

BOYD, C.

MAY 9TH, 1913.

UNITED INJECTOR CO. v. JAMES MORRISON BRASS  
MANUFACTURING CO.

*Patent for Invention—Combination of Parts—Novelty—Utility  
—New and Useful Result—Infringement—Trade Name—  
Injunction—Damages.*

Action for infringement of the plaintiffs' patent for improved inspirators and their trade mark and trade name.

D. L. McCarthy, K.C., for the plaintiffs.

G. H. Watson, K.C., and S. C. Smoke, K.C., for the defendants.

BOYD, C.:—This patent is for a combination of parts, and it is not anticipated by another patent granted to the same patentee for another combination of parts, the constituents of which are not the same as in the impeached patent.

I had no doubt at the hearing as to the utility of the patent. It was strongly urged that what the plaintiff had put in his last patent was substantially described to the world in the drawings and parts of the earlier patent. The lack of novelty in the gauge bolster was said to be because it represented what was called in the former patent the correcting ring or collar, and that the ring or collar was the equivalent of the gauge bolster if the adjustment of parts by increase or decrease of thickness on the under part of the leg of the fulcrum bracket was substituted.

It was sought to support this position by the familiar doctrine in patent law that, if the prior inventor shews one way of carrying out his invention, he is entitled to claim it for all other ways. This rule applies when the invention is in respect of a principle, and not the case of a combination of old parts producing a new and useful result.

The application of this doctrine is to be found discussed in *Chamberlain v. Broadfield*, 20 R.P.C. 584, and *Consolidated Car Heating Co. v. Came*, [1903] A.C. 509.

Under the prior patent, when the parts of the machine are assembled for the purpose of being sent out of the shop ready to be operated, a collar or correcting ring of the right thickness is put in between the leg of the fulcrum bracket and the top of the casing. When the machine thus set up is tested, it always