

11,279; *Albright v. Trimming Co.*, 2 Ban. & A. 629, Fed. Cas. No. 147.

Complainants may take the usual decree for injunction and accounting.

E. INGRAHAM CO. v. E. N. WELCH MFG. CO. et al.

(Circuit Court, D. Connecticut. June 11, 1898.)

No. 943.

1. PATENTS—NOVELTY AND INVENTION—EVIDENCE.

Evidence of reduction in cost, improved appearance, increased strength, large sales, and inequitable conduct by defendants is only relevant where the question of novelty is in doubt.

2. SAME—BASES FOR CLOCKS.

There is no invention in merely cutting the under surface of the old molding section used in forming bases for clocks, so as to drive the nails in from below instead of above.

3. SAME.

The Wright patent, No. 594,309, for a base for clocks, is invalid on its face for want of invention.

This was a suit in equity by the E. Ingraham Company against the E. N. Welch Manufacturing Company and others for infringement of a patent for a base for clocks, granted to William H. Wright, November 23, 1897.

George D. Seymour, for complainant.

W. E. Simonds and Mitchell, Bartlett & Brownell, for defendants.

TOWNSEND, District Judge. To this bill for infringement of patent No. 594,309, for base for clocks, granted November 23, 1897, and assigned to complainant, defendants demur for invalidity appearing on the face of the patent.

The claim is for—

“A framed clock base, consisting of several wooden molding sections framed together, and each provided upon the inner face of its upper edge with an integral, inwardly projecting assembling flange, extending throughout its length, and formed by cutting away a portion of its inner face, a panel placed upon the upper edges of the said framed molding sections so as to rest upon the assembling flanges thereof, and fastening devices passed upward through the said flanges into the lower face of the panel, which they firmly bind to the framed molding sections, substantially as described.”

In short, the patentee asserts a monopoly in clock bases provided with such a flange, through which tacks may be driven from underneath. In support of this claim, counsel for the patentee states that he proposes to rely on proof of reduction in cost, improved appearance, increased strength, large sales, and inequitable conduct on the part of defendants. These facts, if shown, would be relevant only where the question of patentable novelty is in doubt. Here it is clear that the flanges, even if they are not the ordinary construction employed in brackets, shelves, and moldings, are, at most, the result of the exercise of the merest mechanical skill.

The patentee, in his specification and drawings, shows that his invention consists in cutting the under surface of the old molding section so as to drive the nails in from below instead of above. It is impossible to conceive of any evidence which would dignify such a manifestly mechanical expedient with the name of invention. The demurrer is sustained.

THE EUGENE.

(Circuit Court of Appeals, Ninth Circuit. May 12, 1898.)

No. 430.

1. APPEAL AND ERROR—FINALITY OF DECREE.

A decree in admiralty, awarding libelants a definite sum, adjudging that a maritime lien exists therefor, and directing the sale of the vessel and payment of the proceeds into the registry to await the further order of the court, is a final appealable decree.

2. SAME—MARITIME LIENS—BREACH OF CONTRACT.

There can be no maritime lien against a vessel for breach of a contract of carriage where she never in fact entered on the performance thereof, and neither the libelants nor their baggage were ever received on board, or placed in the care or control of the master. 83 Fed. 222, affirmed.

Appeal from the District Court of the United States for the Northern Division of the District of Washington.

Williams, Wood & Linthicum, for appellant.

John C. Hogan and Patterson & Easley, for appellees.

Before GILBERT and ROSS, Circuit Judges, and HAWLEY, District Judge.

ROSS, Circuit Judge. The appellant is claimant of the steamboat Eugene, and brings this appeal from the decree of the court below against the steamboat and in favor of the libelants and of Walter M. Cary, Fred M. Lyons, and Edward J. Knight, named in the decree as interveners, each in the sum of \$800, and directing that a writ of venditioni exponas issue against the vessel to satisfy the decree, with costs. Exceptions to the original libel having been sustained (83 Fed. 222), the libel was amended. As amended, it alleges, in substance, that the defendant Portland & Alaska Trading & Transportation Company was, during the times therein mentioned, a common carrier by water of passengers, baggage, and freight between the city of Seattle, Wash., and Dawson City, on the Yukon river, one E. B. McFarland being its general manager, and one C. W. Gould its transportation agent; that during all of the times mentioned the trading and transportation company owned and operated, in connection with its said business, the steamboat Eugene, and also operated, in the same connection, a steamship known as the Bristol; that on, prior, and subsequent to August 11, 1897, the Eugene and the respondent company caused it to be publicly and extensively advertised that the Eugene, in tow of the Bristol, would leave Seattle for Dawson August 23, 1897, and would transport passengers to the number of 350, or less, including their baggage and freight, not to