



GRAHAM v. JOHN DEERE CO.

216 F. Supp. 272 (1963) | Cited 0 times | W.D. Missouri | March 18, 1963

On February 8, 1963, this Court entered its Memorandum Opinion, Findings of Fact, and Conclusions of Law in this cause. At that time the parties were granted ten days in which to suggest any proposed changes or modifications in the said opinion and findings. The suggested changes and modifications were duly filed by both parties, and duly considered by the Court, and certain changes and modifications were considered necessary by the Court. Therefore, the Memorandum Opinion, Findings of Fact, and Conclusions of Law entered herein on February 8, 1963, are hereby set aside and the following Amended Memorandum Opinion, Findings of Fact, and Conclusions of Law are entered in their place:

This is an action for infringement of United States Letters Patent Number 2,627,798, which was issued to plaintiff William T. Graham on February 10, 1953. The patent was issued for a 'Clamp for Vibrating Shank Plows,' and will hereinafter be referred to as the '798' patent. Plaintiffs seek a permanent injunction, an accounting, and damages. Defendants contend that the 798 patent was void or invalid because of lack of novelty or invention, because of anticipation, because of a prior use more than one year prior to the date of the application for such patent, and further because the subject matter of the patent would have been obvious to a person of ordinary skill in the art due to the status of the prior art. Defendants also assert the claim of 'file wrapper estoppel,' that is, that because of certain proceedings in the Patent Office during the processing of the 798 patent, plaintiffs are estopped to assert infringement by defendants. Defendants also contend that, if the patent is valid, it has not been infringed and defendants have filed a counterclaim seeking a declaratory judgment to the effect that the 798 patent is void and invalid. Defendants rely on the prior patents and devices as showing the state of the prior art as follows: United States Patents Patent Date of Issue Patentee/-- /-- /--211,003 Dec. 17, 1878 Dunbar231,268 Aug. 17, 1880 Carter284,278 Sept. 4, 1883 Cobb287,965 Nov. 6, 1883 Rix417,775 Dec. 24, 1889 Drader, et al.503,288 Aug. 15, 1893 Moore1,141,804 June 1, 1915 Lamprell, et al.1,805,599 May 19, 1931 Roberts1,982,862 Dec. 4, 1934 Erdman2,029,249 Jan. 28, 1936 Noell, et al.2,493,811 Jan. 10, 1950 Graham (Plaintiff) Foreign Patents /-- Australian /--1,056 Mar. 19, 1926 Prior111,910 Nov. 08, 1940 Traeger Danish /--57,391 Mar. 18, 1940 Petersen

