



# Canadian Intellectual Property Office

## **THE REGISTRAR OF TRADEMARKS**

**Citation:** 2025 TMOB 9

**Date of Decision:** 2025-01-23

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

**Requesting Party:** Lavery, De Billy, LLP

**Registered Owner:** Vector Security Inc.

**Registration:** TMA788,569 for VECTOR SECURITY

## **THE PROCEEDING**

[1] At the request of Lavery, De Billy, LLP (the Requesting Party), the Registrar of Trademarks issued a notice under section 45 of the Trademarks Act, RSC 1985, c T-13 on June 2, 2023, to Vector Security Inc. (the Owner). The section 45 notice required the Owner to show whether the Mark was used in Canada in association with each of the registered services below (Services) at any time within the three-year period before the notice's date (Relevant Period):

- (1) Installation and servicing of security and fire alarm systems.
- (2) Monitoring of security and fire alarm systems.
- (3) Design, installation, servicing and monitoring of commercial security alarms, security systems, fire alarm systems, interactive security systems, energy management systems, HV AC systems, lighting systems, lock control systems, elevator monitoring systems, vehicle tracking systems, building access control systems, electronic article surveillance systems, video systems, namely,

video cameras and video equipment for use in surveillance, capture of video for use in business analytics, and scheduled business events to trigger alarms, remote video recording systems, severe weather alert systems, intercom systems, water detection systems, carbon monoxide/gas detection systems, location based services, namely, GPS system satellites, transmitters, and receivers used to track vehicle movement.

[2] For the reasons that follow, the registration will be amended.

### **ANALYSIS**

[3] 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 [*Black & Decker Corp v Method Law Professional Corp*, 2016 FC 1109 at para 12]. The evidence in a section 45 proceeding need not be perfect; a registered owner need only establish a *prima facie* case of use within the meaning of sections 4 and 45 of the Act.

[4] The Owner filed as its evidence the affidavit of Tiffany Butler, its Contracts Manager. At the outset, I note Ms. Butler’s statement that the Owner cannot confirm use of the Mark in Canada in the performance or advertising of the following Services during the Relevant Period: vehicle tracking systems, electronic article surveillance systems, severe weather alert systems, intercom systems, location based services, namely, GPS system satellites, transmitters, and receivers used to track vehicle movement.


[5] As there is no evidence of special circumstances excusing non-use, these services will be removed from the registration and will not be discussed further.

For the remainder of the Services, Ms. Butler’s evidence is that:

- The Owner has agreements with subcontractors to perform the Services on its behalf. These agreements include standard operating

guidelines and allow the Owner to dictate how the Services are performed (para 9). As such, the Owner has the required control over the quality of the Services pursuant to section 50(1) of the Act [*Empresa Cubana Del Tabaco Trading v Shapiro Cohen*, 2011 FC 102 at para 84]. I am, therefore, satisfied that any use of the Mark by the subcontractors enures to the Owner.

- The total sales of the Services in association with the Mark in Canada exceeded US\$14 Million during the Relevant Period (para 71).
- The Mark appears on printouts of presentations advertising the Services and given to Canadian customers during the Relevant Period, and on printouts of the Owner's website, brochures, mobile application, control panels, agreements and installation contracts and invoices all accessed by or sent to Canadian customers during the Relevant Period. I find that this evidence shows use of the Mark within the meaning of section 4(2) of the Act. In so finding, I note that the use of the VECTOR SECURITY NETWORKS trademark or VECTOR

SECURITY appearing with the design symbol  constitutes use of the Mark as registered as consumers would not be misled as to the source of the Services, and the Mark remains recognizable [*Canada (Registrar of Trade Marks) v Cie internationale pour l'informatique CII Honeywell Bull SA* 1985 CanLII 5537 (FCA); *Promafil Canada Ltée v Munsingwear Inc*, 1992 CanLII 12831(FCA)].

- For ease of reference, highlighted evidence correlated with each of the Services is set out below.

Services	Highlighted Evidence
(1) Installation and servicing of security and fire alarm systems.	Control panels including the Mark are installed by the Owner's technicians (Exhibit E) and detailed plans including the Mark are provided to customers to sign off on (Exhibit L).
(2) Monitoring of security and fire alarm systems.	The Mark is displayed on a loss prevention sheet which details the order that different people should be contacted in if an alarm is activated (including the police and fire departments) (para 47, Exhibit P). The Mark is also displayed on the app that customers can use to operate their systems (as shown in Exhibit B).
Design, installation, servicing and monitoring of commercial security alarms, security systems, fire alarm systems, interactive security systems, energy management systems, HV AC systems, lighting systems, lock control systems, elevator monitoring systems, building access control systems	All of these services are advertised on the website accessed by Canadian customers (Exhibit A) and in presentations to Canadian customers (Exhibits C1-C2) all of which display the Mark prominently. The Mark appears on invoices (Exhibits F-2, O, Q1), installation job contracts (Exhibit H) and control panels (Exhibit K3).
video systems, namely, video cameras and video equipment for use in surveillance	The Mark is displayed on an invoice provided to a Canadian customer (para 68, Exhibit Q2).

Services	Highlighted Evidence
capture of video for use in business analytics, and scheduled business events to trigger alarms	These systems are used by businesses so that alarms are triggered if something doesn't happen as usual (such as a store opening on time). An invoice showing the sales of these services to a Canadian customer is provided (para 70, Exhibit R).
remote video recording systems	The Mark is displayed on a control panel that controls the remote video recording system on the premises of a Canadian customer (para 27, Exhibit E).
water detection systems, carbon monoxide/gas detection systems	These services were advertised in a presentation including the Mark given to Canadian customers (paras 21-23, Exhibits C1-C2).

[6] With the exception of the services listed at paragraph 4 that Ms. Butler cannot identify as being performed or advertised in Canada, the evidence well exceeds a *prima facie* standard of showing use of the Mark in association with the Services during the Relevant Period.

**DISPOSITION**

[7] 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 remove the following services:

...vehicle tracking systems, ... electronic article surveillance systems, , ... severe weather alert systems, intercom systems, ... location based services, namely, GPS system satellites, transmitters, and receivers used to track vehicle movement

Natalie de Paulsen  
Member  
Trademarks Opposition Board  
Canadian Intellectual Property Office

## Appearances and Agents of Record

No hearing held.

### **AGENTS OF RECORD**

**For the Requesting Party:** Lavery, De Billy, LLP

**For the Registered Owner:** Borden Ladner Gervais LLP