

COLBY v. CARD.

(Circuit Court, N. D. Illinois. April 30, 1894.)

1. PATENTS—INFRINGEMENT—TOY BANKS.

In the case of a toy bank having a discharging aperture secured by a spring latch, which is opened from within by the weight of accumulated coin, infringement is not avoided by merely strengthening the spring so that when the last coin is inserted some additional pressure thereon is required to open the bank.

2. SAME.

The Colby patent, No. 373,223, for an improvement in toy banks, held valid and infringed.

This was a suit in equity by Edward J. Colby against George C. Card for infringement of a patent for toy banks.

Barton & Brown, for complainant.

Henry M. Brigham and Cyrus J. Wood, for defendant.

GROSSCUP, District Judge. The complainant claims under letters patent No. 373,223, issued November 15, 1887, to Edward J. Colby, for an alleged improvement in toy banks. The first and principal claim of the patent is as follows:

A toy bank consisting of a hollow toy provided with a coin-receiving and coin-discharging aperture, a movable cover for the discharging aperture, and a spring latch to secure the same from within; said spring latch being normally closed, but constructed to be opened by the weight of the coin within.

The essential feature of the plaintiff's patent is the combination, with a hollow toy having a coin receiving and discharging aperture, of a spring latch which secures the opening aperture from within until the specific weight of coin operating thereon opens the latch. The defendant's device is a plain tube, with like opening and discharging apertures and a spring latch so arranged with reference to the capacity of the tube that the last of a given number of coins is forced through the open aperture, and thus communicates the pressure to the latch, which causes it to open. The pressure operating upon the latch in the case of the complainant's device, and necessary to overcome the resistance of the spring, is the weight of the coin. The pressure in the defendant's device is the weight of the coin, with such added force as is communicated to the column of the coin by the forced introduction of the last piece. In one the operating force is weight, pure and simple; in the other, the operating force is weight added to by the pressure which is communicated by a wedge through a solid column. The principal question is whether these are mechanical equivalents. In my opinion they are. The defendant adopted complainant's idea of a spring, and has simply so strengthened it that a little pressure, added to the weight of the coin, is needed to overcome its resistance. This is no reasonable advancement upon or differentiation from the complainant's idea.

The complainant's patent is not, in my opinion, anticipated either by the Bossert or by the Gabbey patents. It is not seriously

claimed that the first is an anticipation of the complainant's particular combination. In regard to the Gabbey patent, it seems to me that while the weight of the contained grain causes the opening and shutting of the valves, and thereby the registration of the amounts, somewhat analogous to the Colby invention, yet the machines, as machines, are different. With the patent before the inventor, he would have to exercise almost as much invention to adapt it to the peculiar requirements of a money bank as would an inventor in producing it without the presence of the Gabbey patent. For the foregoing reasons the findings will be for the complainant, against the defendant, George C. Card, and an injunction will issue accordingly.

CAMPBELL et al. v. BAYLEY et al.

(Circuit Court of Appeals, Seventh Circuit. January 20, 1894.)

No. 14.

1. INVENTION—MANUFACTURE.

A device, in order to be patentable, must be novel, whether it be deemed to be a manufacture or a machine (Rob. Pat. §§ 182, 185, note), within the meaning of the patent law, and the test of novelty would seem to be essentially the same in the one instance as in the other.

2. PATENTS FOR INVENTIONS—CATCH-BASIN COVERS.

The first claim of letters patent No. 204,882, issued June 18, 1878, to George G. Campbell, for a catch-basin cover constructed with a slanting front, grate bars, and raised partition, is void for want of invention.

Appeal from the Circuit Court of the United States for the Eastern District of Wisconsin.

Suit by Gardiner Campbell and George G. Campbell against James E. Bayley, Arthur J. Bayley, and Harry F. Bayley for injunction and accounting. Defendants obtained a decree. 45 Fed. 564. Complainants appeal.

Suit by the appellants against the appellees for an accounting, and to enjoin infringement of the first claim of letters patent No. 204,882, issued June 18, 1878, to George G. Campbell, one of the appellants, for certain improvements in catch-basin covers. The specification and claims of the patent are of the following tenor:

"My invention has for its object the providing of a catch-basin for the corner of streets, which the following description will more fully show: Fig. 1 is a perspective view of my invention, and Fig. 2 a sectional view of the same. In the drawings, A is the body of the catch-basin cover; B, the base of the same; C, C, flanges secured to the base and body for the purpose of holding the stone or other material back to the sidewalk which may be used in setting the cover; D, strips of metal standing obliquely over the opening, to keep rubbish out of the basin as the water flows into the same; E, a raised stop or partition in front of the strips, L, for the pavement to face up against; F, a flange projecting below on the under side of the cover to keep the water from wearing away the mortar between the bricks or stones which the basin may be made of; G, an opening, with cover to the same, for access to the basin. This device is calculated to stand at the corner of a street and jut back into the sidewalk, and the front stands slanting, the bottom part of it projecting to the bottom of the gutter, so that a team in passing, if it hugs too close to the sidewalk, the wheels will strike on the strips of metal, D, and slide down off the same, and the base, B, will be under the sidewalk and paving, so that the basin cover will be held firmly