

RECENT DECISIONS RELATING TO PATENTS.

United States Circuit Court.—District of Indiana.
GOTTFRIED vs. THE CRESCENT BREWING COMPANY.—
PATENT BARREL PITCHING.

Gresham, J.:

Letters patent, No. 42,580, issued to J. F. T. Holbeck and M. Gottfried, May 3, 1864, for a method of preparing casks for receiving pitch or other melted substance, to render them impervious, by forcing an air blast through a grate fire, the heated air and products of combustion being thence driven into the cask through a pipe leading from the top, examined and held to be invalid, whether construed to be for the use of a hot blast generally or for the use of a de-oxygenated and non-combustible blast.

The invention is anticipated by the prior German publication, *Der Bierbrauer*, describing a method of drying the interior of casks or vessels by warm or hot air by an apparatus substantially like the plaintiff's in construction, mode of operation, and effect, and differing only in the particular that the hot air is drawn from the furnace through an exhaust passage by a fan located between the furnace and valve, and thence driven with the products of combustion into the cask. The applicant has merely applied the old devices to a new use.

Merely applying old and well-known mechanical contrivances to a new purpose will not support a claim for a patentable invention or process.

The patent in this case was not even for the application of an old machine to a new use, it appearing that the interior of moulds and casks had been previously heated by a hot blast for the same purpose, but by different means.

United States Circuit Court.—Southern District of New York.

SCHNEIDER vs. LOVELL et al.—PATENT LAMP BURNER.
Blatchford, J.:

This suit is brought on reissue letters patent, No. 7,511, granted to the plaintiff, February 13, 1877, for an improvement in shade holders for lamps, the original patent, No. 182,973, having been granted to Carl Votti, as inventor, October 3, 1876.

One of the defenses set up in the answer is that in the specification of the reissue there is not given, as required by the statute, a description of the invention, and of the process of making, constructing, and using it in such full, clear, and exact terms as to enable any person skilled in the art or science to which it appertains to make, construct, and use the same; nor is there explained in or by said specification the principle of the alleged invention and the best mode in which said Votti has contemplated applying that principle so as to distinguish it from other inventions, and that therefore the patent is void.

A patent for an improvement in shade holders for lamps claimed, *inter alia*, a shade or globe so arranged and constructed that the burner performs its required functions without the use of a chimney, the specification affording no further explanation of the principle which is to govern the construction of the shade as to its size and proportions, and it appearing from evidence produced that a shade made of the shape, size, and proportions illustrated in the drawings would not give light when used alone to the same degree as when used with an ordinary chimney, and that the shades actually used by the patentee and the defendants were not the shade of the drawings, but were the result of further adaptation and experiment, *Held*, that the words "whereby the burner performs its functions without the use of a chimney" mean that the arrangement will give as good a light as with the use of a chimney.

That the most favorable view that can be taken of the patent is that it is for a shade of the size, height, and proportion shown in the drawings.

That as the defendants' shade was different from that shown in the drawings, it did not infringe.

United States Circuit Court.—District of Rhode Island.

WHITE et al. vs. HEATH.—PATENT LAMP.
Colt, D. J.:

This is an application for a preliminary injunction. The complainants, having acquired title by assignment to a certain patent issued to Charles S. Westland for an improvement in lamps, charge the defendant with an infringement. This patent (No. 206,061) was issued July 16, 1878.

The object of this invention was to avoid the danger from fire in the event of an explosion of a lamp in which kerosene or this inflammable fluid might be used, by means of a closed receptacle or chamber of glass or other fragile material charged with carbonic acid gas fitting about or into the oil reservoir.

A patent for the application of the power of carbonic acid gas to extinguishing flames in an ordinary lamp containing inflammable oil by means of a closed receptacle holding such gas is infringed by one who uses the main elements of the combination, but has made certain changes in the gas-holding receptacle—viz., alterations in form and location—whereby the receptacle is less liable to get broken, and at the same time the gas comes into more immediate contact with the flames in case of an explosion.

One who uses the combination secured by the patent is none the less an infringer because he has made changes in details of construction which might be patentable as improvements.

An injunction is seldom refused where exclusive posses-

sion is shown for some time, though not for a long period, where large and numerous sales have taken place without dispute, and where the validity of the patent is not questioned by the defendant.

Injunction granted before any sales had actually been made by the defendant where it appeared probable from the circumstances that the defendant is about to engage in the business.

The mere assertion of the defendant in the affidavit attached to his answer that he has no intention of making and selling any of the infringed articles during the pendency of the suit is not a good reason for withholding an injunction.

United States Circuit Court.—Southern District of New York.

COBURN et al. vs. SCHROEDER et al.

Wheeler, J.:

This cause has been further heard upon motion of the defendants to have the decree opened and leave granted to put in as further defenses to the patent an English provisional specification, left by James Ritchie Butchard, January 22, 1866, at the office of the Commissioner of Patents in England, with a petition for a patent, and other evidence of prior knowledge and use. The invention is understood to have been made in February, 1866. The introduction of the provisional specification would be unavailing unless it would bring the case within the third division of section 4,920 Revised Statutes—

"That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof."

In *Smith vs. Goodyear Dental Vulcanite Company* (93 U. S., 416) the invention was found to have been made in the spring of 1855, and there was an English provisional specification and patent in evidence. The court, at page 498, on this subject said:

"Of the English patent of Charles Goodyear it is enough to say that though the provisional specification was filed March 14, 1855, the completed specification was not until the 11th of September following. It was, therefore, on the last-mentioned date that the invention was patented."

This specification is printed in a book entitled "Specification of Patents," and as printed in 1866 found in the Astor Library, in the city of New York; and it is urged that this would show a sufficient description in a printed publication. If this would be a sufficient printed publication it would not be printed until the specification had been left for some time at least, and this invention was so soon after that that this publication would not appear to be, and probably was not, made until after the invention.

Motion to have a decree opened and leave granted to put further defenses to the patent denied where it appeared that the new evidence would not affect the result.

An invention is not patented in England, within the meaning of the third division of section 4,920 Revised Statutes, until the completed specification has been filed.

An English provisional specification is not a bar to the grant of a patent in this country, and when relied on as a printed publication under section 4,920 Revised Statutes, it seems that the defendant must show that it was actually published before the date of the patentee's invention.

Motion for opening a decree on account of an alleged change of issue made by the filing of a disclaimer by the patentee, denied where it appeared that the effect of the disclaimer was merely to limit the claim of the patent and the issue, and where the parties had full opportunity to try, and diligently availed themselves of the opportunity to try, the question which would be open if the case should be again opened.

Motion denied.

Fast Ocean Steamers.

The movement of Mr. Jacob Lorillard, of New York, to inaugurate a line of very fast ocean steamers, to ply on the European route, appears to have stirred up some talk toward attempting something similar in England. The *London Engineer* says there is a rumor afloat that a couple of vessels, each about 510 feet long, 50 feet beam, and 32 feet deep, are to be built next year. They are each to be propelled by twin screw engines of the collective power of 17,000 horses indicated, and they are to attain a regular ocean speed of 21 knots, or a little more than 24 miles an hour. The distance from Liverpool to New York is 3,016 knots, and at 21 knots the voyage would be made in 144 hours, or six days.

We see no reason to doubt that rumor is in this respect accurate enough as regards figures; whether the ships will or will not be built is quite another question. The *Engineer* does not quite see how they could be made to pay. A ship of the kind would burn 12.5 tons of coal per hour, or, in 144 hours, 1,800 tons. Allowing for contingencies she must stow at least 2,300 tons. The space occupied by the boilers and engines would of necessity be very great. The result would be that there would be practically no cargo space left, and it is found by experience that it is not easy to make a ship which crosses the Atlantic in less than seven days pay unless she carries at least 2,500 tons of valuable cargo. Such ships as those to which we have referred could not carry more than 1,000 tons at the utmost, and they would have to rely on high passenger rates for their profits. But it is very doubtful if, even in the present day, when the desire for great speed transport is intense, passengers would be found

willing to pay excessively high rates for the sake of being landed in Liverpool or New York five or six hours sooner than they would be if they voyaged by a slower steamer.

As far back as thirty years ago a little paddle steamer, the *Banshee*, made the voyage between Holyhead and Kingstown, sixty-four miles, in three and a half hours, and this not once or twice but frequently. More recently the London and Northwestern Railway Company put on two steamers, the *Rose* and the *Shamrock*, which have done very well; but a third vessel, the *Violet*, which made her first trip about two years ago, may claim to be the fastest steamer carrying passengers afloat, having attained a speed of very nearly 21 knots, and making the run from Dublin to Holyhead, a distance of about sixty-nine miles, in a little over three hours. There is no reason to doubt that with a little more boiler-power the *Violet* could make the run to Dublin in three hours. If we turn to the Channel passage we find that, although it is claimed that the run between Dover and Calais can be made in 80 minutes, this result is only attained now and then; yet there is no reason why, by the use of suitable steamers, it should not be made in less than 60 minutes, even in rough weather, and in about 50 minutes on fine days.

A torpedo boat, of about 600 indicated horse-power, can be made to run for three hours at 20 knots, or 23 statute miles, per hour. The displacement of such a boat is about 50 tons, so that for each ton we have 12-horse power indicated. A boat large enough for the intended purpose need not have a displacement of more than 300 tons, and being made of good form, a speed of 23 miles an hour might probably be secured with 6 indicated horse-power per ton. As there would be plenty of room by comparison with a torpedo boat in such a vessel as we speak of, it would be possible to use boilers of much better proportions than can be got into a torpedo boat. Four locomotive boilers, for example, might be employed which would readily generate all the steam needed, the consumption of coal not exceeding about four tons per hour. The weight of each boiler with water and fittings may be taken at 12 tons, while that of the engines need not exceed 30 tons, or in all 68 tons. Adding screw-propeller, shafting, and flooring plates, fire bars, etc., the total weight of machinery could be kept down to 80 tons, really durable engines and boilers being obtained. The bunkers need not carry more than 10 tons of coal. It will be seen that there would remain a large margin for providing passenger accommodation forward and aft, the boilers and engines being amidship. As the boat would have to be driven at full speed in all weathers, it would be necessary to fit her with a hurricane deck or turtle back from end to end; on top of this a safe and pleasant promenade might be provided for fair weather, but in rough the passengers would have to content themselves below. But there would be no difficulty in fitting up two spacious saloons with heavy plate glass windows, which windows would stand a good deal of rough usage from the sea. In very rough weather they would be covered with dead lights, and the saloon would be illuminated from the deck, and at night by the electric light. As the voyage would occupy in all less than one hour, and every conceivable expedient would be provided to make passengers comfortable, the hardship even of being compelled to remain below would not be great. Of course, it is obvious that a craft intended to go straight through the seas which she could not get over would require special arrangements for housing the lookout and the steersman. In this way an absolutely safe and extremely fast and comfortable steamer might be produced. As her voyage would be of very short duration, the fan blast might be used without risk of clinking up the tube plates, while the greatest possible facilities would exist for keeping the engines in proper order. In a word, the conditions under which the machinery would be worked would be exactly like those existing in the case of express locomotives.

The Cattle Plague.

An alarming plague among cattle has appeared recently in Pennsylvania, Virginia, West Virginia, North Carolina, and Alabama. At the Agricultural Department the disease is supposed to be splenic fever, or Texas fever, as it is popularly known. Dr. Salmon, one of the department inspectors, pronounces the West Virginia outbreak a virulent form of this disease, and it is probable that the others are like it.

If the disease is really splenic fever then no time should be lost in the application of the Pasteur system of inoculation as a cure. Valuable papers on this subject, with illustrations, will be found in the *SCIENTIFIC AMERICAN SUPPLEMENT*. For example, in *SUPPLEMENT 300* is given Professor Pasteur's remarkable address before the International Medical College, London, in which the nature and results of his discoveries are described. In 323 is a very able paper by J. W. L. Thudichum, M.D., of London, embracing an account of the most recent researches into the theory of living contagium, and their application to the prevention of diseases in animals. In 337 is an account, with illustrations, of the practical application of the Pasteur system in the inoculation of animals.

Seeking a Common Prime Meridian.

The Senate passed, July 28, the joint resolution introduced by Mr. Flower, authorizing the president to invite delegates from all nations to meet with American delegates in Washington, for the purpose of fixing upon a meridian proper to be employed as a common zero of longitude and standard of time-reckoning throughout the world.