

to give particulars of whether it was intended by paragraph 6 to set up a common law trade mark. The paragraph itself contains as full particulars as plaintiffs are required to give. *Gillatt v. Lumsden*, 4 O. L. R. 300, distinguished. *Reddaway v. Banham*, [1896] A. C. 199, 210, referred to.

Under paragraph 8 the defendants asked particulars of the acts alleged to be done by defendants whereby they deliberately set about to attempt to appropriate plaintiffs' property. No particulars are necessary under this paragraph. It is immaterial to defendants what acts plaintiffs allege defendants have done in deliberately setting about to attempt, etc. What is necessary is to know what acts defendants are charged with doing in appropriating plaintiffs' property.

Paragraph 9 alleged that defendants at first appropriated and applied and used a single triangle to the valves manufactured and being sold by them. Defendants are entitled to particulars of the names and addresses of the persons to whom it is alleged the defendants sold valves marked with a single triangle.

By paragraph 10 the plaintiffs submitted that defendants had deliberately and wrongfully set about and attempted to appropriate the property of plaintiffs, and, if possible, to invade the rights of plaintiffs. As this submission follows the statements in paragraph 9 as to the acts of the defendants in using a triangle and triangles, no particulars are necessary.

By paragraph 12 it was alleged that defendants had been and were wrongfully and wilfully infringing upon the trade mark and design of plaintiffs in the manufacture and sale of goods similar to those of plaintiffs. Defendants are entitled to know in what respect they are charged in this paragraph, and full particulars should be given.

Paragraph 13 alleged that in the manufacture and sale of the valves similar to the valves manufactured by plaintiffs, the defendants had appropriated and used and applied a trade mark and design of plaintiffs, and had done so with the wrongful purpose and intention of imitating and copying the trade mark and design of plaintiffs, and in that way of obtaining the benefit of plaintiffs' property and of the reputation of plaintiffs' goods. Paragraph 14 alleged that defendants were using and applying in the manufacture and sale of their goods a fraudulent imitation of the trade mark and design of plaintiffs. As it does not appear that the trade mark and design used by defendants is that referred to in the 9th paragraph, full particulars of the trade mark and design