

Opinion of the Court.

was neither conduct nor negligence which could be held to destroy the right to prevention of further injury.

The decree of the Circuit Court will, therefore, be

*Affirmed.*

---

RYDER v. HOLT.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
SOUTHERN DISTRICT OF NEW YORK.

No. 76. Argued November 14, 1888. — Decided December 10, 1888.

A Circuit Court of the United States has no jurisdiction over suits for the violation of a trade-mark if the plaintiff and defendant are citizens of the same State, and the bill fails to allege that the trade-mark in controversy was used on goods intended to be transported to a foreign country.

THE case is stated in the opinion of the court.

*Mr. Arthur v. Briesen* for appellant.

*Mr. Rowland Cox* for appellee.

MR. CHIEF JUSTICE FULLER delivered the opinion of the court.

It was stipulated in the Circuit Court that this cause should abide the event of *Menendez v. Holt*, ante, 514, just decided, and the same decree in favor of complainants was, therefore, rendered in this as in that case. But it is now assigned for error that, as defendant and complainants below were citizens of the same State, and the bill did not allege that the trade-mark in controversy was "used on goods intended to be transported to a foreign country," Act of March 3, 1881, c. 138, § 11, 21 Stat. 502, the Circuit Court had no jurisdiction, and the decree must be reversed for that reason. The objection is well taken, and the decree is accordingly

*Reversed.*