

WHEELER, J. This cause rests upon patent for invention No. 202,412, dated April 16, 1878, issued to the orator for an improvement in the construction of collar and sleeve buttons. The specification describes the making of such buttons by striking up the post from the back, forming them in one piece, thickening the post at the base for strength, and soldering the head to the post. There are two claims,—one for the improved process of constructing the button; and the other for the button, whose tubular post and back are formed in one piece, and having the metal thickened at the base of the post. The defendants' buttons are formed wholly in one piece, but without using the orator's process. The patent describes the prior method of making such buttons, which was to make the head, back, and post separately, and then unite them by soldering them together; and their defects, which were that frequently they were imperfectly united. When well made, they were not essentially different in form or function from those made according to the patent, or those of the defendants. The thickening of the post at the base is not material. They were generally strong enough there before; but, if not, the strengthening of them at that place would be too obvious to support a patent for doing that. The orator invented a mode of making such buttons which was new and very useful, and for which he deservedly had a patent; but the buttons, when made, were not new, except that they were made by that new mode. For them there was no ground for a patent. In the old buttons the post and back were not formed of one piece, but when they had been united, and become, with the head, a button, they were of one piece for the purposes of the button, as much as if they had always been in one piece. The thing patented in this part of the patent was not new, and this part of the patent is, apparently, invalid on that account. *The Wood Paper Patent*, 23 Wall. 563; *Cochrane v. Badische Anilin & Soda Fabrik*, 111 U. S. 293, 4 Sup. Ct. Rep. 455; *McKloskey v. Du Bois*, 8 Fed. Rep. 710, and 9 Fed. Rep. 38; *McCloskey v. Hamill*, 15 Fed. Rep. 750.

Let a decree be entered dismissing the bill of complaint, with costs.

COOKE v. GLOBE FILES Co. and others.

(Circuit Court, S. D. New York. March 16, 1887.)

PATENTS FOR INVENTIONS—PATENTABLE INVENTION—LETTER AND INVOICE FILE
—“RE-ENFORCE PIECE.”

Letters patent No. 282,275 were granted July 31, 1883, to William A. Cooke, Jr., for a letter and invoice file, the principal claims of which were a combination of tape called a “re-enforce piece” and the attachment of tapes to gussets in a certain manner. The said claims showed no new part or function which was not known before, but merely a mode of strengthening such files in places where they were previously weak, without requiring more than the skill of a good workman to reach the result obtained. *Held*, that said claims of the patent did not cover any patentable invention, and a bill to restrain infringement must therefore be dismissed.

In Equity.

William E. Gleason, for plaintiff.

R. H. Parkinson, for defendants.

WHEELER, J. This suit is brought upon patent No. 282,275, dated July 31, 1883, granted to the orator for a letter and invoice file for the reception and classification of papers. The specifications of the patent describe a file having pockets formed of leaves and partitions connected by gussets at the ends, with a piece of tape of linen or other suitable material pasted or otherwise applied to the gussets, and connected to the sides of the file by having its ends fastened between the sides and outside covers. The object of the tape is set forth to be to strengthen the tape of the gussets, and give stiffness to the parts to which it is attached, and to connect the opposite sides of the file by a stronger and more durable material than the gusseted ends of the pockets are required to be made of. There are five claims; the first, second, and fifth of which are for the gusseted bottoms and ends and partitions and flap. The third is for the combination of the tape called the "re-enforce piece" with the ends, partitions, and connecting pieces. The fourth is for the combination of the tapes attached to the gussets, and their ends held between the sides and the outside covers, with the gusseted ends of the pockets. The use of the re-enforce piece is the only infringement complained of, and applies only to the third and fourth claims. The case shows, and it is conceded in argument, that all the rest of the structure of the file is older than the plaintiff's invention. This piece added no new part or function to what was known and in use before, but merely strengthened the parts of the files in places where they were weak and needed strengthening, to which they were attached. Question is made as to whether the addition of this piece for this purpose constituted a patentable invention. What was needed in the prior structures was merely to make them stronger where they were shown by use to be too weak. The invention in this patent strengthened them by obvious means in these weak places. Neither the discovery of anything new, nor the application of genius to the things known, nor anything beyond the skill of a good workman, appears to have been required or exercised in the accomplishment of this result. Careful and repeated consideration of this subject, in view of the cases which have been decided bearing upon it, leads to the conclusion that the part of this patent claimed to be infringed does not cover any patentable invention. The invention does not appear to be any greater than that in *Gardner v. Herz*, 118 U. S. 180, 6 Sup. Ct. Rep. 1027, which was held not to be sufficient to support a patent. No reference to any other decided case, or to any other point in this case, is deemed to be necessary. Bill dismissed, with costs.

HOFF and another v. IRON-CLAD MANUF'G Co.

(Circuit Court, S. D. New York. April 27, 1887.)

PATENTS FOR INVENTIONS—INFRINGEMENT—COAL-HODS.

The first claim of letters patent granted June 19, 1888, to Charles Hoff, for "the method of forming the body of a coal-hod, or other similar vessel, which consists, substantially as before set forth, in first forming a cone-shaped body from a suitable blank, then folding in the cone-end of said body in crimps to form the bottom," if not void for want of novelty, having been anticipated by the letters patent of Great Britain, No. 3,578, of November 3, 1873, granted to Haseltine, must be limited to a method consisting among other things in folding in the cone-end of the body to form the bottom of the vessels in a series of annular ribs or rings; and upon this construction of it the defendant does not infringe in forming a part of its coal-hod bottoms by folding in the sides and then closing the space between the ends with a cap; modifying, on rehearing, 27 Fed. Rep. 307.

In Equity. On rehearing. For original opinion see 27 Fed. Rep. 307.

After the original decision, the defendant obtained leave to amend its answer and an order for a rehearing on the ground of newly-discovered evidence, which consisted chiefly of the letters patent of Great Britain, No. 3,578, of November 3, 1873.

George J. Murray and A. v. Briesen, for complainants.

Ernest C. Webb and Frederic H. Betts, for defendant.

WALLACE, J. In view of the English patent to Haseltine of November 3, 1873, which has been introduced by the defendant, since it was permitted to amend its answer and have a rehearing of the cause, the first claim of the complainants' patent, if not void for want of novelty, can only be sustained by limiting it to one in which the method consists among other things in folding in the cone-end of the body to form the bottom of the vessel in a series of annular ribs or rings. It is doubtful whether the claim is capable of this interpretation. If it is not, the Haseltine patent anticipates it, because that patent clearly describes the method as applied to cylindrical vessels made of any suitable material. The method is the same whether applied to a cylindrically shaped body or a tapering or cone-shaped body. Without deciding that novelty is negatived; it suffices that upon the narrowed construction which it must receive in order to save it, the defendant does not infringe.

The bill is dismissed, with costs.