

shown in letters patent No. 218,354, granted August 5, 1879, to Woodward & Brock. But the evidence does not show any mechanism wherein a pegging device is so constructed as that, when set in operation, it will drive only one nail, and at the same time is so constructed as to be actuated by the pressure of the work. The function of the combination is, therefore, new, and the patent is entitled to a broad construction accordingly. Under such a construction, the respondents do not deny that the machines made by them operate by devices which are the mechanical equivalent of the devices claimed in the patent. I shall not compare the two devices further than to say that the one of the two machines made by the respondents is described in letters patent No. 426,160, granted April 22, 1890, to the respondent Woodward; and that both of them contain, as I view it, devices equivalent to those shown in the patent.

The first and fifth claims are for a combination of the jack, the pegging mechanism, and the actuating mechanism, with an unweighted foot treadle, so constructed as to press the work against the actuating mechanism when the treadle is depressed. I do not think that this describes a patentable combination. The treadle plays no part in the function of the combination. It moves the work towards and against the actuating mechanism, and so occasions the operation of the mechanical combination. But it takes no part in it. There is, no doubt, a steam or other engine, with suitable belt or gearing, which moves the pegging mechanism, and also the actuating mechanism; but neither engine nor treadle are any part of the mechanism, which, acting together, and mutually interacting between its parts, performs the new function, and is thus itself the new machine invented by the patentee. The decree therefore will be that the respondents infringe the second, third, and fourth claims, and that the first and fifth claims are invalid.

BLAIR CAMERA CO. v. BARKER et al.

(Circuit Court, D. Massachusetts. January 17, 1893.)

No. 2,774.

PATENTS FOR INVENTIONS—INFRINGEMENT—PHOTOGRAPH CAMERAS.

Letters patent No. 294,959, issued March 11, 1884, to Thomas Henry Blair, covering a combination with the frame and partition of a camera, of two adjustable bars, closing the mouths of the plate chambers, respectively, when in their inmost positions, must, if sustainable at all as containing novelty or utility, be restricted substantially to the structure described, and is not infringed by a camera with bars which are on the outside of the end bar of the plate-holder frame, and are not adapted to close the mouths of the plate chamber.

In Equity. Suit by the Blair Camera Company against Frank R. Barker and others to restrain infringement of a patent. Bill dismissed.

John L. S. Roberts, for complainant.

Edwin H. Brown, for defendants.

CARPENTER, District Judge. This is a bill in equity to enjoin an alleged infringement of letters patent No. 294,959, granted March 11, 1884, to Thomas Henry Blair, and assigned to the complainant. The claim alleged to be infringed is as follows:

"(1) In combination with the frame, A, and partition, the adjustable bars, F, F, these bars closing the mouths of the plate chamber, respectively, and, when in their inmost positions, extending into such chamber beyond the inner edge of the frame, substantially as stated."

The purpose of these adjustable bars is to fasten the photographic plate within the plate holder. In this respect they do not differ from other bolts which are a very old device for a similar purpose. This bolt, however, may more properly be described as a "sliding bar;" since the name of "bolt," as commonly used, would be applied to a fastening which slides or moves in the direction of its longest diameter, while the bars of the patent are apparently so formed as to have their longest diameter at right angles with the line of their motion. The drawing and specification, indeed, do not make this certain; but they make it probable, and the name of "bar," which the patentee gives to his device, may, perhaps, be said to imply so much. But a sliding bar, having, among other functions, that given to the adjustable bars of the patent, is not a new device. Such a bar appears in the drawing annexed to letters patent No. 93,669, granted August 17, 1869, to Joseph Buchtel. The claim of the patent, therefore, must be so limited as to cover only a sliding bar in a camera, and constructed with reference to the other parts of the camera, substantially as described in the specification. It appears by the claim that when the adjustable bars are moved inward, so as to fasten the plate, they must close the "mouths" of the plate chamber. These "mouths" are evidently the slots in the frame through which the bars slide. The expert, called for the complainant, says that the bars work through the end bar of the plate-holder frame; that is, they work between the two outer sides of said bar. The words of the claim which refer to the bars as "closing the mouths of the plate chamber, respectively," also seem to me to point to the same conclusion. There are, so far as I see, no other apertures to which the plural word "mouths" could be applied.

In the plate holder made by the respondents, the sliding bars—again quoting the expert called by complainant—"are outside of the end bar of the plate-holder frame, adjacent to which they are fitted." They are not adapted to close the mouths of the plate chamber, since the device of the respondents contains no such mouths. They are not, therefore, either in structure or in function, the bars of the patent.

The respondents have defended this suit on the ground of insufficiency of specification in the patent, and on the ground of want of patentable novelty. It is true that the specification is not very clear, but I think, by the aid of the drawings and a knowledge of the art, it is possible to make out what the patentee intends; and, if there be any utility in the specific construction of the sliding bars shown on the patent, I think they may be considered the subject of

invention. On the question of utility, I have no evidence here, and therefore I do not pass on that question. The bill must be dismissed, on the ground that the respondents do not infringe.

UHLMAN et al. v. ARNHOLDT & SCHAEFER BREWING CO.

(Circuit Court, E. D. Pennsylvania. January 4, 1893.)

No. 39.

1. PATENTS FOR INVENTIONS—ANTICIPATION—BEER-FILTERING PROCESS.

The invention described in letters patent No. 378,379, issued February 21, 1888, to Heinrich Stockheim for a filtering process for beer, was not known or used by others in this country prior to the time when knowledge thereof was conveyed to the inventor's agents or attorneys in this country for the purpose of applying for the patent.

2. SAME—CONSTRUCTION OF CLAIMS—PROCESS AND FUNCTION OF MACHINE.

The four claims of the Stockheim patent, being all directed to the accomplishment of the filtration of beer in its passage from the store cask to the keg into which it is drawn for sale, without material loss of gas, and without foaming in the keg, are valid, as covering a true "process," and not merely the function of a machine.

3. SAME—INVENTION—ANTICIPATION.

The Stockheim patent was not anticipated by the Enzinger patent of November 12, 1878, or by the description contained in the Enzinger "pamphlet," or by any other patents shown in evidence, and is a valid process patent. *Uhlmann v. Brewing Co.*, 41 Fed. Rep. 132, approved.

4. SAME—INFRINGEMENT.

This patent is infringed by defendant, as the process practiced by it in the use of the "Klein filter" is the same process covered by the patent.

5. SAME—EVIDENCE OF PRIOR KNOWLEDGE AND USE.

On a question as to which of two inventions, both made in Germany, was first "known or used" in this country, within the meaning of Rev. St. § 4886, priority for one of them cannot be established by showing that a certain letter, with inclosures purporting to describe the invention, was received and thoroughly examined by a firm of patent lawyers in this country, when the papers were of such a nature that even the most skilled expert could not have gleaned from them any practical or sufficient knowledge of either invention to put it into practical operation.

6. EVIDENCE—PRESUMPTIONS—RECEIPT OF LETTERS.

The time at which a letter from Germany was received in this country cannot be established by witnesses who base their testimony entirely upon presumptions or calculations resting upon the date of the letter; for the date of a letter alone affords no basis whatever for a calculation as to the time of its receipt, and is not even proof of the time of mailing, or that it was ever mailed.

In Equity. Bill by Simon Uhlman and Frederick Uhlman against the Arnholdt & Schaefer Brewing Company for infringement of a patent. Decree for complainants.

Wetmore & Jenner, for complainants.

Witter & Kenyon, for defendant.

DALLAS, Circuit Judge. This is a suit for alleged infringement of patent No. 378,379, dated February 21, 1888, granted to Heinrich Stockheim for a filtering process for beer. It is now for decision upon