

Case No. 16,789. UNITED STATES & FOREIGN SALAMANDER FELTING CO. v.
MERRIMACK MANUF'G CO.
SAME v. LAWRENCE MANUF'G CO.

{2 Ban. & A. 167;¹ 9 O. G. 202.}

Circuit Court, D. Massachusetts.

Oct., 1875.

PATENTS—INFRINGEMENT—STEAM BOILERS.

1. The defendants coated the pipes of steam boilers with an inner coating of a mixture of clay and asbestos, crushed or ground, with the addition of a little hair and some other fibrous substance. The next coat was a mixture of clay and charred fiber of cocoa-nut, or ground cane, sawdust, wool or shoddy. Outside of this was a thin wash of lime with a slight mixture of hair. Outside and around the second coat in some instances was a mass of fiber wood covered with lime. *Held*, that this “was an infringement of the first claim of complainant’s patent for a composition for coating the exterior of steam boilers, pipes or other heated surfaces composed of asbestos and lime-putty, charcoal and pumice-stone, or their equivalents.
2. *Held* to infringe the second claim of complainant’s patent for a composition for the same purposes, composed of asbestos and lime-putty.

In equity.

G. E. Betton, for complainant.

G. L. Roberts, for defendants.

SHEPLEY, District Judge. These are actions at law against the defendants for alleged infringements of letters patent No. 4,134, dated September 27, 1870, reissued to the complainants as assignees of John Riley and Charles W. Bissell for an improvement in compositions for covering steam-boilers, steam-pipes, etc., and also for alleged infringements of letters patent No. 114,711, dated May 9, 1871, and letters patent No. 108,055, dated October 4, 1870, both to John Riley, of Troy, New York, assignor to the complainants, for an improvement in compositions for covering steam-boilers, etc.

The reissue No. 4,134 described the essential part of the invention as consisting in the employment of lime-putty, or lime mixed with water, so as to be of the consistence of glazier’s putty, with some non-conducting fibrous material, such as paper-pulp, and with pulverized earthy materials, which are light, porous, and are non-conductors of heat, such as plaster of paris, water-lime, cement sand, soap-stone, or black lead.

The invention described in letters patent No. 114,711 consisted in the employment of a combination of asbestos and lime-putty, either with or without the other ingredients hereinafter named, as a coating for steam boilers and pipes. The other ingredients named were charcoal and pumice-stone, or their equivalents.

The invention described in letters patent No. 108,055 consisted, so far as the invention related to the covering of steam-boilers, in the addition of ground gypsum, or plaster, or pumice-stone to the composition described in the reissued patent No. 4,134.

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The defendants coat their pipes with an inner coating of a mixture of clay and asbestos crushed or ground, with the addition of a little hair and some other fibrous substance. The next coat is a mixture of clay and charred fiber of cocoa-nut or cane sawdust ground, wool, or shoddy. Outside of this is a thin wash of lime, with a slight mixture of hair. Outside of the second coat, in some instances, is a mass of fiber wound around the second coating. This covering of cord or fiber is covered with lime.

This coating is an infringement of the first and second claims of letters patent No. 114,711, the first claim being for a composition for coating the exterior of steam-boilers, pipes, or other heated surfaces, composed of asbestos and lime-putty, charcoal, and pumice-stone, or their equivalents, and the second claim for a composition for the same purposes composed of asbestos and lime-putty.

Defendants use the asbestos and whitewash, which is the same as lime-putty in this composition, and clay, which is also proved in this composition of matter to be a well-known equivalent for the lime-putty. They also use the combination of asbestos, lime-putty, and charcoal.

A large number of American and English patents are introduced in evidence as tending to show want of novelty. A careful examination of all these patents fails to afford any satisfactory proof that the patent No. 114,711 is void for want of novelty. The nearest approach to the composition of matter patented to the plaintiffs is to be found in the feltings or sheets of asbestos and lime, which were not plastic like the compositions of matter in the Riley patents, but were wrapped or fastened around the pipes or boilers. These, although most nearly approximating the invention of Riley, do not anticipate it.

Judgment is to be rendered for the plaintiffs against the Merrimack Manufacturing Company, for infringement of the first and second claims of patent No. 114,711, for three hundred and fifty dollars, and against the. Lawrence Manufacturing Company for seventy

and forty one-hundredths dollars damages, with interest from the date of the respective writs.

{For other cases involving reissue patent No. 4,134 (original 95,517), see note to United States & Foreign Salamander Felting Co. v. Asbestos Felting Co., Case No. 16,787.)

{For other cases involving patent No. 114,711, see Cases Nos. 16,787a and 16,788; also 4 Fed. 813, 816.}

¹ [Reported by Hubert A. Banning, Esq., and Henry Arden, Esq., and here reprinted by permission.]