

inventive faculty in any considerable degree, then the change is treated as merely a colorable variation or a double use, and not as a substantive invention.

The application of an old contrivance to a new use is not patentable. Thus, where a certain kind of wheels had been used on other carriages than railway carriages, Lord Abinger, C.B., held that the plaintiff could not claim a patent merely for the use of such wheels upon railway carriages ; and where a patent claimed as the invention of a patentee, a process of curling palm leaf for mattresses, but it appearing that hair had long been prepared by the same process for the same purpose, it was held to be a mere double use of an old process.

The mere quality of cheapness or other superiority in the material of which an article is made, disconnected with any new or different mode of applying that material in the process of making the thing, has not been held to be the subject of a patent.

It is well settled that a prior experiment will not invalidate an invention subsequently completed by another ; such an experiment must have been brought to a practical completed form, capable of producing some useful result. He is the inventor and is entitled to the patent who has completed the machine and made it capable of useful operation, although others may have previously had the idea and made some experiments towards putting it into practical form. Prior machines, in order to defeat a patent for subsequent machines, must have been working machines, and not mere experiments. They must either have actually done the work or have been capable of doing it.

When a prior foreign patent or a printed publication of prior foreign invention is relied upon to defeat a patent, the description and drawings therein must contain and exhibit a substantial representation of the patented improvement, 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 practice the invention, to the same practical extent as he would be enabled to do if the invention was derived from a prior patent in this country.