

from articles of the same general character manufactured or sold by others. He may thus notify the public of the origin of the article and secure to himself the benefits of any particular excellence it may possess from the manner or materials of its manufacture. His trade-mark is both a sign of the quality of the article and an assurance to the public that it is the genuine product of his manufacture. It thus often becomes of great value to him, and in its exclusive use the court will protect him against attempts of others to pass off their products upon the public as his. This protection is afforded not only as a matter of justice to him, but to prevent imposition upon the public. *Manufacturing Company v. Trainer*, 101 U. S. 54.

The object of the trade-mark being to indicate, by its meaning or association, the origin or ownership of the article, it would seem that when a right to its use is transferred to others, either by act of the original manufacturer or by operation of law, the fact of transfer should be stated in connection with its use; otherwise a deception would be practised upon the public and the very fraud accomplished, to prevent which courts of equity interfere to protect the exclusive right of the original manufacturer. If one affix to goods of his own manufacture signs or marks which indicate that they are the manufacture of others, he is deceiving the public and attempting to pass upon them goods as possessing a quality and merit which another's skill has given to similar articles, and which his own manufacture does not possess in the estimation of purchasers. To put forth a statement, therefore, in the form of a circular or label attached to an article, that it is manufactured in a particular place, by a person whose manufacture there had acquired a great reputation, when in fact it is manufactured by a different person at a different place, is a fraud upon the public which no court of equity will countenance.

This doctrine is illustrated and asserted in the case of *Leather Cloth Co. v. American Leather Cloth Co.*, which was elaborately considered by Lord Chancellor Westbury, and afterward in the House of Lords on appeal from his decree. 4 De Gex, Jones and Smith, 147, and 11 Clark's H. of L. Cas. 523.

In that case, an injunction was asked to restrain the defendant from using a trade-mark to designate leather cloth manufactured by it,

which trade-mark the complainant claimed to own. The article known as leather cloth was an American invention, and was originally manufactured by J. R. and C. P. Crockett, at Newark, New Jersey. Agents of theirs sold the article in England as "Crockett's Leather Cloth." Afterward a company was formed entitled "The Crockett International Leather Cloth Company," and the business previously carried on by the Crocketts was transferred to this company, which carried on business at Newark, in America, as a chartered company, and at West Ham, in England, as a partnership. In 1856, one Dodge took out a patent in England for tanning leather cloth and transferred it to this company. In 1857 the complainant company was incorporated, and the international company sold and assigned to it the business carried on at West Ham, together with the letters patent, and full authority to use the trade-mark which had been previously used by it in England. A small part of the leather cloth manufactured by the complainant company was tanned or patented. It however used a label which represented that the articles stamped with it were the goods of the Crockett International Leather Cloth Company; that they were manufactured by J. R. and C. P. Crockett; that they were tanned leather cloth; that they were patented by a patent obtained in 1856, and were made either in the United States or at West Ham, in England. Each of these statements or representations was untrue so far as they applied to the goods made and sold by the complainant.

The defendant having used on goods manufactured by it a mark having some resemblance to that used by the complainant, the latter brought suit to enjoin the use. Vice-Chancellor Wood granted the injunction, but on appeal to the lord chancellor the decree was reversed and the bill dismissed. In giving his decision the lord chancellor said that the exclusive right to use a trade-mark with respect to a vendible commodity is rightly called property; that the jurisdiction of the court in the protection of trade-marks rests upon property, and that the court interferes by injunction because that is the only mode by which property of that description can be effectually protected. But he added: "When the owner of the trade-mark applies for an injunction to restrain the defendant from injuring his property by making false representations to the public, it is essential that the plaintiff should not in his trade-mark, or in the business connected with it, be himself guilty of any false or misleading representation; for if the plaintiff makes any material false statement in connection with the property he seeks to protect, he loses, and very justly, his right to claim the assistance of a court of equity." And again: "Where a symbol or label, claimed as a trade-mark, is so constructed or worded as to make or contain a