

“ 3. Because the validity of the said letters patent cannot be attacked by the present respondents in their said answer to the petition herein ;

“ 4. Because the only proceeding by which said letters patent could be attacked is by a suit instituted on behalf of Her Majesty by Her duly authorized officers, and the respondents are not entitled to take any conclusions tending to have said letters patent declared null and void ;

“ 5. Because the representations and declarations of the said Arnoldi in his application and affidavit that he was the proprietor of the said Trade Mark, cannot be disputed in the present issue between the parties.”

La Cour a renvoyé cette inscription en droit par le jugement suivant :

“ The Court having heard the parties in this cause by their respective counsel on plaintiffs answer in law to defendants plea, having examined the proceedings and deliberated ;

“ Considering that Respondents are entitled to plead that there was no legal registration of Petitioners alleged Trade Mark and also that the alleged Trade Mark was invalid ;

“ Considering that registration of a Trade Mark is not analogous to a crown grant ;

“ Considering that petitioners special answer in law, is not sufficient in law to justify its conclusions ;

“ Doth dismiss plaintiffs special answer in law with costs *dis-traits* to N. W. Trenhome, esquire, attorney for defendants respondents.”

*Harvey v. Mowat et al.*¹

Rejet d'allégation. — Exception à la forme. — Frais. — Art. 23 du tarif.

JUGÉ : 1o Que le demandeur qui par motion demande le rejet d'une allégation de la défense fait une procédure de la nature

¹ C. S., Montréal, no 2828, 7 juin 1899. Mathieu J. — Buchan, Lamothe et Elliott, avocats du demandeur. — Greenshields, Greenshields, Laflamme & Dickson, avocats des défendeurs.