

Federal Court



Cour fédérale

**Date: 20201224**

**Dockets: T-834-20**

**Citation: 2020 FC 1191**

**Ottawa, Ontario, December 24, 2020**

**PRESENT: The Honourable Justice Fuhrer**

**BETWEEN:**

**IMMIGRATION CONSULTANTS OF  
CANADA REGULATORY COUNCIL**

**Plaintiff  
(Defendant By Counterclaim)**

**and**

**CICC THE COLLEGE OF IMMIGRATION  
AND CITIZENSHIP CONSULTANTS  
CORP., NUHA NANCY SALLOUM, AND  
RYAN DEAN**

**Defendants**

**AND BETWEEN:**

**CICC THE COLLEGE OF IMMIGRATION  
AND CITIZENSHIP CONSULTANTS  
CORP.**

**Plaintiff By Counterclaim**

**and**

**HER MAJESTY THE QUEEN**

**Defendant By Counterclaim**

**ORDER AND REASONS**

I. Overview

[1] The Plaintiff's claim and this interlocutory injunction motion revolve around entitlement to use the name "College of Immigration and Citizenship Consultants."

[2] Since 2011, the Plaintiff, the Immigration Consultants of Canada Regulatory Council or ICCRC, has been the only designated national self-regulator of immigration and citizenship consultants in Canada: paragraph 91(5) of the *Immigration and Refugee Protection Act*, SC 2001, c C-27 [IRPA] and subsection 21.1(5) of the *Citizenship Act*, RSC 1985, c C-29. Justice Martineau canvassed the genesis of this development, and addressed the judicial review challenge to the enactments revoking the previous regulator's designation, in *Canadian Society of Immigration Consultants v Canada (Citizenship and Immigration)*, 2011 FC 1435 [CSIC 2011].

[3] The new *College of Immigration and Citizenship Consultants Act*, SC 2019, c 29, s 292 [College Act], which received Royal Assent on June 21, 2019, provides a mechanism, for ICCRC specifically, to continue as the regulator under the name "College of Immigration and Citizenship Consultants": *College Act*, ss 2, 83-85. ICCRC has taken the required steps to apply

to be continued as the College of Immigration and Citizenship Consultants, once the *College Act* is proclaimed.

[4] In a two-stage process, the *College Act* came into force on December 9, 2020. First, the Governor General in Council issued an Order in Council [OIC] under PC Number 2020-0903 on November 20, 2020, the same day as the hearing of this matter. The OIC fixed the coming into force date for the *College Act* as “the day on which this Order is registered as the day on which section 292 of that Act [the *Budget Implementation Act, 2019, No. 1*, SC 2019, c 29] comes into force.” Second, the OIC was registered on December 9, 2020 under SI/ 2020-0073 (where “SI” stands for Statutory Instrument), as published in the *Canada Gazette, Part II*, on such date. Subsection 16(1) of the *Statutory Instruments Act*, RSC 1985, c S-22, obligates the Court to take judicial notice of the proclamation of the *College Act*.

[5] The corporate Defendant, CICC The College of Immigration and Citizenship Consultants Corp., was incorporated federally on October 25, 2019 to take over the business of the Canadian Society of Immigration Practitioners or CSIP. The latter was named as an affiliate of Federal Society of Citizenship and Immigration Councils Inc. (FSCIC), an unsuccessful candidate in 2010-2011 to become the designated national self-regulator of immigration and citizenship consultants in Canada. The corporate Defendant hoped to supplant ICCRC as the new regulator under the *College Act*, in much the same way as ICCRC succeeded the Canadian Society of Immigration Consultants or CSIC as the new regulator in 2011. The individual Defendant, Nuha Nancy Salloum is the Chairwoman and Chief Operating Officer of the corporate Defendant and was the Chief Executive Officer of CSIP. The individual Defendant, Ryan Dean was the CEO of

the corporate Defendant, until he submitted his letter of resignation on December 7, 2020. He nonetheless remains a party to the action and this motion.

[6] ICCRC alleges in its Statement of Claim that the Defendants have violated paragraphs 7(a), (b), (c) and (d), 9(1)(d) and section 11 of the *Trademarks Act*. ICCRC thus seeks an interlocutory injunction, pursuant to Rule 373 of the *Federal Courts Rules*, SOR/98-106, to restrain the Defendants, either directly or indirectly, from:

- A. Using the business name and marks of CICC The College of Immigration and Citizenship Consultants Corp., The College of Immigration and Citizenship Consultants, the letters CICC, “The College Act”, or any other word or symbol suggesting that they are the College of Immigration and Citizenship Consultants established under the *College of Immigration and Citizenship Consultants Act*, in connection with their business, as a trademark or otherwise;
- B. Using the domain name cicc-lcic.com;
- C. Maintaining the LinkedIn listing at <https://www.linkedin.com/company/the-college-of-immigration-and-citizenship-consultants-corp>; and
- D. Passing themselves off as a regulator of immigration or citizenship consultants.

[7] The corporate Defendant is the Plaintiff in the Counterclaim that alleges violations by the Defendant(s) by Counterclaim of paragraphs 7(a), (b), (c) and (d) of the *Trademarks Act*, as well as sections 3, 14.1, 27 and 28.1 of the *Copyright Act*. The Plaintiff by Counterclaim seeks declarations regarding the subsistence and ownership of copyright under sections 5 and 13 of the latter legislation. Among other things, the Plaintiff by Counterclaim alleges prior use of the name CICC The College of Immigration and Citizenship Consultants and copyright in a work entitled “The Regulated Citizenship and Immigration Professionals Act.”

[8] ICCRC is identified as a Defendant by Counterclaim in the style of cause for the main action but not in the style of cause for the counterclaim. That said, ICCRC is described as a

Defendant by Counterclaim in the body of the document. Her Majesty The Queen, The Minister of Immigration, Refugees and Citizenship, and The Attorney General of Canada initially were identified as Defendants by Counterclaim in the style of cause for the counterclaim. Subsequent to the hearing of this motion, however, the latter two parties were removed from the style of cause on consent and by Order of Prothonotary Furlanetto, the Case Management Judge, dated November 25, 2020.

[9] The role of the Court on a motion for an interlocutory injunction is not to answer the penultimate question(s) in the action but rather to determine if the moving party has met the tripartite test described in *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 [*RJR-MacDonald*]. The test comprises the following conjunctive questions: (i) is there a serious issue or question to be tried; (ii) will the party seeking the interlocutory injunction suffer irreparable harm, that is not quantifiable and non-compensable in damages, in its absence; and (iii) which party does the balance of convenience favour, that is which party would suffer the greater harm from the grant or refusal of the motion? A strong finding on one of these questions may lower the threshold on the others: *Bell Media Inc v GoldTV.Biz*, 2019 FC 1432 [*Bell Media*] at para 56, citing *Bell Canada v 1326030 Ontario Inc (iTVBox.net)* 2016 FC 612 at para 30.

[10] The main issue for consideration in the matter before me is whether ICCRC has met *RJR-MacDonald* test with regard to paragraphs 7(a), (b), (c) or (d), or 9(1)(d) and section 11 of the *Trademarks Act*. First, whether ICCRC has demonstrated a serious issue to be tried necessitates a consideration of the merits of the action: *RJR-MacDonald*, above at page 337; *R v Canadian Broadcasting Corp*, 2018 SCC 5 [*CBC*] at para 12. The threshold, however, generally is

considered low in the sense that the moving party's case must not be frivolous or vexatious. Next, ICCRC must persuade the Court that it would suffer irreparable harm – harm that is clear and non-speculative – if the interlocutory injunction were refused: *Reckitt Benckiser LLC v Jamieson Laboratories Ltd*, 2015 FC 215 at para 51, citing *Centre Ice Ltd v National Hockey League* (1994), 53 CPR (3d) 34 (FCA) at para 50; *Sleep Country Canada Inc v Sears Canada Inc*, 2017 FC 148 at paras 27-29; *CBC*, above at para 12. Third, the balance of convenience assessment involves “identify[ing] the party that would suffer greater harm from the granting or refusal of the interlocutory injunction, pending a decision on the merits”: *CBC*, above at para 12. The overarching consideration is whether the granting of the interlocutory injunction would be just and equitable in all the circumstances and context of the matter before me: *Google Inc v Equustek Solutions Inc*, 2017 SCC 34 at paras 1 and 25.

[11] Having considered the parties' admitted evidence, and their written and oral arguments, I find that that ICCRC has met the test for an interlocutory injunction: there are serious issues to be tried regarding paragraphs 7(a) and (d), 9(1)(d) and section 11; the Defendants' have caused irreparable harm to ICCRC, and its orderly transition to the regulator under the *College Act*, as well as to the public interest; and the balance of convenience favours ICCRC. For the more detailed reasons that follow, I therefore grant ICCRC's motion for an interlocutory injunction to restrain the Defendants from engaging in the activities described in paragraph 6 above (with some modifications to align more closely with the Statement of Claim), pending the Court's disposition of ICCRC's claim and the Defendants' counterclaim.

[12] I will address next a preliminary issue that arose in connection with the responding motion record filed by Ms. Salloum and her affidavit evidence on which she sought to rely in this motion. I then will summarize the parties' admitted evidence and additional background before embarking on my analysis.

## II. Preliminary Issue

[13] A preliminary issue dealt with at the outset of the hearing on the interlocutory injunction motion reflects the procedural complexity of this matter. The issue involves the affidavit evidence of Ms. Salloum contained in the responding motion record filed on behalf of the corporate Defendant and the individual Defendant, Ms. Salloum, further to the procedural events in this matter described below. Of her several affidavits contained in the responding motion record, only Ms. Salloum's September 15, 2020 affidavit, on which she was cross-examined, was made in defence of the interlocutory injunction motion. I therefore declined to grant leave to admit Ms. Salloum's additional affidavits on this motion. In my view, the evidence sought to be adduced in these affidavits for the most part was available prior her cross-examination, and thus could have been relied on explicitly by the Defendants in connection with the interlocutory injunction motion.

[14] Ms. Salloum filed a motion on October 19, 2020 under Rule 120 of the Federal Courts Rules to permit Ms. Salloum to represent the corporate Defendant. Further to a case management conference held with the parties on November 3, 2020, Prothonotary Furlanetto granted the motion with certain limitations. Recognizing that both individual Defendants were self-represented by this point and that Ms. Salloum is the sole owner of all the common shares of the

corporate Defendant, Prothonotary Furlanetto was prepared to allow Ms. Salloum to represent the corporate Defendant through the preliminary motion stage. Prothonotary Furlanetto's November 3, 2020 Order in this regard indicates that the Court retains discretion to revisit the issue of representation on an ongoing basis, to determine if Ms. Salloum is unable to handle the complexity of the proceeding on behalf of the corporate Defendant or if the matter no longer is moving forward expeditiously.

[15] Following a further case management conference held with the parties on November 13, 2020, Prothonotary Furlanetto granted the Defendants an extension of time to November 17, 2020 (from November 6) to serve and file their responding motion records in connection with the interlocutory injunction motion. Only Ms. Salloum filed a responding motion record; Mr. Dean did not to do so.

[16] In its November 17, 2020 letter to the Court, ICCRC objected to Ms. Salloum's responding motion record because it contained additional affidavits not previously served and filed in connection with the interlocutory injunction motion and prior to Ms. Salloum's cross-examination, although most of them had been submitted for other motions or steps in the action. ICCRC cross-examined Ms. Salloum on November 5, 2020 on her affidavit of September 15, 2020 that states it was made in defence of the motion for an injunction. The additional affidavits are dated March 17, 2020 (which predates the commencement of the action on July 28, 2020), October 5, 16 and 26, 2020, and November 10, 2020. None of them states the affidavit was made for the purpose of the interlocutory injunction motion; rather they indicate that they were made



for another purpose(s). By letter to the Court dated November 17, 2020, Ms. Salloum responded to ICCRC's earlier letter of the same date.

[17] In directions issued by Prothonotary Furlanetto on November 17, 2020, the Court noted that the only affidavit materials to be included in the parties' materials for the interlocutory injunction motion are the affidavits served in respect of such motion, namely, the September 15, 2020 affidavit of Ms. Salloum for the Defendants and the July 28, September 18 and November 2, 2020 affidavits of Ms. Kennedy for the Plaintiff. The issue would be addressed through oral submissions at the beginning of the hearing on November 20, 2020 and additional material in the responding motion record would be considered part of the Defendants' record only if leave were granted by the hearings judge.

[18] Ms. Salloum responded by filing further submissions with the Court on this issue. Citing decisions of this Court in *Pfizer Canada Inc v Rhoxalpharma Inc*, 2004 FC 1685 [*Pfizer*] and *Fibreman Inc v Rocky Mountain Spring (Icewater 02) Inc*, 2005 FC 977 [*Fibreman*], Ms. Salloum argued that the additional affidavits should be admitted because the evidence sought to be adduced:

1. will serve the interests of justice;
2. will assist the Court;
3. will not cause serious prejudice to the other side; and
4. was not available prior to the cross-examination of the opponent's affidavits.

[19] Ms. Salloum did not articulate in her written submissions how the additional affidavits meet the above guidelines or test for the acceptance of late evidence adopted by (now retired)

Justice Snider in *Fibremann*, above at para 12, citing *Atlantic Engraving Ltd v LaPointe Rosenstein*, 2002 FCA 503.

[20] Following oral submissions on the issue at this hearing, I found that the *Fibremann* and *Pfizer* cases on which Ms. Salloum relied were distinguishable. As noted by Justice Snider in *Fibremann*, a second affidavit in that case was adduced after cross-examination to correct a defect in the first affidavit. The second affidavit did not seek to add to or amend the evidence in the earlier affidavit; “not a word of the affidavit [on which the affiant was cross-examined] has changed”: *Fibremann*, above at para 13. Thus, Justice Snider saw no prejudice to the other party in accepting the second affidavit.

[21] In *Pfizer*, the Court allowed the appeal from the Prothonotary’s order that provided leave to Pfizer Canada to file new evidence after the completion of cross-examinations. The Court was of the view it was difficult to support the Prothonotary’s finding that the affidavits to be introduced did not contain evidence that could have been submitted previously. The Court held that a supplementary affidavit cannot be a substitute for putting available information to a deponent on cross-examination; further, parties are obligated to disclose all available information before cross-examination to avoid splitting the evidence: *Pfizer*, above at para 21. I find in the circumstances that *Pfizer* supports my refusal to grant Ms. Salloum leave to admit her additional affidavits.

[22] As mentioned, none of the additional affidavits was adduced initially on the motion for an interlocutory injunction; rather they were adduced for other motions or steps in the action

(with the exception of the March 17, 2020 affidavit, which preceded the commencement of the action). As such, for the most part the information was readily available prior to Ms. Salloum's cross-examination and could have been relied on explicitly by the Defendants in respect of the interlocutory injunction motion. Regarding the November 10, 2020 affidavit, which was sworn five days after Ms. Salloum's cross-examination, the last two paragraphs indicate that it too was made for other purposes, including a separate proceeding under Court File No T-1033-20 (styled *Attorney General of Canada v CICC The College of Immigration and Citizenship Consultants Corp. and Nuha Nancy Salloum*). Further, much of the information in the November 10, 2020 affidavit also was readily available prior to Ms. Salloum's cross-examination or relates to Court File No T-1033-20. I, therefore, was not prepared to grant leave, pursuant to Rule 84(2) of the *Federal Courts Rules*, to admit Ms. Salloum's additional affidavits dated March 17 2020, October 5, 16 and 26, 2020, and November 10, 2020 in connection with the Plaintiff's interlocutory motion.

[23] For completeness, I note that the responding motion record contains two additional affidavits, to which ICCRC also objected in its November 17, 2020 letter. One is an incomplete copy of an affidavit of Aakash Mistry affirmed on September 16, 2020 and describing a series of internet searches conducted on September 10, 2020 and the other is a copy of an Affidavit of Amandeep Singhera sworn on August 10, 2020 in connection with an Urgent Motion for Interim Suspension by ICCRC against Ryan Dean. Because both affidavits appear to relate to other proceedings and were not made for the purpose of the interlocutory injunction motion, I have disregarded them.

### III. Summary of Parties' Admitted Evidence and Additional Background

[24] ICCRC's admitted evidence consists of three affidavits of Mary Kennedy, the Deputy Registrar of ICCRC, dated July 28, September 18 and October 30, 2020. All three affidavits state that they are made for the purpose of obtaining an injunction against the Defendants. As mentioned above, the admitted evidence of Defendants consists of Ms. Salloum's affidavit of September 15, 2020. Both affiants were cross-examined and the transcripts form part of the evidentiary record on this motion.

(a) ICCRC's Evidence

(i) *Affidavit of Mary Kennedy sworn on July 28, 2020 [Kennedy Affidavit #1]*

[25] Ms. Kennedy confirms that she is the Deputy Registrar of ICCRC and is responsible for the entry-to-practice of new members as well as ensuring that these members meet the admission requirements and standards for membership. She also is responsible for preparing and reviewing draft regulations for ICCRC's pending transition to the College of Immigration and Citizenship Consultants. Ms. Kennedy has more than 14 years of experience working in the professional regulatory sector, having been previously employed in various roles by several professional regulators in Ontario, including the College of Nurses of Ontario, the College of Denturists of Ontario, the College of Physiotherapists of Ontario and the Transitional Council of the College of Homeopaths of Ontario.

[26] With an annual budget in excess of \$10-million, ICCRC's duty is to serve and protect the public by overseeing regulated immigration and citizenship consultants. ICCRC's more than 6,500 members are Regulated Canadian Immigration Consultants [RCICs] and as such, only they

may advise or represent a person for consideration under *IRPA* and the *Citizenship Act*, apart from lawyers or paralegals, or Quebec notaries. ICCRC has registered RCIC as a certification mark under registration number TMA895693 dated February 4, 2015.

[27] ICCRC regulates its members through a variety of measures. To become a RCIC member, individuals must meet the following criteria to qualify to pass an entry-to-practice examination: (a) be proficient in English or French; (b) pass a background check; and (c) graduate from an immigration practitioner's program accredited by the ICCRC. To maintain their membership, the RCIC member also must satisfy the following requirements: (a) maintain proficiency in English or French, (b) comply with the Code of Professional Ethics, (c) obtain and maintain professional liability insurance, and (d) complete 16 hours of continuing professional education per year. ICCRC maintains a public register of licensed RCICs.

[28] ICCRC currently does not have the power to pursue unlicensed immigration consultants. The *College Act* will empower the College of Immigration and Citizenship Consultants established under that Act not only to control use of the terms "immigration consultant" and "citizenship consultant" but also to regulate non-members: *College Act*, ss 77-78.

[29] On September 19, 2019, ICCRC passed a special resolution to be continued under the *College Act* and apply to the Minister designated under the *College Act* to be continued as such: *College Act*, s 84(1). Ms. Kennedy was asked in cross-examination if there was any guarantee or certainty that ICCRC will become the College or if it is possible that the College will be set up pursuant to section 86 of the act. She replied that ICCRC is named in the legislation and she was

not sure she could suggest otherwise. When asked if ICCRC uses the name CICC, Ms. Kennedy responded ICCRC does not use that name; it is in the act. At the hearing before me, ICCRC confirmed that it is not using the name yet and will not do that until the transition takes place; once it becomes the College, then it will rebrand.

[30] About one month later, on October 25, 2019 Ms. Salloum incorporated CICC The College of Immigration and Citizenship Consultants Corp. under the *Canada Business Corporations Act*, RSC 1985, c C-44. In addition, on the same date, CICC applied to register the trademark CICC The College of Immigration and Citizenship Consultants Corp. under application number 1992497. On October 28, 2019, CICC also applied to register the trademark “The College Act” under application number 1992636. (I note that the status of both applications is shown as “formalized” as of November 14, 2019, according to the particulars for these applications attached as exhibits to the Kennedy Affidavit #1.)

[31] Further, CICC is listed among several owners of the following copyright registrations: (i) number 1163760 dated October 28, 2019 for a work entitled “CICC – The College of Immigration and Citizenship Consultants”; (ii) number 1163819 dated October 29, 2019 for a work entitled “The College Act”; and (iii) number 1163808 dated October 29, 2019 for a work entitled “The College of Immigration and Citizenship Consultants.” When Ms. Salloum was asked on cross-examination about the registrations for “The College Act” and “The College of Immigration and Citizenship Consultants,” she stated that the former is “a copyright of a title” and the latter is meant to “emphasize this college, The College, not a college, or not just CICC college, but The College[; s]o we had to protect that term itself.”

[32] On November 1, 2019, the domain name CICC-LCIC.COM was registered. The registration particulars, attached to the Kennedy Affidavit #1 as an exhibit, list the registrant as Domains by Proxy, LLC and the Registrar as GoDaddy.com, LLC. Exhibits to the Kennedy Affidavit #1 include screenshots from a website for CICC at cicc-lcic.com. I note, however, the absence of any uniform resource locator or URL on the exhibits that would contain or confirm the domain name. The screenshots do indicate, however, “POWERED BY GODADDY WEBSITE BUILDER.”

[33] CICC also set up a LinkedIn listing at <https://www.linkedin.com/company/the-college-of-immigration-and-citizenship-consultants-corp/>. Exhibits to the Kennedy Affidavit #1 include excerpts from this LinkedIn listing, one of which states: “Please visit us at [www.cicc-lcic.com](http://www.cicc-lcic.com) to know more about us.” I accept that CICC is behind the domain name registration and is – or was - using the domain name cicc-lcic.com in connection with its website at [www.cicc-lcic.com](http://www.cicc-lcic.com). This is confirmed in Ms. Salloum’s Affidavit sworn on September 15, 2020 summarized below. As mentioned below, GoDaddy.com suspended the website, however, for 90 days at the request of ICCRC.

[34] False claims and statements on both the CICC website and LinkedIn listing include [as reproduced from the exhibits, with emphasis added and the source indicated]:

- It is an offense punishable by law to provide Canadian immigration and Citizenship services for a fee or other consideration **if not regulated by “CICC”**, a Canadian law society, or the Chambre des notaires du Québec [CICC website];
- **Citizenship and Immigration Practitioners / must be members of the “CICC” to practice** Citizenship and Immigration Law in Canada [CICC website];
- All “ICCRC” Citizenship and Immigration Members in Canada must be transitional members of the “CICC”) [sic] in order to practice Citizenship and Immigration Law [CICC website];

- The College of Immigration and Citizenship Consultants is a registered Federal Corporation with extra Provincial status. **The College is registered as a Regulator** for the Immigration and Citizenship Profession [CICC website];
- College at full force to operate as of August 31, 2020. The College is open for business, Please join our membership as of July 01, 2020. Please request from **your former Regulator ICCRC** to issue a refund or transfer your paid membership fees to CICC registrar office by July 01, 2020 [LinkedIn excerpt];
- The **New Regulatory body “CICC”** constituted on Oct 25, 2019 by the Industry Canada corporation registry office **as registered regulator** for Immigration Consultants under the Federal Act [LinkedIn excerpt];
- The Senate of Canada approved CSIP bid of 2010 to be implemented 2020. The College protected under intellectual property, which made Salloum entitled to operate the registered federal corporation CICC [LinkedIn excerpt];
- College name is owned by CSIP & Salloum under intellectual property protection. No one is allowed to use this name, **even the minister himself**. That will be considered intellectual property infringement [LinkedIn excerpt].

[35] In late June 2020, ICCRC received an email inquiry from one of its members regarding CICC and its website at <https://cicc-lic.com>. The email inquiry indicates it was sent on June 25, 2020 and is attached as an exhibit to the Kennedy Affidavit #1. The email queries the legitimacy of what could be found at links to the CICC website and a Dropbox (“Pretty sure this isn’t legitimate”), and concludes: “This is VERY confusing, particularly to the new members of my group, so I’ll bet there will be a lot of people left completely bamboozled by this.” ICCRC regularly receives similar inquiries about the Defendants’ activities. When asked in cross-examination whether ICCRC maintains records of members who have allowed their membership to lapse, Ms. Kennedy responded yes. She further testified that the annual renewal was completed later this year on September 1<sup>st</sup> because of COVID and there was an increase of people suspended for nonpayment of fees.

[36] On or about June 25, 2020, Ryan Dean sent a letter, on CICC letterhead, to ICCRC’s members stating, in part: “NOTICE IS HEREBY GIVEN to all licensed Canadian Immigration



Consultants with the existing regulator to come to the College of Immigration and Citizenship College Corp. (“the College.”) to register.” The letter refers to “The College IP Docs” which include the above-mentioned trademark applications and copyright registrations.

[37] Reproduced below is the letterhead banner from the copy of the letter attached as an exhibit to the Kennedy Affidavit #1, with the words “Licensed Councils” appearing under the acronym CICC-LCIC:

**The College of Immigration and  
Citizenship Consultants Corp.**



**Le College de consultants  
En Immigration Et En atoyennete Corp**

I note a slightly different configuration of the letterhead, but with the same elements, appears on more recent correspondence from the Defendants filed with the Court, as reproduced below:



**The College of Immigration and Citizenship Consultants Corp.  
Le College de consultants En Immigration Et En atoyennete Corp**

[38] To those who responded to Mr. Dean’s letter, CICC sent a welcome letter on June 28, 2020 that mentions CICC had reached 1878 members in the previous 24 hours. Ms. Kennedy notes that neither the welcome letter, nor the CICC website, outlines entry-to-practice requirements, and prior learning assessment and recognition criteria. She concludes that CICC

does not have any processes in place to confirm the knowledge, skill and judgment of prospective members because if it did, CICC could not have screened 1878 members in such a short period of time. Ms. Kennedy further notes that, while the CICC website refers the availability of a Code of Ethics and Standards of Practice that came into effect on July 19, 2019, a copy of the document is not available on the website.

[39] ICCRC sent a demand letter to Ryan Dean on June 28, 2020 demanding that the false statements cease and that the website be taken down, to which Ms. Salloum responded on June 29, 2020 on CICC letterhead. Among other things, the response alleges references in the demand letter to the *College Act* and the College of Immigration and Citizenship Consultants “infringed on intellectual property of CICC.” Further, “CICC and Salloum are owners of registered trademarks **pending** and registered Copyrights can sue ICCRC for ‘passing off’ and can bring actions in ‘infringement’ and ‘depreciation of goodwill’ as well” [emphasis added].

[40] Ms. Salloum also sent further correspondence to ICCRC members claiming that by incorporating CICC, the latter became the College and ICCRC ceased to be the regulator and no longer had a federal mandate. She relied on the copyright registrations and trademark applications, as well as the incorporation of CICC and its extra-provincial registration in Ontario.

[41] The Kennedy Affidavit #1 also describes and attaches as an exhibit an email sent on July 9, 2020 to ICCRC from the professional liability insurance broker for ICCRC’s members. In the email exhibit, the sender mentioned a phone call from Nuha Nancy Salloum, CEO of CICC-LCIC claiming that she is in charge of CICC-LCIC – College of Immigration and Citizenship

Consultants and that members should be reporting to them because they are now the governing body for all immigration consultants in Canada. The sender concluded with, “Just looking for some guidance or any information that you can provide.” In connection with Ms. Salloum’s cross-examination, the follow up email sent by CICC on July 9, 2020 to the insurance broker, after the call, was produced. Following a summary of “CICC College’s Current Status,” the email claims that: “[CICC] received approval [to be the regulatory College] from both Government (Parliament and Senate) on June 21, 2019”; and “Your insurance company must make a decision that all ICCRC members are practicing illegal because ICCRC status as Regulator revoked on Oct 25, 2019.” After describing the operation of “[o]ur new College”, the email concludes: “A public confusion rocked the industry with a surprise.”

[42] The Kennedy Affidavit #1 further describes portions of CICC’s website that are copied from other websites, such as the College of Early Childhood Educators, and the College of Physicians and Surgeons of Ontario. Relevant portions of CICC’s website copied from these other websites contain references to “the profession of early childhood education” and “the medical profession” respectively.

(ii) *Affidavit of Mary Kennedy sworn on September 18, 2020 [Kennedy Affidavit #2]*

[43] Ms. Kennedy confirms that she swore the Kennedy Affidavit #1. Among other things, attached to the Kennedy Affidavit #2 is a pdf version of the Report of the Selection Committee dated January 27, 2011 reporting their recommendations on the proposals to become the

regulator for immigration consultants. The report is archived on Citizenship and Immigration Canada's website.

[44] Ms. Kennedy attests that since July 28, 2020, ICCRC has taken several actions against CICC, namely, (i) filed an objection to CICC's name with the Director, CBCA; (ii) filed a complaint under section 52(1) of the *Competition Act*; and (iii) asked GoDaddy.com to suspend the CICC website for 90 days, which GoDaddy.com did.

(iii) *Affidavit of Mary Kennedy sworn on October 30, 2020 [Kennedy Affidavit #3]*

[45] In the Kennedy Affidavit #3, Ms. Kennedy attests that she used the Wayback Machine to view archived captures of <http://voicecanada.ca> and [www.csip.ca](http://www.csip.ca) saved by the Internet Archive on the following dates: (i) for [www.csip.ca](http://www.csip.ca): April 19, 2010, July 26, 2010, October 15, 2010, January 28, 2011, and September 9, 2011; and (ii) for <http://voicecanada.ca>: August 27, 2010, July 28, 2011, July 29, 2011, June 30, 2011, April 23, 2015, April 24, 2015, and December 18, 2014. Printouts are attached as exhibits to the affidavit.

[46] Ms. Kennedy also downloaded from the Internet Archive a capture of the website of the College of Physicians and Surgeons with an archive date of November 3, 2010 involving a Governance Process Manual - February 2010.

(b) CICC's Evidence

(i) *Affidavit of Nuha Nancy Salloum sworn on September 15, 2020 [Salloum Affidavit]*

[47] Ms. Salloum attests that she is the Chairwoman of CICC. She describes that in 2010, Citizenship and Immigration Canada [CIC] launched a process to identify a governing body to regulate immigration consultants to protect vulnerable would-be immigrants from fraud and crack down on crooked immigration consultants. The launch came further to a notice of intent published in the *Canada Gazette* on June 12, 2010. A call for submissions from interested candidates was published in the *Canada Gazette* on August 28, 2010 (according to the attached exhibit, as opposed to June 12, 2010 stated in the affidavit). Interested candidates had until December 29, 2010 to deliver their submissions.

[48] The Canadian Society of Immigration Practitioners (CSIP), where Ms. Salloum acted as CEO, tendered its submission to then Minister for Citizenship, Immigration and Multiculturalism, Hon. Jason Kenny, on October 9, 2010. In its proposal, CSIP coined the mark, THE COLLEGE OF IMMIGRATON AND CITIZENSHIP CONSULTANTS (the “Mark”). (I note that the cover letter in fact refers to “CICC – the College of Immigration and Citizenship Consultants,” in addition to “CCIC – the College of Citizenship and Immigration Consultants” as two possible names.)

[49] CSIP was not the successful candidate. In and around 2011, ICCRC was chosen as the new regulator. Nonetheless, CSIP continued its activities in the immigration and citizenship industry under the Mark, including acting as a “regulator” for its own members who provided pro bono services to immigrants. CSIP’s services were provided free of charge from 2006-2018 and none of its members were obligated to become members of ICCRC. Since ICCRC’s formation, it never contacted CSIP regarding usage of Mark. I note that the Kennedy Affidavit

#3 mentions and attaches as an exhibit an archive capture for <http://voicecanada.ca> dated December 18, 2014. This exhibit involves a discussion dated October 4, 2011 of Federal Court decisions, which affirm CSIC's purview. Justice Snider is quoted as stating: "[s]o long as CSIC is a corporation with by-laws and members, it may choose to 'regulate' those members." The discussion continues: "It is clear that CSIC's loss of designation does not absolve CSIC members from their obligations to the Society." Regardless of whether Ms. Salloum had this in mind when she swore her affidavit, she acknowledged in cross-examination that there is no prohibition against anyone providing immigration consultant services pro bono and further stated: "There is no contravention in Section 91.1(a), no."

[50] CSIP operated a website at [csip.ca](http://csip.ca). Archived screenshots are attached to the Salloum Affidavit as exhibits. Several pages display CICC – College of Immigration and Citizenship Consultants.

[51] As of August 31, 2017, CSIP wound down its society operation as an NGO and transferred assets, including ownership of the Mark to Copyrightme Corp., which exclusively licensed back to CSIP usage of the Mark. A copy of a Final Resolution to this effect signed by Ms. Salloum on August 31, 2017 is attached to the Salloum Affidavit.

[52] Ms. Salloum confirms that she federally incorporated CICC on October 25, 2019 to take over the immigration operating activities of CSIP. Copyrightme Corp. then revoked its trademark licence with CSIP and exclusively licensed the usage of the Mark to CICC. Around June 2020, the information contained on CSIP's website was transferred to CICC's website, [cicc-icic.com](http://cicc-icic.com).

Ms. Salloum notes that CICC is marked on the top page of the website and that it was a work-in-progress, implying changes were needed and coming. Further, it was directed to CSIP members and not intended for the general public.

[53] On or around September 2, 2020, CICC prominently displayed a disclaimer on its website that “the ‘College of Immigration and Citizenship Consultants Corp.’ IS NOT authorized by the federal government as the regulatory body governing immigration and citizenship consultants.” [Emphasis in the original.] Further, the disclaimer named the Immigration Consultants of Canada Regulatory Council as the “only, current regulatory body authorized by the federal government to govern immigration and citizenship consultants.” Finally, the disclaimer asserted that “CICC is an educational College and not a regulator of the Profession.” Because GoDaddy.com deactivated the website, copies of the webpages as they currently read are unavailable.

[54] On cross-examination, Ms. Salloum indicated that the public disclaimer did not go on the website but instead went on LinkedIn because of an agreement between CICC and the Attorney General of Canada. I note that a disclaimer is reproduced in the LinkedIn excerpts attached as an exhibit to the Kennedy Affidavit #1. The disclaimer is displayed in what appears to be a posted letter or message “To ICCRC Members.” The disclaimer itself does not mention ICCRC but states instead that, “[t]he College is not an agent of Her Majesty in the right of Canada, and the College’s directors, ... are not part of the federal public administration.” The disclaimer appears below the statement “Based on Status 7 of the College Act” and above the statement “ICCRC Ceased to be the Regulatory body.”

[55] When Ms. Salloum was asked in cross-examination where CICC's website was moved and if ICCRC could have access to it, she replied, "that's not of your business." She gave the same response when asked how many members CICC has. Ms. Salloum did state, however, that "[o]ver 4,200 members of ICCRC are our members, two-thirds [of ICCRC members]."

[56] I note an issue regarding CICC's website that was raised during the cross-examination of both Ms. Kennedy and Ms. Salloum. Ms. Kennedy was asked a series of questions regarding the late June 2020 letters from CICC described in her affidavit and summarized in paragraphs 36-37 above. Regarding the June 25, 2020 letter commencing "NOTICE IS HEREBY GIVEN," Ms. Kennedy indicated that she definitely remembers reading it on the [CICC] website and she believes it might have been in the that Dropbox as well (the links to which were provided in the June 25 email inquiry from the ICCRC member, described in paragraph 35 above). She further testified clicking on the Dropbox link the business day following June 25<sup>th</sup>. Ms. Kennedy was not asked specifically if she also clicked on the CICC website link then. She testified, however, that she became aware that somebody was holding out as the college when she received a complaint about it and that she checked the website more than once, between July and August, when ICCRC received most of the complaints.

[57] Ms. Salloum described a GoDaddy glitch that made the website available, from June 29 to July 10, at a time when it was not intended to be publically accessible. Letters were posted when the private website was under construction. No evidence was adduced on the motion, however, from a GoDaddy.com representative confirming the glitch and that the Defendants' website was impacted. Further, there was no mention in the June 29, 2020 response to the



demand letter that the website was private and under construction nor in the Defendants' Statement of Defence and Counterclaim.

[58] Nonetheless, even had the alleged glitch occurred and even if the website was private at that time but for the glitch, very similar information appears in the LinkedIn excerpts, summarized in paragraphs 33-34 above, and in the July 9, 2020 email to the professional liability insurance broker for ICCRC's members described in paragraph 41 above. In addition, the July 9, 2020 email erroneously refers to the trademark pending application as having already been "published in the Gazette for any objection for the past 9 months." As noted in the exhibits to the Kennedy Affidavit #1, the status of the pending trademark applications was simply "formalized" as of November 14, 2019 and there was no evidence before me that this status had changed since that date. In other words, the applications do not appear to have been advertised yet for opposition purposes, having regard to subsections 37(1) and 38(1) of the *Trademarks Act*.

#### IV. Relevant Provisions

[59] See Annex A.

#### V. Analysis

[60] With the parties' evidence in mind, I turn to a consideration of whether ICCRC has met the *RJR-MacDonald* test for an interlocutory injunction, including the merits of the action. ICCRC relies on paragraphs 7(a), (b), (c) or (d), or 9(1)(d) and section 11 of the *Trademarks Act*, in its action and on this motion. As explained in greater detail below and without determining the

merits, I find that paragraphs 7(b) and (c), which codify extended and traditional passing off respectively, do not assist ICCRC on its motion. I am not persuaded applicable case law supports that passing off can be established based on a proposed or future use of a name or mark, as opposed to a present or demonstrated use of the name or mark. Rather, I find that ICCRC's strongest case, in so far as a serious issue(s) to be tried is concerned, resides in paragraphs 7(a) and (d), 9(1)(d) and section 11 of the *Trademarks Act*.

(a) Serious Issues to be Tried

(i) *Potential Inapplicability of Paragraphs 7(b) and (c) of the Trademarks Act*

[61] I am not persuaded that ICCRC's position regarding the applicability of these provisions is supported by applicable case law, such that there is a serious issue to be tried. ICCRC's action is premised on the *College Act* and the provisions that provide a mechanism for ICCRC to continue as the regulator under the name the College of Immigration and Citizenship Consultants. ICCRC's evidence, however, is that to date it has not used the name and it will not rebrand until it has been continued as the regulator. The goodwill on which ICCRC seeks to rely is that which has built up in its years as the national regulator of immigration and citizenship consultants and the expectation that it will be continued as the College of Immigration and Citizenship Consultants under the *College Act*. In other words, ICCRC asserts the goodwill resides in being and continuing as the regulator, and does not relate to a pre-existing business or name, apart from the name in the statute. Further, ICCRC argues that paragraph 7(c) is not tied to use of the name.

[62] There is a constitutional limitation on section 7, in that standing alone and in association only with (now) section 55, it would not be valid federal legislation under subsection 91(2) of the *British North America Act*; the section derives its “nourishment” or validity from rounding out the regulatory schemes prescribed by Parliament exercising its legislative power in respect of patents, copyrights, trademarks and trade names: *MacDonald et al v Vapor Canada Ltd*, 1976 CanLII 181 (SCC), [1977] 2 SCR 134 [*Vapor*] at 172.

[63] In a more recent challenge to the constitutional validity of paragraph 7(b), the Supreme Court held that “the [Trademarks] Act creates a scheme regulating both registered and unregistered trade-marks[; ... i]n its pith and substance, s. 7(b) is directly connected to the enforcement of trade-marks and trade-names in Canada: the civil remedy in s. 7(b) protects the goodwill associated with trade-marks and is directed to avoiding consumer confusion through use of trade-marks” [emphasis in original]: *Kirkbi AG v Ritvik Holdings Inc*, 2005 SCC 65 [*Kirkbi*] at para 35.

[64] Further, in arriving at its conclusion regarding the three necessary elements of passing off (goodwill, deception due to misrepresentation, and actual or potential damage), the Supreme Court referred, in *Ciba-Geigy*, to the following discussion concerning goodwill in *Reckitt & Colman Products Ltd v Borden Inc*, [1990] 1 All ER 873 at 880 [emphasis in original]: “[the plaintiff] must establish a goodwill or reputation attached to the goods or services which he supplies in the mind of the purchasing public by association with the identifying ‘get-up’ (whether it consists simply of a brand name or a trade description, or the individual features of labelling or packaging) under which his particular goods or services are offered to the public,

such that the get-up is recognised by the public as distinctive specifically of the plaintiff's goods or services": *Ciba-Geigy Canada Ltd v Apotex Inc*, 1992 CanLII 33 (SCC), [1992] 3 SCR 120 [*Ciba-Geigy*] at 132.

[65] Prior to *Ciba-Geigy*, the Supreme Court in *Oxford Pendaflex* referred to the discussion of passing off in *J.B. Williams Company v H. Bronnley & Co Ld* (1909), 26 RPC 765 [*Williams*] at 771 [emphasis added]: "in order to succeed, [the plaintiff must] establish that he has selected a peculiar—a novel—design as a distinguishing feature of his goods, and that his goods are known in the market, and have acquired a reputation in the market, **by reason of that distinguishing feature**, and the [sic] unless he establishes that, the very foundation of his case fails": *Oxford Pendaflex Canada Ltd v Korr Marketing Ltd et al*, 1982 CanLII 45 (SCC), [1982] 1 SCR 494 [*Oxford Pendaflex*] at 502-503. I am doubtful that the fact of being a regulator, in and of itself, constitutes a distinguishing feature of the sort contemplated in *Williams*.

[66] The above case law highlights the difficult place ICCRC finds itself as it transitions to the College of Immigration and Citizenship Consultants under the *College Act*, discussed in greater detail below, and before it has rebranded. As noted by Daniel R Bereskin, QC in *The Canadian Law of Unfair Competition* (Toronto: Thomson Reuters Canada Limited, 2020) at §5.8, page 68 [emphasis added]: "Reputation [from which goodwill derives] refers to **the notoriety of a trademark**, indicating a connection in the mind of the public between the business of the trademark owner and the associated goods or services." Absent valid use of the name, whether as a trademark or trade name, the above case law and author suggest there can be no reputation and hence goodwill in the name; absent goodwill there can be no passing off.

[67] In my view, the above discussion applies to paragraph 7(c) as well. As held by the Federal Court of Appeal, “for there to be a violation of paragraph 7(c), there must be trade involving trade-marks[; s]pecifically, there must be a substitution of one trader’s goods ‘as and for those ordered or requested’”: *Albian Sands Energy Inc v Positive Attitude Safety System Inc*, 2005 FCA 332 (CanLII) at para 34. In the case before me, what is being “ordered” by immigration and citizenship consultants, albeit arguably mistakenly from CICC, are the services of the “College of Immigration and Citizenship Consultants” being the regulatory entity contemplated under the *College Act*. ICCRC has not been continued yet as that entity nor has it used that name, by its own admission. Whether CICC’s use of that name is valid is a different issue. Further, as the evidence demonstrates, CICC has gone to great lengths in its materials to distance or distinguish itself from ICCRC by claiming, falsely and publically, that ICCRC has ceased to be the regulator, that its status has been revoked, and that it no longer has a federal mandate. Claims such as these have a bearing on paragraph 7(a), as discussed below.

[68] Because ICCRC remains the current regulator, however, and until its continuance is approved as of the (as yet not) specified date, whenever that may be, any services supplied by ICCRC are provided under its current name. There simply is no currently-operational, government-sanctioned regulator under the *College Act* known as the College of Immigration and Citizenship Consultants. At this moment in time, neither the Plaintiff nor the corporate Defendant, nor any other body for that matter, is that entity, notwithstanding statements by the Defendants to the contrary.

(ii) *Potential Applicability of Paragraph 7(a) of the Trademarks Act*

[69] That said, I find it more likely than not, on a balance of probabilities, that ICCRC will be continued under the *College Act* as the federal or national regulator, of immigration consultants and citizenship consultants, under the name College of Immigration and Citizenship Consultants. In the meantime, ICCRC remains the mandated national regulator under its current name. Thus, I find that claims or statements by the Defendants to the effect that ICCRC's status has been revoked or that it no longer has a federal mandate, and that its members are practising illegally, among other similar statements, seemingly offend paragraph 7(a) which prohibits "false or misleading statement[s] tending to discredit the business, goods or services of a competitor." To the extent that CICC holds itself out as the new regulator, by its own claims makes it a competitor of ICCRC. For the reasons explained below, I am persuaded, therefore, that there is a serious issue to be tried.

[70] Although ICCRC's counsel acknowledged during the hearing the possibility that ICCRC might not become the regulator, the *College Act* had not been proclaimed yet (at the time of the hearing). Further, while the *College Act* provides a mechanism, in section 84, for ICCRC specifically to become the College, section 86 contemplates the possibility of an alternative entity becoming the College in prescribed circumstances. Subsection 84(2) indicates, however, that if the Minister has received ICCRC's application to be continued, as contemplated in subsection 84(1), and has not issued the order contemplated in section 86 (establishing a corporation without share capital to be known as the College of Immigration and Citizenship Consultants), then the Minister **must**, by order, approve and specify the date of the continuance. I find the wording of the English version of subsection 84(2) a little unclear but this meaning is clear, in my view, in the French version of the subsection. Further, paragraph 85(7)(a) of the

*College Act* provides that beginning on the date of continuance, the Council (with Council defined as ICCRC in section 83) becomes the College of Immigration and Citizenship.

[71] ICCRC's evidence is that it has been authorized by its members and has applied to be continued under subsection 84(1) of the *College Act*. On cross-examination, Ms. Kennedy confirmed that ICCRC had made the application for continuance; when asked whether the Minister approved the application or whether ICCRC had received any correspondence from the Minister approving the application, she answered: "Yes[;] I think that the fact that we engaged in consultation on the regulations, but there isn't a date yet set for the proclamation. That is normally when you would receive this letter that you are inferring [sic] to."

[72] The *College Act* was proclaimed only on December 9, 2020 and so it is unknown whether the Minister has approved yet the continuance and specified a date of continuance. Nonetheless, subsection 84(2) of the *College Act* suggests that if the preconditions have been met (no order has issued under section 86 and ICCRC has applied to be continued under subsection 84(1)), then the Minister has no choice but to do so eventually; the language of the provision is mandatory ("must"). There is no evidence on the motion before me that the Minister has issued an order under section 86 or that the Minister has not received ICCRC's application to be continued.

[73] "In order to be actionable, whether at common law or under section 7(a), it is necessary for the plaintiff to be identified in the allegedly untrue statement. It may be reasonable to infer that the plaintiff is understood to be the target, ...": *The Canadian Law of Unfair Competition*,

above at §7.3, page 123. Even discounting the CICC website, because of the alleged GoDaddy.com glitch resulting in the alleged private website becoming publically available, which glitch was not substantiated, I find that CICC made other public, seemingly false or misleading statements identifying or targeting ICCRC and tending to discredit it. For example, the Linked listing comprising an exhibit to the Kennedy Affidavit #1 contains the following statements:

- “ICCRC was the national regulatory body until October 25, 2019”;
- “ICCRC ceased to be the Regulatory body”;
- “ICCRC is no longer a regulator that promotes and protects the public interest by overseeing regulated immigration and citizenship consultants”;  
(the above statements appear in the posted letter or message “To ICCRC Members” mentioned in paragraph 54 above)
- “They [IRCC Minister’s office] intend to make significant changes to the existing system. In which to REPLACE the ICCRC with new corporation and new board members”;
- “The Minister of Immigration has a mandate to solve this dispute by replacing ICCRC with CICC to minimize government damage to the industry”;
- “80% of 6700 ICCRC members approved the transition to the new College CICC”;
- “Regrettably to say, despite a set back for 9 years watching ICCRC crumbling, and its member’s dissatisfaction appeared to be duplicate to CSIC failed mandate in 2009”.

[74] In addition, the July 9, 2020 email from Ms. Salloum to the professional liability insurance broker for ICCRC’s members contains the following statements:

- “The Purpose of our call is to be able to answer ICCRC members who are confused about ICCRC revoked status”;
- “The Minister can not take any other action but to approve the transition from ICCRC to CICC and to revoke the ICCRC regulatory body Status”;
- “Your insurance company must make a decision that all ICCRC members are practicing illegal because ICCRC status as Regulator revoked on Oct 25, 2019”; and
- “The new College will be filing claims against all ICCRC members who are practicing immigration under ICCRC governing umbrella from Oct 25, 2019”.

[75] Taking CICC’s website into account simply would reinforce my findings.

(iii) *Potential Applicability of Paragraph 7(d) of the Trademarks Act*



[76] I also am persuaded that there is a serious issue to be tried regarding Section 7(d). This provision prohibits the making use, in association with goods or services, of any description that is false in a material respect and likely to mislead the public as to, among other things, the character of the goods or services. According to *Vapor*, “Section 7(d)... involves deceit in offering goods or services to the public, deceit in the sense of material false representations likely to mislead in respect of the character... of goods or services”: *Vapor*, above at page 148.

[77] Again, discounting the CICC website, I find that that CICC made other public, seemingly false statements, in its LinkedIn listing and the July 9, 2020 email to the professional liability insurance broker for ICCRC’s members, that could be construed as likely to mislead the public about the character of CICC’s services. These statements intimate CICC is the College under the *College Act*, and that it now is the national regulator; they include:

- “The College [CICC] is registered as a Regulator for the Immigration and Citizenship Profession”;
- “College at full force to operate as of August 31, 2020”;
- “College name owned by CSIP & Salloum under intellectual property protection”;
- “No one is allowed to use this name, even the Minister himself. That will be considered intellectual property infringement”;
- “The New Regulatory body ‘CICC’ constituted on Oct 25, 2019”;
- “We expect Salloum who created the College Act in 2010 as part of her submission to be a more powerful entity than ICCRC” [this statement also applies, in my view, to the discussion above regarding paragraph 7(a)];
- “The Senate of Canada approved CSIP bid of 2010 to be implemented in 2020”;
- “We received approval from both Government (Parliament and Senate) on June 21, 2019”.

[78] Taking CICC’s website into account, however, simply would reinforce my findings.

[79] I further find that CICC’s public disclaimer on LinkedIn, discussed in paragraphs 54 and 73 above, does not have the effect of alleviating or minimizing the impact of its statements. Nor

do any assertions by CICC to the effect that its references to “College” in its name and otherwise are meant in the educative sense. To the extent that “[a] public confusion has rocked the industry with a surprise,” as asserted by Ms. Salloum in her July 9, 2020 email to the professional liability insurance broker for ICCRC’s members, I find it is in respect of the character of CICC’s business and services that it likely occurred because of statements such as those above.

(iv) *Potential Applicability of Paragraph 9(1)(d) and Section 11 of the Trademarks Act*

[80] In my view, the names in which the Defendants assert rights, described in paragraphs 30 and 31, seemingly fall within the prohibition of paragraph 9(1)(d) and hence, potentially are prohibited by section 11, such that there is a serious issue to be tried. The latter provision states: “No person shall use in connection with a business, as a trademark or otherwise, any sign or combination of signs adopted contrary to section 9 or 10.” The applicable test regarding paragraph 9(1)(d) is “whether the mark is ‘likely to lead to the belief that the associated services have received or are performed under government approval or authority’”: *College of Dietitians of Alberta v 3393291 Canada Inc (Canadian School of Natural Nutrition)*, 2015 FC 449 at para 66, citing *College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia v Council of Natural Medicine College of Canada*, 2009 FC 1110 at para 224.

[81] The names in issue in this matter adopted by CICC are: CICC The College of Immigration and Citizenship Consultants Corp.; CICC – The College of Immigration and Citizenship Consultants; The College of Immigration and Citizenship Consultants; and The College Act. I find there is a serious issue to be tried about whether the names adopted by CICC

are “likely to lead to the belief that the associated services have received or are performed under government approval or authority,” notwithstanding CICC’s above mentioned public disclaimer on LinkedIn or asserted intellectual property rights in the names. My finding in this regard is based on the *College Act* (meaning the legislation that received Royal Assent on June 21, 2019 as opposed to the legislative framework proposed by FSCIC/CSIP and Ms. Salloum in 2010 – I find they are not the same or even substantially the same), and the name of the College contained in the *College Act*, coupled with statements such as those reproduced in paragraph 77 above.

[82] Further, the Defendants do not have any registered trademark rights in the alleged name or mark, The College of Immigration and Citizenship Consultants. In its Defence to Counterclaim, ICCRC has disputed, among other things, CICC’s rights in the mark on the basis that it is clearly descriptive (which potentially has implications for the registrability – under section 12 of the *Trademarks Act* - and enforceability of the alleged mark). This consideration also applies, in my view, to the alleged name or mark The College Act. While the Salloum Affidavit points to some possible modest usage of College of Immigration and Citizenship Consultants prior to 2019, the credibility of which the Plaintiff has challenged, in my view it does not rise to the level required to demonstrate acquired distinctiveness, leaving aside the credibility concerns. Nor were any steps taken in the intervening years since the proposal to protect such name or mark. Further, I find that Ms. Salloum has made inconsistent statements regarding ownership of the names or marks – CSIP in the LinkedIn listing (see paragraph 77 above), on the one hand, and Copyrightme Corp. in the Salloum Affidavit (see paragraph 51 above), on the other.

[83] At the hearing, ICCRC's counsel also raised the spectre of deceptive misdescriptiveness regarding these names in the hands of CICC, given that the term College can connote a regulator which I accept. I note, however, that ICCRC did not plead this in the Defence to Counterclaim (unlike the clearly descriptive allegation), nor specifically in the Statement of Claim. As a final point regarding the Defendants' asserted intellectual property, Ms. Salloum testified at her cross-examination that the copyright registrations were obtained in respect of "a copyright of a title" and to "protect that term itself." Based on the definition of "work" in the *Copyright Act*, I have doubts that the copyright registrations can fulfill the purpose for which they were obtained.

[84] Overall, I find that ICCRC's action is neither frivolous nor vexatious. Further, ICCRC has demonstrated a sufficiently strong case in respect of not just one but several serious issues to be tried that the threshold it has to meet on the remaining prongs of the *RJR-MacDonald* test is lowered considerably: *Bell Media*, above at para 56.

(b) Irreparable Harm

[85] I am persuaded that ICCRC would suffer, and already may have suffered, irreparable harm – harm that is clear and non-speculative, non-quantifiable and non-compensable in damages – if the interlocutory injunction were refused. According to *RJR-MacDonald*, "irreparable" is indicative of the nature, as opposed to the magnitude, of the harm and cannot be quantified monetarily or cured: *RJR-MacDonald*, above at page 341. Examples include permanent market loss or irrevocable damage to reputation. Further, as noted in *Newbould*, in the case of alleged harm to reputation, the question of irreparable harm can be "satisfied by inference

from the whole of the surrounding circumstances”: *Newbould v Canada (Attorney General)*, 2017 FCA 106 [*Newbould*] at para 29.

[86] I find that the “whole of the surrounding circumstances,” as demonstrated on this motion, point to the Defendants “knowingly and pre-emptively” striking out, not only to frustrate the continuance and transition of ICCRC to the College of Immigration and Citizenship Consultants under the *College Act*, but also to undermine member and public confidence in ICCRC: *Reckitt Benckiser LLC v Jamieson Laboratories Ltd*, 2015 FC 215 [*Reckitt*] at para 42. The activities undertaken by the Defendants in this regard include the incorporation of the corporate Defendant under the name CICC – The College of Immigration and Citizenship Consultants Corp. about one month after ICCRC passed a special resolution to be continued under the *College Act* and undertaking a seemingly concerted campaign of misinformation and disinformation about the status of both ICCRC and CICC. Such a campaign is exemplified by the LinkedIn excerpts (which indicate “75 Followers” on the majority of the excerpts), the June 25, 2020 enquiry from an ICCRC member regarding CICC, and the July 9, 2020 email from CICC to the professional liability insurance broker for ICCRC’s members.

[87] Further, I believe it would be practically impossible to quantify the loss occasioned by CICC’s conduct, both in terms of the damage to ICCRC’s reputation and the impact on its regulation of immigration and citizenship consultants. Ms. Kennedy’s evidence is that when ICCRC’s annual renewal was completed September 1<sup>st</sup>, there was an increase of people suspended for nonpayment of fees. Also, the June 28, 2020 CICC welcome letter claimed 1878 new members in 24 hours. By the time of her cross-examination, Ms. Salloum indicated that

there were 4200 members of CICC (purportedly in common with ICCRC). In my view, it would take considerable investigatory efforts by ICCRC to determine how many members joined CICC that no longer are or never were members of ICCRC and thereby avoid, whether intentionally or unintentionally, ICCRC's regulatory reach, including entry into the profession, enforcement of continuing education and insurance requirements, and disciplinary measures. This is especially so given the ongoing pandemic and the short time between the completion of cross-examinations on November 5, 2020 and the hearing of this motion on November 20, 2020.

[88] Most importantly, ICCRC, being the current regulator designated under *IRPA* and the *Citizenship Act*, cannot protect the public from those who are not members including those who have joined CICC, and not ICCRC, in the mistaken belief, encouraged by CICC's activities, that CICC is the new national regulator. As stated in Sharpe J.A.'s text *Injunctions and Specific Performance* (Toronto: Canada Law Book Inc., Looseleaf), at 2-29 to 2-30, cited in *Sirius Diamond*, "Where the public interest is at stake, the calculation of irreparable harm becomes more difficult, as interests in addition to those of the immediate parties must be considered[; ...] public interest may be a powerful influence, depending on the circumstances, either in favour of or against an interlocutory injunction": *Northwest Territories v Sirius Diamond Ltd*, 2001 FCT 702 [*Sirius Diamond*] at para 58. As also noted in *RJR-MacDonald*, citing *Ainsley Financial Corp v Ontario Securities Commission* (1993), 14 OR (3d) 280 at pp 303-4 [emphasis added]: "The interests of the public, **which the agency is created to protect**, must be taken into account and weighed in the balance, along with the interests of the private litigants": *RJR-MacDonald*, above at page 343. Thus, contrary to the Defendants' submission, I find where the public interest is at stake, this is an instance where harm to third parties is a relevant consideration.

[89] In light of my findings regarding ICCRC's strong showing of serious issues to be tried, I find the above sufficiently meets the prong of irreparable harm in this case.

(c) Balance of Convenience

[90] I also find the balance of convenience favours the granting of the requested interlocutory injunction. The consideration of this third prong of the *RJR-MacDonald* test requires a balancing of the harm suffered by the Plaintiff if the injunction is not granted with any harm suffered by the Defendants if it is granted. Contrary to Ms. Salloum's submission, I am not persuaded the status quo should be maintained. Rather, I find the harm caused by the Defendants' activities and suffered by ICCRC to its reputation, as well as to the public interest it protects, outweighs the harm to the Defendants by requiring them to cease activities that they largely began after ICCRC's special resolution signalling its transition to the College of Immigration and Citizenship Consultants under the *College Act*. I further note that ICCRC has undertaken to abide by any order concerning damages caused by the granting of an interlocutory injunction.

[91] Again, in light of my findings regarding ICCRC's strong showing of serious issues to be tried, I find the above sufficiently meets the balance of convenience prong in this case.

VI. Conclusion

[92] For these reasons, I conclude ICCRC has met the test for an interlocutory injunction: there are serious issues to be tried, irreparable harm to ICCRC's reputation and the public interest have been demonstrated, and the balance of convenience favours ICCRC. I find the

granting of the interlocutory injunction would be just and equitable in all the circumstances and context of the matter before me. I therefore grant ICCRC's motion for an interlocutory injunction to restrain the Defendants from engaging in the activities described in paragraph 6 above (with some modifications to align more closely with the Statement of Claim), pending the Court's disposition of ICCRC's claim and the Defendants' counterclaim.

[93] Although the parties made brief costs submissions at the hearing and requested an opportunity to make further submissions, I exercise my discretion under Rule 400 of the *Federal Courts Rules* and conclude that costs shall be payable in the cause.



**ORDER in T-834-20**

**THIS COURT ORDERS that:**

1. The motion of the Plaintiff, Immigration Consultants of Canada Regulatory Council, for an interlocutory injunction, pursuant to Rule 373 of the *Federal Courts Rules*, SOR/98-106, is granted.
2. The Defendants, CICC The College of Immigration and Citizenship Consultants Corp., Nuha Nancy Salloum and Ryan Dean, and each of them, their officers, directors, officers, servants, representatives, agents, employees, related business entities, and all others over whom they exercise control, forthwith are prohibited and restrained from, either directly or indirectly:
  - A. Using the business name and marks of CICC The College of Immigration and Citizenship Consultants Corp., The College of Immigration and Citizenship Consultants, the letters CICC, “The College Act”, any of those names without the definite article “the” or the letters CICC, or any other word or symbol suggesting that they are the College of Immigration and Citizenship Consultants established under the *College of Immigration and Citizenship Consultants Act*, in connection with their business, as a trademark or otherwise;
  - B. Using the domain name cicc-lcic.com;
  - C. Maintaining the LinkedIn listing at <https://www.linkedin.com/company/the-college-of-immigration-and-citizenship-consultants-corp>; and
  - D. Holding themselves out as the national regulator of immigration or citizenship consultants;pending the Court’s disposition of the Plaintiff’s claim and the Defendants’ counterclaim.
3. Costs shall be payable in the cause.

"Janet M. Fuhrer"

---

Judge

## Appendix A: Relevant Provisions

### *Trademarks Act, RSC 1985, c T-13*

<p><b>Prohibitions</b></p> <p><b>7 No person shall</b></p> <p>(a) make a false or misleading statement tending to discredit the business, goods or services of a competitor;</p> <p>(b) direct public attention to his goods, services or business in such a way as to cause or be likely to cause confusion in Canada, at the time he commenced so to direct attention to them, between his goods, services or business and the goods, services or business of another;</p> <p>(c) pass off other goods or services as and for those ordered or requested; or</p> <p>(d) make use, in association with goods or services, of any description that is false in a material respect and likely to mislead the public as to</p> <p>(i) the character, quality, quantity or composition,</p> <p>(ii) the geographical origin, or</p> <p>(iii) the mode of the manufacture, production or performance of the goods or services.</p>	<p><b>Interdictions</b></p> <p><b>7 Interdictions</b></p> <p>a) faire une déclaration fausse ou trompeuse tendant à discréditer l'entreprise, les produits ou les services d'un concurrent;</p> <p>b) appeler l'attention du public sur ses produits, ses services ou son entreprise de manière à causer ou à vraisemblablement causer de la confusion au Canada, lorsqu'il a commencé à y appeler ainsi l'attention, entre ses produits, ses services ou son entreprise et ceux d'un autre;</p> <p>c) faire passer d'autres produits ou services pour ceux qui sont commandés ou demandés;</p> <p>d) employer, en liaison avec des produits ou services, une désignation qui est fausse sous un rapport essentiel et de nature à tromper le public en ce qui regarde :</p> <p>(i) soit leurs caractéristiques, leur qualité, quantité ou composition,</p> <p>(ii) soit leur origine géographique,</p> <p>(iii) soit leur mode de fabrication, de production ou d'exécution.</p>
<p><b>Prohibited marks</b></p> <p><b>9 (1)</b> No person shall adopt in connection with a business, as a trademark or otherwise, any mark consisting of, or so nearly resembling as to be likely to be mistaken for,</p> <p>(d) any word or symbol likely to lead to the belief that the goods or services in association with which it is used have</p>	<p><b>Marques interdites</b></p> <p><b>9 (1)</b> Nul ne peut adopter à l'égard d'une entreprise, comme marque de commerce ou autrement, une marque composée de ce qui suit, ou dont la ressemblance est telle qu'on pourrait vraisemblablement la confondre avec ce qui suit :</p> <p>d) un mot ou symbole susceptible de porter à croire que les produits ou services en liaison avec lesquels il est employé ont reçu</p>

received, or are produced, sold or performed under, royal, vice-regal or governmental patronage, approval or authority;	l'approbation royale, vice-royale ou gouvernementale, ou que leur production, leur vente ou leur exécution a lieu sous le patronage ou sur l'autorité royale, vice-royale ou gouvernementale;
<p><b>Further prohibitions</b></p> <p><b>11</b> No person shall use in connection with a business, as a trademark or otherwise, any sign or combination of signs adopted contrary to section 9 or 10.</p>	<p><b>Autres interdictions</b></p> <p><b>11</b> Nul ne peut employer relativement à une entreprise, comme marque de commerce ou autrement, un signe ou une combinaison de signes adopté contrairement aux articles 9 ou 10.</p>

*Copyright Act, RSC 1985, c C-42*

<p><b>Definitions</b></p> <p><b>2</b> In this Act,</p> <p><b>work</b> includes the title thereof when such title is original and distinctive; (<i>oeuvre</i>)</p>	<p><b>Définitions</b></p> <p><b>2</b> Les définitions qui suivent s'appliquent à la présente loi.</p> <p><b>œuvre</b> Est assimilé à une œuvre le titre de l'œuvre lorsque celui-ci est original et distinctif. (<i>work</i>)</p>
<p><b>Copyright in works</b></p> <p><b>3 (1)</b> For the purposes of this Act, copyright, in relation to a work, means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, to perform the work or any substantial part thereof in public or, if the work is unpublished, to publish the work or any substantial part thereof, and includes the sole right</p> <p>(a) to produce, reproduce, perform or publish any translation of the work,</p> <p>(b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work,</p>	<p><b>Droit d'auteur sur l'œuvre</b></p> <p><b>3 (1)</b> Le droit d'auteur sur l'œuvre comporte le droit exclusif de produire ou reproduire la totalité ou une partie importante de l'œuvre, sous une forme matérielle quelconque, d'en exécuter ou d'en représenter la totalité ou une partie importante en public et, si l'œuvre n'est pas publiée, d'en publier la totalité ou une partie importante; ce droit comporte, en outre, le droit exclusif :</p> <p>a) de produire, reproduire, représenter ou publier une traduction de l'œuvre;</p> <p>b) s'il s'agit d'une œuvre dramatique, de la transformer en un roman ou en une autre œuvre non dramatique;</p>

(c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise,

(d) in the case of a literary, dramatic or musical work, to make any sound recording, cinematograph film or other contrivance by means of which the work may be mechanically reproduced or performed,

(e) in the case of any literary, dramatic, musical or artistic work, to reproduce, adapt and publicly present the work as a cinematographic work,

(f) in the case of any literary, dramatic, musical or artistic work, to communicate the work to the public by telecommunication,

(g) to present at a public exhibition, for a purpose other than sale or hire, an artistic work created after June 7, 1988, other than a map, chart or plan,

(h) in the case of a computer program that can be reproduced in the ordinary course of its use, other than by a reproduction during its execution in conjunction with a machine, device or computer, to rent out the computer program,

(i) in the case of a musical work, to rent out a sound recording in which the work is embodied, and

(j) in the case of a work that is in the form of a tangible object, to sell or otherwise transfer ownership of the tangible object, as long as that ownership has never previously been transferred in or outside Canada with the authorization of the copyright owner, and to authorize any such acts.

c) s'il s'agit d'un roman ou d'une autre œuvre dramatique, ou d'une œuvre artistique, de transformer cette œuvre en une œuvre dramatique, par voie de représentation publique ou autrement;

d) s'il s'agit d'une œuvre littéraire, dramatique ou musicale, d'en faire un enregistrement sonore, film cinématographique ou autre support, à l'aide desquels l'œuvre peut être reproduite, représentée ou exécutée mécaniquement;

e) s'il s'agit d'une œuvre littéraire, dramatique, musicale ou artistique, de reproduire, d'adapter et de présenter publiquement l'œuvre en tant qu'œuvre cinématographique;

f) de communiquer au public, par télécommunication, une œuvre littéraire, dramatique, musicale ou artistique;

g) de présenter au public lors d'une exposition, à des fins autres que la vente ou la location, une œuvre artistique — autre qu'une carte géographique ou marine, un plan ou un graphique — créée après le 7 juin 1988;

h) de louer un programme d'ordinateur qui peut être reproduit dans le cadre normal de son utilisation, sauf la reproduction effectuée pendant son exécution avec un ordinateur ou autre machine ou appareil;

i) s'il s'agit d'une œuvre musicale, d'en louer tout enregistrement sonore;

j) s'il s'agit d'une œuvre sous forme d'un objet tangible, d'effectuer le transfert de propriété, notamment par vente, de l'objet, dans la mesure où la propriété de celui-ci n'a jamais été transférée au Canada ou à l'étranger avec l'autorisation du titulaire du droit d'auteur. Est inclus dans la présente définition le droit exclusif d'autoriser ces actes.

<b>Conditions for subsistence of copyright</b>	<b>Conditions d'obtention du droit d'auteur</b>
<p><b>5 (1)</b> Subject to this Act, copyright shall subsist in Canada, for the term hereinafter mentioned, in every original literary, dramatic, musical and artistic work if any one of the following conditions is met:</p> <p>(a) in the case of any work, whether published or unpublished, including a cinematographic work, the author was, at the date of the making of the work, a citizen or subject of, or a person ordinarily resident in, a treaty country;</p> <p>(b) in the case of a cinematographic work, whether published or unpublished, the maker, at the date of the making of the cinematographic work,</p> <p>(i) if a corporation, had its headquarters in a treaty country, or</p> <p>(ii) if a natural person, was a citizen or subject of, or a person ordinarily resident in, a treaty country; or</p> <p>(c) in the case of a published work, including a cinematographic work,</p> <p>(i) in relation to subparagraph 2.2(1)(a)(i), the first publication in such a quantity as to satisfy the reasonable demands of the public, having regard to the nature of the work, occurred in a treaty country, or</p> <p>(ii) in relation to subparagraph 2.2(1)(a)(ii) or</p> <p>(iii), the first publication occurred in a treaty country.</p>	<p><b>5 (1)</b> Sous réserve des autres dispositions de la présente loi, le droit d'auteur existe au Canada, pendant la durée mentionnée ci-après, sur toute œuvre littéraire, dramatique, musicale ou artistique originale si l'une des conditions suivantes est réalisée :</p> <p>a) pour toute œuvre publiée ou non, y compris une œuvre cinématographique, l'auteur était, à la date de sa création, citoyen, sujet ou résident habituel d'un pays signataire;</p> <p>b) dans le cas d'une œuvre cinématographique — publiée ou non —, à la date de sa création, le producteur était citoyen, sujet ou résident habituel d'un pays signataire ou avait son siège social dans un tel pays;</p> <p>c) s'il s'agit d'une œuvre publiée, y compris une œuvre cinématographique, selon le cas :</p> <p>(i) la mise à la disposition du public d'exemplaires de l'œuvre en quantité suffisante pour satisfaire la demande raisonnable du public, compte tenu de la nature de l'œuvre, a eu lieu pour la première fois dans un pays signataire,</p> <p>(ii) l'édification d'une œuvre architecturale ou l'incorporation d'une œuvre artistique à celle-ci, a eu lieu pour la première fois dans un pays signataire.</p>

<p><b>Ownership of copyright</b></p> <p><b>13 (1)</b> Subject to this Act, the author of a work shall be the first owner of the copyright therein.</p> <p><b>Work made in the course of employment</b></p> <p>(3) Where the author of a work was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine or similar periodical.</p>	<p><b>Possession du droit d'auteur</b></p> <p><b>13 (1)</b> Sous réserve des autres dispositions de la présente loi, l'auteur d'une œuvre est le premier titulaire du droit d'auteur sur cette œuvre.</p> <p><b>Œuvre exécutée dans l'exercice d'un emploi</b></p> <p>(3) Lorsque l'auteur est employé par une autre personne en vertu d'un contrat de louage de service ou d'apprentissage, et que l'œuvre est exécutée dans l'exercice de cet emploi, l'employeur est, à moins de stipulation contraire, le premier titulaire du droit d'auteur; mais lorsque l'œuvre est un article ou une autre contribution, à un journal, à une revue ou à un périodique du même genre, l'auteur, en l'absence de convention contraire, est réputé posséder le droit d'interdire la publication de cette œuvre ailleurs que dans un journal, une revue ou un périodique semblable.</p>
<p><b>Moral rights</b></p> <p><b>14.1 (1)</b> The author of a work has, subject to section 28.2, the right to the integrity of the work and, in connection with an act mentioned in section 3, the right, where reasonable in the circumstances, to be associated with the work as its author by name or under a pseudonym and the right to remain anonymous.</p>	<p><b>Droits moraux</b></p> <p><b>14.1 (1)</b> L'auteur d'une oeuvre a le droit, sous réserve de l'article 28.2, à l'intégrité de l'oeuvre et, à l'égard de tout acte mentionné à l'article 3, le droit, compte tenu des usages raisonnables, d'en revendiquer, même sous pseudonyme, la création, ainsi que le droit à l'anonymat.</p>
<p><b>Infringement generally</b></p> <p><b>27 (1)</b> It is an infringement of copyright for any person to do, without the consent of the owner of the copyright, anything that by this Act only the owner of the copyright has the right to do.</p>	<p><b>Règle générale</b></p> <p><b>27 (1)</b> Constitue une violation du droit d'auteur l'accomplissement, sans le consentement du titulaire de ce droit, d'un acte qu'en vertu de la présente loi seul ce titulaire a la faculté d'accomplir.</p>

<p><b>Infringement generally</b></p> <p><b>28.1</b> Any act or omission that is contrary to any of the moral rights of the author of a work or of the performer of a performer’s performance is, in the absence of the author’s or performer’s consent, an infringement of those rights.</p>	<p><b>Atteinte aux droits moraux</b></p> <p><b>28.1</b> Constitue une violation des droits moraux de l’auteur sur son oeuvre ou de l’artiste-interprète sur sa prestation tout fait — acte ou omission — non autorisé et contraire à ceux-ci.</p>
--	---

*College of Immigration and Citizenship Consultants Act, SC 2019, c 29, s 292\**

**\*Note: Current to December 2, 2020.**

<p><b>Unauthorized practice</b></p> <p><b>77</b> A person, other than a licensee, must not</p> <p><b>(a)</b> use the title “immigration consultant,” “citizenship consultant,” “international student immigration advisor” or a variation or abbreviation of any of those titles, or any words, name or designation, in a manner that leads to a reasonable belief that the person is a licensee;</p> <p><b>(b)</b> represent themselves, in any way or by any means, to be a licensee; or</p> <p><b>(c)</b> unless the person is a person referred to in paragraph 21.1(2)(a) or (b) or subsection 21.1(3) or (4) of the Citizenship Act or paragraph 91(2)(a) or (b) or subsection 91(3) or (4) of the Immigration and Refugee Protection Act, knowingly, directly or indirectly, represent or advise a person for consideration — or offer to do so — in connection with a proceeding or application under the Citizenship Act, the submission of an expression of interest under subsection 10.1(3) of the Immigration and Refugee</p>	<p><b>Exercice non autorisé</b></p> <p><b>77</b> Il est interdit à quiconque n’est pas titulaire d’un permis :</p> <p><b>a)</b> d’utiliser les titres de « consultant en immigration », de « consultant en citoyenneté », de « conseiller en immigration pour étudiants étrangers », une variante ou une abréviation de ces titres ou des mots, un nom ou une désignation de manière à donner raisonnablement lieu de croire qu’il est titulaire d’un permis;</p> <p><b>b)</b> de se présenter, de quelque manière ou par quelque moyen, comme étant titulaire d’un permis;</p> <p><b>c)</b> de sciemment représenter ou conseiller une personne, de façon directe ou indirecte — ou d’offrir de le faire —, moyennant rétribution, relativement à une demande ou à une instance prévue par la Loi sur la citoyenneté ou à la soumission d’une déclaration d’intérêt faite en application du paragraphe 10.1(3) de la Loi sur l’immigration et la protection des réfugiés ou encore à une demande ou à une instance prévue par cette loi, sauf s’il est visé par les alinéas 21.1(2)a) ou b) ou les paragraphes 21.1(3) ou (4) de la Loi sur la citoyenneté ou les alinéas 91(2)a) ou b) ou les paragraphes</p>
--	---

Protection Act or a proceeding or application under that Act.	91(3) ou (4) de la Loi sur l'immigration et la protection des réfugiés.
<p><b>Injunction</b></p> <p><b>78</b> On application by the College, if a court of competent jurisdiction is satisfied that a contravention of section 77 is being or is likely to be committed, the court may grant an injunction, subject to any conditions that it considers appropriate, ordering any person to cease or refrain from any activity related to that contravention or ordering the person to take any measure that the court considers appropriate.</p>	<p><b>Injonction</b></p> <p><b>78</b> S'il est convaincu qu'il y a contravention ou risque de contravention à l'article 77, tout tribunal compétent peut, sur demande du Collège, accorder une injonction, assortie des conditions qu'il estime indiquées, ordonnant à quiconque de cesser toute activité liée à la contravention, de s'en abstenir ou de prendre toute mesure qu'il estime indiquée.</p>
<p><b>Application for continuance</b></p> <p><b>84 (1)</b> The Council may, if it is authorized to do so by its members in accordance with subsections 213(3) to (5) of the Canada Not-for-profit Corporations Act, apply to the Minister to be continued under this Act.</p>	<p><b>Demande de prorogation</b></p> <p><b>84 (1)</b> Le Conseil peut, s'il y est autorisé par ses membres conformément aux paragraphes 213(3) à (5) de la Loi canadienne sur les organisations à but non lucratif, demander au ministre une prorogation sous le régime de la présente loi.</p>
<p><b>Approval of application</b></p> <p><b>(2)</b> Unless an order has been made under section 86, after receiving an application made under subsection (1), the Minister must, by order, approve the continuance and specify a date of continuance.</p>	<p><b>Approbation de la demande</b></p> <p><b>(2)</b> S'il reçoit la demande visée au paragraphe (1) et n'a pas pris l'arrêté visé à l'article 86, le ministre approuve, par arrêté, la demande de prorogation et fixe, dans l'arrêté, la date de la prorogation.</p>
<p><b>Copy of order</b></p> <p><b>(3)</b> If the Minister makes an order under subsection (2), he or she must provide the Director appointed under section 281 of the Canada Not-for-profit Corporations Act with a copy of it.</p> <p><i>Canada Not-for-profit Corporations Act</i></p> <p><b>(4)</b> An order made under subsection (2) is, for the purpose of subsection 213(7) of the Canada Not-for-profit Corporations Act, deemed to be a notice that the corporation has</p>	<p><b>Copie de l'arrêté</b></p> <p><b>(3)</b> Le ministre fournit une copie de l'arrêté pris au titre du paragraphe (2) au directeur nommé au titre de l'article 281 de la Loi canadienne sur les organisations à but non lucratif.</p> <p><i>Loi canadienne sur les organisations à but non lucratif</i></p> <p><b>(4)</b> Pour l'application du paragraphe 213(7) de la Loi canadienne sur les organisations à but non lucratif, l'arrêté pris au titre du paragraphe (2) est réputé être l'avis attestant</p>



<p>been continued, and that subsection 213(7) is to be applied in respect of the Council without regard to the words “if the Director is of the opinion that the corporation has been continued in accordance with this section”.</p>	<p>que l’organisation a été prorogée; en outre, ce paragraphe 213(7) s’applique à l’égard du Conseil sans tenir compte du passage : « s’il estime que la prorogation a été effectuée conformément au présent article ».</p>
<p><b>Non-application of certain subsections</b></p> <p>(5) For the purposes of this Act, subsections 213(1), (2), (6) and (10) of the Canada Not-for-profit Corporations Act do not apply.</p>	<p><b>Non-application de certains paragraphes</b></p> <p>(5) Pour l’application de la présente loi, les paragraphes 213(1), (2), (6) et (10) de la Loi canadienne sur les organisations à but non lucratif ne s’appliquent pas.</p>
<p><b>Establishment of College</b></p> <p>86 If the Council has not been continued under section 84 and a period of six months — or any shorter period that the Governor in Council may, by order, specify — has elapsed after the day on which this section comes into force, the Minister may establish, by order, a corporation without share capital to be known as the College of Immigration and Citizenship Consultants.</p>	<p><b>Constitution du Collège</b></p> <p>86 Si le Conseil n’est pas prorogé au titre de l’article 84 et que six mois — ou toute autre période plus courte fixée par décret du gouverneur en conseil — se sont écoulés depuis la date d’entrée en vigueur du présent article, le ministre peut, par arrêté, constituer le Collège des consultants en immigration et en citoyenneté, personne morale sans capital-actions.</p>

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-834-20

**STYLE OF CAUSE:** IMMIGRATION CONSULTANTS OF CANADA  
REGULATORY COUNCIL v CICC THE COLLEGE  
OF IMMIGRATION AND CITIZENSHIP  
CONSULTANTS CORP., NUHA NANCY SALLOUM,  
AND RYAN DEAN

**STYLE OF CAUSE  
COUNTERCLAIM:** CICC THE COLLEGE OF IMMIGRATION AND  
CITIZENSHIP CONSULTANTS CORP. v HER  
MAJESTY THE QUEEN

**PLACE OF HEARING:** TORONTO, ONTARIO (VIA VIDEOCONFERENCE)

**DATE OF HEARING:** NOVEMBER 20, 2020

**JUDGMENT AND REASONS:** FUHRER J.

**DATED:** DECEMBER 24, 2020

**APPEARANCES:**

Gervas W. Wall Michelle Noonan	FOR THE PLAINTIFF (DEFENDANT BY COUNTERCLAIM)
Nancy Salloum	FOR THE DEFENDANTS (ON BEHALF OF HERSELF AND CICC THE COLLEGE OF IMMIGRATION AND CITIZENSHIP CONSULTANTS CORP.)
Ryan Dean	FOR THE DEFENDANT (ON BEHALF OF HIMSELF)
Jennifer Chow	FOR THE DEFENDANT BY COUNTERCLAIM
Nancy Salloum	FOR THE PLAINTIFF BY COUNTERCLAIM

**SOLICITORS OF RECORD:**

Gervas W. Wall  
Michelle Noonan  
Deeth Williams Wall  
Toronto, Ontario

FOR THE PLAINTIFF

Attorney General of Canada  
Toronto, Ontario

FOR THE DEFENDANT BY COUNTERCLAIM