

erence to the Bigeon patent, but when much less strictness in comparing reissued patents with originals was required.

The third claim of this reissue is for a corner iron to connect the end pieces with the side rails, and to support the strain upon the end pieces by a flange on the iron extending nearly to the top of the end pieces, against which they bear directly. This flange, without reference anywhere to other parts of the iron, or any mode of attachment of the iron to the rails, is the distinctive feature of this claim. A similar flange for the same purpose is shown in the prior patent of George C. Perkins, No. 113,559, dated April 11, 1871. If there is any difference as to this patented feature of the flange, it consists in making the flange sufficiently lower than the top of the end piece, to be out of the way of the attachments of the springs. The difference of construction would be so obvious to any competent mechanic as not to amount to a patentable invention.

The original of the first Field reissue was for a netting composed of V-shaped links hooked together in a peculiar manner, and a link for forming the straight edges of the netting. The links made diamond-shaped figures. The reissue is for the combination in a bed-bottom of rails, end pieces, springs, and netting, composed of continuous diamond-shaped figures, and for the netting and links of the original. The original patent would not cover anything in the defendant's bed. What would cover anything in it is merely expansion of the original, and, as now understood, void.

The original of the second Field reissue was for peculiar links as a component part of a bed-bottom, and a bed-bottom composed of such links. The reissue is for connected and continuous zigzag wires connected with end rails by springs in a bed-bottom. There is nothing in this reissue, that is not an expansion from the original, which would cover anything in the defendant's structure. The result is that the defendant does not infringe anything that is valid in any of the orator's patents in controversy.

Let there be a decree dismissing the bill of complaint, with costs.

MORRIS v. KEMPSHALL MANUF'G CO.

(Circuit Court, D. Connecticut. April 30, 1884.)

PATENT—SASH-FASTENER—INFRINGEMENT.

Patent No. 212,487 issued to Morris for an improved sash-fastener, the characteristic features of which are the elevated notched plate and hinged pendant, is not infringed by the subsequent patent issued to Sparks having a notched flange at the top of the pivotal post above the sweep and pivoted latch.

In Equity.

S. D. Cozzens, for plaintiff.

Charles E. Mitchell, for defendant.

SHIPMAN, J. This is a bill in equity which is brought, under section 4918 of the Revised Statutes, by the patentee and owner of letters patent, No. 212,487, dated February 18, 1879, to John B. Morris for an improvement in fasteners for the meeting rails of sashes, and which seeks relief against the alleged interference of a subsequent patent. The junior patent was issued to the defendant, as assignee of William Sparks, on September 4, 1883. The defendant has demurred to the bill, and the question is whether the junior patent on its face interferes with, or claims in whole or in part, the same invention which is claimed in the first claim of the senior patent. The Morris device consists of a plate, without any projection above the general level of the plate-top, upon the surface of which the latch-bar swings, and which has upon its front edge a rectangular notch, *c'*, to receive and retain the pivoted handle, *H*, of the latch-bar, and upon its right side and upon its edge another sloping jog, *c''*, to receive and retain the handle when the bar is in its open position, and upon its left side another jog, *c'''*, to receive a projection from the under side of the latch-bar. This projection limits the swing of the bar. The bar is pivoted upon a pivot, *E*. The plate is called an elevated plate, and is sufficiently high to afford room for the jogs, *c'* and *c''*, and to enable the handle to swing clear of the sash rail. The first claim is as follows:

"The improved sash lock or fastening, consisting of the elevated plate, *C*, having shouldered notches, *c'*, *c''*, *c'''*, pivot, *E*, for swinging latch-bar, *F*, *f*, and the hinged pendant, *H*, for attachment to the lower sash, in combination with a stationary spur or cam-hook upon the upper sash, substantially as set forth."

The important portion of the Sparks invention is a flange or cap, which is preferably made integral with the post upon which the sweep is pivoted, and which "is provided with two shoulders or notches, *k*, made in the edge of the flange." When the sweep is brought to the front the handle end of its latch, which is heavy enough to overbalance the inner end of the latch, causes the latch to drop, and thereby the inner end is raised into engagement with one of the shoulders, and the sweep is locked. The invention consists, in substance, of the pivoted latch of the sweep, which locks into notches in the edge of the flange at the top of the post upon which the sweep is pivoted and above the sweep.

The language of the first claim of the Morris patent may be broad enough to include the Sparks fastener, but the elevated plate and the pendant of the Morris fastener are not the notched flange at the top of the post above the sweep and the pivoted latch of the Sparks fastener.

The demurrer is sustained.

ANDREWS and others v. FIELDING.

(Circuit Court, D. Connecticut. May 3, 1884.)

PATENTS FOR INVENTIONS—CONVEYANCE—RECONVEYANCE.

Letters patent conveyed by a patentee with condition of reconveyance upon a certain emergency; that emergency having arisen, the court decrees the execution of the reconveyance.

In Equity.

Charles E. Perkins, for plaintiffs.

Frank L. Hungerford, for defendants.

SHIPMAN, J. In the early part of January, 1881, Sanford S. Burr owned two letters patent, No. 230,105 and reissue No. 9,393, each for folding bedsteads, the exclusive use of which he had given to A. H. Andrews & Co., of Chicago, until February 14, 1881. The defendant, William I. Fielding, as the president and manager of the National Wire Mattress Company of New Britain, had also been selling to said firm patented wire nettings to be used upon the Burr bedsteads. Burr became anxious lest Andrews & Co., at the expiration of their license, should refuse to renew it, or should compel him to yield to an unfavorable contract. Fielding was also suspicious that Andrews & Co. intended to discontinue the use of his nettings, and hearing of Burr's anxiety, telegraphed to him, about January 17, 1881, to come to New Britain at his (Fielding's) expense, and to make no arrangements with Andrews & Co. Burr immediately went from Chicago to New Britain, and, upon Fielding's representations that a union of the two interests would be for the advantage of each, and that he desired to assist Burr, assigned to Fielding the said two bedstead patents, except for a specified portion of the United States, and received from him the following agreement:

"Whereas, Sanford S. Burr has this day conveyed to me certain letters patent, with the expectation that I shall grant licenses under the same as I shall deem best, the license fee not to be less than five per cent. of the gross sales of the articles patented. Now, I agree, in consideration of one dollar received, to reconvey said patents to said Burr within ninety days from date; subject, however, to any licenses which I may meanwhile grant, and I agree to assign to said Burr, at the time of such reconveyance, all royalties accrued or to accrue under such licenses."

Fielding then went to Chicago, and, representing that he was the owner of the Burr patents, made a verbal agreement with Andrews & Co. for a license for the use of the patents and for the purchase of his nettings. They sent to him a written agreement, in accordance with their understanding of the parol contract, but he refused to sign it upon the ground that it was inaccurately drawn. The point in dispute was that he desired an agreement that they would purchase his wire nettings during the life of the Burr patents, while they refused to specify the time during which they would so purchase. Neither