

in the last cited cases deference is paid to the decision in the *Gaylord Case*. I cannot yield my assent to the same. I do not think the offense a continuing offense. If so, a man may be taken from Maine to California to be tried for a misdemeanor. Nor that the word "writing," in the statute, embraces or was intended to embrace a sealed letter. The indictment is quashed, and the defendant discharged.

POST and others v. T. C. RICHARDS HARDWARE Co.¹

(Circuit Court, D. Connecticut. December 8, 1885.)

1. PATENTS FOR INVENTIONS—DESIGN—DESCRIPTION OF, IN BILL FOR INJUNCTION—DEMURRER.

The bill alleged invention of "a new and original design for a curtain and loop," and that a patent, giving date and number, was granted thereon, but gave no other description of the invention, and made no reference to the patent for a further description. *Held*, on demurrer, that the bill did not sufficiently describe the invention.

2. SAME—REQUISITE OF INJUNCTION BILL TO RESTRAIN INFRINGEMENT.

It is necessary that a bill in equity for an injunction against the infringement of letters patent for an invention should contain such a description of the invention, as patented, as will apprise the court of its nature and character, and the particulars in which the improvement consists.

3. SAME—HOW SUPPLIED.

This may be done by a full and accurate description in the pleader's own language, care being taken not to depart from the legal effect of the language of the patent, or by employing the language of the specification, or by a reference to and profert of the patent. The last-named course is the usual and most convenient one.

In Equity.

Wm. Edgar Simonds, for plaintiff.

Frank L. Hungerford, for defendant.

SHIPMAN, J. This is a demurrer to a bill in equity for an injunction against the alleged infringement of a design patent. The bill alleges that the inventor invented "a new and original design for a curtain and loop," and that letters patent therefor, of a specified number and date, were granted and delivered to the inventor. The usual averments are made in regard to the execution of the letters patent. No other description of the invention is given, and no reference is made to the patent for a further description. The ground of the demurrer is that the bill "does not set out the nature, character, or description of the pretended patented design referred to in said bill, nor the letters patent alleged to have been obtained therefor, nor make any profert of the same."

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¹ Reported by Charles C. Linthicum, Esq., of the Chicago bar.

description of the invention, as patented, as will apprise the court of its nature and character, and the particulars in which the improvement consists. This may be done by a full and accurate description in the pleader's own language, care being taken not to depart from the legal effect of the language of the patent, or by employing the language of the specification, or by a reference to and profert of the patent. The last-named course is the usual and most convenient one. The bare averment that the design was "a design for a curtain and loop" is not sufficient.

The demurrer is allowed, with leave to amend.

THOMPSON *v.* HALL and others.¹

(Circuit Court, E. D. New York. July 24, 1885.)

1. PATENTS FOR INVENTIONS.

Upon a full consideration of the evidence in this case, *held*, that Moses C. Johnson was not the first inventor of the combination described in the patent No. 232,975, of October 5, 1880, to Henry G. Thompson, as assignee of Johnson.

2. SAME.

The decision of this case turned on a question of time, as to when a certain model was made, and, the evidence showing it to have been made at a period subsequent to that alleged by plaintiff, it was held that his assignor was not the first inventor of the improvements claimed by the patent.

In Equity.

Horace Barnard, for complainant.

Amos Broadnax and *J. Edgar Bull*, for defendants.

BENEDICT, J. This action is founded upon letters patent No. 232,975, dated October 5, 1880, issued to Henry G. Thompson, assignee of Moses C. Johnson, for an improvement in cutting-pliers. The bill charges infringement, and prays for damages and an injunction.

The question at issue is whether the combination described in the plaintiff's patent was invented by Moses C. Johnson while an employe of a corporation styled "The Interchangeable Tool Company," which corporation was engaged in the manufacture of cutting-pliers under a patent issued to the defendant Hall, then the president of that corporation. In support of the averment that Moses C. Johnson was the first inventor of the combination in question the plaintiff produces a model, known in the case as "Defendants' Exhibit C," which model embodies the invention in question, and was made, as the plaintiff has sought to prove, while Johnson was in the employ of the Interchangeable Tool Company. On the other hand, the defendants assert, and have sought to prove, that this model was not made by Johnson while employed by the Interchangeable Tool Company, but after John-

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