

track switch. Infringement of these claims is satisfactorily established.

Whether or not claims 5, 6 and 7 are infringed it seems unnecessary now to determine.

Of the claims relating to the centralizing spring the complainant seems to rely principally upon the thirty-third as describing with the greatest accuracy the patented construction. It is thought that this claim is infringed by the "Anderson" trolley which is given a centralizing tendency by springs located at its base, but not by the "Nuttall" which has no spring tending to restore it to its normal central position.

It follows that the complainant is entitled to a decree for an injunction and an accounting, but, as the defendant has succeeded as to some of the claims, the decree should be without costs.

CARTER-CRUME CO. et al. v. WATSON et al.

(Circuit Court, N. D. New York. June 26, 1895.)

No. 6,336.

1. PRELIMINARY INJUNCTION IN PATENT SUITS—ESTOPPEL.

In an infringement suit against small dealers who purchased the alleged infringing goods from a corporation, it appeared that the patentee of the patent sued on was a member of that corporation, and that the goods sold by the corporation were made under a subsequent patent, which was alleged to cover the device of complainant's patent, with an added feature. *Held*, that if any estoppel arose from these facts, against defendants, it was not so clear as to justify the court in issuing a preliminary injunction on that ground alone.

2. SAME—CHECK BOOKS.

A preliminary injunction against alleged infringement of the Rodden patent, No. 503,914, for a counter check book denied.

This was a suit by the Carter-Crume Company and others against George F. Watson and others for infringement of a patent for a counter check book. Complainants moved for a preliminary injunction.

C. H. Duell, for complainants.
George B. Selden, for defendants.

COXE, District Judge. The patent upon which this action is based, No. 503,914, is not two years old. It has never been adjudicated and there is no public acquiescence. Infringement is disputed. The defendants are small dealers who purchased the books in controversy from the American Counter Check Book Company, a corporation organized under the laws of West Virginia. The principal reliance of the complainants is an alleged estoppel based upon the fact that William H. Rodden, the patentee of complainants' patent, is a director in the West Virginia Company, and that the books sold to defendants are said to be made under a subsequent patent to Rodden which shows the device of the complainants' patent with an added feature. In other words, the contention is that because

Rodden cannot dispute the validity of the patent owned by the complainants, the West Virginia Company and the defendants, who purchased from that company, are also estopped. No authority is cited which carries the doctrine of estoppel quite to this extent. It is enough, however, to say that the estoppel relied on is not so absolutely clear as to justify the court in making it the sole support of a preliminary injunction. Motion denied.

WHITFIELD v. HIGBIE.

(Circuit Court, N. D. Illinois. July 24, 1895.)

1. PATENTS FOR INVENTIONS—INFRINGEMENT—GRAIN SEPARATORS.

The first claim of letters patent No. 343,324, issued June 8, 1886, to Christian Kaspar, for an improvement in grain separators, consisting of a case formed with enlargement near its top, and deflector, in combination with inclosed screens, forming a zigzag grain channel fixed rigidly in the sides of the case, with an adjustable grate located in the enlargement to regulate the speed of the grain, and a gate operating between the grate and the deflector, is not infringed by a device having a fixed grate instead of an adjustable one.

2. SAME.

The third claim of said patent for an inclined grate comprising longitudinal bars angular in cross section, and set at an angle in the plane of the grate surface, is not infringed by a device having round bars, not set at an angle.

In Equity. Suit by Thomas Whitfield against Nathan B. Higbie to enjoin the alleged infringement of a patent.

Banning & Banning, for complainant.

Dyrenforth & Dyrenforth, for defendant.

SHOWALTER, Circuit Judge. This is a bill to stop an alleged infringement of certain letters patent of the United States, and for an accounting. Said letters patent, issued to one Christian Kaspar on the 8th of June, 1886, and numbered 343,324, and being for an improvement in grain separators, came to be the property of complainant by assignment. The machine in question consists of an elongated upright box, containing at the top a hopper, formed by a plane inclined towards one side, leaving along the lower edge an opening, the size of which is regulated by a gate. Next below this is a grate, inclined in the opposite direction, and having its bars towards its lower end or edge curved downward, and connected at their extremities by a crossbar. Below said grate is a series of inclined screens and covers, connected, the lower edge of one with the upper edge of the next, in alternating angles, and forming a zigzag channel terminating in an opening on one side, and near the bottom of the box. Grains poured into the hopper fall through the gate, then through the grate, then down the zigzag channel from side to side, and out at the opening in the bottom of the box. Foreign substances,—straws, pieces of dirt, nails, chips, etc., larger than the grains,—being separated therefrom by the grate, fall over the lower edge of the grate, and down through a passageway next the side of