

15 per cent. ad valorem, under said paragraph. Upon the hearing I reached the conclusion that the merchandise was crude feathers and downs, and made an oral statement to that effect. I have since thoroughly examined all the conflicting testimony and the opinion of the board of appraisers thereon, and am of the opinion that the evidence justified the finding of the board "that the goods are feathers and downs, advanced in value and condition above the condition of crude feathers and downs." The decision of the board of general appraisers therefore should not be disturbed. *White v. U. S.*, 18 C. C. A. 541, 72 Fed. 251.

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**BADISCHE ANILIN & SODA FABRIK v. MATHESON et al.** (Circuit Court, S. D. New York. June 8, 1899.) Motion for Preliminary Injunction. Livingston Gifford, for the motion. Henry P. Wells, opposed.

LACOMBE, Circuit Judge. Judge Coxe has held this patent valid, having before him the very evidence as to the Casella German patent and as to the publications in this country on which defendant seems to rely. 94 Fed. 163. This court therefore starts with the proposition that the patent is valid, and, since it is not disputed that defendant's product responds to all the tests of the patent, it must be held to be an infringement.

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**BRADDOCK v. LOUCHHEIM et al.** (Circuit Court of Appeals, Third Circuit. May 5, 1899.) No. 35. Appeal from the Circuit Court of the United States for the Eastern District of Pennsylvania. Dismissed pursuant to the sixteenth rule. See 87 Fed. 287.

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**FAYERWEATHER et al. v. RITCH et al.** (Circuit Court, S. D. New York. June 26, 1899.) Motion to Amend Bill of Complaint. Roger M. Sherman, for the motion. James L. Bishop and C. N. Bovie, opposed.

LACOMBE, Circuit Judge. The motion to amend is granted as prayed. This practically reopens the whole case, and all parties defendant will have 20 days' time after service of the amended bill to plead, answer, or demur thereto. The case being thus reopened, a plea or a demurrer, if interposed, will be considered as a first dilatory pleading, and, in the event of its being overruled, the party interposing it will be allowed to answer. The defendants trustees of Hamilton College may have 20 days to elect whether it will plead, answer, or demur to the amended bill, or whether it will stand on the evidence already taken on the issues raised by its present plea and replication thereto, and the submission thereof heretofore made to this court.

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**HUI GNOW DOY v. UNITED STATES.** (Circuit Court of Appeals, Ninth Circuit. May 17, 1899.) No. 542. Appeal from the District Court of the United States for the Northern District of California. Dismissed pursuant to the sixteenth rule. See 91 Fed. 1006.

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**KNIGHTS TEMPLARS' & MASONS' LIFE INDEMNITY CO. v. CONVERSE.** (Circuit Court of Appeals, Seventh Circuit. June 30, 1899.) No. 572. In Error to the Circuit Court of the United States for the Northern District of Illinois, Northern Division. Charles C. Aldrich, for plaintiff in error. Clark Yarnum, for defendant in error. Before WOODS and JENKINS, Circuit Judges, and BAKER, District Judge.

PER CURIAM. The questions now presented, it is conceded, are concluded by the decision rendered upon a prior writ of error in the case. See 60 U. S. App. 288, 93 Fed. 148. The judgment is therefore affirmed. The clerk is directed to withhold mandate until the further order of the court.

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KNOWLES LOOM WORKS v. RYLE. (Circuit Court, E. D. Pennsylvania, July 10, 1899.) Motion by Defendant for Judgment Notwithstanding the Verdict. J. Martin Rommel and J. G. Johnson, for plaintiff. Hampton L. Carson and Shiland & Honeyman, for defendant.

McPHERSON, District Judge. Two questions are raised by this motion:

1. Is the defendant a bona fide purchaser for value of the silk company's bonds, so that he is at liberty to question the legal validity of the so-called "lease" made by the plaintiff to the silk company? There is no dispute upon this point. The question must be answered in the affirmative.

2. Was the contract between the plaintiff and the silk company a bailment or a conditional sale? To this question I think the answer must be that the contract was a conditional sale; the consequence being that it cannot be enforced against the defendant. It is unnecessary to discuss the testimony upon this point. I have read the notes of both trials, and see no essential difference between what appeared then and what appears now. There was a larger volume of testimony upon the second trial, but there is nothing to take the case out of the decision of the circuit court of appeals. 31 C. C. A. 340, 87 Fed. 976. The letter of March 16th summed up the preliminary negotiations between the parties, and constituted, as the court of appeals has said, "the original contract relating to this machinery." The parties may now insist that the contract was verbal, but, in view of the uncontradicted testimony, I am of a different opinion. With respect to the paper signed upon July 12, 1895, I do not think that the testimony taken upon the second trial in any degree changes the situation as it was presented to the court of appeals. It is still necessary to say, as the court then said: "Regarding the two instruments of March 16th and July 12th as parts of one and the same transaction,—which is the most favorable view that can be taken for the Knowles Loom Works,—the conclusion is irresistible, that the transaction is not a bailment, but a sale of the machinery, with the lease as security for the price." Of course, if the above conclusions are correct, the plaintiff's argument that the looms were not fixtures, because the parties to the contract did not intend them to be fixtures, need not be considered. If the looms were sold, and not leased, the plaintiff had no further interest in them, and has no standing to insist now that they did not become fixtures. We direct judgment to be entered for the defendant upon the reserved point notwithstanding the verdict. Exception to the plaintiff.

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MORGAN et al. v. EMPIRE RUBBER MFG. CO. (Circuit Court, S. D. New York, June 26, 1899.) Motion to Punish for Contempt. D. W. Cooper, for the motion. Edward P. Lyon, opposed.

LACOMBE, Circuit Judge. Neither the decree nor the injunction contain any reservation to defendant of the right to sell any of the old stock on hand. Upon the record, then, defendant is guilty of contempt. It is contended in his behalf that there was at the time of the entry of the decree some verbal agreement to allow it to dispose of the few infringing articles it then possessed. This contention is disputed, but apparently defendant's officers believed such agreement was made. A nominal fine of \$25 seems sufficient penalty, under these circumstances, for disobedience of the injunction.

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THE PAVONIA. GEORGE et al. v. CUNARD S. S. CO. (Circuit Court of Appeals, First Circuit, June 13, 1899.) No. 106. Appeal from the District Court of the United States for the District of Massachusetts. Charles T. Rus-