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LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADEMARKS

**Citation: 2021 TMOB 151**

**Date of Decision: 2021-01-15**

**IN THE MATTER OF A SECTION 45 PROCEEDING**

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| **Borden Ladner Gervais LLP** | **Requesting Party** |
| **and** | |
| **Romulo Flores** | **Registered Owner** |
| **TMA798,328 for GOTSOUL** | **Registration** |

## INTRODUCTION

[1] This is a decision involving a summary expungement proceeding under section 45 of the *Trademarks Act*, RSC 1985, c T-13 (the Act) with respect to registration No. TMA798,328 for the trademark GOTSOUL (the Mark), owned by Romulo Flores (the Owner).

[2] For the reasons that follow, I conclude that the registration ought to be maintained in part.

## THE PROCEEDINGS

[3] At the request of Borden Ladner Gervais LLP (the Requesting Party), the Registrar of Trademarks issued a notice to the Owner under section 45 of the Act on April 26, 2018.

[4] The notice required the Owner to show whether the trademark has been used in Canada in association with each of the goods and services specified in 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 such use since that date. In this case, the relevant period for showing use is April 26, 2015 to April 26, 2018.

[5] The Mark is registered for use in association with the following goods and services:

GOODS

Musical sound recordings, namely phonographic records, pre-recorded magnetic tapes, pre-recorded cassettes, pre-recorded compact discs and pre-recorded digital media, all containing music; Audio-visual recordings, namely, compact discs, tape cassettes, audio cassettes, audio tapes, audio discs, records, CD-ROMs, video tapes, video cassettes, video discs, DVDs, DATs, and laser discs, all featuring music, disc jockeying and subject matters generally related to the entertainment industry; Electronic publications, namely, books, booklets, magazines, journals, manuals, brochures, leaflets, pamphlets and newsletters, all in the fields of music, disc jockeying and subject matters generally related to the entertainment industry recorded on CD-ROMs, diskettes, floppy disks, video cassettes, and magnetic tapes; promotional items and wearing apparel namely posters, T-shirts, belt buckles, wrist bands, sweaters, hats, baseball caps, lapel pins, novelty buttons, laptop covers and stickers.

SERVICES

(1) Entertainment in the form of a live musical performer, musical artist, disc jockey, musical band or musical group; Entertainment, namely, personal appearances by a musician, disc jockey, musical group or musical band; Entertainment in the form of visual and audio performances by a musical artist, disc jockey, musical group and musical band.

(2) Entertainment, namely, live music concerts.

(3) Entertainment services, namely, producing and distributing musical audio and video recordings.

(4) Entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips and photographs; Entertainment services, namely, providing pre-recorded music, information in the field of music, commentary and articles about music via a global computer network; Music production; Music publishing services; Audio recording and production; Recording studios; Record production; Record master production; Music composition and transcription for others; Song writing services.

[6] The relevant definitions of use in the present case are set out in section 4 of the Act as follows:

> 4(1) A trademark is deemed to be used in association with goods if, at the time of the transfer of the property in or possession of the goods, in the normal course of trade, it is marked on the goods themselves or on the packages in which they are distributed or it is in any other manner so associated with the goods that notice of the association is then given to the person to whom the property or possession is transferred.
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> 4(2) A trade-mark is deemed to be used in association with services if it is used or displayed in the performance or advertising of those services.

[7] It is well established that bare statements that a trademark is in use are not sufficient to demonstrate use in the context of section 45 proceedings [*Plough (Canada) Ltd v Aerosol Fillers Inc* (1980), 53 CPR (2d) 62 (FCA)]. Although the threshold for establishing use in these proceedings is low [*Woods Canada Ltd v Lang Michener* (1996), 71 CPR (3d) 477 (FCTD)], and evidentiary overkill is not required [*Union Electric Supply Co Ltd v Registrar of Trade Marks* (1982), 63 CPR (2d) 56 (FCTD)], sufficient facts must still be provided to permit the Registrar to arrive at a conclusion of use of the trademark in association with *each* of the goods and services specified in the registration during the relevant period [*John Labatt Ltd v Rainier Brewing Co* (1984), 80 CPR (2d) 228 (FCA) (*John Labatt*)].

[8] In response to the Registrar's notice, the Owner furnished his own affidavit sworn on November 23, 2018. Both parties submitted written representations. No oral hearing was held.

## THE EVIDENCE

[9] In his affidavit, the Owner explains that he is an artist and a disc jockey (DJ) based in Montreal, Quebec and uses the trade name Gotsoul Records in association with his music broadcasting and media production business.

[10] The Owner indicates that he produces music records and performs at soirées and on radio and television, and that he distributes music in Canada and internationally in association with the Mark. He states that he used the Mark in Canada in association with the registered goods and services, with exception of the following services listed in Services (4): music production; music publishing services; audio recording and production; recording studios; record master

production; music composition and transcription for others; and, song writing services (the Conceded Services).

[11] In support, the Owner attaches the following to his affidavit:

- Exhibit 2: photographs of a vinyl record displaying the Mark, discs displaying the Mark described by the Owner as CD-ROMs, and screenshots showing digital recordings for sale. Several discs displaying the Mark are pictured, including one entitled "MIAMI SUNSET SESSIONS" and identified on the packaging as a two-disc set. The digital recordings are entitled "Gotsoul Sessions" and appear to include digital recordings by the Owner and other artists. Also attached are invoices dated during the relevant period showing sales of CDs, including the aforementioned "MIAMI SUNSET SESSIONS" discs as well as other CDs sold at a lower price point, and vinyl records to Quebec-based customers; I note that the Mark is displayed at the top of the invoice as well as in the product descriptions. The Owner states that these are representative examples of music sound recordings and audio-visual recordings sold in Canada by the Owner during the relevant period.

- Exhibit 3: screenshots of newsletters promoting the Owner's recordings, merchandise displaying the Mark, and the Owner's "Gotsoul Sessions" performances. The Owner states that these newsletters are dated during the relevant period and are representative examples of electronic newsletters that "are distributed to anyone that subscribes to my newsletters inside and outside Canada". He states that they demonstrate use of the "electronic publications" goods as set out in the registration.

- Exhibit 4: Photographs of t-shirts, belt buckles, and laptop covers and stickers displaying the Mark, along with invoices dated during the relevant period showing sales to Quebec-based customers of t-shirts, baseball caps, and belts. The Mark is displayed in the top corner of the invoice, and the products are listed in the body of the invoice in the category of "GOTSOUL APPAREL".

The Owner states that these are representative examples of promotional items and wearing apparel sold in Canada by the Owner during the relevant period.

- Exhibits 5, 6, and 7: screenshots from the Owner's Facebook page, Vimeo page, and third-party websites showing videos of live performances by the Owner in Canada during the relevant period, including on the television program "BT Montreal", as well as advertisements for the Owner's "Gotsoul Sessions" performances in Canada during the relevant period. In particular, I note that Exhibit 7 includes an article from the *Huffington Post* describing a "Gotsoul Session" DJ performance that was set to take place during the relevant period in Montreal; the Owner confirms that this event actually occurred and included a performance by him. The Owner states that the Mark was prominently displayed during his performances, and that these exhibits show that he performed Services (1) and (2) in Canada during the relevant period. I note that in screenshots of videos of the Owner's performances in Exhibit 5, the Mark is displayed on the Owner's laptop cover and on a sign attached to his turntable.

- Exhibits 8 and 9: screenshots from the Owner's "Gotsoul" Vimeo page and the website *www.gotsoulrecords.com* showing music video recordings and promotional material. The videos display the Mark and appear to feature music by the Owner and other artists. On the Vimeo screenshots, the Mark is displayed at the top of the page and directly beneath each of the videos, which are listed as having view counts between eight and several hundred. I note that the *www.gotsoulrecords.com* screenshots consist of advertisements for events dated before the relevant period. The Owner confirms that he managed the operation of these websites during the relevant period and that he produced and uploaded the videos, and states that this evidence confirms use of the Mark in association with "entertainment services, namely, producing and distributing musical audio and video recordings" [services (3)].

- Exhibits 10 and 11: archived screenshots from the Internet Archive's WayBack Machine, dated within the relevant period, indicating that visitors to the website *www.gotsoul.com* were redirected to the Owner's "Gotsoul Records" Facebook page, which features music videos and advertisements for performances by the Owner and others. I note that the videos on the Facebook page have, at most, two "likes", and that there appear to be two brief "visitor posts" on the page dated during the relevant period, with no indication that the posters were based in Canada, stating only "respect" and "Found you while grieving the death of his majesty prince. That tribute mix was nice!! Thanx." The Owner states that the screenshots show that the Owner used the Mark in association with the services "entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips and photographs", and "entertainment services, namely, providing pre-recorded music, information in the field of music, commentary and articles about music via a global computer network" [forming part of services (4)], and the "electronic publications" goods.

ANALYSIS AND REASONS FOR DECISION

[12] Given that the Owner admits that the Mark was not in use in association with the Conceded Services, the registration will be amended to delete those services. I note that in its written submissions, the Requesting Party notes that the application for the Mark was based on claims of actual use. The Requesting Party submits that if the Mark was not in use in association with the Conceded Services, a degree of scrutiny should therefore be given to the Owner's sworn statements of use concerning the remaining goods and services in his affidavit. However, an affiant's statements are to be accepted at face value and must be accorded substantial credibility in a section 45 proceeding [*Oyen Wiggs Green & Mutala LLP v Atari Interactive Inc*, 2018 TMOB 79 at para 25]. In my view, the fact that the Owner has conceded that he has not used the Mark in association with certain services does not call into question the reliability of the Owner's evidence.

[13] I further note that the Requesting Party submits that in several instances throughout the evidence, the formulations "Gotsoul Records" or "Gotsoul Sessions" appear instead of the Mark as registered. In this respect, I note that if a trademark is used in combination with additional words or features, use will be considered when the public, as a matter of first impression, would perceive the mark as being used *per se* [*Nightingale Interloc Ltd v Prodesign Ltd* (1984), 2 CPR (3d) 535 (TMOB) (*Nightingale*)]. This is a question of fact which is dependent on whether the mark stands out from additional material, for example, by the use of different lettering, sizing, or whether the additional material would be perceived as clearly descriptive or as a separate trademark or trade name [*Nightingale*; see also *88766 Canada Inc v National Cheese Co* (2002), 24 CPR (4th) 410 (TMOB)]. In this case, I find that the words "Sessions" and "Records" would be perceived as clearly descriptive, and that the public would perceive the Mark being used *per se* despite the addition of these words [for similar conclusions, see *Ogilvy, Renault v Arbor Restaurants Inc* (1994), 55 CPR (3d) 401 (TMOB) at paras 5-6; *Goudreau Gage Dubuc & Martineau Walker v Niagara Mist Marketing Ltd* (1997), 78 CPR (3d) 255 (TMOB) at para 13; *Nelligan O'Brien Payne LLP v Beacon Law Corporation*, 2018 TMOB 4 at paras 18-19].

**The Registered Goods**

[14] In his evidence, the Owner has provided photographic evidence of discs, vinyl records, digital audio recordings, laptop covers and stickers, t-shirts, belt buckles, and web screenshots which he describes as electronic publications, all displaying the Mark. However, the Owner has provided evidence of transfer, in the form of invoices, of only discs, vinyl records, t-shirts, and belt buckles, as well as baseball caps (which do not appear in the photographic evidence). With respect to laptop covers and stickers and electronic publications, for which there is no invoice evidence, although I accept that the Owner may have been offering laptop covers and stickers and electronic publications during the relevant period, it is not enough that such goods were merely offered during the relevant period; some evidence of transfer in the normal course of trade is necessary. As such, in the absence of any evidence demonstrating that such goods were transferred in the normal course of trade during the relevant period, I am not satisfied that the Owner has demonstrated use of the Mark in association with the registered goods "laptop covers and stickers" or the "Electronic publications…" goods.

[15] Moreover, while I agree with the Owner that evidentiary overkill is not required in a section 45 proceeding, and an owner need only provide some evidence of use with respect to each good and service in the registration rather than examples of all uses, it is nonetheless well-established that use evidenced with respect to one specific good cannot serve to maintain multiple goods in a registration. Having distinguished particular goods in the registration, the Owner was obligated to furnish evidence with respect to each of the listed goods accordingly [per *John Labatt*; for a similar fact pattern, see *World Wrestling Entertainment Inc v Alex*, 2012 TMOB 120 at paras 11-13 (*Alex*)]. In this case, with respect to the items identified only as "vinyl" in the affidavit, I note that where use in association with a specific good could potentially support two goods in a registration, the more specific registration will be maintained over the more generalized [*Sharp Kabushiki Kaisha v 88766 Canada Inc* (1997), 72 CPR (3d) 195 (FCTD) at paras 14-16; *88766 Canada Inc v Freedom Scientific BLV Group, LLC*, 2019 TMOB 129 at paras 30-31; *DLA Piper (Canada) LLP v Huer Foods Inc*, 2019 TMOB 62 at para 19]. Accordingly, I find that this item corresponds most readily with the good "phonographic records". Similarly, I am satisfied that use of the Mark in association with baseball caps would suffice to maintain the registered good "baseball caps" but not "hats". With respect to the discs, while the Owner describes the disc goods pictured in Exhibit 2, including the "MIAMI SUNSET SESSIONS" discs, as CD-ROMs, I note that other CDs are listed in the invoices at a lower price point, indicating a different type of product. Accordingly, I find that these two types of disc products would serve as evidence of transfer of the registered goods "CD-ROMs" and "pre-recorded compact discs".

[16] The Requesting Party submits that there is insufficient evidence that there was notice of association between the Mark and the registered goods. However, I note that the Owner has confirmed that the invoices reflect sale of goods that "prominently" display the Mark, and has provided photographs of such goods displaying the Mark. Accordingly, I accept that the photographs reflect how such goods appeared during the relevant period [for a similar conclusion, see *Alex* at para 11]. Although I note that there is no photograph of the invoiced item "baseball caps" in evidence, I am satisfied that this item would also have displayed the Mark, based on the Owner's statement that the items listed in the invoices prominently displayed the Mark, and the fact that it is categorized as "GOTSOUL APPAREL" in the invoice.

[17] The Requesting Party further submits that there is insufficient evidence that the registered goods were transferred by the Owner. In this respect, the Requesting Party observes that“gotsoul” appears at the top of the invoices, rather than the name of the Owner or his trade name. However, as noted in the Owner’s written representations, the Owner clearly states in his affidavit that he issued the invoices and that they reflect sales by him. Accordingly, I accept that these invoices represent sales of the goods depicted in Exhibit 2. Further, given the invoices are addressed to buyers in “MONTREAL”, “QC”, and “QUEBEC”, I accept that they represent sales in Canada.

[18] Finally, the Requesting Party submits that there is evidence of minimal sales and only one sale for belts, which it submits would not constitute a sale in the normal course of trade. However, as noted in the Owner’s written representations, an owner is not required to demonstrate continuous use during the relevant period. Indeed, evidence of a single sale can be sufficient to establish use, so long as it follows the pattern of a genuine commercial transaction and is not seen as deliberately manufactured or contrived to protect the registration [see *Philip Morris Inc v Imperial Tobacco Ltd* (1987), 13 CPR (3d) 289 (FCTD) at para 12]. In this case, and for all of the goods specified in the invoices, they appear to follow the pattern of genuine commercial transactions, and there is nothing to suggest they were deliberately manufactured or contrived to protect the registration. Accordingly, I am satisfied that the sales were made in the normal course of trade.

[19] As such, given that the invoices show transfers in the normal course of trade in Canada during the relevant period, and given that the Mark was displayed on the goods themselves, I am satisfied that the Owner has demonstrated use of the Mark in association with CD-ROMs, pre-recorded compact discs, phonographic records, t-shirts, baseball caps, and belt buckles within the meaning of the Act.

[20] In the absence of evidence showing use of the Mark in association with the remaining goods within the meaning of the Act, and in the absence of special circumstances excusing non-use of these goods, the registration will be amended to delete these goods.

**The Registered Services**

[21] With respect to the registered services in general, the Requesting Party submits that the Owner has not provided sufficient evidence to explain the nature of the Owner's services, such as to whom the services are being provided, for whom the Owner was working, the number of shows he performs in a year, and the like. These submissions will be addressed in the course of my analysis below.

Services (1) and (2)

[22] As evidence of use of the Mark in association with services (1), "Entertainment in the form of a live musical performer, musical artist, disc jockey, musical band or musical group; Entertainment, namely, personal appearances by a musician, disc jockey, musical group or musical band; Entertainment in the form of visual and audio performances by a musical artist, disc jockey, musical group and musical band", and services (2), "Entertainment, namely, live music concerts", the Owner has attached screenshots from his website showing his public live performances as a DJ during the relevant period, including on the television program "BT Montreal", as well as advertisements on his website and third-party websites for "Gotsoul Sessions" performances. I note that the Owner has attested that the BT Montreal performance occurred during the relevant period, and further note that the Mark was prominently displayed on the cover of the laptop used by the Owner in the course of this performance. Similarly, I note that the Owner's evidence confirms that at least one "Gotsoul Sessions" performance occurred during the relevant period, and that the Mark was displayed in the course of the performance itself and promotion for the event. Accordingly, it is clear that the Owner displayed the Mark in the course of providing DJ performances during the relevant period [for similar conclusions, see *Henderson v Arbid*, 2011 TMOB 76 at para 11; *Fillmore Riley LLP v Autumn Song Inc. (DBA 'Autumn Studios')*, 2020 TMOB 71 at para 13].

[23] While the Requesting Party submits that there is insufficient evidence to determine the nature of these performances, including whether the hosts of the performance events are licensed users of the Mark, it is clear from the evidence that the concerts are DJ performances featuring the Owner himself. With respect to the Requesting Party's submission that it is unclear whether the Owner was paid for these services, the Owner submits, and I agree, that there is no

requirement in the Act that a service must be commercial in nature. Indeed, as noted by the Owner, a service does not need to be performed for money in order for it to be within the scope of subsection 4(2) of the Act; it is sufficient that the public receives a benefit from the service [*War Amputations of Canada/Amputés de Guerre du Canada v Faber-Castell Canada Inc* (1992), 41 CPR (3d) 557 (TMOB); see also *Imagine Intellectual Property Law v Alarmforce Industries Inc*, 2012 TMOB 144 at para 16]. In this case, it is clear from the evidence that the entertainment services are performed by the Owner for the benefit of the public.

[24] Moreover, unlike goods, the Registrar has previously held that "in certain cases, statements of services contain overlapping and redundant terms in the sense that the performance of one service would necessarily imply the performance of another" [*Gowling Lafleur Henderson LLP v Key Publishers Co*, 2010 TMOB 7 at para 15; see also *Provent Holdings Ltd v Star Island Entertainment, LLC*, 2014 TMOB 178 at para 22; *GMAX World Realty Inc v RE/MAX, LLC*, 2015 TMOB 148 at para 69]. In view of this principle, I find that the Owner's evidence of these performances supports use of the Mark in association with each of the services listed in services (1) and (2). While the Requesting Party submits in particular that there is no evidence of use in association with a "musical band" or "musical group", I note that some of these "Gotsoul Sessions" performances appear to have included or featured other musical artists in addition to the Owner. I am satisfied that a performance by multiple DJs or other musical artists could be considered a performance by a musical band or group, given that services are to be given a generous interpretation [*Aird & Berlis LLP v Virgin Enterprises Ltd* (2009), 78 CPR (4th) 306 (TMOB); *Société Nationale des Chemins de Fer Français SNCF v Venice Simplon-Orient-Express* (2000), 9 CPR (4th) 443 (FCTD)]. Accordingly, I am satisfied that the Owner used the Mark in association with the services (1) or (2) within the meaning of the Act.

Services (3)

[25] As evidence of use of the Mark in association with services (3), "Entertainment services, namely, producing and distributing musical audio and video recordings", the Owner provides screenshots from his Vimeo page and from the webpage *www.gotsoulrecords.com*, operated by the Owner, displaying audio and video music recordings. Although the Requesting Party submits that it is not clear that such services were performed for the benefit of others, I note that a

number of the videos on the Vimeo page appear to feature performances by the Owner along with other artists. In any event, it is sufficient that the Owner displays the Mark in association with producing and distributing his own musical audio and video recordings, so long as some members of the public receive a benefit from these activities through access to these recordings.

[26] In this respect, while the Owner has not clearly stated that these recordings were accessed by Canadians during the relevant period, I note that the Owner's Vimeo page screenshots show a number of videos that were posted during the relevant period, with "play" counts between eight and several hundred. As the Owner is a Canadian artist and the recordings include performances that occurred in Canada, and given the significant quantity of "plays" for several of the videos, I am prepared to infer that at least some of these "plays" represent access to the pages by Canadian users [for a similar conclusion, see *Thor Tech, Inc v Quantum Enterprises Incorporated*, 2020 TMOB 108 at para 53]. Given that the Owner has stated that he operates these pages, and that the pages and the recordings prominently display the Mark, I am satisfied that the Owner has demonstrated use of the Mark in association with the registered services "Entertainment services, namely, producing and distributing musical audio and video recordings" within the meaning of the Act.

Services (4)

[27] With respect to the services listed in services (4) other than the Conceded Services, namely, "Entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips and photographs; Entertainment services, namely, providing pre-recorded music, information in the field of music, commentary and articles about music via a global computer network; Record production," I would first note that the Owner does not correlate any of his evidence with "record production". It is unclear whether the Owner intended to concede that he had not used this service; however, in my view, the Owner has not provided any evidence of use of the Mark in association with this service other than evidence provided in support of other, more specific registered services, such as services (3).

[28] With respect to the remaining services, the only evidence which the Owner correlates with these services is Exhibits 10 and 11, which show that the domain *www.gotsoul.com* redirected users to the Owner's Facebook page. However, I am not satisfied that this evidence is

sufficient to demonstrate use of the Mark in association with any of services (4), as the Owner provides no evidence that he actually performed this service in Canada during the relevant period, *i.e.*, that any Canadians accessed the website or Facebook page. Similarly, the pages cannot be considered advertisement of any registered services in the absence of evidence that any Canadians accessed the page [see, for example, *Shift Law v Jefferies Group, Inc*, 2014 TMOB 277 at para 20; *Ridout & Maybee v Residential Income Fund LP*, 2015 TMOB 185 at paras 47-48]. In contrast to the Owner's Vimeo page, which included hundreds of video "plays", the Facebook page appears to have only two visitor posts during the relevant period, and none of the material posted on the page during the relevant period has more than two "likes". As such, there is insufficient evidence for me to infer that any of the material was accessed in Canada during the relevant period.

[29] However, as noted with respect to services (3), I am satisfied that Canadians accessed the Owner's Vimeo page, containing pre-recorded music, during the relevant period. Accordingly, I am satisfied that the Owner has demonstrated use of the Mark in association with "Entertainment services, namely, providing pre-recorded music […] via a global computer network" within the meaning of the Act.

[30] Because the Owner has not correlated any additional evidence with the remaining services listed in services (4), I am not satisfied that the Owner has demonstrated use of the Mark in association with these services within the meaning of the Act. As there are no special circumstances excusing non-use, the register will be amended accordingly.

DISPOSITION

[31] In view of all of the foregoing, pursuant to the authority delegated to me under section 63(3) of the Act and in compliance with the provisions of section 45 of the Act, the registration will be amended to delete "pre-recorded magnetic tapes, pre-recorded cassettes, […] and pre-recorded digital media", "compact discs, tape cassettes, audio cassettes, audio tapes, audio discs, records, […] video tapes, video cassettes, video discs, DVDs, DATs, and laser discs", "Electronic publications, namely, books, booklets, magazines, journals, manuals, brochures, leaflets, pamphlets and newsletters, all in the fields of music, disc jockeying and subject matters generally related to the entertainment industry recorded on CD-ROMs, diskettes,

floppy disks, video cassettes, and magnetic tapes", and "posters, […] wrist bands, sweaters, hats, […] lapel pins, novelty buttons, laptop covers and stickers" from the registered goods; and "Entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips and photographs", "information in the field of music, commentary and articles about music", and "Music production; Music publishing services; Audio recording and production; Recording studios; Record production; Record master production; Music composition and transcription for others; Song writing services" from services (4).

[32] The amended statement of goods and services will be as follows:

> GOODS
>
> Musical sound recordings, namely phonographic records and pre-recorded compact discs, all containing music; Audio-visual recordings, namely, CD-ROMs, all featuring music, disc jockeying and subject matters generally related to the entertainment industry; promotional items and wearing apparel namely T-shirts, belt buckles, baseball caps.
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> SERVICES
>
> (1) Entertainment in the form of a live musical performer, musical artist, disc jockey, musical band or musical group; Entertainment, namely, personal appearances by a musician, disc jockey, musical group or musical band; Entertainment in the form of visual and audio performances by a musical artist, disc jockey, musical group and musical band.
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> (2) Entertainment, namely, live music concerts.
>
> (3) Entertainment services, namely, producing and distributing musical audio and video recordings.
>
> (4) Entertainment services, namely, providing pre-recorded music via a global computer network.

G.M. Melchin
Hearing Officer
Trademarks Opposition Board
Canadian Intellectual Property Office

**TRADEMARKS OPPOSITION BOARD**
**CANADIAN INTELLECTUAL PROPERTY OFFICE**
**APPEARANCES AND AGENTS OF RECORD**

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**HEARING DATE** No Hearing Held

**AGENTS OF RECORD**

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|---|---|
| Accupro Trademark Services LLP | For the Registered Owner |
| Borden Ladner Gervais LLP | For the Requesting Party |