

and so became generally known in Canada in connection with the name "Gramm." This was a new line of business of recent growth, and there has been no such lapse of time and length of user as is required to transform a distinctive word into one merely descriptive of a motor truck generally.

The plaintiffs are entitled to judgment for the injunction asked, to restrain the defendants using the word "Gramm," as indicated, in their business; the defendants to pay the costs of litigation.

HOLMESTED, REGISTRAR, IN CHAMBERS.

DECEMBER 10TH, 1913.

WOOD v. WORTH.

Writ of Summons—Service out of the Jurisdiction—Motion to Set aside—Rule 25(e), (f), (g)—Irregularities—Failure to Point out in Notice of Motion—Rule 219—Conditional Appearance—Effect of.

Application by the defendants Hortwitz and Zoller to set aside an order allowing the issue of a concurrent writ of summons for service out of the jurisdiction, the notice of the writ, and the copy and service thereof on the applicants.

Featherston Aylesworth, for the applicants.
H. E. Rose, K.C., for the plaintiffs.

THE REGISTRAR:—On the argument of the motion several alleged irregularities in the proceedings were pointed out, but it is a standing rule that he who would object to proceedings on the ground of irregularity must himself be regular. Rule 219 expressly requires that a notice of motion to set aside proceedings for irregularity must specify the irregularity complained of and the objections intended to be insisted on. This the notice of the present motion fails to do; and, therefore, the defendants do not appear to be in a position to rely on mere irregularities.

Then as regards the merits of the motion. It appears that Mr. Pickup's affidavit, on which the order for service out of the jurisdiction was based, by some mistake omitted in par. 3 to include the name of the defendant Zoller; but it appears from the statement of claim and the endorsement on the writ that Zoller,