

CELLULOID MANUF'G CO. v. ZYLONITE NOVELTY CO.

*Circuit Court, S. D. New York.*

March 24, 1887.

PATENTS FOR INVENTIONS—NOVELTY—CELLULOID COLLARS.

The mere turning down and cementing the edges of celluloid collars and cuffs in the form of a hem, is not new, and does not constitute invention.

In Equity. Suit for infringement of letters patent.

*Betts, Atterbury & Betts*, for complainant.

*E. M. Felt*, (*H. M. Ruggles*, of counsel,) for defendant.

WALLACE, J. The claim of the patent in suit is "a collar or cuff made of celluloid or other pyroxyline material, from a single thickness of material, having the edges turned over onto itself to form a hem, substantially as specified." The specification, as illustrated by the drawings, denotes that the collar or cuff is made from a sheet of the material, which has been cut into a suitable blank, and the hem is formed by turning the edges over on the back and cementing them down. The specification contains no instructions as to the method of turning down the hem and cementing it, nor does it give any description of the cement to be used. Collars and cuffs made of celluloid, but not having their edges turned down and cemented so as to form a hem, were old at the time the alleged invention of the patent was made. It was also old to turn down the edges of sheets of celluloid. There was no novelty in cementing such material to itself; and cements for doing this were well known. It was not new to form a hem at the edge of a sheet of material like cotton, linen, leather, India rubber, paper, tin, sheet-iron, etc., by turning it over at the edge, and cementing it down, and different kinds of cement were in use for that purpose. It was common to employ a hem in such materials to strengthen articles at the edge, and to make a smooth turned-over edge, as distinguished from a raw edge as in linen collars and cuffs and in leather pocket-books and portfolios.

This being the prior state of the art, it seems almost preposterous to claim that it was invention to fold down the edge of a celluloid collar or cuff, and form a hem by cementing the folded part down. Undoubtedly, a hem to collars and cuffs of this material was an improvement, not only as giving the article a more attractive appearance, but also as adding strength at the edge, and substituting a finished edge in the place of a cut edge. The result accomplished was similar in these respects to that produced by a hem upon linen collars or cuffs. But with celluloid collars and cuffs it was important to produce an article of sufficient flexibility to be comfortable, and yet of sufficient rigidity and strength not to break at the edges. This was effected by making the hem. But everything done by the patentee was old, except to adopt a hem for celluloid articles, such as had been used upon articles made of other material, to produce results similar in kind,—that of imparting rigidity and smoothness of finish to the material at the edge. The adaptability of the hem

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for the use desired is so obvious that it would be suggested spontaneously to any skilled mechanic. The bill is dismissed.