

SECTION 45 PROCEEDINGS
TRADE-MARK: CAMP MATE
REGISTRATION NO.: TMA 200,287

On November 6, 2003, at the request of Messrs. Lapointe Rosenstein, the Registrar forwarded a Section 45 notice to Woods Canada Limited, the registered owner of the above-referenced trade-mark registration.

The trade-mark CAMP MATE is registered for use in association with the following wares:

- (1) Tents.
- (2) Gymnasium mats.

Section 45 of the *Trade-marks Act* requires the registered owner of the trade-mark to show whether the trade-mark has been used in Canada in association with each of the wares and/or services listed on the registration at any time within the three-year period immediately preceding the date of the notice, and if not, the date when it was last in use and the reason for the absence of use since that date. The relevant period in this case is any time between November 6, 2000 and November 6, 2003.

In response to the notice, the affidavit of Keith Milne together with exhibits has been furnished.

Neither party filed a written argument. The registrant alone was represented at the oral hearing.

In his affidavit, Mr. Milne states that he is Vice-President and General Manager of Woods Canada Limited. He explained that Camp Mate Limited, the initial registrant of the trade-mark CAMP MATE, was purchased by his company September 1, 2000 and that the trade-mark was part of the asset purchase. He states that at the time of transfer the trade-mark was in active use in Canada in association with "tents" and has been continuously used in Canada to the date of his affidavit.

He indicates that the trade-mark CAMP MATE appears on tents manufactured by his company and sold in Canada. As Exhibit B he provides two pamphlets for the CAMP MATE brand tents and he specifies that all of the tents depicted therein and sold in Canada bear the trade-mark. As Exhibit C he provides eleven sets of set-up instructions for various tents which bear the trade-mark which accompany the tents and are used in conjunction with the sale of the tents.

He also attaches samples of advertisements, samples of labels which are typical of the labels which are affixed to the tents, a photograph of typical packaging that the tents come in, as well as a sales catalogue for CAMP MATE tents and tent products and other materials regarding the tents sold in association with the trade-mark.

He also provides representative invoices showing sales in Canada of CAMP MATE brand tents since 2001 as well as dollar sales volume in Canada of tents bearing the trade-mark for the period March 2001 to the end of 2003.

Having considered the evidence I find that it clearly shows use of the trade-mark in Canada in association with the wares "tents". The registrant has shown the manner the trade-mark CAMP MATE is associated with the "tents" at the time of their transfer in the normal course of trade and the invoices and sales figures confirm that sales of tents associated with the trade-mark were made in Canada during the relevant period. Consequently, I conclude that the wares "tents" ought to be maintained on the trade-mark registration.

As the evidence is completely silent with respect to the remaining registered wares namely "gymnasium mats" I conclude that such wares ought to be deleted from the trade-mark registration.

Registration No. TMA 200,287 will be amended accordingly in compliance with the provisions of Section 45(5) of the *Trade-marks Act*.

DATED AT GATINEAU, QUEBEC, THIS 26TH DAY OF MAY 2006.

D. Savard
Senior Hearing Officer
Section 45 Division