

Intellectual Property Weekly Abstracts Bulletin — Week Of May 1, 2017

May 03, 2017

Trademarks Decisions

Appeal of TMOB's decision amending the statement of registered goods allowed
[Lucite international, Inc. v. Croll & Co., 2017 FC 289](#)

The Federal Court allowed Lucite's appeal of the Trademarks Opposition Board's (TMOB's) decision amending the registration of its mark to restrict the statement of registered goods ([see 2016 TMOB 127](#)). Lucite had voluntarily amended its registration to restrict the statement of registered goods following the issuance of a section 45 notice. The TMOB also amended the registration to further restrict the statement of registered goods, finding that Lucite had provided no evidence relating to various goods including "resin beads".

On appeal, Lucite sought to only restore "resin beads" to the list and submitted new **evidence pursuant to s 56(5) of the Trade-marks Act**. The Court was satisfied that the new evidence was material and demonstrated use of the mark during the relevant period in association with "resin beads".

Supreme Court Updates

Apotex Inc. v. Eli Lilly Canada Inc., et al. (Federal Court) (Civil) (By Leave) (Court File No. 37368)

The Supreme Court dismissed Apotex's application for leave to appeal from the judgment of the Federal Court of Appeal in [2016 FCA 267](#). Our summary of the appeal is here.

Constellation Brands Inc., et al. v. Pinnacle Estates Inc. (Federal Court) (Civil) (By Leave) (Court File No. 37424)

The Supreme Court dismissed Constellation Brands Inc's application for leave to appeal from the judgment of the Federal Court of Appeal in [2016 FCA 302](#).

Nova Chemicals Corporation v. Dow Chemical Company, et al. (Federal Court) (Civil) (By Leave) (Court File No. 37274)

The Supreme Court dismissed Nova Chemicals Corporation's application for leave to

appeal from the judgment of the Federal Court of Appeal in [2016 FCA 216](#). Our summary of the appeal is [here](#).

Industry Update

CIPO released a [Notice regarding Patent Cooperation Treaty \(PCT\) national phase applications and the acceptable forms of evidence for subsection 58\(5\) requisitions](#).

By

[Chantal Saunders](#), [Beverley Moore](#), [Adrian J. Howard](#), [Jillian Brenner](#)

Expertise

[Intellectual Property](#), [Copyright](#), [Licensing](#), [Patents](#), [Trademarks](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](#)

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2025 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.