

HALTON v. UHLINGER.

Circuit Court, E. D. Pennsylvania.

January 17, 1888.

PATENTS FOR INVENTIONS ANTICIPATION.

Letters patent No. 185,027, issued December 8, 1876, to Thomas Halton for improvement in Jacquard looms, claim the construction of the griffs, or those parts which raise the hooks, of such breadth that when the griffs are elevated the blade still rests below the top of the hooks out of operation, and when the griffs descend the danger of striking the heads of these idle hooks is avoided? On evidence of prior use at Paterson and Brooklyn; of the British patent issued March 14, 1870, to John Morris for an improvement by making

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double-headed hooks so as to employ two cylinders for the center and border, respectively, without changing the cards; of the French patent issued October 24, 1834, to James Besset, in which the Jacquard lifting plate was replaced by a fixed grate and movable frame so that the horizontal needle, when opposite a full portion of a card, can withdraw the hook from the grate when the card-cylinder is nearest the side of the machine, instead of when it is furthest; and Of the publication in 1878 of "Geschichte der Jacquard Maschin,"—the patent was held void for anticipation.

In Equity.

This is a suit brought by Thomas Halton, complainant, against William P. Uhlinger, respondent, for an alleged infringement of letters patent, No. 185,027, and dated December 5, 1876, granted to Thomas Halton, for improvement in Jacquard looms; the application for which letters patent was filed September 11, 1876. The invention is for a broad blade, or griff, which is not lifted above the top of the hook heads of the Jacquard machine. The griff is that portion of the Jacquard which elevates the hooks of the machine, the hooks in turn being operated upon by needles so as to be left in position or thrown out of position, to be elevated by the griffs. The patent claims the construction of the blades of the griffs of such breadth that when the griffs are elevated the blade still rests below the top of the hooks out of operation, and when the griffs descend the danger of striking the heads of these idle hooks is avoided. The defenses were prior use, prior patents, and publication. The first was supported by the testimony of witnesses who had operated, or seen operated, Jacquard looms, with improvements upon them similar to that described in complainant's patent, at Paterson, N. J., and Brooklyn, N. Y., at varying periods before the issue of complainant's patent. The defense of "prior patents was supported by offering in evidence a copy of letters patent granted by the British patent office, to John Morris, of Belfast, Ireland, dated March 14, 1870, the specification and claim of which was as follows:

"I, John Morris, of Belfast, in the county of Antrim, Ireland, do hereby declare the nature of the said inventions for 'improvements in Jacquard apparatus,' to be as follows: My invention has reference to the hooks employed in Jacquard apparatus. These hooks have hitherto been formed as seen at Figure 1 of the annexed drawings, and the heads, being single, have not allowed of using two cylinders, one on each side of the machine, unless two sets of needles were put in where with my improved hooks I have only one set. My invention consists in making double-headed hooks substantially of the form represented in figure 2, whereby I can employ two cylinders, one to weave the center and one to weave the border, so that it is not necessary to change the cards, for the cylinders can be put in motion sooner than the cards can be changed."

Also a translation of French patent 3427 dated October 24, 1834, granted to James Besset, of Lyons, for a loom for weaving, called by him a "fulling loom," described thereon as follows:

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“It differs essentially from ordinary machines called ‘Jacquard machines,’ in that, in the latter the lifting plate, or grate, is movable, and actuates the cylinder which carries the cards. In my machine this grate is replaced by a fixed grate and a movable frame, so arranged that when the horizontal needle, which serves to unhook the bent top of the crochet-wire, which is above the

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grate, is Opposite to a full or unpierced portion of a card; it performs the said operation [withdrawing hook from the grate] when the card-cylinder is nearest the side of the machine, instead of when it is farthest therefrom.”

To support the defense of prior publication, “*Geschechte der Jacquard Maschin*,” a work printed in 1873, was cited by respondent.

Geo. B. Carr, for complainant.

George J. Harding, and *George Harding*, for respondent.

BUTLER and MCKENNAN, JJ., in an oral opinion, held complainant’s patent to have been anticipated, and dismissed his bill, with costs to respondent.