

LUYTIES AND OTHERS *v.* HOLLENDER AND
OTHERS.

Circuit Court, S. D. New York. August 9, 1884.

TRADE-MARKS—STATE LAWS.

The rights and remedies concerning trade-marks generally depend upon the laws of the states, common or statutory, and not upon the laws of the United States.

In Equity.

Samuel T. Smith, for orators.

Louie G. Raegener, for defendants.

WHEELER, J. Rights and remedies pertaining to trade-marks generally depend upon the laws of the state, common and statutory, and not upon the laws of the United States. *Trade-mark Gases*, 100 U. S. 82. The laws of the United States now in force, under which this trade-mark was registered, relate only to trade-marks specially used in commerce with foreign nations] or with the Indian tribes. Act of March 3, 1881, (21 St. at Large, c. 137, § 1.) They are particularly restricted so as not to give cognizance to any court of the United States in an action or suit between citizens of the same state, unless the trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe. *Id.* § 11. The goods on which the trademark in question is used are not intended to be transported to any foreign country, nor for any Indian tribe, but are mineral waters sold for consumption in the city of New York; and the parties are all citizens of the state of New York.

As this case is now presented, the orators are not entitled to maintain it in this court, and this motion for a preliminary injunction must be denied.

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