

RAILWAY REGISTER MANUF'G CO. v. BROADWAY & SEVENTH AV. R.
CO.

Circuit Court, S. D. New York.

March 11, 1887.

PATENTS FOR INVENTIONS—REGISTER FOR CAR FARES—INFRINGEMENT.

A patent, No. 260,526, dated July 4, 1882, granted to John B. Benton for an improvement in car-fare registers, and consisting of a combination which includes a tell-tale hand to indicate any failure to reset the trip-hand of the register at zero at the commencement of a trip, is not infringed by a device incapable of being fixed at the point where registration is begun away from the proper place, so as to indicate that fact, or act as a tell-tale at all.

In Equity.

Edward N. Dickerson, Jr., for plaintiff.

John F. Dillon and John Dane, Jr., for defendant.

WHEELER, J. A permanent injunction has been granted in this cause against further infringement of the plaintiff's patent No. 260, 526, dated July 4, 1882, and granted to John B. Benton for an improvement in

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fare-registers. The patented invention is a combination which includes a tell-tale hand to indicate any failure to reset the trip-hand of the register at zero at the commencement of a trip. 26 Fed. Rep. 522. The tell-tale hand of the patent is moved with the trip-hand in resetting, and, if they are reset at zero, moves with it in registering fares until they are again reset. If they are not reset at zero, the tell-tale hand remains at the place at which they are reset when the trip-hand moves forward in registering fares, and indicates that registration was begun at a wrong place. The tell-tale hand of the infringement moves the trip-hand forward in resetting, and is left by it when registration begins; and, if that is begun at any place other than zero, it indicates that fact. Since the injunction, the defendant has commenced using another resetting device, which the plaintiff claims is an equivalent of the tell-tale hand in the combination, and a colorable attempt to evade the injunction. The plaintiff has moved for an attachment on account of this use of that device. This device resets the trip-hand by moving it forward, and has a stop by which it cannot move the trip-hand beyond zero. If it is stopped short of zero, and registration is begun, it can be moved up to zero when the trip-hand has proceeded in registration to that point or beyond; and, if it is stopped at zero, it can be moved back from that point at any time, and forward to it again, without interfering with the trip-hand in registration. It is therefore a stop on moving the trip-hand forward beyond zero, but is not capable of being fixed where registration is begun away from the proper place so as to indicate that fact, or act as a tell-tale at all. Therefore it is not the equivalent of the tell-tale hand in the combination, and its use is not a violation of the injunction.

The motion is denied.