

IN THE HIGH COURT OF AUSTRALIA.

~~FABRIQUE SUISSE DE CRAYONS CARAN~~
~~D'ACHE S.A.~~

V.

~~THE COMMISSIONER OF PATENTS~~

ORIGINAL

REASONS FOR JUDGMENT.

Judgment delivered at MELBOURNE.

on THURSDAY, 17th OCTOBER, 1946.

FABRIQUE SUISSE DE CRAYONS CARAN
D'ACHE S.A.

v.

THE COMMISSIONER OF PATENTS

REASONS FOR JUDGMENT.

LATHAM C.J.
STARKE J.
DIXON J.
MCTIERMAN J.
WILLIAMS J.

v.

THE COMMISSIONER OF PATENTS

REASONS FOR JUDGMENT.

LATHAM C.J.
STARKE J.
DIXON J.
McTIERNAN J.
WILLIAMS J.

This is an appeal from a refusal of the Deputy Commissioner of Patents to accept a specification for an invention which consists of the roughening of a pencil to prevent the fingers grasping the pencil from slipping. The Deputy Commissioner has rejected the application on a ground which was open to him under sec. 46 of the Patents Act, namely that the invention was not novel. He quotes from the decision of this court in Gum v. Stevens, 1923 33 C.L.R. 267, at p. 270:-

"I apprehend if a patentee would succeed it is necessary for him to show not merely newness in the sense of doing a new thing which has not been done before, but he must show newness in the shape of novelty by producing a new thing which requires some exertion of the mind that could properly be called invention."

The Deputy Commissioner was of opinion that the slight roughening of the surface of the part of the pencil which was held in the fingers was something which was well within the range of competent workmen in the pencil trade. It appears to me to be an alleged invention which would immediately be achieved as soon as it was suggested that it was desirable to make it easier to hold the pencil and to prevent it slipping. In my opinion there is no novelty in the invention and the application was rightly rejected.

ORDER.

Appeal dismissed with costs.

STARKE J:)
DIXON J:)
McTIERNAN J:)
WILLIAMS J:)
 I agree.