

Accepting, then, the interpretation which the complainants put on the patent, to the effect that the curtain of the claim is one mounted as described in detail in the specification, the only debatable questions which remain are involved in the application to the proofs in the record of the rules in regard to patentable invention and anticipation found in *Packard v. Lacing-Stud Co.*, 16 C. C. A. 639, 70 Fed. 66, 68, and *National Cash-Register Co. v. Boston Cash Indicator & Recorder Co.*, 156 U. S. 502, 515, 15 Sup. Ct. 434, cited and applied by the circuit court of appeals for this circuit in *Heap v. Mills*, 27 C. C. A. 316, 82 Fed. 449, 453, 456. There can be no reasonable doubt of the novelty of the precise combination covered by the complainants' patent, or of its utility; and, as to the questions of invention and anticipation, it seems to us that, according to the trend of the decisions in this circuit, the proofs in this record, as applied to the rules stated in the cases cited, sufficiently support the complainants. As the proofs are of the same classes which are frequently discussed in suits on patents, and as we assume that, in view of the importance of the interests involved, they will be reviewed on appeal, we deem it of no advantage to undertake to analyze them in this opinion.

Some reference has been made to the differences in the letter of the three claims. We do not, however, understand that the respondent considers that it would obtain any advantage by relying on these differences; and, under the decisions of the circuit court of appeals in this circuit, we are satisfied it would be of no avail, in this case, to discriminate between them. The respondent also submitted a proposition to the effect that the complainants' device is a mere aggregation. We understand, however, that this proposition was submitted only on the theory that we sustained the respondent's construction of the patent. Certainly, on the construction which we give the patent, there is no support whatever to the proposition that it covers only an aggregation, as that word is properly understood. Let there be a decree, in accordance with rule 21, for an accounting and an injunction on all the claims of the patent, the question of costs being reserved until the final decree.

---

PALMER v. CURNEN et al.

(Circuit Court of Appeals, Second Circuit. March 1, 1899.)

No. 69.

PATENTS—VALIDITY AND INFRINGEMENT—HAMMOCKS.

The Palmer patent, No. 272,311, is void, as to claims 4 and 8, for want of novelty, unless they are construed as limited to a combination in which the suspension devices are the stirrups described in the specification, and in which the stretcher is provided with them as the means for attaching the suspension cords; and, if so limited, *held*, that they were not infringed.

Appeal from the Circuit Court of the United States for the Southern District of New York.

This was a suit in equity by Isaac E. Palmer against Cornelius C. Curnen and Edmund Steiner for alleged infringement of letters

patent No. 272,311, granted February 13, 1883, to the complainant, for improvements in hammocks. The circuit court held that, even if the patent was valid as to the claims in issue (Nos. 4 and 8), they were not infringed by defendants' devices. 84 Fed. 829. From this decision the complainant appealed.

Edwin H. Brown, for appellant.

Curtis T. Benedict, for appellees.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

PER CURIAM. The court below was of the opinion that claims 4 and 8 of the patent in suit, unless limited to the specific devices described in the specification, were void for want of novelty, and, if so limited, were not infringed by the hammocks of the defendants. The appellant, while acquiescing in that decision so far as it relates to claim 8, insists that as to claim 4 it was erroneous. Claim 4 is as follows:

"The combination, with a hammock, a stretcher or bar arranged beyond the end thereof, and a suspension stirrup or device, of suspension cords converging from the hammock towards the stretcher, and attached to the stretcher at two or more points, and suspension cords converging from the stretcher towards the stirrup or suspension device, and attached to said device, substantially as described."

Every element of this claim, broadly considered, was old, severally and in combination. This sufficiently appears by the patent granted Vincent P. Travers, November 18, 1879. That patent describes a hammock hung upon cords which run from the body of the hammock to a notched bar or stretcher, arranged beyond the end thereof, from whence they converge to a suspension device. The notches in the stretcher are provided to space and hold the cords, and when, as the patent states may be done, two or more cords are put into the same notch, the cords converge from the hammock to the stretcher, as well as from the stretcher to the suspension device. The hammock of the patent in suit is made of any suitable material. The stretcher is arranged transversely to the hammock body, and at a little distance therefrom, and is provided with at least two suspension devices, one secured at each end. The suspension devices are of stirrup form, and consist of a bar of metal with arms extending from opposite ends towards one another, to a point where they can be opened and closed. Besides the stirrups which are secured to the stretcher, there is another and similar one arranged at a distance from the stretcher, and opposite the center thereof, from which the whole hammock is hung. The suspension cords converge from the hammock body to the stretcher, and are attached to it, and grouped by the stirrups; those on one side of the center of the hammock body converging towards one stirrup, and those on the other side towards the other stirrup. A group of suspension cords also converges from each stirrup on the stretcher to the suspension stirrup. The converging of the cords from the hammock body to the stretcher and from the stretcher to the suspension stirrup effects what the specification terms a "triangular suspension." But the specification also points

out that the stretcher may be provided with any number of stirrups, and the suspension cords arranged in any number of groups; and it is obvious that, when this is done extensively, the triangular suspension practically disappears from the hammock. The claim specifies only those parts which co-operate to effect the triangular suspension. But it cannot include equivalents for these parts, because the hammock of the Travers patent contains equivalent parts which perform the same function in combination. When three or more of the central cords of that hammock are put into the exterior notches of the stretcher, the feature of triangular suspension is introduced, though in a crude and less artistic manner than in the hammock of the complainant's patent. We are of the opinion that the claim is void for want of novelty, unless it can be saved by limiting it to a combination in which the suspension devices are the stirrups of the specification, and in which the stretcher is provided with them as the means for attaching the suspension cords. As the hammock of the defendants does not contain these devices, they are not infringements of the claim. The decree is affirmed, with costs.

---

SMITH v. MAXWELL.

(Circuit Court, N. D. New York. April 12, 1899.)

1. PATENTS—INVENTION—UNITING OLD DEVICES.

In over-check guides for bridles, a closed loop with a friction roller was old, and an open loop without the roller was also old. *Held*, that there was no invention in merely uniting these two devices, so as to form an open loop with a friction roller.

2. SAME—LOOPS FOR BRIDLES.

The Smith patent, No. 315,672, for an improvement in loops for bridles, is void for want of invention.

This was a suit in equity by George L. Smith, individually and as administrator, etc., against Harry B. Maxwell, for alleged infringement of a patent for improvement in bridles.

J. C. Clayton, for complainant.

Milton E. Robinson, for defendant.

COXE, District Judge. This is an equity action founded upon letters patent, No. 315,672, granted April 14, 1885, to George L. Smith for an improvement in loops for bridles. The patentee states that prior to the alleged invention over-check guides for bridles had been "formed with inwardly turned ends separated sufficiently to permit the rein to be inserted edgewise between them, yet not enough to permit the accidental escape of the rein, and closed loops have been provided with a closed loose sleeve or roller. These features, separately considered, are not therefore claimed by me."

The claim is as follows:

"The herein-described guide for check-reins, etc., consisting of uprights A A, having ends b b bent laterally toward each other, connecting-bar B, and loose sleeve or roller C."