

Loewer and Blair patent a broader construction than is allowable in view of the prior state of the art. That construction practically invests the complainant, as the owner of the patent, with the exclusive right to use a machine of the Blanchard type in the cutting or trimming of shoe soles. We think, however, that at the date of Loewer and Blair's improvement in sole-cutting machines, no patent could rightfully issue for the broad combination in such machine of a revolving cutter and its shaft on a fixed frame, with revolving clamps to hold the rough material mounted on a shaft on a movable carriage, and a revolving form operating to vary the relative positions of the cutter and sole clamps. If, then, there is patentable novelty in Loewer and Blair's machine, it is to be found in the peculiar features of organization specified by them, and the claims must be limited accordingly. The specification of the Loewer and Blair patent describes, and the drawings illustrate, a three-part shaft, the pattern and the clamped sole leathers being held between the sections of the shaft in the manner specified, and a simultaneous and positive rotary movement is imparted to the two end parts of this shaft by actuating mechanism effecting a double drive. In the first claim of the patent the term "supporting shafts" must, we think, be construed to mean the described three-part shaft, and the phrase, "revolving sole clamps, E, E', \* \* \* substantially as described," must be taken as including the mechanism for producing the double drive. The double drive gear applied to the three-part shaft seems to us to be the novelty of this claim. This feature is not found in the machine of the appellant (the defendant below). His machine does not contain a three-part shaft nor the double-driving mechanism. The working organization of his machine conforms to that of the old King heel-trimming machine, and the hand of the operator turns the shaft to present the stock to the cutter. Upon our construction of this claim, the appellant's machine does not infringe the Loewer and Blair patent. The first is the broadest claim, and, as that claim is not infringed, there is no infringement of any of the other claims here in question.

These views require a reversal of the decree. Accordingly the decree of the circuit court is reversed, and the cause is remanded to that court, with directions to enter a decree dismissing the bill of complaint, with costs.

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#### BUZZELL v. WALKER.

(Circuit Court, D. Massachusetts. March 19, 1894.)

#### PATENTS—INVENTION AND INFRINGEMENT—ABRADING DISKS.

The Buzzell patent, No. 317,622, *held* valid and infringed as to claim 3, which is for an abrading disk, with a cushioned peripheral face oblique to its axis, and with a circumferential guard to sustain the abrading band, to be used in smoothing the breast of boot and shoe heels.

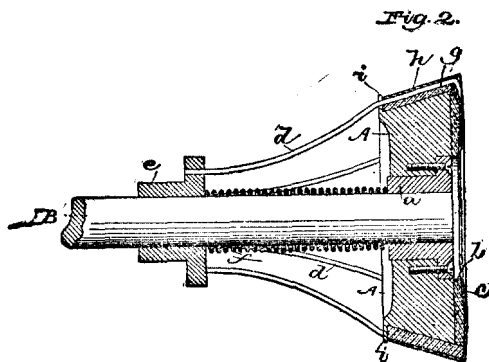
This was a suit in equity by John G. Buzzell against John Walker for the alleged infringement of a patent for an abrading disk for polishing the breast of the heels of boots and shoes.

Charles A. Taber, for complainant.

E. K. Philips, for defendant.

ALDRICH, District Judge. The plaintiff's letters patent are dated May 12, 1885, and numbered 317,622, and claim 3, on which he relies as covering his device, and the only one material, is in the following words:

"An abrading disk, formed with a cushioned peripheral face oblique to its axis, and with a circumferential guard, *i*, adapted to sustain the abrading band, *h*, and secure it in position upon the disk, substantially as specified."



An abrading disk manufactured in accordance with this claim is intended for use in evening and smoothing the breast of boot and shoe heels, and it is claimed that its combination and structure are such that it will operate rapidly and satisfactorily upon a concave heel front. This work was previously done by sandpaper held in the hand, and, to be done satisfactorily, required considerable time. I think the mechanism involved in plaintiff's device produces a combination not anticipated by prior art, and, when carried forward to a machine attached to a revolving shaft, becomes a practical and useful piece of machinery for use in the manufacture of boots and shoes. The invention or wheel in question has a beveled surface on its face, calculated to adjust itself to the concave surface of the front of the heel, and to work down close to the sole of the boot. It has a circumferential guard, which prevents the paper from sliding off the roll when in use. The defendant has sold wheels made in accordance with claim 3, and therefore has infringed the plaintiff's right. Let an injunction issue in accordance with these views, and, as an accounting is waived, the decree for plaintiff should be for nominal damages only.

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BUZZELL v. NORRIS.

(Circuit Court, D. Massachusetts. February 18, 1897.)

PATENTS—INVENTION—ANTICIPATION—ABRADING DISKS.

The Buzzell patent, No. 317,622, for an abrading disk for polishing the breast of boot and shoe heels, discloses a patentable combination, and was not anticipated by the Rogers patent, No. 227,839, or the Andr n patent, No. 238,201.