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November 28, 2025 28 novembre 2025			
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Court File No. T- -25

FEDERAL COURT

B E T W E E N:

NIELSEN CONSUMER LLC

Applicant

– and –

THE TORONTO-DOMINION BANK

Respondent

APPEAL UNDER Section 56 of the *Trademarks Act*

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Ottawa, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant’s solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: November 28, 2025

Issued by: _____
(Registry Office)
Address of local Office:
90 Sparks Street,
5th Floor
Ottawa ON K1A 0H9

TO: **THE TORONTO-DOMINION BANK**
66 Wellington Street West Toronto Dominion Tower, 12th
Floor
Toronto
ONTARIO
M5K1A2

AND TO: **The Registrar of Trademarks**
Canadian Intellectual Property Office
Place du Portage I
50 Victoria Street
Gatineau, Quebec
K1A 0C9

AND TO: **The Attorney General of Canada**
Civil Litigation Section
Department of Justice Canada
50 O'Connor Street, 5th Floor
Ottawa, Ontario K1A 0H8

APPLICATION

THIS APPLICATION is an appeal pursuant to section 56 of the *Trademarks Act*, RSC 1985, c T-13, and rule 300(d) of the *Federal Court Rules*, SOR/98-106, from the decision issued September 29, 2025 by the Registrar of Trademarks (the “Decision”) in respect of proceedings under section 45 of the *Trademarks Act*, which advised that the Applicant’s trademark registration No. TMA704839 (the “Registration”) for the trademark TDLINX (the “Trademark”) will be expunged pursuant to subsection 45(4) of the *Trademarks Act* by reason of a failure to file the evidence required.

RELIEF SOUGHT:

1. The Applicant makes an application for:
 - a. An Order allowing the appeal, setting aside the Decision, and directing the Registrar not to expunge the Registration;
 - b. The Applicant’s costs of this application; and
 - c. Such further and other relief as to this Honourable Court seems just and reasonable.

THE GROUNDS FOR THIS APPLICATION ARE AS FOLLOWS:

2. On May 16, 2025, the Registrar issued a notice pursuant to section 45 of the *Trademarks Act* requiring the Applicant to furnish within three months an affidavit or statutory declaration showing, with respect to each of the goods and services in the Registration, whether the trademark was in use in Canada at any time during the three-

year period immediately preceding the date of the notice (i.e., between May 16, 2022 and May 16, 2025, the “Relevant Period”) and, if not, the date when it was last so in use and the reason for the absence of such use since that date.

3. The Applicant did not file evidence in the section 45 proceeding before the Registrar.

4. On September 29, 2025, the Registrar issued the Decision ordering that the Registration be expunged for failure to file the evidence required.

5. The Applicant used the Trademark in Canada in association with the Goods and Services during the Relevant Period.

6. The Applicant appeals the Decision on the following grounds:

- a. The Applicant is entitled to appeal the decision under section 56 of the *Trademarks Act*; and
- b. The Registrar erred in expunging the Registration for non-use because the Applicant used the Trademark in Canada in association with the Goods during the Relevant Period.

7. The Applicant intends to request the Court’s leave pursuant to section 56(5) of the Act to adduce material evidence in this application showing its use of the Trademark in Canada during the Relevant Period.

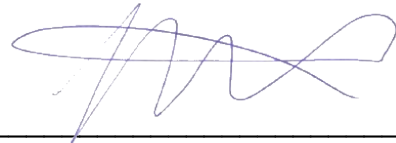
8. The Applicant relies on sections 2, 4, 45, 56, 59 and 60 of the *Trademarks Act*, rules 300(d), 306 and 317 of the *Federal Courts Rules*, and other applicable sections, rules and acts as the Applicant may advise.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIALS:

9. The Application will be supported by the following materials:
- a. The files maintained by the Registrar in respect of the section 45 proceeding that is the subject of this appeal and in respect of the Registration;
 - b. Such further and other supporting affidavits and exhibits as the Applicant may serve and file pursuant to subsection 56(5) of the *Trademarks Act* and rules 306 and 309 of the *Federal Court Rules*; and
 - c. Such further and other documents as the Applicant may tender and the Court may permit.

Pursuant to rule 317 of the *Federal Courts Rules* and section 60 of the *Trademarks Act*, the Applicant requests that the Registrar send to the Registry of the Federal Court all documents in the possession of the Registrar's Office, or copies of those documents certified by the Registrar, in relation to the matters in question in this proceeding, and, in particular, the following: the file of the Registrar for the Registration including all documents in respect of the cancellation of the Registration.

Dated at Ottawa, Ontario, this 28th day of November 2025.



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