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| PAMELA-JANE TAYLOR  (TAYLORLEGAL)  20 Gormley Avenue  TORONTO  ONTARIO M4V 1Y8 | | |
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| RE: | Trade-mark: | WHEELCHAIR RUGBY CANADA/ RUGBY EN FAUTEUIL ROULANT CANADA |
|  | Applicant: | CANADIAN WHEELCHAIR SPORTS ASSOCIATION/ ASSOCIATION CANADIENNE DES SPORTS EN FAUTEUIL ROULANT |

This examiner's report concerns the above identified application. To avoid abandonment proceedings, a proper response must be received by this office by August 12, 2019. All correspondence respecting this application must indicate the file number.

Pursuant to the practice notice of November 9, 2016, please confirm that the goods and services emanate from Canada since it is a geographic name.

The Office considers goods to originate from a geographic location if they are manufactured, produced, grown, assembled, designed, provided or sold there and services to originate from a geographic location if they are performed, provided or offered there.

If the goods and services do not emanate from Canada, then the trademark as a whole deceptively misdescribes the place of origin of the associated goods and services since the average Canadian consumer or dealer would be misled into the belief that the associated goods and services originate from Canada and therefore the trademark is unregistrable pursuant to paragraph 12(1)(b) of the *Trade-marks Act*.

In this respect, your attention is directed to *Atlantic Promotions Inc*. v. *Registrar of Trade Marks* (1984), 2 C.P.R. (3d) 183 at 197:

In my view a person of ordinary intelligence when faced with the word "Milan" would immediately understand that word to refer to the city. Hence Milan is a geographical name in that sense of it being the primary meaning of the word. There may be other connotations such as a personal forename or surname but such connotations pale into insignificance when contrasted with the geographical significance. It is simply overwhelming. The gist of the registrar's conclusion is in the words: Since (the) applicant has indicated that the wares are not made in Milan, but the trade- mark would indicate to the consumer that they are, the portion Milan is deceptively misdescriptive of the origin of the wares thus rendering the mark in its entirety unregistrable by reason of S.12(1)(b) of the Trade-marks Act. I do not attribute to that language a concession by the appellant (applicant) that the trade- mark was an indication to the consumer that the wares were made in Milan. Rather I understand it to be an affirmative statement by the registrar that, "but the trade-mark would indicate to the consumer that they are", i.e., made in Milan, Italy segregated in that clause is by the use of commas. It would appear that in reaching that conclusion the registrar applied the proper test in determining the question of fact that he was obliged to determine.

See also *T.G. Bright & Co., Ltd.* v. *Registrar of Trade Marks* (1985), 4 C.P.R. (3d) 64 and *T. G. Bright & Co., Ltd.* v. *Institut National des Appellations d'Origine des Vins et Eaux-de-vie* (1986), 9 C.P.R. (3d) 239.

Upon satisfactory compliance with the above-mentioned requirement(s), further office action will be undertaken.

If the applicant has any specific questions in respect of this Office action, please contact the assigned examiner. Please note that for general inquiries, including assistance with filing of the revised application, queries about the status of an application or receipt of correspondence, you may contact our Client Service Centre toll free at 1-866-997-1936.

Yours truly,



Hélène Gaudreau

Examination Section

819-635-3398

fax: 819-953-2476