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THE REGISTRAR OF TRADEMARKS

**Citation: 2021 TMOB 165**

**Date of decision: 2021-01-28**

**[UNREVISED ENGLISH  
CERTIFIED TRANSLATION]**

**IN THE MATTER OF AN OPPOSITION**

**Distribution Jora Compost  
Canada Inc.**

**Opponent**

**and**

**Tom R. McKague**

**Applicant**

**1,805,996 for Jora Composter**

**Application**

INTRODUCTION

[1] Distribution Jora Compost Canada Inc. (the Opponent) opposes registration of the trademark Jora Composter (the Mark), which is the subject of application No. 1,805,996 by Tom R. McKague (the Applicant), based on the proposed use of the Mark in Canada in association with the following goods: “a tumbling composter, namely an 8 sided metal insulated container to hold and assist organic matter in its breakdown.”

[2] The Opponent objects to the application on various grounds, including that the Mark is confusing with the JORACAN trademark used in Canada by the Opponent in association with composters, and with its trade name Distribution Jora Compost Canada Inc.

[3] As my analysis will show, I find that the application ought to be refused.

#### THE RECORD

[4] The application for the Mark was filed on October 24, 2016, and advertised for opposition purposes on November 8, 2017.

[5] The statement of opposition was filed on December 20, 2017, under section 38 of the *Trademarks Act*, RSC 1985, c. T-13 (the Act). Numerous amendments to the Act came into force on June 17, 2019. The date for identifying which version of the Act applies to an opposition proceeding is the date on which the application being opposed was advertised. As the application was advertised prior to June 17, 2019, pursuant to section 70 of the Act, the grounds of opposition will be assessed based on the Act as it read on June 16, 2019, except with respect to the issue of confusion, which shall be assessed based on sections 6(2) to (4) as it currently reads.

[6] The grounds of opposition pleaded by the Opponent are as follows:

- This application does not meet the requirements set out in section 30(i) of the Act as the Applicant could not have been satisfied that he was entitled to use the Mark in Canada in association with the goods listed in the application because:

[TRANSLATION]

[...] the Mark is not registrable or distinctive and [the Applicant] is not the person entitled to registration. [The Applicant] is well aware of the prior use in Canada, since as early as December 2011, of the JORACAN mark by the Opponent in association with identical goods, namely composters. [The Applicant] sells a good in the United States identical to the one sold by the Opponent in Canada under the mark JORACAN, except that the [Applicant's] good is made in China while the Opponent's is made in Canada. In this very specific market, it is impossible for [the Applicant] to be unaware of the Opponent's existence in Canada, especially since [the Applicant's] business in the United States selling composters was acquired from a person with whom the Opponent had a business relationship concerning the sale of composters, Magnus Wesslen.

- The Applicant is not the person entitled to registration of the Mark in Canada under section 16(3) of the Act because, at the date of filing of the application:

[TRANSLATION]

[...] the Mark was confusing with the JORACAN mark previously used in Canada by the Opponent in association with composters (Application No. 1809612) since at least as early as December 2011. Moreover, at the same date, the Mark caused confusion with the Opponent's trade name, Distribution Jora Compost Canada Inc., registered on September 22, 2008, under the *Canada Business Corporations Act*, well before the date on which [this application] was filed.

- The Mark is not distinctive under section 2 of the Act because:

[TRANSLATION]

[...] the Mark does not actually distinguish the goods that [the Applicant] intends to manufacture or sell from the goods rendered or sold by the Opponent, nor is it adapted so to distinguish them.

[7] The Applicant filed a counter statement on March 2, 2018, denying each of the grounds of opposition argued by the Opponent.

[8] In support of its opposition, the Opponent filed a statutory declaration by its President, Jacques Charbonneau, dated June 28, 2018, and accompanied by related exhibits ("Appendices") A to S. Mr. Charbonneau was not cross-examined on his statutory declaration.

[9] The Applicant chose to not submit any evidence.

[10] Neither party submitted written representations nor requested a hearing.

#### THE BURDEN INCUMBENT ON THE PARTIES

[11] It is initially up to the Opponent to establish that its opposition is well-founded. The Opponent must ensure that each of its grounds for opposition is properly pleaded and that it meets the initial burden of proof by establishing the facts on which each of these grounds is based. Once this initial burden of proof has been met, it is incumbent upon the Applicant to establish, on a balance of probabilities, that none of these grounds for opposition preclude the registration of the Mark [*John Labatt Ltd v Molson Companies Ltd* (1990), 30 CPR (3d) 293 (FCTD); and *Dion Neckwear Ltd v Christian Dior, SA et al* (2002), 20 CPR (4th) 155 (FCA)].

ANALYSIS OF THE GROUNDS OF OPPOSITION

**Grounds of opposition based on non-entitlement to registration of the Mark under section 16(3) of the Act**

[12] As noted above, there are two such grounds. One is based on prior use of the JORACAN trademark by the Opponent (i.e., under section 16(3)(a) of the Act), and the other on prior use of the trade name Distribution Jora Compost Canada Inc. (i.e., under section 16(3)(c) of the Act). Although the Opponent also refers in its statement of opposition to an application for registration bearing No. 1809612, the statement of opposition cannot sustain a third ground based on section 16(3)(b) of the Act, as the Opponent's application was filed after the date of this application.

[13] In order to meet its initial evidential burden with respect to these grounds, the Opponent had to show that the trademark JORACAN or the trade name Distribution Jora Compost Canada Inc., as applicable, was used in Canada prior to the date on which this application was filed, on October 24, 2016, and that that trademark or trade name was not abandoned as of the date on which this application was advertised, on November 8, 2017 [section 16(5) of the Act].

[14] In this respect, section 17 of the Act states that no application for the registration of a trademark shall be refused on the ground of any previous use of a confusing trademark or trade name by a person other than the applicant or his predecessor in title, except at the instance of that other person or his predecessor in title. In other words, the Opponent can only rely on its own prior use, not prior use benefiting a third party.

[15] To determine the extent to which the Opponent has, in fact, met its initial evidential burden for each of the grounds of opposition argued under section 16(3) of the Act, I will first review the evidence on record. In this respect, I find that the specific facts of this case require a high degree of detail given the past commercial relationship between the Opponent and a foreign company and the impact of that relationship on the past use of both the trade name Distribution Jora Compost Canada Inc. and the trademark JORACAN.

The statutory declaration by Mr. Charbonneau

[16] As Mr. Charbonneau defines the Opponent as “Jora Distribution”, I will do the same in my review of certain parts of his statutory declaration.

[17] In the first part of his statutory declaration, Mr. Charbonneau discusses the sale of a composter in Canada that is designed and marketed by a Swedish company called Joraform AB (Joraform).

[18] Mr. Charbonneau states that the composter was reportedly designed by Joraform in about 1990 and that, in 2008, Ake Frissel and Mats Lanshed were respectively the owner and sales manager of Joraform [para 2].

[19] With respect to the Opponent in particular, Mr. Charbonneau stated the following:

[TRANSLATION]

3. In 2008, my associate Barbara Bruce contacted Mats Lanshed to find out if we could use “Jora Compost” as part of our trade name. With Mats Lanshed’s agreement, we incorporated Distribution Jora. In that respect, an agreement was reached between Joraform and Distribution Jora, a copy of which is attached hereto as Appendix A (the “Agreement”). An email from Mats Lanshed dated November 9, 2009, a copy of which is attached hereto as Appendix B, confirmed the relationship between Distribution Jora and Joraform.

[20] Mr. Charbonneau states that the Opponent was [TRANSLATION] “the first buyer and seller of Joraform composters in Quebec.” He added that, in 2012, Russ Chambers, who [TRANSLATION] “has his own company but works with Distribution Jora on the sale of our products,” was the Opponent’s first representative in Western Canada [para 4].

[21] Returning to the Agreement attached as Appendix A to Mr. Charbonneau’s statutory declaration, he explains that it was for three years, with options for renewal, and that, under its terms, [TRANSLATION] “Distribution Jora was an independent trader” [paras 5 and 6]. In reviewing the Agreement (from which I reproduce several clauses in Appendix “I” of my decision), I note that it indicates August 4, 2008, as the effective date and that “Jora Compost Distribution Canada Inc.” is identified as “Distributor” in Canada (defined as the “Territory”) for the JK5100 composter (defined as the “Product”) from Joraform (defined as the

“Manufacturer”). Although the Agreement contains various clauses referring to Joraform’s trademarks and/or trade names, I note that none of those trademarks or trade names are identified as such in the Agreement. That said, I understand from my review of the evidence as a whole that they include the trademark “JORA KOMPOST”, which also appears at the top of each page of the Agreement in a stylized form identical to what is found in the upper right corner of invoice Nos. 2011-004 and 2011-005, reproduced in Appendix “III” of my decision. I will come back to this Agreement and the invoices in question.

[22] Returning to Appendix B attached to Mr. Charbonneau’s statutory declaration, I note that it is a brief email exchange essentially attesting to the good agreement that existed at the time between Joraform and the Opponent, although the Opponent was not named as such. Indeed, as with all the other email exchanges produced by the Opponent in support of Mr. Charbonneau’s statutory declaration discussed below in my review of the evidence, the trade name Distribution Jora Compost Canada Inc. is never mentioned. Only the email address “joracompostcanada@sympatico.ca” is shown.

[23] Returning to Mr. Charbonneau’s statutory declaration, he explained that the Joraform composters were delivered to the Opponent from China and often had various problems (such as doors of the wrong size, unequally cut parts, problematic cable motors, etc.), and that the Opponent had to modify them accordingly [para 6]. Mr. Charbonneau attaches a sample of emails with Joraform concerning such problems as Appendix C of his statutory declaration.

[24] In reviewing that sampling, I note that it includes various email exchanges between Joraform and Mr. Charbonneau (or his associate, Barbara Bruce) during the period from May 5, 2011 to May 23, 2012, in which Mr. Charbonneau informs Joraform of the various problems encountered with certain models of Joraform composters, such as JK270 and JK400. Also included in Appendix C are two other email exchanges from January/February 2013 and February 2017, between Mr. Charbonneau and other people apparently unrelated to Joraform, discussing the JK5100 composter and the problems encountered with it, in the first case, and composter model NE 20T (mentioned below), in the second case.

[25] Mr. Charbonneau states that, in 2012, the Opponent [TRANSLATION] “inquired with Joraform about the cost of a licence to build the computer entirely in Canada.” Mr. Charbonneau

added that “Joraform wanted to continue [selling the Opponent] parts, as is seen in a copy of an email attached hereto as Appendix D” [para 7].

[26] In reviewing that exhibit, I note that it is an email exchange in which Joraform indeed seems to indicate that it is prepared to sell certain parts to the Opponent (although the Opponent is not named as such), on certain conditions, as follows:

The Joraform Board now had the meeting where we discussed a future production of JK5100 in Canada. We came to the following conclusion:

Joraform sell complete metal plate kit and you produce/buy the other parts like engines, control board with cables and electronic parts. And final assembly of course...!

This way, Jorafoam still have some control over how many units that is produced in Canada, and we still keep some profit on the machines. You benefit great on less cost for the material and less costs for transportation/unit. AND get machines approved for your particular market and later on also the U.S.

Let us know if this solution is interesting for you, then we calculate an offer incl our Royalties. We also need to look at a contract for liability, sales areas, warranties, confidentiality, etc.

[27] However, it is not clear what the result of that email exchange was. Mr. Charbonneau states that, in 2013, the Opponent [TRANSLATION] “was still selling Joraform composters”, adding that:

[TRANSLATION]

8 [...] However, given the changes that we had made to the Joraform composters at our own expense, we had asked that changes be made to the product so it would be better suited to Canadian weather conditions. Our request was refused. In addition, given the decline of the Canadian dollar, the cost of Joraform composters being sold to us in US dollars was continually increasing. As a result, [...] we decided to create a product that would better meet the needs of our Canadian customers. [...] We therefore notified Magnus Wesslen [at Joraform] of our decision, as is seen in a copy of our letter attached as Appendix E.

[28] However, on reviewing the letter in Appendix E, I note that it is not dated or signed. Moreover, although the Opponent states: “After considerable thought, we, at Distribution Jora Compost Canada, have decided to no longer represent Joraform in Canada. [...]”, it seems that the Opponent actually continued to sell Joraform composters until at least the end of 2014, as explained below.

[29] Mr. Charbonneau states that, in March 2014, the Opponent [TRANSLATION] “launched its redesigned product” and that it “finally controlled the quality of its composters, which were now manufactured in the Montréal area using materials made and recycled essentially in Canada.”

Mr. Charbonneau stated that [TRANSLATION] “the names of the composters are based on Canadian roads, such as the 401 [...], the 127[...] and the 271[...]”. Mr. Charbonneau also stated that:

[TRANSLATION]

9. [...] During that same period, we informed Joraform that we would no longer be doing business with them and that we would continue to use the term JORA or, more specifically, the JORACAN mark that we had been using since 2011 in association with our composters.

[30] However, I see no other details in the evidence concerning the notice that was reportedly sent to Joraform.

[31] Mr. Charbonneau further states the following in this respect:

[TRANSLATION]

10. At this time, Joraform is still aware of our use of the trade name Distribution Jora and the trademark JORACAN. I am attaching as Appendix F copies of two emails that we received from Magnus Wesslen, Director General of Joraform. In the first, dated September 15, 2015, Mr. Wesslen sent us an email that their South African company had received requesting information concerning a composter in the United States. Mr. Wesslen said he hoped that the email would result in sales for us. In the second, dated December 12, 2016, Mr. Wesslen said that he was still receiving requests for composters in Canada and the United States and wanted to know, if he continued recommending us, if we were still able to meet the need and, if so, Joraform could receive a commission. We are still considering that request.

11. As an independent trader for Joraform and with its consent and knowledge, we have used and continue to use the name Distribution Jora and the trade name JORACAN since 2008 and 2011, respectively.

[32] On reviewing the two emails in Appendix F, I note that they are addressed from Mr. Wesslen to Mr. Charbonneau and his associate (Barbara Bruce) at “joracompostcanada@sympatico.ca”. However, there is no express reference to the trade name Distribution Jora Compost Canada Inc. or the trademark JORACAN as such. More specifically, Mr. Wesslen wrote the following in his email dated December 12, 2016:



Do you still produce the JK5100?

We get every year some inquiries to supply mainly to the USA but also Canada.

What if we continue to recommend the interested customers to you, can we make a deal that you take care of these customers and we get a commission?

And in the email dated September 15, 2015:

Below is a lead for you sent to our South African company.

Perhaps this can generate sales for you.

[33] The “lead” in question apparently involved a composter for a school of more than 300 students.

[34] More specifically in relation to the mark JORACAN, Mr. Charbonneau attaches to his statutory declaration, as Appendix G, a copy of the details obtained from the Trademarks Database concerning application No. 1809612 (referred to earlier in his statutory declaration), filed by the Opponent on November 15, 2016, and based on the use of such a trademark in Canada in association with [TRANSLATION] “composters” since at least as early as December 2011. Mr. Charbonneau then defines the goods covered by that application as the [TRANSLATION] “Goods”. He also attaches, as Appendix H, [TRANSLATION] “a sample of a label of the [JORACAN mark] displayed on the Goods” [para 21]. I reproduce that sample in Appendix “II” of my decision and simply note at this stage that I find that statement by Mr. Charbonneau to be somewhat ambiguous when considering the evidence as a whole.

[35] Mr. Charbonneau states that [TRANSLATION] “the Goods have been sold in Quebec and Canada since December 2011.” He states that the goods were sold, among others, to the Jean Coutu Group, the Groupe Leclerc Architecture + Design, the Société des établissements de plein air du Québec (SEPAQ), school boards, éco-quartiers and many individuals, as seen in the copy of a sample of invoices attached to his statutory declaration as Appendix I.

Mr. Charbonneau states that [TRANSLATION] “the invoice numbers (e.g., JK 270, NE401, etc.) refer to models of our Goods, as they appear and have appeared on our website (see attached Appendix K)” [para 13]. As explained below, some of these statements appear to me to be inaccurate.

[36] First, Appendix K does not consist of printouts of the Opponent’s website but rather the Recyc-Québec website (discussed later). The printouts of the Opponent’s website are instead in Appendix J of Mr. Charbonneau’s statutory declaration. More specifically, Appendix J includes an old mock-up of the homepage of the Opponent’s website (*www.joracanada.ca*) dated January 15, 2009 (when the Opponent was a distributor for Joraform), reproduced in an email from a designer, and recent printouts of the Opponent’s website (*http://joracanada.ca*) marked “© Copyright 2015 Joracan (*//joracanada.ca/*)”.

[37] The old mock-up advertises the industrial “Jora Kompost JK 5100” composter, which is a Joraform good, not a composter from the Opponent. The mock-up also describes the Opponent as “the supplier of the most efficient industrial composting machine on the market today.” Although the mock-up also includes a reference to the Opponent’s trade name, I note that it is a mock-up (i.e., not necessarily having been online).

[38] The printouts of the website marked “© Copyright 2015 Joracan” show the JORACAN NE 20T, NE 401, NE 271 and NE 127 models of composters. However, there is no mention of the trade name Distribution Jora Compost Canada Inc. anywhere on the website printouts—the site instead refers to “Jora Canada” or “Joracan”. I will come back to this point later.

[39] Next, as I understand the evidence, all models of composters identified in the invoices in Appendix I with the initials “JK” followed by a number (namely JK270, JK125, JK400 and JK5100), i.e., invoices covering 2011 to 2014 inclusively, instead show the sale of Joraform composters, not the Opponent’s composters. The invoices include a reference to “JORA KOMPOST” in the top right corner and make no reference to the JORACAN mark. The only invoices in Appendix I related to the sale of the Opponent’s composters are those that refer to the composter models identified with the initials “NE” followed by a number (namely NE401, NE127, NE271) and are from 2015 to 2018. Those invoices include a reference to “Joracan” in the upper right corner, replacing “JORA KOMPOST”, as reproduced in the sample label in Appendix H of Mr. Charbonneau’s statutory declaration and in Appendix “II” of my decision.

[40] Moreover, with the exception of two invoices dated November 15 and December 22, 2010 (invoice Nos. 2011-004 and 2011-005, respectively), concerning the sale of Joraform JK125 and JK270 composters and containing contact information for Distribution Jora

Compost Canada Inc., the Opponent is not identified in any of the copies of invoices included in Appendix I of Mr. Charbonneau's statutory declaration. Although it is reasonable to believe that this is due to a photocopy error (incorrect page format selected), I am not prepared to infer that the Opponent's trade name, as seen on invoices 2011-004 and 2011-005 were still necessarily on the invoices for the sales of the NE 401, NE 271 and NE 127 composters, given the different appearance of those invoices. As examples, one invoice identifying the Opponent and two that do not identify it are included in Appendix "III" of my decision. I will come back to this point later.

[41] Returning to Mr. Charbonneau's statutory declaration, he explains that the [TRANSLATION] "Goods" are primarily sold online, at trade shows, and through personal contacts. He refers to the Opponent's website *www.joracanada.ca* (Appendix J, discussed above), [TRANSLATION] "detailing all the Goods and explaining how to install them" [para 14].

[42] Mr. Charbonneau adds that he is on the board of directors of the Canadian Association for Green Buildings in Montréal, and that the Opponent's [TRANSLATION] "Goods" are also listed on the Recyc-Québec website (Appendix K). On reviewing Appendix K, I note that Recyc-Québec provides, for information purposes only, [TRANSLATION] "some examples of on-site composting equipment used at the community or commercial level," including a photo of a composter with the following legend: [TRANSLATION] "closed JORACAN NE-20T composter – Small closed composter designed by JORA. Photo: Courtesy of JORA Canada."

[43] Mr. Charbonneau states that, to date, the Opponent has sold [TRANSLATION] "over 155 Goods to schools across Canada and more than 1,500 small composters." He states that the Opponent receives [TRANSLATION] "even weekly requests from other countries, including Mexico, South America and New Zealand," and that it forwards "all requests for JK5100 composters [that it receives] from outside Canada to Magnus Wesslen (see attached Appendix L) at Joraform, who forwards to us all requests that he receives from Canada" [para 15].

[44] On reviewing Appendix L, I note that it details an email exchange on June 5 and 6, 2018, concerning a composter request from Chile. Barbara Bruce (Mr. Charbonneau's associate) writes to Mr. Wesslen:

Hi Magnus,

We have had a request for a large composter like your JK5100 in Chile. We are not set up to ship outside Canada. Would you be interested in responding to this person? Do you have a dealer in Chile?

Please let me know and I will send the information.

I hope all is well with you.

Mr. Wesslen replies:

Hi Barbara,

Thank you for your e-mail.

Yes, everything is just fine, hope with you also.

Yes please send me contact information for Chile and we will take care of it.

[45] In the last part of his statutory declaration, Mr. Charbonneau discusses the Applicant.

[46] Mr. Charbonneau states that:

[TRANSLATION]

16. According to an email that we received from Magnus Wesslen on November 2, 2016, a copy of which is attached hereto as Appendix M, [the Applicant] acquired Composting Warehouse rights for the United States from the owner, Ake Frisell, in 2016. It then filed an application to register the trademark JORA COMPOSTERS in the United States on November 9, 2016, based on use in the United States since October 1, 2016. That mark was registered on June 20, 2017, as seen in the details obtained from the website of the United States Patent and Trademark Office, attached as Appendix N.

[47] On reviewing Appendix M, I note that Mr. Wesslen replied to an email from Mr. Charbonneau and his associate Barbara Bruce, who inquired about the sale of Joraform to the Applicant: “Hello Magnus, I hear that you have sold all of Joraform to Tom McKaig [sic]. We wish you all the best in your future endeavors.” Mr. Wesslen replied as follows: “This is not correct, it is former owner Ake Frisell who has sold his north american [sic] operation Composting Warehouse. [sic] I am still the owner of Joraform AB.”

[48] As well, on reviewing Appendix N, I note that the American registration was apparently not in the Applicant’s name but rather TM2701 LLC LIMITED LIABILITY COMPANY CALIFORNIA.

[49] Regardless, Mr. Charbonneau states the following:

[TRANSLATION]

17. [The Applicant] had contacted us concerning his use of the [JORACAN] mark and the sale of the Goods. We explained our relationship with Joraform. Emails followed in which [the Applicant] refuted our right to use our trade name and the [JORACAN mark], as seen in the copies of the emails, attached as Appendix P. In response to his comments, my legal counsel sent a cease and desist letter on November 14, 2016, a copy of which is attached as Appendix Q, reiterating our rights to the [JORACAN mark] and the fact that his proposed use of the [Mark] caused confusion with our [JORACAN mark].

18. [The Applicant] replied by email on November 18, 2017, claiming to be puzzled by our continued use of the [JORACAN mark] in Canada and asking on August 31, 2017, that we stop using the [Mark], as seen in the subsequent emails attached as Appendix R.

[50] This led to this opposition, subsequently filed by the Opponent.

[51] On reviewing Appendix P, I note that the Applicant wrote, in part:

I contacted Joraform AB and they have no record of any business sale or name sale to either Joracan or any individuals in Canada.

Can you check your records to see the name of the person you told me that sold you the name and business please so we can sort this out asap.

[...]

Please clarify your statement that you purchased the name and anything else.

I have spoken with every one I can think of and asked all of the current and previous owners if there is anyone else I should ask and came up empty. [...]

[52] The cease and desist letter in Appendix Q essentially states that the Opponent “has been distributing a tumbling composter under the brand name JORACAN for approximately 5 years” and that the proposed use of the Mark in Canada by the Applicant “will direct public attention to your goods in a way as to cause confusion with our client’s JORACAN composters.”

[53] With respect to the email chain in Appendix R, the Applicant writes in part:

Your request is puzzling. Jora Composters have been sold on a continual basis long before the 5 years you mentioned in the letter. Russ Chambers, who represented himself as a member of Joracan told that in an email that Joracan copied the product from the actual Jora Composters.

Jacques [Charbonneau] told me he purchased the name but when I asked from whom I didn’t get a response, I checked with all the previous and current owners and management and no one knows of any deal that was done between Jacques and Jora on a

name. They did buy composters as a dealer at one time and according to Russ [Chambers] that is what they copied.

[54] However, I note that, although the Applicant argues in the latter email that “Jora Composters have been sold on a continual basis long before the 5 years you mentioned in the [cease and desist letter dated November 14, 2016]”, this application for registration does not claim any use of the Mark by Joraform as a predecessor of the Applicant. Moreover, the Applicant’s statements concerning the information allegedly reported to him, as detailed in Appendices P and R, consist of hearsay.

[55] Finally, in the last paragraphs of his statutory declaration, Mr. Charbonneau states the following:

[TRANSLATION]

20. Since then, [the Applicant] has tried to benefit from our goodwill and take over our customers by indicating on his website (see attached Appendix S) that JORA COMPOSTERS is a registered trademark in Canada and the United States and that counterfeit JORA COMPOSTERS are being sold in Canada—both statements are false. See his application for registration in Canada (Appendix O) [the application being opposed], which is based on proposed use in Canada.

21. Indeed, the quality of our Goods is such that we receive emails and calls from people who have purchased composters under the mark JORA COMPOSTERS in Canada complaining about the lack of parts or information about installation, the foam lining, etc., as seen in the copies of emails attached as Appendix C. Unlike our Goods, which are manufactured in Canada, composters from JORA COMPOSTERS are manufactured in China.

22. With respect to the statement on [the Applicant’s] website (Appendix S) that Joraform is a Swedish parent company, we reiterate the statement in paragraph 10 that Joraform is aware of our existence and our activities and has been since 2008, without any objections.

[56] On reviewing Exhibit S, I note that it consists of printouts of the <https://www.joracomposters.com> website. However, there is no information concerning the entity operating the site or reference to the Applicant. The notice reads as follows:

C A CANADIAN BUYER BEWARE C A Jora Composters is a registered trademark in both Canada in [sic] the US. Counterfeit Jora Composters are being marketed & sold in Canada. See our Swedish parent company [www.joraform.com](http://www.joraform.com) (<http://www.joraform.com>) for info on authorized dealers worldwide.

Analysis of the initial evidential burden

*Distribution Jora Compost Canada Inc. trade name*

[57] As noted above, the Opponent had to demonstrate three things: use of the Distribution Jora Compost Canada Inc. trade name prior to October 24, 2016, non-abandonment of it as at November 8, 2017, and that such use was its own.

[58] There is no provision in the Act that defines or describes the “use” of a trade name. However, the issue was considered by the Federal Court in *Mr. Goodwrench Inc. v General Motors Corp* (1994), 55 CPR (3d) 508 (FCTD), in which Simpson J. stated:

There are no provisions in the Act which define and describe the use of a trade-name. However, in his decision in *Professional Publishing Associates Ltd. v. Toronto Parent Magazine Inc.* (1986), C.P.R. (3d) 207 (F.C.T.D.) at 217, Mr. Justice Strayer considered the problem and held that the principles in sections 2 and 4(1) of the Act apply to trade-name use. In this regard His Lordship said:

While there is no definition in the *Trade Marks Act* of “use” in relation to trade names, I am satisfied that consistent with the purposes of the Act such “use” would have to be in the normal course of trade and in relation to the class or classes of persons with whom such trade is to be conducted.

Accordingly, use in the normal course of trade will be the test applied in these reasons.

[59] Similarly, in *Northpaw Nutrition Inc v Corey Nutrition Company Inc*, 2020 TMOB 60, the Registrar considered whether the use of a trade name should be assessed in the same manner as the use of a trademark within the meaning of section 4(1) of the Act by requiring, for example, that a notice of association between a trade name and a good be given at the time of the transfer of the good, and concluded that this was not the case as follows:

32. As I understand it, the Applicant’s submissions suggest that the issue of whether there is “use” of the Opponent’s Trade Names is to be assessed just as one would approach an assessment of trademark use within the meaning of the Act – for example, requiring notice of association of the Trade Names at the time of transfer of the Opponent’s goods.

33. In A. Kelly Gill, *Fox on Canadian Law of Trade-Marks and Unfair Competition*, 4th ed, (Toronto: Thomson Reuters Canada, 2002), ch 14.2(a) (WL Can), the following is noted with respect to trade names:

Trade names are terms or symbols used to distinguish and identify corporations, partnerships, businesses or individuals and the accompanying good-will. Trade names do not identify nor distinguish

goods or services. The *Trade-marks Act* defines a “trade name” as “the name under which any business is carried on, whether or not it is the name of a corporation, a partnership or an individual.” Trade names so defined cannot be registered under the *Trade-marks Act*. [Emphasis added]

The difference between the use of a trademark and that of a trade name can also be observed in section 6(3) of the Act, which states “the use of a trademark causes confusion with a trade name if the use of both the trademark and the trade name in the same area would be likely to lead to the inference that the goods and services associated with the trademark and those associated with the business carried on under the trade name business carried on under the trade name are manufactured, sold, leased, hired or performed by the same person...” [emphasis added]

35. As such, the requirement for a notice of association to be made between a trademark and a good at the time of transfer does not appear to be applicable in the context of a trade name. Following the approach of the court in *Mr. Goodwrench, supra*, I will assess whether the Opponent carries on a business that manufactures and distributes pet food and pet products under one or more of the Trade Names such that it identifies the business in the normal course of trade, and in relation to the class/classes of persons which whom such trade is to be conducted.

[60] In the case at hand, apart from invoice Nos. 2011-004 and 2011-005, both of which identify the Opponent, dated November 15 and December 22, 2010, respectively, I see no evidence of use of the Opponent’s trade name in the normal course of trade.

[61] That said, the fact remains that the Opponent’s trade name appears on at least those two invoices, as seen in Appendix “III” of my decision. Such use is sufficient under section 16 of the Act, which does not require that an opponent establish a certain level of use or reputation [on this matter, see by analogy *Olive Me Inc, et al v 1887150 Ontario Inc*, 2020 TMOB 26; and *7666705 Canada Inc v 9301-7671 Québec Inc*, 2015 TMOB 150]. Moreover, in the specific circumstances of this case, I find it reasonable to infer that all invoices dated from 2011 to 2014 for the sale of Joraform composters by the Opponent identified the Opponent as on invoice Nos. 2011-004 and 2011-005, given the identical appearance of the visible portions of the invoices. As noted above, there is reason to believe that there was an error in the selection of the page format when these invoices were photocopied.

[62] However, I am not prepared to infer that the Opponent’s trade name, as seen on invoice Nos. 2011-004 and 2011-005 were still necessarily on the invoices dated from 2015 to 2018 for the sales of the Opponent’s NE 401, NE 271 and NE 127 composters. Indeed, as noted above, the appearance of the invoices for the sale of those composters differs from that of the invoices



for the sale of Joraform composters. In the top right corner, they now read “Joracan” rather than “JORA KOMPOST”. As well, the photographs of composters in the upper left and lower right corners of the logo on these invoices differ from those on the “JORA KOMPOST” invoices. Bearing in mind that the printouts of the Opponent’s website in Appendix J of Mr. Charbonneau’s statutory declaration make no reference to the trade name Distribution Jora Compost Canada Inc. but rather to “Joracan” or “Jora Canada”, I find that the possibility cannot be excluded that it is the same for invoices beginning in 2015 (although I am not prepared to necessarily conclude that it could be a different legal entity, as the GST and QST numbers visible on some of the invoices remain the same).

[63] Regardless, although this last “block” of invoices leads me to conclude that there may have been a period in which the trade name Distribution Jora Compost Canada Inc. was not used in association with the sale of composters since 2015, I find that the circumstances of this case do not allow me to necessarily conclude that the Opponent had abandoned, let alone intended to abandon, such a trade name at the date of advertisement of this application on November 8, 2017 [see *Iwasaki Electric Co Ltd v Hortilux Schreder B.V.*, 2012 FCA 321, for the general principles governing the concept of abandonment]. Indeed, both the application for trademark registration for the Opponent’s JORACAN mark filed on November 15, 2016, and its cease and desist letter to the Applicant dated November 14, 2016 (Appendices G and Q of Mr. Charbonneau’s statutory declaration) are in the name of Distribution Jora Compost Canada Inc., not to mention this opposition proceeding.

[64] This brings me to the last of the three conditions, namely whether the use of the trade name Distribution Jora Compost Canada Inc. was specific to the Opponent and did not benefit Joraform.

[65] Although it is generally established in jurisprudence that a Canadian distributor cannot appropriate a foreign owner’s trademark to the detriment of the foreign owner [see, for example, *Manhattan Industries Inc v Princeton Manufacturing Ltd*, [1971] 4 CPR (2d) 6 (FCTD); *Fennessy v Verb Investments Inc* [1993] 50 CPR (3d) 477 (FCTD); *White Consolidated Industries, Inc v Beam of Canada Inc* [1991] 39 CPR (3d) 94 (FCTD)], I am not prepared to conclude in this case that there has been an appropriation unauthorized by Joraform.

[66] First, with respect to the Opponent's trade name, this case differs from the use in Canada of a foreign owner's trademark appearing on its products sold by a Canadian distributor or retailer. In the latter case, there is a principle that such use of a trademark in association with the foreign owner's goods constitutes "use" within the meaning of section 4 of the Act by the foreign owner, not the Canadian distributor or retailer. The Canadian distributor or retailer is simply an intermediary in the chain of transactions between the foreign owner and the consumer [*Manhattan, supra*]. A licence from the owner of the trademark is not needed to do so [see *A & A Jewellers Ltd. v Malcom Johnston & Associates* (2000), 8 CPR (4th) 56 (FCTD)].

[67] Second, I find that the evidence on record does not allow for an informed determination of the nature of the agreement between the Opponent and Joraform concerning the use of "Jora Compost" as part of the Opponent's trade name. While some clauses of the Agreement concerning the Opponent's fiduciary duties to Joraform and its obligation to keep Joraform informed of its activities in Canada may suggest that there is an implicit licensing contract, the agreement also describes the Opponent (expressly listed as "Jora Compost Distribution Canada Inc.") as an independent trader acting on its own behalf, both with Joraform and consumers ("The Distributor shall buy and sell in his own name and for his own account. The Distributor shall act as an independent trader towards both the Manufacturer as well as the customers. The Distributor shall effectively promote the sale of the Product in the Territory, without being authorized to act in any way in the name of the Manufacturer and of the Equipment"). The content of some of the email exchanges in Appendix C of Mr. Charbonneau's statutory declaration seem to be consistent with the latter sense, such as the following examples.

- Email from Mr. Charbonneau to Mr. Lanshed on April 29, 2011, in which he writes:

"...we are shipping YOUR machine with OUR REPUTATION across Canada. We have been in business in this country for over 25 years and you will, as a business owner yourself, understand that we (YOU AND US) can not sell or market a product that has any flaws in the manufacturing. You need to fix your quality control in China. ...It is affecting both of our reputations"

- Email from Mr. Charbonneau to Mr. Lanshed on May 5, 2011, in which he writes:

“...here is another problem of missing parts. ... We have worked extremely hard to build up our business in Canada and these problems are jeopardizing our reputation and business...”

[68] This is especially true as it is not clear from the evidence on record as a whole that Joraform in fact had direct or indirect control over the use of the Opponent’s use of the trade name “Distribution Jora Compost Canada Inc.” in operating its business during the term of the Agreement to the extent that such use would benefit Joraform. In this respect, it is also not clear that Joraform’s consent to the use of “Jora Compost” as part of the Opponent’s trade name was in fact withdrawn by Joraform following the termination of the Agreement.

[69] In my view, the evidence on record on this issue is piecemeal and unclear. Considering in particular the content of the emails included in Appendices F and L of Mr. Charbonneau’s statutory declaration, I find that it is unclear that Joraform did not tolerate the continued use of the Opponent’s trade name without objection after the Agreement was terminated, as Joraform continued to interact with the Opponent and was at least aware that the Opponent continued to be in business and to use the email address “joracompostcanada@sympatico.ca”. It should be recalled that Mr. Charbonneau was not cross-examined on his version of the facts and that the Applicant did not submit any evidence or written representations. Under the circumstances, I find that I do not have jurisdiction to decide this issue, which should be decided by a competent court following a full hearing.

[70] In light of the above, I find that I do not have jurisdiction to prevent the Opponent from citing its past use and non-abandonment of its trade name Distribution Jora Compost Canada Inc. under section 16(3)(c) of the Act [see by analogy *Sunbeam Products Inc. v Mister Coffee & Services Inc.* (2001) 16 CPR (4th) 53 (FCTD)]. I therefore find that the Opponent has met its initial evidential burden with respect to this ground of opposition.

#### *JORACAN trademark*

[71] As noted above, the Opponent had to demonstrate three things: use of the JORACAN trademark prior to October 24, 2016, non-abandonment of it as at November 8, 2017, and that such use was its own.

[72] Under section 4(1) of the Act:

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.

[73] In the case at hand, although Mr. Charbonneau states at various times in his statutory declaration that the Opponent has used the JORACAN trademark in association with [TRANSLATION] “the Goods” since 2011 and attaches as Appendix H of his statutory declaration [TRANSLATION] “a sample of a label of the [JORACAN mark] displayed on the Goods”, I am not prepared to find that use of the JORACAN trademark has in fact been demonstrated in association with composters since 2011. Considering the evidence as a whole, I instead find that such use has only been shown beginning in 2015, when the Opponent’s invoices ceased to bear the mark JORA KOMPOST and to refer to Joraform’s “JK” composters, and instead began to bear the mark JORACAN (as shown on the sample of the label) and to refer to the Opponent’s “NE” composters. Since those invoices cover the years from 2015 to 2018, I find that non-abandonment of the JORACAN trademark as at November 8, 2017, has also been demonstrated.

[74] With respect to the third condition, I find, here again, that I do not have the jurisdiction to prevent the Opponent from claiming its own past use or non-abandonment of the JORACAN trademark under section 16(3)(a) of the Act.

[75] Although I have serious doubts concerning the legality of the Opponent’s use of the JORACAN trademark in association with its own line of “NE” composters under the provisions of the Agreement, I am not necessarily prepared to discredit Mr. Charbonneau’s testimony that the Opponent used and still continues to use the JORACAN trademark on its own behalf with the consent and knowledge of Joraform. I would add that I have no information concerning the circumstances surrounding the Opponent’s adoption of the JORACAN trademark in 2011. Also, with no cross-examination or evidence from the Applicant to discredit Mr. Charbonneau, I find that I do not have jurisdiction to decide this issue, which should be decided by a competent court following a full hearing.

[76] I therefore find that the Opponent has met its initial evidential burden with respect to this ground of opposition.

Assessment of the likelihood of confusion

*For the Distribution Jora Compost Canada Inc. trade name*

[77] The test for confusion is one of first impression and imperfect recollection. As noted in *Northpaw Nutrition, supra*, according to section 6(3) of the Act, use of a trademark causes confusion with a trade name if the use of both the trademark and trade name in the same area would be likely to lead to the inference that the goods or services associated with the trademark and those associated with the business carried on under the trade name are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class or appear in the same class of the Nice Classification.

[78] In determining whether trademarks or trade names cause confusion, the Registrar must consider all the circumstances of the case, including those set forth in section 6(5) of the Act, namely: (a) the inherent distinctiveness of the trademarks and trade names and the extent to which they have become known; (b) the length of time each has been in use; (c) the nature of the goods, services or business; (d) the nature of the trade; and (e) the degree of resemblance between the trademarks or trade names in appearance or sound or in the ideas they suggested. That list is not comprehensive and each of these factors can be assigned a different weight depending on the context (see *Mattel, Inc v 3894207 Canada Inc* (2006), 2006 SCC 22, 49 CPR (4th) 321; *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée et al* (2006), 2006 SCC 23, 49 CPR (4th) 401; and *Masterpiece Inc v Alavida Lifestyles Inc* (2011), 2011 SCC 27, 92 CPR (4th) 361, for a more in-depth analysis of the general principles that govern the test for confusion].

[79] In the case at hand, I do not feel that I need to discuss each of these factors at length to find that there is a likelihood of confusion between the Mark and the Opponent's trade name.

[80] Indeed, each of these factors favours the Opponent. The type of goods, services or businesses and the nature of the trade are the same. There is no evidence of use of the Mark by the Applicant, while the Opponent has demonstrated that it used its trade name at least on some of its invoices. Finally, the Mark and the Opponent's trade name are strikingly similar in that

they both share the same dominant and unique element, namely the “JORA” element, associated with one or more other clearly descriptive words in the context of the parties’ goods and businesses.

[81] Accordingly, the ground of opposition based on section 16(3)(c) of the Act is successful.

*Concerning the JORACAN trademark*

[82] Similarly, under section 6(2) of the Act, the use of a trademark causes confusion with another trademark if the use of both trademarks in the same area would be likely to lead to the inference that the goods or services associated with those trademarks are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class or appear in the same class of the Nice Classification.

[83] Here again, I do not feel that I need to discuss each of these factors at length to find that there is a likelihood of confusion between the Mark and the Opponent’s JORACAN trademark.

[84] Indeed, each of these factors favours the Opponent. The type of goods, services or businesses and the nature of the trade are the same. There is no evidence of use of the Mark by the Applicant, while the Opponent has demonstrated that it has used its JORACAN trademark since at least 2015. Finally, the Mark and the JORACAN trademark are substantially similar in that they both share the same dominant and unique element, namely the “JORA” element, appearing in the first part of each.

[85] Accordingly, the ground of opposition based on section 16(3)(a) of the Act is successful.

**Ground of opposition based on non-distinctiveness under section 2 of the Act**

[86] As noted above, this ground alleges that the Mark does not actually distinguish the Applicant’s goods covered by this application from the [TRANSLATION] “goods rendered or sold by the Opponent”.

[87] Contrary to the non-entitlement grounds of opposition, the Opponent is permitted to rely on third party uses of confusingly similar trademarks or trade names in support of its non-distinctiveness ground of opposition. That said, on reading the statement of opposition as a

whole, I find that this ground of opposition must be understood as referring to the Opponent's goods marketed in association with the JORACAN trademark. Indeed, I find that this could not be the Joraform composters marketed in association with the JORA KOMPOST mark sold by the Opponent as a distributor of Joraform since neither the trademark JORA KOMPOST, nor Joraform have expressly been referred to in the Opponent's statement of opposition.

[88] To meet its initial evidential burden with respect to this ground of opposition, the Opponent had to demonstrate that the JORACAN trademark was sufficiently known at the date on which the statement of opposition was filed, on December 20, 2017, to negate the distinctiveness of the Mark [*Motel 6, Inc v No. 6 Motel Ltd* (1981), 56 CPR (2d) 44 (FCTD); and *Bojangles' International, LLC v Bojangles Café Ltd*, 2006 FC 657, 48 CPR (4th) 427 (FC)].

[89] In the case at hand, although I concluded that there was prior use of the JORACAN mark by the Opponent and that it had not been abandoned at the relevant dates for the assessment of the ground of opposition based on section 16(3)(a) of the Act, I do not find that the evidence on record allows me to conclude that, at the relevant date for the assessment of this ground of opposition, the JORACAN mark had become known at least enough to negate the distinctiveness of the Mark.

[90] Indeed, although Mr. Charbonneau states that, to date, the Opponent has sold [TRANSLATION] "over 155 Goods to schools across Canada and more than 1,500 small composters", I find that statement to be too vague. Mr. Charbonneau does not break down those sales by year, nor does he state which of the composters are JORA KOMPOST composters from Joraform and which are the Opponent's own "NE" composters. As explained above, I am not satisfied from my review of the evidence as a whole that the Opponent has shown use of the JORACAN trademark in association with the JORA KOMPOST composters from Joraform as a distributor for Joraform. As I cannot break down the figures provided by Mr. Charbonneau, I find that I cannot assess the extent to which the JORACAN trademark had become known in Canada in association with the Opponent's "NE" composters at the relevant date for assessment of this ground of opposition.

[91] Accordingly, I find that the Opponent has not discharged its initial evidential burden with respect to this ground and it is dismissed.

### **Ground of opposition based on section 30(i) of the Act**

[92] As noted above, this ground, as argued, seems to have four parts, alleging that (i) the Mark is not registrable; (ii) the Mark is not distinctive; (iii) the Applicant is not the person entitled to registration of the Mark; and (iv) the Applicant could not be unaware of the existence of the Opponent's JORACAN mark.

[93] I find that the first three parts are not valid grounds of opposition under section 30(i) of the Act and instead fall respectively under section 12 of the Act (not pleaded by the Opponent), section 16(3)(a) of the Act (discussed above) and section 2 of the Act (discussed above).

[94] With respect to the fourth part, it is not clear whether the Opponent is arguing the Applicant's mere knowledge of the JORACAN mark or his bad faith. Regardless, I find that this ground of opposition must be dismissed for the following reasons.

[95] The mere fact that the Applicant may have been aware of the existence of the Opponent's JORACAN trademark does not prevent him, in his application, from making the statement required under section 30(i) of the Act. Section 30(i) simply requires that the Applicant provide a statement that he is satisfied that he is entitled to use the Mark in Canada with the goods described in his application. The Applicant complied with the requirements of that provision. Moreover, it is well established in jurisprudence that a ground of opposition based on 30(i) should only be retained in exceptional cases, particularly when bad faith on the part of the applicant is established [*Sapodilla Co. Ltd v Bristol-Myers Co* (1974), 15 CPR (2d) 152 (TMOB)]. However, there is no evidence that the Applicant acted in bad faith in this case.

### DISPOSITION

[96] Pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the application pursuant to section 38(12) of the Act.



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Annie Robitaille  
Member  
Trademarks Opposition Board  
Canadian Intellectual Property Office

Certified Translation  
Gerald Woodard

APPENDIX “I”

**AGREEMENT**

[...]

The Distributor shall buy and sell in his own name and for his own account. The Distributor shall act as an independent trader towards both the Manufacturer as well as the customers.

The Distributor shall effectively promote the sale of the Product in the Territory, without being authorized to act in any way in the name of the Manufacturer and of the Equipment.

The Distributor shall safeguard the interests of the Manufacturer with the due diligence of a responsible businessman and shall always keep the Manufacturer informed of his activities as well as of the market conditions within the Territory. All inquiries made to or received by the Manufacturer from the said Territory or concerning the said territory shall be passed to the Distributor within a reasonable time frame.

The Distributor should set his resale prices free, but in supervision with Joraform AB.

The Distributor shall sell the Product with the trademark and appearance prescribed by the Manufacturer. This may also include the distributor’s own name plate.

[...]

The Distributor shall advertise the Product within the Territory, as deemed necessary by the distributor. The costs of the publicity shall be borne by the Distributor.

The Distributor shall inform the Manufacturer in good time of any planned participation in fairs and exhibitions.

The Distributor shall not manufacture, assist in any way in manufacturing or distribute products, which competes with the Product.

[...]

Both business parties acknowledge that this Agreement creates a relationship of confidence and trust between Distributor and Manufacturer with respect to the business of both parties. This includes, but is not limited to parties’ secret processes, trade secrets; customer lists, pricing methods, technologies, inventions, computer software and know-how, collectively called Confidential Information.

Therefore, each party will hold all Confidential Information disclosed to it under this Agreement in strictest confidence and will protect it as if it were the property of that party for the duration of this Agreement and for five years thereafter.

The Distributor shall use the Manufacturers [sic] trademarks, trade names or any other symbols, but only for the purpose of identifying and advertising the Product, within the scope of the Agreement and in the Manufacturers [sic] sole interest.

The Distributor shall neither register, nor have registered, any of the above-mentioned trademarks, trade names or symbols of the Manufacturer (or which are similar to those of the Manufacturer), in the Territory or elsewhere.

The right to use the Manufacturers [sic] trademarks, trade names or symbols, shall cease immediately for the Distributor on the expiration or termination for any reason of the present Agreement.

[...]

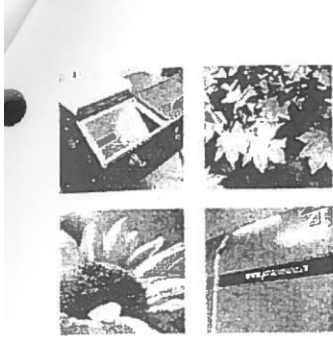
APPENDIX "II"



**Joracan**

[www.joracanada.ca](http://www.joracanada.ca)

APPENDIX "III"



*Office Copy*  
**JORA**  
**KOMPOST**

FACTURE/INVOICE : 2011-004  
 DATE : 15 nov 2010

À ..

Pour :

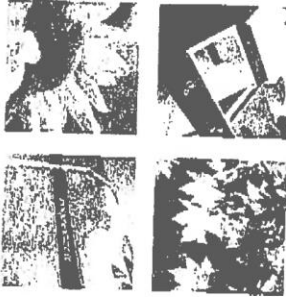
Baie d'Urfe, Qc  
 H9X 2K4

QTÉ	DESCRIPTION	PRIX	TOTAL
1	JK125 Composter	\$310.00	\$310.00
1	Transport	\$50.00	\$0.00
1	Installation	\$50.00	\$0.00
1	GST/TPS 5%	\$15.50	\$15.50
1	PST/TVP 7.5%	\$24.41	\$24.41
<b>TOTAL</b>			<b>\$349.91</b>

*Paie  
 ✓  
 Cash  
 \$349.91*

Signe: \_\_\_\_\_ Date: \_\_\_\_\_

**DISTRIBUTION JORA COMPOST CANADA INC.**  
 625 rue de Laroche, Mont-Saint-Hilaire, Québec J3H 5A9  
 tel (514) 710-5672 joracompostcanada@sympatico.ca www.joracanada.ca



# JORA KOMPOST

FACTURE/INVOICE : 2015-027

65 Grace Street  
ON M4T 1G5

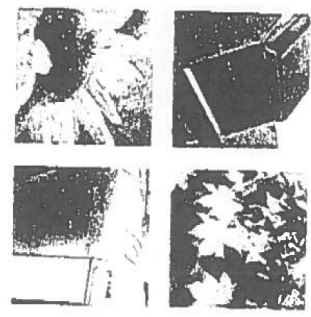
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

QTE	DESCRIPTION	PRX	TOTAL
1	Composteur 270 Transport	\$429.00	\$377.52 \$105.00
1	HST 13%		\$62.73

*paid  
7/10/15  
7/10/15*

TPS #842464497R10001  
 TVQ #1214617427TQ0001

# Joracem



FACTURE: #2016-004  
 DATE: 2015/10/09

H8S 2B5  
 A/c  
 T

QTE	DESCRIPTION	PRIX	TOTAL
1	NE 401 composteur		689,00\$
1	Transport		175,00\$
1	Installation		50,00\$
	Total		\$914,00
1	TPS 5%		45,70\$
1	TVQ 9,975%		91,17\$
	TPS #942464497RT0001		
	TVQ #1214617427TC0001		

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

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**No Hearing Held**

**AGENTS OF RECORD**

Spiegel Sohmer Inc.

FOR THE OPPONENT

Smart & Biggar LLP

FOR THE APPLICANT