

CELLULOID MANUF'G CO. AND OTHERS V.
COMSTOCK AND OTHERS.

Circuit Court, D. Connecticut. February 21, 1885.

PATENTS FOR INVENTIONS—CELLULOID
COVERING FOR PIANO
KEYS—INFRINGEMENT—PATENT NO. 210,780.

Defendant covered piano keys in the following manner, after the service of the injunction granted in *Celluloid Manuf'g Co. v. Pratt*, 21 FED. REP. 313: Two strips of muslin were glued to the upper surface of a sheet of celluloid. The sheet having been turned over, was fed into a machine, the knife of which partially cut and severed successive keys of the proper width as the sheet progressed over the table of the machine. By pressure, which was applied successively to each partially severed key, each key was broken and entirely separated from its fellows, but not from the muslin, which adhered to the row of keys and kept them in place so that the row could be easily handled. Cement was then spread upon the under surface of the keys, and the whole row was laid upon the key-board at the same time and subjected to pressure, as when an uncut sheet is fastened to the board. *Held*, not an infringement and a violation of the injunction.

In Equity.

Frederic H. Betts, for plaintiffs.

John K. Beach and *John S. Beach*, for defendant.

SHIPMAN, J. This is a motion to punish the defendants for contempt in violating the injunction heretofore granted to compel them to file with the master an account of the key-boards which they had covered with celluloid since the service of the injunction. The opinion which was given upon the final hearing of the case described the invention and construed the patent. *Celluloid Manuf'g Co. v. Pratt*, 21 FED. REP. 313. Since the service of the injunction, the defendants cover their keys in the following manner: Two strips of muslin are glued to the upper service of a sheet of celluloid. The sheet having been

turned over, is fed into a machine, the knife of which partially cuts and severs successive keys of the proper width as the sheet progresses over the table of the machine. By pressure, which is applied successively to each partially severed key, each key is broken and entirely separated from its fellows, but not from the muslin, which adheres to the row of keys and keeps them in place so that the row can be easily handled. Cement is then spread upon the under surface of the keys, and the whole row is laid upon the key-board at the same time, and subjected to pressure as when an uncut sheet is fastened to the board. The plaintiff insists that this row of keys, attached to each other by strips of muslin, is, practically, the "continuous strip or roll" of celluloid which is described and claimed in the patent, and that as the gist of the patent "lies in handling the covering for the whole, or a substantial portion of the whole, key-board as a single piece," the defendants still infringe.

If the plaintiff's definition of the invention was a complete one, their conclusion might follow; but the invention did not consist merely in the fact that the covering of the board is handled as a single piece.³⁹ It consisted, also, in the fact that it is a single piece when put upon and fastened to the key-board, and thereby it possesses advantages over detached and separate pieces, whether made of ivory or celluloid. The complainants' record is quite clear on this point. For example, the inventor endeavored to fasten separate celluloid keys in the same manner that ivory strips are secured to the wood, but was unsuccessful, because, as he testified, separate celluloid strips warped the wood of the keys in a series of short curves, which difficulty was prevented by the use of a continuous sheet. When the single sheet is cut into a series of strips for each key, before being cemented to the wood, the invention, as described and claimed in the patent, no longer exists; because, no matter how

skillfully the separate strips are manipulated so as to be placed upon the board with ease, the invention was the continuous strip or roll, as contrasted with separate strips for each key.

The motion is denied.

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