

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Civil Division)

No.: 500-17-

IMPERIAL TOBACCO CANADA LIMITED, a legal person duly constituted, having its head office at 3711 Saint-Antoine Street West, Montréal, Québec, H4C 3P6

-and-

IMPERIAL TOBACCO COMPANY LIMITED, a legal person duly constituted, having its head office at 3711 Saint-Antoine Street West, Montréal, Québec, H4C 3P6

Plaintiffs

v

ATTORNEY GENERAL OF QUÉBEC, having an office at 1 Notre-Dame Street East, Suite 8.00, Montréal, Québec, H2Y 1B6

Defendant

APPLICATION FOR JUDICIAL REVIEW
(Article 529 of the *Code of Civil Procedure*, CQLR c C-25.01)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE JUDICIAL DISTRICT OF MONTRÉAL, PLAINTIFFS IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED (COLLECTIVELY "ITL") RESPECTFULLY SUBMIT AS FOLLOWS:

I. INTRODUCTION

1. On November 26, 2015, the National Assembly of Québec passed Bill n° 44: *An Act to bolster tobacco control*, SQ 2015, c 28, into law ("**Bill 44**"), thereby, *inter alia*:
 - (a) Restricting, pursuant to Section 28, the ability for manufacturers or distributors of tobacco products to advertise for the promotion of tobacco, tobacco products, a brand of tobacco product, or a manufacturer of tobacco products to persons employed in a tobacco retail outlet;
 - (b) Prohibiting, pursuant to Section 32, the sale or distribution of flavoured tobacco products; and

- (c) Requiring, pursuant to Section 72, a minimal surface area of 4,648 mm² for the display of the health warnings prescribed by the *Tobacco Products Labelling Regulations (Cigarettes and Little Cigars)*, SOR/2011-177;

the whole as appears from Bill 44, disclosed herewith as **Exhibit P-1**.

2. Section 28 came into force on November 26, 2015, Section 32 will come into force on May 26, 2016, and Section 72 will come into force on November 26, 2016.
3. ITL hereby seeks a declaration from this Honourable Court that Sections 28, 32, and 72 of Bill 44 are in whole or in part of no force or effect on the grounds that they unjustifiably infringe upon rights guaranteed by the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982, c 11* (the "**Canadian Charter**") and the *Charter of Human Rights and Freedoms*, CQLR c C-12 (the "**Québec Charter**").
4. ITL also seeks a declaration from this Honourable Court that Section 32 of Bill 44 is inoperative under the constitutional doctrine of federal paramountcy to the extent that it prohibits the sale of menthol-flavoured tobacco products in the Province of Québec.

II. THE BUSINESS AND INTEREST OF ITL

5. Established in 1908, ITL is Canada's largest tobacco manufacturer and distributor.
6. ITL employs over 450 individuals and has its head offices situated in Montréal and regional sales offices throughout Canada.
7. Currently, ITL, through trademarks such as du MAURIER, JPS, Marlboro, Matinée, Medallion, Pall Mall, Peter Jackson, Player's, John Player, Viceroy, and Vogue, offers quality tobacco products, including menthol-flavoured tobacco products, to Canadian adults who choose to smoke.
8. ITL has an interest in challenging the constitutionality of the impugned provisions of Bill 44 as it is a manufacturer and distributor of tobacco products.
9. No subsequent action by the government is required to put an end to the difficulty raised by the impugned provisions of Bill 44, were they declared by this Court to be unconstitutional and of no force or effect.
10. The factual context of the present Motion is sufficient for the Court to decide the constitutional issues.

III. THE ACT

11. Draft Bill 44 was introduced by the Minister for Rehabilitation, Youth Protection and Public Health (the "**Minister**") on May 5, 2015, the whole as appears from

the webpage devoted to Bill 44 on the Québec National Assembly website, disclosed herewith as **Exhibit P-2**.

12. When draft Bill 44 was introduced, it did not contain Sections 28 and 72, which were added by way of amendments (at that time, Section 28 was referred to as Section 21.1, and Section 72 was referred to as Section 60.1). Sections 28 and 72 were presented and adopted during the clause-by-clause consideration of draft Bill 44 by the Committee on Health and Social Services, held from November 5, 2015 to November 18, 2015, the whole as appears from the Hansard of the Committee on Health and Social Services for November 10, 2015, disclosed herewith as **Exhibit P-3**, November 11, 2015, disclosed herewith as **Exhibit P-4**, November 12, 2015, disclosed herewith as **Exhibit P-5**, November 17, 2015, disclosed herewith as **Exhibit P-6**, and November 18, 2015, disclosed herewith as **Exhibit P-7**.
13. Sections 28 and 72 of Bill 44 were not examined in the context of the regulatory impact analysis published in May 2015 regarding draft Bill 44, as required by the *Politique gouvernementale sur l'allègement réglementaire et administratif* adopted by Order in Council 32-2014 dated January 29, 2014, disclosed herewith as **Exhibit P-8**.
14. Sections 28 and 72 of Bill 44 do not appear to have been the subject of any careful consideration by the government or members of the National Assembly.
15. In the course of adopting these provisions, which was done with inordinate haste, no consideration was given to ensuring that the constitutional rights of those affected by the measures were infringed to the least extent possible. Moreover, the anticipated potential benefits of these measures, where such were even identified, simply do not stand up to scrutiny.
16. The result of this fundamentally flawed legislative process are provisions which are arbitrary, overbroad, and irrational, as they do not promote but actually hinder Bill 44's stated objectives, as will be further discussed below.
17. Bill 44 passed into law on November 26, 2015, and was sanctioned on the same day. Despite the immediate effect of some provisions including the impugned Section 28, the final consolidated text of Bill 44 was not publicly available until several weeks later, on or around December 18, 2015.
18. Before this date, all that was available was the initial text, which did not contain Sections 28 and 72, and a collection of disorganised amendments, many handwritten and some even contradictory, as appears from the adopted amendments document published on the National Assembly website, disclosed herewith as **Exhibit P-9**.
19. This harried process resulted in text which, once published, required careful analysis by ITL given its ambiguity and the difficulty in reconciling certain of its provisions with the federal *Tobacco Act* and its regulations. Careful consideration was also required by ITL to assess the severe operational impacts of Bill 44 and

to develop a compliance strategy.

IV. GROUNDS OF CONTESTATION

20. Sections 28, 32, and 72 of Bill 44 are in whole or in part unconstitutional and of no force or effect on the following grounds:

- (a) The impugned provisions of Bill 44 infringe upon Section 7 of the *Canadian Charter* because non-compliance could result in directors and officers of ITL being imprisoned, pursuant to the *Code of Penal Procedure*, CQLR c C-25.1, for the non-payment of fines levied under the *Tobacco Control Act*, CQLR c L-6.2, in a manner that is contrary to the principles of fundamental justice because of arbitrariness and overbreadth, and in a manner that is not demonstrably justified under Section 1 of the *Canadian Charter*,
- (b) Sections 28 and 72 of Bill 44 infringe upon Section 2(b) of the *Canadian Charter* (and Section 3 of the *Québec Charter*) because the prohibitions which prevent ITL from advertising to persons employed in tobacco retail outlets, and the new packaging and labelling requirements, unjustifiably infringe upon ITL's right to free expression in a manner that is not demonstrably justified under Section 1 of the *Canadian Charter* (or under Section 9.1 of the *Québec Charter*);
- (c) Section 32 of Bill 44 is inoperative under the constitutional doctrine of federal paramountcy to the extent that it prohibits the sale or distribution of menthol-flavoured tobacco products in the Province of Québec, as it frustrates Parliament's purpose in the *Tobacco Act*, SC 1997, c 13 to exempt menthol-flavoured tobacco products from the prohibition on the sale of flavoured tobacco products in Canada.

A. Violation of the right to life, liberty and security of person

21. In order to conclude that Section 7 of the *Canadian Charter* is violated by the impugned provisions of the Act, there must be: (1) a deprivation of life, liberty, or security of the person; and, (2) that said deprivation not be in accordance with the principles of fundamental justice.

22. Here, the first branch of the test for a violation of Section 7 of the *Canadian Charter* is met because:
- (a) Section 51 of the *Tobacco Control Act*, as amended by Section 60 of Bill 44, provides that a contravention of Section 26 of the *Tobacco Control Act* (as amended by Section 28 of Bill 44) can result in a fine of \$5,000 to \$500,000 for a first offence, and \$10,000 to \$1,000,000 for a subsequent offence;
 - (b) Section 63 of Bill 44 provides that a contravention of Section 29.2 of the *Tobacco Control Act* (the new provision inserted in the *Tobacco Control Act* pursuant to Section 32 of Bill 44) can, for manufacturers or distributors of tobacco products, result in a fine of \$5,000 to \$500,000 for a first offence, and \$10,000 to \$1,000,000 for a subsequent offence;
 - (c) Section 7 of the *Regulation under the Tobacco Control Act*, CQLR c L-6.2, r 1, as amended pursuant to Bill 44, provides that the violation of Sections 6.1 to 6.3 of the *Regulation under the Tobacco Control Act* (enacted by Section 72 of Bill 44) constitutes an offence. The *Regulation under the Tobacco Control Act* is a regulation made under Section 25 of the *Tobacco Control Act*, such that, pursuant to Section 51 of the *Tobacco Control Act* (as amended by Section 60 of Bill 44), a violation of its provisions can result in a fine of \$5,000 to \$500,000 for a first offence, and \$10,000 to \$1,000,000 for a subsequent offence;
 - (d) Section 67 of Bill 44 provides for the insertion in the *Tobacco Control Act* of a new provision, Section 57.1.1, which provides that when a manufacturer or distributor of tobacco products has committed an offence under the *Tobacco Control Act*, its directors and officers are presumed to have themselves committed the offence, unless they establish that they were reasonably diligent in taking all necessary precautions to prevent the commission of the offence; and
 - (e) Pursuant to Articles 345.3 and following of the *Code of Penal Procedure*, the directors and officers of a manufacturer or distributor of tobacco products can face imprisonment if they fail to pay the fines levied against them pursuant to Section 57.1.1 of the *Tobacco Control Act*.
23. In *Re B.C. Motor Vehicle Act*, [1985] 2 SCR 486, the Supreme Court of Canada left open the possibility of imprisonment for non-payment of a fine as a trigger of Section 7 of the *Canadian Charter*, and subsequent appellate jurisprudence from the Saskatchewan, Ontario, and Québec Courts of Appeals have confirmed that the potential of imprisonment for non-payment of a fine triggers Section 7 of the *Canadian Charter*.
24. The second branch of the test for establishing a violation of Section 7 of the *Canadian Charter* is met in the present instance because the impugned provisions of Bill 44 are arbitrary and overbroad.

25. Arbitrariness is established where there is no connection between the effect and the object of the law.
26. Overbreadth is established where the law interferes with some conduct that has no connection with the object of the law.
27. The objectives of the impugned sections of Bill 44 are very difficult to ascertain given their hurried adoption. Even if one takes at face value the explanatory notes of draft Bill 44, which indicate that one aim of the law is “*to further restricts [sic] tobacco use both in enclosed spaces and outdoors*”, neither the impugned provisions themselves, nor the activities to which they pertain, are connected to this purported objective.
28. As a result, the impugned provisions are contrary to the principles of fundamental justice.

Section 28

29. Section 28 of Bill 44 achieves only one thing – undermining ITL’s ability to advertise to persons employed in tobacco retail outlets to inform them about ITL’s products and convincing them to carry ITL’s products rather than those offered by its competitors.
30. The means employed by ITL prior to the entry into force of Bill 44 to communicate with persons employed in tobacco retail outlets were in no way aimed at increasing the prevalence of smoking in Québec, and certainly had no such effect. Rather, they were solely focused on competing for the distribution of its products and defending market share amongst adult smokers.
31. As such, restricting ITL’s ability to advertise its products and their characteristics to persons employed in tobacco retail outlets is not connected with the objective of restricting tobacco use in Québec.
32. There is absolutely no evidence and no basis to conclude that such measures will reduce the prevalence of smoking in Québec. What they will do is distort competition and interfere with the ability of adult smokers to be properly served by informed retailers, without achieving any claimed public health policy objective.

Section 32

33. Section 32 of Bill 44, which prohibits the sale of flavored tobacco products including menthol-flavoured products commercialised by ITL, overreaches in its effects as this prohibition in no way advances the purpose of Bill 44.
34. In fact, the prohibition on ITL selling menthol-flavoured tobacco products will likely have the opposite effect. This measure will likely only increase the use of contraband tobacco products as illicit traders will have a monopoly on menthol-flavoured tobacco products, thus undermining the objective of Bill 44 to restrict

tobacco use in Québec.

Section 72

35. Health warnings have been mandated by Federal legislation and regulation since 1972, and since 1989 their size has been mandated as a percentage of the principal display surface of a package.
36. In 1989, the health warning was required to occupy 20% of the principal display surface, which was increased to 33% in 1994, 50% in 2000, and 75% in 2011.
37. Notwithstanding extensive federal health warning regulations, Section 72 of Bill 44 obliges ITL to employ packaging that is large enough so that the federally prescribed health warnings appear on an even surface of no less than 4,648 mm². Section 72 also requires cigarette packaging to contain the maximum number of cigarette sticks possible, given the interior volume of the packaging, and it prohibits the use of devices placed in or integrated to the packaging to reduce the space available for tobacco products.
38. In essence, the measures provided in Section 72 force ITL to change the packaging for almost all of its products sold in Quebec, to acquire new machinery and to perform complete artwork re-design, all in less than one year. To provide some perspective, sourcing of new machinery alone generally requires 12 to 18 months.
39. Compliance with Bill 44 represents a truly colossal endeavour for ITL. Despite making every effort and incurring significant costs since Bill 44 was passed, ITL may not be able to fully comply by the November 26, 2016 deadline, even assuming that the impugned measures are constitutional.
40. Despite the onerous impact of Section 72 on the entire tobacco industry, no analysis appears to have been conducted regarding the relevance or usefulness of health warnings covering an even surface area of at least 4,648 mm² or of any of the other measures in Section 72.
41. Moreover, the requirements of Section 72 are grossly disproportionate given the very limited issue they were meant to address. In the Hansard of November 11, 2015 (Exhibit P-4), the Minister indicated that this measure was in response to super slim cigarette packages on which the federally mandated 75% health warnings are much narrower than on regular sized cigarettes packages.
42. Rather than simply providing a minimum surface area for health warnings on super slim packages, the Minister arbitrarily set the minimum health warning size at 4,648 mm² for all packages, without any evidence or explanation as to how such a drastic measure was warranted. 4,648 mm² is larger than the health warnings on the vast majority of ITL's packs (other than super slim packages) and which were never identified as problematic.

43. By doing so, a measure that aimed to address a single pack format ultimately prohibits most pack formats currently marketed by ITL, without the Minister offering any evidence, justification, or rationale.
44. Not only are the packaging requirements in Section 72 arbitrary and overly broad, they are in all likelihood counterproductive as they will likely increase tobacco consumption in Quebec.
45. Indeed, Section 72 will force ITL to market products, including the more expensive ones, in basic and undifferentiated packaging. Adult smokers facing the choice of purchasing more expensive products or less expensive ones will in all likelihood down trade to the less expensive ones when they come in the same basic and undifferentiated packaging. This is counterproductive as the available data indicates that adult smokers who purchase less expensive tobacco products tend to have a higher average daily consumption rate.
46. Moreover, in such a situation where the main driver for adult smokers is cost, some will undoubtedly turn to illicit trade given the important price differential between legal and illegal tobacco products. Considering that illegal traffickers seldom comply with health warning requirements, they will continue to offer their products in sophisticated and differentiated pack formats, further enticing smokers to turn to illicit trade.
47. The minimum health warning size requirements, coupled with the obligation for packaging to contain the maximum quantity of tobacco product provided in Section 72, may also result in pack formats that contain more cigarettes than the 20 unit and 25 unit pack designs that are the current standard.
48. This may also result in an increase in consumption of tobacco products by adult smokers as such smokers will have a greater quantity of tobacco products readily available for consumption.
49. In sum, the packaging standards contained in Section 72 of Bill 44 are arbitrary, and are not connected to the objective of restricting tobacco use in Québec. They are in fact likely to achieve the exact opposite.

B. *Violation of the right to free expression*

50. Section 2(b) of the *Canadian Charter* and its corollary provision in the *Québec Charter*, Section 3, protect the freedom of commercial expression, including the advertising of tobacco products, as was determined by the Supreme Court of Canada in *RJR-MacDonald Inc. v Canada (AG)*, [1995] 3 SCR 199.
51. Section 28 of Bill 44 limits ITL's right to advertise its products to persons employed in tobacco retail outlets, and thereby violates its right to free expression, contrary to Section 2(b) of the *Canadian Charter* and Section 3 of the *Québec Charter*.

52. Section 72 of Bill 44 imposes packaging restrictions that limit the visual content and form of ITL's packages, and thereby violates ITL's freedom of expression, contrary to Section 2(b) of the *Canadian Charter* and Section 3 of the *Québec Charter*.
53. Pursuant to the jurisprudence of the Supreme Court of Canada, most recently *Carter v Canada (AG)*, [2015] 1 SCR 331, it is therefore incumbent upon the Attorney General of Québec to show that:
 - (a) The objective of Bill 44 is sufficiently pressing and substantial;
 - (b) Sections 28 and 72 of Bill 44 are rationally connected to this objective;
 - (c) Sections 28 and 72 of Bill 44 are minimally impairing; and,
 - (d) There is proportionality between the deleterious and salutary effects of Sections 28 and 72 of Bill 44.
54. This test cannot be satisfied in the present instance.

Section 28

55. Prior to Bill 44, ITL was already prevented, pursuant to the *Tobacco Act* (as it was then named), from essentially all forms of advertising that could reach consumers.
56. Advertising to persons employed in tobacco retail outlets expresses information regarding ITL's products and their characteristics, as compared to those of its competitors, in order to allow ITL to compete with other manufacturers for the distribution of its products in tobacco retail outlets.
57. Such advertising, which is not in any way visible to consumers, is not aimed at increasing the number of adults who chose to smoke or increasing the amount of tobacco products consumed by existing adult smokers, and does not have any such effect.
58. As stated above, even taking at face value the explanatory notes of draft Bill 44, which indicate that one aim of Bill 44 is "*to further restricts [sic] tobacco use both in enclosed spaces and outdoors*", Sections 28 has no rational connection to this objective.
59. Section 28 of Bill 44 is not minimally impairing, in that it broadly restricts the form and content of advertising to persons employed in tobacco retail outlets, without regard for whether such advertising could in fact increase the prevalence of smoking in Québec.
60. Finally, there is no proportionality to this measure. On the one hand, it has no salutary effect whatsoever, at least not as concerns any purported objective of restricting tobacco use in Québec, and on the other hand, ITL's right to freedom of expression is severely restricted.

Section 72

61. Given the ban on tobacco advertising to consumers and the fact that the tobacco industry now operates in a completely dark market, packaging is practically ITL's sole means of expressing its brand and informing adult smokers about its products and their characteristics.
 62. For ITL's packaging to have health warnings that cover an even surface of 4,648mm², ITL needs to abandon most of its current packaging formats, modify others, as well as increase the size of health warnings thereon. This limits ITL's ability to communicate its brands by decreasing the surface area available and by severely restricting its choice of packaging formats.
 63. The government's objective with this late addition to Bill 44 is unclear. However, the effect of the impugned provisions is to force significant changes to cigarette packaging design under the guise of health warning regulations.
 64. Section 72 of Bill 44 is not minimally impairing, in that it further restricts what is practically the sole means of commercial communication to adult smokers left to ITL, without any regard to the other means available to the government to convey health information to its citizens.
 65. Whatever salutary effect these packaging requirements could produce given the extensive federal health warning requirements— and there is no evidence that there is any – it is simply not proportionate to the severe restrictions imposed on ITL's right to freedom of expression.
 66. In sum, Sections 28 and 72 of Bill 44 enact restrictions that unjustifiably violate ITL's freedom of expression.
- C. *Frustrating Parliament's purpose in the federal Tobacco Act (Doctrine of Federal Paramountcy)***
67. The federal *Tobacco Act* is legislation that prohibits the sale of tobacco products that contain flavoured additives. However, Parliament expressly and purposely exempted menthol from the list of prohibited flavoured additives. As such, under the federal *Tobacco Act*, menthol-flavoured tobacco products are not prohibited and may lawfully be offered for sale throughout Canada.
 68. In deciding not to prohibit menthol-flavoured tobacco products, the federal Parliament was concerned with the effects of banning additional products on the existing problem of contraband tobacco in Canada and that such a ban would not reduce the use of tobacco products by youth.
 69. Parliament expressly exempted menthol from the list of prohibited flavoured additives in order to further a specific public policy choice that the Province of Québec may not constitutionally override.

70. Thus, Section 32 of Bill 44 is inoperative under the doctrine of federal paramountcy by frustrating Parliament's policy and purpose in the federal *Tobacco Act* to exempt menthol-flavoured tobacco products from the prohibition on the sale of flavoured tobacco products in Canada.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

GRANT the present *Application for Judicial Review*,

DECLARE Section 26 of the *Tobacco Control Act*, CQLR c L-6.2, as amended by Section 28 of *An Act to bolster tobacco control*, SQ 2015, c 28, to be unconstitutional and of no force and effect;

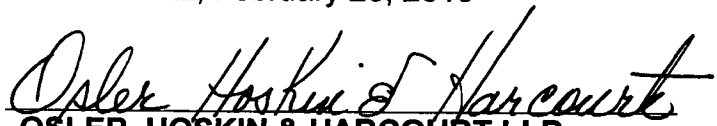
DECLARE Section 29.2 of the *Tobacco Control Act*, CQLR c L-6.2, as introduced by Section 32 of *An Act to bolster tobacco control*, SQ 2015, c 28, to be unconstitutional and of no force and effect;

DECLARE Sections 6.1, 6.2 and 6.3 of the *Regulation under the Tobacco Control Act*, CQLR c L-6.2, r 1, as introduced by Section 72 of *An Act to bolster tobacco control*, SQ 2015, c 28, to be unconstitutional and of no force and effect;

DECLARE Section 29.2 of the *Tobacco Control Act*, CQLR c L-6.2, as introduced by Section 32 of *An Act to bolster tobacco control*, SQ 2015, c 28, to be inoperative under the doctrine of federal paramountcy;

THE WHOLE with costs.

MONTRÉAL, February 26, 2016



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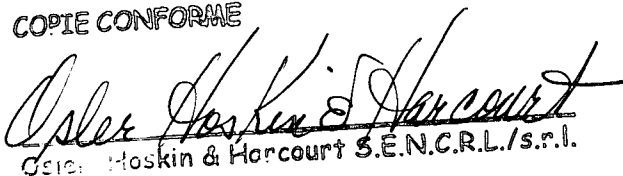
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Lawyers for Plaintiffs Imperial Tobacco

Canada Limited and Imperial Tobacco

Company Limited

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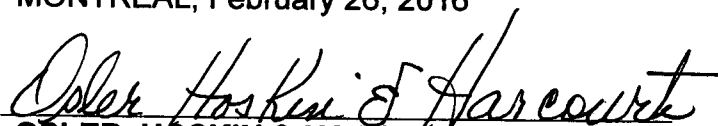
Osler, Hoskin & Harcourt S.É.N.C.R.L./s.r.l.

NOTICE OF PRESENTATION

TO : **Attorney General of Québec**
1 Notre-Dame Street East
Suite 8.00
Montréal, Québec, H2Y 1B6

TAKE NOTICE that Plaintiffs' *Application for Judicial Review* will be presented for hearing and allowance before the Superior Court, Civil Division, in room **2.16** of the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, on **April 14, 2016**, at 9 a.m., or so soon thereafter as counsel may be heard.

MONTREAL, February 26, 2016



OSLER, HOSKIN & HARCOURT LLP

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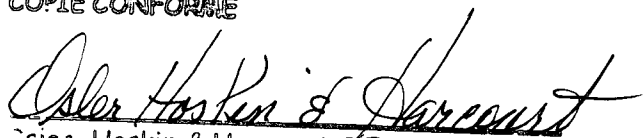
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Lawyers for Plaintiffs Imperial Tobacco
Canada Limited and Imperial Tobacco
Company Limited

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SUMMONS
(Article 145 and following C.C.P.)

Filing of a judicial application

Take notice that the Plaintiffs has filed this originating application in the office of the Superior Court in the judicial district of Montréal.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montréal situated at 1 Notre-Dame Street East, Montréal, Province of Québec, H2Y 1B6, within 15 days of service of the application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Plaintiffs' lawyer or, if the Plaintiffs are not represented, to the Plaintiffs.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgment may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Plaintiffs in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the Plaintiffs.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your

main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized with the originating application.

Transfer of application to the Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Calling to a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

In support of the originating application, the Plaintiffs intend to use the following exhibits:

- EXHIBIT P-1 : Bill 44 – *An Act to bolster tobacco control***
- EXHIBIT P-2 : Québec National Assembly webpage – *Bill 44: An Act to bolster tobacco control***
- EXHIBIT P-3 : Hansard of the Committee on Health and Social Services for November 10, 2015**
- EXHIBIT P-4 : Hansard of the Committee on Health and Social Services for November 11, 2015**
- EXHIBIT P-5 : Hansard of the Committee on Health and Social Services for November 12, 2015**
- EXHIBIT P-6 : Hansard of the Committee on Health and Social Services for November 17, 2015**
- EXHIBIT P-7 : Hansard of the Committee on Health and Social Services for November 18, 2015**
- EXHIBIT P-8 : *Politique gouvernementale sur l'allègement réglementaire et administratif* adopted by Order in Council 32-2014 dated January 29, 2014**

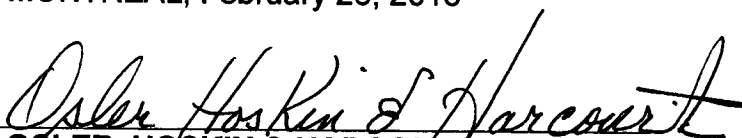
EXHIBIT P-9 : Adopted amendments document published on the National Assembly website

These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied with a notice stating the date and time it is to be presented.

MONTREAL, February 26, 2016



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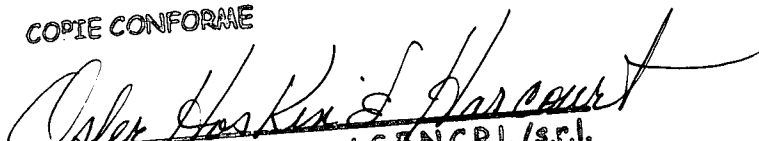
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**SUPERIOR COURT
DISTRICT OF MONTRÉAL**

**IMPERIAL TOBACCO CANADA LIMITED
- and -
IMPERIAL TOBACCO COMPANY LIMITED**

Plaintiff

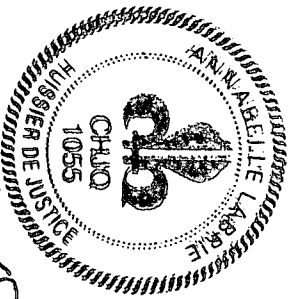
VS.

ATTORNEY GENERAL OF QUÉBEC

Defendant

**APPLICATION FOR JUDICIAL REVIEW
(Article 529 of the Code of Civil Procedure,
CQLR c C-25.01)**

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