

BERNARD AND ANOTHER V. HEIMANN AND
OTHERS.*Circuit Court, S. D. New York.* October 7, 1881.1. LETTERS PATENT—HEAD-
COVERINGS—NOVELTY.

Letters patent granted to Robert Gray, September 9, 1879, for an improvement in head-coverings,—the claim being for a head-covering consisting of a support of buckram or the like, a top layer of flock, and a canton-flannel or other similar lining, substantially as and for the purpose described,—are not anticipated by the Kendall turban, Bracher's frame, the Morse hat, or the hats of 1876 of the Novelty Company.

S. J. Gordon, for plaintiffs.

J. H. Goodman, for defendants.

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BLATCHFORD, C. J. This suit is brought on letters patent granted to Robert Gray, September 9, 1879, for an "improvement in head-coverings." The specification, which is accompanied by and refers to a drawing, which represents a sectional side view of a hat embodying the invention, says:

"This invention relates to the manufacture of hats, bonnets, or other head-coverings with a top layer of flock. Hats of this description have been made by applying the flock to a buckram support, but have invariably been stiff owing to the fact that in order to give the article the required body or strength it was necessary to use a heavy or thick piece of buckram. One objection to this hat is the stiffness referred to, it being desirable in some cases to furnish a soft hat, and another the visibility of the buckram tending to defeat the object of the flock-layer, which is to produce a felt-like article. My invention is a head-covering, consisting of a support of buckram or the like, a top layer of flock, and a canton-flannel or other similar lining, whereby the article is rendered capable of taking a soft finish,

while both surfaces thereof have the appearance or semblance of felt—one of plain felt and the other of napped felt. In the drawing the letter A designates the support, B the flock-layer, and C the canton-flannel or other similar lining. In carrying out my invention I first cement the lining, C, to a piece of buckram, or other like fabric, by a suitable adhesive substance, with the nap of the lining exposed, and then press the two together in any usual or suitable manner to the desired shape. In lieu of canton flannel the fabric known as ‘glove lining’ may be used. I now apply to the buckram a layer of cotton, woolen, or other flock, this process consisting in coating the buckram with an adhesive substance, and strewing the flock thereon in finely-powdered form. The article is then in a state for trimming. The buckram, A, supports both the flock-layer, B, and the lining, C, and being re-enforced by the lining, a light or thin piece of such material may be used, rendering the article pliable or soft, substantially like soft felt. The appearance of the article, moreover, is felt-like, inasmuch as the lining has the semblance of napped felt and the flock-layer that of plain felt.”

The claim is as follows:

“A head-covering consisting of a support of buckram or the like, a top layer of flock, and a canton-flannel or other similar lining, substantially as and for the purpose described.”

The only defence is want of novelty. It is plain that the hat of the patent must be a hat made by pressing the materials into the shape of a hat, and not made, the top in one piece, the side crown in another, and the brim in another, and then these joined. There must also be—

(1) A layer of flock on a support of buckram, or the like; (2) a support of buckram, or the like, next the flock, with a coating of adhesive substance on the buckram, on which the flock is strewn; (3) a canton-flannel or other 402 similar lining on the face of the

buckram, to which the flock is not applied, with the napped face of the canton flannel exposed, and not next to the buckram.

The Kendall turban, defendants' Exhibit No. 3, has no side crown or brim. Irrespective of this, it is not satisfactorily established that that article had in it any stockinet support, or anything but canton flannel, with flock applied directly to the unnapped face of the canton flannel. Bracher's frame, No. 6, if made with the unnapped face of the canton flannel exposed, had only flock enough put on the buckram to take an impression of the straw braid, and was made, not for use in that condition as a hat, but solely to be stamped as an imitation of a straw hat. The flock was put on only as a pulp on which to emboss, and the flock, by the embossing, lost its identity and parted with all resemblance to felt. The Morse hat, No. 13, is a flocked buckram hat, with a strip of canton flannel put in separately as a brim. Hats such as the Novelty Company hats of 1876, made of canton flannel, muslin, and flock, with the napped face of the canton flannel not exposed, were not the Gray hat. It is plain that cementing the nap to the buckram tended to destroy the pliability or softness aimed at by Gray, by reason of the absorption of the nap by the cement, and that there could be no appearance of napped felt.

The case is one where there was sufficient invention to support the patent, and there must be a decree for the plaintiffs, with costs.

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