Docket: 2025-1464(IT)G

BETWEEN:

ROGERS MEDIA INC.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent,

and

THE NATIONAL HOCKEY LEAGUE,

Proposed Intervener.

Motion of the Proposed Intervener, in writing, filed on March 31, 2026,
at Ottawa, Ontario

Before: The Honourable John C. Yuan

Written Representations:

Counsel for the Appellant:	Martha MacDonald Paul Hildebrandt
Counsel for the Respondent:	Arnold Bornstein Erin Strashin Yan Cui
Counsel for the Proposed Intervener:	Mark Tonkovich Jeffrey Shafer Josh Jones

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ORDER

BACKGROUND

A. As a consequence of letters to the Court from the parties and the National Hockey League (**"NHL"**) concerning the possible application of section 29 of the

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Tax Court of Canada Rules (General Procedure) to this appeal, the Court directed that the issues raised in that correspondence would be decided by way of motion (**"Rule 29 Motion"**).

B. The NHL brought a motion to the Court pursuant to section 28 of the *Tax Court of Canada Rules (General Procedure)* for leave to intervene in the Rule 29 Motion.

C. The NHL made the request, to which the parties to the appeal consented, that the NHL's motion be decided on the basis of written representations and without personal appearance by the NHL or the parties.

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ORDER

This Court orders that the NHL's motion for leave to intervene in the motion concerning the possible application of section 29 of the *Tax Court of Canada Rules (General Procedure)* to the Appellant's interest or liability in this appeal is dismissed, without costs, in accordance with the attached reasons.

Signed this 13th day of November 2026.

"John C. Yuan"

Yuan J.

Citation: 2026 TCC 198
Date: 20261113
Docket: 2025-1464(IT)G

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REASONS FOR ORDER

Yuan J.

[1] This is a motion brought by a non-party, the National Hockey League (**"NHL"**), pursuant to section 28 of the *Tax Court of Canada Rules (General Procedure)* (**"GP Rules"**) for leave to intervene in a motion to determine the extent to which section 29 of the GP Rules is engaged by the Appellant's contractual relationship with the NHL in relation to this appeal and, if so, what directions would be appropriate for this Court to make in connection with the continuation of the proceeding (**"Rule 29 Motion"**).

[2] As requested by the NHL with the consent of the parties to the appeal, the motion was considered on the basis of the written representations of the NHL and the parties and without the appearance of the NHL or the parties.

I. BACKGROUND

[3] The underlying appeal concerns the Appellant's liability for tax under Part XIII of the *Income Tax Act* on payments that the Appellant made to the NHL for 10 seasons under a broadcast rights agreement beginning with the 2014/15 season.

[4] In letters to the Court dated November 7, 2025, the Appellant and the NHL separately asserted that the mechanism under section 29 of the GP Rules for the transfer or transmission of interest in this appeal has been engaged by virtue of (i) the Appellant's contractual right to full indemnity against the NHL for any Part XIII tax payable by the Appellant pursuant to the assessment under appeal, and (ii) the NHL's contractual right to assume carriage of any appeal relating to that assessment. By letter to the Court dated November 14, 2025, the Respondent advised of its disagreement with the Appellant's and the NHL's positions.

[5] By letter to the parties dated February 3, 2026, the Court directed that the questions concerning the application of section 29 of the GP Rules to this appeal would be decided by way of the Rule 29 Motion.

[6] The NHL subsequently filed this motion to intervene in the Rule 29 Motion, to which the Appellant consents and the Respondent opposes.

II. **DECISION**

[7] The NHL's motion is dismissed on the basis of my interpretation of the scope of section 28 of the GP Rules.

[8] As discussed below, my interpretation of section 28 of the GP Rules is that a non-party's right to make a motion to intervene under that rule is engaged only when leave is being sought to intervene in an appeal or a reference.

[9] The provision does not allow a non-party to move for leave to intervene on a motion within an appeal or a reference.

III. **DISCUSSION**

[10] Section 28(1) of the GP Rules provides, as follows [underlining added]:

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28. Leave to intervene – (1) Where it is claimed by a person who is not a party to a proceeding

(a) that such person has an interest in the subject matter of the proceeding,

(b) that such person may be adversely affected by a judgment in the proceeding, or

(c) that there exists between such person and any one or more parties to the proceeding a question of law or fact of mixed law and fact in common with one or more of the questions in issue in the proceeding,

such person may move for leave to intervene.

28. Autorisation d'intervention – (1) Quiconque n'est pas partie à l'instance et prétend:

a) qu'il a un intérêt dans l'objet de cette instance;

b) qu'il peut subir un préjudice par suite du jugement;

c) que lui-même et l'une ou plusieurs des parties à l'instance sont liés par la même question de fait ou la même question de droit et de fait,

peut demander, par voie de requête, l'autorisation d'intervenir dans l'instance.

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[11] Section 2 of the GP Rules provides that the English word "proceeding" and the French word "*instance*" have the equivalent meanings of "an appeal or reference" (in English) and *"un appel ou un renvoi"* (in French).

[12] While the English version of the postamble to subsection 28(1) does not expressly say that the person meeting the requirements of the subsection is authorised to move for leave to intervene only in the proceeding itself (*i.e.*, the appeal or the reference), the French version of the postamble makes this clear when it states that the person may move to intervene *"dans l'instance"* (or in the proceeding).

[13] The GP Rules are regulations enacted under authority of the *Tax Court of Canada Act* and therefore constitute a statutory instrument whose status and use are governed by the *Official Languages Act*.[1] Section 13 of the *Official Languages Act* provides that, where regulations are made in both official languages, both language versions are equally authoritative.

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1 R.S.C. C.31 (4th Supp.).

[14] *Daoust*[2] is a Supreme Court of Canada criminal law decision that provides guidance on the interpretative approach to use when there is a possible conflict between the English and French language versions of the same provision.

[15] In *Daoust*, the Supreme Court applied a three-step framework: determine whether there is a conflict between the two versions, identify a common meaning, and consider whether the common meaning is harmonious with the legislator's intent.

[16] The Supreme Court concluded that the narrower French language version of section 462.31 of the *Criminal Code* represented the common meaning between the two versions and therefore governed, notwithstanding the clear evidence that the broader meaning of the English version aligned with Parliament's intent. The Court refused to use Parliament's intent as a basis for departing from the common meaning established by the French text because the meaning of that version read on its own was clear and unambiguous.

[17] As outlined below, the application of the approach in *Daoust* to the interpretation of subsection 28(1) of the GP Rules leads to the conclusion that the French version is to prevail when it comes to interpreting the scope of the postamble.

[18] A good argument can be made that, after reading the English version of subsection 28(1) in its entirety, it can be reasonably implied that its scope is limited to intervening in the proceeding itself, in which case there would be no conflict between the meaning of the English and French texts; both versions would support the interpretation that an intervention under this rule is limited to intervening in an appeal or a reference.

[19] However, for purposes of moving through the approach from *Daoust*, I will proceed on the assumption that there is a genuine conflict between the English and French versions with respect to scope. Then, when it comes to identifying a common meaning for the scope between the two conflicting versions, the *Daoust* case directs me to apply the French version of subsection 28(1) because the French

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2 [2004] 1 S.C.R. 220.

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version contemplates a narrower scope (*i.e.*, intervening in the appeal) than the English version (*i.e.*, intervening in the appeal and related matters).

[20] Because the meanings of the phrase *"d'intervenir dans l'instance"* and the word *"l'instance"* (as defined in the GP Rules) used in the French version of the postamble of subsection 28(1) (representing the common meaning) are both clear and unambiguous, it is unnecessary to consider extrinsic evidence of regulatory intent, such as Regulatory Impact Statements or other documents that discuss the scope of section 28 of the GP Rules, if any such evidence even exists.

[21] My interpretation of subsection 28(1) of the GP Rules is further supported by a decision from the Federal Court of Appeal in *Air Canada v. Cooperstock*[3] disposing of a motion by an individual for leave to intervene under section 109 of the *Federal Court Rules*[4].

[22] In *Air Canada*, the individual was seeking to intervene in a motion in the Federal Court of Appeal for leave to appeal from a decision of the Canadian Transportation Agency pursuant to section 41 of the *Canada Transport Act*.[5] Subsection 109(1) of the *Federal Court Rules* provides that "[t]he Court may grant leave to any person to intervene in a proceeding." The Federal Court of Appeal found that a motion for leave to appeal to the Federal Court of Appeal was not a proceeding for purposes of the *Federal Court Rules* and went on to dismiss the motion on the basis that section 109 of the *Federal Court Rules* did not confer a right to intervene in the motion seeking leave to appeal.

[23] In light of the above, I find that the meaning of the French language version of the postamble of subsection 28(1) of the GP Rules is the one that I am to apply here; that version of the postamble allows a non-party to seek leave to intervene only in an appeal or a reference and not a motion.

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3 2018 FCA 80.

4 SOR/98-106.

5 S.C. 1996, c. 10.

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[24] Consequently, the NHL's motion for leave to intervene in the Rule 29 Motion is dismissed, without costs.

Signed this 13th day of November 2026.

"John C. Yuan"

Yuan J.

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CITATION:	2026 TCC 198
COURT FILE NO.:	2025-1464(IT)G
STYLE OF CAUSE:	ROGERS MEDIA INC. AND HIS MAJESTY THE KING AND THE NATIONAL HOCKEY LEAGUE
DATE OF HEARING:	Motion Determined by Written Representations
REASONS FOR ORDER BY:	The Honourable John C. Yuan
DATE OF ORDER:	November 13, 2026

COUNSEL OF RECORD:

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