

U.S. Supreme Court
Garretson v. Clark, 111 U.S. 120 (1884)

Garretson v. Clark
Argued January 15, 1884
Decided March 24, 1884
111 U.S. 120

NOTES: Some would speak to *Garretson* as the origin of 'entire market value rule'. There is no calculation, simply evidence in the context of patents. Causation and damages must be supported by evidence.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF NEW YORK

Syllabus

When a patent is for an improvement of an existing machine or contrivance, the patentee in a suit for damages for infringement must either show by reliable, tangible proof that the value of the machine or contrivance as a whole is due to the use of his patented invention or he must separate and apportion, by proof of the same character, the part of the defendant's profits which are derivable from the use of it in order to establish a claim for more than nominal damages.

This was a suit in equity for infringement of a patent for an improved mop head. The sole question raised was whether the evidence of damages warranted a judgment for more than nominal damages.

MR. JUSTICE FIELD delivered the opinion of the Court.

In this case the court below sustained the plaintiff's patents, adjudged that the defendants were infringers, and directed a reference to a master to ascertain and report the profits and gains made by the defendants. The master reported that no proof was presented to him that they had made any profit or that the plaintiffs had suffered any damages. The court sustained the report, and the decree allowed the plaintiffs only nominal damages.

From this decree the appeal is taken. *Garretson v. Clark*, 15 Blatchford 70.

The patent was for an improvement in the construction of mop heads, which may be described with sufficient accuracy as an improvement in the method of moving and securing in place the movable jam or clamp of a mop head. With the exception of this mode of clamping, mop heads like the plaintiff's had been in use time out of mind. Before the master, the plaintiff proved the cost of his mop heads and the price at which they were sold, and claimed the right to recover the difference as his damages. This rule was rejected, and, no other evidence of damages being offered, the master reported as stated. When a patent is for an improvement, and not for an entirely new machine or contrivance, the patentee must show in what particulars his improvement has added to the usefulness of the machine or contrivance.

He must separate its results distinctly from those of the other parts, so that the benefits derived from it may be distinctly seen and appreciated. The rule on this head is aptly stated by Mr. Justice Blatchford in the court below:

"The patentee," he says, "must in every case give evidence tending to separate or apportion the defendant's profits and the patentee's damages between the patented feature and the unpatented features, and such evidence must be reliable and tangible, and not conjectural or speculative, or he must show by equally reliable and satisfactory evidence that the profits and damages are to be calculated on the whole machine, for the reason that the entire value of the whole machine, as a marketable article, is properly and legally attributable to the patented feature."

The plaintiff complied with neither part of this rule. He produced no evidence to apportion the profits or damages between the improvement constituting the patented feature and the other features of the mop. His evidence went only to show the cost of the whole mop and the price at which it was sold. And, of course, it could not be pretended that the entire value of the mop head was attributable to the feature patented. So the whole case ended, the rule was not followed, and the decree is therefore

Affirmed.