

ties here to-day. In so far as the government of Spain has brought to the attention of our government this alleged violation of our laws, and has offered witnesses to prove the same, and has provided for the maintenance of the witnesses pending the time when their testimony could be properly presented, she has been entirely within her right, and the conduct of her officials in that regard is not a subject of just animadversion. When you come to the consideration of the testimony of such witnesses, you will naturally and properly consider the fact—which is not denied—that the witnesses have been receiving pay from the Spanish government, as affecting their credibility, just as it is in all cases the duty of the jury to consider everything in the way of motive, interest, or inducement which tends to throw light upon such testimony, as to whether they are probably telling the truth or otherwise. You will give the defendant the benefit of any reasonable doubt. That doubt must not arise from desire, but must grow out of the testimony. It must not rest upon sympathy or wish to relieve him from the consequences of his act if you believe him to be really guilty. Your verdict may be either, "Not guilty," or "Guilty," or "Guilty, with a recommendation to mercy."

LEATHEROID MANUF'G CO. v. CUMMINGS et al.

(Circuit Court, D. Massachusetts. June 19, 1896.)

No. 476.

PATENTS—AGGREGATION—BOXES.

The Andrews patent, No. 329,875, for a box of thin, flexible material, reinforced at its upper edge by a band of wood, protected at the corners by metal corner pieces, U-shaped in cross section, is void, as being a mere aggregation of old devices which here perform no new function.

This was a suit in equity by the Leatheroid Manufacturing Company against Josiah Cummings and others for infringement of a patent for a box.

Wm. A. Macleod, for complainant.

Geo. O. G. Coale and Wm. D. Baldwin, for defendants.

CARPENTER, District Judge. This is a bill in equity to restrain an alleged infringement of letters patent No. 329,875, issued November 10, 1885, to Emery Andrews, for box. The claim alleged to be infringed is as follows:

"(1) A box made of thin, flexible material, reinforced at its upper edge by a band or hoop of wood, said band of wood being protected at its corners by metal corner pieces U-shaped in cross section, which embrace a portion of three sides of said hoop or band upon two sides of said box."

The respondents have made a box which comes within the terms of this claim. They point out that the claim suggests no means of fastening the corner pieces to the band or to the body of the box, and that in their box the corner pieces are fastened by rivets; and they argue that the device of the first claim is inoperative and void and also that they do not infringe. I shall not here enter into a discussion of these questions, because I am clearly of opinion that

the claim of the patent is void, as not involving patented invention. The evidence abundantly shows that all the parts of the patented box are old both in material and in structure, and that they here perform no other function than that which they performed in structures previously existing. There is therefore no patentable combination, but only a pure aggregation of old devices. The bill will be dismissed.

BOSTON LASTING MACH. CO. v. WOODWARD et al.

(Circuit Court, D. Massachusetts. June 18, 1896.)

No. 638.

PATENTS—INFRINGEMENT—LASTING AND FASTENING MACHINES.

The Woodward patent, No. 248,544, for a lasting and fastening machine, held not infringed by a machine in which the tack-driving mechanism is actuated, not by the pressure of the work, but by the depression of a rod connected with the treadle, so that the desired result of driving the tack at the proper time, without using the operator's hand, is obtained by a different method from that claimed by the patent. *Machine Co. v. Woodward*, 53 Fed. 481, and *Woodward v. Machine Co.*, 8 C. C. A. 622, 60 Fed. 283, and 11 C. C. A. 353, 63 Fed. 609, distinguished.

This was a bill in equity by the Boston Lasting Machine Company against Erastus Woodward and others for alleged infringement of a patent for a lasting and fastening machine for boots and shoes.

Frederick P. Fish and Wm. K. Richardson, for complainant.
James E. Maynadier and Geo. O. G. Coale, for defendants.

CARPENTER, District Judge. This is a bill in equity to enjoin an alleged infringement of the second, third, and fourth claims of letters patent No. 248,544, issued October 18, 1881, to Erastus Woodward, for a lasting and fastening machine. These claims have heretofore been found to be valid, and the respondents have been held to infringe by the making and using of two certain machines which were described in the former suit. *Machine Co. v. Woodward*, 53 Fed. 481; *Woodward v. Machine Co.*, 60 Fed. 283, 8 C. C. A. 622, and 63 Fed. 609, 11 C. C. A. 253. On the 16th of February, 1893, the complainant filed in the office of the commissioner of patents a disclaimer of the first and fifth claims of the patent. The present suit alleges infringement by the making of a third machine, which was not brought in question in the former suit.

The differences between the patented machine and the two machines which in the former suit were found to be infringements are well stated by the counsel for the complainant in the following words:

"In Woodward's former machines, one difference related to the work-presenting mechanism; instead of having the foot treadle connected directly with the jack-supporting lever, as in the Woodward patent, the defendants' machine had a power-operated jack-lifting mechanism, comprising a clutch which is closed by the depression of the treadle, and thus instantly applies power to the jack lifter. The second difference related to the tack-driving mechanism, namely, that instead of the entire mechanism of the tacker