

IRWIN AND ANOTHER V. METROPOLITAN
TELEPHONE & TELEGRAPH CO. AND
ANOTHER.

Circuit Court, S. D. New York. October 21, 1881.

1. LETTERS PATENT.

Neither claims 1 and 2 of letters patent No. 209, 266, nor claim 3 of letters patent No. 225, 388 are infringed by the defendant's instrument.

F. H. Betts, for plaintiffs.

C. Smith and *J. J. Storrow*, for defendants.

BLATCHFORD, C. J. I think the proper and necessary construction of claims 1 and 2, of No. 209, 266, is that the normal pressure of the electrodes must be obtained by means of gravity, counteracted partly by a delicate retractile spring, elastic in the direction opposed to gravity. The spring must suspend the needle against the force of gravity. The defendants' instrument does not employ gravity to secure pressure, nor a spring to modify the force of gravity, but it obtains the normal pressure of the electrodes by the direct strain of a flat spring. As to No. 225, 388, there is no infringement of claim 3. The vibrating disk of the defendants does not have free edges, and is not capable of vibrating bodily, in the sense of the patent. In consequence of being held by the spring and the clamp, it bends, and some parts between the center and the edge move more than others.

The bill will be dismissed, with costs, when the case is disposed of as to the Bell Company.