

curative provisions of the Act useless in most cases, no decided case made it necessary for this Court to hold that, in the peculiar and special circumstances of this case, reasonable excuse had not been shewn.

Appeal dismissed with costs.

FIRST DIVISIONAL COURT.

APRIL 3RD, 1917.

FLEXLUME SIGN CO. LIMITED v. MACEY SIGN CO. LIMITED.

Patent for Invention—Electric Signs—Known Device—Action for Infringement—Finding of Fact of Trial Judge—Appeal.

Appeal by the plaintiffs from the judgment of SUTHERLAND, J., 10 O.W.N. 305.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

A. C. McMaster, for the appellants.

F. Arnoldi, K.C., and D. D. Grierson, for the defendants, respondents.

THE COURT dismissed the appeal with costs, seeing no reason for differing from the conclusion of the learned trial Judge nor from the reasons upon which his conclusion was based.

FIRST DIVISIONAL COURT.

APRIL 3RD, 1917.

*UNITED STATES PLAYING CARD CO. v. HURST.

Trade Mark—Infringement—Colourable Imitation—Use of Word "Bicycle"—Design—Trade Name—Intent to Deceive—Passing off—Evidence—Advertisement—Injunction—Damages—Inquiry—Non-interference with Infringers—Abandonment—Appeal—Variation of Judgment—Costs.

Appeal by the defendant from the judgment of MIDDLETON, J., 37 O.L.R. 85, 10 O.W.N. 207.