

a "bracket," and sometimes a "stop," on each side of each frame, for support of the pressure by the toggle mechanism against the bedplates. The toggle mechanism of the bedplates of the defendants' machine opposite to each other, as before described, abut against each other for support in operating between the long arms of two levers moving them, and thereby the short arms, carrying the bedplates to and from the cylinder. A stud on the frame steadies the action of the mechanism, producing simultaneous movement on each side, which friction or other slight obstruction might prevent; but this stud does not appear to take the place of the bracket or stop of the patent in supporting the pressure of the bedplate against the cylinder, but rather that of the sprocket wheel and chain of the patent, which produce simultaneousness in movement of the bedplates. This re-examination of these parts of the case leads to the same conclusions reached before, and leaves no ground for granting the motion, which must therefore be denied. Motion denied.

GESSNER v. GLOBE WOOLEN CO. et al.

(Circuit Court, N. D. New York. September 6, 1894.)

No. 6,266.

This was a suit in equity by David Gessner against the Globe Woolen Company and others for infringement of certain patents issued to complainant for improvements in cloth-pressing machines. The patents and claims in controversy were as follows: No. 387,292, claims 3 and 10; No. 387,297, claim 2; No. 469,372, claims 1 and 3.

Livingston Gifford and J. T. A. Doolittle, for complainant.
Causten Browne, for defendants.

COXE, District Judge. The patents, upon which this action is based, have all been adjudicated, and the claims relied on sustained in suits brought by the complainant against Phillips et al. in the southern district of New York, 63 Fed. 954. A machine similar in all respects to the machine now sought to be enjoined was in evidence in that litigation, but there is a disagreement between counsel as to whether or not the court held it to be an infringement. All other questions are res judicata. Assuming that the question of infringement, as to some of the claims, is still open, I am of the opinion that the decision in Gessner v. Phillips is broad enough to cover the present structure. A holding that the defendants' machine infringes follows as a necessary deduction from that decision. The changes introduced since the commencement of that action are of form and not of substance. Concededly the defendants' machine produces no new result. It operates on the same principle and, substantially, in the same way. The third claim of No. 387,292 certainly covers the defendants' machine. The construction asked for by the defendants is narrower than the construction already placed upon the claim and is not required by anything in the patent or in the prior art. There may, perhaps, be sufficient doubt regarding the infringement of the tenth claim of this patent to justify the court in withholding the injunction at present. Should occasion arise the motion may be renewed as to this claim. It follows that an injunction should issue restraining the infringement of the third claim of No. 387,292, the second claim of No. 387,297 and the first and third claims of No. 469,372.

**WESTINGHOUSE AIR-BRAKE CO. v. NEW YORK AIR-BRAKE CO.
et al.**

WESTINGHOUSE et al. v. SAME.

(Circuit Court of Appeals, Second Circuit. October 15, 1894.)

Nos. 4,976, 4,977, and 5,315.

1. PATENTS—AIR BRAKES—CONSTRUCTION—PIONEER INVENTION—INFRINGEMENT.

The improvement in quick-acting automatic air brakes, consisting of a supplemental chamber having direct connections to the brake cylinder and brake pipe, with a valve controlling communication between these connections, and an emergency piston independent of and unconnected with the triple-valve piston, and actuated by pressure from the auxiliary reservoir in a direction to impart opening movement to the valve, for which a patent (No. 376,837) was granted to George Westinghouse, Jr., January 24, 1888, by which the problem of immediate stoppage of long trains of cars in time of danger was successfully solved, after many years' experiments, is to be liberally construed, as a pioneer invention; and its claims will not be limited to the precise mechanical means described in the specification by which the supplementary piston is actuated, but compel it to be disconnected with and to be independent of the triple-valve piston, and to be actuated from an auxiliary reservoir by some means equivalent to the means described in the specification; and, as thus construed, the patent is infringed by defendants' device of a supplementary chamber, whose piston is actuated by different mechanical means.

2. SAME—ANTICIPATION.

The Westinghouse patent, No. 448,827, for a valve controlling communication between a supply passage from the train pipe and a delivery passage to the open air or a brake cylinder, etc., whose distinctive feature is that the emergency valve is actuated to open the exhaust port "independently of the action of the triple-valve device," is invalid, as covered by the broad claims of patent No. 376,837.

3. SAME—CONSTRUCTION—SUBORDINATE PATENT.

Patent No. 393,784, to Harvey S. Park, granted December 4, 1888, which merely substituted train-pipe pressure to move the emergency valve in the supplementary chamber for the auxiliary reservoir pressure which Westinghouse used, being a subordinate patent, will not be so construed as to include the various devices which may actuate an emergency valve in a supplemental chamber by train-pipe pressure, and is not infringed by a device in which the valve is not held to its seat and not restored to its place by the piston, as in the patented device.

4. SAME—INFRINGEMENT.

A claim in an air-brake patent (No. 172,064) for a combination containing a port through the center of the piston, described as substituted for a side port, with which the patent dispenses, is not infringed by defendants' device, having no such center port, but using a side port in combination with different elements, which are admitted by the patent to be a part of the prior art.

5. SAME—PIONEER INVENTION—MECHANICAL EQUIVALENTS.

The Westinghouse invention (patent No. 222,803), to be used in connection with an air brake, consisting of an engineer's valve, which, by the movements of a single stem or lever, should admit, and automatically stop admitting, fluid pressure to the brake pipes, by means of a charging valve, automatically retain such pressure, and permit its escape by an exhaust valve, with means of automatically closing either valve when the desired pressure has been charged into or withdrawn from the train pipe to which the device was connected, being construed as a pioneer invention, is infringed by defendants' device,