

a larger area of surface for the compressive action of the spring. One flat side is an improvement upon the cylindrical surface, and much better results are obtained thereby from the action of the spring upon it. It is a matter of mere mechanical calculation and skill to double or treble the flattened surfaces, to obtain double or treble the result which one flattened surface gives. It is not necessary to make any further analysis or comparison of these anticipating devices. It seems clear that they deprive the Lieb and the Flocke devices of patentable novelty. The simple fact is that at the date of these alleged inventions the "bag catch," consisting of a rock shaft, with box bearings and two arms, was old. The difficulty in its use arose from an inability to fix temporarily in a permanent position the arms. These revolving easily were in some degree unmanageable, and quite as often placed themselves between the jaws of the frame of the bag as around them; thus hindering the closing of the bag, rather than making it more certain and secure. The introduction of the spring, in connection with the catch, by Lagowitz, solved the difficulty. He was a pioneer. The rest simply improved, by the exercise of mechanical skill, what he devised. Neither in the Lieb nor in the Flocke device can be found that creative work of the inventive faculty, which it is the purpose of the law to reward and protect. As was fitly said by Mr. Justice Bradley in *Atlantic Works v. Brady*, 107 U. S. 192, 2 Sup. Ct. 225: "The process of development in manufactures creates a constant demand for new appliances, which the skill of ordinary head workmen and engineers is generally adequate to devise, and which, indeed, are the natural and proper outgrowth of such development. Each step forward prepares the way for the next, and each is usually taken by spontaneous trial and attempts in a hundred different places. To grant to a single party a monopoly of every slight advance made, except where the exercise of invention, somewhat above ordinary mechanical or engineering skill, is distinctly shown, is unjust in principle, and injurious in its consequences." For the reasons stated the bill of complaint must be dismissed.

TRAUT & HINE MANUF'G CO. et al. v. WATERBURY BUCKLE CO.

(Circuit Court, D. Connecticut. March 7, 1895.)

No. 820.

PATENTS—INFRINGEMENT—INJUNCTION—GARMENT SUPPORTERS.

The Adams patent, No. 487,689, for improvements in garment supporters, construed as to claim 2, and a preliminary injunction denied, on the ground that infringement did not clearly appear. 64 Fed. 492, modified.

This was a bill by the Traut & Hine Manufacturing Company and George E. Adams against the Waterbury Buckle Company for infringement of letters patent No. 487,689, issued to said Adams December 6, 1892, for an improvement in garment supporters. A preliminary injunction was heretofore granted, together with an order suspending its operation until the case could be heard by

the circuit court of appeals. 64 Fed. 492. Defendant now moves for a rehearing, upon the ground of newly-discovered evidence.

Mitchell, Hungerford & Bartlett, for complainants.
George E. Terry, for defendant.

TOWNSEND, District Judge. This is a motion for a rehearing, upon the ground of newly-discovered evidence, which, it is alleged, shows lack of novelty, in view of the prior art, and raises a question of doubt as to whether the patentee was the first to conceive the invention of the patent. On the former hearing, the court decided that the second claim of the patent in suit was infringed, and ordered a preliminary injunction, but granted, also, an order suspending its operation until the case could be heard by the circuit court of appeals. Under the general claim of lack of novelty, three patents were introduced on this hearing, namely: Patent No. 300,430, dated June 17, 1884, granted to Benjamin F. Archer; British patent No. 9,617, dated July 3, 1888, granted to Charles N. Fyland; and British patent No. 2,150, dated May 26, 1880, granted to George Walker. One of the drawings of the Fyland patent shows or suggests the downward curve of the patented cast-off. Another shows two catches at the side of the front plate. The curve at the lower end of the back plate is practically the same as that of defendant's buckle. It may be true, as urged by complainants, that said patent does not show the precise latch for positively locking the members together, as described in the patent in suit, and covered by the first claim, nor such coacting members for jointly supporting the cord when it is subjected to stress. But, in order to sustain the second claim of the patent, and to find infringement upon the evidence presented at the former hearing, it seemed necessary to hold that the location of the catch was not a special feature of the patented invention, and that the only object of the patent was to so arrange it that it might be readily engaged and disengaged. The feature of joint support by coacting members was considered, and it was thought that, as the downward pull was entirely upon defendant's back plate, the arrangement of said catch and of the two members for joint support was not an essential element of the second claim. Under no other construction did the order for a temporary injunction seem to be justified, and this construction was adopted, with some hesitation, in order to permit the question involved to be raised by appeal. The additional evidence introduced so strongly confirms the doubts originally entertained that I think the orders already made should be vacated, and the motion for a preliminary injunction should be denied. Let an order be entered accordingly.

TAGLIABUE v. SONDERMANN.

(Circuit Court, E. D. New York. May 15, 1895.)

PATENTS—ANTICIPATION—SYRINGE.

The Tagliabue patent, No. 325,132, for a syringe in which the piston is made expansible without being removed, by having a threaded piston