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Newsletter

Intellectual Property

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Update: New French Language Requirements for Public Signage



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The Quebec Government has introduced new regulations amending *Quebec's Charter of the French Language* (the "**Charter**") that came into force on **November 24, 2016**. The amendments require businesses using trademarks in a language other than French in their public signage in Quebec to include a French-language description or other "sufficient presence of French".

The Quebec Government's amendments will permit businesses to continue using their non-French trademarks to identify their business on public signage (provided that a French version of the trademark has not been registered in Canada), subject to certain new requirements.

Quebec businesses with existing public signs will now have until **November 24, 2019** in order to add the required "sufficient presence of French" to accompany the trademark that only appears in English or any language other than French. Any new public signage that have gone up or are going up after **November 24, 2016** will have to adhere to the new regulations.

The *Office québécois de la langue française* (the "**Office**") has published a guide, which provides examples of acceptable changes or additions to public signs using non-French trademarks.

New amendments

Businesses displaying a trademark on exterior signage ("outside an immovable") only in a language other than French will be required to include a "sufficient presence"

of French accompanying the trademark. The requirement of a "sufficient presence of French" can be satisfied by including one of the following in French:

- 1) a generic term of a description of the products or services;
- 2) a slogan; or
- 3) any other term or indication favouring the display of information pertaining to the products or services.

The amendments specify that there is a "sufficient presence of French" where French is given permanent visibility and is legible in the same visual field as the principal signs displaying the trademark. As an example, if a sign bearing an English trademark is illuminated at night, the French addition must also be illuminated. Moreover, where trademark posters or signs are visible from a highway, the French addition must also be visible from the highway.

"Language other than French"

The statement "*any trademark in a language other than French*" referred to in the new amendments suggests that trademarks that contain any dictionary term (or combinations thereof) found in a language other than French, and displayed on public signs, will be subject to the new requirements. Trademarks that are not composed of dictionary terms and that include any artificial combination of letters, syllables, figures, initials

or are place names, given names or family names fall under an exemption and are not subject to the new requirements. It is likely the Office will take the stance that businesses displaying trademarks on public signs that are not French “sounding” and that do not fall in a clear exception, will be required to comply with the new requirements.

“Outside an immovable”

For the purposes of the new requirements, the following signs and posters are considered to be “*outside an immovable*” and therefore subject to the new requirements:

- those outside premises situated in an immovable or a larger property complex including, namely, those situated in a mall or shopping centre, underground or not; and
- those inside an immovable or premises if their installation is intended to be seen from the outside.

Trademarks appearing on a bollard (vertical post) or other independent structure or totem type structure near an immovable or premises are also subject to the new requirements only if there is no other outside sign or poster with the trademark and if two or less trademarks appear on the structure.

It is important to note that these amendments will not impact the other exceptions available in the Charter that allow for the use of non-French trademarks exclusively (i.e. where the trademark is not used as a trade-name/business name).

The content of this newsletter is intended to provide general commentary only and should not be relied upon as legal advice.

Should you have any questions regarding compliance with these new requirements, please do not hesitate to contact:

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