

HAMMERSCHLAG MANUF'G CO. V. WICHELMAN *ET AL.*

*Circuit Court, N. D. Illinois.*

February, 1889.

PATENTS FOR INVENTIONS—INFRINGEMENT—PROCESS OF MAKING WAX PAPER.

The "process of making wax paper by machinery," described in reissued letters patent No. 8,460, to Siegfried Hammerschlag, consists in passing the paper from a supply reel over a heated cylinder, which revolves partly submerged in a vat containing melted paraffine; thence over a heated roller, which diffuses the wax equally; thence over a scraper, which removes the surplus wax; and lastly over a polishing roller. A scraper attached to the first cylinder removes the surplus wax, and distributes the remainder uniformly over the cylinder. Defendant lays 100 sheets of paper in a tin pan and dips a piece of felt cloth in a tank containing paraffine melted from the bottom by steam-pipes. The saturated cloth is then placed on top of the paper and the operation is repeated until the stack is of the desired height. The pan and paper are then placed in a box heated by steam-pipes, and after half an hour are taken out, the felt is removed, and the paper placed in another pan, and in a press similar to a letter-press, which forces out the surplus wax. The paper is then placed on a table heated by coils of steam-pipes under it, and the sheets are separated by hand, and, when necessary, smoothed with a piece of felt or a flat-iron. *Held*, that defendant's process is not by machinery or the means described in the patent, and is not an infringement.

In Equity.

Bill by the Hammerschlag Manufacturing Company against Fred A. Wichelman and others.

*Frost & Coe* and *Jesse A. Baldwin*, for complainant.

*Mason & Ennis* and *A. B. Jenks*, for defendants.

GRESHAM, J., (*orally*.) The plaintiff seeks to restrain the defendants from infringing the fifth claim of reissued patent No. 8,460, granted to Siegfried Hammerschlag, for a "process of making wax paper by machinery." The claim reads:

"The method herein set forth of waxing paper, consisting in spreading the wax upon the surface, heating the paper from the opposite side to spread and fuse the wax in the fabric of the paper, removing the surplus wax, and re-melting and polishing the wax upon the paper, substantially as set forth."

The paper is passed from a supply reel over a heated revolving cylinder, partly submerged in a vat containing melted paraffine; thence over a heated roller, which diffuses the wax equally; thence over a scraper; which removes the surplus wax; and finally over a polishing roller. A scraper attached to the first cylinder removes the surplus wax, and distributes what remains uniformly over the cylinder.

Educated druggists and others knew how to oil and wax paper long before the date of this patent. One of the earliest and simplest processes in this country and in Europe was that of placing upon a heated stove a copper plate of proper size, upon which a piece of paper was laid, and rubbed over with the desired waxing substance. Any surplus wax remaining was removed with a piece of cloth. Experience soon demonstrated that the melted wax would pass through and permeate a number of sheets. As early as 1864, Wichelman waxed fine tissue paper with butter, lard, sweet oil, peanut oil, rape-seed oil, and cottonseed oil, and in 1871 he successfully used paraffine for the same purpose. In 1874 he placed in a tin pan a stack of dry paper, on top of which he laid a piece of paraffine wax, and then placed the pan and its contents in a heated oven, where it remained long enough for the wax to melt and soak through the paper. After the paper had sufficiently absorbed the melted wax, it was removed from the pan, and placed upon a plate of iron, provided at either end with legs long enough to make an air space between the plate and a furnace or stove upon which it rested, and the paper was then smoothed and removed sheet by sheet. In January, 1886, Wichelman commenced the process which, it is insisted, infringes the fifth claim. He laid 100 sheets of paper in a tin pan, and then dipped a piece of felt cloth in a tank containing paraffine melted by steam-pipes from the bottom. He placed the saturated cloth on top of the paper, and repeated this operation until the stack was of the desired height. The pan containing the paper was then placed in a box, heated by steam-pipes, where it remained for half an hour. The paper was then taken out, the felt removed, and the paper put into another pan, and placed in a press similar to a letter-press, by which the surplus wax was forced out. The paper was then placed upon a table heated by coils of steam-pipe adjusted under it, where the sheets were separated by girls employed for that purpose, each sheet being smoothed, when, necessary, with a piece of felt or a flat-iron. While this was an improvement upon the old mode, it was nevertheless a hand process, and not a process by machinery, or the means described in the Hammerschlag patent. The bill is dismissed for want of equity.