

Case No. 8,758.  
[9 O. G. 746.]

MACDONALD V. BLACKMER ET AL.

Circuit Court, D. Massachusetts.

April 4, 1876.

PATENTS—SKIRT PROTECTOR—INFRINGEMENT.

The patent of plaintiff sustained, and decree for injunction and account against defendants. No legal principles involving construction of patent law involved, in the opinion of the court.

[Cited in *Macdonald v. Shepard*, Case No. 8,767; *Macdonald v. Sidenberg*, Id. 8,768; *Macdonald v. Shepard*, 4 Fed. 229.]

{This was a bill in equity by Helen Marie Macdonald against S. M. Blackmer and others for the alleged infringement of patent No. 155,534, granted to H. M. Macdonald, September 29, 1874.}

George E. Betton, for complainant.

Browne & Holmes, for defendants.

SHEPLEY, Circuit Judge. Since the disclaimer, which was filed before the date of the bill in this case, the claim of the complainant is limited to that only which was described in the specification of her patent—viz., “as a new article of manufacture, a skirt-protector, having a fluted or plated border bound with or composed of enameled cloth or other water-proof material.” I see no reason to doubt that she was the first and original inventor of this article, as distinguished from a skirt-facing, which is an entirely different article, and from a skirt-protector, which being made of wigan or similar material, was substantially useless for the purpose, as compared with the complainant’s invention.

Decree for injunction and account, as prayed for in the bill.

{NOTE. Upon petition of respondents, a rehearing was granted, and they were permitted to file a supplemental answer. The decree was not set aside, but the fact of the patent and the evidence thereto necessary were permitted to be introduced. Upon the original papers, supplemental answer, and evidence, the case was again heard, and the decree for plaintiff allowed to stand. Case No. 8,757.}

{For other cases involving this patent, see *Macdonald v. Shepard*, 4 Fed. 229, 10 Fed. 919, and Case No. 8,767; *Macdonald v. Sidenberg*, Id. 8,768.}