

Burroughs, Wellcome and Co.'s preparation that was provided.

Cross-examined by Mr. Walter, the witness stated that apart from Burroughs, Wellcome and Co., the word "Tabloid" conveyed no meaning to his mind. It conveyed no idea of anything definite beyond its association with the preparations of Burroughs, Wellcome and Co.

SIR THOMAS RICHARD FRASER, Professor of Materia Medica and of Clinical Medicine in the University of Edinburgh, Physician to the Royal Infirmary, Edinburgh, examined by Mr. Neville, stated that the meaning the word "Tabloid" conveyed to his mind was any pharmaceutical product manufactured by the firm of Burroughs, Wellcome and Co. He had recommended the drugs under the name "Tabloid" to patients and to the physicians, the doctors in charge of patients, whom he saw in consultation.

SIR JAMES CRICHTON-BROWNE, M.D., F.R.S., examined by Mr. Levett, stated that he was in consultation with medical men in all parts of the country with regard to wards in Chancery, and had been for the last twenty years the Lord Chancellor's Visitor in Lunacy. "Tabloid," to the medical profession, so far as he knew, meant the compressed goods manufactured by Burroughs and Wellcome. He had frequently, in practice, prescribed "Tabloids," and for his own family or friends. When he prescribed "Tabloids," he meant the patient to get Burroughs and Wellcome's products.

SIR RICHARD DOUGLAS POWELL, Bart., K.C.V.O., Physician-Extraordinary to H.M. the King, and Physician-in-Ordinary to H.M. the late Queen Victoria, examined by Mr. Neville, stated that, in his mind, the meaning in the profession and the drug trade of the word "Tabloid" is a drug in a compressed form manufactured by Burroughs and Wellcome. He had never known the drugs of any other makers sold under that name and had frequently used the drugs in prescriptions under the name of "Tabloid."

Cross-examined by Mr. Walter, he stated that he had sometimes added "B. and W." for the sake of emphasis.

DR. H. MARCUS ALLEN, of Brighton, examined by Mr. Neville, stated that he had known "Tabloids" for many years as a compressed product of Burroughs, Wellcome and Co. When he prescribes "Tabloids" for his patients, he insists upon the dispenser supplying Burroughs, Wellcome and Co.'s preparations. As people sometimes go to very doubtful chemists he sometimes adds "B. W. and Co." as a precaution. When he has no reason to doubt the respectability of the dispenser he considers "Tabloids" as sufficient. He wanted to avoid patients getting base imitations.

On the third and fourth days of the trial, a considerable number of representative medical men, chemists, and photographic dealers gave evidence as

to the exclusive connection of the trade mark "Tabloid" with the firm of Burroughs, Wellcome and Co. The witnesses were drawn from all parts of the United Kingdom, and their testimony was substantially that of those already reported. There were 72 witnesses in all for the plaintiffs. Several of the medical witnesses referred to the dangers of the substitution of imitations for the genuine goods.

Similar evidence was given by the past or present editors of the three trade journals—

Dr. Benjamin H. Paul, Ph.D., F.C.S., for thirty-two years editor of *Pharmaceutical Journal*.

Mr. Alfred Chas. Wootton, for thirty years editor of *Chemist and Druggist*.

Mr. W. Philip Want, editor of *British and Colonial Druggist*.

Mr. Levett then proceeded to close the case for Burroughs, Wellcome and Co. He reviewed the evidence and claimed that four things had been established:—First, that the word "Tabloid" was unknown before it was invented by the plaintiffs; secondly, that it came into knowledge associated with Burroughs, Wellcome and Co.'s goods; thirdly, that it had never been employed to describe goods of any other makers; and, fourthly, that, so far as the trade was concerned, it had been accepted as meaning Burroughs, Wellcome and Co.'s goods.

WEDNESDAY, NOVEMBER 25TH.

Mr. Walter opened the case for the defence by claiming that the whole question hinged on the motion for striking the trade marks off the register.

After referring to leading law cases, he argued that it could not rightly be suggested that the word "Tabloid" is one which either is fanciful in its application to the article to which it is applied, or which is not descriptive. He said it reeked with description, and was registered because it did.

Mr. Justice Byrne interpolated that it was very difficult to make a satisfactory word-mark. If plaintiff had coined the word "Welloid" from his own name, counsel for the defence would have argued that it had reference to making people well.

Continuing, Mr. Walter held that no intelligent jury sitting in 1884 could say that the word "Tabloid," applied to tablets, was non-descriptive and meaningless. As regards the trade mark, he argued there was no evidence of infringement, as his clients had not labelled the goods with the plaintiff's trade mark. Neither the mark, nor a substantial part of it, had been put on the goods supplied.

Mr. Walter said he would produce evidence that medical men and the public used the word without reference to the goods of Burroughs, Wellcome and Co. This was specially the case with regard to homeopathic medicines which were not made by the plaintiffs. He applied for an order striking the trade marks off the register,

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