Federal Court of Appeal | Cour d'appel fédérale

**Date: 20190716**

**Docket: A-259-18**

**Citation: 2019 FCA 204**

**CORAM:** **BOIVIN J.A.**
**DE MONTIGNY J.A.**
**GLEASON J.A.**

**BETWEEN:**

**SPORT MASKA INC. d.b.a. CCM HOCKEY**

**Appellant**

**and**

**BAUER HOCKEY LTD.**

**Respondent**

Heard at Ottawa, Ontario, on May 1, 2019.

Judgment delivered at Ottawa, Ontario, on July 16, 2019.

REASONS FOR JUDGMENT BY: GLEASON J.A.

CONCURRED IN BY: BOIVIN J.A.
DE MONTIGNY J.A.

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## REASONS FOR JUDGMENT

**GLEASON J.A.**

[1] The appellant appeals from the Federal Court's judgment in *Bauer Hockey Ltd. v. Sport Maska Inc. (doing business as CCM Hockey)*, 2018 FC 832 (*per* Locke J. (as he then was)), dismissing the appellant's appeal from the Prothonotary's decision reported at 2017 FC 1174 (*per* Morneau P.). The Prothonotary dismissed the appellant's motions to dismiss the respondent's actions for patent and trade-mark infringement by reason of the respondent's failure

to comply with Rule 117 of the *Federal Courts Rules*, SOR/98-106 following the reorganization of the affairs of the respondent's predecessor, Bauer Hockey Corp. (old Bauer) under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the CCAA).

[2] For the reasons that follow, I would dismiss this appeal with costs, which I would fix in the all-inclusive amount of $25,000.00.

## I. Background

[3] It is useful to commence by reviewing the relevant background to this appeal.

[4] Old Bauer brought two actions for patent infringement and one for trade-mark infringement against the appellant in the Federal Court. After the actions were commenced, old Bauer sought protection from its creditors under the CCAA and came under the supervision of the Ontario Superior Court of Justice, which stayed all proceedings involving old Bauer. Under an Asset Purchase and General Conveyance Agreements approved by the Superior Court in February 2017, old Bauer assigned its patents, trademarks and interest in the actions to the respondent. The respondent subsequently registered its ownership of the patents and trademarks under section 50 of the *Patent Act*, R.S.C. 1985, c. P-4 and section 48 of the *Trademarks Act*, R.S.C. 1985, c. T-13.

[5] On June 16, 2017, the respondent sought to reactivate the Federal Court infringement actions (to which the Superior Court's earlier stay no longer applied) and sent the appellant draft letters to the Court, draft scheduling orders and draft amended pleadings and requested the

appellant's comments. In response, on July 12, 2017, the appellant took the position that the assignments were ineffective and that the respondent had no right to sue for past or future infringements. Despite this position, the appellant requested additional information from the respondent about the assignments.

[6] The respondent replied on July 31, 2017 and provided the appellant the Asset Purchase Agreement, the General Conveyance Agreement and the assignments. On August 10, 2017, the appellant responded, taking the position that the information furnished by the respondent was insufficient and requested further additional information. The appellant also drew the respondent's attention to its failure to serve and file a notice and affidavit setting out the basis for the assignment of the actions pursuant to Rule 117 of the *Federal Courts Rules*.

[7] The respondent did not directly respond to the appellant's August 10, 2017 letters and instead in its response of September 11, 2017 reiterated its request for comment on the draft amended pleadings, draft scheduling orders and draft letters to the Court. Rather than replying, on October 4, 2017, the appellant filed notices of motion, seeking dismissal of the respondent's actions under Rule 118 of the *Federal Courts Rules* by reason of non-compliance with Rule 117. In its materials filed in response to these motions, the respondent filed an affidavit, setting out the information contemplated by Rule 117(1) of the *Federal Courts Rules*, which largely reiterated the information it had previously provided to the appellant.

## II. Applicable Rules

[8] It is convenient to next set out Rules 117 and 118 of the *Federal Courts Rules*. They provide:

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| 117 (1) Subject to subsection (2), where an interest of a party in, or the liability of a party under, a proceeding is assigned or transmitted to, or devolves upon, another person, the other person may, after serving and filing a notice and affidavit setting out the basis for the assignment, transmission or devolution, carry on the proceeding. | 117 (1) Sous réserve du paragraphe (2), en cas de cession, de transmission ou de dévolution de droits ou d'obligations d'une partie à une instance à une autre personne, cette dernière peut poursuivre l'instance après avoir signifié et déposé un avis et un affidavit énonçant les motifs de la cession, de la transmission ou de la dévolution. |
| (2) If a party to a proceeding objects to its continuance by a person referred to in subsection (1), the person seeking to continue the proceeding shall bring a motion for an order to be substituted for the original party. | (2) Si une partie à l'instance s'oppose à ce que la personne visée au paragraphe (1) poursuive l'instance, cette dernière est tenue de présenter une requête demandant à la Cour d'ordonner qu'elle soit substituée à la partie qui a cédé, transmis ou dévolu ses droits ou obligations. |
| (3) In an order given under subsection (2), the Court may give directions as to the further conduct of the proceeding. | (3) Dans l'ordonnance visée au paragraphe (2), la Cour peut donner des directives sur le déroulement futur de l'instance. |
| 118 Where an interest of a party in, or the liability of a party under, a proceeding has been assigned or transmitted to, or devolves upon, a person and that person has not, within 30 days, served a notice and affidavit referred to in subsection 117(1) or obtained an order under subsection 117(2), any other party to | 118 Si la cession, la transmission ou la dévolution de droits ou d'obligations d'une partie à l'instance à une autre personne a eu lieu, mais que cette dernière n'a pas, dans les 30 jours, signifié l'avis et l'affidavit visés au paragraphe 117(1) ni obtenu l'ordonnance prévue au paragraphe 117(2), toute autre partie à |

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| the proceeding may bring a motion for default judgment or to have the proceeding dismissed. | l'instance peut, par voie de requête, demander un jugement par défaut ou demander le débouté. |

## III. Decisions Below

[9] I turn now to summarize the decisions below.

### A. *The Prothonotary*

[10] Before the Prothonotary, the appellant made much the same arguments as it makes before us. As its primary position, the appellant argued that Rule 118 requires the dismissal of a proceeding if the party whose interests have been transmitted fails to serve the notice and affidavit required by Rule 117(1) within 30 days of the date of the assignment, transmission or devolution of interest and the party opposite brings a motion for dismissal under Rule 118. The appellant thus asserted that the Prothonotary was required to grant its motions for dismissal and possessed no discretion on the issue.

[11] In the alternative, the appellant argued that if the Court had discretion to extend the time limit for serving and filing the notice and affidavit contemplated by Rule 117(1), the party who missed the time limit was required to bring a motion to obtain an extension of the 30-day time limit and that the Court, in assessing the extension request, was required to apply the factors applicable to extension of time generally under Rule 8 of the *Federal Courts Rules*. These are: (i) whether the moving party had continuing intention to pursue the proceeding; (ii) whether the proceeding has some merit; (iii) whether there is prejudice to the opposing party; and (iv) whether there is a reasonable explanation for delay: *Canada (Attorney General) v. Hennelly*

(1999), 167 F.T.R. 158 at para. 3, 244 N.R. 399 (C.A.). The appellant submitted that in the absence of a cross-motion by the respondent for an extension of time to serve and file the notice and affidavit required under Rule 117(1), the Federal Court could not grant an extension and was therefore bound to dismiss the respondent's actions.

[12] In the further alternative, the appellant argued that even if the Federal Court had discretion under Rule 118 in the absence of a motion made by the respondent, it could not exercise its discretion in the respondent's favour because the respondent did not provide a reasonable explanation for its delay.

[13] Although not raised in its materials filed before the Prothonotary, the appellant says that during the hearing before the Prothonotary it attempted to advance arguments regarding the inability of old Bauer to assign its rights for past infringements to the respondent, as a matter of law, but was foreclosed from making such arguments by the Prothonotary.

[14] The Prothonotary, who was acting as case manager, dismissed the appellant's motions, with costs in the amount of $2,000.00.

[15] In his Reasons, the Prothonotary found that the appellant was incorrect in asserting that Rule 118 requires the dismissal of an action when the notice and affidavit required by Rule 117(1) are not served and filed within 30 days and held that Rule 118 merely allows a party to request dismissal and that the Federal Court has discretion whether to dismiss a proceeding. The Prothonotary further rejected the appellant's suggestion that its objection to the effectiveness

of the assignments could be decided under Rules 117 and 118 because the appellant did not make a formal objection of the sort contemplated by Rule 117(2) to raise these arguments. The Prothonotary added that, even if the appellant had formally objected, a substantive attack on the respondent's interest in the actions fell outside the scope of Rules 117 and 118 and therefore had to be pursued either on a motion for summary judgment or at trial. The Prothonotary noted that both options were still open to the appellant. He also underscored that the respondent had made its intention to pursue the infringement actions clear as early as June 2017 and that, given the correspondence between the parties, the respondent was taken by surprise by the appellant's motions to dismiss. The Prothonotary therefore concluded that the motions should be dismissed. In his order, the Prothonotary validated the respondent's notice and affidavit for the purposes of Rules 117 and 118 and provided for the reactivation of the respondent's actions.

B. *The Federal Court Judge*

[16] The Federal Court judge upheld the Prothonotary's order, finding the Prothonotary had not made an error of law or an error of fact or mixed fact and law that warranted intervention. In so deciding, the Federal Court judge explained that the purpose of Rules 117 and 118 is to ensure that a party knows the identity of the party opposite and is afforded the possibility of objecting to a transfer of a party's interest to another person. The Federal Court judge concluded that Rules 117 and 118 are procedural and not substantive in nature and affirmed the Prothonotary's conclusion that substantive challenges to a party's right to transmit an interest are not to be addressed in the context of Rule 117 or 118 motions. The Federal Court judge also rejected the appellant's contention that Rule 118 requires granting a motion for dismissal premised on the failure to give notice under Rule 117. In the Federal Court judge's view, the text of Rule 118

does not require that result; nor should such a requirement be inferred because of "(i) the potentially important consequences of a dismissal of a proceeding, (ii) the relatively minor consequence of missing a deadline, and (iii) the ease with which rule 118 could have been written to provide explicitly for automatic dismissal": FC Reasons at para. 16.

[17] The Federal Court also rejected the appellant's alternative argument that, if the Court has discretion under Rules 117 and 118, a distinct motion is required to allow the Court to exercise it and the Court should consider the same factors as it does in deciding whether to grant a motion under Rule 8 to extend a deadline under the *Federal Courts Rules.* On the assumption that the foregoing factors were relevant in the Rule 118 context, as had been urged by the appellant, the Federal Court judge concluded that the Prothonotary not only considered them but also did not make a palpable and overriding error in holding that they favoured the respondent's position. Specifically, the Federal Court judge underlined the respondent's continuing intention to pursue the underlying actions, the lack of prejudice suffered by the appellant, the appellant's failure to object under Rule 117(2) and the overall reasonableness of the respondent's behaviour as compared to that of the appellant.

[18] The Federal Court judge also rejected the appellant's claim that it did not have the opportunity to contest old Bauer's transfer of its interest in the actions to the respondent. The judge explained that the appellant could have cross-examined the respondent's affiant under Rule 83 of the *Federal Courts Rules* and could have sought leave to file additional evidence or make supplementary submissions, which it failed to do.

[19] The Federal Court judge thus dismissed the appeal and awarded the respondent $5,000.00 in costs.

## IV. Analysis

[20] As was decided in *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215, [2017] 1 F.C.R. 331, the standards of review set out in *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235 apply to appeals from decisions of a judge of the Federal Court sitting on appeal from a decision of a Prothonotary. Thus, errors of law, if they are germane to the result, are reviewable for correctness and errors of fact or of mixed fact and law, from which a legal error cannot be extricated, are reviewable for palpable and overriding error. The question before us on this appeal is therefore whether the Federal Court judge made a reviewable error of law or made a palpable and overriding error of fact or of mixed fact and law in refusing to interfere with the Prothonotary's decision.

[21] I do not believe that any such error was made by the Federal Court judge, although I do disagree with one point the Prothonotary and Federal Court judge made.

### A. *The Court Possesses Discretion under Rule 118*

[22] Turning first to the points with which I am in complete agreement, I concur that Rule 118 affords the Court discretion and thus, for much the same reasons as those given by the Federal Court judge, find that the appellant's primary argument is without merit.

[23] The interpretation of the Rules is essentially an exercise in statutory interpretation, for which there is "'only one principle or approach, namely, the words of [a provision] are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament'": *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27 at para. 21, 221 N.R. 241.

[24] The closing words of the English version of Rule 118 provide that a "party to the proceeding may bring a motion for default judgment or to have the proceeding dismissed". A motion, as defined by Rule 2, "means a request to the Court under, or to enforce, these Rules" (emphasis added). By definition, then, the appellant's motion under Rule 118 is a request that the Federal Court dismiss the underlying actions.

[25] The French version of Rule 118 leads to the same conclusion. The French version provides that "toute autre partie à l'instance peut, par voie de requête, demander un jugement par défaut ou demander le débouté" (emphasis added). Not only is a "requête" by definition a "demande" (the noun form of the verb "demander", i.e. to ask or request), but Rule 118 itself refers to a "demande".

[26] A request is different than an application for a result that is preordained. When the Rules Committee defined a motion as a request, it must be presumed to have intended the word "request" to take its grammatical and ordinary meaning.

[27] Moreover, neither the English nor the French version of Rule 118 uses mandatory language (i.e. “shall” or “must”) that would indicate that the Federal Court has no choice but to dismiss an action when a party establishes on a motion under Rule 118 that another party has failed to comply with Rule 117. It is true that Rule 118 does not expressly use discretionary language to describe the role of the Court (i.e. “may”), as is used elsewhere in the Rules, but, as the Federal Court judge explained, both Rule 117 and 118’s context and purpose favour a reading that leaves room for discretion.

[28] More specifically, Rule 56 of the *Federal Courts Rules* sets out the general principle that “[n]on-compliance with any of these Rules does not render a proceeding, a step in a proceeding or an order void, but instead constitutes an irregularity, which may be addressed under rules 58 to 60”. Rule 56 establishes that, normally, “procedural irregularit[ies] [… are] not determinative of the outcome”: *Canada (Governor General in Council) v. Mikisew Cree First Nation*, 2016 FCA 311, [2017] 3 F.C.R. 298 at para. 79 (*per* Pelletier J.A., concurring).

[29] Although the appellant brought its motion under Rule 118, rather than Rule 58, both Rules 59(*b*) and 60 establish that the Court enjoys discretion to correct procedural irregularities. Rule 58 allows a party to, “by motion[,] challenge any step taken by another party for non-compliance with these Rules” – a step can presumably include the omission thereof – and requires that the moving party do so “as soon as practicable after [it] obtains knowledge of the irregularity”. Rule 59 provides that the Court, on a motion under Rule 58, if it finds that a party has not complied with the Rules, may: “(*a*) dismiss the motion, where the motion was not brought within a sufficient time” to avoid prejudice to the respondent to the motion; “(*b*) grant

any amendments required to address the irregularity; or (*c*) set aside the proceeding, in whole or in part". Likewise, Rule 60 contemplates that the Court, where it "draw[s] the attention of a party […] to any non-compliance with these Rules", "may […] permit the party to remedy it on such conditions as the Court considers just".

[30] Read together, these Rules indicate that the Rules Committee intended that irregularities will not be automatically fatal to proceedings. Instead, they provide that, where they can be cured, procedural irregularities should not prevent the determination of a proceeding on merits.

[31] Moreover, as the Federal Court judge underlined in his Reasons, automatic dismissal would be disproportionately prejudicial to a party that was even slightly late in giving notice under Rules 117 and 118 or one that, like the respondent, complied with the spirit - if not the strict letter - of the notice requirements in Rule 117. Although such a party (barring limitations issues) would be able to bring the action anew, it would suffer delay and needless cost. Perhaps more importantly, interpreting Rules 117 and 118 in this fashion would lead to a waste of scarce judicial resources.

[32] Such a result should be avoided as it conflicts with the necessary contemporary approach to litigation, which as the Supreme Court made clear in *Hryniak v. Mauldin*, [2014] 1 S.C.R. 87, 2014 SCC 7 (*Hryniak*) requires courts and litigants to adopt a litigation culture that favours proportionality, timeliness and affordability. As Karakatsanis J., who wrote for the Court in *Hryniak* noted at paragraph 32, "[t]his culture shift requires judges to actively manage the legal

process in line with the principle of proportionality". This direction applies to proceedings before the Federal Courts. Complex intellectual property matters are no exception.

[33] Recognition of this over-arching concern as well as a review of the text, context and purpose of Rules 117 and 118 leads to the conclusion that the interpretation advanced by the appellant cannot be countenanced.

B. *No Motion is Required for the Court to Exercise its discretion under Rule 118, which is not limited by the issues relevant to a request for an Extension of Time*

[34] For much the same reasons, the appellant's alternate positions regarding the necessity of bringing a motion to obtain an extension of the 30-day period contemplated by Rules 117 and 118 is without merit.

[35] It is moreover important to underscore that the Prothonotary was acting as a case management judge in this case. Rules 385(1)(*a*) and (*b*) provide that a case management judge "may […] (*a*) give any directions or make any orders that are necessary for the just, most expeditious and least expensive determination of the proceeding on its merits" and may "(*b*) notwithstanding any period provided for in these Rules, fix the period for completion of subsequent steps in the proceeding". Rule 385(1) does not require that the case management judge exercise these discretionary powers on motion or at any particular time.

[36] A case management judge's powers are further augmented by Rule 55, which provides that "in a proceeding, the Court [a term which, as defined by Rule 2, includes a prothonotary]

may […] dispense with compliance with a rule". Rule 55 gives textual expression to the broader principle that the Federal Court has plenary powers to manage its processes and proceedings: *Canada (Human Rights Commission) v. Canadian Liberty Net*, [1998] 1 S.C.R. 626 at paras. 35-38, 224 N.R. 241; *Lee v. Canada (Correctional Service)*, 2017 FCA 228 at paras. 6-8; *Canada (Human Rights Commission) v. Saddle Lake Cree Nation*, 2018 FCA 228 at para. 42 ("provided this Court affords the parties procedural fairness, it can fix proceedings that are contrary to law, miscast, chaotic, or any and all of these things"). Rule 55 can be used to dispense with the requirement that an extension of time can be granted only on a motion: see *Mazhero v. Fox*, 2011 FC 392 at para. 11, 387 F.T.R. 244.

[37] These provisions empower the Court to give effect to the proportionality mandated by *Hryniak* and lead to the conclusion that the appellant's alternate position regarding the necessity of a motion for the Court to validate the late service or irregular communication of the information required by Rule 117(1) is without merit.

[38] Similarly, the further alternate position of the appellant likewise cannot be accepted. Given the broad discretion afforded to the Court under Rule 118, it follows that the Court is not limited to consideration of the issues that would be relevant in a motion under Rule 8.

C. *The Proper Scope of Inquiry in a Motion under Rule 117 or 118*

[39] I turn now to the point on which I disagree with the Reasons below, namely the proper scope of inquiry in a motion under Rules 117 or 118. This issue has seemingly not previously been examined by this Court but has been considered by the Federal Court, which, in at least two

cases, ruled on issues related to the right of a party to transmit an interest in litigation in the context of motions under Rules 117 and 118.

[40] In *Tacan v. Canada*, 2003 FC 915, 237 F.T.R. 304, the Federal Court concluded, on a Rule 117(2) objection, that the plaintiffs could not assign their interest in an action against the federal Crown to the Sioux Valley First Nation, Band No. 290 because the agreement under which they proposed to do so amounted to maintenance, which is prohibited at common law. Likewise, in *Métis National Council of Women v. Canada (Attorney General)*, 2005 FC 230, [2005] 4 F.C.R. 272 at paras. 17-18, 23, the Federal Court, also on a Rule 117(2) objection, found that a person's estate could not continue an action for an infringement of section 15 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

[41] The approach taken in these cases is the correct one as it would run counter to the proportionality principle to require that a summary judgment motion must necessarily be brought for a pre-trial consideration of the right of a party to transmit its interest in litigation. It may well be that the materials required on a motion under Rule 117 or 118 to address a party's right to a transmission of interest in the litigation would be substantially similar to those that would be filed on a motion for summary judgment, but I see no reason why a party contesting such transmission should necessarily be required to file a separate motion or await trial to have the issues determined.

[42] Moreover, allowing these issues to be canvassed in the context of a Rule 117 or 118 motion would allow them to be decided by a prothonotary. Prothonotaries are often assigned to act as case management judges in complex proceedings like these underlying actions, and allowing a prothonotary to decide transmission issues might often be the most expeditious means of having such issues determined by the Federal Court.

[43] Conversely, if the issues were to be raised by way of motion for summary judgment, they could not be heard by a prothonotary as Rule 50(1)(*c*) of the *Federal Courts Rules* provides that, in nearly all instances, prothonotaries have no jurisdiction to hear summary judgment motions.

[44] I thus believe that the Prothonotary and Federal Court judge erred in concluding that the entitlement of the respondents to continue the actions commenced by old Bauer could not be determined in the context of a motion under Rules 117 or 118. That said, I would not interpret Rules 117 and 118 as requiring that an objection to the transmission of interest must be made in the context of a Rule 117 or 118 motion, failing which the objecting party would be foreclosed from raising the issue. In many cases, it will be more appropriate to deal with objections to a party's right to transmit its interests in a proceeding at some other point, including at trial. Thus, the Court, at the request of a party or on its own initiative when considering a motion under Rules 117 or 118, may determine that the right of a party to transmit its interest in the litigation should be canvassed in a forum other than the Rule 117 or 118 motion.

D. *No Reviewable Error Made by the Courts Below*

[45] Despite the error as to the scope of the issues that can be considered under Rules 117 and 118, there is no reason to interfere with the decision of the Federal Court judge as, in the circumstances of this case, nothing turns on the error.

[46] As the Federal Court judge rightly noted, the appellant, if it wanted, could have raised the issues regarding the merits of its objections to the respondent's entitlement to be substituted for old Bauer in its motion materials but chose not to do so. Moreover, it was afforded the alternative of raising the issues either in a summary judgment motion or at trial, which, as already discussed, would have been an order open to the Prothonotary in any event.

[47] There has therefore been no denial of the appellant's procedural fairness rights or any reviewable error made in this case. This appeal must accordingly be dismissed.

E. *Costs*

[48] I turn, finally, to the issue of costs. The respondent seeks costs, fixed in the all-inclusive amount of $25,000.00, which it says is approximately one-third of its solicitor-client costs incurred for this appeal. The respondent contends that it is common for lump sum costs awards to be made, particularly when this Court is dealing with sophisticated parties, like those to this appeal. The respondent also submits that the issue raised on this appeal are so unmeritorious – especially as its right to pursue these actions has been challenged in the appellant's amended statements of defence in the underlying actions – that the costs it seeks should be awarded.

[49] I agree.

[50] As this Court explained in *Nova Chemicals Corporation v. Dow Chemical Company*, 2017 FCA 25 at para. 16 (*Nova*), "[t]he practice of awarding lump sum costs as a percentage of actual costs reasonably incurred is well established", particularly when "'dealing with sophisticated commercial parties'", citing *Philip Morris Products S.A. v. Marlboro Canada Limited*, 2015 FCA 9 at para. 4, 131 C.P.R. (4th) 1. Such costs awards "tend to range between 25% and 50% of actual [legal] fees": *Nova* at para. 17.

[51] The parties in this appeal are undoubtedly sophisticated, commercial parties and the award sought by the respondent falls squarely within the range identified by this Court in *Nova*.

[52] For this reason as well as the entire lack of merit in the appellant's positions, I would grant the respondent the costs it seeks.

## V. Proposed Disposition

[53] In light of the foregoing, I would dismiss this appeal, with costs fixed in the all-inclusive amount of $25,000.00.

"Mary J.L. Gleason"
J.A.

"I agree.
Richard Boivin J.A."

"I agree.
Yves de Montigny J.A."

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

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| **DOCKET:** | A-259-18 |
| **STYLE OF CAUSE:** | SPORT MASKA INC. d.b.a. CCM HOCKEY v. BAUER HOCKEY LTD. |
| **PLACE OF HEARING:** | OTTAWA, ONTARIO |
| **DATE OF HEARING:** | MAY 1, 2019 |
| **REASONS FOR JUDGMENT BY:** | GLEASON J.A. |
| **CONCURRED IN BY:** | BOIVIN J.A.<br>DE MONTIGNY J.A. |
| **DATED:** | JULY 16, 2019 |

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