.

Frederic H. Betts, for defendant.

WHEELER, J. This suit is brought upon letters patent No. 195, 233, dated September 18, 1877, and granted to the orator for an improvement 198 in combined lock and handle for traveling-bags. The improvement consists in having the case for the lock long enough to fasten the handle to at each end by rings through the upright walls of the case. The handle is thus attached to the lock and by that to the bag; and the extended perpendicular walls of the case stiffen and strengthen the whole. If the invention, had been of an attachment of the lock directly to the handles only, or of the extension of the top plate of the lock-case along the frame to receive the handle-rings, it would have been anticipated; but the substance of it is understood to be the single attachment of the lock and handle to the frame, and taking advantage of the walls of the case to strengthen the frame at the handles. None of the devices relied upon by the defense meet these qualities. The patent, therefore, seems to be valid.

The structure shown for an infringement appears to have all the elements of the patented invention, with the addition of a bottom plate to the lock extending beyond and fitting over the handle-rings. This adds

to, but does not take the place of, the orator's arrangement. The attachment of the handles to the lock-case, and the support of the whole by the walls of the case, are retained. This taking of the invention for the purpose of adding to it is as much an infringement as if taken and used without the addition. The orator, therefore, seems to be entitled to a decree.

Let a decree be entered for the orator for an injunction and an account, with costs.

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