

longitudinally"; and in urging this claim (which, it will be noted, did not include as an element the sharpening device) the applicant's solicitors, in answer to a reference to May's patent, did insist that "May has neither the movable chuck, nor the movable sharpener, nor the oblique tool," and, again, that the claim asked for "was limited further to a movable chuck in combination with a stationary tool." This claim, however, was rejected. Truly, then, it would be carrying the doctrine of estoppel to an unheard-of and extravagant length to hold that an unsound and unsuccessful argument made in the patent office by an applicant's solicitors with respect to a rejected claim should have the effect of imposing a destructive limitation upon the allowed claims. It will be observed that in overruling the primary examiner, and allowing the first and second claims of the patent, the examiners in chief said:

We do not find the sharpening device met by any of the references, and in the combination and arrangement shown, making up the complete machine, we think meritorious invention is evinced. May comes nearest anticipation, as he shows the broad combination of the elements. But in his case the tool carriage is moveable, and has to be run back on a track, partly reversed, and run off on another track at right angles to a grinding stone. Applicant's machine is a great improvement on this, as the stone is brought to the tool by the simple movement of a lever, and no appreciable time is consumed in the operation.

Thus we see that in its final action the patent office held the patentable quality of Cléret's apparatus to lie in the described means for sharpening the cutting tool without any appreciable loss of time. This judgment was in perfect harmony with the view of the applicant as expressed in his specification. In fact, the gist of Cléret's invention consists in the application to the old button lathe, whether in the one form or in the other, of the automatic sharpening device arranged in relation to the oblique cutting tool as described. That the patent office imposed, and the applicant accepted, the limitation upon which the defendants insist, would be a strained conclusion. An estoppel is not to be implied from circumstances of doubtful import. This is a fundamental invention, and, upon well-considered principles, the patentee and his assignees would have the benefit of the doctrine of equivalents, in large measure. Looking at the entire proceedings upon Cléret's application, it cannot, I think, fairly be said that either the patent office, on the one side, or the applicant, on the other side, contemplated a limitation which would render the claims practically valueless, and make the grant of the patent a vain thing. Let a decree in favor of the plaintiff in each case be drawn.

WINGFIELD v. AMERICAN CARPET-LINING CO.

(Circuit Court, D. Massachusetts. November 23. 1886.)

No. 2,172.

PATENTS—INVENTION—CARPET LININGS.

The Wingfield patent, No. 276,118, for improvements in carpet linings of the kind composed of cotton filling covered on both sides with paper, which improvement consists mainly of the use of a supplemental strip

placed over the paper along the line of stitches, to prevent the stitches from cutting through the paper, is void, for want of invention, and as coming within the principle of a mere double use.

This was a suit in equity by George W. Wingfield against the American Carpet-Lining Company for alleged infringement of a patent for improvements in carpet linings.

S. D. & J. T. Law, for complainant.

A. E. Pillsbury and J. E. Maynadier, for defendant.

COLT, Circuit Judge. This suit is brought for alleged infringement of letters patent No. 276,118, granted to the complainant as assignee of John H. Wingfield, for improvements in carpet linings. The invention has reference to carpet lining composed of a cotton filling, and covered on both sides with paper, and consists, so far as any infringement is charged in this case, in the use of a supplemental strip of suitable material placed over the paper covering along the line of stitches, so as to prevent the stitches from cutting through the paper. Assuming that Wingfield was the first to stay the stitches in carpet lining, we are met at once with the inquiry whether this constitutes any patentable invention. The defendant has produced several well-known forms of stay strips used in the making of coats, books, and pamphlets. The complainant urges that his strip is not for the purpose of strengthening the carpet lining, but to prevent its being weakened and injured in the process of manufacture by the operation of sewing, and that in this respect it differs from other stay strips. At the same time he admits that a carpet lining is stronger with supplementary strips than without them. It may be that the main office of the strips is to prevent the stitches from cutting through the paper; still, in view of what was old and well known, I can find no invention or discovery in their use. It seems to me to come within the principle of a mere double use, and therefore does not form the subject-matter of a valid patent. Bill dismissed, with costs.

CHAMBERS-BERING-QUINLAN CO. v. FARIES.

(Circuit Court, S. D. Illinois. August 24, 1896.)

PATENTS—VALIDITY AND INFRINGEMENT—WIRE-CHAIN MACHINES.

The Barnes patent, No. 230,604, for a machine for forming interlocking eyes in wires or wire chains for operating the seeding devices in check-row corn planters, *held* valid, and not anticipated, as to the fourth claim; and said claim *held* infringed by a machine containing the same elements, combined and operating in substantially the same way.

This was a suit in equity by the Chambers-Bering-Quinlan Company against Robert Faries for alleged infringement of a patent.

Bond, Adams, Pickard & Jackson, for plaintiff.

E. B. Stocking and Crea & Ewing, for defendant.

ALLEN, District Judge. This suit is brought to restrain infringement of the fourth claim of letters patent No. 230,604, granted to