

effort of the defendants to show that L. A. Chichester invented the Kenna chair is not sustained by sufficient proof.' Nor can I agree with defendants that the special devices, such as the slotted bars which are made the subject-matter of the first claim of the Kenna patent, must by implication be incorporated into the second claim. My conclusion is that defendants' chairs made under the Chichester patents infringe the Kenna patent, and that defendants' chairs made under the Parker patent do not infringe, and a decree may be drawn accordingly.

Decree for complainants.

LEARY and others v. HOHENSTEIN.

(Circuit Court, S. D. New York. December 2, 1887.)

PATENTS FOR INVENTIONS—INFRINGEMENT—INJUNCTION.

Letters patent for a shade or globe holder for candles which should descend as the candle burned down, were applied for by Daniel Leary. A part of his claims were rejected as already covered by British patents, whereupon he, on April 25, 1882, obtained a patent on an amended claim in which the modification consisted of two upper rings, which he claimed rendered the hold of the shade upon the candle more secure. *Held*, that the improvement did not exhibit sufficient mechanical skill or ingenuity to warrant the issuance of a preliminary injunction.

H. Aplington, for plaintiffs.

Goepel & Raegener, for defendant.

LACOMBE, J. This is an application for a preliminary injunction to restrain the defendant from making, selling, or using shade or globe holders for candles, described and claimed in letters patent No. 257,027, granted to the plaintiff on April 25, 1882. The shade-holders manufactured respectively by plaintiffs and defendant consist of a light metal ring about three-quarters of an inch in width, with a flange bent inward from its upper edge intended to fit over the top of a candle, and connected by two strips of metal with a heavy ring intended to encircle the candle about three-quarters of an inch below the upper ring or cap. The strips of metal which connect the ring and cap are continued upwards, flaring outwards, and supporting a larger ring at a proper elevation above the candle, upon which upper ring the shade is to be placed. The shade-holder is supposed to descend as the material of the candle is consumed, thus maintaining the shade always at the same elevation above the ignited wick.

From the file wrapper and contents, certified copies of which are presented by the defendant, it appears that in his original application plaintiff claimed substantially all the meritorious features of this apparatus. A part of his claims, however, were rejected as being covered by existing English patents. Thereupon plaintiff modified his claim to the one

allowed in the patent subsequently issued to him, which claim describes an article differing from the samples now made respectively by plaintiffs and defendant in that there are *two* upper rings, one connected with the lower weighted ring, and the other connected with the flaring support of the shade, the latter ring slipping over the former or cap ring. Without the English patents, it is impossible to say what particular exhibition of inventive genius it was which, in the opinion of the patent-office, entitled plaintiff to receive any letters patent at all. On the presentation of his amended claim he requested its allowance for the reason that his shade-holder is superior to that of the English patents, "in that it is not so liable to fall off, owing to the fact that it extends down upon the candle to such a distance that it would be almost impossible to knock it off." When experience shows that a cap intended to fit over a candle and support a shade is liable to be tipped over, it certainly calls for no great exertion of mental power, nor even for any appreciable mechanical experience, to remedy the difficulty by extending the annular cap, or its equivalent, a connected ring, sufficiently far down the candle to insure a proper purchase.

The application for preliminary injunction must be denied. The plaintiff may, if he can, demonstrate the patentability of his invention upon the trial.

THAXTER v. BOSTON ELECTRIC Co. and others.

(*Circuit Court, D. Massachusetts.* December 8, 1887.)

PATENTS FOR INVENTIONS—INFRINGEMENT—LOCKS.

Letters patent No. 315,186, dated April 7, 1885, issued to George E. Thaxter for improvement in knob-locking and releasing mechanism for locks, *held* infringed by patent No. 323,918, granted to Crockett & Allen, August 11, 1885, for improved locking and unlocking mechanism for electric locks; the difference between the two being that the tumbler in the latter was in the form of a toothed wheel, and for the locking slide engaging with the slot in the tumbler was substituted a pivotal clutch or dog engaging with the toothed wheel, and a swiveled spindle for the solid spindle.

In Equity.

W. A. Macleod, for complainant.

J. E. Abbott, for defendant.

NELSON, J. This suit was brought for the infringement of patent No. 315,186, dated April 7, 1885, granted to the plaintiff for improvements in knob-locking and releasing mechanism for locks. The object of the invention is declared to be the providing of mechanism whereby the latch or lock-bolt of the door of a building occupied by several different tenants, all using the same entrance, may be automatically locked so that it cannot be retracted by the knob or key, and can be released and made capable of movement at the will of a person on any floor of the building by closing an electric current.