

Combined bathing shoes and stockings of stockinet, with a rubber or oilcloth sole, a combined bathing shoe and stocking with a cork sole, a bathing shoe with a cork sole, and a cork sole coated with rubber cement, were old at the date of the invention, but the combination described in the claim was new and patentable. The invention must, however, be regarded, in view of the pre-existing state of the art, to be simply an improvement upon a combined shoe and stocking with a cork sole, and the patent cannot take in a large variety of equivalents or substitutes for the cork sole and its rubber cement. The defendant manufactures a combined bathing shoe and stocking made of stockinet, with a sole made of linoleum, and an outer lining of canvas. Linoleum is "a preparation of linseed oil and ground cork intimately mixed and spread in a uniform layer over a sheet of rough jute canvas," and is often used for floor cloth. The question in the case is whether, under this patent, a linoleum sole is an infringement of the cork sole treated with rubber cement. The patentee took the old cork sole and improved it, made it flexible by cement, and protected it from rough use by a covering of coarse cloth, but he cannot justly claim as an infringement the use of a material which is not cork and cement, but is a different thing, made of ground cork and linseed oil mixed together and spread over canvas, although it makes a flexible sole. The invention described and claimed in the patent was a narrow improvement upon the old stocking and shoe with a cork sole, and the floor cloth which the defendant uses is too far away from the cork and rubber cement to be an infringement. The bill is dismissed, with costs.

MILLHEIM ELECTRIC TEL. CO. et al. v. WESTERN ELECTRIC CO.

(Circuit Court of Appeals, Third Circuit. June 8, 1899.)

No. 16.

PATENTS—TELEPHONE CIRCUIT AND APPARATUS.

The Carty patent, No. 449,106, for a telephone circuit and apparatus, held not anticipated, valid, and infringed.

Appeal from the Circuit Court of the United States for the Western District of Pennsylvania.

This was a suit in equity by the Western Electric Company against the Millheim Electric Telephone Company, J. C. Spiegelmyer, and W. L. Goodhart for alleged infringement of the Carty patent for telephone circuit and apparatus. In the circuit court the patent was held valid and infringed, and decree entered accordingly. 88 Fed. 505. From this decree the respondents have appealed.

Josiah McRoberts, for appellants.

George P. Barton, for appellee.

Before ACHESON and DALLAS, Circuit Judges, and KIRKPATRICK, District Judge.

KIRKPATRICK, District Judge. The respondents herein (the complainants below) filed their bill of complaint, alleging infringe-

ment of letters patent No. 449,106, granted March 31, 1891, to John J. Carty, and by several assignments duly transferred to the complainants. The defenses set up in the answer were lack of novelty and patentability, prior publication, and noninfringement. An examination of the record shows that prior to the Carty invention much difficulty had been experienced in communicating telephonically between different stations on a many-party line. The difficulty was increased with the number of stations, and their distance from each other. This was due in part to the fact that the stations were, as entireties, connected on a series system, so that the call generator, the bell ringer, and the voice currents had each to pass in series through each instrument, whereby the energy of the current was dissipated before reaching the distant station, and in part because the lines were electrically unbalanced, and subject to serious internal inductive disturbances, as well as from neighboring wires and currents. To obviate these difficulties, Carty discontinued the practice of including the call-sending generator and the call-bell magnets and the telephone serially in the same circuit when calling, and substituted the connection of the said appliances in parallel bridges. The bell-magnet bridge was equipped with a magnet having a high coefficient of self-induction, and was normally and permanently closed at all stations. The generator bridge circuit was normally open, but adapted to be closed when sending a call. The connection of the telephone in a third bridge circuit at each station was normally open, but capable of being closed in multiple with its own bell-magnet circuit and the bell-magnet circuits of all the other stations when in use. The practical result was that when the call-bell generator was closed, and put in connection with the main-line circuit, the low-frequency current of the call bell short-circuited through the bell magnets, and the bells were rung at all stations, including the home station. The call bell generator circuit was then opened and disconnected. The telephone circuits between the two stations desiring to communicate were then closed, and thereby put in multiple with each other and the call bell magnets circuit. But, while the telephone circuits were so in multiple with the bell-magnet circuits, yet the high-impedance magnets in the bell-magnet circuits rendered these last-named circuits opaque to the high-frequency voice currents of the telephone, and enabled them to be transmitted undiminished over their own low-impedance circuit to the receiver with which they were in connection. By this combination of devices, Carty obtained the effect of two distinct and separate circuits, one of which was adapted to the low-frequency currents of the bell generator, and the other to the high-frequency voice currents of the telephone. It also had the effect of electrically balancing the lines, and thereby reducing to a minimum the annoyances of induction which had so seriously interfered with the usefulness of the old system. So far as the record shows, there was no anticipation of this device. All the elements of the combination had been used before, and the functions of each were well known in the art, but it does not appear that they had ever been similarly specifically combined for effectuating the purpose here accomplished. The grant of the patent carries with it the presump-

tion of patentability, and this presumption has been strengthened by the general acceptance of the device, the acquiescence of those skilled in the art, and their willingness to accept licenses thereunder. We have carefully considered the questions of prior publication and anticipation. The differences between the patent in suit and those cited as most nearly approaching the Carty device have been fully and particularly set out in the opinion of the learned judge below. We fully concur in his conclusions, and refrain from drawing the distinctions, lest we should but repeat what he has so clearly expressed. Infringement is charged in the bill, and not denied, except in the unverified answer. Complainant's witness, after examination of defendant's system, testified that it was constructed and organized completely in accordance with the instructions contained in the patent in suit. Though these facts were peculiarly within their own knowledge, the defendants offered no contradictory evidence bearing on the question. We are of opinion that the patent is valid and infringed. The decree of the circuit court will be affirmed.

LYONS v. BISHOP et al.

(Circuit Court, S. D. New York. May 28, 1899.)

1. PATENTS—INVENTION—HAT BOXES.

In the construction of ladies' hat boxes or trunks there is no invention in substituting, for the fragile gauze frames previously used, a frame of buckram and coarse cloth, on which the hat may be securely fastened by a hat pin or other similar device.

2. SAME.

The Lyons patent, No. 573,789, for an improvement in hat boxes or trunks, is void on its face for want of patentable invention.

J. Nota McGill, for complainant.
Geo. J. Murray, for defendants.

SHIPMAN, Circuit Judge. This bill in equity is founded upon the infringement of letters patent No. 573,789, dated December 22, 1896, for an improvement in hat boxes or trunks. The specification states—what is also well known—that hat boxes have been made containing rests or supports for ladies' hats, but that these supports were constructed of fragile material, like pasteboard, or gauze stiffened with wire, and not of sufficient tenacity to allow of an adequate securing agency, like a hat pin. One object of the invention was to have a hat box with a plurality of hat or bonnet supports, and the second object was to provide an improved support having substantially the shape of the human head, and to which a bonnet can be secured by the insertion of a hat pin. The first object was obtained by having a box devoted to the transportation of bonnets, and the second was attained by having such rest made of buckram and another piece of like coarse fabric and a piece of trunk lining, glued together, the buckram having been shaped over a form, and the three pieces being pressed together. When the bonnet is placed upon this form, or dummy, it can be securely fastened by a hat pin. The specification