

SUTHERLAND, J.

APRIL 27TH, 1918.

CANADIAN H. W. GOSSARD CO. LIMITED v. DOMINION
CORSET CO. LIMITED.

*Trade-name—Deception—Use of Similar Name and Label—
Sale of Goods—Likelihood of Purchasers being Deceived—
Evidence—Suspicious Circumstances—Action to Restrain Use
of Name and Label—Dismissal—Costs.*

Action to restrain the defendants from manufacturing, advertising, selling, offering for sale, dealing in, or disposing of front-laced corsets, not being the plaintiffs', under or bearing the name of "Goddess" or any like name; or any corsets, not being the plaintiffs', without clearly and unmistakably distinguishing them from front-laced corsets manufactured and sold by the plaintiffs; and from manufacturing etc. any front-laced corsets, not being the plaintiffs', under any name and with or in such packages as by colourable imitation or otherwise might be calculated to represent or lead to the belief that such corsets, not being the plaintiffs', are the plaintiffs; and from doing any act or thing whatever calculated to induce the belief that any front-laced corsets, not the plaintiffs', are the plaintiffs'.

The action was tried without a jury at Toronto.
G. M. Clark, for the plaintiffs.
Hammet Hill, for the defendants.

SUTHERLAND, J., in a written judgment, said that the plaintiffs' complaint was, that the defendants, by the use of the word "Goddess" in connection with the sale of corsets and by the form and design of a label placed upon each box containing a corset, bearing the words "Goddess, Laced in Front," were inducing the public to buy their corsets under the belief that they were the plaintiffs' corsets, sold under the name of "Gossard Corsets—they Lace in Front."

The plaintiffs contended, and it was to some substantial extent borne out by the evidence, that the word "Gossard" had become well known in the trade as a name applied to a front-laced corset made by them. They did not prove any actual deception or passing-off.

The learned Judge referred to *Payton & Co. Limited v. Snelling Lampard & Co. Limited*, [1901] A.C. 308, 311; and said that, giving the best consideration he could to the evidence,