Intellectual Property Weekly Abstracts Bulletin — Week of October 30, 2017

November 01, 2017

Copyright Decision

Summary judgement awarded in copyright infringement lawsuit
John v. Richards, 2017 ONSC 6307

The Ontario Superior Court of Justice granted the Defendants motion for summary judgment in respect of the Plaintiff's claims of copyright infringement, theft and negligence. The action arises from the Plaintiff's interview on the Defendant Jim Richards' radio talk show. The Plaintiff is a rap artist who performs under the name of "Avalanche the Architect". The Plaintiff was interviewed following the report in a Newspaper article indicating that the Plaintiff had been convicted of threatening to cause bodily harm to his former music promoter. At the beginning of and during the interview, the Defendant played a brief clip from one of the Plaintiff's rap songs, which totalled approximately 18 seconds of the song. After the interview, the Plaintiff requested that the Defendant provide an on air clarification that the song had nothing to do with the charges, to give credit to the other artist on the track and an apology. The agreed-to statement was read on the radio talk show twice.

In granting summary judgment, the Court found that the Plaintiff had failed to lead any properly admissible evidence to show that there is any issue that requires a trial, or that requires the use of the special powers under Rule 20.04 of the *Rules of Civil Procedure*. The Court also found that the defendants did all that was required of them to be allowed to play the Plaintiff's song in accordance with the *Copyright Act*. Furthermore, the Plaintiff's claim in negligence failed because there was no admissible evidence that he sustained any damage or injury other than the loss of a royalty, which is a matter for the statute, not negligence law. Finally, the Court concluded that the Plaintiff intended that in exchange for a clarification and apology, he would not sue for defamation or for infringement of copyright.

Supreme Court Update

AstraZeneca Canada Inc., et al. v. Apotex Inc., et al. (Federal Court) (Civil) (By Leave), Docket No. 36654

Apotex's application for an Order amending the judgment (2017 SCC 36, our summary here), for an Order permitting a re-hearing of the appeal and for an Order permitting the motion to be heard orally was dismissed.

Industry Updates

The Canadian Intellectual Property Office has released its latest intellectual property analytics report entitled Patented Inventions in Climate Change Mitigation Technologies.

Health Canada has released a Publication of the Health Canada Guidance Document: Quality (Chemistry and Manufacturing) Guidance: New Drug Submissions and Abbreviated New Drug Submissions. The following are final versions of the Guidance Documents and template:

- Guidance Document: Quality (Chemistry and Manufacturing) Guidance: New Drug Submissions and Abbreviated New Drug Submissions
- Guidance Document: Certified Product Information Document - Chemical Entities
- Guidance Document: Addendum - Quality (Chemistry and Manufacturing) Guidance: Questions and Answers
- Glossary of Quality Terms
- Certified Product Information Document - Chemical Entities (CPID-CE)

By

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Expertise

Intellectual Property, Copyright, Licensing, Patents, Trademarks

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