

Case No. 17,246a. WASHINGTON MEDALION PEN CO. v. ESTERBROOK.  
[MS.]

Circuit Court, S. D. New York.

1869.

INFRINGEMENT OF TRADE-MARK.

[Cited in 2 Morgan, lit. p. 252, to the propositions that “the principle which governs all cases of trade-marks, undoubtedly is that no one is permitted to appropriate the benefit of another’s reputation,” and that “a trade-mark \* \* \* has come to signify anything that has become in time adopted as the prima facie means of detecting the goods, wares, or properties of certain proprietors.”]

The exact holding of the cases is stated by Mr. Morgan to be as follows: “The shape, style, and general contour of a steel pen, and the method of packing the same in small boxes of a certain shape and size, and these again in other larger ones of a certain shape and size, which boxes were covered with paper lithographed with certain devices, and lines of printing of certain directions and styles of letters, have been held to be, what is perhaps the best and most comprehensive term which can be used,—colorable imitations of each other,—and these form infringements upon the jus in rem of a trademark.”