



Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2026 TMOB 43

Date of Decision: 2026-03-06

IN THE MATTER OF A SECTION 45 PROCEEDING

Requesting Party: Robinson Sheppard Shapiro S.E.N.C.R.L./L.L.P.

Registered Owner: Canadian Wise Foods Inc.

Registration: TMA736919 for VEGGIE WISE

INTRODUCTION

[1] At the Request of Robinson Sheppard Shapiro S.E.N.C.R.L./L.L.P. (the Requesting Party), the Registrar of Trademarks issued a notice under section 45 of the *Trademarks Act*, RSC 1985, c T-13 (the Act) on March 25, 2025, to Canadian Wise Foods Inc. (the Owner), the registered owner of registration No. TMA736919 for the trademark VEGGIE WISE (the Mark).

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

Food products, namely dessert mixes, snack mixes, flavoured rice mixes, instant flavoured rice mixes, seasoning mixes, salad dressing mixes, coating mixes, ketchup, bakery premixes, pasta sauces, pasta sauce mixes, pizza sauces, pizza sauce mixes.

[3] I note that the above registration reflects an amendment made on June 5, 2025. The amendment to the registration is not at issue in this proceeding.

[4] The notice required the Owner to show whether the Mark was used in Canada in association with the goods specified in the registration at any time within 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 use since that date. In this case, the relevant period for showing use is March 25, 2022 to March 25, 2025.

[5] The definition of “use” is set out in section 4 of the Act as follows:

4(1) 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.

[6] In the absence of use, pursuant to section 45(3) of the Act, the registration is liable to be expunged, unless the absence of use is due to special circumstances.

[7] In response to the Registrar’s notice, the Owner furnished the affidavit of Unmole Ali, Director of the Owner, sworn on June 16, 2025 (the Ali Affidavit). Neither party filed written submissions or attended an oral hearing.

EVIDENCE AND ANALYSIS

[8] In his affidavit, Mr. Ali states that the Owner manufactures spice mixes, dessert mixes, seasoning mixes, and snack mixes. He states that these products were available for sale online and in person in Canada during the relevant period in the company’s “Food Service Line”.

[9] As Exhibit 2, Mr. Ali attaches images showing the Mark displayed on labels for bulk packages of “falafel mix” and “fish pakora spice mix”. Mr. Ali

states that the images are representative of how the Mark appears on labels used for bulk packaging in the food service product line [page 2].

[10] As Exhibit 3, he attaches invoices dated during the relevant period showing sales in Canada of “veggie wise falafel mix”, “lemon and herb marinades”, “peri peri”, “kashmiri marinade”, “pickled marinade”, “veggie wise fish pakora spice mix”, “bbq marinades”, “spice mixes”, and “pink chai” [pages 5 to 10]. The Mark appears in the product description for the falafel mix and pakora spice mix but not the other listed products.

[11] Viewed together, the Exhibit 2 and 3 photographs and invoices show that the Mark was displayed on packaging for falafel mix and fish pakora spice mix sold by the Owner in Canada during the relevant period. The pakora mix appears to correspond most readily with the registered “seasoning mixes”; I am therefore satisfied that the Owner has shown use of the Mark in association with “seasoning mixes” within the meaning of the Act.

[12] However, it is not clear which of the registered goods would correspond to falafel mix. I note that it is not for the Registrar to speculate as to the nature of the goods or the trade; it is the responsibility of the registered owner to show the connection between the goods registered and those included in the evidence [*Fraser Milner Casgrain LLP v Fabric Life Ltd*, 2014 TMOB 135 at para 13].

[13] As for the remaining goods in the invoices, there is no evidence that the Mark was on their packaging or associated with them at the time of transfer. In this respect, I note that the Mark appears only in the product description for the falafel and pakora products in the invoices. Further, there is no clear statement that the Mark would have been associated with the remaining invoiced products at the time of transfer, whether on their

packaging or otherwise. In any event, it is not clear that any of these products would correspond with registered goods other than "seasoning mixes".

[14] Finally, although it is not listed in the Exhibit 3 invoices, representative photographs of the Mark on "Veggie Wise kheer dessert mix" retail packaging are attached as Exhibit 1. Mr. Ali indicates that this packaging is an example of use of the Mark during the relevant period, and confirms that dessert mix products were sold by the Owner in its normal course of trade. In view of the totality of the evidence, and bearing in mind that drawing an inference is a matter of reasonably probable, logical deductions from the evidence [*Sim & McBurney v En Vogue Sculptured Nail Systems Inc*, 2021 FC 172 at para 15], I accept that the Owner has shown that it used the Mark in association with "dessert mixes" within the meaning of the Act.

[15] In sum, I am satisfied that the Owner has only demonstrated use of the Mark within the meaning of sections 4 and 45 of the Act in relation to "seasoning mixes" and "dessert mixes". With respect to the remaining goods, I am not satisfied that the Owner has demonstrated use of the Mark in association with these goods within the meaning of sections 4 and 45 of the Act. As there is no evidence of special circumstances excusing non-use of the Mark before me, the registration will be amended accordingly.

DISPOSITION

[16] In view of all of the foregoing, 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 delete "snack mixes, flavoured rice mixes, instant flavoured rice mixes," and "salad dressing mixes, coating mixes, ketchup, bakery premixes, pasta sauces, pasta sauce mixes, pizza sauces, pizza sauce mixes".

[17] The amended registration will be as follows:

Food products, namely dessert mixes, seasoning mixes.

G. M. Melchin
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

Agents of Record

HEARING DATE: No hearing held

AGENTS OF RECORD

For the Requesting Party: Robinson Sheppard Shapiro S.E.N.C.R.L./L.L.P.

For the Registered Owner: No agent appointed