

## DICKINSON v. A. PLAMONDON MANUF'G CO.

(Circuit Court, N. D. Illinois. June 29, 1896.)

**PATENTS FOR INVENTIONS—INFRINGEMENT—BRICK MACHINES.**

Letters patent No. 315,855, issued April 4, 1885, to Albert D. Thomas; No. 324,453, issued August 18, 1885, to John J. Brewis; No. 375,660, issued December 27, 1887, to Albert D. Thomas; and No. 395,871, issued January 8, 1889, to John J. Brewis,—for improvements in brick machines, which operate by filling and compressing pulverized clay in plungers that approach each other with varied relative motions, are not infringed by a device which, while accomplishing the same result in much the same way, is mechanically different from the patented machines.

**In Equity.**

Suit for injunction by Henry C. Dickinson against the A. Plamondon Manufacturing Company to restrain the alleged infringement of certain patents.

Offield, Towle & Linthicum, for complainant.

Jesse Cox and L. L. Bond, for defendant.

GROSSCUP, District Judge. The bill is to restrain the infringement of letters patent to Albert D. Thomas, dated April 4, 1885, No. 315,855; to John J. Brewis, dated August 18, 1885, No. 324,453; to Albert D. Thomas, dated December 27, 1887, No. 375,660; to John J. Brewis, January 8, 1889, No. 395,871. All of these patents are for new and useful improvements in brick machines. These machines operate by filling and compressing pulverized clay in molds by plungers, which have peculiar motions, by which they approach each other from the top and bottom with varied relative motions, until the clay is compacted into very hard, dense, and well-united bricks, which are then pushed up out of the molds, and removed, while the molds are again filled for making more brick in a like way. One of the advantages claimed is that at a moment during this process there is a slacking of pressure, during which period the particles of clay in the molds, still held under pressure, have time to flow together or coalesce solidly, the continuance of the upward motion tending to break the first set of the particles to the walls of the mold, so that the final pressure can compact the whole brick uniformly to the center. There is, then, an additional increase of pressure to finish the compression of the brick. Other motions of the plungers free the brick of the top plunger, and bring the lower one to a level of the opening from which it is taken. These motions of the plungers are brought about by the mechanism described in the complainant's patents.

Brick machines themselves are old, and there is no claim in these patents to any process. The claims are simply for the mechanism, and this, in its elements, is admittedly old. In the conclusion to which I have come in this case, it will be useless to set out the complainant's mechanism at large. I am of the opinion that the complainant's claims must be strictly interpreted, and are limited to the particular mechanism set forth. I am of the opinion, also, that the

defendant's machine, while accomplishing the same result, in much the same way, is not an embodiment of the complainant's mechanism. It seems to me that the fulcrum action of the defendant's machine, though performing, of course, the same function as that of the complainant's machine, is mechanically different, and is, in point of strength and durability, very superior. Indeed, the proof does not satisfy me that the complainant's machine is practical, and would answer the purposes of continual everyday strain; while the defendant's machine is constructed on such lines as instantly show its durability and strength.

A decree may be entered finding that the defendant's machine is no infringement of the complainant's patents, but containing no finding upon the validity of the complainant's patents, and dismissing the bill.

---

SEABURY et al. v. JOHNSON et al.

(Circuit Court, D. New Jersey. September 18, 1896.)

1. PATENTS—LIMITATION OF CLAIMS.

Courts are bound by the language chosen by the inventor in framing his claims, and they have neither the right nor the power to enlarge a patent beyond the scope of the claims, even though the patentee may have been entitled to something more than the words he has chosen to use will include.

2. SAME.

In a patent for an improvement in disinfectants, consisting of a particular form of sulphur candle, the patentee described a certain band as "preferably of metal," but in his claim mentioned only "a surrounding band of metal." *Held*, that the patent was limited to a candle having the band actually of metal, and was not infringed by one having a paper band so treated as to be incombustible, thereby accomplishing the same end.

3. SAME—IMPROVEMENT IN DISINFECTANTS.

The Shaw patent, No. 390,314, for an improvement in disinfectants, consisting of a particular form of sulphur candle, construed, and *held* not infringed.

This was a suit in equity by Seabury & Johnson against Johnson & Johnson for alleged infringement of letters patent No. 390,314, issued October 2, 1888, to Charles H. Shaw, for an improvement in disinfectants.

Edwin H. Brown and James C. Chapin, for complainants.

C. E. Mitchell and H. B. Brownell, for defendants.

GREEN, District Judge. The complainants have brought this suit to restrain the defendants from infringing letters patent of the United States granted to one Charles H. Shaw, for a "new and useful improvement in disinfectants." The letters patent are dated October 2, 1888, and are numbered 390,314. Practically, the invention is for a particular form of a "sulphur candle." In describing his invention, Mr. Shaw, in the specifications, referring to the accompanying diagram or drawing, says: