Waxham Vs. Smith

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SooperKanoon Citation : sooperkanoon.com/96223

Court : US Supreme Court

Decided On : Jan-07-1935

Appeal No. : 294 U.S. 20

Appellant : Waxham

Respondent : Smith

Judgement :

Waxham v. Smith - 294 U.S. 20 (1935)
U.S. Supreme Court Waxham v. Smith, 294 U.S. 20 (1935)

Waxham v. Smith

No. 208

Argued December 4, 1934

Decided January 7, 1935

294 U.S. 20

CERTIORARI TO THE CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

SYLLABUS

1. Claim 1 of Patent No. 1,262,860, to Smith for a method of incubating eggs, *held* valid and infringed. *See Smith v. Snow, ante* p. 294 U. S. 1 . P. 294 U. S. 21 .

2. The claim is for a method or process, and not for a machine or the function of a machine. P. 294 U. S. 21 .

3. A method, otherwise patentable, is not to be rejected as "functional" merely because the specifications show a machine capable of using it. P. 294 U. S. 22 .

4. Infringement of the Smith method is not avoided by use of it, whether more or less efficiently, in an incubator of different structure than Smith's. P. 294 U. S. 23 .

70 F.2d 457, affirmed.

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Certiorari to review a judgment affirming a judgment of the District Court holding a patent valid and infringed.

MR. JUSTICE STONE delivered the opinion of the Court.

In this companion case to *Smith v. Snow, ante,* p. 294 U. S. 1 , certiorari was granted to review a decree of the Court of Appeals for the Ninth Circuit, 70 F.2d 457, which affirmed the decree of the District Court, and held valid and infringed the first claim of the Smith patent, No. 1,262,860, of April 16, 1918, for an improved apparatus and method for the incubation of eggs.

The issues here, as in the *Snow* case, are the scope of Claim 1 and its infringement as rightly construed. For reasons stated at length in the opinion in the *Snow* case, our decision as to the scope of the claim is the same as in that case. Petitioner argues that the claim, if thus broadly construed, is invalid as an attempt to patent the function performed by the petitioner's incubator. *See Risdon Iron &*

Locomotive Works v. Medart, 158 U. S. 68 , 158 U. S. 77 . It is said also that the function of the machine involves merely the application of the natural law that heat units flow from warm to cooler objects placed in proximity. But the function which a machine performs -- here, the hatching of eggs -- is to be distinguished from the means by which that performance is secured. It is true that Smith made use of the difference in temperature of

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eggs in different stages of incubation, and the flow of heat units from one to the other, in achieving the desired result. He did this by arrangement of the eggs in staged incubation and applying to them a current of heated air under the conditions specified in Claim 1. By the use of materials in a particular manner, he secured the performance of the function by a means which had never occurred in nature, and had not been anticipated by the prior art; this is a patentable method or process. *Corning v. Burden,* 15 How. 252, 56 U. S. 267 -268; *Risdon Iron & Locomotive Works v. Medart, supra,* 158 U. S. 77 ; *Cochrane v. Deener,* 94 U. S. 780 , 94 U. S. 788 . A method, which may be patented irrespective of the particular form of the mechanism which may be availed of for carrying it into operation, is not to be rejected as "functional" merely because the specifications show a machine capable of using it. *Expanded Metal Co. v. Bradford,* 214 U. S. 366 , 214 U. S. 382 -386; *Cochrane v. Deener, supra,* 94 U. S. 787 -788. *Cf. Holland Furniture Co. v. Perkins Glue Co.,* 277 U. S. 245 , 277 U. S. 255 -256.

Petitioner's incubator differs only in unimportant mechanical details from the infringing machine in the *Snow* case. In it, the eggs are set in staged incubation at different levels, but in no particular order. They are subjected to circulation of heated air, set in motion by fans, which carries heat units from the warmer to the cooler eggs and maintains the air throughout the chamber at substantially uniform temperature. There is a fresh air intake behind the fans, and openings in the ceiling for the exit of foul air. There is no central corridor; the tiers of egg trays being placed in or near the center of the chamber. There are no curtains or similar means of guiding the air currents set in motion by the fans. Two fans are placed on the side wall at the back of the chamber. They turn continuously, and are so

constructed and operated as to propel currents of air, which proceed along the sides and the ceiling and floor of the chamber to the front wall, where

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they are deflected in the direction of the fans, and there "drawn" toward them through the central part of the chamber. Less than 1% of the air passes out through the foul air exits in the course of making the described circuits, so that there is circulation and recirculation of the air within the chamber. The evidence supports the finding of the special master and of the two courts below that the currents of air set in motion by the fans flow continuously along defined paths.

The petitioner's machine thus employs every essential of the patented method as it is defined by Claim 1. Petitioner does not avoid infringement of respondent's method patent merely by employing it in a machine of different structure than respondent's, whether more or less efficiently. *Winans v. Denmead,* 15 How. 330, 56 U. S. 344 ; *Sewall v. Jones,* 91 U. S. 171 , 91 U. S. 184 ; *Cochrane v. Deener, supra,* 94 U. S. 789 ; *Carnegie Steel Co. v. Cambria Iron Co.,* 185 U. S. 403 , 185 U. S. 441 .

Affirmed.