



[CB-CDA 2023-046]

## **RULING OF THE BOARD**

**Matter: 71-2023-01 Totem v. Connect**

September 8, 2023

### **I. OVERVIEW**

[1] Totem Medias Inc. (“Totem”) has filed an application under 71(1) of the *Copyright Act* (the Application). It asks the Board to fix the royalties that Totem pays to Connect Music Licensing Service Inc. (“Connect”) for the right to reproduce published sound recordings in Connect’s repertoire for the purpose of providing a background music service.

[2] Connect seeks leave to make a motion before a Case Manager to dismiss the Application on the grounds that

- the Board does not have jurisdiction to hear the Application; and
- in the alternative, that Totem’s Application is improper.

[3] The request is partially granted.

[4] The motion to dismiss the Application will be heard by the Chair, on behalf the Board, on Friday, September 29, 2023 at 10:00 a.m. If appropriate, a case manager may be assigned to the matter at a later stage.

### **II. BACKGROUND**

[5] Totem was permitted to reply to Connect’s application for a hearing of its motion (Ruling CB-CDA 2023-035).

[6] Totem’s July 14, 2023 response states that:

- Connect has misrepresented the interactions between itself and Connect and has provided no substantive response to Totem’s application; and
- it has since learned of changes to Connect’s repertoire (and that they would therefore seek a lower rate.

[7] Subsequently (July 19, 2023), Connect sought leave to file a reply to Totem's reply. Totem then argued (July 20, 2023) that Connect should only be able to respond to the issue of change in repertoire; it should not be entitled to additional submissions on issues arising from Totem's initial Application.

[8] Connect replied (July 20, 2023) that the claims of misrepresenting the parties' interactions are serious, and deserve a reply.

### **III. RULING**

[9] The Board will hear the motion to dismiss the Application to be presented by Connect.

[10] The hearing will take place virtually on Friday, September 29, 2023 at 10:00 a.m.

[11] The hearing will be limited to an hour divided as follows: 20 minutes for each party's representations, starting with Connect, and five minutes in reply.

[12] There shall be no motion record filed for the purpose of the hearing. The parties can rely on the record as it currently stands.

[13] Additional details, including online access, will be shared with the parties before the hearing.

Lara Taylor  
Secretary General