

never seems to have occurred to one of them. It did not occur to men of undoubted ingenuity, like Stevens, Hartford, Helms, King, and Joyce, to round the soles of shoes to the desired shape by a rotary cutter and guide wheel on a stationary frame and revolving clamps for holding the pattern and blanks on a movable coacting frame.

That the patented machine is a valuable contribution to the art cannot be doubted. It does the work better and faster than the best of the prior machines. It is stated in the record that the daily capacity of the Hartford machine is from 600 to 800 pairs of outsoles per day, while that of the patented machine is from 4,000 to 6,000 per day. To construct such a machine required invention. The arrangement of its complicated and ingenious mechanism is not the work of mechanical skill alone. The fact that during the many years of fierce competition in this art the idea never occurred to any of the men of genius who were striving to improve all kinds of labor-saving devices in the shoe industry, creates a strong presumption that it was not the kind of a contribution to be expected from one who is a mechanic and nothing more. Although the complainants have not made a pioneer invention, in the broad sense of that term, they are entitled to a construction liberal enough to cover a machine, which, in the same art, performs the same work in manner almost identical. There are differences between the complainants' and the defendant's machines, but they are of form and relate only to minor details. The defendant's machine may be in some particulars an improvement, but that it has adopted all the essential features of the patented machine there can be no doubt.

The complainants are entitled to the usual decree.

ELECTRIC GASLIGHTING CO. et al. v. FULLER et al.

(Circuit Court, D. Massachusetts. April 13, 1893.)

No. 2,518.

PATENTS FOR INVENTIONS—INFRINGEMENT—ELECTRIC GASLIGHTING.

Letters patent No. 282,661, granted September 28, 1880, to Jacob P. Tirrell, for an electric gaslighting apparatus, was for a device in which the actuating arm, opening the gas cock, and bringing together the points producing the igniting spark, is moved by hand, and then remains at rest, subject to no tension, and not requiring to be held in position, and is afterwards moved by hand to its former position. In letters patent No. 116,054, issued to Heyl and Diehl, the same arm is moved and held in place by hand, and when released is drawn back by a spring. *Held*, that the Tirrell patent is so limited by the earlier patent that it is not infringed by a device in which the arm, when drawn to open the gas cock, is held in place by engaging a pin with a recess in the arm, under the tension of a spring, which, when the recess is released from the pin, restores the arm to its former place.

In Equity. Suit by the Electric Gaslighting Company and others against Charles E. Fuller and others for infringement of a patent. Bill dismissed.

Edward P. Payson and Edwin H. Brown, for complainants.
W. K. Richardson, for respondents.

CARPENTER, District Judge. This is a bill in equity, praying an injunction against an alleged infringement of the first claim of letters patent No. 232,661, issued September 28, 1880, to Jacob P. Tirrell, for electric gaslighting apparatus. The claim is as follows:

"(1) In combination with a gas-burner, A, the fixed insulated arm, I, attached thereto, and terminating in a metallic point, the gas cock and the arm attached to the stem thereof, and a device for actuating the said arm, and thereby turning the gas cock, said arm being also connected with and arranged to actuate the vibrating arm, B, with its contact point, G; the whole so constructed, combined, and arranged that the oscillation of said arm shall conjointly turn on the gas, and bring said points in contact, to produce an igniting spark near the tip of the burner, all substantially as and for the purposes specified."

The device used by the respondents is shown in the drawings attached to letters patent No. 382,001, issued May 1, 1888, to Charles W. Holtzer, for electric gaslighter. The method of lighting described in the claim is old, so far as the igniting device itself is concerned, and is also old so far as it calls for a device to turn on and light the gas at the same time. This appears from a comparison of the various prior patents shown in the record. The novelty in this patent consists in the actuating mechanism whereby the devices above referred to are brought into play. With reference to the question specifically raised in this case, I find that there are two classes of such mechanism. The first is represented by the patent to Heyl & Diehl, No. 116,054, issued June 20, 1891. This is not an apparatus for use with illuminating gas, but it might be easily used as such, without bringing in any of the elements of the claim here in dispute. The arm or lever which sets free the gas is moved by the hand, held in place by the hand, and, on being released, is brought back by a spring. In the patent in suit the actuating arm is moved so as to open the passage for the gas, and remains at rest at that point, subject to no tension, and not requiring to be held in position, and is afterwards moved by hand to its former position. It seems to me clear that the device of the respondents belongs to the class represented by the former patent. The actuating arm is drawn to open the gas cock, and is there held in place by engaging a pin with a recess in the arm, and is so held, under the tension of a spring, which, when the recess is released from the pin, restores the arm to its former place. In other words, the Heyl & Diehl patent seems to me so to limit the patent in suit that the respondents do not infringe.

The bill, therefore, must be dismissed, with costs.

JOSLIN v. NORTHERN PAC. R. CO.

(Circuit Court, D. Minnesota, Third Division. April 3, 1893.)

PATENTS FOR INVENTIONS—LIMITATION OF CLAIMS—CAR COUPLERS.

Letters patent No. 337,780, issued to Charles Mueller, March 9, 1886, for an improvement in car couplings, was for an improvement in that class of drawheads in which the strain is received upon a reciprocating plate held in place by a spring, the object of the invention being to strengthen those parts on which there is a great amount of friction in order to retain them in place. The claim was as follows: "In combination with the draft bars and the follower plates, the wearing plates provided with bent ends entering the draft bar, and provided with slots or openings, and the lugs provided with tenons entering the slots in the plates, and the bolts passing through the said lugs, wearing plates, and draft bars." *Held*, that the patent, to be valid, must be strictly limited to the combination described in the claim, and is not infringed by a device wherein the plates are bent in towards the center of the car, and do not enter the draft bar.

In Equity. Suit by Benjamin J. Joslin against the Northern Pacific Railroad Company for the infringement of a patent. Decree for defendant.

C. E. Joslin, for complainant.

Banning, Banning & Payson, for defendant.

NELSON, District Judge. This is a suit brought by complainant to recover from the defendant damages for an infringement of letters patent No. 337,780, issued to Charles Louis Mueller, March 9, 1886, for improvements in car couplings. The complainant is the owner of the patented device, by proper instrument of assignment. The defenses set up are (1) want of novelty; (2) noninfringement. The patent in controversy is granted for an improvement in a car-coupling device. The invention, as described in the letters patent, relates particularly to that class of drawheads in which the strain imparted in drawing the cars, or in receiving the impact of adjoining cars in coupling, is received upon a reciprocating plate held in place by a spring, and the object of the invention, as stated in the specification, "is to produce a drawhead in which these parts upon which there is any great amount of friction or wear shall be strengthened, in order to retain the different parts in their proper places, and to successfully withstand the hard usage to which drawheads are usually subjected." The patentee has reinforced the durability of the wooden draft bars by iron plates secured by the mode described. At the place where the wooden draft bars require protection from the movement of the follower plates in contact with them, and by the peculiar form of the wearing plates and their disposition, they not only protect the bars, but prevent displacement of the parts resting thereon; and the various details of the construction are such that the parts are retained in their proper relative positions.

In his specification he refers to the drawings of the patent, showing the devices of his invention, and states that—