

PER CURIAM. The importations in controversy are a thin fabric of silk, of a kind known, on account of its texture, as "chiffon"; and the decision of the case involves merely the question of fact whether such importations were "veilings," according to the commercial understanding prevailing when the tariff act of August 28, 1894, was passed. In the proofs before the board of general appraisers it appeared that while chiffons of various widths were suitable for veils, and were largely used for that purpose, they were also much used for other purposes, such as ruching, neckwear, and dress trimmings; and they were to some extent, but not generally or uniformly, known and dealt in as veilings. In the proofs before the circuit court there is a decided preponderance of testimony to the effect that chiffons like the present importations,—viz. of the width of 14 inches, and having a border on each side,—being specially adapted for use as veils in 1893 and subsequently, were generally imported and sold by the trade designation of "chiffon veiling." Upon the testimony in the record, we are of the opinion that the circuit court should have decided the question of fact in favor of the government, and its adjudication is therefore reversed.

UNITED STATES v. GIESE.

(Circuit Court of Appeals, Second Circuit. December 14, 1897.)

No. 44.

CUSTOMS DUTIES—CLASSIFICATION—CARBONATE OF POTASH.

Refined carbonate of potash was entitled to free entry as "potash, * * * carbonate of," under paragraph 595 of the tariff of 1894, and was not subject to duty under paragraph 60, as within the description "all chemical compounds and salts not specially provided for in this act." 78 Fed. 805, affirmed.

This is an appeal from a decision of the circuit court, Southern district of New York, affirming a decision of the board of general appraisers, which reversed a decision of the collector of the port of New York. 78 Fed. 805. That officer classified an importation of refined carbonate of potash under paragraph 60 of the tariff act of 1894, as being within the description "all chemical compounds and salts not specially provided for in this act." The importers protested, contending that it should be assessed for duty under paragraph 595 of the same act.

Jas. T. Van Renssalaer, for the United States.

Edw. Hartley, for appellee.

Before LACOMBE and SHIPMAN, Circuit Judges.

PER CURIAM. The paragraph on which the importers rely reads as follows:

"595. Potash, crude, carbonate of, or black salts. Caustic potash, or hydrate of, including refined in sticks or rolls. Nitrate of potash, or saltpeter, crude. Sulphate of potash, crude or refined. Chlorate of potash. Muriate of potash."

It will be noticed that the first sentence of this paragraph employs three descriptive phrases, viz.: Potash, crude; potash, carbonate of;

black salts. The use of the word "or" might leave it uncertain whether or not they were mere alternative designations for the same article; but the board of general appraisers has found that "there are potash salts known, respectively, as black salts, crude potash, carbonate of potash, and caustic potash"; and there is abundant evidence to sustain this finding. Under these circumstances, we see no reason why the court should be astute to find some excuse for holding that congress did not intend to say what it has said in positive and unambiguous language. When an importation is within the description which congress has used in this paragraph as "carbonate of potash," it should be classified accordingly, whether it be crude or refined. There is no force in the suggestion that it is not to be assumed that congress would admit refined carbonate of potash free, in view of the fact that, in this very paragraph, refined sulphate of potash and refined caustic potash are expressly given free entry. The decision of the circuit court is affirmed.

SAWYER SPINDLE CO. et al. v. MORRISON CO. et al.

(Circuit Court of Appeals, Second Circuit. December 1, 1897.)

No. 70.

PATENTS—CONSTRUCTION OF CLAIMS—INFRINGEMENT—SPINDLES FOR SPINNING MACHINES.

The Atwood patent, No. 253,572, for an improved support for spindles for spinning machines, wherein the gist of the invention is the flexible attachment of the supporting tube, with relation to the rail, is limited by the language of the specifications and the claims to a supporting tube which is so mounted, and which contains in itself both bolster and step bearings; and the patent is not infringed by a spindle in which, though the supporting tube is flexibly mounted, with relation to the rail, the lower part of it has been cut off so that the end of the spindle is supported upon a flat step, which can move freely in the bottom of the oil cup.

In Error to the Circuit Court of the United States for the District of Connecticut.

This is an appeal from an order of the circuit court for the district of Connecticut which granted an injunction pendente lite against the infringement of claims 2 and 3 of letters patent No. 253,572, dated February 14, 1882, and issued to John E. Atwood, for an improved support for spindles for spinning machines.

Charles L. Burdett, for appellants.

Fredk. Fish and W. K. Richardson, for appellees.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

SHIPMAN, Circuit Judge. This patent has been three times under consideration by the circuit court for the district of Connecticut, in suits against the same infringer for three infringements; and a description of the patentable character of the improvement, of its distinctive features, and of the infringed claims, was given in the opinions of that court. *Sawyer Spindle Co. v. W. G. & A. R. Morrison Co.*, 52 Fed. 590, 54 Fed. 693, and 57 Fed. 653. The patent has also been sustained by the circuit court and the circuit court of appeals for the