

DECISIONS RELATING TO PATENTS.

Court of Appeals of the District of Columbia.

SOLEY VS. HEBBARD.

Decided January 7, 1895.

Morris, J. :

This is an appeal from the decision of the Commissioner of Patents in a case of interference between rival applicants for a patent for the invention of a machine for manufacturing composition targets.

Where one of the parties has reduced the invention to practice, he will be regarded as the prima facie original and first inventor.

Where it is admitted by the parties that a machine had been built from patterns designed by H., one of the contestants, but where S., the other contestant, claims that H. derived the invention from him, consequently that the reduction to practice ought to inure to his benefit, Held that the burden of proof is upon S. to prove his claim, and, failing to do so, priority of invention must be awarded to H.

In such case the contestant, in order to prevail, must prove his claim by a clear and fair preponderance of evidence.

Held that an employer may assume that he may allot the brain work of his employes as he pleases and take out in the name of one a patent for an invention which he knows to have been made by another, because it may in some way suit his convenience, is an assumption that may be repudiated by the common sense of mankind.

Court of Appeals of the District of Columbia.

CHENEAU VS. COMMISSIONER OF PATENTS.

Decided January 11, 1895.

Alvey, C. J. :

This is an appeal from the Commissioner of Patents refusing a patent upon a claim of the appellant, stated as follows :

As an improved article of manufacture, a floating body, such as herein specified, composed essentially of pieces of the pericarp of the cocoanut dried and coated with waterproof substance, substantially as described.

An article of manufacture composed essentially of pieces of the pericarp of the cocoanut, dried and coated with waterproof substance, Held to be not patentable because of anticipation and lack of invention.

Where the article sought to be patented differs from prior like articles merely in the difference and superiority of the material of which it is composed, the material and its properties being old and known, Held that such article involves the mere substitution of one old material for another.

It is not every new and useful improvement produced by the adaptation or substitution of one well known material for another that will entitle a party to a patent. The improvement must be the result of invention.

United States Circuit Court of Appeals—Third Circuit.

NATIONAL METER COMPANY VS. THOMSON METER COMPANY.

Decided January 2, 1895.

Wales, J. :

Appeal from the Circuit Court of the United States for the District of New Jersey.

This suit was brought in the Circuit Court of the United States for the District of New Jersey to restrain the infringement of letters patent No. 379,805, dated March 20, 1888, for improvement in water meters, issued to the National Meter Company as assignee of Lewis H. Nash.

Claims 15 and 17 in patent No. 379,805, issued March 20, 1888, to the National Meter Company, Lewis H. Nash, inventor, covering a hard rubber piston, combined with a skeleton of strengthening material, Held valid and infringed.

Where the devices alleged to anticipate the patented device were not designed to meet nor subjected to conditions analogous to those of the patented thing, Held that such prior structures did not anticipate the patented device.

Held that an inventor is entitled to all the necessary and legitimate results attained by his invention, including such as were not foreseen. It is the thing, and not the uses to which it may be found capable of, which is patentable.

Before Acheson, Butler, and Wales, judges.

Supreme Court of the United States.

CONSOLIDATED ROLLING MILL COMPANY VS. BARNARD & LEAS MANUFACTURING COMPANY.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

Decided February 4, 1895.

This was a bill in equity filed by the Consolidated Roller Mill Company against the Barnard & Leas Manufacturing Company for the infringement of four letters patent for certain improvements in roller mills, viz., patent No. 222,895, issued December 23, 1879, to William D. Gray; patent No. 238,677, issued March 8, 1881, to the same person; reissued patent No. 10,139,

issued June 20, 1882, to U. H. Odell; patent No. 269,623, issued December 26, 1882, to Hans Birkholz.

Mr. Justice Brown delivered the opinion of the court.

Claims 4, 5, and 6 in patent No. 222,895, issued December 23, 1879, to William D. Gray, for improvements in roller mills, construed to be practically for a combination of, first, a movable roller bearing; second, a rod; third, an adjustable stop device to limit the inward movement of the bearing; fourth, an outside spring urging the bearing inward; fifth, means for adjusting the spring; and, sixth, a stop and holding device at the opposite end of the rod from the spring, and Held not infringed by a machine having no rod or its mechanical equivalent connecting the bearings of the adjustable rolls, but instead of it an upright rod encircled with a spring at the end of each roller.

Claims 2 and 3 in patent No. 238,677, issued March 8, 1881, to William D. Gray, for improvements in roller mills, examined, and Held to be void because anticipated by the inventions of one Nemelka, of Simmering, Austria-Hungary, as best shown in an English patent, No. 3,328, of 1877, to one Lake.

Franklin A. Seely.

By the death of Col. Seely, the Patent Office has lost one of its most able, popular and efficient examining officers.

Franklin A. Seely was born in Pennsylvania in 1834, graduated at Yale College in 1855, served in the army as assistant quartermaster of the volunteers during the war of the rebellion, and was discharged in 1867 with the brevet rank of lieutenant-colonel. In 1875 he was appointed assistant examiner in the Patent Office, and in April, 1877, chief clerk of that office. He held the latter place till June, 1880, when he surrendered it to accept that of principal examiner, and was put in charge of a new division formed of the classes that had hitherto constituted the philosophical division, except electricity, which thereafter constituted a separate division. To Col. Seely's division were added trade marks, till then a division by themselves. His duties remained the same until a year ago, when they were lightened by the erection of his work on applications for patents into a separate division, leaving him only trademarks. When, in 1877, the United States acceded to the International Union for the Protection of Industrial Property, the task of reviewing the convention of Paris was assigned to Examiner Seely, and his interpretations of that instrument have been accepted as correct both here and abroad. Since then it has been the custom to refer to him all questions arising in the office or referred to it concerning international relations, and during the terms of Secretaries Bayard and Blaine the State Department often sought the help of his opinions. In 1890 the latter designated him as a delegate to the international conference at Madrid.

Col. Seely was for many years an officer in the Anthropological Society at Washington, and a contributor to its proceedings. Several of his papers relating to the philosophy of invention have been published. In 1891 he delivered an address at the patent centennial on "The International Protection of Industrial Property" and a paper of similar purport in the patent congress held at Chicago in 1893 in connection with the Columbian Exposition. A carefully prepared collection of all the treaties and conventions concerning patents and trade marks to which this country is a party was presented by him to that congress.

Direct Positives Produced in the Camera.

In the Phot.-Wochenblatt, Herr Franz Kogelmann suggests the following modification of the Obernetter process of producing positives directly from nature in the camera.

The plate, which should have been exposed for a much longer time than usual, is developed with ferrous oxalate until the high lights, if the plate be viewed from the back, appear quite black. The plate is then washed in the dark and placed in the following bath :

Table with 2 columns: Chemical substance and quantity. Bichromate of potash... 5 parts. Alum... 75. Nitric acid c.p... 5. Sulphuric acid c.p... 10. Distilled water... 800.

This solution should be free from any trace of chloride. The plate is then thoroughly washed and developed in bright daylight with any good developer, until the required density is obtained. It is essential that in the high lights the silver salt is entirely reduced, so that it may be perfectly dissolved in the bichromate bath, leaving the corresponding parts of the film perfectly transparent.

L. Le Brocquy's Substitute for Rubber.

This consists of the substance known as printers' "roller composition"—consisting of glue, glycerine, and sugar—incased in a covering of ordinary India rubber, to protect it from damp and mechanical injury. Into the composition may be introduced various substances such as tannic or chromic acid to raise its melting point, salicylic acid as a preservative, ground cork, china clay, and barium sulphate, and mica to increase its insulating capacity.

Number and Subjects of American Patents.

The recent annual report of the Commissioner of Patents contains an interesting and valuable table, showing the number of patents granted for the subjects on which petitions have been filed. We herewith present this table in extenso. The total number of patents granted up to the close of 1894 was 511,744. The least number granted for any one subject was for linotypik, or type setting by machinery. The number of these patents is 38. The highest number of patents, on any one subject, is for carriages and wagons, for which the aggregate number of patents granted is 20,006.

TABLE OF AMERICAN PATENTS GRANTED FROM THE BEGINNING DOWN TO DECEMBER 31, 1894.

Large table listing various patent categories and their counts. Categories include Brakes and gins, Bread cracker, and lozenge making, Bridges, Brushing and scrubbing, Builders' hardware, etc. Total count is 511,744.