

SECTION 45 PROCEEDINGS
TRADE-MARK: OILWIK
REGISTRATION NO.: 373,519

On January 10, 2001, at the request of Messrs. Moffat & Co., the Registrar forwarded a Section 45 notice to the Pigmalion Services Group Inc., the registered owner of the above-referenced trade-mark registration.

The trade-mark OILWIK is registered for use in association with the following wares: sorbents for selectively absorbing and adsorbing oils and industrial chemicals.

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.

In response to the notice, the affidavit of Ronald C. Smith together with exhibits was furnished. The requesting party filed a written argument merely containing a statement that the evidence filed failed to disclose use of the trade-mark. The registrant then filed a written argument. An oral hearing has not been requested in this case.

I have considered the evidence furnished as well as the arguments of the parties, and I am

satisfied that the evidence filed by the registrant clearly shows use of the trade-mark OILWIK in Canada in association with the registered wares during the relevant period.

In his affidavit, Mr. Smith has described the use made of the trade-mark in association with the wares during the relevant period. The photographs of products which bear a label bearing the trade-mark as well as the sample labels show the manner the trade-mark was associated with the wares at the time of transfer in the normal course of trade. Mr. Smith has provided sales figures for the years 1997, 1998, 1999 and 2000 as well as copies of invoices confirming that sales of the wares were made in Canada during the relevant period. As for the sample catalogues provided in evidence they show the wares that were available for sale in association with the trade-mark OILWIK during the relevant period.

In view of the evidence furnished, I conclude that the trade-mark OILWIK was in use during the relevant period in association with the registered wares. Accordingly, the trade-mark registration ought to be maintained.

Registration No. 373,519 will be maintained in compliance with the provisions of Section 45(5) of the Act.

DATED AT HULL, QUEBEC, THIS 27th DAY OF FEBRUARY 2002.

D Savard
Senior Hearing Officer
Section 45 Division