

The defendant's stamp is of a single thickness of paper not gummed upon the back, but with a blank strip protecting the portions to be cut out from the paste upon the barrel. The blank strip was described in the plaintiff's specification. The difference is that in the use of the plaintiff's stamp the adhesive material is applied to the back of the stamp, while in the use of the defendant's stamp the adhesive material is applied to the head of the barrel. The method of construction of the two stamps is substantially the same, even assuming that the "backing piece" was not intended to be used when the entire stamp is composed of one piece of paper.

An attempt was made to attack the Locke patent for want of novelty, but the two antedating patents which were somewhat feebly relied upon by the defendant, viz., the English patent of Edward Wilkins, dated November 13, 1851, and the patent of Albon Man, dated September 3, 1867, refer to devices so manifestly unlike the Locke stamp that further examination is unnecessary.

The utility and patentability of the Locke stamp cannot be controverted, in view of the testimony which was introduced by the defendant respecting the various devices which the government had used, and the great success of the device which was finally adopted.

Let a decree be entered for the plaintiff directing an account and an injunction—the terms of the decree as to injunction to be settled upon hearing.

CLENDININ *v.* THE STEAM-SHIP ALHAMBRA, etc.

(*District Court, E. D. New York.* July 23, 1880.)

1. COLLISION—SCHOONER'S LIGHTS.—The side lights of a schooner were so placed that when one stood at the stem of the vessel he could see both the red and the green light at the same time, without moving his head. *Held*, that the schooner was in fault for carrying lights so arranged, when an approaching steamer was thereby misled as to the course she was pursuing, and a collision ensued.

2. SAME — SAME — DUTY OF STEAMER. — In such cases, however, the steamer is not absolved from fault, where the change of lights indicated action on the part of the schooner, not only uncalled for but improbable, and where the starting of the engine of the steamer, after it had once been stopped, was the immediate cause of the disaster.

W. W. Goodrich, for libellant.

Butler, Stillman & Hubbard, for respondent.

BENEDICT, D. J. The collision that gave rise to this action occurred in the night-time, on the high seas, between the schooner *Owen P. Hines* and the steam-ship *Alhambra*. The schooner was sailing free, at the speed of about five knots an hour, upon a north-north-east course. The steamer was steaming at the speed of from seven to eight knots an hour, upon a south-west course. Both vessels had green and red lights set. The vessels were upon crossing courses, with the green light of the schooner displayed towards the steam-ship as she approached the schooner from the leeward.

It is proved by those on board the steamer that the schooner's green light was seen by them at a considerable distance off, but heaving so as render it unsafe for the steamer to attempt to cross the schooner's bows, wherefore the steamer's engine was stopped. Afterwards it was started again at half speed, when shortly the vessels came in collision, the port bow of the steamer and the starboard bow of the schooner coming in contact. After the collision the steamer passed on without having spoken the schooner, and soon the schooner sunk, her crew being saved by taking to the boat.

These facts, which are undisputed, would leave the case a clear one for the libellant were it not that the steamer produces the positive testimony of her master, wheelsman, look out, and a man on deck, that after the green light of the schooner was seen the light disappeared, and the red light of the schooner became visible, which gave rise to the supposition that the schooner was undertaking to avoid the steamer by bearing away, and led the steamer to resume her voyage. From the schooner there is the testimony, equally positive, of three witnesses—all who were on deck—that no change