

seven years what is now complained of, and that, in 1880, the plaintiff sued the defendant at law in the circuit court of the United States for the district of Massachusetts for the infringement of the patent now sued on, and that such suit at law, after proceeding to a declaration, has been allowed by the plaintiff to remain unprosecuted. It appears that what the defendant did before such suit at law was brought was of the same character with what it has done since. The plated articles it now has on hand for sale as parts of sewing-machines must have been plated by it since such suit at law was brought. The plaintiff does not plate, but licenses others to plate. It is shown that the defendant's license fee would be about \$300 a year. That would be the amount of profits or damages to be recovered by the plaintiff. The defendant is shown to be pecuniarily responsible. Under the foregoing circumstances, there ought not to be an injunction before final hearing.

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BRETT, Adm'x, etc., v. QUINTARD, Adm'r, etc.

(Circuit Court, D. Connecticut. August 16, 1883.)

PATENTS FOR INVENTIONS—INFRINGEMENT.

The sixth claim of the Henry A. Wells "hat-body patent" held to have been infringed by the manner in which defendant's intestate removed the hat from the revolving cone in the manufacture of hats, and a decree for an accounting granted.

In Equity.

*E. N. Dickerson*, for plaintiff.

*John H. Perry* and *Henry T. Blake*, for defendant.

SHIPMAN, J. The question of the infringement by the defendant's intestate of the sixth claim of the Henry A. Wells "hat-body patent" has again been heard upon the evidence introduced by the defendant. It is proved that the manner in which Mr. Brown removed the hat from the revolving cone was the same as that described by Prof. Trowbridge upon the seventh page of the printed testimony. The additional fact appears that 72 bats are plunged in the water each working hour, and consequently that the covering cloths are immersed in very hot water as often as once in each minute. It is to be remembered that in this examination the question of infringement only is at issue; all questions of the validity of the claim or of the novelty of the alleged invention are foreclosed. The defendant has, therefore, introduced the William Ponsford English patent of 1839, and, quoting the decision of the supreme court upon the Wells process patent, (*Burr v. Duryee*, 1 Wall. 531,) that the Wells process for removing the bat from the cone was the same as the Ponsford

process, says that the state of the art at the date of the Wells invention was such that the advance in the present Wells reissue over the Ponsford invention was trivial, and simply consisted in the use of a roller of cloth just taken from a kettle of very hot water, in distinction from the use of a wet and warm cloth cowl, and that Brown neither used a roller nor took his cloths freshly from hot water, and that, therefore, there was no infringement.

The Ponsford process was as follows:

"When the hair has been received on one of those perforated cones or moulds to a sufficient thickness, a cowl of linen or flannel is to be drawn gently over it, and then a hollow perforated cover of copper, or any other suitable metal, is to be dropped over the cowl."

The whole is then immersed in a vat of boiling water.

The last Wells reissue says:

"The attendant takes from a kettle of hot water a piece of felt or other cloth rolled upon a roller, and applies one end of it to the surface of the bat, still held by the pressure of the surrounding air, and as the cone rotates the felt cloth winds from the roller onto the bat; and as the tip of the cone is semi-spherical, and this cloth cannot be conveniently extended over the tip, another piece of cloth, also taken from hot water, is applied to the tip of the bat."

The sixth claim is:

"In combination with a pervious cone, provided with an exhausting mechanism, substantially as described, the covering cloth wet with hot water, substantially as and for the purpose specified."

The purpose was twofold—to hold the fibers upon the cone, and to partially felt the bat.

By Ponsford's patent, after the bat had been formed upon the cone, a cowl was drawn over the bat. Of course, as the cowl had recently been plunged in hot water, it was wet and warm. By the Wells patent, a cloth wet with hot water is wound around the bat, after it has been formed, and while the cone is revolving by the revolution of the cone. The distinction between the two methods seems to me to be without a serious patentable difference. In the one case, a cowl or hood is drawn over the bat; in the other, a cloth is wound around the bat by the revolution of the cone. But, as I have before said, the question of validity is not before me.

The sixth claim of the Wells patent covers, in combination with a pervious cone and an exhaust mechanism, a cloth upon a roller taken from a kettle of hot water and wound around the bat as the cone rotates. In combination with a pervious cone and an exhaust mechanism, Mr. Brown wound around the bat, as the cone rotated, an unrolled or unfolded cloth, wet and warm, and taken within a minute from a tub of hot water. If the sixth claim is valid, I think that infringement is proved.

Let there be a decree for an accounting in respect to the use of the sixth claim.

## YALE LOCK MANUF'G Co. and others v. BERKSHIRE NAT. BANK and another

(Circuit Court D. Massachusetts. August 14, 1883.)

PATENT—REISSUES NOS. 7,947 AND 8,550.

Claim 3 of reissued patent No. 7,947, granted to James Sargent, and all of the claims except claims 1 and 7 in reissued patent No. 8,550, granted to Samuel A. Little for "improvements in locks for safes and vaults," held void.

In Equity.

*Causten Browne, Edmund Witmore, and George T. Curtis*, for complainants.

*E. N. Dickerson and Thomas A. Logan*, for defendants.

LOWELL, J. This suit is brought to establish and enforce the rights of the plaintiffs as the owners of the two patents for improvements in locks for safes and vaults, reissue 8,550, to Samuel A. Little, and reissue 7,947, to James Sargent. The Little patent was reissued three times for the benefit of the plaintiffs, and its claims have been enlarged in number from 3 to 17. It is probable that the motive of this action was to enjoin the use of locks like the defendants'; and, if this intent were decisive, the reissue must be held void. The plaintiffs contend that intent and act must concur, as in other penal cases; that Little was the first person to make a time-lock, with adjustable devices for controlling the time of locking as well as that of unlocking a door; that this invention was clearly described and claimed in the original specification; and insist that claims 1 and 7 are saved by the operation of this rule. These claims were sustained by Judge SHIPMAN in *Yale Lock Manuf'g Co. v. Norwich Nat. Bank*, 19 Blatchf. 123, (S. C. 6 FED. REP. 377,) and all the questions of novelty and patentability were passed upon. With his opinion I fully agree, and I refer to the report of that case for an able, thorough, and satisfactory discussion of those questions. When the case in Connecticut was decided, *Miller v. Bridgeport Brass Co.* 104 U. S. 350, had not been published; but it was said in the argument before me that Judge SHIPMAN had had his attention called to that decision by a motion to dissolve the injunction in Connecticut, and had refused to dissolve it. This point, though a difficult one, I decide in conformity with Judge SHIPMAN'S action, for the reason that in a patent like the original patent of Little, it would be proper to construe his second claim somewhat broadly, and so as to reach the substituted adjustable devices and their connection with the "dog," in the lock of the defendants in that case, which were substantially like those in question here.

The Hall lock has, besides the devices above referred to, an arrangement entirely different from any shown in the case in Connecticut. The plaintiffs have two time movements to control the lever which controls the "dog," and the defendant has but one. The seventh