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ODUTOLA ON CANADIAN TRADEMARK PRACTICE

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Release No. 7, September 2026

This landmark practitioner's treatise provides an insightful analysis of trademark law practice and procedure before the Canadian Trademarks Office and Trademarks Opposition Board. It remains the most comprehensive text of its kind. The publication is supported by extensive references to case law, statutes, annotated cross-references to the *Trademarks Act* and *Trademarks Regulations*, Trademarks Office and Trademarks Opposition Board practice notices, and other source materials.

What's New in this Update:

This release features updates to Chapter 18. Commencement of Opposition Proceedings and Chapter 19. Pleadings Practice and Procedure in Opposition Proceedings. Appendix 1B. International Regulations and Instructions has also been updated in this release.

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Highlights:

- **Part VIII. Fundamentals of Trade-marks Opposition Practice—Chapter 18. Commencement of Opposition Proceedings—XV. Service of Material on other Party—§ 18:102 Circumstances in which Costs are awarded—The following is an excerpt from this section:**

  With the advent of AI hallucination cases, the Registrar has held that inaccurate citations, to the extent that they do not exist or do not stand for the principles relied upon, in written representations contribute to undue delay or expense in a proceeding and as such warrant an award of costs. In awarding costs, the Registrar does examine the reasons for the inclusion but rather assess whether their "inclusion causes misunderstanding and wastes time and resources". Other circumstances in which the Registrar would have awarded costs, if it had been so empowered, include where a party elected not to file any evidence or any written argument.

- **Part VIII. Fundamentals of Trade-marks Opposition Practice—Chapter 19. Pleadings Practice and Procedure in Opposition Proceedings—II. General Principles Applicable to All Opposition Proceedings—The following is an excerpt from this section:**

  There appears to be two lines of cases as to threshold test for a pleading is struck. One line of cases suggests that the Registrar may consider whether or not the pleadings have no reasonable prospect of success, or for which there is no arguable case. The other that the Registrar may examine a ground that otherwise is in the scope of section 38(2) of the Act can be struck if assuming the truth of the allegations there is not an arguable case or reasonable prospect of success.

ProView Developments

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