As Of November 24th, Use Of Non-French Trademarks On Outside Signs Will Require The Presence Of French

November 18, 2016

On November 4th, 2016, amendments to the *Regulations respecting the language of commerce and business* (the "Regulations") enacted pursuant to the *Charter of French Language,* were published. These are identical to those announced by the Québec Government on May 4, 2016. The purpose of the amendments, which will come into force on November 24, 2016, is to ensure the presence of French when a trademark in a language other than French is displayed an immovable. These amendments will require businesses established in the Province of Québec which have a trademark "only in a language other than French" to add a "sufficient presence of French" to their outdoor signage.

The presence of French may take the following forms: (1) a generic term or a description of the products or services concerned, (2) a slogan, or (3) display information pertaining to the products or services to the benefit of consumers or persons frequenting the site. However, the presence of French cannot simply take the form of business hours, telephone numbers, addresses, numbers or percentages or a term requiring for its legibility to be within a radius of less than 1 metre.

The Regulations stipulate that the presence of French on outdoor signage must have the following characteristics: (1) it should give French permanent visibility, similar to that of the trademark displayed; and (2) it should ensure its legibility in the same visual field as that mainly covered by the trademark. To illustrate these characteristics, the Regulations state that the signs or posters in French should be designed, lighted and situated in relation to the trademark so as to make them easy to read, both at the same time and at all times. For example, the French text should be lit if the trademark in a language other than French is lit.

In summary, these amendments shall apply:

- to all businesses having an establishment in Québec;
- where there is a sign or poster that displays a trademark in a language other than French;
- in the absence of French text on the sign or poster; and
- where the trademark in a language other than French appears:

- on a sign or poster located on the exterior of a building, including the roof;
- on a sign or poster located on a facade located inside a building or a shopping centre;
- on a sign or poster located inside a room or a building if it is intended to be seen from outside; or
- on a sign or poster located on a bollard or any other independent structure.

For existing signs and posters, the Regulations provide for a 3-year transition period (until November 24, 2019) in order to allow businesses to proceed with the required modifications.

The amendments are a response to the recent Québec Court of Appeal decision issued in April 2015, which confirmed that businesses could continue to use their non-French registered trademarks on storefront signs without running afoul of the provincial language law.

We invite you to consult the guidance document (in French only) on the display of trademarks which was recently issued by the *Office québécois de la langue française* and which is available online.

By

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