

new company called by that name, formed in July, 1912, of which the first designer, Gramm, is now a member. The motor truck was a new thing in this country in 1910, and to establish a business required a good deal of advertising to bring it into the public eye. This task the plaintiffs undertook; and they have for three years expended about \$20,000 in advertising, and have also in that time introduced, as has been said, various changes in the motors they "manufacture" as a result of these years' experience. The result of the evidence is, that they have established a recognised business for the sale of motor trucks in Canada, under the trade name "Gramm," and that this word has become and is associated with the Walkerville business of the plaintiffs. Apart from one or two isolated instances of the Gramm motor from the United States being brought into Canada, the plaintiffs are the first dealers who have held their ground and supplied motor trucks for Canadian use to the practical exclusion of the American trade. The trucks made by them have a distinctive character and reputation in Canada, and are generally known as the Gramm Motor Trucks.

The evidence fails, in my opinion, to shew that the words "Gramm truck" in this country means a truck of the Gramm type, no matter by whom made or by whom sold. The word "Gramm" has here acquired no such superinduced secondary meaning. . . .

Confusion is sure to arise and has arisen when two rival machines are put on the same market, one called the "Gramm" motor and the other the "Gramm-Bernstein" motor. This difficulty has arisen from what the defendants attempted to do at the last exhibition in Toronto, and their display of the compound name was stopped by interim injunction. I am now asked to make this permanent. The defendants, i.e., the individual incorporators, had applied to the plaintiffs to be taken into their company at Walkerville, and, being refused, they became incorporated as the Fisher Motor Company, and started business opposite the plaintiffs' place of business in Walkerville, and gave themselves out as being entitled to sell the Gramm motors. The alleged justification is because an arrangement has been made with the Gramm-Bernstein Company by which supplies for assembling motor trucks from the American company are being procured by the defendants, and they obtained one of the Gramm-Bernstein completed machines to exhibit in the defendants' name at the last exhibition, as above stated. The witness Fisher, president of the de-