

SECTION 45 PROCEEDINGS
TRADE-MARK: DES GENS COMME VOUS ET MOI
REGISTRATION NO.: 422,047

On December 30, 1999, at the request of 88766 Canada Inc., the Registrar forwarded a Section 45 notice to the Reader's Digest Association, Inc., the registered owner of the above-referenced trade-mark registration.

The trade-mark DES GENS COMME VOUS ET MOI is registered for use in association with the following wares: columns of literary excerpts published in periodical magazines.

In response to the notice the affidavit of Michael A. Brizel together with exhibits has been furnished. The registrant alone filed a written argument. An oral hearing has not been requested in this case.

In his affidavit Mr. Brizel states that the trade-mark has been licensed to Sélection du Reader's Digest (Canada) Ltée/The Reader's Digest Association (Canada) Ltd., a wholly owned subsidiary of the registrant. He specifies that under the license the registrant has direct control of the character or quality of the columns published in periodical magazines in association with which the trade-mark is used in Canada. As Exhibit A, he attaches an envelope containing copies of the said columns published in the magazine Sélection du Reader's Digest for February 1999, April 1999, July 1999, November 1999 and December 1999. He submits that the average monthly distribution of the magazine in which DES GENS COMME VOUS ET MOI column has appeared is 225,000.

Having considered the evidence, I am satisfied that it shows use of the trade-mark in association with the registered wares. The wares are "columns of literary excerpts published in periodical magazines" and those are exactly the wares in association with which the trade-mark is being used. The trade-mark as registered appears at the top of the page as the title of the column published in the Reader's Digest magazine. Further, it is clear that such column was published during the relevant period. As I have concluded that the trade-mark is being used in association

with the registered wares in the manner required by Section 4(1) of the Act, then it follows that the trade-mark registration ought to be maintained (see *United Grain Growers Limited v. Lang Michener, Federal Court of Appeal* decision dated February 20, 2001. Docket No. A-3556-00).

Registration No. 422,047 will be maintained in compliance with the provisions of Section 45(5) of the Act.

DATED AT HULL, QUEBEC, THIS 26th DAY OF APRIL 2001.

D Savard
Senior Hearing Officer
Section 45 Division