it is true defendant George Ertel was not a party to the original suit, the evidence shows that he became interested, as a controlling member of the Victor Incubator Company, before the hearing at which the first restraining order was made by this court, and had from that time on controlled the litigation, furnished counsel at his own expense, and borne the cost and expense of that suit, and that after the injunction he appeared by counsel, and argued the motion to modify and dissolve the injunction. Having an interest in the litigation, all that was necessary to bring him within the order was to show that he was apprised of its existence. High, Inj. 1421, 1422. The defendant Ertel has not attempted to raise any question of the binding force of the injunction upon him. He appeared with counsel at the time the reference was made, and before the referee when the evidence was taken, and at no time has he made any objection or raised any question against the proceedings. There was also evidence tending to show that defendant Ertel had employed workmen to manufacture machines by which he might escape the injunction. Defendant should not attempt to see how near he can come to an infringement and escape. High, Inj. § 1427; Craig v. Fisher, 2 Sawy. 345, Fed. Cas. No. 3,332. Nor can he, by subterfuge, do substantially what he has been enjoined from doing. High, Inj. § 1433; Rob. Pat. § 1215.

I am therefore of the opinion that George Ertel is guilty of contempt, and should be required to pay the cost and expense of this proceeding. Such costs and expense should include a reasonable attorney's fee, which is properly taxable in contempt proceedings. High, Inj. § 1457; Rob. Pat. 1219. The clerk will please issue an order of reference to Edward J. Mitchell, as special commissioner to take evidence and report the amount of petitioner's charges, expenses, and reasonable attorney's fees.

As to defendant A. L. Chase, there is no evidence connecting him with any of the acts of violation or contempt.

MILLER v. MURRAY.

SAME v. DONOVAN et al.

(Circuit Court, S. D. New York. June 1, 1894.)

Nos. 5,380 and 5,381.

1. PATENTS—LIMITATION OF CLAIM—PRIOR STATE OF ART—ROAD CARTS.
In the Miller patent, No. 371,090, for an improvement in road carts, claims 1, 2, and 5, for combinations which include longitudinal springs, each consisting of a long and short branch, supporting the shafts, must be restricted, in view of the prior state of the art, to the particular form of such spring described, and therefore are not infringed by a road cart not having such two-part spring.

2. SAME.
In the Miller patent, No. 459,098, for an improvement in road carts, claims 1 and 2, for combinations which include springs supporting the shafts, the forward ends bolted to the shafts, and the rear ends running loosely through eyes bolted to the shafts, and having cushions surrounding the ends of the springs, to prevent rattling and take up the jar, as such

devices are old, must be restricted, as to such shaft supports, to the precise combination, and are not infringed by a structure in which the ends of such springs are inserted into boxes secured to the rear ends of the shafts, and packed with rubber, which permits a slight vibration, but not the free play and longitudinal movement characteristic of the patented device.

8. SAME—ANTICIPATION.

Claims 7, 8, 9, and 10 of said patent, for combinations of the shafts, the hangers suspended from them, the side bars, and the foot rest shown, cannot be sustained in view of previous patents and devices, the differences being trivial and showing no patentable invention.

These were two suits by Henry J. Miller, one against George W. Murray, the other against J. Donovan and another defendant, for infringement of patents.

Knight Bros., for complainant.
Henry Bacon, for defendants.

LACOMBE, Circuit Judge. These are applications at final hearing upon pleadings and proofs for the usual decree of injunction and accounting, in two suits in equity, brought for alleged infringement of letters patent No. 371,090 (October 4, 1887) and No. 459,098 (September 9, 1891), both issued to Henry J. Miller, the complainant, for improvements in road-carts.

Patent No. 371,090.

The claims alleged to be infringed are:

"(1) In a road cart or other vehicle, the combination of the transverse spring attached at its ends to the shafts, and supporting a centrally located seat, the said shafts resting upon other springs, as shown and described.

"(2) In a road cart or other two-wheeled vehicle, the springs for supporting the shafts, constructed and arranged substantially as shown and described, in combination with said shafts, the transversely arranged spring extending between and attached to them, the centrally located seat upon said spring, and the downwardly and forwardly extending braces and supporters connected directly to the seat and pivotally to the shafts, all arranged substantially as and for the purposes set forth."

"(5) In a road cart or other two-wheeled vehicle, the combination of the rearwardly and downwardly extended shafts connected rigidly together at their rear ends by means of the crossbar, as shown; said shafts being supported by springs located parallel therewith, both springs consisting of a long and short branch, and each branch being attached separately to the aforesaid shafts, as and for the purposes set forth."

The object of the invention is to reduce as much as possible the effect of horse motion and of any jar or shock occasioned by the vehicle coming in contact with any stone or other unevenness upon the road. The parts of the combination are all old. The "springs located parallel with the shafts," and which support the shafts above the axle, are thus described in the specification:

"Upon suitable bearings, C, on the axle are arranged and attached the lower branches of my springs, D. The fore ends of these springs, D, are attached to the shafts, E, at points, F, several inches forward of the axle."

The drawing and context show that by the words "springs, D," the inventor meant to indicate the lower branches of his springs, which springs he elsewhere refers to as "being each composed of two

branches having a relative longitudinal movement." The specification continues:

"The upper branches, G, of these springs, are connected to the lower branches at the rear [extending, as the drawing shows, rearwardly beyond the vehicle], and are so arranged as to have a relatively sliding movement longitudinally between the upper and lower branches of the springs. * * * In the drawings I have shown the upper branches of the springs as provided with ears, G, which fit over the rear ends of the lower branches, and with pins, H, which extend through said ears and the longitudinal slots or openings arranged in the lower branches of the springs. The longitudinal movement, however, may be secured in other ways, and I do not limit myself to the exact means shown. The upper branches of these springs are attached to the shafts at points K [which in the drawing are shown to be just forward of the axle]."

Fig. 1.

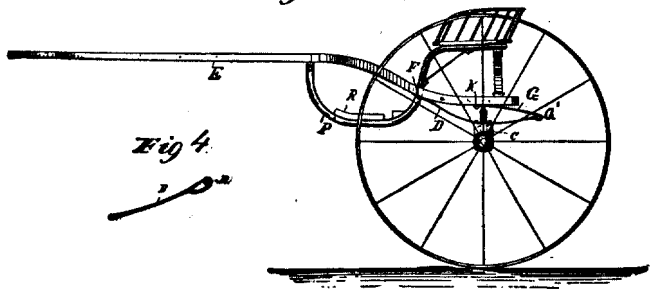


Fig 4.

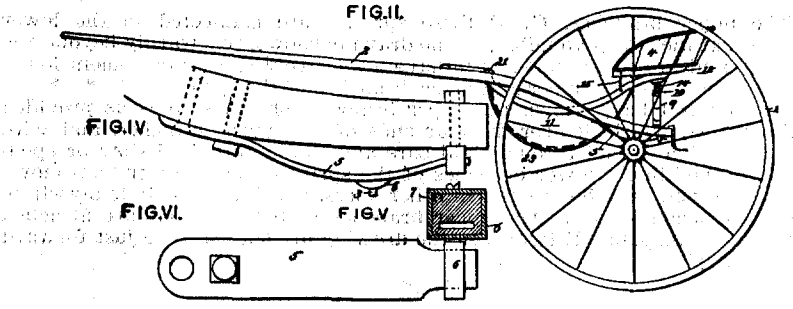
An examination of the various patents put in evidence to show the prior art discloses the fact that it was old to support the shafts above the axle by springs extending longitudinally beneath them, and that such a device was used in combination with a transverse spring supporting the seat. Reference to the patents of Bach, No. 288,757 (November 20, 1883), Bach, No. 299,319 (May 27, 1884), Barber, No. 316,934 (May 5, 1885), Barber & Croft, No. 342,993 (June 1, 1886), not to mention others, shows that the field of invention was much restricted when the complainant entered it, and that the combinations claimed by him can be sustained only when the patent is construed so as to confine them to the particular form of longitudinal spring which he has described, and which in the precise form shown in his specification and drawings seems not to have been used in road wagons. As the defendants use no such two-part spring, the bill as to this patent is dismissed.

Patent No. 459,098.

In this patent the complainant modified the structure of his longitudinal springs. His specification says:

"As customary in such carts, the seat is supported from the axle through the medium of the shafts and suitable springs. * * * The connection of the shafts to the axle is clearly shown in Figs. IV., V., and VI. 5, 5, are heavy plate springs, bolted or otherwise clamped at their forward ends to the shafts. Their rear ends run loosely through eyes, 6, 6, bolted to the shafts. A cushion, 7, preferably of soft rubber, surrounding the end of spring 5 in each eye, and having the greater portion of its body above said springs, pre-

vents rattling, and also takes up the jar. The springs 5, 5, are clamped to the axle."



The claims of the patent which include this device, and which are alleged to be infringed, are:

"(1) In a light sulky or road cart, the combination of the axle, the shaft extending over and to the rear thereof, the bent plate or bar springs bolted at their forward ends directly and rigidly to the shafts forward of the axle, thence bent down slightly, and resting on the axle, thence passing to the rear thereof, and the sockets or eyes fixed to the shafts' rear ends having a gum or rubber cushion within it with a hole to receive cushion and permit longitudinal motion of said springs, substantially as set forth. [To make sense out of the last clause of this claim, it is necessary to insert a comma between the words "receive" and "cushion."]

"(2) In a road or other cart, the combination of the shafts, the axle, the spring fixed at one end of the shafts, and at an intermediate point to the axle, eyes fixed to the shafts and adapted to receive the other ends of said springs, and resilient cushions in said eyes surrounding the ends of said springs, the greater portion of the body of said resilient cushions being above the springs, substantially as herein set forth."

It was old in the art to give play to a spring by running one or both of its ends through an eye or slot, with rubber packing, washers, or cushions in the eye, to obviate rattling or noise and prevent too free play of the ends of the spring. Such a device is found applied to a spring supporting a wagon seat in the patent to Naramore, No. 174,288, February 29, 1876.

The defendants' structure has plates or bars, bolted to the shafts forward of the axle, bending downward to the axle, where they are clamped, and thence bending upward, with their ends inserted into boxes which are secured to the rear ends of the shafts. The interior of each box is packed with rubber, which acts as a cushion for the plate or bar. The bar impinges rearwardly upon this rubber cushion, which permits a slight vibration, sufficient to prevent granulation or fracture consequent upon shock, but does not admit that free play through the box and consequent longitudinal movement which is the characteristic of the complainant's device. The differences between defendants' and complainant's shaft supports are slight, it is true; but the field of invention was a very narrow one, and complainant's claim can be sustained only under a construction which will restrict it closely to the precise combination of his patent.

The same patent contains four other claims which are alleged to be infringed:

"(7) The combination of the shafts, the hangers suspended from the shafts, consisting of a housing, a supporting pin, and a cushion on said pin, and the side bars hung at their forward ends on the cushion of said hangers, substantially as set forth."

This claim cannot be sustained in view of the patent to Sargent, No. 273,610, March 6, 1883, which shows shafts, hangers, housings, supporting pins, cushions, and side bars hung at their forward ends on the cushions of the hangers. The difference in the shape and location of the side bars is trivial, and the suggestion of complainant's expert that the Sargent patent does not anticipate because the vehicle therein described is "not a road cart, but more properly a gig, with the body mounted on the axle through the medium of an elliptic spring, and the shafts likewise coupled to the axle," is frivolous.

"(8) The hanger having housing, pivot pins, cylindrical cushion, and side washers, in combination with the side bar having a strap at its forward end adapted to surround said cushion, substantially as set forth."

This is simply the combination of the seventh claim, with the addition of what the patentee calls "wear plates or washers, preferably of leather or rubber." The use of such washers to relieve friction, prevent rattling, secure even pressure, and avoid wear and tear between wood or metal surfaces, has been the common property, not only of mechanics, but also of persons possessing ordinary intelligence for many generations. It might reasonably be supposed that, by this time, patentees, their experts and their counsel, would appreciate the fact that it is a waste of time to claim that the insertion of such a washer, for such a purpose, in an old combination, is evidence of even the feeblest glimmer of inventive genius.

"(9) The two-part hanger having two housings with pivot, cylindrical cushions, and side washers, in combination with the side bars and foot-rest supports, and adapted to hang from the two parts of the housing, substantially as set forth."

The patent to Vorwick, No. 411,114, September 17, 1889, shows that it was old to make the foot rest of a road cart independent of the side bars of the seat, and to hang its forward supports from the forward cross bar (the splinter bar) of the shafts, so as to admit of freedom of movement at the point of attachment. Vorwick's support simply hooked into an eye. Complainant has substituted the housing pin and cushion which Sargent had already used for hanging the side bars, adding the side washers, and affixed side-bar supports and foot-rest supports side by side, to the splinter bar, so that the same supporting pin will run through both housings. Such a device is plainly within the skill of the ordinary mechanic, and in the patent to McGrath, No. 392,622, November 13, 1888, side and foot rests are both hung from the same pin.

"(10) The combination of the side bars having the hooks, cushions on said hooks, the shafts having the hangers, cushions on said hangers, and the foot rest, whose supporting bars have eyes at one end and hooks at the other end adapted to engage said hooks and hangers, as and for the purpose set forth."

Reference to the patents already cited above, especially Vorwick's, sufficiently discloses a lack of patentable invention in the combination covered by this claim.

The bills are dismissed, with costs.

SIMMONS et al. v. STANDARD OIL CO. OF NEW YORK et al.

(Circuit Court, N. D. New York. July 30, 1894.)

No. 5,957.

1. PATENTS—PRIOR USE—EVIDENCE TO ESTABLISH.
   The defense of prior use and sale must be established beyond a reasonable doubt, and a patent will not be overthrown when the evidence is so uncertain, conflicting, and unreliable that it is impossible to say which of the rival devices first saw the light.
2. SAME—INFRINGEMENT—IMPROVEMENTS.
   The fact that defendant's machine may be an improvement on the patent, and has introduced some novelties, does not avoid infringement, when the principal features of complainant's invention have been appropriated.
3. SAME—BARREL-HOOPING MACHINES.
   The Glankler patent, No. 439,142, for an improvement in barrel-hooping machines, whereby the end or chine hoop may be put on without bending or crinkling, *held* valid, and its claims entitled to liberal construction, and infringed by machines appropriating the salient operative features of the patented device.

This was a suit by William W. Simmons and John L. Wellford against the Standard Oil Company of New York and the Acme Oil Company for infringement of a patent. On final hearing.

Phillip, Munson & Phelps and Frederick G. Fincke, for complainants.

W. Bakewell & Sons and Charles A. Talcott, for defendants.

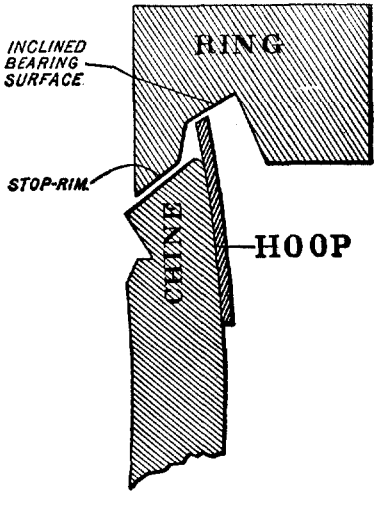
COXE, District Judge. This is an equity suit for infringement of letters patent No. 439,142, dated October 28, 1890, application filed February 8, 1890, granted to Frank Glankler, for an improvement in barrel-hooping machines. The patent is for an improvement on a machine covered by a prior patent, No. 420,683, granted to the same inventor February 4, 1890, application filed October 10, 1888. In the earlier of these patents (No. 420,683) the inventor recites that prior to his invention there was no machine capable of driving the end or chine hoop of a barrel. This hoop being thin, flaring, and difficult to drive, and having no support from the barrel, was crimped or bent at the edges where the hooked drivers, used in the old machines for pulling the hoop in place, bore against it. No suitable machine being in existence these hoops were driven usually by hand. Glankler started with the type of machine shown in letters patent No. 37,719, granted to Edward Holmes for an improvement in hoop-driving and barrel-crozing machines, granted February 17, 1863. The Holmes machine was successfully used for driving the bilge and quarter hoops. By combining the hooked arms of this machine with a stout ring interposed between the pulling hooks and the barrel hoop, Glankler obviated in a great measure the difficulties just mentioned. The specification says:

"The invention consists in the combination, with the hooked arms or drivers, of a ring or annular platen, which is made to fit beneath the hooks of the arms and to rest upon the edge of the hoop, so that the strain of the arms, instead of being concentrated upon the edge of the hoop at isolated points, will be uniformly distributed around its entire circumference, which permits the end hoop to be forced on the barrel without being injured or mutilated by the driving strain."

Although the flat ring was an improvement upon previous contrivances and upon the hand, or chine maul, process, it was still incomplete and impracticable, and its use frequently resulted in bending the edges of the hoop. The invention of the patent in suit (No. 439,142) is an improvement upon the platen of the prior patent, (No. 420,683)—

"Whereby the hoop is not driven entirely on the barrel, but is allowed to project a little beyond the chine or ends of the staves. * * * The ring or platen is formed with a groove in its lower face, which is designed to receive the chine hoop when the application of power is made to drive on the hoop. On the inner side of the ring next to the chine of the barrel the ring has a stop flange or rim, which is designed to strike the chine of the barrel and arrest the further movement of the ring before the hoop is fully driven on. The bottom of the groove is also inclined, the side of the groove next to the flange being shallowest and the outer side of the groove being deepest. The object of this inclination of the bearing-surface for the hoop is to produce an outward strain on the upper edge of the hoop in driving it on, and thus prevent its top edge from curling inwardly, which it would have a tendency to do on account of the taper of the hoop. After the hoop is driven on to the extent shown—i. e., with an eighth or a quarter of an inch of the hoop projecting—the barrel is stored away, and when it is required for use any opening which may have taken place from shrinkage is closed up by driving the hoop its full distance on the staves by means of a flat ring, as shown in my previous patent, or by hand. In making use of my invention the stop flange or rim need not be continuous, but may be broken or cut away at intervals. The metal of the ring on the outside of the groove may also be cut away, if desired. I may also in some cases use a disk; or I may dispense with a continuous ring-shaped platen and construct a series of segmental platens, each having the inner edge arranged to strike the chine of the barrel before the hoop is fully driven on."

The device is not at all complicated and may be clearly comprehended by an examination of the following diagram, showing a sectional view taken through the ring and the chine of the barrel.



The inclined bearing-surface tends to produce an outward strain and prevents the hoop from being curled inwardly or broken down.

The stop-rim prevents the hoop from being driven fully down and leaves a small portion of the hoop—uniform as to all the barrels—projecting above the chine of the barrel. These—the inclined bearing-surface and the stop-rim—are the principal features of the invention.

The claims are as follows:

"(1) A platen for a hoop-driving machine having on its inner surface a flange or stop-rim, a, extending inside and below the bearing for the hoop, substantially as described. (2) A ring on platen for a hoop-driving machine having an abutting flange or stop-rim, a, for the chine, and a bearing-surface above it for the hoop, substantially as shown and described. (3) A ring or platen for a hoop-driving machine having a bearing-surface, b, for the hoop arranged upon an incline, as described, to produce an upward strain on the upper edge of the hoop to counteract its tendency to curl inwardly, as set forth. (4) A ring or platen for a hoop-driving machine having an inner abutting flange or stop-rim, a, for the chine, and an inclined bearing, b, for the edge of the hoop, substantially as shown and described."

The defenses are anticipation, want of patentability and noninfringement.

A number of prior patents are introduced in evidence and discussed in the defendants' brief. Some of these patents are not pleaded in the answer and are offered only to show the prior art. It is not pretended that any of them anticipates, and, when it is remembered that the complainants' patent is confined to the peculiar features described and claimed, it cannot be said that, singly or combined, they operate to restrict materially the field of invention. They do not show an annular platen, continuous or segmental, having a stop-rim or an inclined bearing-surface. They do not show any successful method of driving a chine hoop.

The principal defense is prior use at Cincinnati and Chicago. The rule applicable to this defense is well known. It must be established beyond a reasonable doubt. Both parties invoke this rule. The complainants insist that, tested by it, the proof of what was done at Cincinnati and Chicago falls far short of anticipation. The defendants, on the contrary, maintain that they have proved that the invention was used prior to the date of the application, and that the attempt of the complainants to carry the invention back to an earlier date has failed; at least it has not been successful beyond a reasonable doubt. The complainants have introduced a mass of testimony to show that Glankler conceived the invention in the autumn of 1888—months prior to the alleged use at Cincinnati and Chicago. This testimony, notwithstanding numerous contradictions and discrepancies, is upon the whole so full and circumstantial that it would be accepted as conclusive were it not for the fact that Glankler himself failed to appear as a witness. No sufficient reason is given for his nonappearance. It was, apparently, without excuse, and leaves room to doubt the accuracy of the complainants' dates and the correctness of their conclusions. No matter from what point of view the question is approached, there is always the suspicion that if Glankler could have corroborated this testimony he would have done so. The unfavorable impression thus produced is in no wise diminished by the refusal of the witness

Wellford to answer several questions which might have thrown some light upon the controversy. In these circumstances the court hesitates to find the date of the invention as early as October or November, 1888. Before the defendants' testimony as to the Chicago use was taken, Wellford was asked on cross-examination to give the date of the invention, and gave it as early in the year 1889. He had no data before him and did not pretend to perfect accuracy, but was confident that the machine was perfected and in operation early in 1889. Assuming that the effort to carry the invention still further back has not been entirely successful within the rule referred to, it cannot be denied that the experiments which resulted in the invention in suit began soon after the first patent was applied for and continued almost without interruption until the difficulties were solved. The testimony of the complainants should not be wholly rejected because the court is unable to give it the weight to which the complainants think it entitled. The court may hesitate to find that Glankler had perfected his invention in October, 1888, and yet may be convinced that it was perfected before May, 1889. The testimony may be unreliable as to some details, but it is hardly possible, after reading it, to believe that a ring having an inclined bearing-surface and a stop-rim was unknown to the employés of the Chickasaw Cooperage Company in the latter part of 1888 and the early part of 1889. Unless the defendants are able to show that the patented device was used by others prior to the early part of 1889 it will be the duty of the court to overrule the defense as not having been established beyond a reasonable doubt. There is plausibility in the argument that the Glader machine was not perfected and used successfully until after the patented machine had been exhibited in Chicago and been seen by Glader and his employer in October, 1889. The earliest dates given by the defendants are April, May and June, 1889, but there is nothing definite or convincing about this testimony. Glader never conceived the idea which Glankler embodied. The Glader rings may have been worn by the heavy work put upon them into something resembling the Glankler device, but that Glader appreciated the significance of the grooves thus produced until after he had become familiar with the machine of the patent is entirely problematical. To state, with anything approaching accuracy, when the Glader ring became the Glankler ring is simply impossible.

To sum up the situation on this branch of the case, it is thought that the weight of evidence proves that the Glankler machine was first in existence. Surely no one can say with any degree of certainty that the Glader machine was first. Let it be assumed that the testimony is so uncertain, conflicting and unreliable that it is impossible to say which of the rival devices first saw the light, the court would still be constrained to overrule the defense. The defendants are entitled to no more favorable view of the evidence than this, and even this will not avail them. Unless the court is convinced by clear and indubitable proof that Glader preceded Glankler, and is prepared to make a positive finding of fact to that effect, the patent must be upheld. It is thought that such a finding is

simply out of the question. It would seem that the tribunal reaching such a conclusion must be perplexed with the doubt that after all it might be untrue—that perhaps a valuable patent was being stricken down upon mere speculation and guesswork. To relieve the court of such grave responsibility the rule before referred to was established.

The foregoing applies with equal, if not greater, force to the alleged Cincinnati use. That grooved plates were used at the Cincinnati factory in 1885 is not disputed, but it is denied that they were used to drive chine hoops, or that they embodied directly or indirectly the Glankler invention. Two witnesses on behalf of the defendants testify to a use of these plates, which, if true, would amount to an anticipation of the patent. On the other hand the complainants have called eight witnesses, apparently as intelligent and disinterested as those of the defendants, who flatly contradict this testimony and prove a number of facts which, to say the least, render the anticipating use highly improbable. For instance, it is undisputed that during all the time in question chine mauls were used at the Cincinnati factory. This fact alone is sufficient to raise the necessary doubt. If this highly practical invention, which, in other factories, drove out the hand process the moment it appeared, had been known in 1885 in a large establishment like that of the Cincinnati Cooperage Company, it is hardly possible that they would have continued for three years to use the primitive, clumsy and expensive chine maul in any of their departments. To find with the defendants upon this issue would be to convict the Cincinnati people of unparalleled stupidity. Business men do not act in this way. When the alternative between two methods, the one speedy, uniform and cheap, the other slow and expensive, is offered them, it is safe to assume that they will choose the former. The Cincinnati defense fades away in the light of common sense.

It appears, then, that Glankler was the first person who ever drove successfully a chine hoop by machinery. He was the first who ever used for this purpose a ring having an inclined bearing-surface and a stop-rim. He is entitled, therefore, to liberal treatment.

The claims are aptly drawn to cover the features referred to. It may be that there are more claims than are necessary, the first and second, for instance, being, substantially, for the same subject-matter; and yet there are shades of difference which in some subsequent litigation may become important. There is no necessity here for a strict verbal analysis of these claims, no necessity for holding any of them void because the invention might have been covered by three claims instead of four.

The defendants' machines are made in substantial compliance with the provisions of letters patent No. 454,803, granted June 23, 1891, to Leonard D. Morrison. Instead of using an annular platen they use segments of a ring as suggested in the Glankler patent, but when these are assembled and in use the ring is almost continuous. "This series of segmental platens each has the inner edge arranged to strike the chine of the barrel before the hoop is fully

driven on," and each is provided with a bearing-surface so inclined as to prevent the top edge of the hoop from curling inwardly. The bottom platen has these features and is not segmental. In other words, the defendants do precisely what Glankler did; but Glankler did it before the defendants or any one else. Their machine may be an improvement, they may have introduced some novelties, but that they have appropriated the principal features of the invention —the inclined bearing-surface and the stop-rim—there can be no doubt. Many minor differences can be pointed out, but a discussion of them is unimportant in view of the construction to which the complainants are entitled. The fact cannot be denied that the defendants have seized upon the salient operative features of the patented device. Glankler was the first to hit upon mechanism for driving the chine hoop of a barrel which supplanted the primitive hand method. The defendants have appropriated his ideas and seek to accomplish the same results by analogous means. The features which make their machine successful are Glankler's and not theirs. The patent law would offer but slight protection to an inventor if an infringer can escape the consequences of his acts by making the unsubstantial changes which these defendants have made.

The complainants are entitled to the usual decree.

TRAVER v. BROWN.

(Circuit Court, D. Vermont. July 31, 1894.)

1. PATENTS—INFRINGEMENT.
   The fact that one using the material features of a patented invention has made improvements thereon does not prevent such use from being an infringement.
2. SAME—MARKING ARTICLES "PATENTED."
   Marking an article "Patented," not with the day and year of the patent which covers it, but with the date of a previous patent to the same inventor, upon which the later patent is an improvement, is not a compliance with the statute, and gives the patentee no right to recover damages.
3. SAME—STITCH-BREAKING MACHINE.
   The Traver patent, No. 431,957, for a "stitch-breaking and raveling attachment for machines for sewing looped fabrics," *held* valid and infringed.

This was a bill by Adelbert Lee Traver against Eugene H. Brown for infringement of a patent.

Odin B. Roberts, for orator.
Franklin Scott, for defendant.

WHEELER, District Judge. This suit is brought for infringement of patent 431,957, dated July 8, 1890, and granted to the orator, with three claims for a "stitch-breaking and raveling attachment for machines for sewing looped fabrics." The first claim is for: