



Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2022 TMOB 233

Date of Decision: 2022-11-29

IN THE MATTER OF A SECTION 45 PROCEEDING

Requesting Party: Montréal Production Inc.

Registered Owner: H-D U.S.A., LLC

Registration: TMA649,923 for HARLEY-DAVIDSON

INTRODUCTION

[1] This is a decision involving a summary expungement proceeding with respect to registration No. TMA649,923 for the trademark HARLEY-DAVIDSON (the Trademark).

[2] The Trademark is registered for use in association with various goods and with the service “repair and servicing of motorcycles”. The registered goods include motorcycles, various types of motorcycle parts and accessories, as well as other miscellaneous goods. The complete statement of goods and services is attached as Schedule A.

[3] For the reasons that follow, I conclude that the registration ought to be amended.

THE RECORD

[4] At the request of Montréal Production Inc. (the Requesting Party), the Registrar of Trademarks issued a notice pursuant to section 45 of the *Trademarks Act*, RSC 1985, c T-13 (the Act) to H-D U.S.A., LLC (the Owner).

[5] The notice required the Owner to show whether the Trademark was 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 the Trademark was last in use and the reason for the absence of such use since that date. Where the Owner has not shown use, the registration is liable to be expunged or amended, unless there are special circumstances that excuse the absence of use.

[6] As the notice was sent to the Owner on July 7, 2020, the relevant period for showing use in this case is between July 7, 2017 and July 7, 2020.

[7] The relevant definitions of “use” 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.

4(2) A trademark is deemed to be used in association with services if it is used or displayed in the performance or advertising of those services.

[8] It is well established that the purpose and scope of section 45 of the Act is to provide a simple, summary, and expeditious procedure for removing “deadwood” from the register. The evidence in a section 45 proceeding need not be perfect; indeed, a registered owner need only establish a *prima facie* case of use within the meaning of sections 4 and 45 of the Act. This burden of proof is light; evidence must only supply facts from which a conclusion of use may follow as a logical inference [per *Diamant Elinor Inc v 88766 Canada Inc*, 2010 FC 1184 at para 9].

[9] In response to the Registrar's notice, the Owner submitted the declaration of Adraea Brown, Vice President and Assistant General Counsel for the Owner, solemnly declared on February 8, 2021, together with Exhibits AB-1 to AB-7.

[10] Both parties filed written representations, but only the Owner was represented at an oral hearing. In this respect, while the Requesting Party was scheduled to make representations, the Registrar received an email from the Requesting Party the morning of the hearing indicating that it was unable to attend the hearing due to an emergency. However, as the Requesting Party did not explain the nature of its emergency and neither explicitly requested a rescheduling of the hearing nor attempted to obtain the Owner's consent to any such rescheduling, the hearing proceeded as scheduled [*per the practice notice Practice in section 45 proceedings*].

[11] The hearing in this proceeding was held concurrently with the hearings in summary expungement proceedings with respect to registration Nos. TMA294,796, TMA574,523, TMA665,193, TMA669,509, TMA671,782, TMA701,942, and TMA975,878, for various other HARLEY-formative trademarks. Separate decisions will issue for those registrations.

SUMMARY OF THE EVIDENCE

[12] According to Ms. Brown, the Owner's main activity is the manufacture and sale of motorcycles, and the Owner's activities also extend to a "vast area of products and services ancillary to motorcycling such as clothing, jewelry, finance and insurances, touring and servicing."

[13] With respect to licensees, Ms. Brown states that the Owner markets its products and services in Canada under the Trademark either directly or through licensees and distributors. She attests that, during the relevant period, the Owner exercised direct or indirect control over the character or quality of the registered goods and services associated with the Trademark. Ms. Brown specifically identifies Harley-Davidson Motor Company and Harley-Davidson Canada LP as the Owner's licensees.

[14] Ms. Brown defines the registered services as “the Services” and asserts that such services were offered and rendered in Canada during the relevant period, and that the Trademark was displayed in their performance and advertising. In support, she attaches webpage screenshots from websites operated by various Harley-Davidson dealers in Canada [Exhibit AB-2]. Ms. Brown states that these webpages “come from websites operated by [the Owner’s] licensees and were accessible and accessed in Canada during the Relevant Period”.

[15] The webpages promote the dealers’ service departments and their “qualified factory-trained technicians”. The webpages offer services such as oil changes, tire installations, and suspension and brake inspections. They also provide links and forms to request service appointments.

[16] The Trademark is displayed on the exhibited webpages as part of names of the dealer locations, such as “Calgary Harley-Davidson®” and “Harley-Davidson® Montreal”, as well as part of the design mark reproduced below (the Cycles Logo):



[17] With respect to goods, Ms. Brown characterizes the registered goods as “motorcycles” and “motorcycle parts (as more fully described in [the] registration)”. She defines those goods as “the Goods” and asserts that, during the relevant period, the Trademark was associated with the Goods at the time of their transfer, and that “at least one unit” of each of the Goods bearing the Trademark was sold in Canada in the normal course of trade.

[18] As evidence of transfers, Ms. Brown attaches invoices which she describes as representative of sales of motorcycles and motorcycle parts [Exhibits AB-6 and AB-7, respectively]. Ms. Brown attests that the exhibited invoices accompanied “the goods referred to therein when delivered in Canada”.

[19] All of the invoices display the design mark reproduced below (the Company Logo), which is similar to the Cycles Logo albeit with the word COMPANY replacing the word CYCLES:



[20] The Exhibit AB-6 invoices evidence sales of motorcycles between Harley-Davidson Motor Company and Harley-Davidson Canada LP, including during the relevant period. The exhibited invoices also evidence the sale of those motorcycles by Harley-Davidson Canada LP to dealers in Canada.

[21] The Exhibit AB-7 invoices evidence sales of motorcycle parts by Harley-Davidson Motor Company to dealers in Canada, including during the relevant period. I note that Exhibit AB-7 also includes what appears to be excerpts from internal reports showing sales to dealers. The excerpts are truncated and seemingly disordered; without any reference to them in Ms. Brown's declaration, their significance is unclear. I note that the Trademark is displayed, but only as part of the dealers' names; it is not associated with any goods referenced in the reports.

[22] With respect to total sales, Ms. Brown attests that, in 2018 and in 2019, over 8,000 motorcycles bearing the Trademark were sold in Canada. Ms. Brown also provides yearly sales figures for "motorcycle parts constituting the Goods" bearing the Trademark, totaling over \$200 million over the course of the relevant period.

[23] As for the types of goods offered for sale, Ms. Brown attaches a catalogue to which she refers as Harley-Davidson Motor Company's "2020 Big Book" [Exhibit AB-4]. Ms. Brown states that the exhibited catalogue "was used during the Relevant Period to indicate the parts and accessories available and was also used to select and order those motorcycle parts in Canada."

[24] The almost 900-page catalogue depicts and describes a wide variety of motorcycle parts. The table of contents lists, for example, windshields, seating, backrests and racks, foot controls, hand controls, engine guards, chassis trim, auxiliary power and charging, transmissions, mirrors, handlebars, cables, gauges, caps and medallions, oil change accessories, oil, lubes and sealants, surface care products, paints, GPS navigation, motorcycle covers, batteries, tools, air filters, security locks & systems, spark plugs, brake pads, headlamps and auxiliary lighting, just to name a few.

[25] The Trademark followed by the registration symbol ® is displayed on the cover page of the catalogue. The Trademark is also displayed throughout the pages of the catalogue in product descriptions, on depicted goods including motorcycles, or as part of product names.

[26] As further evidence of parts offered for sale, Ms. Brown attaches a screenshot of a webpage which she identifies as the Owner's website located at <https://accessories.harley-davidson.ca/products/#!/> [Exhibit AB-5], which she states was "used to select and order parts constituting the Goods". The image quality of the exhibited screenshot is very poor and most of the print is illegible.

[27] Finally, Ms. Brown attaches a document she describes as "a 2019 catalogue of [the Owner] featuring some of its 2020 motorcycles" [para 11, Exhibit AB-3]. However, this exhibit appears to be printouts from the Harley-Davidson Accessories webpage already attached as Exhibit AB-5.

[28] Indeed, the first website printout of Exhibit AB-3 appears to correspond to the webpage captured in the Exhibit AB-5 screenshot. A menu on the left hand side of that printout lists various product categories such as "audio & instrumentation", "bags, luggage & travel", "bearings, seals & hardware", "electrical", "engine, transmission & primary", and "foot controls". The menus on subsequent printouts show those categories expanded into sub-categories. For example, the second printout shows the "audio & instrumentation" category expanded to display the following product names: amplifiers, antennas, audio kits/systems, combination gauges, communication, fuel gauges, gauge mounts and components, and headsets.

[29] Aside from forming part of the website's URL address, the Trademark is also displayed on some Exhibit AB-3 webpages as part of the Cycles Logo.

ANALYSIS

[30] In its brief submissions, the Requesting Party argues that there is no evidence showing the Trademark affixed to the goods or "in relation to" the services, and that there is no evidence establishing sales of such goods and services.

[31] First, I note that use of a trademark in association with services can be shown through advertisement of those services, rather than performance. As such, evidence of actual transactions is not required for a trademark owner to satisfy the requirements of section 4(2) of the Act. Indeed, the display of a trademark in the advertisement of services is sufficient to show use of that trademark within the meaning of the Act, provided the owner was willing and able to perform the services in Canada [*Wenward (Canada) Ltd v Dynaturf Co* (1976), 28 CPR (2d) 20 (TMOB)].

[32] Second, to the extent that the Requesting Party's position is that the evidence displays variations of the Trademark, I find that display of the Cycles Logo and of the Company Logo both constitute display of the Trademark. In my view, the Trademark, displayed prominently at the center of the design, stands out from the additional material such that the public as a matter of first impression would perceive the Trademark *per se* as being used [*Nightingale Interloc Ltd v Prodesign Ltd* (1984), 2 CPR (3d) 535 (TMOB)].

[33] Further, affixing a trademark to goods is not the only way to satisfy the requirements of section 4(1) of the Act. For example, display of a trademark on catalogues may be considered use for the purposes of section 4(1) of the Act when the evidence also shows that the trademark was brought to the attention of the consumer at the time the goods are transferred [see *Timothy's Coffee of the World Inc v Starbucks Corp* (1997), 79 CPR (3d) 147 (TMOB)]. Similarly, display of a trademark on an invoice that accompanies the goods at the time of transfer may satisfy the requirements of section 4(1) of the Act, if it provides the requisite notice of association between the trademark and the goods [see *Hortilux Schreder BV v Iwasaki Electric Co*, 2012 FCA

321; and *Riches, McKenzie & Herbert v Pepper King Ltd* (2000), 8 CPR (4th) 471 (FCTD)].

[34] In this case, the evidence is that licensed dealers promoted maintenance and inspection services offered through their motorcycle service departments. Those services were advertised alongside the Trademark on the dealers' websites, which Ms. Brown attests were accessible and accessed in Canada during the relevant period. Furthermore, the evidenced links and forms to request service appointments establish that the licensed dealers were willing and able to perform those services.

[35] Accordingly, I am satisfied that the Owner has shown use of the Trademark within the meaning of sections 4(2) and 45 of the Act in association with the registered services "repair and servicing of motorcycles".

[36] With respect to use of the Trademark in association with the registered goods, the evidence is clear that the Owner sold motorcycles in Canada during the relevant period and that the Trademark was, at a minimum, displayed on the invoices that accompanied those motorcycles.

[37] Accordingly, I am satisfied that the Owner has shown use of the Trademark within the meaning of sections 4(1) and 45 of the Act in association with the registered goods "motorcycles".

[38] Similarly, having regard to the over \$200 million sales of motorcycle parts, the representative invoices for motorcycle parts, and the extensive selection of motorcycle parts and accessories offered in the exhibited catalogue, I am prepared to accept that Owner has met its *prima facie* burden to establish transfers of such motorcycle parts and accessories. Considering the display of the Trademark on the catalogue and invoices, I am therefore satisfied that the Owner has shown use of the Trademark in association with such goods within the meaning of sections 4(1) and 45 of the Act.

[39] However, the registration covers miscellaneous goods which do not correspond to motorcycle parts and accessories. On this point, the Owner acknowledged at the hearing that some of the registered goods such as "pewter spoons", "juke boxes",

“knives” and “sunglasses” do not correspond to motorcycle parts or accessories. The Owner then listed the miscellaneous goods which it does not consider to be motorcycle parts, and confirmed that those goods were not offered in the parts and accessories catalogue.

[40] I am therefore not satisfied that use of the Trademark has been shown in association with those miscellaneous goods identified by the Owner, that do not correspond to motorcycle parts and are not included in the catalogue. The registered goods for which the Owner has not demonstrated use of the Trademark are indicated in “~~strikethrough~~” in Schedule B. As there is no evidence of special circumstances which could excuse the absence of use of the Trademark, those goods will be deleted from the registration.

[41] Before concluding, I will briefly address the Requesting Party’s argument that some of the registered goods are promotional items and, therefore, that their sale cannot constitute use in the normal course of trade.

[42] It has been held that the free distribution of a good merely to promote one’s own brand does not generally constitute a transfer in the normal course of trade within the meaning of section 4 of the Act [see *Smart & Biggar v Sutter Hill Corp*, 2012 TMOB 121; and *Riches, McKenzie & Herbert LLP v Park Pontiac Buick GMC Ltd* (2005), 50 CPR (4th) 391 (TMOB)].

[43] However, I disagree that the registered goods identified by the Requesting Party in its written submissions such as screwdrivers, wrenches, chrome polish and cleaner, and cleaner for use on motorcycles, are promotional items let alone that there is any evidence that they were freely distributed merely to promote the Owner’s brand. In fact, many of these goods are offered for sale in the Exhibit AB-4 catalogue. I am therefore satisfied that the evidenced sales were in the Owner’s normal course of trade, as described by Ms. Brown.

DISPOSITION

[44] In light 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 the registered goods indicated in “~~strikethrough~~” in Schedule B.

[45] The statement of goods and services will now read as follows:

GOODS

(1) Motorcycles, motorcycle parts-namely, starter motor brushes, starter motors, horns and starters, cylinders, cylinder heads, valves, rocker arms, flywheel shafts, sprocket shafts, gear shafts, rocker arm covers, transmission shafts, push rod covers, crankcase gear covers, crankcase covers, oil pump covers, air cleaner covers, coil covers, ignition system covers, starter motor covers, cable covers, transmission covers, master cylinder covers, front fork covers, side frame covers, shock absorber covers, shock absorber stud covers, clutch covers, chain housing covers, engine instrument covers, solenoid switch covers, valve collars, valve keys, crank pin rollers, lock rings, bearings, bearing rollers and bearing retainers used in starters, transmissions, clutches, wheels, forks and chain housings, flywheels, flywheel lock plates, sprockets, gear shaft lock plates, starter housing pins, crankcase bearings, bearing rollers and bearing retainers, crank case plugs, oil plugs, oil pump plugs, engine bearing shims, cams, cam followers, shifter adjusting screws, starter levers, pivot pins, gear shifter roll pins, clutch control pivot pins and cable anchor pins, and push rod pins, brake control lever pivot pins, brake caliper guide pins, frame and fork pins, chain housing pins, starter pins and roll pins, crank pins, shift lever pivot pin plugs, transmission plugs, handle bar, and throttle control plugs, headlamp bracket plugs, chain cover plugs, oil tank plugs, engine instrument plugs, brake mounting plates, sissy bar mounting plates, foot rest mounting plates, rocker arm assembly caps, fork caps, axle caps, frame and fork end caps, transmission gears, motorcycle engine drive gears, starter gears, exhaust pipes, oil separator deflectors, oil pumps, wheel weights, shift levers, carburetor housings, starter shaft housings, transmission housings, headlamp housings, chain housings, handle bar switch housings, shifter collars, shifter forks, pawls for gear shifters, clutch hubs, sprockets, clutch releasing discs, clutch drive plates, adjusting screws for cables, clutch cable straps, oil lines sleeves, wheel bearing sleeves, starter gear shift levers, choke lever, drive chains, chain links, wheels, axles, brake discs, brake pads, brake calipers, clevises, brake master cylinders, hydraulic fluid line connectors-namely, tees, brake pedals, axle caps, fork stems, forks, foot rests, frames, stands, bumpers, seats, shock absorbers, handle bars, handle bar grips, clutch cables, throttle cables, windshields, fairings, mirrors, fenders, chain guards, gas tanks, oil, air and fuel filters, seat grab straps, cable straps, hose straps, mufflers, exhaust pipes, mud flaps, highway pegs, luggage carriers, air scoops, air cleaners, body trim, wind deflectors, oil coolers, backrests, luggage attachment cords and motorcycles, rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings, bicycles, trucks, mud flaps, sun

shades, cargo shade, front end cover, tonneau covers, power sliding rear window, hood deflectors, plate box, utility mats, license plate frames, seatbelt shoulder pads, hitch covers, splash guards, spare tire covers, floor mats, steering wheel and truck covers, rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings.

(2) Paint for manufacture and repair of motorcycles; motorcycle cleaners and polish, synthetic enamels, and liquid polish and cleaner for use on motorcycles, polishing cloths, washing preparations, namely wheel and tire cleaners, bug remover, soaps for cleaning motorcycles, windshield cleaning liquids, leather dressing, chrome polish and cleaner; motorcycle electrical parts, namely, spark plugs; ignition wires; breaker points; condensers; coils; ignition switches; motorcycle parts-namely, piston pins, piston rings, carburetor float pins, carburetor jet plugs and carburetor adjusting screws, screw drivers, wrenches, ignition sensors, ignition modules, carburetors and parts therefor; motorcycle engine gauges, speedometers, thermometers, thermostats, motorcycle electrical parts-namely, batteries, electrical wires and wiring harnesses, battery chargers, electrical wire terminals, battery and grounding cables, lenses, magnets, armatures, circuit breakers, switches, turn signals and indicators, connectors, voltage regulators, ignition system pin plugs, socket terminal pins, single socket pins, ignition system clamps, and grounding straps; motorcycle parts-namely, reflectors and instrument panels brake control stoplight switches thereto, oil tank gages and cruise control components, namely servo controls, cruise control switches, cruise control modules, cable assemblies, control levers, battery chargers, magnets, MP3 players, GPS systems, wiring and wiring harnesses for motorcycles, switches, switch panels and spare parts for same, electric lamps and spare parts for same, electric lamp mountings and spare parts for same, storage batteries and spare parts for same, spark plugs.

(3) Motorcycle parts, made of metal-namely, crankcase dowel pins, oil pump dowel pins, cotter pins, clevis pins, hose clamps, clutch cable clamps, brake line clamps, master cylinder clamps, handle bar clamps, license plate bracket clamps, exhaust system clamps, cable couplings, metallic nuts, bolts, screws, brackets, studs, spacers, washers for motorcycle parts, bushings, o-rings, and brake hose seats and spring clips.

(4) Motorcycle brake fluid and engine treatment additives.

(5) multi-function hand tools.

(6) Metal articles, namely, key fobs, and license plate holders, pad locks.

(7) Motorcycle generators and spare parts for same, wiring and wiring harnesses for motorcycles, switches, switch panels and spare parts for same, electric lamps and spare parts for same, electric lamp mountings and spare parts for same, storage batteries and spare parts for same, spark plugs.

(8) Chrome polish and cleaner.

(9) Synthetic enamels, and liquid polish and cleaner for use on motorcycles.

(10) screw drivers, wrenches.

(11) Motorcycle brake fluid and engine treatment additives; paint for manufacture and repair of motorcycles; motorcycle cleaners and polish.

(12) Motorcycle parts, made of metal-namely, crankcase dowel pins, oil pump dowel pins, cotter pins, clevis pins, hose clamps, clutch cable clamps, brake line clamps, master cylinder clamps, handle bar clamps, license plate bracket clamps, exhaust system clamps, cable couplings, metallic nuts, bolts, screws, brackets, studs, spacers, washers for motorcycle parts, bushings, o-rings, and brake hose seats and spring clips; motorcycle electrical parts-namely, spark plugs; ignition wires; breaker points; condensers; coils; ignition switches; motorcycle parts-namely, piston pins, piston rings, carburetor float pins, carburetor jet plugs and carburetor adjusting screws; motorcycle engine gauges, speedometers, thermometers, thermostats, motorcycle electrical parts-namely, batteries, electrical wires and wiring harnesses, battery chargers, electrical wire terminals, battery and grounding cables, lenses, magnets, armatures, circuit breakers, switches, turn signals and indicators, connectors, voltage regulators, ignition system pin plugs, socket terminal pins, single socket pins, ignition system clamps, and grounding straps; motorcycle parts-namely, reflectors and instrument panels brake control stoplight switches thereto; motorcycles, motorcycle parts-namely, starter motor brushes, starter motors, horns and starters, cylinders, cylinder heads, valves, rocker arms, flywheel shafts, sprocket shafts, gear shafts, rocker arm covers, transmission shafts, push rod covers, crankcase gear covers, crankcase covers, oil pump covers, air cleaner covers, coil covers, ignition system covers, starter motor covers, cable covers, transmission covers, master cylinder covers, front fork covers, side frame covers, shock absorber covers, shock absorber stud covers, clutch covers, chain housing covers, engine instrument covers, solenoid switch covers, valve collars, valve keys, crank pin rollers, lock rings, bearings, bear rollers and bearing retainers used in starters, transmissions, clutches, wheels, forks and chain housings, flywheels, flywheel lock plates, sprockets, gear shaft lock plates, starter housing pins, crankcase bearings, bearing rollers and bearing retainers, crank case plugs, oil plugs, oil pump plugs, engine bearing shims, cams, cam followers, shifter adjusting screws, starter levers, pivot pins, gear shifter roll pins, clutch control pivot pins and cable anchor pins, and push rod pins, brake control lever pivot pins, brake caliper guide pins, frame and fork pins, chain housing pins, starter pins and roll pins, crank pins, shift lever pivot pin plugs, transmission plugs, handle bar, and throttle control plugs, headlamp bracket plugs, chain cover plugs, oil tank plugs, engine instrument plugs, brake mounting plates, sissy bar mounting plates, foot rest mounting plates, rocker arm assembly caps, fork caps, axle caps, frame and fork end caps, transmission gears, motorcycle engine drive gears, starter gears, exhaust pipes, oil separator deflectors, oil pumps, wheel weights, shift levers, carburetor housings, starter shaft housings, transmission housings, headlamp housings, chain housings, handle bar switch housings, shifter collars, shifter forks, pawls for gear shifters, clutch hubs, sprockets, clutch releasing discs, clutch drive plates, adjusting screws for cables, clutch cable straps, oil lines sleeves, wheel bearing sleeves, starter gear shift levers, choke lever, drive chains, chain links, wheels, axles, brake discs, brake pads, brake calipers, clevises, brake master cylinders, hydraulic fluid line connectors-namely, tees, brake pedals, axle caps, fork stems, forks, foot rests, frames, stands, bumpers, seats,

shock absorbers, handle bars, handle bar grips, clutch cables, throttle cables, windshields, fairings, mirrors, fenders, chain guards, gas tanks, oil, air and fuel filters, seat grab straps, cable straps, hose straps, mufflers, exhaust pipes, mud flaps, highway pegs, luggage carriers, air scoops, air cleaners, body trim, wind deflectors, oil coolers, backrests, luggage attachment cords and motorcycles.

(13) Metal articles, namely, key fobs, and license plate holders.

(15) Motorcycle parts, namely ignition sensors, ignition modules, carburetors and parts therefor; motorcycle parts, namely oil tank gages and cruise control components, namely servo controls, cruise control switches, cruise control modules, cable assemblies, control levers and parts therefor; motorcycle parts, namely rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings.

(16) Locks and keyfobs.

SERVICES

(1) Repair and servicing of motorcycles.

Eve Heafey
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

SCHEDULE A

GOODS

(1) Motorcycles, motorcycle parts-namely, starter motor brushes, starter motors, horns and starters, cylinders, cylinder heads, valves, rocker arms, flywheel shafts, sprocket shafts, gear shafts, rocker arm covers, transmission shafts, push rod covers, crankcase gear covers, crankcase covers, oil pump covers, air cleaner covers, coil covers, ignition system covers, starter motor covers, cable covers, transmission covers, master cylinder covers, front fork covers, side frame covers, shock absorber covers, shock absorber stud covers, clutch covers, chain housing covers, engine instrument covers, solenoid switch covers, valve collars, valve keys, crank pin rollers, lock rings, bearings, bearing rollers and bearing retainers used in starters, transmissions, clutches, wheels, forks and chain housings, flywheels, flywheel lock plates, sprockets, gear shaft lock plates, starter housing pins, crankcase bearings, bearing rollers and bearing retainers, crank case plugs, oil plugs, oil pump plugs, engine bearing shims, cams, cam followers, shifter adjusting screws, starter levers, pivot pins, gear shifter roll pins, clutch control pivot pins and cable anchor pins, and push rod pins, brake control lever pivot pins, brake caliper guide pins, frame and fork pins, chain housing pins, starter pins and roll pins, crank pins, shift lever pivot pin plugs, transmission plugs, handle bar, and throttle control plugs, headlamp bracket plugs, chain cover plugs, oil tank plugs, engine instrument plugs, brake mounting plates, sissy bar mounting plates, foot rest mounting plates, rocker arm assembly caps, fork caps, axle caps, frame and fork end caps, transmission gears, motorcycle engine drive gears, starter gears, exhaust pipes, oil separator deflectors, oil pumps, wheel weights, shift levers, carburetor housings, starter shaft housings, transmission housings, headlamp housings, chain housings, handle bar switch housings, shifter collars, shifter forks, pawls for gear shifters, clutch hubs, sprockets, clutch releasing discs, clutch drive plates, adjusting screws for cables, clutch cable straps, oil lines sleeves, wheel bearing sleeves, starter gear shift levers, choke lever, drive chains, chain links, wheels, axles, brake discs, brake pads, brake calipers, clevises, brake master cylinders, hydraulic fluid line connectors-namely, tees, brake pedals, axle caps, fork stems, forks, foot rests, frames, stands, bumpers, seats, shock absorbers, handle bars, handle bar grips, clutch cables, throttle cables, windshields, fairings, mirrors, fenders, chain guards, gas tanks, oil, air and fuel filters, seat grab straps, cable straps, hose straps, mufflers, exhaust pipes, mud flaps, highway pegs, luggage carriers, air scoops, air cleaners, body trim, wind deflectors, oil coolers, backrests, luggage attachment cords and motorcycles, rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings, bicycles, trucks, mud flaps, sun shades, cargo shade, front end cover, tonneau covers, bed tents, bed mats, power sliding rear window, hood deflectors, plate box, utility mats, license plate frames, seatbelt shoulder pads, hitch covers, splash guards, spare tire covers, floor mats, steering wheel and truck covers, rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings.

(2) Paint for manufacture and repair of motorcycles; motorcycle cleaners and polish, synthetic enamels, and liquid polish and cleaner for use on motorcycles, polishing cloths, washing preparations, namely wheel and tire cleaners, bug remover, soaps for cleaning motorcycles, windshield cleaning liquids, leather dressing, chrome polish and cleaner; motorcycle electrical parts, namely, spark plugs; ignition wires; breaker points; condensers; coils; ignition switches; motorcycle parts-namely, piston pins, piston rings, carburetor float pins, carburetor jet plugs and carburetor adjusting screws, screw drivers, wrenches, ignition sensors, ignition modules, carburetors and parts therefor; motorcycle engine gauges, speedometers, thermometers, thermostats, motorcycle electrical parts-namely, batteries, electrical wires and wiring harnesses, battery chargers, electrical wire terminals, battery and grounding cables, lenses, magnets, armatures, circuit breakers, switches, turn signals and indicators, connectors, voltage regulators, ignition system pin plugs, socket terminal pins, single socket pins, ignition system clamps, and grounding straps; motorcycle parts-namely, reflectors and instrument panels brake control stoplight switches thereto, oil tank gages and cruise control components, namely servo controls, cruise control switches, cruise control modules, cable assemblies, control levers, battery chargers, telephones, sunglasses, eyewear, namely, eyeglasses, sunglasses, safety goggles and goggles for riding motorcycles, protective helmets, magnets, mouse pads, neon signs, vending machines, juke boxes, compasses, MP3 players, GPS systems, motorcycle generators and spare parts for same, wiring and wiring harnesses for motorcycles, switches, switch panels and spare parts for same, electric lamps and spare parts for same, electric lamp mountings and spare parts for same, storage batteries and spare parts for same, spark plugs, electric signs.

(3) Motorcycle parts, made of metal-namely, crankcase dowel pins, oil pump dowel pins, cotter pins, clevis pins, hose clamps, clutch cable clamps, brake line clamps, master cylinder clamps, handle bar clamps, license plate bracket clamps, exhaust system clamps, cable couplings, metallic nuts, bolts, screws, brackets, studs, spacers, washers for motorcycle parts, bushings, o-rings, and brake hose seats and spring clips.

(4) Motorcycle brake fluid and engine treatment additives.

(5) Knives, knife sheaths, multi-function hand tools, pewter spoons, sport and folding knives and knife cases.

(6) Metal articles, namely, key fobs, key chains and rings and license plate holders, tool boxes of metal, door knockers, safes, vaults, pad locks, non-luminous and non-mechanical signs of metal, hooks for hanging articles, tins (boxes made of tin).

(7) Motorcycle generators and spare parts for same, wiring and wiring harnesses for motorcycles, switches, switch panels and spare parts for same, electric lamps and spare parts for same, electric lamp mountings and spare parts for same, storage batteries and spare parts for same, spark plugs, electric signs.

(8) Chrome polish and cleaner.

(9) Synthetic enamels, and liquid polish and cleaner for use on motorcycles.

(10) Knives, screw drivers, wrenches.

(11) Motorcycle brake fluid and engine treatment additives; paint for manufacture and repair of motorcycles; motorcycle cleaners and polish.

(12) Motorcycle parts, made of metal-namely, crankcase dowel pins, oil pump dowel pins, cotter pins, clevis pins, hose clamps, clutch cable clamps, brake line clamps, master cylinder clamps, handle bar clamps, license plate bracket clamps, exhaust system clamps, cable couplings, metallic nuts, bolts, screws, brackets, studs, spacers, washers for motorcycle parts, bushings, o-rings, and brake hose seats and spring clips; motorcycle electrical parts-namely, spark plugs; ignition wires; breaker points; condensers; coils; ignition switches; motorcycle parts-namely, piston pins, piston rings, carburetor float pins, carburetor jet plugs and carburetor adjusting screws; motorcycle engine gauges, speedometers, thermometers, thermostats, motorcycle electrical parts-namely, batteries, electrical wires and wiring harnesses, battery chargers, electrical wire terminals, battery and grounding cables, lenses, magnets, armatures, circuit breakers, switches, turn signals and indicators, connectors, voltage regulators, ignition system pin plugs, socket terminal pins, single socket pins, ignition system clamps, and grounding straps; motorcycle parts-namely, reflectors and instrument panels brake control stoplight switches thereto; motorcycles, motorcycle parts-namely, starter motor brushes, starter motors, horns and starters, cylinders, cylinder heads, valves, rocker arms, flywheel shafts, sprocket shafts, gear shafts, rocker arm covers, transmission shafts, push rod covers, crankcase gear covers, crankcase covers, oil pump covers, air cleaner covers, coil covers, ignition system covers, starter motor covers, cable covers, transmission covers, master cylinder covers, front fork covers, side frame covers, shock absorber covers, shock absorber stud covers, clutch covers, chain housing covers, engine instrument covers, solenoid switch covers, valve collars, valve keys, crank pin rollers, lock rings, bearings, bearing rollers and bearing retainers used in starters, transmissions, clutches, wheels, forks and chain housings, flywheels, flywheel lock plates, sprockets, gear shaft lock plates, starter housing pins, crankcase bearings, bearing rollers and bearing retainers, crank case plugs, oil plugs, oil pump plugs, engine bearing shims, cams, cam followers, shifter adjusting screws, starter levers, pivot pins, gear shifter roll pins, clutch control pivot pins and cable anchor pins, and push rod pins, brake control lever pivot pins, brake caliper guide pins, frame and fork pins, chain housing pins, starter pins and roll pins, crank pins, shift lever pivot pin plugs, transmission plugs, handle bar, and throttle control plugs, headlamp bracket plugs, chain cover plugs, oil tank plugs, engine instrument plugs, brake mounting plates, sissy bar mounting plates, foot rest mounting plates, rocker arm assembly caps, fork caps, axle caps, frame and fork end caps, transmission gears, motorcycle engine drive gears, starter gears, exhaust pipes, oil separator deflectors, oil pumps, wheel weights, shift levers, carburetor housings, starter shaft housings, transmission housings, headlamp housings, chain housings, handle bar switch housings, shifter collars, shifter forks, pawls for gear shifters, clutch hubs, sprockets, clutch releasing discs, clutch drive plates, adjusting screws for cables, clutch cable straps, oil lines sleeves, wheel bearing sleeves, starter gear shift levers, choke lever, drive chains, chain links, wheels, axles, brake discs, brake pads, brake calipers, clevises, brake master cylinders, hydraulic fluid line connectors-namely, tees, brake pedals, axle caps, fork stems, forks, foot rests, frames, stands, bumpers, seats, shock absorbers, handle bars, handle bar grips, clutch cables, throttle cables, windshields, fairings, mirrors, fenders, chain guards, gas tanks, oil, air and fuel filters, seat grab straps, cable straps, hose straps, mufflers, exhaust pipes, mud flaps, highway

pegs, luggage carriers, air scoops, air cleaners, body trim, wind deflectors, oil coolers, backrests, luggage attachment cords and motorcycles.

(13) Metal articles, namely, key fobs, key chains and rings and license plate holders.

(14) Knife sheaths.

(15) Motorcycle parts, namely ignition sensors, ignition modules, carburetors and parts therefor; motorcycle parts, namely oil tank gages and cruise control components, namely servo controls, cruise control switches, cruise control modules, cable assemblies, control levers and parts therefor; motorcycle parts, namely rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings.

(16) Locks and keyfobs.

(17) Pewter spoons, sport and folding knives and knife cases.

SERVICES

(1) Repair and servicing of motorcycles.

SCHEDULE B

GOODS

(1) Motorcycles, motorcycle parts-namely, starter motor brushes, starter motors, horns and starters, cylinders, cylinder heads, valves, rocker arms, flywheel shafts, sprocket shafts, gear shafts, rocker arm covers, transmission shafts, push rod covers, crankcase gear covers, crankcase covers, oil pump covers, air cleaner covers, coil covers, ignition system covers, starter motor covers, cable covers, transmission covers, master cylinder covers, front fork covers, side frame covers, shock absorber covers, shock absorber stud covers, clutch covers, chain housing covers, engine instrument covers, solenoid switch covers, valve collars, valve keys, crank pin rollers, lock rings, bearings, bearing rollers and bearing retainers used in starters, transmissions, clutches, wheels, forks and chain housings, flywheels, flywheel lock plates, sprockets, gear shaft lock plates, starter housing pins, crankcase bearings, bearing rollers and bearing retainers, crank case plugs, oil plugs, oil pump plugs, engine bearing shims, cams, cam followers, shifter adjusting screws, starter levers, pivot pins, gear shifter roll pins, clutch control pivot pins and cable anchor pins, and push rod pins, brake control lever pivot pins, brake caliper guide pins, frame and fork pins, chain housing pins, starter pins and roll pins, crank pins, shift lever pivot pin plugs, transmission plugs, handle bar, and throttle control plugs, headlamp bracket plugs, chain cover plugs, oil tank plugs, engine instrument plugs, brake mounting plates, sissy bar mounting plates, foot rest mounting plates, rocker arm assembly caps, fork caps, axle caps, frame and fork end caps, transmission gears, motorcycle engine drive gears, starter gears, exhaust pipes, oil separator deflectors, oil pumps, wheel weights, shift levers, carburetor housings, starter shaft housings, transmission housings, headlamp housings, chain housings, handle bar switch housings, shifter collars, shifter forks, pawls for gear shifters, clutch hubs, sprockets, clutch releasing discs, clutch drive plates, adjusting screws for cables, clutch cable straps, oil lines sleeves, wheel bearing sleeves, starter gear shift levers, choke lever, drive chains, chain links, wheels, axles, brake discs, brake pads, brake calipers, clevises, brake master cylinders, hydraulic fluid line connectors-namely, tees, brake pedals, axle caps, fork stems, forks, foot rests, frames, stands, bumpers, seats, shock absorbers, handle bars, handle bar grips, clutch cables, throttle cables, windshields, fairings, mirrors, fenders, chain guards, gas tanks, oil, air and fuel filters, seat grab straps, cable straps, hose straps, mufflers, exhaust pipes, mud flaps, highway pegs, luggage carriers, air scoops, air cleaners, body trim, wind deflectors, oil coolers, backrests, luggage attachment cords and motorcycles, rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings, bicycles, trucks, mud flaps, sun shades, cargo shade, front end cover, tonneau covers, ~~bed tents, bed mats,~~ power sliding rear window, hood deflectors, plate box, utility mats, license plate frames, seatbelt shoulder pads, hitch covers, splash guards, spare tire covers, floor mats, steering wheel and truck covers, rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings.

(2) Paint for manufacture and repair of motorcycles; motorcycle cleaners and polish, synthetic enamels, and liquid polish and cleaner for use on motorcycles, polishing cloths,

washing preparations, namely wheel and tire cleaners, bug remover, soaps for cleaning motorcycles, windshield cleaning liquids, leather dressing, chrome polish and cleaner; motorcycle electrical parts, namely, spark plugs; ignition wires; breaker points; condensers; coils; ignition switches; motorcycle parts-namely, piston pins, piston rings, carburetor float pins, carburetor jet plugs and carburetor adjusting screws, screw drivers, wrenches, ignition sensors, ignition modules, carburetors and parts therefor; motorcycle engine gauges, speedometers, thermometers, thermostats, motorcycle electrical parts-namely, batteries, electrical wires and wiring harnesses, battery chargers, electrical wire terminals, battery and grounding cables, lenses, magnets, armatures, circuit breakers, switches, turn signals and indicators, connectors, voltage regulators, ignition system pin plugs, socket terminal pins, single socket pins, ignition system clamps, and grounding straps; motorcycle parts-namely, reflectors and instrument panels brake control stoplight switches thereto, oil tank gages and cruise control components, namely servo controls, cruise control switches, cruise control modules, cable assemblies, control levers, battery chargers, ~~telephones, sunglasses, eyewear, namely, eyeglasses, sunglasses, safety goggles and goggles for riding motorcycles, protective helmets,~~ magnets, mouse pads, neon signs, vending machines, juke boxes, compasses, MP3 players, GPS systems, ~~motorcycle generators and spare parts for same,~~ wiring and wiring harnesses for motorcycles, switches, switch panels and spare parts for same, electric lamps and spare parts for same, electric lamp mountings and spare parts for same, storage batteries and spare parts for same, spark plugs, ~~electric signs.~~

(3) Motorcycle parts, made of metal-namely, crankcase dowel pins, oil pump dowel pins, cotter pins, clevis pins, hose clamps, clutch cable clamps, brake line clamps, master cylinder clamps, handle bar clamps, license plate bracket clamps, exhaust system clamps, cable couplings, metallic nuts, bolts, screws, brackets, studs, spacers, washers for motorcycle parts, bushings, o-rings, and brake hose seats and spring clips.

(4) Motorcycle brake fluid and engine treatment additives.

(5) ~~Knives, knife sheaths, multi-function hand tools, pewter spoons, sport and folding knives and knife cases.~~

(6) Metal articles, namely, key fobs, ~~key chains and rings~~ and license plate holders, ~~tool boxes of metal, door knockers, safes, vaults, pad locks, non-luminous and non-mechanical signs of metal, hooks for hanging articles, tins (boxes made of tin).~~

(7) Motorcycle generators and spare parts for same, wiring and wiring harnesses for motorcycles, switches, switch panels and spare parts for same, electric lamps and spare parts for same, electric lamp mountings and spare parts for same, storage batteries and spare parts for same, spark plugs, ~~electric signs.~~

(8) Chrome polish and cleaner.

(9) Synthetic enamels, and liquid polish and cleaner for use on motorcycles.

(10) ~~Knives,~~ screw drivers, wrenches.

(11) Motorcycle brake fluid and engine treatment additives; paint for manufacture and repair of motorcycles; motorcycle cleaners and polish.

(12) Motorcycle parts, made of metal-namely, crankcase dowel pins, oil pump dowel pins, cotter pins, clevis pins, hose clamps, clutch cable clamps, brake line clamps, master cylinder clamps, handle bar clamps, license plate bracket clamps, exhaust system clamps, cable couplings, metallic nuts, bolts, screws, brackets, studs, spacers, washers for motorcycle parts, bushings, o-rings, and brake hose seats and spring clips; motorcycle electrical parts-namely, spark plugs; ignition wires; breaker points; condensers; coils; ignition switches; motorcycle parts-namely, piston pins, piston rings, carburetor float pins, carburetor jet plugs and carburetor adjusting screws; motorcycle engine gauges, speedometers, thermometers, thermostats, motorcycle electrical parts-namely, batteries, electrical wires and wiring harnesses, battery chargers, electrical wire terminals, battery and grounding cables, lenses, magnets, armatures, circuit breakers, switches, turn signals and indicators, connectors, voltage regulators, ignition system pin plugs, socket terminal pins, single socket pins, ignition system clamps, and grounding straps; motorcycle parts-namely, reflectors and instrument panels brake control stoplight switches thereto; motorcycles, motorcycle parts-namely, starter motor brushes, starter motors, horns and starters, cylinders, cylinder heads, valves, rocker arms, flywheel shafts, sprocket shafts, gear shafts, rocker arm covers, transmission shafts, push rod covers, crankcase gear covers, crankcase covers, oil pump covers, air cleaner covers, coil covers, ignition system covers, starter motor covers, cable covers, transmission covers, master cylinder covers, front fork covers, side frame covers, shock absorber covers, shock absorber stud covers, clutch covers, chain housing covers, engine instrument covers, solenoid switch covers, valve collars, valve keys, crank pin rollers, lock rings, bearings, bear rollers and bearing retainers used in starters, transmissions, clutches, wheels, forks and chain housings, flywheels, flywheel lock plates, sprockets, gear shaft lock plates, starter housing pins, crankcase bearings, bearing rollers and bearing retainers, crank case plugs, oil plugs, oil pump plugs, engine bearing shims, cams, cam followers, shifter adjusting screws, starter levers, pivot pins, gear shifter roll pins, clutch control pivot pins and cable anchor pins, and push rod pins, brake control lever pivot pins, brake caliper guide pins, frame and fork pins, chain housing pins, starter pins and roll pins, crank pins, shift lever pivot pin plugs, transmission plugs, handle bar, and throttle control plugs, headlamp bracket plugs, chain cover plugs, oil tank plugs, engine instrument plugs, brake mounting plates, sissy bar mounting plates, foot rest mounting plates, rocker arm assembly caps, fork caps, axle caps, frame and fork end caps, transmission gears, motorcycle engine drive gears, starter gears, exhaust pipes, oil separator deflectors, oil pumps, wheel weights, shift levers, carburetor housings, starter shaft housings, transmission housings, headlamp housings, chain housings, handle bar switch housings, shifter collars, shifter forks, pawls for gear shifters, clutch hubs, sprockets, clutch releasing discs, clutch drive plates, adjusting screws for cables, clutch cable straps, oil lines sleeves, wheel bearing sleeves, starter gear shift levers, choke lever, drive chains, chain links, wheels, axles, brake discs, brake pads, brake calipers, clevises, brake master cylinders, hydraulic fluid line connectors-namely, tees, brake pedals, axle caps, fork stems, forks, foot rests, frames, stands, bumpers, seats, shock absorbers, handle bars, handle bar grips, clutch cables, throttle cables, windshields, fairings, mirrors, fenders, chain guards, gas tanks, oil, air and fuel filters, seat grab straps, cable straps, hose straps, mufflers, exhaust pipes, mud flaps, highway pegs, luggage carriers, air scoppes, air cleaners, body trim, wind deflectors, oil coolers, backrests, luggage attachment cords and motorcycles.

(13) Metal articles, namely, key fobs, ~~key chains and rings~~ and license plate holders.

~~(14) Knife sheaths.~~

(15) Motorcycle parts, namely ignition sensors, ignition modules, carburetors and parts therefor; motorcycle parts, namely oil tank gages and cruise control components, namely servo controls, cruise control switches, cruise control modules, cable assemblies, control levers and parts therefor; motorcycle parts, namely rear forks, belts, sprockets, connecting rods, transmission cases, engine assemblies, oil pump assemblies, drive belts, cam gears, turn signals, crank cases, transmission assemblies, transmission covers and gears, pivot shafts, footboards, gas tank medallions and fairings.

(16) Locks and keyfobs.

~~(17) Pewter spoons, sport and folding knives and knife cases.~~

SERVICES

(1) Repair and servicing of motorcycles.

Appearances and Agents of Record

HEARING DATE: July 7, 2022

APPEARANCES

For the Requesting Party: No one appearing

For the Registered Owner: Charlotte MacDonald

AGENTS OF RECORD

For the Requesting Party: No agent appointed

For the Registered Owner: Gowling WLG (Canada) LLP