

Newsletter



Robinson Sheppard Shapiro
Avocats • Lawyers

October 17, 2019

Will your exterior signs be French enough on November 24, 2019?

On November 24, 2016, the Quebec Government enacted amendments to the Regulation respecting the language of commerce and business, CQLR c. C-11, r 9 (the "Regulation") relating to non-French trademarks appearing on outdoor signage. These amendments are intended to ensure the presence of the French language on the storefront of businesses that display non-French trademarks on public signs, while purporting to respect the exception relating to trademarks.¹

The focus of the amendments is essentially trademarks that, as the Quebec Court of Appeal explained in the case of *Québec (Procureure générale) v. Magasins Best Buy Itée*, 2015 QCCA 747, "include English-language words ('Guess', 'Curves'), combinations of such ('Best Buy', 'Old Navy' or 'Banana Republic') or blends ('ConnectPro', 'Walmart') without any French generic or descriptive terms [par 3; our translation].

While these new requirements came into force on November 24, 2016, businesses with existing signs or posters were given a grace period of three years within which to comply. **This grace period will expire on November 24, 2019**, as of which date all outdoor signage with a trademark displayed only in a

non-French language must contain a "sufficient presence of French".² Failure to comply could lead to legal charges being levied against such entities.

The amendments provide that such "sufficient presence of French" can take three different forms:

- a generic term or a description of the products or services concerned;
- a slogan;
- any other term or indication in French which informs consumers of the nature of the products or services offered.

The Regulation will affect all companies in Quebec who display, outside their businesses, a non-French trademark in the absence of a French generic term,



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slogan or description. These displays include:

- Storefront signage or posters;
- Roof top signs;
- Signs or posters outside premises situated in a mall or a shopping center, whether underground or not;
- Signs or posters inside a building which are intended to be seen from the outside;
- Signs or posters appearing on a bollard or other independent structure, including a totem-type structure, near a business establishment.

While the Regulation does not go so far as to require the non-French trademark to be translated to French or for the added French text to be predominant, the additional display must give permanent visibility to French, similar to that of the trademark which is displayed and must also be legible within the same visual field as that of the sign or poster bearing the non-French trademark. The Regulation also requires businesses which display an illuminated non-French trademark to ensure that the additional French display is also illuminated. The Regulation likewise specifies the distance from which the added French must be visible. However, the display in the French language is not required to be at the same place, in the same mate-

rials or in the same size as the non-French trademark.

You do not have to replace your letterheads and printed supplies or your website. No change is required if your trademark appears on your company's vehicles, staff uniforms or on shopping bags.

Although the new Regulation provides many ways for compliance, the addition of a French generic or descriptive term may well constitute a modification to your registered trademarks. As such, consideration should be given as to whether further trademark protection is required.

Should you have any questions on how these changes may affect your business, please contact: **Richard Uditsky • 514 393-4006 • ruditsky@rssslex.com.**

1 Section 25 par 4 of the Regulation allows trademarks to appear on public signs and posters exclusively in a language other than French, unless a French version had been registered.

2 Section 25.1 of the Regulation.

