



Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2025 TMOB 266

Date of Decision: 2025-12-23

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

IN THE MATTER OF A SECTION 45 PROCEEDING

Requesting Party: Registrar of Trademarks

Registered Owner: INFOPRO DIGITAL TRADE SHOWS

Registration: TMA607,166 for LUXE PACK

INTRODUCTION

[1] This is a decision involving a summary expungement proceeding under section 45 of the *Trademarks Act*, RSC 1985, c T-13 (the Act) with respect to registration No. TMA607,166 for the trademark LUXE PACK (the Mark), owned by INFOPRO DIGITAL TRADE SHOWS (the Owner).

[2] The Mark is registered in association with the following goods:

[TRANSLATION]

Organizing fairs, trade shows, congresses and exhibitions in the field of luxury products and sources and in the field of packaging and wrapping luxury products.

[3] For the reasons that follow, the registration will be expunged.

PROCEEDING

[4] As part of the pilot project on Registrar-initiated section 45 expungement proceedings, the Registrar of Trademarks issued a notice to the Owner under section 45 of the Act on January 20, 2025. This notice required the Owner to show whether the Mark had been used, pursuant to section 4 of the Act, in Canada in association with the services identified in the registration at any time during the three-year period immediately preceding the date of the notice and, if not, the date when it was last in use and the reason for the absence of such use since that date. In this case, the relevant period for showing use is January 20, 2022 to January 20, 2025.

[5] 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 [*Miller Thomson LLP v Hilton Worldwide Holding LLP*, 2020 FCA 134; *Black & Decker Corp v Method Law Professional Corp*, 2016 FC 1109]. The evidentiary threshold is quite low [*Performance Apparel Corp v Uvex Toko Canada Ltd*, 2004 FC 448] and “evidentiary overkill” is not required [see *Union Electric Supply Co v Canada (Registrar of Trade Marks)* (1982), 63 CPR (2e) 56 (FCTD)]. Evidence must only supply facts from which a conclusion of use may follow as a logical inference [*Diamant Elinor Inc v 88766 Canada Inc*, 2010 FC 1184 at para 9].

[6] In the absence of use, a registration is liable to be expunged unless the absence of use is due to special circumstances.

[7] In response, the Owner furnished the statutory declaration of Nathalie Curvat, its president, sworn on May 26, 2025, in Lyon, France, to which Exhibits 1 to 3 were attached. The Owner did not submit any written representations or request a hearing.

EVIDENCE

[8] Ms. Curvat explained the Owner's activities as follows:

[TRANSLATION]

My corporation operates in the field of organizing fairs, trade shows, congresses and exhibitions in several countries in the field of luxury products and sources and in the field of packaging and wrapping luxury products. It provides turnkey packages for their clients who need to organize their fairs, trade shows, congresses or exhibitions. These packages include, among other things, a booth, posters, booth setup and takedown services, access to conferences, lunches, and several marketing tools [para 4].

[9] Ms. Curvat states that services were performed in Canada in association with the Mark [para 4] and attached two invoices issued to a client located in Canada [Exhibit 1]. Both invoices bear the Mark and relate to this same client's involvement in the 2023 and 2025 editions of the same fair called LUXE PACK NEW YORK. I note that the terms and conditions of the two invoices identify the organizer of the fair as "INFOPRO DIGITAL USA LLC".

[10] Ms. Curvat states that the Owner's services are advertised through websites; she attaches excerpts from these sites, which she certifies are representative of the relevant period [para 5, Exhibit 2]. I note that the excerpts identify "Luxe Pack" fairs held in: Paris, New York, Los Angeles, Shanghai, and Monaco.

[11] Ms. Curvat states that the Owner's websites have been visited by Canadians and provided attendance statistics in this regard [para 6, Exhibit 3]. I note that these statistics relate only to the domain name *www.luxepacknewyork.com*.

THE REASONS

[12] Considering all the evidence, I accept that the Mark was shown in the advertisement of the services identified in the registration. However, for the reasons that follow, I do not consider that the evidence shows, in the case at hand, that there was use of the Mark in Canada, or use by or benefiting the Owner.

[13] It is established that the “use” of a trademark that must be demonstrated under sections 4 and 45 of the Act must be by its registered owner or by an entity duly licensed or authorized under section 50 of the Act [*BCF LLP v Spirits International BV*, 2010 FC 122, affirmed by 2011 FCA 805, varied on other grounds by 2012 FCA 131].

[14] The invoices here do not identify the Owner, but rather another entity as the organizer of the fairs in question. The evidence does not indicate the relationship between this entity and the Owner. In the absence of an explanation in this regard, I consider the evidence insufficient to meet the burden of proof—however low it may be—of establishing that the use of the Mark was by the Owner or benefited it.

[15] In any event, I do not consider that the evidence demonstrates the performance of services in Canada. In this regard, the evidence only mentions trade shows held outside of Canada. In order to establish that services were performed in Canada, Canadians must receive a material benefit, which they can enjoy in Canada, from the activity in issue [*Miller Thomson LLP v. Hilton Worldwide Holding LLP*, 2020 FCA 134]. In this case, the only benefit in evidence is the actual participation in trade shows—an advantage that Canadian clients can only benefit from outside Canada.

[16] If the services were not performed in Canada, the evidence must show not only that the services were advertised in Canada, but also that the

Owner was willing and able to perform those services in Canada during the relevant period [*Vass v Leef Inc*, 2022 FC 1192 at para 53; *Wenward (Canada) Ltd v. Dynaturf Co* (1976), 28 CPR (2nd) 20 (TMOB)]. Here, the evidence only refers to trade shows held outside of Canada. I consider this evidence insufficient to demonstrate that the Owner was able to hold trade shows in Canada.

[17] In light of the above, I conclude that the evidence, considered as a whole, is insufficient to demonstrate use of the Mark in Canada by the Owner during the relevant period as required by sections 4 and 45 of the Act.

DISPOSITION

[18] 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 expunged.

Emilie Dubreuil
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

Certified translation
Tony Santin
Beau Brock

Appearances and Agents of Record

AGENTS OF RECORD

For the Requesting Party: No agent appointed

For the Registered Owner: Therrien Couture Joli-Coeur SENCRL