

confine it to the mechanical details described. But the state of the art seems to preclude this, and whatever doubt there may be left as to the extent to which the earlier patents indicate structures fundamentally like Perkins', so far as snap action and a locking against backward movement are concerned, is effectually dispelled by the language of the patent itself. The patentee does not set forth that he is the discoverer of the utility of quick-action separation, nor even that his mechanism is the first devised for securing it. On the contrary, he says:

"My invention relates to improvements in that class of switches for incandescent electric lamps in which the break is effected by the snap or instantaneous reaction of a spring when released from contact with a conducting point or plate."

And then follows the statement that:

"It [his invention] consists in mechanical details for effecting this, the principal features of which are a ratchet wheel having both conducting and insulating teeth combined in operative relation with a spring pawl or detent, which acts as a contact maker with the conducting portions of the ratchet, and by engaging with the insulating teeth prevents the ratchet from being turned backward when the pawl has been released from contact with the metallic portions."

The patentee then sets forth specifically and with reference to the drawings the mechanical details of his switch, and then adds:

"Instead of a swinging pawl, I sometimes employ a spring-seated contact stop with a broadened end, as shown in Fig. 4, which acts as a detent with ratchet, D', when not depressed by projections, D, and thus prevents the shaft from being turned in both directions."

The first claim covers both the V-shaped pawl and the spring-seated contact stop, the second claim covers only the V-shaped pawl.

It must certainly be assumed that Perkins knew what it was that he invented, and his patent must be construed to cover only what in unambiguous language he asserts his invention to be, namely, the mechanical details he describes, with the single variation in the form of the contact stop which he sets forth. And if the claim be thus confined, the circuit judge was entirely correct in the conclusion that the defendant's two forms of switch do not infringe. The decree of the circuit court is affirmed, with costs.

FOUGERES et al. v. JONES et al.

(Circuit Court, D. Indiana. February 18, 1895.)

No. 8,819.

1. PATENTS—INVENTION—THILL COUPLINGS.

The Blair patent No. 334,842, for an improvement in anti-rattlers for thill couplings, is void for want of invention.

2. EQUITY PRACTICE.

The court may, of its own motion, dismiss a bill because it fails to state facts sufficient to give any right to relief.

This was a bill by Louis H. Fougères and James M. Haas against William P. Jones and Elmer E. Stephenson for infringement of a patent.

V. H. Lockwood, for complainants.
Chester Bradford, for defendants.

BAKER, District Judge. This is a suit for an injunction and for the recovery of damages for the alleged infringement of letters patent No. 334,842, issued January 26, 1886, to one George W. Blair, for an alleged improvement in anti-rattlers for thill couplings. The bill contains nothing beyond general allegations to show that the combination claimed involved invention. The defendants, by their answer, insist that the patent is void for the following reasons: (1) The production of the combination claimed does not involve invention; (2) the subject-matter of it was anticipated in the prior art; (3) anticipation by prior manufacture and use; (4) the patentee was not the original inventor; (5) the combination could not be validly granted in the present patent, inasmuch as all of its elements except one are shown in a prior patent to the same inventor, and the additional element was old and well known. In the case of *Fougères v. Murbarger*, 44 Fed. 292, the validity of this patent came before this court for consideration on a demurrer to the bill, which was sustained. The specifications and claim are there set forth at length, and for that reason are omitted here. After argument and careful deliberation the court there held that the letters patent in question for an improvement in anti-rattlers for thill couplings consisting of a bent plate, which had been used before, with the addition of another plate, were void for want of novelty. The bill in this case is as barren of specific averments tending to show invention in the patented device as the bill was in that case, and, although no objection to its sufficiency has been made by the defendants, the court may, *sua sponte*, dismiss the bill because it fails to state facts sufficient to give any right to relief. The present bill cannot be supported without overruling the former decision of the court. This the court cannot do, as it seems to it to have been well decided.

Passing from the bill to the case made by the proofs, it seems to me the situation of the complainants is in no respect improved. Devices similar to that of the complainants are old; the forming of such devices made from a plate of steel bent upon itself so as to have two arms is stated in the patent to be old; the forming of a curved bearing face for the eye of the thill iron on the outer or front arm of the device is also old; the turning of the parts of the plate to make a sharp bend or curve is old; the forming of the outer or front arm of the device with a double-curved face, and with a corrugated rib or projection between, is old; and the means of supporting the device against downward movement by extending the top piece to rest upon the jack clip is old. In view of the prior art, and the concession in the body of the patent that anti-rattlers had theretofore "been made of single plates of steel, bent in vari-

ous forms," it cannot be claimed that the combination in question exhibits such novelty as amounts to invention. These considerations make it unnecessary to examine the other grounds of defense. The bill will therefore be dismissed for want of equity, at the cost of the complainants.

WELLS v. CURTIS et al.

(Circuit Court of Appeals, Sixth Circuit. February 5, 1895.)

No. 141.

1. PATENTS—CONSTRUCTION OF COMBINATION CLAIMS—DISCLAIMER.

Where the claim is only for the combination of certain described elements, this amounts to a disclaimer, so far as that patent is concerned, of anything new in any one of the elements, whatever might be its value as ground for an independent application.

2. SAME—ACCIDENTAL FEATURES.

A patent should not be construed to cover a means which, without the inventor's design, performs a function not within his contemplation; nor should it be held to embrace anything which is not pointed out as new, either by express declaration, or by reasonably clear implication from the language used.

3. SAME—LIMITATION OF CLAIMS—EQUIVALENTS.

After describing an "elongated" pinion as one of the elements of his combination, and showing the necessity of a pinion of such form in his specifications, the patentee cannot assert that such description is immaterial, and that any kind of pinion is an equivalent and covered by the claim.

4. SAME—RANGE OF EQUIVALENTS—COMBINATION CLAIMS.

In inventions of specific devices, the range of equivalents recognized is much wider than in inventions of combinations. In the latter an element is not an equivalent, unless it is substantially the same thing as the patentee has described, operating in the same way.

5. SAME—LIMITATION—INFRINGEMENT—SCREW-CUTTING DIES.

The Forbes patent No. 253,996, for an improvement in screw-cutting dies, is of doubtful validity; but, if sustainable at all, it must be limited to the specific devices which make up the elements of the combination, and is not infringed by a machine made according to the Wells patent No. 355,737.

6. SAME—INVENTION—RATCHET WRENCH.

The Forbes patent No. 277,256, for a ratchet wrench, held invalid, as disclosing only the exercise of mechanical skill.

Appeal from the Circuit Court of the United States for the Western Division of the Northern District of Ohio.

This was a bill in equity by Roderick P. Curtis and Louis B. Curtis against Willett C. Wells for infringement of certain patents. The circuit court entered a decree for complainants, and defendant took this appeal.

The bill in this case was filed by the appellees to restrain the appellant from the alleged infringement by him of the rights secured to William D. Forbes by letters patent No. 253,996, bearing date February 21, 1882, for an "improvement in screw-cutting dies"; and also of the rights secured by letters patent No. 277,256, bearing date May 8, 1883, for an "improvement in ratchet wrenches," issued to said Forbes and the said Roderick P. Curtis, all which rights it is alleged have come by assignment to the appellees. The bill contains the proper averments, showing title in the appellees; alleges