

RE: SECTION 45 PROCEEDINGS
Trade-mark: DIMENSION 4 & Design
Registration No. 311,652
Registration Date: February 28, 1986

At the request of Analyses Conseils Informations ACI, the Registrar of Trade-marks issued a section 45 notice on January 13, 1992 to Dimension 4 Microcomputer Services (Canada) Inc., the registered owner of the trade-mark DIMENSION 4 & Design, registration No. 311,652. The trade-mark DIMENSION 4 & Design was registered February 28, 1986 in association with "Computer software designed for architectural/engineering offices in the nature of project accounting and control systems", as well as services identified as: "Conduct seminars for architects/engineers throughout Canada in relation to the above mentioned wares".



In response to the Section 45 notice, the registrant submitted the affidavit of Frank O'Connor, set out below. Further, both parties filed written submissions and neither party requested an oral hearing.

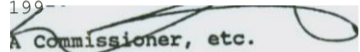
AFFIDAVIT

CANADA)	IN THE MATTER OF
)	SECTION 45 PROCEEDINGS
PROVINCE OF ONTARIO)	TRADE-MARK DIMENSION 4
)	DESIGN
To wit:)	REGISTRATION NO. TMA 311,652
)	FILE NO: 532,177

1.

I, FRANK O'CONNOR, of the Town of Pickering make oath and say:

1. I am the President of Dimension 4 Microcomputer services (Canada) Inc. which operates under the trademark Dimension 4.
2. I have been using the trademark Dimension 4 since the date of registration which occurred on February 28, 1986.
1. The trademark Dimension 4 is used on all company business cards, letter head, invoices, purchase orders and labels of software discs and has been used since the date of registration and will continue to be used so long as I am the registered owner of Dimension 4 Microcomputer Services (Canada) Inc. Attached hereto and marked as Exhibits are the above-noted office stationery.

SWORN BEFORE ME at the Town
of Pickering in the)
Regional Municipality of)
Durham this 20 day of April, 1992.) FRANK O'CONNOR
199-)

A Commissioner, etc.

The second paragraph of the O'Connor affidavit is a conclusion of law with respect to the registrant's use of the trade-mark DIMENSION 4 & Design and therefore does not assist the registrant in this proceeding. In the third paragraph, the affiant refers to a number of exhibits annexed to his affidavit. The first exhibit is a business card and the third exhibit is an envelope, both of which bear the trade-mark DIMENSION 4 & Design. These exhibits merely confirm the manner of use by the registrant of its mark. However, no evidence has been furnished by the registrant which would relate either the business card or the envelope to use of the registered trade-mark in association with any of the wares or

services covered in the registrant's registration. As a result, this evidence does not assist the registrant in this proceeding.

The second exhibit appears to be a letter dated March 27, 1992. However, this document is dated subsequent to the date of the section 45 notice and therefore is of little assistance insofar as establishing use of the trade-mark DIMENSION 4 & Design as of the date of the section 45 notice.

In view of the above, I have concluded that the registrant has failed to show that its registered trade-mark DIMENSION 4 & Design was in use in Canada by the registered owner in association with either the wares or services covered in the present registration within two years prior to the date of the section 45 notice, as required by section 45 (1) of the Trade-marks Act as amended by section 232(1) of the North American Free Trade Agreement Implementation Act. Accordingly, and in the absence of an appeal from this decision pursuant to the provisions of section 56 of the Trade-marks Act, registration No. 311,652 will be expunged from the register.

DATED AT HULL, QUEBEC THIS 8th DAY OF *March* 1994.



G.W. Partington,
Chairman,
Trade Marks Opposition Board.

