



Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2025 TMOB 270

Date of Decision: 2025-12-24

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

INTERLOCUTORY RULING

Opponent: Caracer Holdings Inc.

Applicant: 9253-4270 Québec Inc.

Application: 2,374,957 for SALUT GILLES

BACKGROUND

[1] Caracer Holdings Inc. (the Opponent) opposes registration of the trademark SALUT GILLES (the Mark), which is the subject of application No. 2,374,957 by 9253-4270 Québec Inc. (the Applicant).

[2] As part of this opposition proceeding, the Applicant is applying for an interlocutory ruling regarding the sufficiency of certain allegations in the statement of opposition dated September 29, 2025, filed by the Opponent, as well as an extension of time to produce and serve a counter statement.

[3] In response, following the Registrar's invitation, the Opponent is requesting permission to file an amended statement of opposition and essentially argues that it now provides sufficient details to allow the Applicant to respond adequately. The Applicant, however, argues in turn that

the proposed changes [TRANSLATION] “do not change much about the insufficiency” of the statement of opposition and [TRANSLATION] “maintains its application for an interlocutory ruling, whether it is on the original statement or on the amended statement.”

LEAVE TO AMEND THE STATEMENT OF OPPOSITION

[4] Since the required amendment is significant, stems directly from the Applicant’s interlocutory ruling application, the opposition proceeding is not far advanced, and there is therefore no associated prejudice for the Applicant, I believe it is in the interest of justice to grant the Opponent leave to amend its statement of opposition in accordance with section 48 of the *Trademarks Regulations*, SOR/2018-227.

[5] The amended statement dated November 10, 2025, is therefore added to the record, and the Applicant’s application will be reviewed in light of this statement of opposition as amended.

SCOPE OF THE RULING

[6] The sufficiency of the allegations contained in a statement of opposition is governed by section 38 of the *Trademarks Act*, RSC 1985 c T-13 (the Act). Section 38(2) of the Act comprehensively sets out the grounds upon which an opposition may be based, and section 38(3) requires that they be sufficiently detailed to enable the Applicant to reply. Thus, a wrongly pleaded ground of opposition would be one without legal basis or that does not contain sufficient precision. Section 38(6) of the Act grants the Registrar the power to strike all or part of a statement of opposition in either of these cases at the Applicant’s request. The fact that the Applicant did not expressly cite this provision does not change anything regarding the clarity of the contents of its interlocutory ruling application or the power of the Registrar that stems from section 38(6) of the Act.

[7] Furthermore, the purpose of an interlocutory ruling is not to determine whether a valid ground for opposition is likely to be accepted, but rather whether it contains enough facts to allow the Applicant to respond.

ALLEGATIONS OF THE STATEMENT OF OPPOSITION

[8] Preliminarily, the Applicant argues that in paragraphs 3, 7, 8, 9, 14, and 15 of the original statement of opposition, the Opponent refers to semi-figurative marks without reproducing the corresponding graphics. I note that Schedule 1 of the amended statement of opposition addresses this defect. The reference to these trademarks will therefore not be struck.

Grounds of Opposition

[9] The amended statement of opposition raises grounds based on the bad faith of the Applicant, pursuant to section 38(2)(a.1) of the Act; its lack of entitlement to registration of the Mark, pursuant to sections 38(2)(c) and 16(1)(a) of the Act; and the non-distinctiveness of the Mark, pursuant to sections 38(2)(d) and 2 of the Act.

Lack of Entitlement to Registration and Lack of Distinctiveness

[10] As the problematic expressions identified by the Applicant (namely: [TRANSLATION] “In particular” and “among others”) have been removed from the amended statement of opposition and the Opponent now refers more precisely to its alleged trademarks (to be read in conjunction with those reproduced in Schedule 1) and the related goods and services. I believe that these grounds for opposition are pleaded with sufficient detail to allow the Applicant to respond.

[11] Paragraphs 19 and 20 of the amended statement of opposition regarding the grounds based on sections 38(2)(c)/16(1)(a) and 38(2)(d)/2 of the Act will therefore not be struck.

Bad Faith

[12] The Applicant essentially argues that none of paragraphs 6 to 18 allege sufficient facts to allow the Registrar to conclude, even with evidence, that the Application being opposed was made in bad faith.

[13] To facilitate reference, I reproduce below the paragraphs in question as they appear in the amended statement of opposition (omitting bold characters, strikethroughs, and underlines).

[TRANSLATION]

In accordance with section 38(2)(a.1):

6. The Application contravenes section 38(2)(a.1) of the Act, which provides that an application may be opposed on the ground that it was filed in bad faith.

7. At the filing date of the Application, and at any other relevant date, the Applicant was, or should have been, fully aware of the Opponent's prior rights to the marks GILLES VILLENEUVE, GILLES VILLENEUVE & DESIGN, and GILLES VILLENEUVE & DESIGN (signature), which had already been used in Canada, but nonetheless filed the application knowing that it could not legally use the Mark subject to the Application in Canada in association with the Applicant's goods.

8. The Applicant's attempt to register the Mark that is the subject of the Application constitutes a deliberate and bad faith attempt to take advantage of the reputation developed by the Opponent for the marks GILLES VILLENEUVE, GILLES VILLENEUVE & DESIGN, GILLES VILLENEUVE & DESIGN (signature), and to deceive consumers into falsely believing that the Applicant's goods are those of the Opponent, or that they are in any way linked, associated, or approved by the Opponent, which is not the case.

9. In fact, since the death of star racing driver Gilles Villeneuve in 1982, it has been a trust and subsequently the Opponent, in conjunction with the estate of Gilles Villeneuve, that actively manages and exploits worldwide the intellectual property rights related to Gilles Villeneuve, including the trademarks GILLES VILLENEUVE, GILLES VILLENEUVE & DESIGN, and GILLES VILLENEUVE & DESIGN (signature).

10. On May 14, 1982, the executive committee of the City of Montréal decided to name the racetrack on Notre-Dame Island after Gilles Villeneuve (Minutes of the executive committee of the City of Montréal from May 14, 1982, attached as Schedule 2).

11. In 1983, the phrase "Salut Gilles" was painted on the track by two fans of Gilles Villeneuve, Ms. Claude Cuerrier and Ms. Johanne Dumontier. This expression has remained on the track since (Newspaper articles explaining the origin of "Salut Gilles" attached in Schedule 3).

12. However, the amended lease agreement and update regarding the lease of the Circuit Gilles-Villeneuve between the Société du Parc Jean-Drapeau and the Applicant (the "Agreement") does not grant any right regarding the expression "Salut Gilles" (amended lease agreement and update regarding the lease of the Circuit Gilles-Villeneuve between the Société du Parc Jean-Drapeau and 9253-4270 QUÉBEC INC. in Schedule 4 will be sent directly to the Applicant's agent in order to comply with information confidentiality). Furthermore, the Agreement specifically states that:

5.3.2.5 When organizing and marketing the Event, the Tenant is responsible for obtaining all necessary permissions, if applicable, before commercially exploiting names, marks, logos, or other elements protected by intellectual property rights.

13. The Opponent has never authorized the Applicant's use of the expression "Salut Gilles"; such an expression unequivocally refers to Gilles Villeneuve and the mark GILLES VILLENEUVE.

14. Over the years, discussions regarding the exploitation of the marks GILLES VILLENEUVE, GILLES VILLENEUVE & DESIGN, and GILLES VILLENEUVE & DESIGN (signature), and their derivatives have occurred between the Opponent and the various operators of the Canadian Formula 1 Grand Prix, including one of the representatives of the Applicant, the current operator of the Canadian Formula 1 Grand Prix, who was also the president of the previous operator of this Grand Prix.

15. Notably, in 2018, an agreement was reached between the Opponent's representatives and the president of the previous operator of this Grand Prix to exploit the Opponent's intellectual property, particularly the marks GILLES VILLENEUVE, GILLES VILLENEUVE & DESIGN, and GILLES VILLENEUVE & DESIGN (signature), to commemorate the 40th anniversary of Gilles Villeneuve's victory at the Canadian Formula 1 Grand Prix in 1978 (Minutes Rencontre Dumontier May 29 2018 - 8:30am attached in Schedule 5). As part of this agreement, certain promotional items were rejected by the Opponent and were not distributed (e.g., coasters featuring Gilles Villeneuve

and displaying the mark GILLES VILLENEUVE and GILLES VILLENEUVE & DESIGN).

16. However, subsequently, when the Applicant became the new Formula 1 Grand Prix operator in Canada and despite the Applicant's representative (former president of the previous operator) having an excellent understanding of the situation, the Applicant has knowingly ignored and continues to ignore the Opponent's rights, particularly with respect to the marks GILLES VILLENEUVE, GILLES VILLENEUVE & DESIGN, and GILLES VILLENEUVE & DESIGN (signature). The Opponent attempted several times to hold discussions with the Applicant; these attempts went unanswered.

17. Furthermore, any use of the mark that is the subject of the application by the Applicant in connection with its goods and services would be contrary to section 7 of the Act, the intrinsic elements of this section being more fully described in this Statement of Opposition.

18. In these circumstances, the Application was filed in bad faith, contrary to section 38(2)(a.1) of the Act.

[14] I agree with the Applicant that its knowledge of the Opponent's prior rights, alleged in paragraph 7, does not in itself constitute a sufficient fact to support a ground of opposition based on bad faith under section 38(2)(a.1) of the Act. The Opponent recognizes as much in its representations. I note, however, that in paragraph 8, the Opponent specifies its allegations and provides, at paragraphs 9 to 16, the factual context in which they are situated. In this sense, trying to take advantage of the reputation established by others can constitute the basis for a bad faith ground of opposition. The same applies to an intention to cause harm or disrupt the activities of others.

[15] Specifically regarding the allegations that the Applicant "could not legally use" the Mark in Canada and referring to consumer deception, respectively found at the end of paragraphs 7 and 8 reproduced above, I understand them here as relating subjectively to the intent (alleged bad faith) of the Applicant. As such, these will not be struck.

[16] In addition, although the term “including” at the end of paragraph 9 reproduced above is not much more revealing than the term “particularly,” I am not satisfied that this paragraph is vague or ambiguous. On the contrary, it seems sufficiently clear to me. It explains who manages and exploits the intellectual property rights related to Gilles Villeneuve—including three marks in Schedule 1—and since when. This allegation helps to contextualize the Opponent’s position and is, in my opinion, limited to the trademarks expressly identified therein. Paragraph 9 will therefore not be struck.

[17] On the other hand, paragraph 17 reproduced above must be struck, because it seems to fall under section 38(2)(f) of the Act and should likely have been pleaded on a basis related to the lack of right to use the Mark, without mentioning the fact that it does not specify which aspect(s) of section 7 of the Act to which this basis relates.

[18] Lastly, regarding the Applicant’s arguments related to the relevance and admissibility of various allegations, these are questions to be resolved at the decision stage in accordance with section 38(12) of the Act.

Summary

[19] In view of all of the foregoing, only paragraph 17 of the amended statement of opposition dated November 10, 2025, is struck. It is also understood that the trademarks pleaded by the Opponent are only those reproduced at Schedule 1 of the amended statement of opposition.

No EVIDENCE AT THIS STAGE

[20] Since a statement of opposition must set out the material facts but not the evidence that the Opponent intends to adduce to establish those facts [see *Pepsico Inc v Registrar of Trademarks* (1975), 22 CPR (2d) 62 (FCTD)], it goes without saying that the documents attached as Schedules 2 to 5 to

the amended statement of opposition are not part of the evidence on the record.

NEXT DEADLINE FOR THE APPLICANT

[21] Lastly, in accordance with the Applicant's Application, the Applicant is granted an extension of time of one month from the date of this ruling to file and serve its counter statement.

Iana Alexova
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