

WILSON v. ANSONIA BRASS & COPPER CO.

(Circuit Court of Appeals, Second Circuit. February 7, 1893.)

PATENTS FOR INVENTIONS—INFRINGEMENT—LAMP BURNERS.

Letters patent No. 316,422, granted April 21, 1885, to George H. Wilson for a lamp burner, in which the alleged novelty consisted in the arrangement and number of the teeth in the wick carrier, which were located at the top and bottom edges of the carrier, holding the wick so that it could be raised equally on all sides, are void for want of invention, in view of the prior state of the art. 48 Fed. Rep. 681, reversed.

Appeal from the Circuit Court of the United States for the Southern District of New York.

In Equity. Suit by George H. Wilson against the Ansonia Brass & Copper Company for infringement of a patent. There was a decree in favor of complainant, sustaining his patent, and declaring defendant's device an infringement, (48 Fed. Rep. 681,) from which defendant appeals. Reversed.

Edwin H. Brown, for appellant.

R. H. Shannon, for appellee.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

PER CURIAM. The complainant claims under a patent to himself, No. 316,422, dated April 21, 1885, for a lamp burner. Its two claims are:

"(1) In a lamp burner, a wick-adjusting tube or carrier, provided with teeth projecting inwardly from the top and bottom edges thereof, substantially as described. (2) In a lamp burner, a wick-adjusting tube or carrier, I, having one or more slots, P, and provided with inwardly projecting teeth at the top and bottom, in combination with an air tube provided with one or more air inlets, G, whereby the wick is drawn upward with the carrier in the usual way, and downward positively past the air inlet or inlets, substantially as set forth."

Air inlets were old, and it was old to cut a slot in the wick raiser so as to enable it to play over the air inlets. The alleged novelty of complainant's device is wholly in the arrangement of the teeth,—the number of them and their location at the top and bottom edges of the raiser, "holding the wick so that it can be raised equally on all sides." The specification states that "wick carriers having inwardly projecting teeth at two points between the extremities" were old. The evidence as to the prior state of the art shows teeth—at the upper end, (Moeller's patent;) at the lower edge, (Morse's patent)—extending a considerable distance downward from the upper end, (Bailey & Thayer's patent;) near the upper end, and near the lower end, with an intermediate row, (Carton's patent;) near the upper end, and near the lower end, (Brokke's patent.) Sometimes these teeth projected inwardly; sometimes outwardly. It also shows wicks sewn into holes near the bottom of the wick raiser, (Reistle's patent,) which is the method used by defendant for his lower fastening. It may be that no one prior to complainant used two rows of teeth for this purpose, located, one exactly at the top, the other exactly at the bottom;

but in the condition of the art it was no invention to thus aggregate the single rows which had been used before. Dunbar v. Myers, 94 U. S. 187; Holland v. Shipley, 127 U. S. 398, 8 Sup. Ct. Rep. 1089; Schlicht & Field Co. v. Sherwood Letter-File Co., 36 Fed. Rep. 591. The decree of the circuit court is reversed, and cause remanded, with instructions to dismiss the bill.

OVERMAN v. WARWICK CYCLE MANUF'G CO.

(Circuit Court, D. Massachusetts. February 7, 1893.)

No. 2,663.

PATENTS FOR INVENTIONS—INFRINGEMENT—BICYCLE SADDLES.

Letters patent No. 331,001, granted November 24, 1885, to Albert H. Overman, for a bicycle saddle, were for a flexible suspension saddle, supported by a spring at its rear end, to which, as well as to the forward support, the saddle is detachably connected, so that "it may be removed and attached at pleasure," in order that "the saddle may be protected from rain and weather, and the bicycle dismantled against riding, with the least inconvenience." *Held* that, in view of the prior state of the art, the capacity of the saddle to be removed with ease and convenience is an essential element of the combination; and hence the patent is not infringed by a somewhat similar device, in which the saddle is removable only by the use of a degree of force that does violence to, rather than exercises a normal function of, the machine.

In Equity. Suit by Albert H. Overman against the Warwick Cycle Manufacturing Company to restrain the alleged infringement of a patent. Bill dismissed.

E. S. White, for complainant.

John L. S. Roberts, for respondent.

CARPENTER, District Judge. This is a bill in equity to restrain an alleged infringement of letters patent No. 331,001, granted November 24, 1885, to the complainant, Albert H. Overman, for saddle for velocipedes. The claims alleged to be infringed are as follows:

"(1) A flexible suspension saddle, a spring forming the rear support of the saddle, which is detachably hooked to it, and detachable connection between the saddle and its forward support, whereby the saddle may be removed and detached at pleasure, substantially as set forth. (2) A flexible suspension saddle, a U-shaped stay secured to its rear end, a spring forming the rear support of the saddle, and adapted to have the said stay detachably connected with it, and detachable connection between the forward end of the saddle and its support, whereby the saddle may be attached to and detached from its supports at pleasure, substantially as set forth. (3) A flexible suspension saddle, detachable connection between the same and its rear support, and a bifurcated hook attached to its forward end for detachable connection with its forward support, whereby the saddle may be attached to and detached from its supports at pleasure, substantially as set forth. (4) A flexible suspension saddle, a spring located under the same, and adapted to be thrown forward, and having the rear end of the saddle detachably connected with it, and detachable connection between the forward end of the saddle and its support, whereby the saddle may be attached to and detached from its supports at pleasure, substantially as set forth."

Without undertaking to foresee all the limitations which are implied in the statement that the patented saddle may be attached