

as will shew that he is not passing off his business as the business of the plaintiffs, and that the name so adopted is not calculated to deceive or mislead the public. He must submit to any competition that is not unfair or wrongful. No inflexible rule can be laid down as to what may constitute unfair competition. It is always a question of fact, which must be decided upon the particular circumstances of each case. For this reason, no one case can be an authority for another case. This serves to explain, in part, the apparently irreconcilable character of many of the reported cases. Sometimes, of course, the names in question are so unlike that there is no danger of the public being misled; in other cases the similarity is so apparent that it requires little evidence to lead to the opposite conclusion.

In many cases that are close to the line, the scale may be turned by what at first sight might appear to be comparatively trifling circumstances.

Illustrations are found in the following reported cases of the use of new trade-names which have been enjoined as an infringement of older ones, the older in each case being placed first: *The Boston Rubber Shoe Co. v. The Boston Rubber Co.*, 32 S.C.R. 315; the latter name being calculated to lead the public to believe that their goods were those of the plaintiffs. *Boulnois v. Peake*, 13 Ch.D. 513 (note); the plaintiffs' trade-name, "Carriage Bazaar," infringed by the defendants' "New Carriage Bazaar," which was opened on the same street, and near the plaintiffs'. *Manchester Brewery Co. v. North Cheshire and Manchester Brewery Co.*, [1898] 1 Ch. 539, [1899] A.C. 83; the North Cheshire Brewery Company, which extended its business into Manchester, added "Manchester" to its name; it was enjoined, as the new name was calculated to lead the public to believe that it had acquired the business of the Manchester Company. *Lee v. Haley*, L.R. 5 Ch. 155; the plaintiffs did business at 22 Pall Mall, under the name of "The Guinea Coal Co.;" the defendant opened a business at 48 Pall Mall under the name of "The Pall Mall Guinea Coal Co.;" held to be an infringement. *Valentine Meat Juice Co. v. Valentine Extract Co.*, 83 L.T.R. 259; the defendant restrained, although his name was Valentine. *Hendriks v. Montague*, 17 Ch.D. 638; *Universal Life Assurance Society v. The Universe Life Assurance Association*.

The following are examples of cases in which the new trade-names were held to be sufficiently distinct from the older ones