

claim 3 of his patent No. 209,960, but he has now filed a petition for a rehearing, claiming that the court was mistaken in this understanding. Both he and the appellee are, however, content to submit all questions as to claim 3 on the briefs already in, and the court will accordingly consider them. It is ordered that the judgment entered October 25, 1895, be, and the same is hereby, vacated.

(December 19, 1895.)

Before PUTNAM, Circuit Judge, and NELSON and WEBB, District Judges.

PER CURIAM. At the hearing of this case the court understood the appellant to waive claim 3 of patent No. 209,960. On being assured that we were mistaken about this, we ordered a reargument as to this claim. The parties thereupon submitted the matter on their briefs, which we have fully considered. The claim is as follows:

"(3) A rowlock, swinging or stationary, having the outwardly inclined arm, d', as and for the purposes set forth."

The specification explains this claim as follows:

"When the arm, d', is made vertical, the oar, when held in the perpendicular position above alluded to, required in turning the boat, is liable to slip up, and be caught and held upon the point alone. In such position it can be maintained only at the cost of great exertion of the oarsman, and strain upon the wrist. To obviate this difficulty, I turn the arm, d', outward at an angle of about forty-five degrees, * * * thus enabling the arm, d', to present a supporting surface to the whole back of the oar at nearly right angles with its length."

We are of opinion that this claim presents no patentable novelty. We think that any man of ordinary experience, on perceiving the liability of the oar to be caught, would at once understand that it could be overcome by deflecting the arm as proposed by the patent. The former decree having been vacated by the allowance of the petition for a rehearing, the decree of the circuit court is affirmed, with costs.

FULLER & WARREN CO. v. TOWN OF ARLINGTON.

(Circuit Court of Appeals, First Circuit. January 24, 1896.)

No. 87.

PATENTS—INVENTION—PRIVY FURNACES.

The Ross patent, No. 264,568, for a furnace for privies, consisting of a metallic vault having a fire chamber at one end and a flue at the other, with a perforated platform for separating the solid from the fluid matter, is void for want of invention. 54 Fed. 166, affirmed.

Appeal from the Circuit Court of the United States for the District of Massachusetts.

This was a bill in equity by the Fuller & Warren Company against the town of Arlington for alleged infringement of letters patent No. 264,568, issued September 19, 1882, to William S. Ross, for furnaces

for privies. The circuit court dismissed the bill, holding that the patent was void for want of patentable invention. 54 Fed. 166. Complainant appeals.

Esek Cowen (Cowen, Dickerson & Brown with him on the brief), for appellant.

William H. H. Tuttle, for appellee.

Before COLT, Circuit Judge, and NELSON and WEBB, District Judges.

WEBB, District Judge. The patent involved in this cause is for an arrangement to prepare for destruction by fire of fecal matter. It does not set up any right to the process of destruction or purification by fire, but is simply for devices by which heat may be utilized and applied to dry and make readily combustible the solid materials to be disposed of, and to remove by evaporation offensive fluids, and is designed specially for use in connection with privies and water closets. The assignment of errors for the most part relates to the first claim in the patent, which is:

"As an attachment for a privy, a horizontal metallic casing constituting the depository for the fecal matter, and provided with the hinged lids and fire chamber, substantially as set forth."

Looking at the specification, we find nothing but an incombustible bottom to the ordinary vault, with a similar cover in which the matter to be destroyed is dropped. The solid matter is drained by dropping upon a grating, or a perforated plate. At one end of this vault is space for building and maintaining a fire; at the other end, a chimney or flue for supporting the necessary draft to sustain the combustion of the fire, and to carry off vapors and odors developed or set free in the process of drying. This is the whole thing. When the fecal matter is sufficiently dried, it is mixed with coal tar or oil, or other highly combustible matter, and this mixture is set fire to and consumed. The last process may be accomplished in situ, or the matter to be destroyed may be first removed from the place in which it was dried, and then, by the aid of the coal tar or other combustible, be burned. The complainant's device has no relation to this final burning, and plays no part in it. The whole alleged invention, therefore, is nothing more than a form of hot-air drying chamber, in which, because of the nature of the substance to be dried, it is admissible to have the fire, with its smoke and gas, in the same chamber with that substance. We see no invention whatever in the device, and are satisfied that the decree of the circuit court should be affirmed. The decree of the circuit court is affirmed.

CROSSLEY v. DUGGAN.

(Circuit Court, D. New Jersey. January 16, 1896.)

PATENTS—APPARATUS FOR MOLDING EARTHENWARE.

The Crossley patent, No. 474,496, for improvements in apparatus for molding earthenware, consisting in mechanism whereby a double compression upon the clay within the mold is effected by the simultaneous opposite movements of two dies, is void as to all its claims, because Crossley was not the sole originator, and because the production of the device, in fact, involved no invention.

This was a suit in equity by Joseph Crossley against Frederick Duggan for alleged infringement of a patent relating to apparatus for molding earthenware.

Francis C. Lowthorp, for complainant.
James Buchanan, for defendant.

ACHESON, Circuit Judge. The plaintiff sues for the alleged infringement of letters patent No. 474,496, for improvements in apparatus for molding earthenware, issued to him on May 10, 1892. The specification sets forth that the invention "relates more especially to that class of molding apparatus which is used for compressing and fashioning earthenware, more particularly those articles in which are formed lateral perforations, depressions, or ornate configurations, such, for example, as the porcelain supporting parts of electrical structures," which class of apparatus, it is stated, as theretofore constructed, was defective, in that "the pressure exerted by their dies or platens upon the plastic mass within the molds was insufficient to compact or condense the mass uniformly and equally throughout." Infringement of the first, second, and fourth claims of the patent is alleged. These claims are as follows: (1) In apparatus for molding ceramics, a mold, dies or platens, and mechanism for operating the same in opposite ends of the mold, in combination with lateral forming devices projected through the wall of the mold between the upper and lower dies. (2) In apparatus for molding ceramics, a mold, a die or platen within and forming the bottom of the mold, horizontal apertures in the wall of the mold and above said die, and a vertically reciprocating die or platen above said mold, in combination with lateral forming devices supported in the horizontal apertures, means for operating the dies or platens towards each other synchronously, and means for projecting and retracting the lateral forming devices. (4) In apparatus for molding ceramics, a mold, a vertically movable bar, a die or platen supported by said bar, and a die or platen for the lower end of the mold, in combination with vertical slide rods, connections between said rods and the latter die, and devices constructed to operate upon the slide rods only as the bar is moved downward.

Manifestly, these are broad claims. Not one of them is confined to the particular mechanism described in the specification. Can these claims be sustained? In pursuing the inquiry, two defenses