Federal Court  Cour fédérale

Date: 20240527

Docket: T-1932-23

Vancouver, British Columbia, May 27, 2024

PRESENT: Madam Associate Judge Kathleen Ring

BETWEEN:

SIGNATURE POINTE DEVELOPMENT INC.

Applicant

and

CANADA (MINISTER OF INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT), CANADA (ATTORNEY GENERAL), ROGERS COMMUNICATIONS INC. AND THE CITY OF CALGARY

Respondents

JUDGMENT

I. Overview

[1] I am seized with two motions in writing to strike the Notice of Application without leave to amend. The first motion is brought on behalf of the Respondent, Rogers Communications Inc. [Rogers]. The second one is by the Respondents, Canada (Minister of Innovation, Science and Economic Development) [Minister], and Canada (Attorney General) [collectively "Canada"].

[2] Shortly after Rogers and Canada filed their motions to strike the Notice of Application, the Applicant, Signature Pointe Developments Inc. [SP], filed a motion for an Order granting leave to

amend its Notice of Application. It has since abandoned that motion, and it "resiles from any position asserted in that motion and seeks to proceed on the existing Notice of Application, filed August 11, 2023" (SP's Memorandum of Fact and Law [MOFL], para 2).

[1] The underlying application concerns the erection of a cell phone tower by Rogers [Cell Tower] in the fall of 2022 at 1818 Signature Park SW in Calgary, Alberta [Signature Park]. The content of the existing Notice of Application is significant for the purposes of this motion, and therefore the first part is reproduced below:

> This is an application for judicial review in respect of
>
> 1. A decision made by the Minister of Innovation, Science and Economic Development (the "Minister") to issue a license for a radio apparatus (the "Cell Tower") located at 1818 Signature Park SW, Calgary, AB (the "Minister's Decision") and a decision by The City of Calgary to issue a Letter of Concurrence to the Minister (the "City's Decision") authorizing the Cell Tower.

[2] Rogers and Canada have moved to strike the Notice of Application primarily on the basis that the Court lacks jurisdiction to review the impugned decisions. As regards the decision by the Minister to issue a licence for a radio apparatus [Minister's Decision], they submit that there is no decision, order, act or proceeding of the Minister, or any other federal body, involving the Minister or any other federal body in respect of the Cell Tower.

[3] As regards the decision by the City of Calgary to issue a Letter of Concurrence to the Minister authorizing the Cell Tower [City's Decision], Rogers and Canada argue that this Court is not empowered to grant the relief sought because the other Respondent, the City of Calgary, is not a "federal board, commission or other tribunal" within the meaning of section 2 of the *Federal Courts Act*.

[4] Additionally, while Rogers acknowledges that SP's delay in commencing the application for judicial review ought to only be argued at the hearing of the application, it "asks this Court to consider, in exercising its discretion, that the Applicant is well-beyond the 30-day time limitation set out in subsection 18 .1 (2) of the *Federal Courts Act*". Notwithstanding this limitation issue, Rogers submits that even if SP were to file a motion to extend the time to serve its Notice of Application, the absence of this Court's jurisdiction in this case would be fatal to such a motion.

[5] SP opposes both motions. While the timeliness of the underlying application was presented as a secondary issue by Rogers, and not raised at all in Canada's main submissions, SP focusses on this issue in its response to the motions. It argues that the subject-matter of the judicial review is comprised of multiple decisions relating to the siting and construction of the Cell Tower that collectively constitute a "matter", rather than a "decision or order", and therefore the 30-day time limit does not apply. Alternatively, SP submits that it did not infringe the 30-day limitation period under section 18.1(2) of the *Act.* In the further alternative, it argues that it is entitled to an Order extending the 30-day time limit under section 18.1(2). SP also submits that this Court has jurisdiction to entertain the Notice of Application as presently framed.

[6] The Respondent, the City of Calgary [City], did not file any material on the motions brought by Rogers and Canada.

[7] Having reviewed the motion records filed on behalf of the above-noted parties as well as the written representations in reply, and for the reasons that follow, I conclude that the Notice of Application should be struck out on the basis that it is plain and obvious that the Court lacks jurisdiction to entertain the application or grant the relief sought. In light of my decision, it is not necessary to address the timeliness of the application on these motions.

II. **Background**

The Siting Process

[8] Under the *Radiocommunication Act*, RSC 1985, c R-2 [Act], the Minister is responsible for promoting the establishment, development and efficient operation of radiocommunication in Canada.

[9] As part of his role, the Minister issues spectrum licences which authorize the use of specified radio frequencies within a defined geographic territory. Prior to the Cell Tower being proposed by Rogers, the Minister had issued various spectrum licences to Rogers within the area encompassing Signature Park.

[10] Under section 5 of the *Radiocommunication Act*, RSC 1985, c R-2 [Act], the Minister may approve sites on which radio apparatus, including antenna systems, may be located, and the erection of all masts, towers and other antenna-supporting structures. Canada says that the Minister generally does not approve the location of individual antenna-supporting structures. Instead, the Minister has established a process for placement of antenna systems that must be complied with by a proponent of an antenna system.

[11] The spectrum licences issued by the Minister generally include conditions of license that mandate a proponent of an antenna system, such as Rogers, to follow the procedures in the Client Procedures Circular CPC-2-0-03, *Radiocommunication and Broadcasting Antenna Systems*, as amended from time to time. The current version of the Circular is Issue 6, dated July 2022 [Circular] published by Innovation, Science and Economic Development Canada [ISED].

[12] The Circular sets out the consultation process that a licensee must follow before installing an antenna supporting structure, unless one of the exclusions applies. Public consultation is conducted through the local Land Use Authority [LUA]. If the LUA has a consultation procedure, then that will be followed. Otherwise, the Circular provides a default procedure.

[13] With respect to Roger's proposal to erect the Cell Tower, ISED treated the matter as a case where Rogers was following an LUA's consultation process. As such, the Circular required Rogers to meet the consultation requirements of the City (the LUA in this case), as well as the City's letter of concurrence. The City's consultation requirements are set out in the *Telecommunications Antenna Structures Siting Protocols* [City's Siting Protocol].

Cell Tower at Signature Park

[14] The City owns a parcel of land at Signature Park which is currently used as a 'Park and Ride' by users of the City's Light Rail Transit system [City Lands]. Immediately adjacent to the City Lands, SP owns a parcel of land where a strip mall known as 'West Market Square' is located [SP Lands].

[15] A Mutual Access Right of Way Easement is registered on title to both the SP Lands and the City Lands [Easement]. The Easement grants SP a right of way for purposes of access to a busy thoroughfare in Calgary. SP alleges that the Easement is necessary for the future development of the SP Lands, and that this fact was well known by the City.

[16] On September 19, 2022, SP received a call from Rogers advising that Rogers had decided to build the Cell Tower between the SP Lands and the City Lands. According to SP, this was the

first such notification it received regarding the erection of the Cell Tower. Thereafter, SP communicated its concerns regarding the Cell Tower to Rogers and the City.

[17] On October 4, 2022, the City advised SP that it had issued a Letter of Concurrence for the Cell Tower on December 23, 2021, and that the Cell Tower did not require public consultation (i.e. a formal public open house) under the City's Siting Protocol as it was not located within 100 metres of a residential building. SP says it was not provided with a copy of the City's Letter of Concurrence until it received Roger's motion to strike the application.

[18] By late November 2022, Rogers had completed construction of the Cell Tower. SP says the enclosure for the Cell Tower was initially located on both the SP Lands and City Lands, and that the Cell Tower is located on the City Lands over which SP holds an Easement.

SP's Notice of Application

[19] On August 11, 2023, SP commenced the underlying application for judicial review of the Minister's Decision and the City's Decision. The Notice of Application alleges, amongst other things, that the Respondents failed to follow the consultation requirements set out in the Circular and in the City's Siting Protocol in siting and constructing the Cell Tower, or accord procedural fairness to SP.

III. **Test for Striking a Notice of Application on a Preliminary Motion**

[20] It is well established that this Court has jurisdiction to strike a notice of application by virtue of its plenary jurisdiction to restrain the misuse or abuse of the Court's processes. However, the threshold for striking an application for judicial review is high. The Court will only strike out

a notice of application where it is so clearly improper as to be bereft of any possibility of success. In other words, "there must be a 'show stopper' or a 'knockout punch' - an obvious, fatal flaw striking at the root of this Court's power to entertain the application": *David Bull Laboratories (Canada) Inc. v. Pharmacia Inc.*, [1995] 1 FC 588 at page 600 (CA) [*David Bull*]; *Canada (National Revenue) v. JP Morgan Asset Management (Canada) Inc.*, 2013 FCA 250 at paras 47 and 48 [*JP Morgan*].

[21] Notwithstanding the principles explained in *David Bull,* it may be appropriate for the Court to a grant a motion to strike an application for judicial review where the motion raises an issue such as the Court's jurisdiction, which strikes at the root of the Court's power to entertain the application: *Kaquitts v. Council of the Chiniki First Nation*, 2019 FC 498 at para 10 [*Kaquitts*].

[22] On a motion to strike, the Court must read the Notice of Application "holistically and practically without fastening onto matters of form" in order to gain "'a realistic appreciation' of the application's 'essential character'": *JP Morgan*, above at para. 50.

IV. **The Affidavit Evidence is Admissible**

[23] As a general rule, affidavits are not admissible in support of motions to strike applications for judicial review. One exception to the general rule, relevant in this case, is where a document is referred to and incorporated by reference in the notice of application: *JP Morgan* at paras 51 to 54.

[24] Another exception, similar to what applies to motions to strike under Rule 221(1) of the *Federal Courts Rules*, is that an affidavit may be admitted on a motion to strike an application where the issue concerns a jurisdictional question. A ruling on this sort of issue cannot be made in

a factual vacuum: *Kaquitts* at para 10, citing *Mil Davie Inc. v. Société d'Exploitation et de Développement d'Hibernia Ltée* (1998) 226 N.R. 369, 85 C.P.R. (3d) 320, at paras 7 and 8.

[25] Rogers, Canada and SP have all filed affidavit evidence on this motion. There is no dispute between the parties that the affidavit evidence adduced by the parties is admissible on these motions. Accordingly, I have considered the affidavit evidence in the context of determining whether the application should be struck out for want of jurisdiction.

V. Analysis

A. There is no Reviewable Decision by the Minister

[26] Rogers and Canada submit that the application for judicial review of the Minister's Decision should be struck out because the Minister did not render a decision on the placement of the Cell Tower at Signature Park, as alleged in the Notice of Application. As there is no decision or order of the Minister which the Court could quash and refer back for determination as requested, they contend that the Court lacks jurisdiction to entertain the application for judicial review of the Minister's Decision.

[27] Turning first to the Notice of Application, SP does not describe the Minister's Decision as a known fact. To the contrary, SP pleads that the Minister's Decision was never communicated to it, and that SP does not know the date of the decision, when it was released, or whether any of the Respondents made submissions to the Minister to obtain the decision (para 2). On this motion, SP's submissions state that the decision to name the Minister in the Notice of Application came from the wording of section 5 of the *Radiocommunication Act*, which empowers the Minister to "approve each site on which radio apparatus…may be located" (para 14).

[28] As SP's allegations in the Notice of Application relating to the Minister's Decision appear to be based on assumptions or speculation, rather than fact, this Court is not required to accept these allegations as true for the purposes of this motion: *Operation Dismantle v The Queen*, [1985] 1 SCR 441 at page 455; *JP Morgan* at para 52; *Turp v Canada (Foreign Affairs)*, 2018 FC 12 at para 20.

[29] SP did not tender any evidence on this motion demonstrating that the Minister made any decision with respect to the Cell Tower.

[30] Canada filed the Affidavit of Jason Keller, affirmed on November 9, 2023 [Keller Affidavit]. Mr. Keller is the Spectrum Manager for the Southern Alberta Office, within the Spectrum Telecommunications Sector (Western Region), of ISED. The uncontroverted evidence of Canada's affiant is that, although the Minister has authority under the *Radiocommunication Act* to approve the siting of antenna systems, the Minister does not exercise this authority by issuing individual approvals for the siting of each antenna-supporting structure.

[31] Instead, the Minister has set up a process under which antenna-supporting structures can be erected in compliance with the Ministerial requirements is set out in the Circular. Compliance is made a condition of licence for various licences issued under the *Radiocommunication Act*. If members of the public raise concerns regarding compliance with licensing requirements, including matters relating to antenna siting, both before and after antenna towers are built, ISED may verify a licensee's compliance with its condition of licence to comply with the Circular, and may take enforcement measures as appropriate: Keller Affidavit, paras 8 to 14.

[32] Canada's affiant unequivocally states: "In this case, ISED has not made a decision regarding Roger's compliance with the Circular, nor has ISED been asked to make a decision regarding Roger's compliance with the Circular": Keller Affidavit, para 22. SP did not cross-examine Canada's affiant on his affidavit.

[33] To counter the Respondents' argument that there is no reviewable decision by the Minister, SP argues that the Keller Affidavit indicates that the Minister sub-delegated his authority to Rogers to make the decision regarding the placement of the Cell Tower.

[34] Having considered the material before the Court, I find that nothing in the *Radiocommunication Act*, the Circular, the spectrum licences, the Keller Affidavit or otherwise that supports any delegation of the Minister's decision-making power to Rogers.

[35] Accordingly, I conclude that insofar as the application seeks to judicially review a decision by the Minister to issue a licence for the Cell Tower, it is bound to fail because, based on the uncontested evidence before the Court, there was no decision made by the Minister in respect of the Cell Tower. The Court lacks jurisdiction to entertain a judicial review of a non-existent Ministerial decision or grant any relief in respect of it.

B. This Court Lacks Jurisdiction to Review the City's Decision

[36] The second impugned decision set out in the Notice of Application is the City's Decision to issue a Letter of Concurrence to the Minister authorizing the Cell Tower. SP seeks an order "quashing the City's Decision" and remitting it "back to the respective authorities".

[37] Rogers and Canada submit that this Court lacks jurisdiction to entertain the application for judicial review of the City's Decision because the City is not a "federal board, commission or other tribunal".

[38] I agree. Sections 18 and 18.1 of the *Federal Courts Act* grant exclusive original jurisdiction to the Federal Court to hear and determine any application or other proceeding for relief against a "federal board, commission or other tribunal", as defined in section 2 of the Act. Parliament has, in very clear terms, created an exclusion in the definition of "federal board, commission or other tribunal" for "any body constituted or established by or under a law of a province": *9037-9694 Quebec Inc. c. Canada (Procureur Général)*, 2002 FCT 849 at para 25 [*9037-9694 Quebec Inc.*].

[39] Municipalities are the creation of and subject to the legislative control of the provincial legislatures, pursuant to the power vested in the provinces to make laws in relation to "Municipal Institutions in the Province" under section 92(8) of the *Constitution Act, 1867*: *Regional Municipality of Peel v. Mackenzie et al.*, [1982] 2 SCR 9 at page 22. In this case, as the City is a municipal entity which is constituted or established by or under provincial legislation, it is plainly not a "federal board, commission or other tribunal".

[40] SP advances several arguments in support of its position that this Court has jurisdiction to judicially review the City's Decision. First, it submits that the decision by the City is not being challenged as a discrete decision, but rather as part of a broader "matter" of siting the Cell Tower on SP Lands and lands over which SP holds an Easement. SP boldly asserts that subsection 18.1(1) of the *Federal Courts Act*, which refers to a "matter", does not limit judicial review to a decision of a "federal board, commission or other tribunal". No jurisprudence is cited to support the

proposition that this Court has jurisdiction to judicially review a "matter" relating to an entity that is not a "federal board, commission or other tribunal".

[41] SP's argument lacks merit. Section 18 and 18.1 of the *Federal Courts Act* operate in concert. Under subsection 18(1), the Federal Court is granted exclusive jurisdiction to review the actions taken or decisions made by a "federal board, commission or other tribunal", except for those in respect of which the Federal Court of Appeal has express jurisdiction under section 28: *Canadian Judicial Council v. Girouard*, 2019 FCA 148 at para 31. Section 18.1 sets out the procedure on judicial review, the grounds of review, and the powers of the Court on a judicial review application. Whether SP's application challenges a "matter" or a "decision or order", this Court's jurisdiction is limited to review of the actions taken or decisions made by a "federal board, commission or other tribunal", not those of municipalities established under provincial legislation.

[42] SP argues that even if this Court does not have jurisdiction over the City as a provincial body, it has jurisdiction over federal matters which have provincial components or inputs. SP asserts that the Minister delegated authority to municipalities under the Circular to establish land use policies governing the siting of antenna systems, such as the Cell Tower in this case, and that delegated decision-making power ought to be subject to judicial review before this Court.

[43] I disagree. It is settled law that bodies constituted or established by or under a law of a province are excluded from the definition of "federal board, commission or other tribunal", even though they may exercise jurisdiction or powers conferred under an Act of Parliament. The test is not to determine if the alleged tribunal exercises federal powers, but to decide if such tribunal is constituted or established pursuant to a provincial enactment: *9037-9694 Quebec Inc.* at para 25; *CP Express & Transport Ltd v Motor Carrier Comm* [1986], 1 FC 59 at page 69.

[44] I do not read *Safire v Halifax Regional Municipality*, 2018 NSSC 253 [*Safire*] as authority for this Court to judicially review the actions or decisions of a municipality. The Nova Scotia Supreme Court held that "all decision-making authority respecting the siting of radiocommunication towers belongs to the relevant Federal authorities" (para 40). It rejected the argument that Halifax Regional Municipality's [HRM] consultation process was a delegation of federal power (para 41), and held that "the decision – or "matter" – with which his application is concerned is the installation of the tower. The HRM consultation process is one component of that matter, and not a decision in and of itself which is reviewable" (para 40) [emphasis added].

[45] SP also contends this Court is being asked to review the reasonableness of the Minister's acceptance of the City's letter of concurrence as part of the broader federal matter, rather than reviewing the City's decision as a provincially constituted body. The difficulty with this argument is that the Notice of Application plainly states that one of the two decisions being challenged is the "decision by The City of Calgary to issue a Letter of Concurrence to the Minister" authorizing the Cell Tower, not the Minister's acceptance of that letter.

[46] SP appears to suggest that the Court should assume jurisdiction to review the City's Decision because it is essential to this application that the City produce its record leading up to its letter of concurrence, pursuant to Rules 317 and 318 of the *Rules*. However, SP's underlying motivation for seeking judicial review of the City's Decision is not a relevant factor in assessing this Court's jurisdiction to review it.

[47] Accordingly, I conclude that insofar as the application seeks to judicially review the City's Decision, it is bound to fail because the City is plainly not a "federal board, commission or other tribunal" within the meaning of sections 18 and 18.1 of the *Federal Courts Act*.

C. There is no Reviewable "Matter" Pled

[48] SP' primary argument on this motion is that "the decisions to issue a letter of concurrence, site the Cell Tower and finally construct the Cell Tower" are a "matter", and therefore the 30-day time limit to seek judicial review does not apply. While the timeliness issue is SP's stated reason for inviting the Court to characterize the Notice of Application as challenging a "matter", rather than two discrete decisions, this characterization may also be an effort to circumvent the fatal flaws in SP's application described above.

[49] SP's argument relies in part *Safire, supra*, in which the Supreme Court of Nova Scotia struck out an application for judicial review of a "decision" of the Halifax Regional Municipality [HRM], which took the form of a letter of concurrence regarding Bell Mobility Inc.'s proposal to construct a telecommunication tower in Nova Scotia. The Court found that the decision-making authority respecting the siting of radiocommunication towers belongs to the relevant Federal authorities, and therefore reviewable only by the Federal Court. In reaching that conclusion, the Court stated that the HRM consultation process is one component of a broader "matter", namely the installation of the tower, and that "[t]here is no apparent reason why alleged inadequacies in the consultation process could not be a basis for seeking judicial review in Federal Court": *Safire* at para 40.

[50] In this case, SP acknowledges that the Notice of Application speaks to "decisions" not "matters" and refers to subsection 18.1(2), not subsection 18.1(1). Nonetheless, SP submits that "the Notice of Application is sufficiently broad to allow its application for judicial review to proceed under either provision" (para 52).

[51] On these motions to strike, the Court is unquestionably required to gain a realistic appreciation of the application's essential character by reading the Notice of Application holistically and practically without fastening onto matters of form: *JP Morgan* at para. 50. However, as the Federal Court of Appeal recently explained in *China Mobile Communications Group Co., Ltd. v. Canada (Attorney General)*, 2023 FCA 202 at para 43 [*China Mobile*]:

> … this approach does not allow courts to read in elements of the application at the applicant's urging where they do not exist on the face of the notice of application. The determination of what decision is challenged in an application for judicial review is a question so fundamental to the application that an applicant cannot call on the court's generosity to achieve the broad interpretation of the application that they seek.

[52] In this case, the problem with SP's argument is that it has clearly cast the Notice of Application as one for judicial review of two discrete "decisions", being the Minister's Decision and the City's Decision, and not as a review of a "matter" or a "course of conduct" or an ongoing government practice or policy.

[53] The Notice of Application plainly states that SP seeks judicial review of a decision made by the Minister "to issue a license for a radio apparatus (the "Cell Tower") located at 1818 Signature Park SW", and a decision by the City "to issue a Letter of Concurrence to the Minister … authorizing the Cell Tower". These decisions are defined in the Application as the "Minister's Decision" and the "City's Decision".

[54] The relief sought in the Notice of Application relates specifically to the "Minister's Decision" and the "City's Decision". SP seeks an order quashing the "Minister's Decision" and the "City's Decision", and remitting "both the Minister's Decision and the City's Decision back to the respective authorities". While SP's submissions on this motion allege that this Court has

jurisdiction to consider "whether to quash that process and Order the Cell Tower removed" (para 8), the Notice of Application does not, on its face, seek any of these remedies.

[55] Further, although the Notice of Application pleads that all three Respondents failed to follow the required consultation process when it articulates the grounds of review, reference to errors made by the Minister and ISED in the grounds of review does not change the decisions being reviewed: *China Mobile* at para 46.

[56] If SP wished to judicially review a "matter" or an ongoing course of conduct by the Minister and ISED, SP was required to expressly do so in the Notice of Application, which it has not done: *China Mobile* at para 49. To the contrary, SP expressly defined the two discrete decisions under review as being limited to the Minister's Decision and the City's Decision.

[57] Accordingly, I conclude that the existing Notice of Application does not, directly or on a broad and generous reading, challenge a "matter" or course of conduct. SP is urging the Court to read in elements that simply do not exist on the face of the Notice of Application. The Application seeks judicial review of the Minister's Decision and the City's Decision and this Court lacks jurisdiction to review either "decision" for the reasons set out above.

D. The Application Should be Struck Without Leave to Amend

[58] The Court's inherent power to strike out a notice of application for judicial review includes the power to do so with or without leave to amend: *Vachon Estate v. Canada (Attorney General)*, 2024 FC 709 at para 125.

[59] Rogers and Canada seek an Order striking SP's Notice of Application for judicial review without leave to amend. Conversely, SP seeks leave to amend the Notice of Application if this Court is inclined to dismiss its current iteration of the Notice of Application.

[60] Although SP seeks leave to amend if required, it has not put forward any proposed amendments to the Notice of Application to address any of the flaws in its existing pleading. Instead, the Court is left to speculate as to possible amendments sought by SP based on its written submissions on this motion. Undoubtedly, SP seeks to recast the subject matter of the Application in its submissions as being a "matter". However, SP submissions on what constitutes a "matter" lack sufficient clarity to satisfy the Court that leave to amend should be granted. SP has failed to clearly articulate the acts or omissions by the Minister or ISED that it says constitute a reviewable course of conduct of a "federal board, commission or other tribunal".

[61] In the circumstances, I conclude that it is not appropriate to grant SP leave to amend its Notice of Application. The Notice of Application will therefore be struck out in its entirety without leave to amend.

[62] In light of my decision, it is not necessary to address the issue of whether the Notice of Application was brought in a timely manner and I decline to do so. Irrespective of whether or not the Notice of Application was filed on time or not, the application must be struck out because it is plain and obvious that the Court lacks jurisdiction to entertain the application.

VI. **Conclusion**

[63] For these reasons, the Notice of Application is struck out in its entirety without leave to amend.

[64] Rogers and Canada both seek their costs of the motion. I see no reason to deviate from the general rule that a successful party is entitled to his or her costs on a motion. Accordingly, SP shall pay Rogers and Canada their respective costs of the motion, hereby fixed in the amount of $1,000.00 to Rogers and $1,000.00 to Canada, inclusive of disbursements and taxes.

THIS COURT'S JUDGMENT is that:

1. The motions to strike by the Respondents, Rogers and Canada, are granted.

2. The Notice of Application is struck out in its entirety without leave to amend.

3. The application for judicial review is dismissed.

4. Costs of the motion shall be paid by the Applicant to the Respondent Rogers and the Respondent Canada, hereby fixed in the amount of $1,000.00 to each of these Respondents, inclusive of disbursements and taxes.

"Kathleen Ring"
Associate Judge