

THOMPSON *et al.* v. RAND-AVERY SUPPLY CO.

SAME v. COFFIN.

(Circuit Court, D. Massachusetts. February 5, 1889.)

PATENTS FOR INVENTIONS—INFRINGEMENT—PRELIMINARY INJUNCTION.

In a suit for the infringement of a patent, a preliminary injunction will be denied where the court is doubtful on the question of infringement, and preliminary injunctions in other cases for the infringement of the same patent have been denied.

In Equity. On motions for preliminary injunctions.

Suits by Henry G. Thompson and others against the Rand-Avery Supply Company, and by same complainants against L. P. Coffin, for the infringement of letters patent No. 136,340, February 25, 1873, to Samuel W. Shorey, for an improvement in machines for forming staple-seams in leather. For a description of the invention, see *Thompson v. Gildersleeve*, 34 Fed. Rep. 43.

J. E. Maynardier, for complainants.

H. D. Donnelly, for defendants.

COLT, J. In order to grant the motion for a preliminary injunction now prayed for I must be satisfied that the defendant uses the inclined or retreating anvil, *n*, which is one of the elements of the third claim of the Shorey patent, or its equivalent. Upon an examination of the papers before me, I have considerable doubt whether defendant's rest or supporter, which has no incline or bevel, can be said to be the equivalent of the inclined anvil, *n*, or whether the defendant can fairly be said to use the combination of devices, or the equivalents contained in the third claim of the Shorey patent. Judge BLODGETT, in the case of these plaintiffs against the E. P. Donnell Manufacturing Company,¹ where the same question arose, refused an injunction; and after the opinion of Judge WHEELER in the case against the American Bank-Note Co., 35 Fed. Rep. 203, he still refused to modify his opinion. It further appears that Judge SHIRAS of the district of Minnesota denied similar motions in several cases brought by these complainants against different defendants.¹ In view of the doubt in my mind on the question of infringement, I think I ought to follow the rulings of Judge BLODGETT and Judge SHIRAS and deny the motion. Motion denied.

The same order may be entered in the case of the complainants against L. P. Coffin.

¹Not reported.

ROYER v. COUPE *et al.*

(Circuit Court, D. Massachusetts. March 12, 1889.)

PATENTS FOR INVENTIONS—EXTENT OF CLAIM—PROCESS FOR TREATING HIDES.

The claim in letters patent No. 149,954, April 21, 1874, issued to Herman Royer is "the treatment of the prepared raw hide in the manner and for the purposes set forth." The method of treatment described was (1) the removal of the hair from the hide by means of sweating; (2) drying the hide perfectly hard; (3) inserting it in water for 10 or 15 minutes; (4) fulling or softening it by mechanical means; (5) spreading on it a certain warm liquid mixture; (6) fulling in the mixture in a suitable machine; (7) moistening the hide 4 or 5 times during the day; (8) stretching it, and cutting it into suitable pieces. The specification states that the patentee avoids the use of lime, acid, or alkali, and that it is necessary to use a preparation substantially such as that described to render the raw hide fit for use and durable, and contains the words "after the removal of the hair from the hide by means of sweating,—a process familiar to every tanner," etc. It was first sought to limit the claim to a method of preparing raw hides for belting by the fulling and bending operation and the preserving mixture, but the claim was refused by the patent-office, both of those things being old. *Held*, that the claim covers the whole treatment, and is not infringed where the first step of the process is omitted.

In Equity.

Bill by Herman Royer against William Coupe and others for the infringement of a patent.

M. A. Wheaton and Livermore & Fish, for complainant.

B. F. Thurston, W. H. Thurston, and Manuel Eyre, for defendants.

COLT, J. This suit is for the alleged infringement of letters patent No. 149,954, dated April 21, 1874, granted to Herman Royer, the complainant, for an improvement in the treatment of raw hide for belting. The patent is for a process consisting of a series of steps which are set forth in the specification. The language of the claim is as follows: "The treatment of the prepared raw hide in the manner and for the purposes set forth." The method or treatment described in the specification consists of a series of eight successive steps: (1) The removal of the hair from the hide by means of sweating; (2) drying the hide perfectly hard; (3) inserting the hard, dried hide in water for 10 or 15 minutes; (4) fulling or softening the hide by mechanical means; (5) spreading upon the hide in a warm, liquid state a mixture composed of 20 parts tallow, 2 parts wood tar, and 1 part resin; (6) fulling or stuffing this mixture into the hide in a suitable machine; (7) moistening the hide with water 4 or 5 times during the day; (8) stretching the hide, and cutting into pieces suitable for belting. In the construction of this patent, the question meets us at the outset whether the claim was intended to cover all or only a part of the successive steps which compose the Royer treatment, as described in his specification. The ambiguity arises from the wording of the claim. The language is: "The treatment of the prepared raw hide in the manner and for the purposes set forth." Does this mean the method of preparing raw hide in the manner set forth, or do the words "prepared raw hide" signify a hide which has been subjected to one or