

# RIVAL NAMES TOO SIMILAR

Supreme Court Reverses Decision  
of St. Louis County  
Judge.

## DULUTH MAN LOSES CASE TO MINNEAPOLIS PEOPLE

Defendant Proprietor of North-  
western Knitting Mill of  
This City.

The supreme court has decided that Israel Garon, of Duluth, has no right to use the name Northwestern Knitting Mill because it sounds too much like Northwestern Knitting company, thus reversing a decision of the district court of this county rendered several months ago. The latter company is a Minneapolis concern and has been in business since 1887. Seven years later Garon started business in Duluth under the similar name. The Minneapolis concern failed to establish its suit to restrain Garon's use of the name in the lower courts but its appeal to the highest court of the state is sustained.

The syllabus in the case follows:

Plaintiff was incorporated in 1887

under the name of "Northwestern Knitting company," and has since been engaged in an extensive business of knitting articles of underwear and disposing of same to dealers throughout the United States, conducting its business under its corporate name at the city of Minneapolis. About fifteen years after the establishment of plaintiff's business defendant opened a factory at Duluth for the manufacture of knit sweaters and a heavy article of knit underwear, adopting the name Northwestern Knitting Mill. He did not know of the existence of plaintiff at the time, and plaintiff did not learn of his presence in the same field for several years, but immediately upon learning that defendant was operating under the particular name, plaintiff gave notice of its prior adoption of the same and demanded that defendant discontinue its use. This he refused to do and insists upon the right to use the same. It is held:

1. That by its prior adoption of the name and its continued use for a long series of years plaintiff acquired trade name rights therein and is entitled to protection under the doctrine of unfair competition.

2. That defendant's use of the name is likely to cause confusion in the trade, deceive the public and to substantially prejudice the rights of plaintiff.

3. That though defendant adopted the name in ignorance of the plaintiff, and without any intention of diverting his trade, his continuance in its use after notice of plaintiffs' prior rights, is presumptively fraudulent.

4. Fraud is presumed in such case and need not be affirmatively shown.

5. That the product of the parties is of the same general class.

Order reversed.

Opinion by Justice Brown.