

**CLYMER et al. v. BOWEN.** (Circuit Court of Appeals, Fifth Circuit. January 25, 1898.) No. 614. In Error to the Circuit Court of the United States for the Northern District of Texas. This was an action by R. D. Bowen against J. M. Clymer and others to try the title and recover the possession of certain lands described in the pleading. At the first trial the court instructed the jury to render a verdict for the defendants, but on a writ of error the judgment entered was heretofore reversed by this court (24 C. C. A. 446, 79 Fed. 53), and the case was remanded, with instructions to grant a new trial. On the second trial there was a verdict and judgment for plaintiffs, and the defendants sued out a writ of error. J. G. Matthews, for plaintiffs in error. De Edward Greer and John L. Henry, for defendant in error. Before PARDEE and McCORMICK, Circuit Judges, and NEWMAN, District Judge.

**PER CURIAM.** This is the second writ of error in this case, and presents no questions not considered in the first writ. On the last trial in the circuit court the case seems to have been submitted on substantially the same evidence as on the first trial, and the rulings of the trial judge on the questions presented and now assigned as erroneous were in conformity with the views expressed by this court on the first writ. *Bowen v. Clymer*, 24 C. C. A. 446, 79 Fed. 53. The equitable defense presented on the first trial was somewhat accented on the last; but no question is raised thereby which we can now consider. As we find no sufficient reason to change our views as to the law applicable, the judgment of the circuit court must be affirmed, and it is so ordered.

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**COCKRILL v. UNITED STATES NAT. BANK.** (Circuit Court of Appeals, Eighth Circuit. November 23, 1897.) No. 984. In Error to the Circuit Court of the United States for the Eastern District of Arkansas. Removed to the supreme court on writ of error. See 82 Fed. 1000.

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**DARRAGH v. H. WETTER MFG. CO.** (Circuit Court of Appeals, Eighth Circuit. November 10, 1897.) No. 766. Appeal from the Circuit Court of the United States for the Eastern District of Arkansas. Removed to supreme court on appeal. See 23 C. C. A. 609, 78 Fed. 7.

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**Ex parte DAWSON.** (Circuit Court of Appeals, Eighth Circuit.) No. 908. Appeal from the District Court of the United States for the Western District of Arkansas. Application to supreme court for a writ of certiorari. See 83 Fed. 306.

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**DE LA VERGNE REFRIGERATING MACH. CO. v. GERMAN SAVINGS INST. et al.** (Circuit Court of Appeals, Eighth Circuit. January 31, 1898.) No. 974. In Error to the Circuit Court of the United States for the Eastern District of Missouri. Charles H. Aldrich and Frederick W. Lehmann (W. F. Boyle and H. S. Priest, on the brief), for plaintiff in error. B. Schnurmacher (Leo Rassieur, on the brief), for defendants in error. Before SANBORN and THAYER, Circuit Judges.

**PER CURIAM.** The judges are divided in opinion upon the question whether or not the contract which is the basis of this action was ultra vires the De La Vergne Refrigerating Machine Company, and are of opinion that the other questions presented should be determined in favor of the defendants in error. The judgment below is therefore affirmed by a divided court. See 17 C. C. A. 34, 70 Fed. 143.

**FARMERS' LOAN & TRUST CO. v. CHICAGO & N. P. R. CO.** Appeal of DAENELL. (Circuit Court of Appeals, Seventh Circuit. January 5, 1897.) No. 232. Appeal from the Circuit Court of the United States for the Northern District of Illinois. William Burry and Clark Varnum, for appellant. George P. Miller and F. H. Wichet, for appellee. Dismissed by consent. See 61 Fed. 543; 68 Fed. 412; 19 C. C. A. 477, 73 Fed. 314.

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**FLANDRAU et al. v. MASSACHUSETTS LOAN & TRUST CO.** (Circuit Court of Appeals, Seventh Circuit. January 5, 1897.) No. 309. Appeal from the Circuit Court of the United States for the Western District of Wisconsin. F. W. Cutcheon, for appellant. Dismissed on stipulation.

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**GORHAM MFG. CO. v. WATSON & NEWELL CO.** (Circuit Court of Appeals, First Circuit. October 14, 1896.) No. 188. Appeal from the Circuit Court of the United States for the District of Massachusetts. William A. Jenner, for appellant. Charles E. Mitchell, for appellee. Dismissed, pursuant to the fifth section of the twenty-second rule, for failure to argue. See 74 Fed. 418.

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**GREENE v. SOCIETE ANONYME DES MATERIEVES COLORANTES ET PRODUITS CHEMEQUES DE ST. DENIS.** (Circuit Court of Appeals, First Circuit. January 27, 1898.) No. 221. Appeal from the Circuit Court of the United States for the District of Rhode Island. For opinion of circuit court, see 81 Fed. 64. Richard B. Comstock, Rathbone Gardner, H. G. Hull, and B. N. Lapham, Jr., for appellant. Edmund Wetmore, W. A. Jenner, W. H. Thurston, and L. E. Sexton, for appellee. Before PUTNAM, Circuit Judge, and ALDRICH and LOWELL, District Judges, by whom the following decree was entered: Dismissed, without costs, by agreement on file. Mandate to issue forthwith.

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**HAMLIN v. CONTINENTAL TRUST CO. OF CITY OF NEW YORK.** (Circuit Court of Appeals, Sixth Circuit. July 7, 1896.) No. 430. Appeal from the Circuit Court of the United States for the Western Division of the Northern District of Ohio. Benjamin Harrison and John H. Doyle, for appellants. Willard Parker Butler, for appellees. No opinion. Motion by appellants to advance the cause, and motion by appellees to dismiss the appeal and for a writ of certiorari for diminution of the record, denied. See 72 Fed. 92; 24 C. C. A. 271, 78 Fed. 664.

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#### **HEAP v. TREMONT & SUFFOLK MILLS.**

(Circuit Court of Appeals, First Circuit. January 28, 1898.)

No. 205.

#### **PATENTS—INFRINGEMENT—NOVELTY AND INVENTION.**

Appeal from the Circuit Court of the United States for the District of Massachusetts.

This was a suit in equity by Charles Heap against the Tremont & Suffolk Mills for alleged infringement of letters patent No. 377,151, issued January 31, 1888, to Henry Nicholas Groselin, fils, for a machine for napping cloth. The circuit court dismissed the bill on the merits (75 Fed. 406), and the complainant appealed. This court heretofore reversed the decree (82 Fed. 449), but subsequently granted a rehearing on a particular point, as indicated in the opinion below.