

**Biggs Laboratories (Canada) Ltd (Plaintiff) v. Realistic Co. of Canada Ltd
(Defendant)**

Jackett P.—Ottawa, April 15, 1971.

Practice and Procedure—Change in corporate name of plaintiff—Inherent jurisdiction of court to amend style of cause—Exchequer Court Rule 107.

Where the name of a company which is party to an action is changed after the commencement of the action the court has an inherent jurisdiction to order the substitution of the company's new name in the style of cause.

APPLICATION in writing by plaintiff to change plaintiff's name and to discontinue this action.

Douglas S. Johnson, Q.C., for the plaintiff.

No oral argument.

JACKETT P.—The application, which is directed to the Registry, and has been referred to me, is an application

(1) Pursuant to Rule 228, for an order changing the name of the plaintiff, Biggs Laboratories (Canada) Limited to Trent Laboratories (Canada) Limited, in the form of order consented to by the defendant, on the filing herewith of an affidavit of Mr. Ivor M. Hughes, having attached as Exhibit A thereto a certified copy of the supplementary letters patent changing the name of the company from Biggs Laboratories (Canada) Limited to Trent Laboratories (Canada) Limited.

(2) Subsequently, pursuant to Rule 107, for a discontinuance of this action on the filing of the consent to the notices of discontinuance and the notices of discontinuance of both parties to the action, herewith filed in duplicate.

Rule 107 contains the following provision:

The Attorney-General, or a petitioner or plaintiff other than one petitioning or suing on behalf of a class may, at any time, without leave, by notice in writing, after having filed a consent from all other parties, wholly discontinue his action or withdraw any part or parts of his alleged cause of complaint, upon such terms as to costs or otherwise as may be contained in such consent.

As the plaintiff has filed a consent from the only other party to the action and has filed a document whereby it purports to wholly discontinue the action, by virtue of Rule 107, the action is discontinued and no order is required with regard thereto.

With reference to the application for an order changing the name of the plaintiff under Rule 228, it is to be noted that that rule contemplates an actual addition of a new party to an action or a substitution of one party for another. As appears from the material filed in support of this application, the action was begun by Biggs Laboratories (Canada) Limited on June 7, 1967, and, by letters patent dated March 5, 1968, the name of the plaintiff company was changed to Trent Laboratories (Canada) Limited. In these circumstances, it would not appear that an order can be made under Rule 228. However, I should have thought that there is no doubt that the court has an inherent jurisdiction to recognize the change in name by making an order amending the style of cause by substituting the new name of the company for the old, although, now that the action has been discontinued, it is not entirely clear why there is any point in making such a change.

If such a change is desired, the plaintiff may submit a consent from the defendant to such an order and I should be glad to reconsider the matter.
