

GRIFFITH *v.* SEGAR AND OTHERS.

*Circuit Court, N. D. New York.*

February 5, 1887.

PATENTS                      FOB                      INVENTIONS—INFRINGEMENT—SEVERAL  
PATENTS—PLEADING—MULTIFARIOUSNESS.

A bill in equity for infringement, founded upon five separate patents, containing in the aggregate sixteen claims, which does not contain an allegation that the inventions are capable of con joint, use, or that the structure manufactured and sold by defendants combines all of the patented features, is bad for multifariousness.

In Equity. On Demurrer to bill.

*Edwin H. Risley*, for complainant.

*Thomas Richardson*, for defendants.

COXE, J. This is an equity action for infringement, founded upon five separate patents, containing in the aggregate sixteen claims, granted to the complainant for improvements in folding beds and cots. The defendants demur on the ground that the bill is multifarious, no reason appearing for uniting five distinct causes of action in one suit. There is no allegation in the bill that the inventions are capable of conjoint use, or that the structure manufactured and sold by the defendants combines all of the patented features. The averments in that behalf would be sustained by proof that the defendants manufactured and sold five separate beds, each of which infringed one of the patents in question, but no one of which infringed all of them, or more than one of them. The authorities are quite uniform in declaring such a bill insufficient. *Hayes v. Dayton*, 8 Fed. Rep. 702; *Nellis v. McLanahan*, 6 Fish. 286; *Nourse v. Alien*, 4 Blatchf. 376; *Horman Patent Manufg Co. v. Brooklyn City R. Co.*, 15 Blatchf. 444; *Barney v. Peck*, 16 Fed. Rep. 413; *Lilliendahl v. Detwiller*, 18 Fed. Rep. 176; Walk. Pat. § 417.

GRIFFITH v. SEGAR and others.

It would seem, from a casual examination of the patents in question, that it would hardly be possible to combine in one structure all the inventions therein claimed; but if the defendants do so infringe, there should be an appropriate allegation to that effect.

The demurrer is allowed, the complainant to amend within 20 days.