

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

[CB-CDA 2024-025]

## **RULING OF THE BOARD**

**Matter: 71-2023-01 Totem v. Connect**

April 8, 2024

[1] On March 26, 2024, Connect brought a motion to adduce expert evidence.

[2] Connect states that such a motion is being brought “well in advance of the deadline for such motions.” It also notes that it would respect the Schedule of Proceedings and file the expert report “on or before July 20, 2024.”

[3] The motion is being brought prematurely.

[4] On February 23, 2024, when I issued Order 2024-016, I explained that “any such motion for leave must describe why the expert-witness evidence is necessary for the Board to understand the fact evidence.” In other words, any motion to adduce expert evidence must point to particular parts of the fact evidence and explain why expert opinion is required to understand that evidence.

[5] Aside from various statements made by the parties in their procedural filings to-date, no fact evidence has yet been adduced. I expect that this will come in the parties’ Case Records, Responses to Case Records, and responses to questions from the Board—if any. Therefore, it is not possible to determine whether expert-witness evidence is necessary at this point.

[6] Accordingly, the motion is denied. CONNECT may re-file their motion, no earlier than **May 14, 2024** and no later than **May 29, 2024**.

Luc Martineau  
Case Manager