# English trademarks on public signs – Expected changes

November 13, 2015

**Last April 27, the Court of Appeal of Quebec dismissed the appeal, from the bench, by the Attorney General of Quebec concerning the use of English trademarks on public signs. The Attorney General was contesting the judgment rendered by the Honourable Michel Yergeau of the Superior Court who held that the use of trademarks in a language other than French on public signs was in compliance with the *Charter of the French Language* ("Charter"), as well as the *Regulation respecting the language of commerce and business* ("Regulation"), provided there was no registered French version of that trademark.**

The reader will recall that Best Buy Canada Ltd., Costco Wholesale Canada Ltd., Gap (Canada) Inc., Old Navy (Canada) Inc., Guess? Canada Corporation, Walmart Canada Corp., Toys “R” Us Canada Ltd. and Curves International, Inc. had filed a motion for a declaratory judgment to determine whether an English trademark, with no registered French version, used on public signs and in commercial advertising must be accompanied by a generic descriptive term in French in order to comply with the Charter and the Regulation. This motion was filed because of a change in policy by the Office québécois de la langue française (“Office”) on the interpretation of the Regulation, creating the risk that these corporations would become subject to penal prosecutions, and that their francization certificates would be revoked if they did not attach a French description to their English trademarks.

In the judgment rendered by the Court of Appeal, the five judges held that the Office could not amend its regulation to force the corporations to add a French description to the trademarks on their signs. They are therefore entitled to display their English trademarks, as is, on their storefronts even if they are not accompanied by a French generic term. The Court of Appeal reached this conclusion based on its interpretation of sections 58, 63, 67 and 68 of the Charter.

Following the decision of the Attorney General of Quebec not to seek leave to appeal the Court of Appeal’s judgment, the Quebec government decided to act and, on June 17, 2015, Hélène David, the Minister responsible for the Protection and Promotion of the French Language, announced that amendments would be made to the Regulation to require retailers to add a French description to trademarks on exterior signs.

At the time, Ms. David announced that a draft bill should be published in the *Gazette officielle* in the fall of 2015, the plan being that it would come into force in early fall 2016. Ms. David reiterated that the purpose of these measures was not to alter the trademarks, but to ensure that they would respect the French character of Quebec. For the time being, it is impossible to know whether there will be any transitional measures to give companies a grace period after the regulation comes into force to bring themselves into compliance, or whether they might benefit from any financial assistance to help them make this transition.

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As of the date of publication of this bulletin, no draft regulation had yet been published in the *Gazette officielle*.

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