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MULOCK, C.J. JANUARY 10TH, 1906.

TRIAL.

DORAN v. HOGADORE.

Trade Mark—Infringement—Similarity of Design—Passing off—Deception.

Action for an injunction and damages in respect of defendants' alleged infringement of a trade mark for braces or "suspenders." Plaintiffs carried on business as the Dominion Suspender Co. at Niagara Falls, and defendants as the Berlin Suspender and Button Co. at Berlin. Plaintiffs labelled their goods in this way: "Made in Canada. Guarantee: If this suspender stamped Trade D Mark is not in every way satisfactory after you wear it bring it back and get another pair instead. D. S. Co.. makers." Defendants used a similar label, substituting "Trade B Mark" for "Trade D Mark" and "B. S. Co." for "D. S. Co."

W. R. Riddell, K.C., H. E. Rose, and Alexander Fraser, for plaintiffs.

J. E. Jones and J. J. A. Weir, Berlin, for defendants.

MULOCK, C.J.:—The view which I have formed of this case is such that there would be no advantage in my taking further time to consider it.