

The  
**Ontario Weekly Notes**

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VOL. VIII.

TORONTO, JUNE 4, 1915.

No. 12

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HIGH COURT DIVISION.

MEREDITH, C.J.C.P.

MAY 27TH, 1915.

KOHLMEYER v. CANADIAN BARTLETT AUTOMOBILE  
CO. LIMITED.

*Patent for Invention—Absence of Novelty and Usefulness—  
Adaptation of Principle Previously Discovered—Evidence  
—Infringement—Costs.*

The plaintiff sued the defendants for invasion by them of his patent rights in respect of an alleged invention—suspended pneumatic rubber tires.

The defendants denied the validity of the plaintiff's patent, and also denied any infringement of it or of his rights under it, and asserted that that which was complained of by him was lawfully done by them under other patent rights, to the benefit of which they were entitled.

The action was tried without a jury at Toronto.

L. F. Heyd, K.C., for the plaintiff.

F. B. Fetherstonhaugh, K.C., and A. C. Heighington, for the defendants.

MEREDITH, C.J.C.P., said that the validity of both the plaintiff's and the defendants' patents was in question and must be investigated to some extent. The validity of a patent depends, in the first place, upon the question whether it really covers a new and useful invention—the invention must be really new, and must be substantially useful. That each patent in question here was based upon a useful principle was obvious. The principle of suspended pneumatic rubber tires was not new when the plaintiff obtained his patent, more than two years ago; and it was less new when the other patent was obtained, little more than a