Intellectual Property Weekly Abstracts Bulletin — Week of October 31

November 02, 2016

Trademark Decisions

Injunction preventing use of mark not available where use in the US, and not Canada
HERTZ System, Inc. v. HERC Equipment Rentals, 2016 FC 1085

The Court dismissed the Defendant's motion for an interim and/or interlocutory injunction restraining the Plaintiffs, *inter alia*, from using any trademarks that are confusingly similar to any of HERC Trademarks. The parties had business dealings for about 15 years. In 2014, the Plaintiff announced its plan to make its equipment rental business a stand-alone business and further announced that this stand-alone business would be known as Herc Rentals.

In dismissing the Defendant's injunction, the Court found the Plaintiff's evidence that it will only use the Herc name in the United States, and not Canada, strongly supported the conclusion that confusion in Canada is unlikely. On this basis, the Court was not persuaded that any urgency existed that would warrant granting this interim injunction, or that the Defendant would suffer irreparable harm if an injunction was not granted.

Supreme Court Updates

On October 31, 2016, the Honourable Mr. Justice Malcolm Rowe was sworn in as a judge of the Supreme Court of Canada.

Amgen Canada Inc., Amgen Inc. v. Apotex Inc., Minister of Health (FC) (Civil) (By Leave) (37124)

The Supreme Court granted the motion to expedite the application for leave to appeal and dismissed the application for leave to appeal from the judgment of the Federal Court of Appeal (2016 FCA 196, our summary provided here).

Industry Update

Health Canada has published a Notice — Guidance Document: *Patented Medicines (Notice of Compliance) Regulations* .

By

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Expertise

Intellectual Property, Copyright, Licensing, Patents, Trademarks

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