

For 18 or 20 years the plaintiffs have been carrying on business as dealers in and manufacturers of suspenders or braces; their business having attained an annual output of from \$200,000 to \$250,000 a year. In developing that business they have advertised very largely. One of their trade marks, which they have been using for many years, is the letter "D," shewn on or affixed to their goods in various ways; sometimes by means of a label, sometimes by being stamped on the leather portions of the goods, sometimes by being engraved on a button; and they have developed a large demand for these goods.

The defendants are engaged in a similar business, and have recently adopted the letter "B" as a trade mark. They have not given any evidence, and therefore we have perhaps nothing definite to go upon as to the extent of their business, and as to whether or not any confusion in the minds of purchasers from the similarity of trade marks "D" and "B" would be more to the benefit of one party than the other; but, in the absence of such definite information, and in view of the fact that the defendants' conduct is the cause of any such confusion, it may be fair to assume that any advantage arising from the confusion would accrue to defendants and not to plaintiffs.

For some time defendants used as a trade mark the letters "B. S. Co.," meaning, I understand, "Berlin Suspender Company." About 8 months ago they abandoned the use of these letters and began to use the letter "B." It is clear that when that change was made defendants had in mind the letter "D," with the words "trade mark" above and below, that was associated with the plaintiffs' business; because one of the defendants, when having his trade mark prepared, obtained the "copy" by detaching it from plaintiffs' goods, and in transmitting this copy to the engraver mentioned the fact that the plaintiffs had a trade mark "D." It is evident, therefore, that they did not in error or in ignorance of plaintiffs' practice adopt "B" as their trade mark, but with full knowledge that plaintiffs were using the letter "D" in the manner described. Thus they began endeavouring to obtain for their goods, if my conclusion is right, the market which had been developed on behalf of the plaintiffs. Simultaneously with adopting the letter "B" they adopted a label corresponding word for word with the label of plaintiffs, except that defendants used the letter "B," and at the bottom of