

the whole case, therefore, I think that the tobacco involved in this proceeding must be classified as leaf tobacco, unstemmed, suitable for cigar wrappers, and dutiable at two dollars a pound.

In re MFGROZ et al.

(Circuit Court, S. D. New York. June 13, 1892.)

CUSTOMS DUTIES—CLASSIFICATION—SILK AND COTTON VELVETS—SELVEDGES.

Silk and cotton velvets imported subsequent to October 6, 1890, are dutiable on the weight of the goods, including the selvedges, under paragraph 411 of the tariff act of October 1, 1890.

At Law. Application for review by the importers of a decision of the Board of United States general appraisers under the provisions of section 15 of the customs administrative act of June 10, 1890, as to the rate and amount of duty on certain silk and cotton velvets imported by them October 30, 1890. The collector of the port of New York assessed the merchandise for duty on the weight of the goods, including the selvedges, under paragraph 411 of schedule L of the tariff act of October 1, 1890, at \$1.50 per pound and 15 per cent. ad valorem. The paragraph under consideration is as follows:

"411. Velvets, plushes, or other pile fabrics, containing, exclusive of selvedges, less than seventy-five per centum in weight of silk, one dollar and fifty cents per pound and fifteen per cent. ad valorem; containing, exclusive of selvedges, seventy-five per centum or more in weight of silk, three dollars and fifty cents per pound and fifteen per centum ad valorem; but in no case shall any of the foregoing articles pay a less rate of duty than fifty per centum ad valorem."

The importers protested on the ground that, in determining the number of pounds upon which the duties were assessed, the dutiable weight consisted only of the weight of the goods, exclusive of the selvedges. The board of United States general appraisers, in their decision of the case, found, among other things, as findings of fact:

"(2) That said velvets were composed of silk and cotton, and contained, excluding the selvedges, less than 75 per cent. in weight of silk; (3) that said velvets were pile fabrics woven with plain selvedges, which were integral portions of said fabrics; (4) and the specific or pound duty was levied upon the weight of the entire fabric."

As conclusion of law the board found that the duty was properly assessed according to the above findings of fact. The importers appealed, according to law, to the circuit court.

Curie, Smith & Mackie, (W. Wickham Smith, of counsel,) for importers.

Edward Mitchell, U. S. Atty., and James T. Van Rensselaer, Asst. U. S. Atty.

After argument, the circuit court, LACOMBE, Circuit Judge, affirmed the decision of the board of United States general appraisers without delivering any opinion.

EDISON ELECTRIC LIGHT CO. v. MATHER ELECTRIC CO.

(Circuit Court, D. Connecticut. December 17, 1892.)

No. 723.

PATENTS—SUIT FOR INFRINGEMENT—PLEADING—DEMURRER—AMENDMENT.

In a suit by a corporation for infringement of a patent, defendant demurred to the bill because it failed to allege a written assignment of the patent, or that the article had not been patented or described in any

printed publication prior to the invention. Complainant then moved for leave to file an amended bill supplying these omissions. *Held*, that such a bill was not a new bill, and that defendant was not entitled, as a condition of allowing the same to be filed, to have his demurrer sustained as on final hearing, but the filing would be allowed on payment of defendant's reasonable costs, without passing upon the demurrer.

In Equity. Suit by the Edison Electric Light Company against the Mather Electric Company for infringement of a patent. On motion for leave to file an amended bill. Granted.

Dyer & Seeley, for complainant.
West & Fairfax, for defendant.

TOWNSEND, District Judge. Defendant demurred to the original bill because it failed to allege a written assignment of patent to complainant, and that it had not been patented or described in any printed publication prior to the invention. Complainant thereupon moved for leave to file an amended bill. Defendant claims that, if complainant is given leave to amend, his demurrer to the original bill should be sustained as on a final hearing. He cites no precedent or authority for this course, but claims that the amended bill is virtually a new bill. I do not find any material difference between the original and amended bills, except that in the latter the omissions above stated have been inserted. The motion is granted upon condition that complainant pay to defendant the probable disbursements to which it has been subjected by reason of the amendment, say \$10, and with leave to defendant to file a pleading to the same on the next rule day. As I understand it not to be the practice in granting such a motion to pass upon the demurrer, I decline to make any order thereon, and deny defendant's motion for \$20 costs for attorney's docket fee as on final decree.

BALL GLOVE FASTENING CO. v. BALL & SOCKET FASTENER CO.

(Circuit Court, D. Massachusetts. December, 1892.)

No. 2514.

PATENTS FOR INVENTIONS—INFRINGEMENT—ACCOUNTING—MASTER'S FINDINGS.

In a suit for infringement of the Kraetzer patents, No. 290,067, and No. 306,021, for glove fasteners, the court held that the first claim of the former and the fourth claim of the latter were infringed by the "Mead solid-ball" fastener, and accordingly ordered an injunction and accounting. The master found that the "Mead hollow-ball" fastener was included in the decree, as being only colorably different from the solid-ball fastener. *Held*, that the finding should not be disturbed, the only difference being that in the solid-ball fastener the connecting shank goes down through the upper plate and the material, and is upset underneath the lower plate, on the underside of the material, while in the former the connecting shank goes up through the lower plate, material, and upper plate, and is upset or compressed in the hollow ball.

In Equity. Bill by the Ball Glove Fastening Company against the Ball & Socket Fastener Company for infringement of the Kraetzer patents, No. 290,067 and No. 306,021, for improvements in glove fast-