

WILSON v. ANSONIA BRASS & COPPER CO.

(Circuit Court, S. D. New York. December 23, 1891.)

1. PATENTS FOR INVENTIONS—PATENTABILITY—LAMP-BURNERS.

Letters patent No. 316,422, issued April 21, 1885, to George H. Wilson, for an improvement in lamp-burners, consisting of a wick-carrier, with inwardly projecting teeth at the top and bottom for holding the wick and giving it a positive movement as desired, and having slots in the sides for admitting air to the interior for an argand burner, show an essential and useful improvement over all other burners, and are therefore valid.

2. SAME—INFRINGEMENT—EQUIVALENTS.

A burner having a wick-carrier like that of the patent, except that the wick is held by stitches at the lower end, constitutes an infringement, as the stitches are merely the mechanical equivalent of the teeth.

In Equity. Suit by George H. Wilson against the Ansonia Brass & Copper Company for infringement of a patent. Decree for complainant.

E. H. Bullard, for orator.

Edwin H. Brown, for defendant.

WHEELER, J. This suit is brought upon letters patent No. 316,422, dated April 21, 1885, and granted to the orator for an improvement in lamp-burners. The patented improvement consists principally in a wick-carrier, with inwardly projecting teeth at the top and bottom ends for holding the wick and giving it a positive movement as desired, and slots in the sides for admitting air to the interior, for an argand burner. The defenses are want of novelty and non-infringement. The proofs show styles of burners, some having one thing, and others another, similar to the plaintiff's, but none having a wick-carrier holding the wick firmly at each end for moving it up and down evenly all round, to properly adjust the flame, and also admitting air to the interior, as his does. The difference between his and all others is small, but it seems to be essential and useful, and therefore patentable. The defendant's burner has a wick-carrier like the plaintiff's in all respects, except that the wick is held by stitches at the lower end instead of by teeth. The stitches appear to be an equivalent there of the teeth, and the carrier appears to be an infringement. Let a decree be entered for the orator.

SUN VAPOR STREET LIGHT CO. *v.* WESTERN STREET LIGHT CO. *et al.*

(Circuit Court, N. D. Iowa, E. D. January 7, 1892.)

1. PATENTS FOR INVENTIONS—INFRINGEMENT—METHOD FOR SUPPLYING STREET-LAMPS WITH OIL.

The first claim of letters patent No. 222,856, issued December 23, 1879, to Henry S. Belden, for a method of supplying street-lamps with oil, consisting in providing the lamps with removable reservoirs of a number greater than the lamps, and providing a conveyance for transporting filled reservoirs, and substituting them for the emptied ones, is not infringed by a device for transporting filled reservoirs and substituting them for the emptied ones, which does not use the case or rack for conveying the reservoirs described in the Belden patent.

2. SAME—OIL RESERVOIR.

The second claim of letters patent No. 236,211, issued October 9, 1883, to Alfred L. Mack, for an oil reservoir having its bottom set in to form a flange to fit over and upon a suitable tank adapted for permanent connection to the service pipe of a lamp, said bottom having an opening provided with a screw-cap, and air and feed pipes connected thereto, is not infringed by a device which does not combine a screw-cap with the feed and air pipes, and which does not use a second pipe as a feed-pipe, the patent being limited to the entire combination, none of its elements being new.

41 Fed. Rep. 43, affirmed.

In Equity. Bill of review.

Charles R. Miller and Lake & Harmon, for complainant.*Henderson, Hurd, Daniels & Kiesel*, for defendants.

SHIBAS, J. The present proceeding was instituted for the purpose of obtaining a review of the conclusions reached on the original hearing of this cause, and which are shown in the opinion reported in 41 Fed. Rep. 43. As stated in that opinion, the complainant company is the owner of the letters patent No. 222,856, issued to Henry S. Belden, and No. 236,211, issued to Alfred L. Mack, and the defendant company is charged with infringing the first claim of the Belden patent, and the second and third claims of the Mack patent. Upon the bill of review and the accompanying evidence counsel for complainant have very fully and ably reargued the questions considered at the original hearing, claiming that as to both patents the court in the decision heretofore rendered gave too narrow a construction thereto.

So far as the Belden patent is concerned, all that is shown in the evidence is that the defendant company uses detachable reservoirs, in number greater than the lamps in use, and conveys the same back and forth in a wooden box, with compartments so arranged as to keep the reservoirs in an upright position. Unless the Belden patent is to be construed to be broad enough to cover all means of utilizing the idea of having more reservoirs than lamps, so that a filled may be substituted for an empty reservoir, I do not see how it is possible to sustain the charge of infringement of the first claim of the Belden patent. The box used by defendant for the transportation of the reservoirs is not a copy or imitation of the rack described in the Belden patent, and in fact the argument of complainant in this particular really shows that the claim made is for the use of more than one reservoir for each lamp.