

“ not proprietor of and had not a right to register  
“ the pretended Trade Mark therein referred to, at  
“ the time of the pretended registration thereof or at  
“ any time, and such pretended registration was  
“ wholly null and void ;

“ Respondents further say that the said Arnoldi  
“ in his application for registration of the said made  
“ work in order to obtain the same, falsely represented  
“ and declared in his application and affidavit there-  
“ for that he was the proprietor of the said pretended  
“ Trade Mark which was and is false, and the said  
“ registration thereof was in consequence thereof and  
“ of his not being the proprietor thereof inter alia  
“ wholly null and void ;

“ And the said respondents also say that the  
“ petitioners in their said petition falsely represented  
“ and claimed as their Trade Mark common words  
“ and matters which cannot be the subject of a Trade  
“ Mark, and that the only devise or thing which  
“ could possibly be the subject of a Trade Mark in  
“ respondents' pretended Trade Mark, to wit, a fish  
“ or dolphin on a shield, is not in the most remote  
“ degree being used in the label of respondents com-  
“ plained of by petitioners.”

Les réquerants inscrivirent en droit contre ces allé-  
gations s'appuyant sur les raisons suivantes :

“ 1. Because in law the letters patent issued by the  
“ Crown for the said Trade Mark cannot be declared  
“ null, void and of no effect at the suit of the res-  
“ pondents ;

“ 2. Because the said letters patent cannot be so  
“ declared null, void and of no effect in an ordinary  
“ action, but the same can only be declared null, void  
“ and of no effect at the suit of the Crown, upon  
“ information brought by Her Majesty's Attorney  
“ General, or Solicitor General, or any other officer  
“ duly authorized for that purpose ;