Trade Names, Cent. Dig., p. 23, par. 15; Dec. Dig. 11). *President Suspender Co.* v. *Macwilliam* (1916), 238 Fed. Rep. 159." See headnote.

"Excelsior" for step-ladders—name of patented article.

"(App. D.C., 1908). Between 1870 and 1884 several patents for improvements in step-ladders were issued to C G. Udell, the predecessor in business of The Udell Works. Udell adopted as his trade mark the word 'Excelsior.' The Excelsior ladder embodied features of several, but not of all, of the patents. Six other styles of ladders were manufactured, some of which closely resembled the Excelsior ladder and all of which embodied features of the Udell patents. Held, that the word 'Excelsior' did not become during the life of the Udell patents the generic designation of ladders manufactured thereunder. *Udell-Predock Mfg. Co.* v. *The Udell Works* (1908), 140 O.G. 1002." See headnote.

Same—that a trade mark is generic not to be presumed.

"(App. D.C., 1908). While care should be taken lest a monopoly be continued beyond the life of a patent through the agency of a trade name which has come to indicate to the public the patented article, the Patent Office would not be justified in presuming that a trade mark was generic. In the present case the appellee company has built up a trade in ladders because of the superior excellence of the product and the fair dealings of the company. Manifestly it would be unjust to deny the company the benefit of its reputation unless convinced that to do so would prolong a monopoly."

"Bethabara Wood" generic and descriptive term.

"(U.S. D.C. Pa., 1919). Where the name 'Bethabara Wood,' invented by plaintiff, by general use became the descriptive name for a certain wood many years before he secured a registered trade mark for it and before it had become associated with plaintiff's product, he acquired no exclusive right to the name, preventing defendant from handling and selling wood under that name. *Shipley* v. *Hall* (1919), 256 Fed. Rep. 539." See headnote.

"Tabasco"—Name of patented article—Patent abandoned before expiration.

"(U.S. C.C.A. 5th Cir., 1918). At the expiration of a patent the public has the right to use the name which was employed to identify the patented article during the life of the patent, but where a patent was granted for pepper sauce and the process of preparing it, and the patentee manufactured and sold a sauce under the name 'Tabasco' which, prior to the expiration of the patent, is made in a way to bring it without the protection of the patent, the use of the name continuing, the general rule does not apply, since the right to the name as a trade mark had been acquired with respect to a product which was not the subject of the patent. *McIlhenny Co.* v. *Gaidry, Gaidry* v. *McIlhenny Co.* (1918), 253 Fed. Rep. 613."

It has been held by the United States Supreme Court that the principle involved in the *Singer* cases applies, notwithstanding the fact that the patent is a foreign one. *In Re Holzapfel's Compositions Co.* v. *The Rahtjen's American Composition Co.* (1901), 183 U.S. 1; 22 Sup. Ct. 6; 46 L. Ed. 49; 97 O.G. 958; 1901 C.D. 500, the trade mark claimed was used to describe a composition patented in England and it was held that when the patent expired the right to make the composition and the right to describe it by that name is open to the public. The principle involved in the *Singer Mfg. Co.* v. *June Mfg. Co.* (1896), 163 U.S. 169, applied notwithstanding the fact that the patent was a foreign one.