

DEFENSE OPENS CASE IN ACTION ON TRADE MARKS

Wing On Company Claim Cigars Manufactured In Manila Are Different

The defense in the trade mark case in the British Supreme Court, wherein Mr. Carl Ingenohl of Antwerp seeks to enjoin the Wing On company of Shanghai from selling cigars of certain brands manufactured by the Ingenohl factory at Hongkong presented part of its evidence yesterday. The hearings will be continued Monday morning and are expected to be completed by the middle of the week.

The defense detailed yesterday that it is distributing cigars manufactured in Manila and not in Hongkong and that boxes differ as to trade marks in several respects.

The Wing On company is distributing cigars with an export label from the Philippine Islands, something not contained on the boxes from Hongkong.

"We are carrying on the former business as successors."

(Continued on Page 10)

pany have been to represent to consumers that they are getting products of the Hongkong factory.

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(Continued from Page 1)

Mr. Macleod told the court. "There is no evidence that Wing On is representing untruths."

The counsel took up the effect climatic conditions have on cigars, following testimony by Herman Stelling that the weather did have an important bearing on tobacco. The counsel said it was impossible to produce the same cigar in China that is produced in Manila, despite the fact that tobacco from the same part of the Philippines is used.

The judge injected an interesting question into the proceedings as to what sells a cigar.

The counsel said that was hard to determine but that the whole getup of the box had its share in the sale. The trade mark and the name and other factors enter into the sale of a cigar.

The case was termed a "passing off" one by Mr. Macleod. Mr. Macleod argued much of his case yesterday as if he were representing the Walter E. Olson Company of Manila, because, he said, that company was interested in the final result. He said no other remedy apparently was open to the plaintiff, as there is no effective trade mark law in China. The point to be considered, he said, is whether the activities of the Wing On Com-