

lections of a kindred kind to cabinets "of old coins and medals" under the principle of ejusdem generis, which restricts a general word following particular words in a statute to the same genus as those words.

This view is corroborated by the manifest meaning of the word "cabinet" as it is found in paragraph 712 of the free list, which reads as follows: "Specimens of natural history, botany and mineralogy, when imported for cabinets, or as objects of science, and not for sale." This construction moreover was given to paragraph 669 of the act of 1883, in *U. S. v. Sixty-Five Terra Cotta Vases* (Cir. Ct. South. Dist. N. Y.) 18 Fed. 508. In the Case of Robert Garrett, involving an antique oil painting, G. A. 185, and affirmed on appeal to the United States circuit court of Maryland, this board, following other authorities, rejected this rule of construction as applicable to the old law. But, in our opinion, the amendment to the law indicates a legislative intention to curtail the vast flood of importations which have been made under the designation of antiquities during the past decade, embracing, as they did, valuable pictures, tapestries, furniture and other articles, each often being worth many thousands of dollars, and used for furnishing the houses of those most able to pay a just revenue on them. Applying these principles, we are of the opinion that the articles in question are not free from duty as claimed, but are subject to the duty imposed by the collector. His decision in each case is accordingly affirmed.

In the foregoing cases the importers had due notice of the hearing, and appeared in person before the board.

[Signed]

[Signed]

[Signed]

Henderson M. Somerville,

George C. Tichenor,

Wilbur F. Lunt,

Board of United States General Appraisers.

Stephen G. Clarke, for importer.

Thomas Greenwood, Asst. Dist. Atty., for collector.

COXE, District Judge (orally). The decision of the board of general appraisers is affirmed as to each of these importations, except the antique Oriental rug owned by and imported for Mr. George F. Baker, by the "La Champagne," December 30, 1890. As to this importation the decision of the board is reversed in accordance with the decision of the United States circuit court of appeals in *Re Glaenger*, 5 C. C. A. 225, 55 Fed. 642.

---

#### GENESEE SALT CO. v. BURNAP et al.

(Circuit Court, N. D. Ohio, W. D. April 11, 1895.)

##### TRADE-MARKS—WHAT WILL BE PROTECTED—GEOGRAPHICAL NAMES.

A manufacturer of salt in the Genesee Valley cannot be prevented from using the word "Genesee" in connection therewith; but he may be enjoined from using it in any color, style, or form of letters, or in combination with other words, so as to imitate a combination previously used by another.

**In Equity.** Bill by the Genesee Salt Company against Burnap & Burnap for an injunction.

George H. Beckwith, for plaintiff.

John F. Kumler, for defendants.

RICKS, District Judge. Two forms of decree are presented, and the court is called upon to decide which would be in accordance with the opinion filed March 19, 1895. In that opinion the court held that plaintiff was entitled to an injunction "on the theory that defendants were trying to imitate the inscription upon their product,—palm it off

upon the public as the plaintiff's." This the court intended to prevent, and held that the defendants could not combine the words "Genesee Salt Co. Factory Filled" in such a way as to imitate the plaintiff's description of its product, and thereby deceive the public. Plaintiff's counsel seeks to give a broader construction to this opinion than the court intended it should have, and asks that defendants be enjoined from using the word "Genesee" as describing their salt. I do not think this can be done. A court will not enjoin from telling the truth. The facts in this case show that defendants are manufacturing their salt in the Genesee Valley, and to prevent them from using the word "Genesee" as descriptive of their salt would be to give the plaintiff a monopoly of that word, which the law does not intend to give. The case was practically decided on the authority of *Canal Co. v. Clark*, 13 Wall. 311, from which the court quoted as follows:

"He has no right to appropriate a sign or a symbol which, from the nature of the fact it is used to signify, others may employ with equal truth, and therefore have an equal right to employ for the same purpose. And it is obvious that the same reason which forbids the exclusive appropriation of generic names, or of those merely descriptive of the article manufactured, and which can be employed with truth by other manufacturers, apply with equal force to the appropriation of geographical names, designating districts of country. Their nature is such that they cannot point to the origin (personal origin) or ownership of the article of trade to which they may be applied. They point only at the place of production, not to the producer; and, could they be appropriated exclusively, the appropriation would result in mischievous monopolies."

Injunction denied beyond restraining defendants from combining the words "Genesee," "Salt," "Co.," and "Factory Filled," to resemble plaintiff's combination. Defendants are entitled to use the name "Genesee," representing the locality of the manufacture of the salt, but not to use it in any color, style, or form of letters or in combination so as to imitate plaintiff's combination.

---

RING REFRIGERATOR & ICE-MACHINE CO. v. ST. LOUIS ICE MANUFACTURING & COLD-STORAGE CO.

(Circuit Court, E. D. Missouri, E. D. January 3, 1895.)

1. PARTIES TO PATENT SUITS—SUIT AGAINST USER — RIGHT OF MANUFACTURER TO BE MADE DEFENDANT.

A manufacturer is not entitled to intervene in an infringement suit brought against a purchaser of his machine, after a decree has been rendered therein sustaining the patent sued on and declaring infringement, for the purpose of having the decree set aside, merely because he has an indirect interest in the result arising from his possible liability to indemnify other purchasers of like machines against damages which might be adjudged against them in future actions upon the same patent.

2. SAME—ESTOPPEL.

A manufacturer, upon being invited to assume the defense of an infringement suit brought against the purchaser of one of his machines, declined to do so, except to the extent of paying part of the expenses thereof, and by his vacillating course evinced a purpose to take advantage of the judgment if favorable, and escape responsibility if adverse. *Held*, that he was precluded, after the entry of a final decree, from intervening in the suit for the purpose of having the decree set aside.