

# 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

Chantal Saunders, Beverley Moore, Adrian J. Howard, Jillian Brenner

Expertise

Intellectual Property, Copyright, Licensing, Patents, Trademarks

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## 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

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