

THOMPSON *ET AL.* V. RAND-AVERY SUPPLY CO.
SAME V. COFFIN.

Circuit Court, D. Massachusetts.

February 5, 1889.

PATENTS FOR INVENTIONS—INFRINGEMENT—PRELIMINARY INJUNCTION.

In a suit for the infringement of a patent, a preliminary injunction will be denied where the court is doubtful on the question of infringement, and preliminary injunctions in other cases for the infringement of the same patent have been denied.

In Equity. On motions for preliminary injunctions.

Suits by Henry G. Thompson and others against the Rand-Avery Supply Company, and by same complainants against L. P. Coffin, for the infringement of letters patent No. 136, 340, February 25, 1873, to Samuel W. Shorey, for an, improvement in machines for forming staple-seams in leather. For a description of the invention, see *Thompson v. Glldersleeve*, 34 Fed. Rep. 43.

J. E. Maynadier, for complainants.

H. D. Donnelly, for defendants.

COLT, J, In order to grant the motion for a preliminary injunction now prayed for I must be satisfied that the defendant uses the inclined or retreating anvil, n, which is one of the elements of the third claim of the Shorey patent, or its equivalent. Upon an examination of the papers before me, I have considerable doubt whether defendant's rest or supporter, which has no incline or bevel, can be said to be the equivalent of the inclined anvil, *n*, or whether the defendant can fairly be said to use the combination of devices, or the equivalents contained in the third claim of the Shorey patent. Judge BLODGETT, in the case of these plaintiffs against the E. P. Donnell Manufacturing Company,¹ where the same question arose, refused an injunction; and after the opinion of Judge Wheeler in the case against the American Bank-Note Co., 35 Fed. Rep. 203, he still refused to modify his opinion. It further appears that Judge Shiras of the district of Minnesota denied similar motions in several cases brought by these complainants against different defendants. In view of the doubt in my mind on the question of infringement, I think I ought to follow the rulings of Judge BLODGETT and Judge SHIRAS and deny the motion. Motion denied.

The same order may be entered in the case of the complainants against L. P. Coffin.

¹ Not reported.