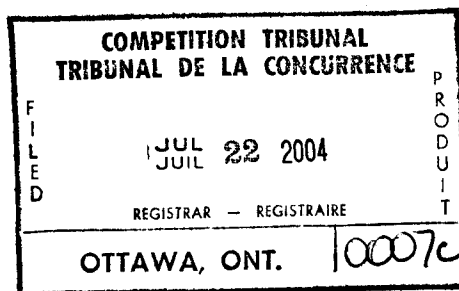


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July 22, 2004

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**Re: Fred Deeley Imports Limited ats Quinlan's of Huntsville Inc.
 Court File No. CT-2004-009**

On July 7, 2004, Quinlan's of Huntsville Inc. ("Quinlan's") served Fred Deeley Imports Limited ("Deeley") with its application for leave to bring an application against Deeley under section 75 of the Competition Act (the "Act"). Additionally, Quinlan's filed an Application for an interim order, pursuant to section 104 of the Act.

Enclosed, please find a copy of Deeley's materials filed pursuant to section 103.1(6) of the Act. In its written representations, Deeley argues that Quinlan's has not satisfied the section 103.1 test for leave, and that the Tribunal ought not grant Quinlan's leave to bring an application in this matter. Deeley also requests that an oral hearing be held in this matter.

By this letter, Deeley wishes to set out for the Tribunal its reasons for seeking an oral hearing and to set out its position regarding Quinlan's application for interim relief.

Deeley makes its request for an oral hearing on the basis that:

- (i) access to the Tribunal by private litigants through the section 103.1 leave application process is still in a nascent stage and the evidentiary and legal thresholds for leave remain unclear;
- (ii) the nature of the Tribunal's important gatekeeping role in these cases has yet to be fully addressed by the Tribunal; and the Tribunal's decision in *Barcode Systems Inc. v. Symbol Technologies Canada ULC*, [2004] C.C.T.D. No.1, which was followed in *Allan Morgan and Sons Ltd. v. La-Z-Boy Canada Ltd.*, [2004] C.C.T.D. No. 4, contradicts the test for leave originally set out by the Tribunal in *National Capital News v. Canada (Speaker, House of Commons)* [2002] C.C.T.D. No. 4. Specifically, whereas in *National Capital News*, the Tribunal held that an applicant is required to establish reasonable grounds to believe that a section 75 order could issue on the matter, the latter cases suggest that an applicant need not

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File No. CT-2004-009

CANADA COMPETITION TRIBUNAL

BETWEEN:

QUINLAN'S OF HUNTSVILLE INC.

Applicant

- and -

**FRED DEELEY IMPORTS LIMITED carrying on business as
DEELEY HARLEY-DAVIDSON CANADA**

Respondent

**RESPONDING MATERIALS OF THE RESPONDENT,
FRED DEELEY IMPORTS LIMITED, ON THE APPLICANT'S APPLICATION
PURSUANT TO SECTION 103.1 OF THE *COMPETITION ACT* FOR LEAVE TO
MAKE APPLICATION UNDER SECTION 75 OF THE ACT**

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