

fulness of the invention are affected. Looking, then, at the specification from its four corners, and seeking to give effect to all contained within it, it seems clear to us that the invention was intended to apply to all double-acting cylinder force pumps. The result accomplished by the invention was the removal of the plunger and valves without removing the pump from its fixed position. The actual invention applies as well to tubular well, driven well, and all double-acting force pumps in which the plunger rod and lower valve could be removed without unfastening the pump standard, and lifting out the entire pump mechanism. In such pumps the tubing is in fact the lower cylinder of the patent, the plunger and plunger rod being suspended therein by and connected with the upper mechanism of the pump. The statement in the specification that "the operation of the pump does not differ essentially from the operation of other double-acting bucket-plunger pumps" should not avail to narrow the construction which we think should be given the specification. The statement is correct, having manifest reference to the operation of the pump in the discharge of water. The operation is the same. The invention, however, consists in so constructing the pump as to permit the removable feature described. Under this construction of the specification and claim, we cannot doubt that the appellees have infringed. They make and sell pumps in all essential respects like that of the patent. They do not, indeed, make the lower cylinder, but they manufacture pumps to be used in tubular wells, the tube and valve placed therein supplying the lower cylinder and valve of the patent. Their pumps are inoperative and useless unless so constructed. The case presented is therefore one of contributory infringement. *Wallace v. Holmes*, 9 Blatchf. 65, Fed. Cas. No. 17,100; *Renwick v. Pond*, 10 Blatchf. 39, Fed. Cas. No. 11,702.

The judgment is reversed, and the cause remanded for further proceedings in conformity with this opinion.

SOCIETE FABRIQUES DE PRODUITS CHIMIQUES DE THANN ET DE MULHOUSE v. FRANCO-AMERICAN TRADING CO. et al.

(Circuit Court, S. D. New York. August 23, 1897.)

PATENT INFRINGEMENT SUITS—SALE BY GOVERNMENT OF INFRINGING GOODS—PRELIMINARY INJUNCTION.

A preliminary injunction will not be granted to restrain persons from disposing of alleged infringing goods which they have purchased at a sale by the United States marshal, and which were seized by the government for undervaluation, when it appears that complainant's representative was present at the sale, and gave no notification to bidders of its claim of infringement. The fact that the marshal told him not to make such a statement is immaterial, as the marshal had no right to prevent him from giving warning.

This was a suit in equity by the Société Fabriques de Produits Chimiques de Thann et de Mulhouse against the Franco-American Trading Company and others to enjoin alleged infringement of a patent. The cause was heard on motion for a preliminary injunction.

Philip Mauro, for the motion.
Charles E. Rushmore, opposed.

LACOMBE, Circuit Judge. I do not think a preliminary injunction should be granted restraining defendants from disposing of the goods purchased at the sale by the United States marshal, when the representative of the complainant was present at the sale, saw the goods bid for, and sold to defendants, and gave no notification to any one that such goods were claimed to infringe complainant's patent. The circumstance that the marshal told complainant's representative not to make any such statement does not change the situation. The marshal had neither power nor right to shut complainant off from the assertion of his claim in the presence of the bidders. In fact, it would have been fairer to all concerned if the marshal had himself announced that complainant insisted that the goods infringed his patent. No doubt, had such announcement been made, only a nominal bid for the goods would have been obtained; but that is immaterial. The federal government is not supposed to increase its revenues by selling goods, seized for undervaluation, in such a way as to impose upon bidders by what practically amounts to a misrepresentation. Motion denied.

PAUL BOYNTON CO. v. MORRIS CHUTE CO. et al.

(Circuit Court, D. New Jersey. July 26, 1897.)

1. PATENTS—PATENTABLE INVENTIONS—AGENCIES AFFORDING AMUSEMENT.

Inventions affording amusement and diversion are classed among patentable subjects, but only the mechanical agencies employed can be patented; and unless these agencies are new either in themselves or in combination, or a new result is obtained by the co-operation of agencies, they will not be protected by a patent.

2. SAME.

In view of the old art of launching ships, there is no patentable invention in the combination of an inclined railway located near a body of water, and a boat-shaped car or toboggan, adapted to move downward over the railway, and, when it enters the water, to float thereon, and be propelled forward by the momentum derived from its descent.

3. SAME—LIMITATION OF CLAIMS.

When a claim in its natural meaning is so broad as to be invalid, the court cannot, in order to sustain it, read into it elements or restrictions which are not set out therein, and not referred to in the specifications except by implication.

4. SAME—TOBOGGAN SLIDE—MECHANICAL EQUIVALENTS.

In a boat-shaped toboggan, adapted to run upon an inclined railway, and enter a body of water at its foot, and be propelled forward thereon by momentum, there is no invention in providing the runners thereof with guide plates to prevent derailment, these being mere mechanical equivalents of the flanged wheels of the prior art.

5. SAME.

There is no invention in providing a boat-shaped toboggan, adapted for use with an inclined railway terminating on a body of water, with spray deflectors, to prevent the occupants from being splashed with water by the rapid movement of the toboggan in the water, since devices of this character have long been used for a similar purpose on boats moving swiftly through the water.