

HAVERHILL ROLLER TOBOGGAN Co. v. AUTOMATIC ROLLER TOBOGGAN Co. et al.

(Circuit Court, D. Massachusetts. August 6, 1891.)

PATENTS FOR INVENTIONS—TOBOGGAN SLIDE.

The first claim of the Floyd patent, No. 367,286, for a spiral toboggan slide, terminating immediately below the starting point, is void for want of novelty.

In Equity.

W. A. Macleod, for complainant.

W. K. Richardson, for defendants.

NELSON, J. The first claim of the Floyd patent, No. 367,286, for a sliding hill constructed in spiral form, and terminating at a point immediately below the starting point, involves no element of novelty or invention, and is therefore invalid for want of patentability. A decree is to be entered dismissing the plaintiff's bill, with costs. Ordered accordingly.

ATWOOD v. RICHMOND.

(Circuit Court, D. Massachusetts. August 10, 1891.)

PATENTS FOR INVENTIONS—BOX-HINGE—NOVELTY—UTILITY.

Letters patent No. 378,861, issued March 6, 1888, to Benjamin T. Atwood, for a duplex box-hinge, to be placed inside the box, and consisting of two flanges jointed to a connecting plate, bent at right angles at distances from the joints equal to the thickness of the side and cover of the box, so that, when applied, a smooth face, flush with the outer surface of the box, is presented, and the cover, when open, turns completely over, and rests against the side, is valid as to novelty, utility, and prior use and discovery, and is infringed by a box-hinge which is its substantial counterpart.

In Equity. Bill by Benjamin T. Atwood against Charles C. Richmond to enjoin an infringement of a patent, and for an account.

P. E. Tucker, for complainant.

Fish, Richardson & Storrow, for defendant.

NELSON, J. The plaintiff's patent, No. 378,861, dated March 6, 1888, is for an improved box-hinge. The hinge is of the duplex variety, and is designed to be applied to the inside of a box. The invention consists of two flanges jointed to a connecting plate, with the flanges bent at right angles, at distances from the joints corresponding with the thickness of the side and cover of the box. When applied, the hinge presents a smooth face, flush with the outer surface of the box, without projections, and permits the cover, when open, to turn completely over, and rest against the side of the box. The connecting plate also serves as a bearing for the cover when shut. Upon the evidence before the

court there can be no doubt whatever that, as respects novelty, utility, and invention, and as respects any prior use or discovery by the defendant or others, the plaintiff's patent is perfectly valid, and that the defendant's hinge is substantially a counterpart of the plaintiff's hinge, and a palpable infringement of his patent. The plaintiff is therefore entitled to a decree for an injunction and for an account, and it is ordered accordingly.

THE ROLF.¹

LAW *et al.* v. THE ROLF.

(District Court, E. D. New York. July 24, 1891.)

COLLISION—SAIL-VESSELS CROSSING—COLLISION RULES, ART. 14, (c.)

Collision occurred on the high seas, on a clear morning, between the ship Rolf and the bark Boyd. The Rolf, bound from Havre to Sandy Hook, was sailing at least two points free, with the wind on her starboard side. The Boyd, bound from New York to Hong-Kong, had the wind on her port side. Her contention was that she was sailing close-hauled. The Rolf's witnesses asserted that the Boyd also was sailing free. The Boyd did not alter her course. The Rolf put her helm up after collision was inevitable, but was struck on her starboard side. *Held*, on the evidence, that the Boyd, as well as the Rolf, was sailing free, and hence, under the International Collision Rules, art. 14, (c.) (23 St. at Large, p. 441.) the Boyd was bound to avoid the Rolf, which had the wind on her starboard side, and was liable for her failure so to do.

In Admiralty. Suit for damage caused by collision.

Wing, Shoudy & Putnam, for the Boyd.

Butler, Stillman & Hubbard, for the Rolf.

BENEDICT, J. This is an action brought by the owners of the bark Emilie L. Boyd against the ship Rolf, to recover the sum of about \$128,000, damages resulting from a collision that occurred between those two vessels on the 15th day of January, 1890, on a bright morning, in latitude 25° 40' N., longitude 32° 56' W. The bark Boyd was bound on a voyage from New York to Hong-Kong, laden with case oil. The Rolf was a full-rigged ship, bound from Havre to Sandy Hook, in ballast. The collision occurred about 7 o'clock in the morning, when the weather was clear, and between vessels moving from six to eight knots an hour, under a good sailing breeze, the Boyd having the wind on her port side, and the Rolf having the wind on her starboard side. Each vessel was plainly seen by the other at a distance of five or six miles, and each vessel continued in full view of the other, no other vessels being in sight, until, without exchange of hail or shout, the vessels came in violent collision, the bark striking the ship on the ship's starboard side nearly at right angles, the jib-boom of the bark piercing the ship's mainsail. In

¹Reported by Edward G. Benedict, Esq., of the New York bar.