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

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Expertise

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