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Civil Law, Trademark: Charles E. Hires Company v. O.W. Heyer

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• CIVIL LAW •

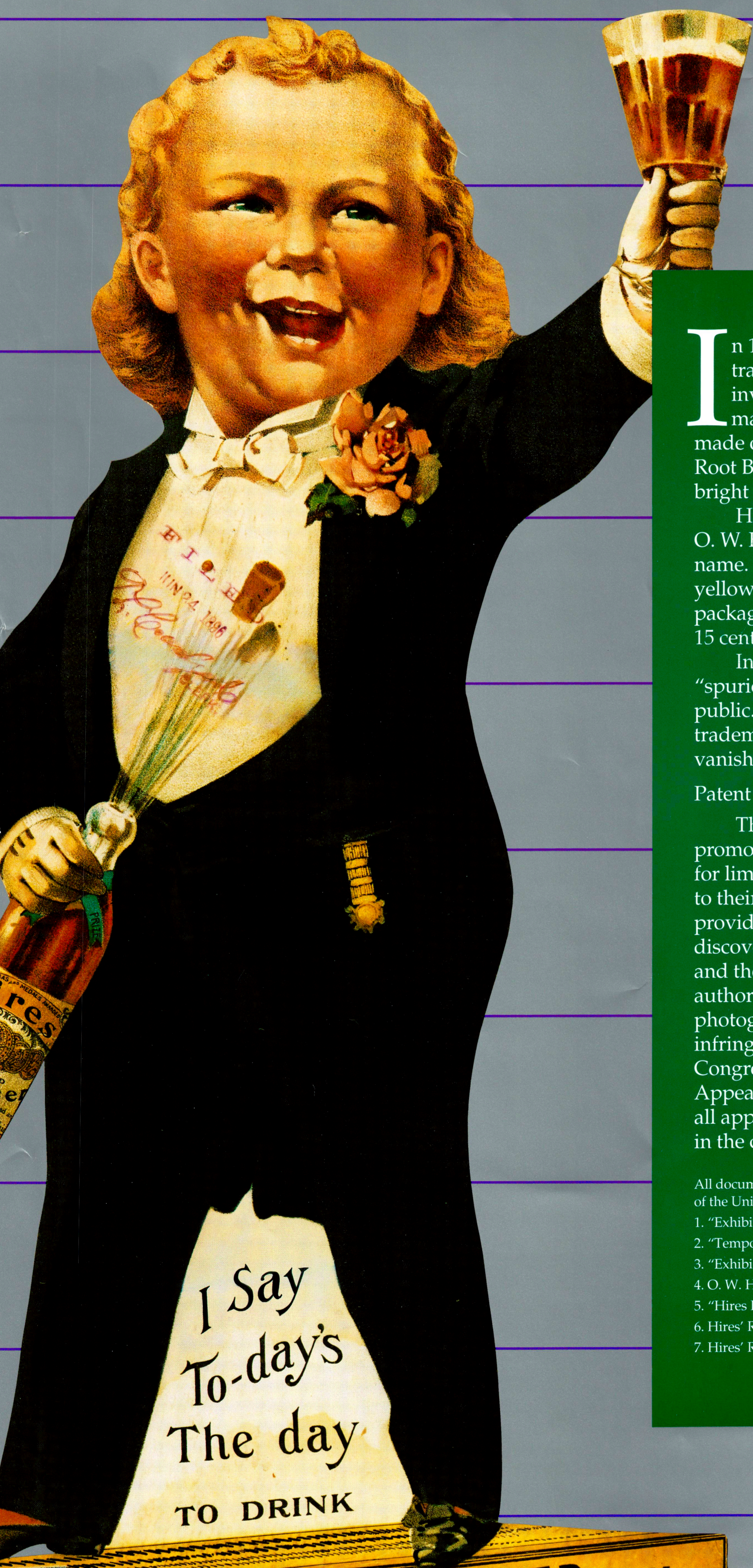
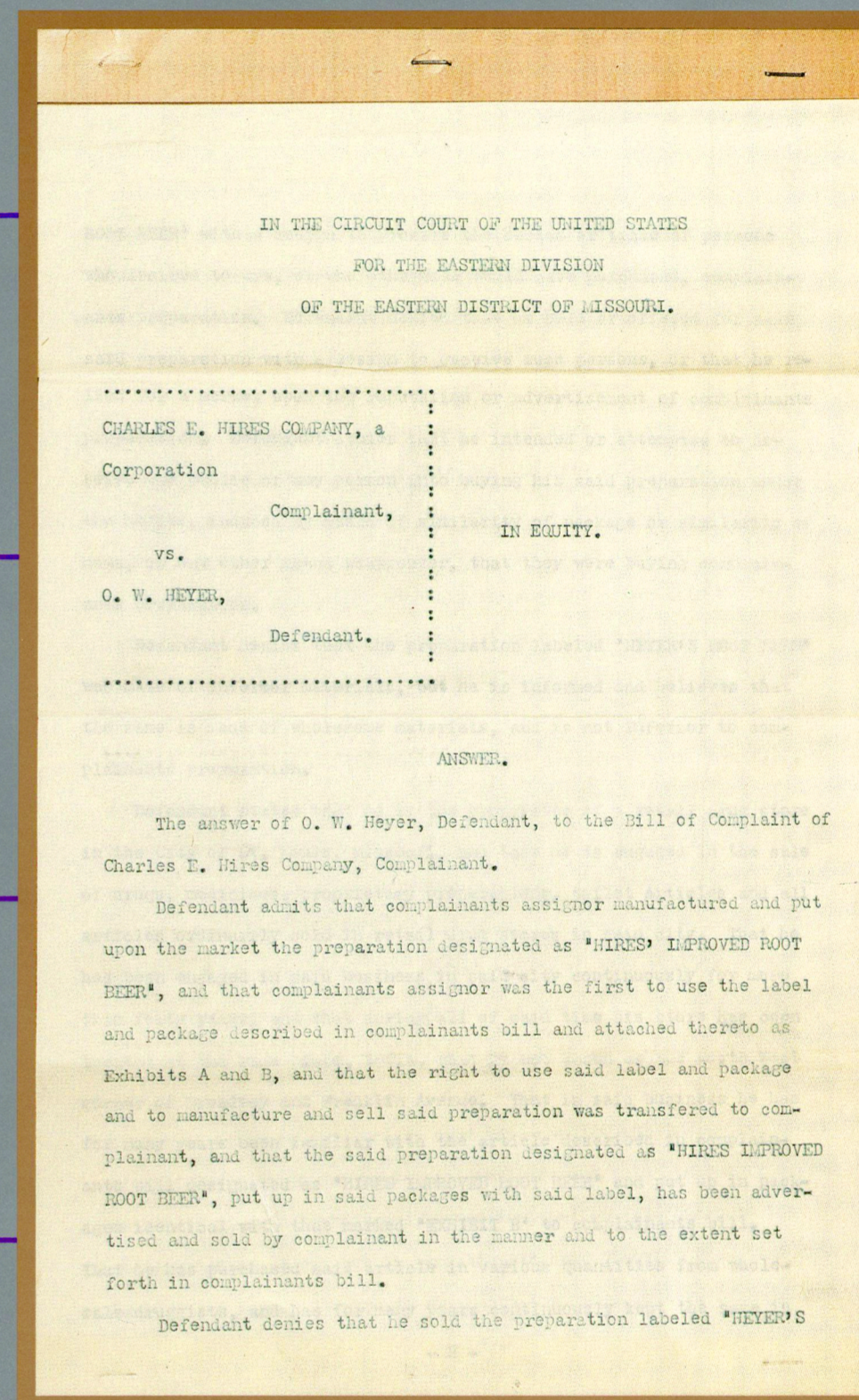
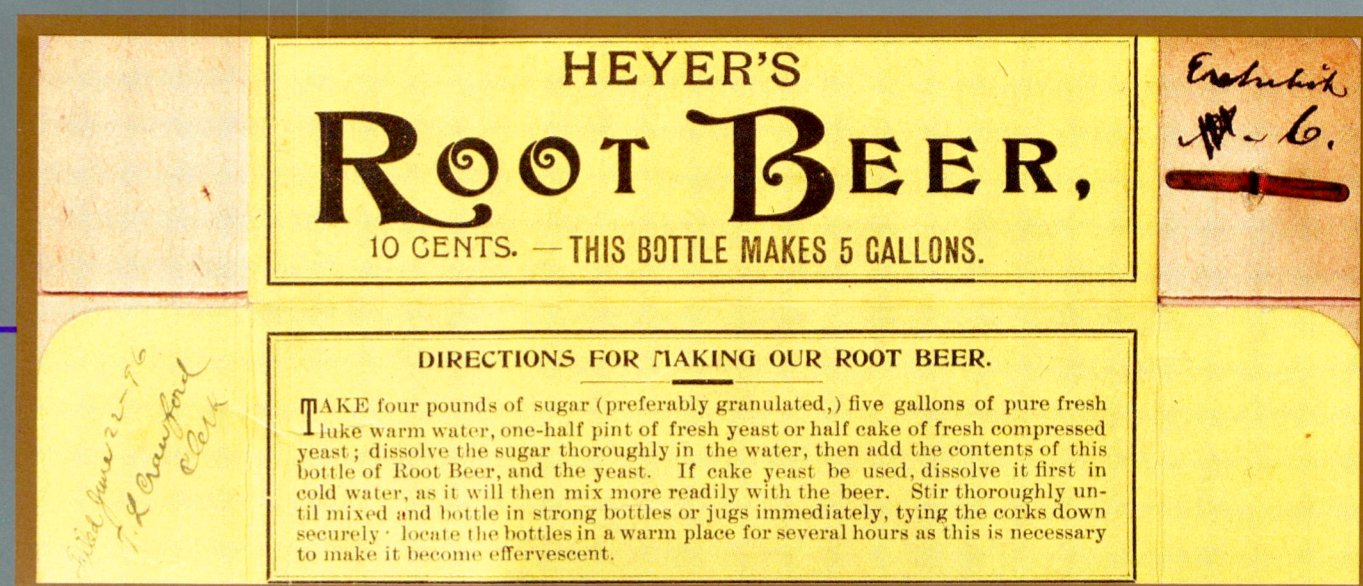
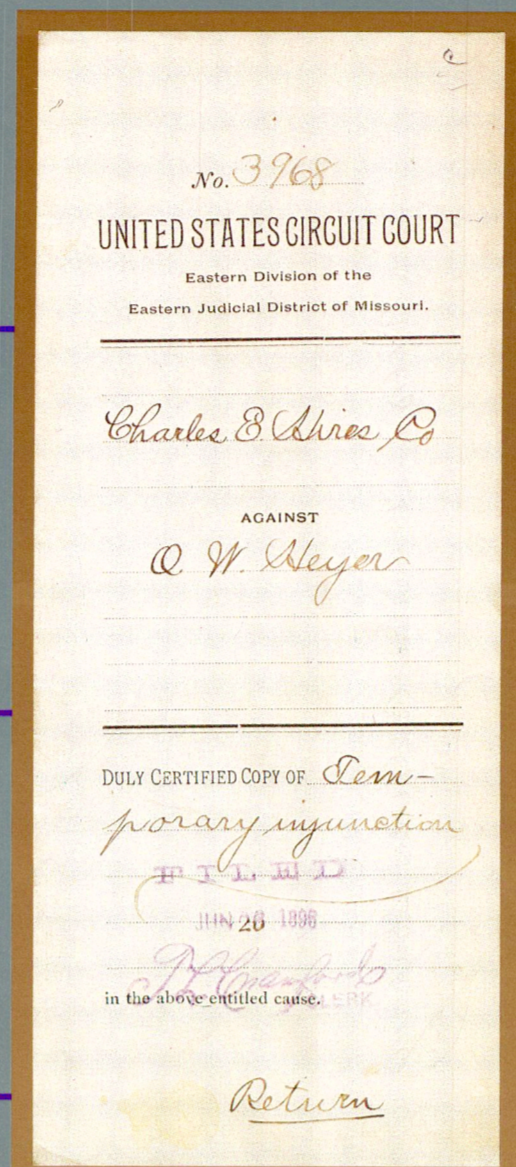
TRADEMARK

Charles E. Hires Company v. O. W. Heyer

U.S. Circuit Court for the Eastern Division of the Eastern District of Missouri, Case No. 7729
1897

"right of the complainant has been infringed by the defendant in selling . . . an imitation article . . . in packages . . . resembling the genuine packages"

Final Decree, April 30, 1897



In 1896 the Charles E. Hires Company sought relief from trademark infringement under Missouri law in federal court, invoking the court's diversity jurisdiction. The company manufactured root beer, a "Healthy Temperance Beverage" made of aromatic and medicinal roots. By the late 1800s Hires' Root Beer was recognized internationally by its distinctive, bright yellow package with black lettering and designs.

Hazards accompanied Hires' success. A St. Louis druggist, O. W. Heyer, took advantage of the opportunity presented by his name. He began marketing "Heyer's Root Beer" in a bright yellow package with one distinctive difference—a price of 10 cents, 15 cents less than Hires'.

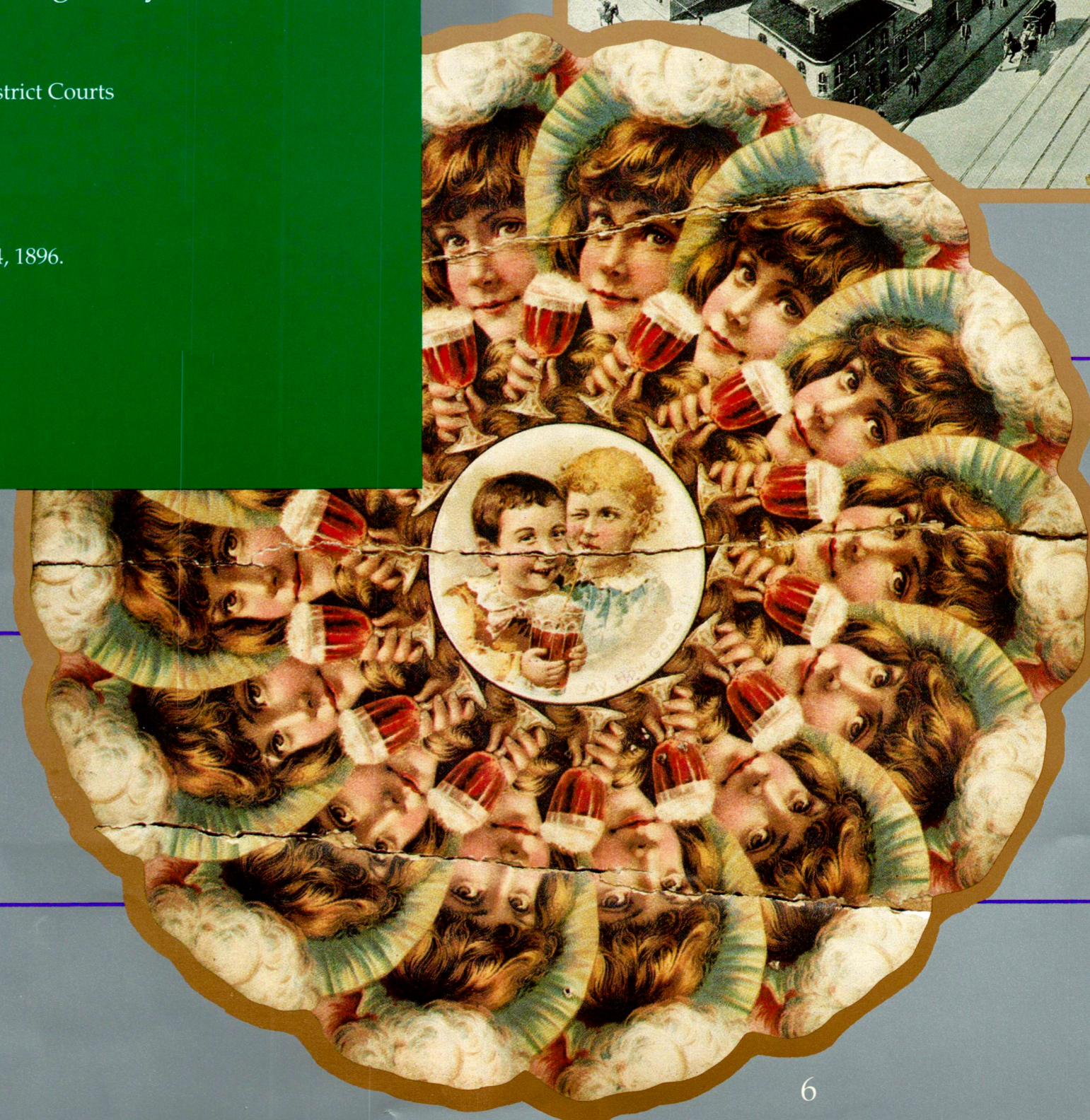
In its complaint, Hires called its rival an imitator whose "spurious, worthless, and inferior" product would confuse the public. In 1897 the judge's final decree barred Heyer from further trademark infringement, and "Heyer's Root Beer" quickly vanished from the marketplace.

Patent and Copyright

The U.S. Constitution gives Congress the power "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." That clause provides separately for patent laws to protect inventors' discoveries, such as the Bell telephone, the Edison light bulb, and the Polaroid camera, and for copyright laws to protect authors' "writings," including not only books but also music, photographs, and other creative works. Patent and copyright infringement suits must be brought in federal court. In 1982 Congress created a national appellate court, the U.S. Court of Appeals for the Federal Circuit, with exclusive jurisdiction over all appeals in patent infringement cases brought anywhere in the country.

All documents are from the National Archives, Records of District Courts of the United States.

1. "Exhibit A," filed June 22, 1896.
2. "Temporary injunction, Filed June 26, 1896."
3. "Exhibit 6," filed June 22, 1896.
4. O. W. Heyer's answer to the bill of complaint, November 14, 1896.
5. "Hires Root Beer Laboratory, Exhibit #9, filed 12/16/96."
6. Hires' Root Beer advertising art, filed June 24, 1896.
7. Hires' Root Beer advertising art, filed June 24, 1896.



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