

1897
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 May 3.  
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AUGUST PETERSON ..... PLAINTIFF ;  
 AND  
 THE CROWN CORK AND SEAL }  
 COMPANY ..... } DEFENDANTS.

*Patent of invention—Action to avoid—Default of pleading—Judgment—  
 Registrar's certificate—Practice.*

Upon a motion for judgment for default of pleading in an action to avoid certain patents of invention, the court granted the motion, but directed that a copy of the judgment should be served upon the defendants, and that the registrar should not issue a certificate of the judgment for the purpose of entering the purport thereof on the margins of the enrolment of the several patents in the Patent Office until the expiry of thirty days after such service.

**MOTION** for judgment in default of pleading in an action to avoid certain patents of invention.

April 17th, 1897.

*J. F. Smellie* for the motion.

THE JUDGE OF THE EXCHEQUER COURT now (May 3rd, 1897) delivered judgment.

This is a motion that Letters Patent Nos. 42,745, 42,746, 42,866, and 42,980, respectively mentioned in the statement of claim, be declared and adjudged to be null and void, and that defendants be ordered to pay the costs of this proceeding. The motion is made under rule 80 of the rules of this court, to which I have made some reference in the case of *The Queen v. Connolly, et al* (1). In this case the plaintiff is, I think, taking the allegations in the statement of claim to be true, entitled to the judgment prayed for, and I am of opinion to grant the motion, but upon these conditions: That a copy of the judgment shall be served upon the defendants, and that no certificate of the judgment shall be issued by the registrar for the purpose of entering the purport thereof on the margins of the enrolment of the several patents in the Patent Office, until thirty days after such service.

(1) 5 Ex. C. R. 397.