

DECISIONS RELATING TO PATENTS, TRADE MARKS, ETC.

U. S. Circuit Court—Northern District of Illinois.

ADAMS vs. ILLINOIS MANUFACTURING COMPANY.—PATENT LANTERNS.

Blodgett, J.:

This is a bill for injunction and account. Complainant is admitted to be the owner of two letters patent issued by the United States to J. H. Irwin, the first, No. 47,551, dated May 2, 1865, and the other, No. 50,591, dated October 24, 1865, for improvements in lanterns.

The defense is want of novelty in the complainant's patents. It is admitted that defendant has made, and is making, lanterns in all respects like those described in the specifications and drawings of Irwin's patent No. 50,591. If that patent is valid, complainant must have a decree in this suit.

The leading feature of this patent is the construction of a loose-globe lantern, so arranged that the globe can be readily removed and replaced, and at the same time have the metallic parts of the frame permanently attached together so as to make a basket in which the globe will be held or retained even if the catch holding the top or dome to the frame of the lantern is unfastened. This is obtained by hinging the top or dome to the guard on one side, so that it can be closed firmly to the guard by the operation of a hinge and a catch on the side opposite the hinge, so that when the top or dome is lifted or thrown back on the hinge the globe can be removed from the guard. The conveniences of this arrangement are obvious. It makes a lantern simple in construction, with few complications, easily cleaned, and perhaps less liable to accidents than any other form of lantern which has been devised.

It is admitted that loose-globe lanterns had been made long prior to that made by Irwin in the form described in his patent. The idea of so constructing the lantern that the globe was simply held in place by the guard, and could be readily removed, was not new when Irwin entered the field; but I am satisfied that the Irwin patent can be sustained so far as its particular device is concerned. It is evidently useful, and by its application a very useful lantern is obtained.

The loose-globe lanterns which had been made prior to that of Irwin's, as shown in the proof, are:

First, Westlake, where the arrangement was such that you are obliged to remove the oil-pot, then the top, and then remove the guard from the globe. Second, Max Miller. By this the parts of the lantern can be separated by the means of springs and catches, so that finally the globe can be taken out through the top of the guard. Third, Waters' lantern. This is separated. Fourth, Evans, English patent. Fifth, Chappell, English patent. Sixth, Butterfield. Guard clasps around lantern should be called a removable guard. Seventh, Morley. Eighth, Colburn.

All these devices have some provision by which the parts of the lantern can be to a greater or less extent separated, but they none of them can, I think, be said to suggest the specific mode by which Irwin made his globe removable and preserved the connection of the parts of his frame.

Patent may be sustained as a special device, and, as defendant infringes that device, complainant must have a decree.

By the Commissioner of Patents.

EX PARTE FARNUM & CO.—TRADE MARK.—TICKINGS.

Appeal from Examiner of Trade Marks.

Marble, Commissioner:

Applicants in this case seek to register as a trade mark for ticking the word "Lancaster," accompanied by the symbolical representation of a rose.

As this case was presented in the first instance the word alone was described and claimed as constituting the one essential feature of the mark; but the registration having been refused by the Examiner upon the ground that this word was geographically descriptive, an amendment to the application was made, and the symbolical representation of a rose was also included. This amendment was held by the Examiner not to relieve the case of the previous objection, and from his unfavorable decision upon this point the present appeal has been taken.

Counsel for applicants, in support of their appeal, have urged that the action of the Examiner is erroneous for the reasons (1) that it is inconsistent with the previous practice of the Office, the word "Lancaster" being a proper trade mark, and (2) that, even admitting that the word alone is not properly registrable, this objection is avoided by the use in connection therewith of the arbitrary symbol of a rose.

Held by the Commissioner:

1. That as a rule geographical names cannot be allowed registration as trade marks.

2. That before any geographical name can be said to be registrable it must clearly appear that the place of that name is such a one that the word will be understood by the general purchasing public as primarily fanciful, and that manufacturers of like goods at such place cannot so mark their wares and claim the protection of our laws.

3. That the essential features of a trade mark are those only which serve in whole or in part to distinguish the goods of the party by whom such mark is adopted, and it is not proper that anything should be described as essential which the courts would hold otherwise; and

4. That words calculated to deceive the public as to the place of manufacture should not be allowed registration.

The decision of the Examiner of Trade Marks is accordingly affirmed.

U. S. Circuit Court—District of Massachusetts.

CROWELL vs. PARMENTER.—CURING AND PUTTING UP FISH.

Where, in his contract with the defendant, the plaintiff agreed that he would sell no licenses for less than a certain price, and it conclusively appears that he has broken such agreement in a way calculated to injure the defendant, a preliminary injunction will be denied, notwithstanding the fact that the defendant has admittedly failed to pay his stipulated royalty.

The motions in this case and several others (No. 944a, vs. George G. Tarr; No. 945, vs. George W. Adams; No. 945a, vs. Sylvanus Smith; No. 946, vs. Charles H. Pew; No. 946a, vs. James G. Tarr; No. 947, vs. J. J. Stanwood; No. 947a, vs. James L. Shute; No. 948, vs. Charles G. Cressey, and No. 948a, vs. Samuel Lane) are founded on the same patent for curing and putting up fish which is relied on in *Crowell vs. Harlow*.

In the cases now under consideration the several defendants had, as tenants in common, an exclusive license or grant, which, as they contend, gives them full power to use the invention to the end of the term. They admit a failure to pay the royalties agreed on, but contend that the license is not conditional, and that no right of resuming his grant has been reserved to the plaintiff, but that he must bring his action at law for the royalties, or his suit in equity for an account of those royalties, from time to time as he may be injured—a different and less stringent remedy than that which is sought by this bill.

I shall not discuss this issue at the present time. I shall assume that, under the frame of the bill, the plaintiff can have some remedy in this court as well as in a court of law. The reason why I refuse this preliminary and peremptory injunction moved for is that by the contract between the parties, and as a part of it, in consideration of the agreements on the part of the defendants, the plaintiff agreed that he would sell no licenses for less than a certain price, and there are numerous affidavits which declare that he has sold such licenses for a very much smaller consideration, and in a way which seemed intended to deceive the defendants, and which would seem calculated to injure them in their exclusive rights. These affidavits are wholly uncontradicted, and must be taken at this hearing to be true. Under these circumstances a court of equity cannot lend its most stringent remedy to the plaintiff in advance of the trial or hearing at which the accounts and damages may be properly adjusted between the parties.

Motion denied.

The Great Steamship City of Rome.

At the recent meeting of the Institution of Mechanical Engineers, Barrow-in-Furness, an interesting paper, from which we take the following, was read by Mr. James Humphrys, on the Inman steamship City of Rome, now in course of construction by the Barrow Shipbuilding Company. We hope in an early number to publish Mr. Humphrys' paper in its complete form, with diagrams, but in the meantime we may give some of the leading particulars of the vessel to which it relates. This splendid steamer will, when completed, be the largest vessel afloat, with the exception of the Great Eastern. Her dimensions are: Length between perpendiculars, 546 feet; length over all, 600 feet; extreme breadth, 52 feet 3 inches; and depth of hold, 37 feet. She will have staterooms for 271 passengers, and accommodation for 1,500 emigrants, provision being made for carrying about 260 emigrants at the fore end and 240 at the aft end on the main deck, and for 1,000 more on the lower deck. The grand dining saloon is 72 feet long, 52 feet wide, and 9 feet high, or 17 feet in the way of the large opening through the drawing room above; this saloon will afford accommodation for dining 248 persons at once. The estimated weight of the City of Rome complete and ready for sea is 8,000 tons, while her displacement on 28 feet mean draught is 13,500 tons, so that she will have a dead weight-carrying power of 5,500 tons. Her holds, however, have a cubical capacity of 38,600 cubic feet, equivalent to 7,720 tons measurement at 50 cubic feet per ton.

In the constructive details of the City of Rome every endeavor has been made to insure strength combined with high-class accommodation. The hull is divided into water-tight compartments by a number of bulkheads, the maximum of any one of these compartments being about 60 feet. All the bulkheads are fitted with water-tight doors of the Admiralty pattern, worked either from above or below, and provided with tell-tales on deck. At the fore end a double bottom is provided for a length of about 150 feet from the stern to give greater safety in the event of stranding. The framing is of the ordinary type. The vessel has two complete iron decks above, while the lower deck is complete for half its length, and has wide side plating for the remainder. There are nine tiers of keelsons running fore and aft, the five central ones being of uniform height, and being carried unbroken through engine and boiler rooms. The stern frame, which is now being made at the Mersey Steel and Iron Works, is estimated to weigh 33 tons when finished, and will be the largest single forging of its kind ever made.

The City of Rome will have a single screw, 24 feet in diameter, driven by three sets of compound engines of the inverted tandem type, these engines actuating cranks set at 120°. Each engine has a high-pressure cylinder 43 inches, and low-pressure cylinder 86 inches in diameter, the stroke being 6 feet. The high-pressure cylinder is supported above the corresponding low-pressure cylinder by three wrought iron columns, the arrangement giving ready access to the stuffing boxes, etc. The cylinder covers are made in halves

for easy removal. The valve faces are on the fronts of the cylinders, the valves being driven by eccentrics on an independent shaft coupled to the main shaft at each end by a pair of mortise wheels. The crank-shaft is a built-up shaft, and is being made by Sir Joseph Whitworth & Co., of their compressed steel. It will weigh complete 64 tons, and will have main bearings 25 inches in diameter by 33½ inches long, and crank-pins 26 inches in diameter by 28 inches long. The screw shafting is also being made of the Whitworth compressed steel, and will be hollow. The intermediate shafting is 24 inches in diameter, with a 14 inch hole through it, while the propeller shaft is 25 inches in diameter by 30½ feet long, and will weigh 18 tons. The thrust shaft will weigh 17 tons, and will have 13 collars 39½ inches in diameter, giving a surface of 6,000 square inches. The engine bed plate will weigh 100 tons. The surface condensers contain nearly 17 miles of tubing, exposing 17,000 square feet of surface, and the condensing water will be supplied by two double-acting circulating pumps, 26 inches in diameter, with 3 feet stroke, worked by the forward and aft engines respectively, as are also the bilge and feed pumps, and the air pumps, the latter being 39 inches in diameter, with 3 feet stroke. There are also a large centrifugal pumping engine (for pumping heavy leaks, and which can be arranged to discharge through the condensers), and three auxiliary pumping engines for boiler feeding, bilge pumping, etc.

The boilers are eight in number, arranged in two boiler rooms of moderate size separated by a water-tight bulkhead. The boilers, which are of the cylindrical double-ended type, 14 feet in diameter by 19 feet long, are arranged fore and aft in four blocks of two each, the two central blocks being separated by the transverse bulkhead just mentioned. The coal bunkers are along the sides of the ship and form part of the structure; it is intended to make these bunkers and keelsons water-tight so as to constitute the inner skin at the points where they occur. Each boiler has six furnaces, 3 feet 9 inches in diameter, and with separate combustion chambers. The fire grates are 6 feet long, the total area being 1,080 square feet. Each boiler has a steam receiver, 13 feet long by 4 feet diameter. The furnaces and combustion chambers are of Bowling iron, and the shells of iron made by Sir John Brown & Co., the plates being 24 feet 8 inches long by 4 feet 4½ inches wide and 1½ inches thick, the weight being nearly 2½ tons each. The boilers are made for a working pressure of 90 pounds per square inch.

The engines are intended to develop in regular work 8,000 indicated horse power, but to be capable of developing 10,000 horse power. The speed expected is 18 knots per hour. The vessel will have four masts, and will be full ship-rigged, with the addition of the fore and aft rigged jigger mast; she is expected to be ready for service next summer, and will ply between New York and Liverpool.

Steam Cable Towing on Erie Canal.

Notice was taken a few weeks since of a protest by certain boat owners and others against the use of the steam cable towing system on Erie Canal. The charges entered against the system, especially with reference to its inconvenience and unprofitableness, do not appear to be well supported by fact. At any rate, the traffic of the canal so far this year has been uncommonly large, and much of the increase is attributed to the speedy and economical cable service.

The official returns received at the Produce Exchange show the total movement on the canals since they were opened until August 14, to be fully 30 per cent greater than for the same period last year, as follows:

	1879.	1880.
Total tons.....	2,210,450	3,258,806
Total miles boats cleared.....	3,093,725	5,325,649
Total tolls.....	\$343,537	\$504,259

Seven hundred boats have abandoned the old system of towing and adopted the new; and it is claimed that the increase of speed secured by the cable has increased the capacity of the canal fully 15 per cent. At the same time the boat owners, through the more rapid movement of their cargoes and more frequent trips, have been able to make larger profits, and the revenue of the State has been materially augmented. If no serious breaks occur in the canal it is expected that the toll-sheet at the end of the season will show a revenue far in excess of anything recorded heretofore.

The Dying Fish of Lake Ontario.

Notice was recently taken in this paper of the wholesale destruction of fish, supposed to be young land-locked shad, in Lake Ontario. Mr. Seth Green, Fish Commissioner, says that they are a different fish, belonging to another branch of the shad family. They appear to be very prolific, and travel in schools so large that all are unable to find food. Those at the head of the schools pick up all the food, and those behind starve to death. Mr. Green says he has picked up and examined hundreds of them. They are but little more than skin and bones, and have nothing whatever in their stomachs. The same fish have also appeared in Cayuga Lake, but are not as large as those of Lake Ontario. During a recent visit to the former lake he observed a school feeding. He followed in their wake, as he had done before in Lake Ontario, and picked up several not yet dead, and found they were dying from starvation. They have made their appearance in both Seneca and Cayuga lakes, and it is a mystery how they got there. In order to get to these lakes from Lake Ontario—that is, if they come that way—there are several dams which it would seem impossible for them to get over.