

person to whom the false or fraudulent representation is made, but to the manufacturer whose trade mark is imitated, and, therefore, the Common Law Courts held that such a manufacturer had a right of action for the improper use of his trade mark. Then the Common Law Courts extended that doctrine one step further ; first, if I recollect rightly, in the case of *Sykes v Sykes*. There it was held that although the representation was perfectly true as between the original vendor and the original purchaser, in this sense, that the original purchaser knew perfectly well who was the real manufacturer of the goods, and, therefore, was not deceived into believing that he had bought goods manufactured by another person ; yet if the trade mark was put on the goods for the purpose of enabling that purchaser, when he came to re-sell the goods, to deceive any one of the public into thinking that he was purchasing the goods of the manufacturer to whom the trade mark properly belonged, then that was equally a deception, a selling of goods with the false representation which would give the original user of the trade mark a right of action. That was the Common Law right."

An action on the case for deceit at Common Law may then be brought, not only by the person who has been induced to purchase goods manufactured by one maker in the faith that they had been manufactured by another, but also the maker of whose manufacture the goods in question have falsely been represented to be.

In *Walker v Alley* it was decided that the name and sign of the Golden Lion was so connected with the plaintiff's dry goods business that it could not be taken by another trader, and the Chancellor of Upper Canada said that where it is clear to the Court that the defendant himself thought the use of it was calculated to advertise him at the expense of the plaintiff, and this was his object in using it, and where such has been the