

ROMANELLI CONSTRUCTION COMPANY LTD.



REQUERANT - APPLICANT
MARQUE DE COMMERCE - TRADE-MARK
WET BASEMENT?

MICHAEL A. CARLI
(RIGOBON, CARLI)
SUITE 401
3700 STEELES AVE. W.
WOODBIDGE
ONTARIO L4L 8K8
Attention: Michael A. Carli

DATE DE PRODUCTION - FILING DATE

14 nov/Nov 2006

No DOSSIER - FILE NO.

1323916

RUBRIQUES DE L'INDEX - INDEX HEADINGS

WET BASEMENT?
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USAGER INSCRIT - REGISTERED USER

DATE DE L'ANNONCE - ADVERTISEMENT DATE

DATE DE L'ADMISSION - ALLOWANCE DATE

REMIS A REFERRED TO	REMARQUES REMARKS	INITIALES INITIALS	DATE	CLASSER P.A. DATE	INITIALES INITIALS	REPORTER B.F. DATE
V. MAK-FAN						

OPIC-CIPO 195 (9-02)

Prepared by (367240) Oct 12/07

OPIC
OFFICE DE LA PROPRIÉTÉ
INTELLECTUELLE DU CANADA



CIPO
CANADIAN INTELLECTUAL
PROPERTY OFFICE



APPL'N/DEM. NO 1 323 916

REGISTRATION/ENREGISTREMENT NO TMA709,385

FILING DATE/DATE DE PRODUCTION:

14 nov/Nov 2006

REGISTRATION DATE/DATE D'ENREGISTREMENT:

12 mars/Mar 2008

REGISTRANT/PROPRIÉTAIRE ORIGINAL:

ROMANELLI CONSTRUCTION COMPANY LTD.

1155 Barmac Drive, Suite 200

Weston

ONTARIO

M9L 1X4

REP FOR SERVICE/REP POUR SIGNIFICATION:

MICHAEL A. CARLI

(RIGOBON, CARLI)

SUITE 401

3700 STEELES AVE. W.

WOODBIDGE

ONTARIO L4L 8K8

TRADE-MARK/MARQUE DE COMMERCE:

WET BASEMENT?

DISCLAIMER/DÉSISTEMENT:

The right to the exclusive use of the word BASEMENT is disclaimed apart from the trade-mark.

SERVICES:

Construction and installation of waterproofing systems for residential building foundations.

CLAIMS/REVENDEICATIONS:

Used in CANADA since May 15, 1976 on services.

APPL'N No./No DEM. 1 323 916

ALLOWED/ADMISE

FILING DATE/DATE DE PRODUCTION:

14 nov/Nov 2006

APPLICANT/REQUÉRANT:

ROMANELLI CONSTRUCTION COMPANY LTD.
1155 Barmac Drive, Suite 200
Weston
ONTARIO
M9L 1X4

AGENT: (23053)

MICHAEL A. CARLI
(RIGOBON, CARLI)
SUITE 401
3700 STEELES AVE. W.
WOODBIDGE
ONTARIO L4L 8K8

**REP FOR SERVICE/REP POUR SIGNIFICATION:
(23053)**

MICHAEL A. CARLI
(RIGOBON, CARLI)
SUITE 401
3700 STEELES AVE. W.
WOODBIDGE
ONTARIO L4L 8K8
ATTENTION: Michael A. Carli

TRADE-MARK/MARQUE DE COMMERCE:

WET BASEMENT?

INDEX HEADINGS/RUBRIQUES:

WET BASEMENT?
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Action	Date	BF	Comments/Commentaires
filed/produite	2006/11/14		
created/créé	2006/11/14		
formalized/formalisée	2006/11/16		
search recorded/recherche enregistrée	2007/03/30		
examiner's first report/premier rapport de l'examineur	2007/03/30	2007/07/30	
correspondence created/correspondance créée	2007/06/08	2007/10/08	
agent changed/changement d'agent	2007/10/02		From: To: 661
approved/approuvée	2007/10/25		
translation requested/traduction demandée	2007/10/30	2007/11/21	
translation received/traduction reçue	2007/11/08		
extracted for advertisement/extrait pour publication	2007/11/08		Vol.54 Issue 2769 2007/11/21
advertised/publiée	2007/11/21		Vol.54 Issue 2769
allowed/admise	2008/02/08		
allowance notice sent/avis d'admission envoyé	2008/02/08	2008/08/08	

RIGOBON, CARLI

BARRISTERS & SOLICITORS
TRADE-MARK AGENTS

File No. 23053/MAC

February 13, 2008

INDUSTRY CANADA
The Registrar of Trade-marks
50 Victoria Street
Ottawa/Hull, Canada
K1A 0C9



Attention: Declaration/Registration Section

Dear Sirs:

RE:	Trade-mark :	WET BASEMENT?
	Serial No. :	1323916
	Applicant :	ROMANELLI CONSTRUCTION COMPANY LTD.
	Our Ref. :	23053/mac

Thank you for your letter of February 8, 2008. We enclose herewith our cheque in the sum of \$200.00 representing the required fee.

Yours very truly,
RIGOBON, CARLI
Per:

MICHAEL A. CARLI

MAC:sc
Enclosures

file: n:\ec\trade_mark\01\32\39\16\MichaelCarli12509134217863_rev.html printed:
2007-09-26 06:23

Electronic Application Receive TimeStamp: September 25, 2007 2:14:31 PM

Date : September 25, 2007

Registrar of Trade-marks
Trade-marks Office
Gatineau, Quebec K1A 0C9
CANADA

Industrie Canada OPIC	Industry Canada CIPO
SEP 25 2007	
Dossier File	
Remis à Charged to	

Attention: Veronique Mak-Fan, Examination Section

We acknowledge your letter of June 8, 2007 and are pleased to enclose herewith our client's revised application.

Trade-mark application number: 1323916

Reference No. : 23053

REVISED APPLICATION FOR THE REGISTRATION OF A TRADE-MARK

1. The applicant, **Romanelli Construction Company Ltd.** the full post office address of whose principal office or place of business is 1155 Barmac Drive, Suite 200, Weston ONTARIO, CANADA, M9L 1X4, applies for the registration, in accordance with the provisions of the *Trade-marks Act*, of the trade-mark identified below.

2. The trade-mark is

WET BASEMENT?

3. The applicant disclaims the right to the exclusive use of the word basement apart from the trade-mark.



4. The trade-mark has been used in Canada by the applicant in association with all the specific services listed hereafter, and the applicant requests registration in respect of such services. The trade-mark has been so used in Canada in association with the general class of services comprising the following specific services **(1) construction and installation of waterproofing systems for residential building foundations** since **May 15, 1976**.

5. The applicant appoints MICHAEL A. CARLI, whose full post office address in Canada is (RIGOBON, CARLI), SUITE 401, 3700 STEELES AVE. W., WOODBRIDGE, ONTARIO, CANADA, L4L 8K8, as the person (firm or any member of the said firm), as its agent to prosecute this revised application with full powers of amendment and substitution, to execute any amendment related thereto as well as any amended revised application, and to represent the applicant with respect to this revised application, the said agents being authorized to receive the registration certificate on behalf of the applicant.

6. The applicant is satisfied that it is entitled to use the trade-mark in Canada in association with the services described above.

Amended on : September 25, 2007



**Office de la propriété
intellectuelle
du Canada**

Un organisme
d'Industrie Canada

50, rue Victoria, bureau C-114
Place du Portage I
Gatineau (Québec) K1A 0C9

**Canadian
Intellectual Property
Office**

An Agency of
Industry Canada

50 Victoria Street, Room C-114
Place du Portage I
Gatineau, Quebec K1A 0C9

MICHAEL A. CARLI
(RIGOBON, CARLI)
SUITE 401
3700 STEELES AVE. W.
WOODBIDGE
ONTARIO L4L 8K8

Attention: Michael A. Carli

RE: Trade-mark:
Applicant:

WET BASEMENT?
ROMANELLI CONSTRUCTION
COMPANY LTD.

8 juin/Jun 2007
Votre référence Your File

Notre référence Our File
1323916

This examiner's report concerns the above identified application. To avoid abandonment proceedings, a proper response must be received by this office by October 8, 2007. All correspondence respecting this application must indicate the file number.

Thank you for your letter of May 25, 2007.

The Examiner remains of the opinion that the portion BASEMENT when used in association with construction and installation of waterproofing systems for residential building foundation clearly describes or deceptively misdescribes a character of applicant's services and is therefore not registrable pursuant to Section 12(1)(b) of the Trade-marks Act.

The proper approach in applying paragraph 12(1)(b) of the Act, is to determine whether the trade-mark or a portion thereof clearly describes what the wares and/or services (as the case may be) are or clearly describes a feature, trait or characteristic of those wares or services. The mark is not to be considered in isolation but rather through the eyes of the average consumer of those wares and services with which the mark is associated. The use of the word "clearly" is not synonymous with "accurately" but rather with "easy to understand, self evident or plain."

Hence, as a matter of first impression, the meaning conveyed by the word BASEMENT in association with the applied for services is clear and easy to understand by the prospective consumer of such services. It plainly describes and in a manner that is easy to understand, that applicant offers construction and installation of waterproofing systems relating to basements. It is therefore a feature of applicant's services.

One of the principles underlying paragraph 12(1)(b) is that apt and natural words commonly used to describe a particular class of people cannot be appropriated by one person for his exclusive use and, therefore, are not the proper subject of registration [General Motors Corp. v. Bellows (1949), 10 C.P.R. 101 (S.C.C.) at 115]. It is considered that exclusive use of the word BASEMENT would place legitimate competition at an undue disadvantage in relation to language that is common to all.



Therefore, the office is of the opinion that to grant applicant rights in the word BASEMENT for those services would be to grant applicant a monopoly which would unduly hamper other traders in similar services in tying up language to describe these services which language should be free for all to use.

Consequently, our request for a disclaimer of the portion BASEMENT is maintained.

You are further advised that this application may be refused under subsection 37(1) of the Act, if your next response does not overcome the aforesaid objection.

If the applicant/agent has any questions or needs assistance in responding to this Office action, please telephone the assigned examiner.

Yours truly,

Veronique Mak-Fan
Examination Section
819-997-2457
fax: (819) 953-2476

RIGOBON, CARLI

BARRISTERS & SOLICITORS
TRADE-MARK AGENTS

Michael A. Carli
michael@rigoboncarli.com

May 25, 2007

Via Facsimile (819)953-2476

The Registrar
Canadian Intellectual Property Office
Trade-Marks Office
Place du Portage I
50 Victoria Street, Room C-114
Gatineau, Quebec K1A 0C9



Attention: Veronique Mak-Fan

Dear Ms. Mak-Fan:

RE: Trade-Mark: WET BASEMENT?
Application: 1323916
Applicant: ROMANELLI CONSTRUCTION COMPANY LTD.
Our File: 23053/MAC

Further to your letter dated March 30, 2007, we disagree that a disclaimer is necessary. Although it is commonly believed that it is possible to "waterproof" a basement, this is a fallacy. It is only possible to waterproof the *foundation* of a building in order to prevent the entry of water into a basement.

We respectfully request that you withdraw your objection.

Yours very truly,

RIGOBON, CARLI

Per 

Michael A. Carli

MAC/lb

romanelli.trade-mark.let.may25.2007

*All words
Waterproof = to treat so as to
make it waterproof = impenetrable
by water*

SUITE 401, 3700 STEELES AVE. W., WOODBRIDGE, ONT. L4L 8K8 TELEPHONE: (905) 850-5060 FACSIMILE: (905) 850-5066
www.rigoboncarli.com



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MICHAEL A. CARLI
(RIGOBON, CARLI)
SUITE 401
3700 STEELES AVE. W.
WOODBIDGE
ONTARIO L4L 8K8
Attention: Michael A. Carli

RE: Trade-mark:
Applicant:

WET BASEMENT?
ROMANELLI CONSTRUCTION
COMPANY LTD.

30 mars/Mar 2007

Votre référence Your File

Notre référence Our File

1323916

This examiner's report concerns the above identified application. To avoid abandonment proceedings, a proper response must be received by this office by July 30, 2007. All correspondence respecting this application must indicate the file number.

It will be necessary for the applicant to disclaim the right to the exclusive use of BASEMENT apart from the trade-mark pursuant to paragraph 12(1) (b) and section 35 of the *Trade-marks Act*.

It clearly indicates that the construction and installation services relate to waterproofing basements.

A revised application is required.

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

If the applicant/agent has any questions or needs assistance in responding to this Office action, please telephone the assigned examiner.

Yours truly,

Veronique Mak-Fan
Examination Section
819-997-2457
fax: (819) 953-2476



1,323,916
WET BASEMENT?

Active Marks

1	WET DRY BASEMENT SPECIALISTS Design	1,274,648	Allowed
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Inactive Marks

2	Wet Basement Eh?	1,143,618	Abandoned Section 40(3)
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1,274,648

2005/10/05

Allowed

Trade mark

**DRY
WET ^ BASEMENT SPECIALISTS**

Owner

Ottawa Structural Residential Services Ltd.
5-E Caesar Avenue Ottawa
ONTARIO
K2G 0A8

Disclaimer

The right to the exclusive use of the words WET; DRY BASEMENT is disclaimed apart from the trade-mark.

Services

(1) **Foundation waterproofing; foundation repair; and foundation** contracting services.

Proposed Use

Proposed Use in CANADA.

Action	Date	Deadline	Comment
Filed	2005/10/05		
Created	2005/10/06		
Formalized	2005/10/06		
Search Recorded	2006/03/07		
Examiner's first report	2006/03/29	2006/07/29	
Approved	2006/07/17		
Translation Requested	2006/07/18	2006/08/09	20060802104815
Translation Received	2006/08/02		
Extracted for Advertisement	2006/08/02		Vol.53 Issue 2703 2006/08/16
Advertised	2006/08/16		Vol.53 Issue 2703
Allowed	2006/11/03		
Allowance Notice Sent	2006/11/03	2008/10/05	

1,143,618

2002/06/18

Abandoned Section 40(3)

Trade mark

Wet Basement Eh?

Owner

Godfrey Namuro
c/o Business Synergy Inc 810-7 Bishop Avenue Toronto
ONTARIO
M2M 4J4

Disclaimer

The right to the exclusive use of the words 'Wet Basement' is disclaimed apart from the trade-mark.

Services

(1) Repair and **construction** of wet basements and leakages specializing in the following areas: -
Waterproofing system - Foundation repairs & extension - Crack injections on poured walls, concrete and floors - No digging outside or inside - Sinking floor restoration and elimination of: - Moulds and Mildew - Damaged finishes - Rot and Dampness.

Proposed Use

Proposed Use in CANADA.

Action	Date	Deadline	Comment
Filed	2002/06/18		
Created	2002/06/19		
Formalized	2002/06/19		
Search Recorded	2003/04/30		
Approved	2003/05/08		
Translation Requested	2003/05/20	2003/06/11	20030604143236
Translation Received	2003/06/04		
Extracted for Advertisement	2003/06/04		Vol.50 Issue 2538 2003/06/18
Advertised	2003/06/18		Vol.50 Issue 2538
Allowed	2003/09/05		
Allowance Notice Sent	2003/09/05	2005/06/18	



1,143,618

2002/06/18

Abandoned Section 40(3)

Trade mark

Abandoned - Section 40(3)

2005/07/06

REQUÉRANT - APPLICANT

ROMANELLI CONSTRUCTION COMPANY LTD.

NUMÉRO DE DOSSIER - FILE NUMBER

1323916

MARQUE DE COMMERCE - TRADE-MARK

WET BASEMENT?

DATE DE PRODUCTION - FILING DATE

14 nov/Nov 2006

RUBRIQUES DE L'INDEX - INDEX HEADINGS

WET BASEMENT?

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MARCHANDISES/SERVICES - WARES/SERVICES

Construction and installation of waterproofing systems for residential building foundations.

Foundation: the portion of a building that has the sole purpose of transmitting structural loads from the building into the earth.

Contractor Glossary defines

basement = the part of a building that is wholly or partially below ground level; cellar.

EXIGENCES FORMELLES - FORMAL REQUIREMENTS

☐ WARES/MARCHANDISES

☐ SERVICES

☐ DISCLAIMER

☐ CC + FEE

☐ OTHER/AUTRE

Basement

OBJECTIONS

☐ 12 (1)(a)

☐ 12 (1)(c)

☐ 12 (1)(b)

One look = basement = the lowermost portion of a structure partly or wholly below ground level;

wet = wetness caused by water

☐ 12(1)(d)

☐ 16

☐ OTHER

MARQUES ASSOCIEES - ASSOCIATED MARKS

APPL'N No./No DEM. 1 323 916

FORMALIZED/FORMALITÉS ACCOMPLIES

FILING DATE/DATE DE PRODUCTION:

14 nov/Nov 2006

APPLICANT/REQUÉRANT:
ROMANELLI CONSTRUCTION COMPANY LTD.
1155 Barmac Drive, Suite 200
Weston
ONTARIO
M9L 1X4

REP FOR SERVICE/REP POUR SIGNIFICATION:
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(RIGOBON, CARLI)
SUITE 401
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WOODBIDGE
ONTARIO L4L 8K8
ATTENTION: Michael A. Carli

TRADE-MARK/MARQUE DE COMMERCE:

WET BASEMENT?

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Construction and installation of waterproofing systems for residential building foundations.

CLAIMS/REVENDEICATIONS:

Used in CANADA since May 15, 1976 on services.

APPL'N No./No DEM. 1 323 916

CLAIMS/REVENDEICATIONS:

Employée au CANADA depuis 15 mai 1976 en liaison avec les services.

Action / Action	Date / Date	BF/ BF	Commentaires/ Comments
filed	14 nov/Nov 2006		
created	14 nov/Nov 2006		
formalized	16 nov/Nov 2006		

file: n:\ec\trade_mark\01\32\39\16\1323916.htm printed: 2006-11-14 09:16

Transmission identification: MichaelCarli11311163756383_app_1526960

Electronic Application Receive TimeStamp: November 14, 2006 12:00:00 AM

Reference No. :

Date : November 13, 2006

Registrar of Trade-marks
Trade-marks Office
Gatineau, Quebec K1A 0C9
CANADA

We are the solicitors for Romanelli Construction Company Ltd.

We submit herewith our client's trade-mark application for the words "WET BASEMENT?".

The prescribed fee of CDN\$250 for this application is processed by credit card, using the secure online payment service.

APPLICATION FOR THE REGISTRATION OF A TRADE-MARK

1. The applicant, **ROMANELLI CONSTRUCTION COMPANY LTD.** the full post office address of whose principal office or place of business is 1155 Barmac Drive, Suite 200, Weston ONTARIO, CANADA, M9L 1X4, applies for the registration, in accordance with the provisions of the *Trade-marks Act*, of the trade-mark identified below.

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6. The applicant is satisfied that it is entitled to use the trade-mark in Canada in association with the services described above.