

goat, or other like animals is a component material, shall be classified as manufactures of wool."

The board sustained the collector and the importer appeals to this court.

The question is whether the merchandise is more specifically provided for in paragraph 414 than in paragraph 395 of the new tariff act. The question is a perplexing one, but I am inclined to think that the collector was right in his classification. "Women's and children's dress goods" is a term of commercial designation. Paragraph 395 does not deal broadly with woollen cloths or manufactures of wool or worsted, but is confined to certain designated varieties of woollen or worsted cloths and to goods of similar description to these varieties. Strictly speaking "Gloria cloth" may not be known commercially as "women's and children's dress goods," but there is no question that it is used in making women's and children's dresses and is similar in description to such goods. A paragraph which provides for "goods of similar description and character to women's and children's dress goods composed wholly or in part of worsted" describes with greater accuracy the imported merchandise than a paragraph which provides for "all manufactures of silk." To borrow an analogy from the patent law, cloth which would infringe paragraph 414, were its broad language embodied in the claim of a patent, would not be touched by the narrower provisions of paragraph 395. The latter is more limited in scope and, therefore, more specific. It is this element of specialization which distinguishes the case from *Hartranft v. Meyer*, 135 U. S. 237, 10 Sup. Ct. Rep. 751, where two broad paragraphs, one relating to manufactures of wool and the other to manufactures of silk, were under consideration. The contention that in no event is paragraph 414 applicable for the reason that "Gloria cloth" is within the proviso when construed in the light of the provisions of the act of May 9, 1890, (26 St. at Large, p. 105,) entitled "An act for the classification of worsted cloths as woolens," presents an interesting question which it is unnecessary to decide.

The decision of the board is affirmed.

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#### IN RE KURSHEEDT MANUF'G CO.

(Circuit Court of Appeals, Second Circuit. February 7, 1893.)

#### CUSTOMS DUTIES—VELVETEEN DRESS FACINGS.

"Velveteen dress facings" are dutiable at 40 per cent. ad valorem as "manufactures of cotton not specially provided for," under paragraph 355 of the tariff act of October 1, 1890, and not at 14 cents per square yard and 20 per cent. ad valorem, as "velveteens," nor as "cotton-pile fabrics," under paragraph 350. 49 Fed. Rep. 633, affirmed.

Appeal from the Circuit Court of the United States for the Southern District of New York.

Proceeding by the Kursheedt Manufacturing Company to review the decision of the board of general appraisers assessing a duty of 40 per cent. ad valorem on "velveteen dress facings." The circuit

court affirmed the decision. 49 Fed. Rep. 633. The United States appeals. Affirmed.

Edward Mitchell, U. S. Atty., and Thos. Greenwood, Asst. U. S. Atty., for appellant.

M. A. Kursheedt, for appellee.

Before WALLACE and SHIPMAN, Circuit Judges.

**PER CURIAM.** The court below, affirming the decision of the board of general appraisers, adjudged that the importations in controversy were manufactures of cotton, under paragraph 355 of the tariff act of October 1, 1890, which subjects to duty at 40 per cent. ad valorem "all manufactures of cotton not specially provided for." It is contended for the appellant that they should have been classified and assessed for duty under paragraph 350 of the same tariff act, which imposes a duty of 14 cents per square yard and 20 per cent. ad valorem upon "plushes, velvets, velveteens, corduroys, and all pile fabrics composed of cotton, \* \* \* if dyed, colored, stained, painted, or printed." Paragraph 355 is the omnibus clause of "Schedule I, Cotton Manufactures." The importations consist of velveteen which has been cut bias into narrow strips of short length, the ends lapped over, formed into a seam, sewed together, and pressed with a hot iron. They are commercially known as velveteen dress facings. They are intended for facing the skirts of dresses, and are used for that purpose in the form in which they are imported.

The real question in the case is whether the articles are the velveteens of paragraph 350 or a manufactured article. Concededly, if they are a manufactured article, they are a manufacture of cotton, because they are made out of velveteen, which, itself, is a manufacture of cotton. If they are specially provided for, and excluded from the manufactures of cotton of paragraph 355 for that reason, it is because they are velveteens. Velveteens are a particular variety of cotton-pile fabric, and, having been enumerated, like plushes, velvets, and corduroy, are taken out of the more general descriptive term. They are not the pile fabrics of paragraph 350, because that term is intended to cover and subject to duty only such other varieties as have not already been described. We regard the term "pile fabric" as a trade term, used to designate all the other cotton fabrics which are ejusdem generis with the varieties previously named. We think the evidence clearly shows that the articles in controversy have lost their commercial identity as velveteen, and are a manufactured article. Not only have they been advanced to a form in which they have acquired a new commercial name, and are adapted for a distinctively new use, but they have been subjected to a process consisting of several steps, which requires a considerable amount of skill and labor, and which has very materially enhanced their value beyond that of velveteen. It appears in the record that two letters patent for inventions in the process of making the articles have been granted by the United States.

The judgment is affirmed.

## In re DIECKERHOFF et al.

(Circuit Court, S. D. New York. January 12, 1893.)

**CUSTOMS DUTIES—CLASSIFICATION—“FEATHER-STITCHED BRAIDS.”**

So-called “feather-stitched braids,” being an article from one quarter to one third of an inch in breadth, woven on a loom, and ornamented with certain patterns, “herring bone” and others, are dutiable as cotton braids, under Schedule I, par. 354, of the tariff act of October 1, 1890, and not as cotton trimmings under Schedule J, par. 373, of said act, as classified by the collector of customs of New York.

**At Law.**

This was an appeal by the collector of customs at the port of New York for a review of the decision of the board of United States general appraisers, reversing the decision of the said collector in the classification for duty of certain merchandise imported in the early part of the year 1891, and which was classified for duty by the collector as “cotton trimmings,” and duty thereon assessed at 60 per cent. ad valorem, under the provisions of paragraph 373 of the tariff act of October 1, 1890, which contains an enumeration of “trimmings \* \* \* composed of flax, jute, cotton, or other vegetable fiber, or of which these substances, or either of them, or a mixture of any of them, is the component material of chief value, not specially provided for in this act, sixty per centum. ad valorem.” The importers protested in the case of each of the entries, claiming that the merchandise was dutiable at only 35 cents per pound, as cotton braids, under Schedule I of said tariff act, (paragraph 354,) or, second, at only 40 per cent. ad valorem, as cotton galloons, under the same schedule and paragraph, which provision, so far as it is material, is as follows: “(354) Cotton cords, braids, boot, shoe, and corset lacings, thirty-five cents per pound.” The importers abandoned their contention that the merchandise was galloons, and stood upon their claim that it was braids; and, having appealed to the board of United States general appraisers, pursuant to the provisions of the so-called “Administrative Act of June 10, 1890,” produced the testimony of a number of trade witnesses before said board, from whose evidence it appeared that the merchandise was known in trade and commerce on and immediately prior to October 1, 1890, as “feather-stitched braids,” and that the articles were not known as “trimmings,” or included within the line of goods of that character. It also appeared that braids were sometimes made on looms and sometimes on braiding machines, but that by far the greater proportion was made on looms; and that, whether woven on looms or made on braiding machines, the use was the same,—for covering and binding goods, etc.—and that these braids were not used as trimming articles.

The board of appraisers decided that the merchandise was cotton braids, that it was not commercially known as “trimmings,” and sustained the protests of the importers. The collector thereupon by petition procured the return of the board of general appraisers to be filed in the circuit court pursuant to the provisions of the above-mentioned administrative act, and obtained from the court an order to take further testimony before one of the general appraisers as an officer of the court. A number of witnesses were produced before the referee on behalf of the collector and the government, from whose testimony it appeared that the articles in question in this suit were woven with a shuttle on a loom, and that braids were frequently manufactured on braiding machines by an entirely different process from weaving. The witnesses for the government, with the exception of one manufacturer, were persons who bought the merchandise in question for the purpose of using it in the manufacture of ladies' and children's underwear, in which it was used, according to their testimony, to cover up and give a certain finish or ornament to seams in those garments; and that the articles were bought by them as “herring-bone,” or “herring-bone trimming.” There was some difference in the testimony of these witnesses as to whether these articles were applied to seams merely for the purpose of covering such seams or for giving to them an ornamental effect. This evidence was returned to the circuit