Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2026 TMOB 22

Date of Decision: 2026-02-05

IN THE MATTER OF A SECTION 45 PROCEEDING

Requesting Party: Multi-Portions Inc.

Registered Owner: Terra Nostra Import/Export Inc.

Registration: TMA1,103,489 for DELISÁ

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. TMA1,103,489 for the trademark DELISÁ (the Mark) owned by Terra Nostra Import/Export Inc. (the Owner) in association with sausages (the Goods).

[2] For the reasons that follow, I conclude that the registration ought to be maintained.

PROCEEDING

[3] At the request of Multi-Portions Inc. (the Requesting Party), the Registrar of Trademarks issued a notice under section 45 of the Act on April 7, 2025. The notice required the Owner to show whether the Mark was used in Canada in association with the Goods at any time within the

three-year period immediately preceding the date of the notice (the Relevant Period).

[4] The relevant definition of "use" in the present case is set out in section 4(1) of the Act as follows:

> 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.

[5] In response to the notice, the Owner filed the affidavit of Benny Sa, its president and founder. The most relevant portions of Mr. Sa's evidence are summarized and discussed below. Neither party filed written representations or requested an oral hearing.

EVIDENCE AND ANALYSIS

[6] The purpose of section 45 of the Act is to "clear deadwood" from the register [*Black & Decker Corp v Method Law Professional Corp*, 2016 FC 1109 at para 12]. The evidence 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 and the 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].

[7] The Owner's evidence here notably includes the following:

- The Owner specializes in the import and distribution of high-quality Portuguese food products across Canada, including sausages [para 3]. It commenced use of the Mark in 2022 [para 7].

- Photographs of the Goods displaying the Mark, stated to be representative of the goods sold by the Owner during the Relevant Period [para 8; Exhibits B-1 and B-2].
- A representative photograph of a bulk shipment of sausages displaying the Mark on its packaging [para 8; Exhibit B-3] and copies of labels for the Goods [para 9; Exhibits C-1 and C-2].
- One example of the Mark as shown on the Owner's packaging and labels is reproduced below.

- Copies of invoices for orders of Portuguese sausages ("*saucisse portugaise*") issued to Canadian customers during the Relevant Period. The body of the invoices displays the word "DELISA", albeit with no accent over the letter A [para 12; Exhibits F-1 to F-4].

[8] I will start by noting that I consider the design version of the Mark on the Owner's product packaging and labels (where it is featured in large and bold capitals bordered by discontinued lines under a smaller shield design and on top of the much smaller phrase "CHOURIÇO PORTUGAIS") to constitute display of the Mark *per se*, as it preserves its identity and remains recognizable as a matter of first impression [per *Registrar of Trade Marks v Compagnie Internationale pour l'informatique CII Honeywell Bull SA* (1985), 4 CPR (3d) 523 (FCA); and *Nightingale Interloc Ltd v Prodesign Ltd* (1984), 2 CPR (3d) 535 (TMOB); see also *Stikeman, Elliott v Wm Wrigley Jr Co* (2001), 14 CPR (4th) 393 (TMOB) at 395].

[9] Accordingly, I accept that the evidence shows that the Owner's sausages labels and packaging featured the Mark. Furthermore, despite the omission of the accent over the letter A in the word "DELISA" in the product description of sausages in the invoices, I accept this as a clear reference to the Goods and find that sausages labelled with the Mark were sold in Canada during the Relevant Period. I am therefore satisfied that the evidence in this case is sufficient to establish use of the Mark in association with the Goods in accordance with sections 4(1) and 45 of the Act.

DISPOSITION

[10] 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 maintained.

Iana Alexova
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

Appearances and Agents of Record

No hearing held

AGENTS OF RECORD

For the Requesting Party: Robic Agence PI S.E.C./ Robic IP Agency LP

For the Registered Owner: Darryl Joseph Bilodeau