

In this machine, after the button is seated upon the former, the slot in the guide is withdrawn, and does not subsequently inclose the eye of the button. There can, therefore, I think, be no controversy that the slot in the guide does not perform any function of the slot, i, in the Eggleston patent. The only question is whether the slot in the former of this machine is the equivalent of the slot, i, of the Eggleston device. Upon this point, on careful consideration, my mind is not free from doubt. If I were convinced that the slot in the Elliott former was only a continuation of the slot in the guide, and that it performed the same function as the slot, i, in the Eggleston device, I should grant the preliminary injunction asked for; but, if I have a reasonable doubt on the question, it is my duty to let the case go over until final hearing, when the full proofs will be presented. The doubt which I have arises from the fact that the slot, i, is defined in the Eggleston patent as receiving "that portion of the button eye which is between the staple and the button"; and I am not clear that the slot in the Elliott former can be considered as receiving and guiding, in the sense of the Eggleston patent, such portion of the eye of the button, it appearing to me that the slot in the Elliott former performs rather the function of the slot, n, of the Eggleston patent. Again, the slot, i, of the Eggleston guide holds a portion of the eye of the button during the operation of driving the staple, while in the Elliott machine the former, with its slot, is withdrawn at or about the time the driver begins its descent; in other words, before the driver strikes the crown of the staple the eye of the button has ceased to be held in any slot whatsoever. Whether or not the finger operates to hold the button in place during the interval between the withdrawal of the former and the time when the driver comes in contact with the crown of the staple, I do not decide. Without in any way intimating what conclusion may be reached on final hearing when the court will have the benefit of full evidence touching all the points in the case, I must, upon the ground of reasonable doubt as to infringement, deny the present motion. Motion denied.

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DUNHAM MANUF'G CO. v. COBURN TROLLEY TRACK MANUF'G CO. et al.

(Circuit Court, D. Massachusetts. March 7, 1891.)

No. 2,815.

PATENTS—INJUNCTION.

COLT, Circuit Judge. This cause came on to be heard upon motion of complainant for a preliminary injunction, and was argued by counsel for respective parties, and now, to wit, March 7, 1891, it is ordered by the court that writ of injunction issue as prayed for in the bill of complaint herein, enjoining and restraining said defendants from directly or indirectly making, constructing, using, or vending to others, to be used, any door hangers or other articles containing or embodying the invention secured and described in the second and

third claims of the United States letters patent, numbered 7,795 of reissues, reissued July 17, 1877, to Elias E. Pratt, for improvement in door-hanging devices, until the further order of court.

See Pratt v. Sencenbaugh, 64 Fed. 779.

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PRATT v. WRIGHT et al.

(Circuit Court, N. D. New York. July 12, 1890.)

No. 5,829.

PATENTS—NOVELTY—INFRINGEMENT.

Hey & Wilkinson, for complainant.  
West & Bond, for defendants.

WALLACE, Circuit Judge. It is plain enough in this case that neither the second nor the third claim of the patent in suit is invalid for want of novelty, and that the defendants infringe the second claim. The doubt is whether the second claim is not invalid as being for an invention not described or suggested in the original patent, and whether the defendants infringe the third claim. I am satisfied, however, after carefully examining the case, that I ought to follow the decision of the circuit court for the Eastern district of Pennsylvania<sup>1</sup> in which it was adjudged that both claims were valid, and were infringed by devices substantially the same as those which are employed by the defendants. The record here, so far as it relates to the prior state of the art, does not differ materially from that in the Pennsylvania case. That case was heard by Judges McKennan and Butler, and the opinion shows that it was fully considered. The questions are fairly doubtful; and, that being so, it would be unseemly not to follow a decision which is entitled to the greatest respect, made by a court of co-ordinate jurisdiction, and determining the title to the same property. A decree is therefore ordered for an injunction and an accounting as to both the second and third claims.

See Pratt v. Sencenbaugh, 64 Fed. 779.

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WESTINGHOUSE AIR-BRAKE CO. v. NEW YORK AIR-BRAKE CO.

(Circuit Court, S. D. New York. December 27, 1894.)

1. PATENTS—CONSTRUCTION OF CLAIMS—AIR BRAKE.

The inventions covered by the Westinghouse patents Nos. 360,070 and 376,837, for improvements in railroad air brakes, are both broad ones, and the claims are entitled to a liberal construction.

2. SAME—INFRINGEMENT.

In an air-brake patent, the claim covered the combination of a main air pipe, an auxiliary reservoir, a brake cylinder, a triple valve, and "an auxiliary valve device, actuated by the piston of the triple valve, substantially as set forth"; and the patent showed a construction in which the auxiliary valve device is actuated by direct impingement of the triple

<sup>1</sup> Pratt v. Lloyd, 65 Fed. 800.