

all creditors, and he directed the proceedings to be amended accordingly.

RES JUDICATA—ESTOPPEL—PATENT—ACTION FOR INFRINGEMENT—SECOND ACTION
FOR INFRINGEMENT.

In *Shoe Machinery Co. v. Cutlan*, (1896) 1 Ch. 667, the plaintiff claimed to restrain the defendants from infringing the plaintiff's patent. There had been a previous action between the same parties for infringement, in which the validity of the patent had been contested and in which it was upheld, but no injunction or damages had been awarded on the ground that there was no evidence of infringement, and the judgment did not contain any declaration as to the validity of the patent, but certified that its validity came in question, and awarded costs on that issue in favor of the plaintiff. In the present action the defendants again disputed the validity of the patent, but on different grounds to those alleged in the former action, and which they alleged they had discovered since that action. Romer, J., held that the question of the validity of the patent was *res judicata*. He says at page 670, "It is not necessary in considering the question of *res judicata*, that there should be an express finding in terms, if, when you look at the judgment and examine the issues raised before the Court, you see that the point came to be decided as a separate issue for decision, and was decided between the parties. It was not necessary, in my opinion, therefore, that there should be—though I agree that it might have been better if there had been—in the judgment in the case a separate declaration stating the validity of the patent: a declaration which clearly the Court had jurisdiction to put in the judgment if it thought fit," and he held that the defendants were not entitled to have the question of validity retried.

PRACTICE—CONSENT JUDGMENT—MISTAKE IN GIVING CONSENT TO JUDGMENT—
SETTING ASIDE CONSENT JUDGMENT—JURISDICTION.

In *Ainsworth v. Wilding*, (1896) 1 Ch. 673, the defendant moved to set aside a judgment granted upon consent, on the ground that the consent was given by a mistake, and under a