

FIRST DIVISIONAL COURT.

DECEMBER 10TH, 1915.

## PEPPIATT v. REEDER.

*Damages—Deceit—Measure of Damages—Profits—Services—Reference—Appeal—Costs.*

Appeal by the defendant from the order of MULOCK, C.J.Ex., ante 121.

The appeal was heard by GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

J. J. Gray, for the appellant.

Edward Meek, K.C., for the plaintiff, respondent.

THE COURT dismissed the appeal with costs.

SECOND DIVISIONAL COURT.

DECEMBER 11TH, 1915.

## \*BERLINER GRAMOPHONE CO. v. POLLOCK.

*Patent for Invention—Validity—"Life of Patent"—Termination by Illegal Importation and Non-manufacture—Pleading—Action to Restrain Manufacturing or Selling in Breach of Contract—Defence—Amendment—Construction of Contract—Patent Act, R.S.C. 1906 ch. 69, secs. 23, 38(b).*

Appeal by the plaintiff company from an order of BOYD, C., in Chambers, affirming an order of the Master in Chambers, granting leave to the defendant to set up a defence attacking the present validity of the plaintiff company's patent on the grounds of illegal importation and non-manufacture. The action was for an injunction restraining the defendant from manufacturing or selling talking-machines in breach of an agreement.

Leave to appeal was given by an order of MASTEN, J., in Chambers, ante 169.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

R. C. H. Cassels, for the appellant company.

Casey Wood, for the defendant, respondent.