form by means of which a new or better result is produced; it was this which constituted my invention; this you have copied, changing only the form.' * * * Where form and substance are inseparable, it is enough to look at the form only. Where they are separable; where the whole substance of the invention may be copied in a different form, it is the duty of courts and juries to look through the form for the substance of the invention,—for that which entitled the inventor to his patent, and which the patent was designed to secure. Where that is found, there is an infringement; and it is not a defense that it is embodied in a form not described, and in terms claimed, by the patentee. * * * The patentee, having described his invention, and shown its principles, and claimed it in that form which most perfectly embodies it, is, in contemplation of law, deemed to claim every form in which his invention may be copied, unless he manifests an intention to disclaim some of those forms."

Having determined that the so-called Bingham or Trent machine and the Bradley machine are infringements, the question arises: Is L. C. Trent, respondent herein, responsible, as the manufacturer, user, or seller thereof, as an infringer?

Respondent denies the making, using, or selling of any mill like the Bingham mill, claiming to have acted in the capacity only of an architect and contractor in erecting the Bingham mill for the owner, C. J. Hodge, of Houghton, Mich. The testimony shows that the firm of L. C. Trent & Co. furnished the plans for the mill; that the machinery was principally made by the owner at his manufactory in Michigan, substantially in accordance with the plans furnished by Trent & Co.; that the mill building was erected at the North Last Chance mine at Bingham, Utah, by L. C. Trent & Co., and the machinery placed therein by them and fitted for operation, they receiving for such services an added percentage to the cost of material and labor supplied. It is claimed by respondent that no charge was made for the plans, they being furnished as an act of courtesy between two firms having considerable business dealing with each other.

It is also shown that the firm of L. C. Trent & Co., of which respondent is and was a member, advertised, by means of circulars and otherwise, to furnish crushing mills of a design similar to the one erected at Bingham, and, later, of the Bradley design; that the firm has sold and erected Bradley mills; that, while never having had a foundry or machine shop or iron works of their own, they have advertised to furnish mills, and, when the orders were secured, have invited bids from various manufacturers for the making of the required machinery, in accordance with plans and specifications designed and furnished by themselves. Thus far has the respondent been a maker of the infringing machines.

With regard to the Bingham mill, respondent's position, in the most advantageous light in which his own statements place him, is that of an active contributor to the infringement. By reason of the long experience of 25 years in that line of business, he was fully aware of what he was doing, the selection of the form of the crushing mill and its designing was by respondent's firm, and he profited by the adoption of his plans at least to the extent of a commission received for services rendered as contractor and builder. The Bradley and Bryan mills are so similar as to be regarded as one and the same by

many purchasers. Thus respondent has reaped pecuniary benefit in the sale of Bradley mills, by reason of the established merit of the Bryan mill, the patent in controversy. A decree will therefore be entered in favor of the complainant.

UNIVERSAL WINDING CO. v. WILLIMANTIC LINEN CO.

(Circuit Court of Appeals, Second Circuit. January 25, 1899.)

No. 15.

1. PATENTS—INVENTION—PROCESS AND PRODUCT—PATENTS FOR COPS.
   The Wardwell patents, No. 480,158, for a method of winding cops, and No. 486,745, for a cop which is the product of such process, *held* void for want of patentable novelty.
2. SAME—MACHINE FOR WINDING COPS.
   The Wardwell patent, No. 480,157, for a machine for winding cops, construed, and *held* not infringed.

Appeal from the Circuit Court of the United States for the District of Connecticut.

Edwin H. Brown and Edward N. Dickerson, for appellant.
Chas. E. Mitchell and John P. Bartlett, for appellee.

Before WALLACE and LACOMBE, Circuit Judges, and WHEELER, District Judge.

PER CURIAM. The discussion of all the material questions involved in this cause in the opinion by Judge Townsend in the court below (82 Fed. 228) is so full and satisfactory that we do not deem it necessary to go over them again in an opinion by this court. We do not mean to be understood, however, as indorsing his conclusion that the product patent is void because of the prior process patent. The applications by the patentees for both patents were pending in the patent office concurrently, the application for the product patent being the earlier. As we are of the opinion that the product patent is void for want of novelty, for the other reasons assigned by Judge Townsend, it is unnecessary to consider whether it is void in view of the earlier issue of the process patent, and do not intend to pass upon that question. The decree is affirmed, with costs.

TRIPP GIANT LEVELLER CO. v. BRESNAHAN et al.

(Circuit Court, D. Massachusetts. February 9, 1899.)

No. 321.

1. PATENTS—VALIDITY—EFFECT OF FORMER DECISIONS.
   Where a patent has been declared valid after protracted litigation, it raises a very strong presumption in its favor, and new alleged anticipatory matter must clearly convince the court that the former decisions were wrong. If any doubt exists, the former adjudications should stand.