

manner, he will be entitled to restrain another from imitating his packages, even though his actual trade mark is bad ; and the imitation of bottles or barrels of a peculiar design, such as is only used by a manufacturer, will afford presumption that fraud is intended. There may be no monopoly at all in individual things, but if they are so combined by the defendants as to pass off their goods as the plaintiff's, then the defendants have brought themselves within the old common law doctrine, in respect of which equity will give to the aggrieved party an injunction to restrain the defendants passing off their goods as those of the plaintiff.

It has been held in America that a label on which is a representation of a box filled with cakes of soap, wrapped in variously colored paper wrappers, and arranged in a particular way, is not infringed by offering for sale boxes containing cakes of soap so wrapped and arranged.

Criminal Prosecution Under the Trade Mark Act.

Notes. The expression, "trade mark," means a trade mark or industrial design, registered in accordance with the Trade Mark and Design Act, and the registration whereof is in force under the provisions of the said Act, and includes any trade mark which, either with or without registration, is protected by law in any British possession or foreign state, to which the provisions of section 103 of the Act of the United Kingdom, known as the Patents, Designs and Trade Marks Act, 1883, are in accordance with the provisions of the said Act for the time being applicable.

(2) A person shall be deemed to forge a trade mark who either

(a) Without the assent of the proprietor of the trade mark makes that trade mark, or a mark so resembling that trade mark, as to be calculated to deceive, or