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CANADIAN TRADEMARKS ACT ANNOTATED Robic Release No. 4, April 2026
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This comprehensive reference work sets out the original purpose and application of the Act, administrative policies, case law and secondary sources.

What's New in this Update:

This release features updates to § 52. Definitions, § 53. Proceedings for Interim Custody, § 53.1. Proceedings for Detention by Minister and § 53.2. Power of Court to Grant Relief. Appendix A. Trademarks Act has also been updated in this release.

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Highlights

Legal Proceedings—§ 53.2. Power of Court to Grant Relief—§ 53.2:6.0 Case Law—§ 6.1 Court Cases—The following are excerpts from this chapter—

Patel v. Dermaspark Products Inc., 2025 CarswellNat 3184 (F.C.A.; 2025-08-13) Stratas J. [affirming 2023 CarswellNat 6747 (F.C.; 2023-03-21)].

[27] And as a matter of law, the Federal Court correctly concluded that where the extent of infringement and the harm it caused is difficult to establish, lump sum damages (sometimes misdescribed as nominal damages), estimated as best as one can, may be appropriate. See *Penvidic Contracting Co. v. International Nickel Co. of Canada*, [1976] 1 S.C.R. 267 at 279-280; *Lululemon Athletica Canada Inc. v. Campbell et al.*, 2022 FC 194; *Ragdoll Productions (UK) Ltd. v. Jane Doe*, 2002 F.C.T. 918, [2003] 2 F.C. 120 (and see paras. 49-50 on the misdescription of these damages as “nominal”); *101100002 Saskatchewan Ltd. v. Saskatoon Co-operative Association Limited*, 2022 SKCA 12. Damages of this sort can only be awarded where there is “some evidence on which it can be concluded that the claimant sustained damage and some evidence as to the nature of the damage”: *0867740 B.C. Ltd. v. Quails View Farm Inc.*, 2014 BCCA 252 at para. 46; *Saskatoon Co-op* at para. 23. That standard is more than met here.

Blinds to Go Inc. v. Blachley, 2025 QCCS 3190 (Que. Sup. Ct.; 2025-08-11) Granosik J.

[52] BTG clearly has the right to enforce its trademark and prevent any unauthorized use of the MorView name by Blachley. It also has the right to the exclusive use of the visual representation of its products. BTG has demonstrated that it has developed substantial goodwill, reputation and market recognition through its brand that there is a risk of confusion and that damages are possible. [Fn21 *Fonds GB v. 9451-3082 Québec Inc.*, 2024 QCCS 1122; *Montréal Auto Prix inc. v. 168360 Canada inc.*, 2022 QCCS 2036].

Legal Proceedings—§ 53.2. Power of Court to Grant Relief—§ 53.2:6.0 Case Law—§ 6.4 Punitive Damages—The following is an excerpt from this chapter—

7299362 Canada Inc. (Alexa Translations) v. Amazon.com, Inc., 2025 FC 80 (F.C.; 2025-01-15) T. Horne A.J.

[37] Punitive damages are exceptional, but may be awarded when a party’s conduct has been “malicious, oppressive and high-handed” such that it “represents a marked departure from

ordinary standards of decent behaviour” (*Whiten v Pilot Insurance*, 2002 SCC 18 at para 36).

[38] Punitive damages are not routinely granted in intellectual property cases. Knowing or intentional infringement, without more, does not give rise to punitive damages (*Dimplex North America Ltd v CFM Corp*, 2006 FC 586 at para 123; *Wi-Lan Technologies Corp v D-Link Systems Inc*, 2006 FC 1484 at para 8). Ignoring a demand letter is insufficient for punitive damages (*Gary Gurmukh Sales Ltd v Quality Goods Imd Inc*, 2014 FC 437 at paras 119 and 132).

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