PATENTED HORNS.

Mechanism, Not the Noise, the Test of Infringement.

To the Editor of The New York Times:

Our attention has been called to a recent communication in THE TIMES signed "W. J. L.," appearing in your issue of the 17th inst., under the caption "Judge Coxe's Patent Ruling." It was altogether unnecessary for "W. J. L." to state explicitly that he is "not conversant with the details of patent law," the article itself blazons forth the fact. The opinion of the Circuit Court of Appeals, written by Judge Coxe, did not decide the case "largely (or at all) on the ground that a noise is not patentable," as asserted by "W. J. L." The court found that the device emitting the noise was old, that the broad claims of the Hutchison patents were invalid, that they were completely anticipated by the Pierman patent, issued ten years prior to the patents in suit, and that the narrower or specific claims, if valid, were not infringed by the Newtone horn.

Throughout the litigation the complainant contended that the "noise" emitted by its Klaxon horn (then said to be a concrete embodiment of the device set forth and claimed in and by the Hutchison patents in suit) was evidence of novelty in the said patents, and that as the Newtone horn emitted substantially the same "noise" the result produced was "evidence of the occurrence of similar physical phenomena" in both the Newtone and Klaxon horns. The Court of Appeals disposed of this contention by saying:

> The patents in issue are not for "a noise." A noise, as such, is not patentable, and if it be considered at all, as throwing light upon the mechanism, it must be admitted that the Newtone note resembles Pierman's rather than Hutchison's.

Therefore, as "a noise is not patentable," and as the patents alleged to cover the device emitting the noise in question were anticipated by the prior Pierman patent, as well as others, there was nothing left of the Klaxon monopoly, and the court directed that the bill of complaint be dismissed with costs.

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