

"gorings" were not wrought by hand or braided by machinery, but were woven on a loom. The supreme court reversed the circuit court, holding them dutiable under the paragraph above quoted, as gorings. Manifestly, such a conclusion was possible only upon a construction of the paragraph which did not carry back the words "wrought by hand or braided by machinery" as a qualification of the word "gorings," in the long enumeration of articles referred to. The position in the sentence of the words "dress trimmings," in the paragraph now under consideration, is not sufficiently variant from that of the word "gorings," in the earlier paragraph, to call for any different application of the qualifying words, "wrought by hand," etc. Therefore the latter do not restrict the words "dress trimmings" so that they will not cover the importations of appellants here, which are dress trimmings woven on a loom. The decision of the circuit court is affirmed.

SHOELLKOPF, HARTFORD & MacLAGAN, Limited, v. UNITED STATES.

(Circuit Court of Appeals, Second Circuit. January 8, 1896.)

No. 27.

CUSTOMS DUTIES—CLASSIFICATION—PARAFFINE.

The clear oily liquid described in the German Pharmacopœia as "Paraffinum Liq. Ph: G.," and consisting of a mixture of the higher fluid members of the paraffine series of hydrocarbons, was entitled to free admission under paragraph 671 of the act of October 1, 1890, as "paraffine," and was not dutiable under the designation, "Products or preparations known as alkalis * * *, distilled oils, * * * and all combinations of the foregoing," contained in paragraph 76.

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

This was an appeal by Shoellkopf, Hartford, and MacLagan from a decision of the board of general appraisers sustaining the action of the collector of the port of New York in respect to the classification for duty of certain articles imported by the appellants. The circuit court affirmed the collector's decision, and the importers thereupon appealed to this court.

Albert Comstock, for appellant.

Jas. T. Van Rensselaer, for appellee.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

LACOMBE, Circuit Judge. The importation in this case was invoiced as "Paraffinum Liq. Ph: G.," which the testimony in the case shows to be the Latin name of the article in the German Pharmacopœia. It is a mixture of the higher fluid members of the paraffine series of hydrocarbons; and is a clear, oily liquid obtained from petroleum, ozokerite, or some similar mineral substance. Hard paraffine (paraffinum durum), which is also sometimes known as "paraffine wax," is also a mixture of the higher members of the paraffine series of hydrocarbons. Both the hard and the liquid forms

are obtained from distillation. There is also a soft paraffine, popularly known as "vaseline." "Paraffine oil," which is known to commerce, is, as the witnesses for the government testify, a different article from the importation in this case. The collector classified the merchandise for duty under paragraph 76 of the tariff act of October, 1890, which reads:

"76. Products or preparations known as alkalies, alkaloids, distilled oils, essential oils, expressed oils, rendered oils, and all combinations of the foregoing and all chemical compounds and salts not specially provided for in this act twenty five per centum ad valorem."

The importers contend that it is free, under paragraph 671 of the free list, which reads simply: "671. Paraffine." If the article be in fact paraffine, it is covered by this last-quoted paragraph, which is manifestly more specific than the general enumeration of distilled oils in paragraph 76. The counsel for the government contends that the word "paraffine" in the free list refers only to the hard or waxy substance, but the evidence does not support such contention. There is no question of commercial designation, for the name of the article has no peculiar meaning, when used in trade, different from its popular meaning. The proof shows that paraffine is now found in three forms,—the fluid, the soft, and the hard. Even in Webster's Dictionary, cited by counsel for the government, paraffine is described as resembling spermaceti, and fusing at 120° to 136° F., and also as existing in the form of an oil. Originally, no doubt, it was produced only in the waxy form, but improvements in the methods of distillation have resulted in its production in either of the three forms described. The use by congress of the single word "paraffine," without any qualification, manifests an intention to cover at least all varieties of the article which were known when the act was passed, and, as liquid paraffine was at that time one of the known forms of paraffine, it comes within the provisions of paragraph 671.

The decision of the circuit court is reversed.

KAISERBRAUEREI, BECK & CO. v. J. & P. BALTZ BREWING CO.

(Circuit Court, E. D. Pennsylvania. December 18, 1895.)

No. 62, April Term, 1892.

TRADE-MARKS—"KAISER" BEER.

The word "Kaiser," as applied to beer, which has become known in the United States, under that name, as the product of a particular German brewer, is a valid trade-mark in the United States, though, under the law of Germany, it could not be adopted as such.

This was a suit by Kaiserbrauerei, Beck & Co. against the J. & P. Baltz Brewing Company to restrain the infringement of plaintiff's trade-mark. The cause was heard on the pleadings and proofs.

Goepel & Raeger, for complainant.

Biddle & Ward, for defendant.