

Ice Co., 8 C. C. A. 480, 60 Fed. 87, 89. Counsel for defendant therefore strenuously contends that there was no patentable novelty in the claimed combination, or in the resultant operation. He contends that in the light of the prior art, and of the disclaimer by the patentee, there is nothing more than an aggregation of the old and well-known push devices and the quick pitch screw illustrated by Hoerle and described by Rhind. He further contends that those prior patents which show the result of slow screw and quick thrust by means of a ratchet and pinion would, if later, infringe the patent in suit, and therefore anticipate it, under the familiar rule. Complainant contends, as to these prior patents, that it does not appear they were anything more than mere paper patents, that there is no suggestion that they were capable of successful practical operation, and that in none of them is shown the conception of any combination in which an idler screw tube is so constructed as to provide the advantages of the screw adjustment and direct thrust in one combination. It has not been shown that the prior screw devices were commercially successful, or that they were intended to be so operated as to combine the screw adjustment and quick thrust. But I do not understand that the law necessarily imposes upon a defendant, who relies upon the prior art to limit the scope of a patent, the burden of proving that prior patents were useful, operative, or commercially successful, or that they stated all the undeveloped possibilities of the invention therein disclosed. It is not necessary that the patentee should have conceived the idea of all the uses of which his invention is capable. He is entitled to all the beneficial uses embraced within the scope of his invention. *Manufacturing Co. v. Cary*, 147 U. S. 635, 13 Sup. Ct. 472; *Dixon-Woods Co. v. Pfeifer*, 5 C. C. A. 148, 55 Fed. 390; *Manufacturing Co. v. Robertson*, 23 C. C. A. 601, 77 Fed. 985. Nor is the mere fact that a patented device is limited in operation or application, alone sufficient to destroy its relevancy in a consideration of the prior art. The development of new industries, the discovery of new products, the adaptation of old materials to new uses, may suggest improvements upon devices of the prior art, the principles of which are already sufficiently disclosed, although not fully developed, because not demanded by the prior existing conditions. In the application of this doctrine, patents have been held void for improved stamps required by new internal revenue laws; for new adaptations of gate guards for elevated railways; new forms of bicycle bells, pedals, and rubber tires. It is well settled that mere paper patents may negative patentable novelty, provided they sufficiently disclose the principles of the alleged invention, or provided the alleged objections could be obviated by mere mechanical skill. *Pickering v. McCullough*, 104 U. S. 310. "The very fact that a machine is patented is some evidence of its operativeness, as well as of its utility." *Dashiell v. Grosvenor*, 162 U. S. 425, 432, 16 Sup. Ct. 805. When, therefore, a prior patent appears upon its face to be relevant to the consideration of the prior art, I think the later inventor should show either that such device was not useful, or that it did not so disclose the principle of the later patent as to deprive it of its claim of patentable novelty. Com-

plainant has failed to show that these devices either lacked utility, or were incapable of successful practical operation.

Two illustrative exhibits were produced upon final hearing,—one by complainant, known as the “Rhind Lamp”; the other by defendant, known as the “Hoerle-Davis Lamp.” The Rhind lamp is constructed substantially in accordance with the specifications of the Rhind patent. Its operation is practically identical with that of the patented apparatus, as stated in the specification:

“The wick may be raised and lowered with care and accuracy by simply turning the operating nut, while, when it is desired to lift the wick very quickly, or push it down suddenly, the coupler is taken hold of, and a direct upward or downward thrust given the drawbar and stem, which will at once respond to such movement, owing to the coarseness of the threads,” etc.

The only material difference between the Hoerle-Davis patents and the Rhind lamp is that the screw on the latter is a somewhat quicker pitch than that shown in the Davis patent. I fail to find any inventive conception or patentable novelty in the patented construction or operation. But even if the patent, as limited to the precise construction described and claimed, could be sustained, it is not infringed by defendant. The construction of the defendant's device is best shown by a reference to the Davis patent, already considered, and by a comparison of its construction with that of the patent in suit. Each of these constructions has the wick band, the drawbar attached thereto, the operating sleeve by which the screw tube is suspended in the lamp fount, and the tube with the central perforated operating nut located at its upper end. As already stated, the screw of the Davis patent does not have a quick pitch, such as is described and shown in the Rhind specification and drawing. While the defendant's device does have such a quick-pitch screw, it does not have a stem “provided at its lower end with coarse screw threads,” and a tube “constructed with internal screw threads corresponding in pitch to the threads of the stem aforesaid.” Nor does it have any coupling connecting the upper end of the stem to the upper end of the drawbar for communicating movement from the operating stem to the drawbar. That the patentee in the claim in suit used the word “connected” in the ordinary sense of fastening by means of an intervening coupler, appears from the associated words, “a stem connected at its upper end with the upper end of said drawbar,” as well as from the specification, drawings, and other claims of said patent describing, illustrating and specifically covering said coupler, and is further shown by another patent taken out on the same day by this patentee, wherein he described, illustrated, and claimed an integral drawbar and stem. In the defendant's device such a single piece of wire fulfills the functions of drawbar and stem. Defendant's screw-tube device is like that shown in the Rhind, and illustrated in the Davis, patents. An arm extends laterally from the wick holder, and is provided with a nonrotatable collar or sleeve, so threaded as to operate in the external threads of the screw-tube. In this connection, I have not overlooked the contention of complainant for the application of the well-settled princi-