

# Canadian Intellectual Property Office

## **THE REGISTRAR OF TRADEMARKS**

**Citation:** 2024 TMOB 45

**Date of Decision:** 2024-03-12

## **IN THE MATTER OF AN OPPOSITION**

**Opponent:** Indivior UK Limited

**Applicant:** ALC Bio Innovations Inc.

**Application:** 1934054 for VITAL HUMIC & Design

### **INTRODUCTION**

[1] This is an opposition brought by Indivior UK Limited (the Opponent) in respect of application number 1,934,054 for the trademark VITAL HUMIC & Design (the Mark) filed by ALC Bio Innovations Inc. (the Applicant) and depicted below:



[2] The Mark is applied for in association with the following goods (the Goods):

CI1 (1) Food supplements for agricultural products and plants; Natural microorganisms used in pond maintenance; Nutritive additive to enhance the biological activity of water, soil, seeds and plants for the purpose of fertilization and bioremediation

CI5 (2) Animal feed additives for use as a nutritional supplements

[3] For the reasons set out below, I reject the opposition.

### **THE RECORD**

[4] The application for the Mark was filed on December 4, 2018 and was advertised for opposition in the *Trademarks Journal* of January 19, 2022.

[5] On March 21, 2022, the Opponent filed its statement of opposition under section 38 of the *Trademarks Act*, RSC 1985, c T 13 as amended June 17, 2019 (the Act). The Opponent bases the opposition on sections 39(2)(a.1) (bad faith), 38(2)(b) (confusion with a registered trademark), 38(2)(c) (non-entitlement to registration), 38(2)(d) (non-distinctiveness), 38(2)(e) (no use or proposed use) and 38(2)(f) (non-entitlement to use).

[6] With the exception of the section 38(2)(e) ground, the grounds of opposition are rooted in an allegation of confusion with the Opponent's registered design trademark no.TMA983710 depicted below (the Opponent's Trademark):



[7] The Applicant filed a counter statement denying the grounds of opposition.

[8] Only the Opponent filed evidence and written representations.

[9] No hearing was held.

## **OVERVIEW OF THE EVIDENCE**

### ***Opponent's Evidence -The Simkin Affidavit and Certified Reg. TMA983710***

[10] The Opponent filed a certified copy of Canadian trademark registration TMA983710 for the Opponent's Trademark and the affidavit of Richard Simkin sworn August 25, 2022 (the Simkin Affidavit).

[11] Mr. Simkin is the director of the Opponent [para 1]. Mr. Simkin attests to the following in his affidavit:

- The Opponent is the owner of the Canadian trademark registration for the Opponent's Trademark [para 3]. A full list of the goods and services (the Opponent's Goods and Services respectively, collectively, the Opponent's Products) associated with the Opponent's Trademark is attached as Schedule A.
- The Opponent, founded in 1994, is a global pharmaceutical company which pioneers life-transforming treatments for substance use disorders and serious mental health illnesses [para 5].
- Since at least as early as 2015, the Opponent has manufactured and sold pharmaceutical preparations, namely SUBLOCADE and SUBOXONE (the Opponent's Pharmaceuticals) in Canada in association with the Opponent's Trademark [para 6].
- The Opponent's Pharmaceuticals are manufactured by the Opponent in the United Kingdom and are sold to hospitals, clinics, retail pharmacies and wholesalers in Canada through its Canadian distributor [para 7].
- The Opponent's Trademark is marked on all boxes of the Opponent's Pharmaceuticals sold in Canada [para 8].
- From 2015 to June 2022, the Opponent sold over 6 million units of the Opponent's Pharmaceuticals representing \$356 million CAD [para 9]. A chart for the years 2015 to 2022 showing annual sales of some of the Opponent's Pharmaceuticals is included.

- The Opponent advertises the Opponent's Pharmaceuticals in Canada through multiple channels. Between 2018 and 2022, the Opponent spent in excess of \$9.5 million CAD [para 10]. A chart setting out annual advertising expenditures from 2015 to June 2022 is provided.
- The Opponent promotes the Opponent's Pharmaceuticals through virtual meetings whereby sales team members provide information to Canadian health care providers (HCPs) [para 11].
- Print and digital promotional materials bearing the Opponent's Trademark used by the Opponent are provided in Exhibit A [paras 12 and 13].
- The Opponent also promotes the Opponent's Pharmaceuticals through videos sent to Canadian HCPs. Screenshots from these videos are attached at Exhibit A.
- The Opponent also hosts speaker events and webinars for current and prospective customers. In 2022 the Opponent hosted 117 events (both virtual and live) and hosted 228 events in 2021 [para 15]. Estimates of the number of speaker events hosted by the Opponent for the years 2015 to 2020 are provided.
- The Opponent also promotes the Opponent's Pharmaceuticals by attending conferences in Canada both in person and virtually [para 16].

### **EVIDENTIAL BURDEN AND LEGAL ONUS**


[12] In accordance with the usual rules of evidence, there is an evidential burden on the Opponent to prove the facts inherent in its allegations pleaded in the statement of opposition [*John Labatt Ltd v Molson Companies Ltd*, 1990 CarswellNat 1053 (FC)]. The presence of an evidential burden on the Opponent with respect to a particular issue means that in order for the issue to be considered at all, there must be sufficient admissible evidence from which it could reasonably be concluded that the facts alleged to support that issue exist [*John Labatt* at 298].

[13] For those allegations for which the Opponent has met its evidential burden, the legal onus is on the Applicant to show that the application does not contravene the

provisions of the Act as alleged in the statement of opposition. The presence of a legal onus on the Applicant means that, if a determinate conclusion cannot be reached once all the evidence has been considered, then the issue must be decided against it.

## **ASSESSMENT OF THE GROUNDS OF OPPOSITION**

### ***Section 12(1)(d) – Registrability***

[14] The Opponent pleads that the Mark is not registrable as it is confusing with the Opponent's registration no. TMA983710 for  which was registered in association with the Opponent's Products on October 27, 2017.

[15] The relevant date for this ground of opposition is the date of the Registrar's decision [*Park Avenue Furniture Corp v Wickers/Simmons Bedding Ltd*, (1991), 37 CPR (3d) 413 (FCA)].

[16] An opponent's initial onus is met with respect to a section 12(1)(d) ground of opposition if the registration relied upon is in good standing as of the date of the opposition decision. I have exercised my discretion to confirm that the registration relied on by the Opponent remains owned by the Opponent and extant [*Quaker Oats Co Ltd of Canada v Menu Foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)].

[17] I therefore find that the Opponent has satisfied its evidential burden for this ground. I must now assess whether the Applicant has met its legal burden.

### **The Test for Confusion**

[18] The test to determine the issue of confusion is set out in section 6(2) of the Act, which stipulates that the use of a trademark causes confusion with another trademark if the use of both trademarks in the same area would likely 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.

[19] Therefore, section 6(2) of the Act does not concern confusion of the trademarks themselves, but of the goods or services from one source as being from another.

Essentially, the question here is whether an average consumer, with an imperfect recollection of the Opponent's Trademark, would think that the goods contained in the application for the Mark emanate from, are sponsored by, or approved by the Opponent.

[20] In applying the test for confusion, I must take into consideration all the relevant surrounding circumstances, including those listed in section 6(5) of the Act, namely: (a) the inherent distinctiveness of the trademarks and the extent to which they have become known; (b) the length of time they have 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 including in appearance or sound or in the ideas suggested by them. These criteria are not exhaustive and different weight will be given to each one in a context-specific assessment [*Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée*, 2006 SCC 23]. I also refer to *Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27 where the Supreme Court of Canada states at para 49 that section 6(5)(e), the resemblance between the trademarks, will often have the greatest effect on the confusion analysis.

#### Degree of Resemblance

[21] When considering the degree of resemblance, the trademarks must be considered in their entirety as a matter of first impression. They must not be carefully analyzed and dissected into their component parts [*Wool Bureau of Canada Ltd v Registrar of Trade Marks* (1978), 40 CPR (2d) 25 (FCTD)]. That being said, the preferable approach is to consider whether there is an aspect of each trademark that is particularly striking or unique. It is reasonable to conclude that such striking or unique elements are dominant in their respective trademarks [*Masterpiece*, para 64].

[22] The Opponent submits that the Mark bears a high degree of resemblance to the Opponent's Trademark in that "both marks feature highly similar designs comprised of pairs of lines (either straight or wavy) arranged in V-shapes and extended outward from a common vertex to form a circular shape" [Opponent's written representations, para 36]. The Opponent further submits that due to the "orientation and tonal variation

of the design portion of the Mark", it appears to be an inverted negative version of the Opponent's Trademark [Opponent's written representations, para 36].

[23] The Opponent's Trademark is a symmetrical design comprised of a series of V shapes of identical size and shape.

[24] The Applicant's Mark also has a circular design element and, when placed side-by-side with the Opponent's Trademark, one can see how the Applicant's Mark could be seen to be a circular design comprised of V shapes. However, it is incorrect to subject the trademarks to a close, side-by-side comparison. When the Applicant's Mark is viewed from the perspective of an ordinary consumer with only an imperfect recollection of the Opponent's Trademark, it is not at all clear that the Applicant's Mark would be recognized as a circular design of V shapes. In my view, it is just as likely that the Applicant's Mark would be viewed as a random collection of shapes having different lengths scattered in a circular pattern. Nonetheless, from the view of the average consumer in a hurry with an imperfect recollection of the Opponent's Trademark, there is a notable resemblance between the Opponent's Trademark and the design element of the Mark.

[25] However, the Applicant's Mark also contains the words VITAL HUMIC under the design element. While the word VITAL is a common English word, the word HUMIC has no immediately apparent meaning, and there is no evidence that this word has any meaning in either English or French.

[26] While I agree that there is a fair degree of resemblance between the design elements of the trademarks at issue, when these trademarks are considered in their entirety, it is apparent that they are more different than they are similar. The Mark is notably different from the Opponent's Trademark in sound and idea suggested, and to a lesser extent appearance, given the word element of the Mark, namely VITAL HUMIC, which I consider to have a fair degree of inherent distinctiveness and is arguably the most striking element of the Mark.

[27] Section 6(5)(e) of the Act makes it clear that all of appearance, sound and idea suggested by the trademarks at issue are to be considered when assessing degree of resemblance for the purposes of a confusion analysis. In the present case, there are different and significant aspects of the degree of resemblance assessment that favour each party. However, overall, I find the Applicant is slightly favoured by this factor.

#### Length of Time the Trademarks Have Been in Use

[28] The Opponent's evidence, namely the Simkin Affidavit, supports a finding of use of the Opponent's Trademark in Canada in association with the Opponent's Pharmaceuticals since 2015. Specifically, the Opponent has established that the Opponent's Trademark has been marked on the packaging of its pharmaceuticals since 2015, and has provided annual sales figures in Canada for the Opponent's Pharmaceuticals for each of the years 2015 to mid-2022, having a cumulative total approaching \$8 million CAD [Simkin Affidavit, paras 8 and 10].

[29] Regarding the Applicant's Mark, although the subject application claims use of the Mark in Canada since at least as early December 1, 2017, no evidence was filed establishing use of the Mark. A trademark application for a mark based on prior use is not sufficient to establish use of mark pursuant to section 4(1) of the Act.

[30] This factor therefore favours the Opponent.

#### Inherent Distinctiveness and Extent Known

[31] While both trademarks at issue have some inherent distinctiveness due to their original design elements, I find that, overall, the Mark has a higher level of inherent distinctiveness given the unique design element and word matter as the phrase "vital humic" is not a common phrase with a clear meaning on first impression.

[32] With respect to extent known, as there is no evidence of use of the Mark of record, it cannot be concluded that the Mark is known to any extent in Canada. The Opponent has filed evidence of use in Canada for approximately seven and a half years. The Opponent's Trademark is therefore necessarily known to a greater extent in Canada making the Opponent favoured in respect of extent known.



[33] Given that this factor is split between the parties, I find that neither party is favoured by this factor.

#### Nature of the Business and Goods and Services

[34] The Opponent's Trademark is registered in association with pharmaceutical preparations for the treatment of substance use disorders, withdrawal and overdose, associated mood disorders, as well as pain relief and associated medical and pharmaceutical services [see attached Schedule A].

[35] The Opponent submits that the goods and services in the registration for the Opponent's Trademark are not limited to goods and services for humans given that some statements, such as "pharmaceutical preparations, drug preparations, and medicinal preparations for the relief of pain" and "provision of health care information and advice in the field of health and wellness" are broad enough to cover goods and services for animals [Opponent's written representations, paras 54 and 55].

[36] Regarding the Opponent's business, the Opponent describes itself as "a global pharmaceutical company" that pioneers "life transforming treatment for substance use disorders and other serious mental illnesses" [Simkin Affidavit, para 4]. The Opponent's product portfolio is focussed on "helping meet patient needs in addiction and schizophrenia" [Simkin Affidavit, para 5].

[37] When assessing this factor, the respective statements of goods and services of the parties must be read with a view to determining the probable type of business or trade intended by the parties rather than all possible trades [*McDonald's Corp v Coffee Hut Stores Ltd* (1994), 55 CPR (3d) 463 (FC), affd 1996 CanLII 3963 (FCA), 68 CPR (3d) 168 (FCA)]. In this respect, evidence as to how trademarks are actually used should be considered [see *Joseph E. Seagram & Sons Ltd v Seagram Real Estate Ltd* (1990), 33 CPR (3d) 454 (FC)].

[38] The Opponent's evidence provides detailed information on the Opponent's Pharmaceuticals offered for sale in Canada, namely SUBLOCADE and SUBOXONE, including:

- SUBLOCADE is sold by the Opponent to hospitals, clinics, retail pharmacies and wholesalers in Canada [Simkin Affidavit, para 7].
- SUBLOCANE is only available directly from the Opponent to pharmacies that have accounts set up with the Opponent [Simkin Affidavit, Exhibit 2.1].
- As per the Opponent's terms and conditions of sale, SUBLOCADE "must never be handled by, or be in the possession of, the patient prior to administration by a qualified healthcare provider" [Simkin Affidavit, Exhibit 2.1].
- Promotional materials for the Opponent's Pharmaceuticals appear to be exclusively sent to HCPs and pharmacists [Simkin Affidavit, paras 12, 13 and 14, Exhibits 2, 3 and 4].
- SUBLOCADE is only available through a controlled distribution process which requires all HCPs to have a certification for SUBLOCADE in order to prescribe these products. Without the required certification, pharmacists will not dispense the product [Simkin Affidavit, Exhibit 2.4].
- SUBOXONE is only available by prescription and also requires HCPs to obtain certification from the Opponent [Simkin Affidavit, Exhibit 2.14].

[39] It is clear from the Opponent's evidence that its goods are prescription pharmaceuticals for human use and its services are medical and healthcare services related to these pharmaceuticals. I find a business, goods and services of this nature, particularly given the controlled access structure associated with the sale and distribution of the Opponent's Pharmaceuticals, to be easily distinguishable from the Applicant's agricultural, soil and animal feed supplements/additives which are in no way related to the Opponent's Pharmaceuticals or the Opponent's Products as a whole.

[40] With respect to the Opponent's assertion that its goods are not limited in the registration for its trademark to those that are for human use, and specifically that there is a potential nexus between the Opponent's medications for the relief of pain and the Applicant's animal feed additives for use as nutritional supplements, in my view, this potential connection is too remote. The statement in the application for the Mark is clear that the additives are nutritional supplements in animal feed. There is no basis upon

which to speculate that these additives are in any way medicinal or therapeutic beyond the nutritional benefits.

[41] Regarding the Opponent's generally worded services "pharmacy advice" and "provision of healthcare information and advice in the field of health and wellness" and the assertion that these services could be provided for animals, I cannot find that a common sense reading of the Opponent's registration leads to the conclusion that these services were intended to cover anything other than those provided to humans. I am of the view that an average Canadian would implicitly consider pharmacy and healthcare-related services to describe services for the benefit of humans unless otherwise indicated as being for veterinary use or specifically for animals.

[42] In light of the above, I find this factor favours the Applicant.

#### Nature of the Trade

[43] The Opponent submits that, given the similar nature of the parties' goods and services, it is reasonable to expect that the Applicant's Goods could be sold and/or provided through the same channels of trade as those of the Opponent [Opponent's written representations, para 58].

[44] When assessing the nature of trade, the proper approach is to compare the statements of goods and services as set out in the registration and application at issue. However, as with the previous factor of nature of the goods, services and business, these statements must be read with a view to determining the probable type of business or trade intended by the parties rather than all possible trades that may be encompassed by the wording of the statements [*Chanel S de RL v Marcon*, 2010 TMOB 98].

[45] Having found that the Opponent's Products are distinguishable from the Applicant's Goods, and considering the Opponent's evidence provides that the Opponent's Pharmaceuticals are controlled substances sold only by the Opponent to certified pharmacies and can only be prescribed by HCPs certified by the Opponent, I find it very unlikely that the trade of the Applicant's agricultural, soil, and animal feed

supplements, which would seem to logically be sold in garden centres and/or agricultural supply stores, would overlap with the Opponent's highly regulated prescription pharmaceutical channel of trade.

[46] I therefore find this factor favours the Applicant.

#### Conclusion Regarding Confusion

[47] The question posed by section 6(5) of the Act under this ground is whether customers of the goods provided under the Applicant's Mark would believe that those goods originate from the same source or are otherwise related or associated with the Opponent's Products.

[48] Having regard to the forgoing, in particular the overall differences in degree of resemblance between the trademarks at issue and differences in the businesses, goods, services and trades associated with the respective trademarks, I am satisfied there is there is no reasonable likelihood of confusion under this ground of opposition.

[49] This ground is therefore rejected.

#### ***Section 38(2)(c) and 16(1)(a)- Non-entitlement - Confusing with a Previously Used Trademark***

[50] The Opponent pleads that the Applicant is not entitled to registration of the Mark in association with the Goods since, as of the claimed date of first use of the Mark, being December 1, 2017, the Mark was confusing with the Opponent's Trademark which had previously been used in Canada.

[51] As the earlier material date for this ground does not strengthen the Opponent's position in respect of any of the factors in section 6(5) of the Act, for the same reasons set out above in the section 12(1)(d) ground, I consider there to be no reasonable likelihood of confusion under this ground.

[52] This ground of opposition is therefore rejected.

## **Section 2 - Non-Distinctiveness**

[53] The Opponent pleads the Mark is not distinctive within the meaning of section 2 of the Act because it does not actually distinguish nor is it adapted to distinguish the Applicant's Goods from the Opponent's Products.

[54] The material date for this ground is the filing date of the opposition, namely March 21, 2022 [*Metro-Goldwyn-Mayer Inc v Stargate Connections Inc*, 2004 FC 1185].

[55] Section 2 of the Act defines "distinctive" in relation to trademarks as follows:

*"distinctive" in relation to a trademark, describes a trademark that actually distinguishes the goods or services in association with which it is used by its owner from the goods or services of others or that is adapted so to distinguish them.*

[56] In order to meet its burden in respect of this ground, the Opponent must show that, as of the material date, the reputation of its trademark prevents the Mark from being distinctive and the required level of use must be "substantial, significant" or constitute "sufficient reputation" in association with the relevant goods and services as of the material date [*Hilton Worldwide Holding LLP v Solterra (Hastings) Limited Partnership*, 2019 TMOB 133 citing *Bojangles' International, LLC v Bojangles Café Ltd*, 2006 FC 657].

[57] I am satisfied that the Opponent has provided sufficient evidence of use and advertisement of the Opponent's Products, which includes annual sales and advertising figures for the years 2015 to mid-2022 as well as detailed descriptions of printed and digital promotional materials, speaker events and conference attendance in Canada, to meet its evidentiary burden for this ground of opposition.

[58] However, determination of this ground also rests upon the assessment of the likelihood of confusion between the trademarks at issue [*Hilton*]. As set out in detail above in the assessment of the section 12(1)(d) ground, I find, on a balance of probabilities that there is no reasonable likelihood of confusion between the

trademarks and goods and services at issue, and the earlier material date for this ground does not affect my earlier finding.

[59] Accordingly, even though the Opponent has demonstrated a sufficient reputation to meet its initial burden in respect of this ground, I find that the Opponent's Trademark does not negate the distinctiveness of the Mark.

[60] The non-distinctiveness ground is therefore rejected.

***Section 38(2)(f) - Non-Entitlement to Use***

[61] The Opponent pleads that, as of the filing date of the application for the Mark, the Applicant was not entitled to use the Mark in Canada with the Goods as such use is likely to:

- cause confusion in the marketplace with the Opponent's Trademark;
- have the effect of depreciating the goodwill attaching to the Opponent's Trademark contrary to section 22 of the Act; and
- constitute passing off pursuant to sections 7(b) and (c) in respect of the Opponent's goods, services or business.

[62] Section 38(2)(f) of the Act addresses an applicant's entitlement to use its trademark (ie, per relevant federal legislation or other legal obligations) as opposed to an applicant's entitlement to register its trademark (relative to another's trademark, pursuant to section 16 of the Act). In my view, merely pleading that an applied-for trademark was confusing with a previously used or registered trademark is not a fact that can support a section 38(2)(f) ground of opposition [see *DCK Concessions Ltd v Hong Xia Zhang*, 2022 TMOB 200 and *Smarte Carte, Inc v Sandals Resorts International 2000 Inc*, 2023 TMOB 67 for similar findings].

[63] Likewise, the other two bases raised in the pleading for this ground also involve an element of confusion on the part of the average consumer. As I have found that there is no reasonable likelihood of confusion above, and the earlier material date for

this ground does not improve the Opponent's case, I also find that these portions of the 38(2)(f) ground are not successful.

[64] Accordingly, this ground of opposition is rejected.

***Section 38(2)(e) - No Use or Proposed Use of the Mark in Canada***

[65] The Opponent pleads that, as of the filing date of the application for the Mark, the Applicant was not using and did not propose to use the Mark in Canada with all of the Goods.

[66] The Opponent filed no evidence to support this ground. Thus, for at least the reason that the Opponent has not met its initial evidential burden, the section 38(2)(e) ground is rejected.

***Section 38(2)(a.1) -Application was filed in Bad Faith***

[67] The Opponent submits that the application for the Mark was filed in bad faith since it constitutes an attempt by the Applicant to seek to trade off on the reputation of the Opponent's Trademark.

[68] As no evidence was filed in support of this claim and no submissions made by the Opponent regarding this ground, the Opponent has not met its initial burden. As such, this ground of opposition is rejected.

**DISPOSITION**

[69] Pursuant to the authority delegated to me under section 63(3) of the Act, I reject the opposition pursuant to section 38(12) of the Act.

---

Leigh Walters  
Member  
Trademarks Opposition Board  
Canadian Intellectual Property Office

## **SCHEDULE A**

### ***The Opponent's Registered Goods and Services***

#### **Goods**

*(1) Pharmaceutical preparations, drug preparations, and medicinal preparations for use in treatment of physical and psychological addictions, namely, substance use disorders, substance abuse, substance dependence, substance addiction, substance withdrawal, and substance overdose; pharmaceutical preparations, drug preparations, and medicinal preparations for use in treatment of psychiatric diseases, namely, co-morbid conditions associated with substance use disorder, substance abuse, substance dependence, substance addiction, substance withdrawal, and substance overdose such as mood disorders, anxiety disorders, cognitive and bipolar disorders, epilepsy, schizophrenia; pharmaceutical preparations, drug preparations, and medicinal preparations for the relief of pain.*

#### **Services**

*(1) Medical services, namely, medical research services providing access to a medical database via a global information network, providing medical information, medical counselling, medical diagnostic services, medical laboratory services and medical screening; health care, namely, administration of health care plans, health care cost containment services, providing emergency health information by telephone, and research in the field of health care, disease management services, home health care services, addiction treatment services, and consulting services in the field of health care; medical clinic services; pharmacy advice; health counseling, namely, substance addiction counselling services, substance abuse rehabilitation counselling services, and operation of a wellness centre providing substance abuse counselling; provision of health care information and advice in the field of health and wellness, behavioral health, disability management, and disease management; provision of pharmaceutical information and advice in the treatment and prevention of substance use disorders, substance abuse, substance dependence, substance addiction, substance withdrawal, substance overdose, co-morbid conditions associated with substance use disorder, substance abuse, substance dependence, substance addiction, substance withdrawal, and substance overdose, psychiatric diseases, conditions, and disorders, and pain and analgesia*



# Appearances and Agents of Record

**HEARING DATE:** No hearing held

## **AGENTS OF RECORD**

**For the Opponent:** MLT AIKINS LLP

**For the Applicant:** WITMART INC.