



LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADE-MARKS

Citation: 2015 TMOB 13
Date of Decision: 2015-01-26

**IN THE MATTER OF A SECTION 45
PROCEEDING requested by Lavery de
Billy, S.E.N.C.R.L. against registration
No. TMA687,363 for the trade-mark
QUINTESSENTIALLY in the name of
Quintessentially (UK) Limited**

[1] This decision pertains to a summary expungement proceeding with respect to registration No. TMA687,363 for the trade-mark QUINTESSENTIALLY owned by Quintessentially (UK) Limited.

[2] The statement of goods and services of the registration is entirely reproduced in Schedule A to this decision.

[3] For the reasons that follow, I conclude that the registration ought to be amended to delete all of the goods and part of the services.

The Proceeding

[4] On September 17, 2012, the Registrar of Trade-marks sent a notice under section 45 of the *Trade-marks Act* RSC 1985, c T-13 (the Act) to Quintessentially (UK) Limited (the Registrant). This notice was sent at the request of Lavery de Billy, S.E.N.C.R.L. (the Requesting Party).

[5] The notice required the Registrant to furnish evidence showing that it had used the trade-mark QUINTESSENTIALLY (the Mark) in Canada, at any time between

September 17, 2009 and September 17, 2012 (the relevant period), in association with each of the goods and services specified in registration No. TMA687,363. If the Mark had not been so used, the Registrant was required to furnish evidence providing the date when the Mark was last in use and the reasons for the absence of use since that date.

[6] It is well established that the purpose and scope of section 45 of the Act is to provide a simple, summary and expeditious procedure for clearing the register of “deadwood”. Mere claims of use are insufficient to show the use of the trade-mark [*Plough (Canada) Ltd v Aerosol Fillers Inc* (1980), 53 CPR (2d) 62 (FCA)]. Although the criteria for establishing use are not very demanding and an overabundance of evidence is not necessary, sufficient facts must be presented to enable the Registrar to conclude that the trade-mark has been used in association with each good or service mentioned in the registration during the relevant period [*Uvex Toko Canada Ltd v Performance Apparel Corp* (2004), 31 CPR (4th) 270 (FC)].

[7] In response to the Registrar’s notice, the Registrant furnished the affidavit of John Brink, sworn on April 12, 2013, with its Exhibits JB-1 to JB-10. Mr. Brink is in-house legal counsel at the Registrant.

[8] Both parties filed written representations. A hearing was not conducted.

Requesting Party’s Representations

[9] I will discuss the Requesting Party’s representations in more detail when analyzing the issues arising from them; however, at this time I summarize the Requesting Party’s main representations as follows:

- i. most of the exhibits to the affidavit show the term QUINTESSENTIALLY used as a trade-name as opposed to a trade-mark;
- ii. the evidence does not establish use of the Mark in association with the registered goods; and
- iii. the evidence does not establish use of the Mark in association with the registered services.

[10] Alternate submissions were made by the Requesting Party with respect to the registered services. According to my understanding of its alternate submissions, the Requesting Party acknowledges that the evidence may be sufficient for maintaining the registration for any of the following services: “*ticket reservation services for travel and tourists*”, “*ticket information services for entertainment and sporting events*”, “*reservation services for concert tickets, show tickets and theatre tickets*” and “*provision of information relating to sport and entertainment*”.

The Evidence

[11] Below is an overview of the Registrant’s evidence, which I will discuss further in the ensuing analysis of the issues arising from the Requesting Party’s representations.

[12] Mr. Brink explains that the Registrant operates a concierge business in association with the Mark on a worldwide basis, including in Canada. The Registrant has had an operational office in Toronto since 2009 [paras. 1 and 3 of the affidavit].

[13] At paragraph 2 of his affidavit, Mr. Brink states that he is aware that his affidavit is provided to show that the Registrant has used the Mark in Canada from September 17, 2009 to September 17, 2012 in association with the following services:

- club membership administration services;
- arranging discounts for travel;
- arranging discounts for service and retail outlets;
- arranging discounts in connection with the provision of services and goods by others;
- club membership information relating to services provided via the Internet, databases or other electronic means;
- telecommunication services, namely messaging services provided by telephone, facsimile, e-mail or SMS messages;
- travel agency services; ticket reservation services for travel and tourists;
- information and consultancy services relating to the aforesaid;
- travel arrangement services;

- club membership information relating to services, provided via the Internet, databases or other electronic means;
- provision of social club services;
- provision of club recreation facilities;
- the publication of magazines;
- ticket information services for entertainment and sporting events;
- ticket procurement services for entertaining (*sic*) and sporting events;
- reservation services for concert tickets, show tickets and theatre tickets;
- provision of information relating to sport and entertainment;
- information, advisory and consultancy services relating to the aforesaid;
- services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs;
- club membership information relating to services, provided via the Internet, databases or other electronic means;
- restaurant reservation services;
- provision of temporary accommodation services;
- services for providing food and drink;
- lounge and bar services; club membership information relating to services, provided via the Internet, databases or other electronic means;
- concierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals;
- club membership information relating to services, provided via the Internet, databases or other electronic means.

[14] While seemingly unimportant, I note that there are four references to “*club membership information relating to services, provided via the Internet, databases or other electronic means*” at paragraph 2 of the Brink affidavit, and two references to “*information, advisory and consultancy services relating to the aforesaid*”. I infer this is because each of these services is listed more than once in the registration.

[15] According to Mr. Brink's testimony, in most countries in which it operates, the Registrant's upscale concierge services are offered and provided in association with the Mark through a franchisee [para. 5 of the affidavit]. The services associated with the Mark are offered and performed as part of a membership purchased by consumers. The Mark is the only brand used by the Registrant. Any materials provided to members bear the Mark. The Mark is also used on the Registrant's website and by anyone answering phone calls from members [para. 25 of the affidavit].

[16] Mr. Brink explains that the Registrant launched its concierge business in Canada in 2009 with its first franchise partner, Andrew Newman (afterwards referenced in the affidavit as the Previous Franchisee) [para. 7 of the affidavit]. The Registrant changed franchisees in September 2012 for 8286701 Canada Inc. (afterwards referenced in the affidavit as the Current Franchisee) [para. 8 of the affidavit]. Mr. Brink files copies of the Franchise Agreement of 2009 with the Previous Franchisee and of the Franchise Agreement of 2012 with the Current Franchisee as Exhibits JB-1 and JB-2 respectively (collectively referenced in the affidavit as the Canadian Franchise Agreements). Having reviewed these exhibits, I note that they consist of

- an unsigned redacted copy of the Franchise Agreement of October 27, 2009 between the Registrant and Quintessentially Concierge (Canada) Limited [Exhibit JB-1]. I have noted that one of the documents in Exhibit JB-4 is signed by Andrew Newman as Chief Executive Officer of Quintessentially Concierge (Canada) Limited. Thus, I infer that the reference to the Previous Franchisee in the Brink affidavit was also meant as a reference to this company; and
- a redacted copy of the Franchise Agreement dated August 31, 2012 between the Registrant and the Current Franchisee [Exhibit JB-2].

[17] Mr. Brink also explains that the Canadian Franchise Agreements provide for the use of the Mark under licence from the Registrant and covers a wide range of details relating to the relationship between the parties, including details concerning the Registrant's control over the quality of the services rendered by the Canadian franchisees in association with the Mark [paras. 9-11 of the affidavit].

[18] At paragraph 16 of his affidavit, Mr. Brink states:

I can confirm that the full range of services identified above was provided to our members as [the Registrant] stores a log of all requests made by members around the world, and so this information is within [the Registrant's] books and within my knowledge (from reviewing the reports provided by the former Franchisee). During the rendering of these services, typically our Previous Franchisee would have displayed the [Mark] on all written material, including emails and invoices, as QUINTESENTIALLY is the key house brand for the provision of the services.

(I infer that Mr. Brink's reference to "the former Franchisee" is the result of an oversight or transcribing error and is meant as a reference to the Previous Franchisee.)

[19] Mr. Brink states that the Registrant's Canadian lawyer "has explained to [him] that a trade-mark can be considered 'used' in Canada if it has been advertised in association with a given service and if that service was performed or available to be performed in Canada" [para. 17 of the affidavit].

[20] Mr. Brink explains that the Registrant's relationship with its Previous Franchisee is no longer a positive one; therefore the Registrant does not have and cannot obtain invoices and other records of similar nature that are in the possession of the Previous Franchisee [para. 22 of the affidavit].

[21] According to Mr. Brink's statements, the copies of internal reports filed as Exhibit JB-8 to his affidavit (the Reports) display all services requested by Canadian members or by other members requesting services in Canada, and provided by the Previous Franchisee during the relevant period. Mr. Brink states that the Reports illustrate at least the provision of the following services [para. 24 of the affidavit]:

- concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals;
- arranging discounts for travel;
- arranging discounts in connection with the provision of services and goods by others;
- travel agency services;

- ticket reservation services for travel and tourists;
- information and consultancy services relating to the aforesaid (referenced twice);
- travel arrangement services;
- ticket information services for entertainment and sporting events;
- ticket procurement services for entertaining (*sic*) and sporting events;
- reservation services for concert tickets, show tickets and theatre tickets;
- provision of information relating to sport and entertainment;
- services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs;
- club membership information relating to services provided via the Internet, databases or other electronic means (referenced twice);
- restaurant reservation services; and
- provision of temporary accommodation services.

[22] I summarize as follows the remaining of the documentary evidence filed by Mr. Brink in support of his statements concerning the use of the Mark in Canada during the relevant period in association with the Registrant's services:

- correspondence between the Registrant and its Previous Franchisee around the time when the franchise deal was being terminated along with membership lists provided by the Previous Franchisee and illustrative examples of invoices issued to members in Canada [Exhibit JB-3, paras. 12-13 of the affidavit];
- documents relating to three corporate contracts negotiated and issued by the Previous Franchisee, namely:
 - partly signed copy of a contract of January 19, 2012 with Summercove Estates Inc. "for the provision of 45 general clubs/concierge memberships" at a preferential rate for the residents within the exclusive apartment development known as The Perry (The Perry Contract). I note in passing that this contract is the document signed by Andrew Newman, which I have referenced earlier;

- pages from the website for The Perry. I note that these were apparently printed out on April 10, 2013;
- unsigned copy of a contract from April 8, 2011 sent to Scotia Wealth Management further to a meeting of March 18, 2011 (the Scotia Contract) for the Previous Franchisee to provide planning and logistical support to Scotia Wealth Management's international investments clients visiting Toronto; and
- unsigned copy of a proposal dated January 14, 2011 to a company called iGet.it (the iGet.it Proposal) for the mutual provision of marketing opportunities;

[Exhibit JB-4, para. 14 of the affidavit]

- pages from the <http://members.quintessentially.com> website obtained from the WayBack Machine Internet Archive for:
 - City Guide to Toronto, and City Guide to Vancouver (as of December 8, 2011);
 - "Meet the Staff" Toronto office, and Vancouver office (as of January 2, 2012); and
 - newsletters featuring Canada for June 7 and November 8, 2010, January 10, May 9 and December 12, 2011;

[Exhibit JB-5, para. 18 of the affidavit]

- analysis of traffic to the Registrant's website, at www.quintessentially.com, showing the number of people who have accessed the website from Canadian IP addresses during the relevant period [Exhibit JB-7, para. 21 of the affidavit];
- a list of Canadian-domiciled, non-corporate members for the relevant period [Exhibit JB-7, para. 23 of the affidavit];
- invoices issued shortly after the end of the relevant period by the Current Franchisee [Exhibit JB-9, para. 26 of the affidavit]; and

- examples of marketing material used by the Current Franchisee. Among this material, Mr. Brink specifically references the *Quintessentially Lifestyle* marketing brochure created by the Registrant, but targeted specifically at the Canadian market. He states that a similar marketing brochure would have been used by the Previous Franchisee. Mr. Brink also references the *Quintessentially Lifestyle Canada* newsletters produced in December 2012 and March 2013. He states that newsletters were produced and distributed to members by the Previous Franchisee [Exhibit JB-10, paras. 28-29 of the affidavit].

[23] Mr. Brink concludes his affidavit by stating that because he is familiar with the QUINTESSENTIALLY business and how it operates as well as with the Registrant's Canadian business, he knows that "a very wide range of services" have been provided under the Mark to members in Canada. Having been asked "to identify where the provision of certain specific services is supported by the documents that are attached to [his] affidavit", Mr. Brink has gone through the documents; he includes in his affidavit a table intended to provide examples of the services illustrated by each of the exhibits [para. 30 of the affidavit]. This table (the Table) is reproduced in Schedule B to this decision.

Analysis of the Issues

[24] The issues arising from the Requesting Party's submissions are as follows:

1. Does the evidence show the term QUINTESSENTIALLY used as a trade-name as opposed to a trade-mark?
2. Is the evidence sufficient to maintain the Mark in association with the registered goods?
3. Is the evidence sufficient to maintain the Mark in association with the registered services?

[25] I will analyze these issues in turn.

Does the evidence show the term QUINTESSENTIALLY used as a trade-name as opposed to a trade-mark?

[26] The Requesting Party's submissions with respect to this issue are restricted to a general argument that most of the exhibits to the Brink affidavit show the term QUINTESSENTIALLY used as a trade-name as opposed to a trade-mark. In other words, the Requesting Party did not make any specific representations with respect to this issue; it did not point out specific exhibits.

[27] In my opinion when submitting that "most" of the exhibits show trade-name use of the term QUINTESSENTIALLY, the Requesting Party implicitly acknowledges that some of the exhibits do show trade-mark use.

[28] For its part, the Registrant disputes the Requesting Party's contention. In summary, it submits that the appearance of the term QUINTESSENTIALLY in the following documents amounts to trade-mark use: in invoices [Exhibit JB-3]; at the top of each page of the Scotia Contract as well as in some pages of the iGet.it Proposal [Exhibit JB-4]; and on pages of the "Members-only" section of the Registrant's website [Exhibit JB-5].

[29] I partly agree with the Registrant in that, generally speaking, I accept as trade-mark use the appearance of QUINTESSENTIALLY as adjective qualifying terms such as "Members", "Memberships" and the like. However, I also partly disagree with the Registrant. For instance, I find that the appearance of QUINTESSENTIALLY in QUINTESSENTIALLY CANADA at the top of each page of the Scotia Contract amounts to trade-name use.

[30] Furthermore, whether the display of a trade-name constitutes trade-mark use depends on the circumstances of each particular case [*Bereskin & Parr v Kleen-Flo Tumbler Industries Ltd*, 2010 CarswellNat 3505 (TMOB) at paragraph 10]. As stated in *Consumers Distributing Co/Cie Distribution aux Consommateurs v Toy World Ltd*, 1990 CarswellNat 1398 (TMOB), "[t]rade-mark and trade-name usage are not necessarily mutually exclusive".

[31] In the end, I am satisfied that there is evidence showing the term QUINTESSENTIALLY used as a trade-mark. I will return to the evidentiary value of the exhibits to the Brink affidavit through the following analysis of the other issues.

Is the evidence sufficient to maintain the Mark in association with the registered goods?

[32] This issue can be summarily decided in favour of the Requesting Party.

[33] Indeed, the Registrant has conceded in its written representations that it has not adduced any evidence with respect to the goods set out in the registration. Thus, I conclude that the Brink affidavit does not evidence use of the Mark in association with any of the registered goods during the relevant period. Further, the Brink affidavit does not put forward special circumstances to justify the absence of use in association with the registered goods.

[34] Accordingly, the statement of goods will be deleted from the registration for the Mark.

Is the evidence sufficient to maintain the Mark in association with the registered services?

[35] This issue can be summarily decided in favour of the Requesting Party with respect to the following services set out in the registration:

(1) [...] financial services, namely the introduction of financial advisors, credit and debit card services, insurance brokerage, insurance consultancy, the issuing of tokens of value, issuing of travellers cheques, safe deposit services, cheque verification (*sic*) services; charge card services; credit card services; [...] introduction services to financial advisors and insurance brokers; insurance services; real estate affairs; [...] provision of Internet access; [...] provision of club recreation facilities; leisure club services; [...] the provision of leisure club facilities; [...] design and development of computer hardware and software; legal services; [...]

[36] Indeed, the Registrant has conceded in its written representations that it has not adduced any evidence for the above-identified services. Thus, I conclude that the Brink affidavit does not evidence use of the Mark in association with these services during the relevant period. Further, the Brink affidavit does not put forward special circumstances to justify the absence of use in association with these services.

[37] Accordingly, the above-mentioned services will be deleted from the registration for the Mark.

[38] I shall now turn to the consideration of whether the Registrant has provided sufficient evidence to conclude that the Mark has been used in Canada during the relevant period in association with each of the remaining registered services, namely:

(1) Club membership administration services; [...] arranging discounts for travel; arranging discounts for service and retail outlets; arranging discounts in connection with the provision of services and goods by others; [...] club membership information relating to services provided via the Internet, databases or other electronic means; telecommunication services, namely messaging services provided by telephone, facsimile, e-mail or SMS messages; [...] travel agency services; ticket reservation services for travel and tourists; information and consultancy services relating to the aforesaid; travel arrangement services; club membership information relating to services, provided via the Internet, databases or other electronic means; provision of social club services; [...] the publication of magazines; ticket information services for entertainment and sporting events; ticket procurement services for entertaining and sporting events; reservation services for concert tickets, show tickets and theatre tickets; provision of information relating to sport and entertainment; information, advisory and consultancy services relating to the aforesaid; services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs; [...] club membership information relating to services, provided via the Internet, databases or other electronic means; [...] restaurant reservation services; provision of temporary accommodation services; services for providing food and drink; lounge and bar services; club membership information relating to services, provided via the Internet, databases or other electronic means; concierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals; security services for the protection of property and individuals; club membership information relating to services, provided via the Internet, databases or other electronic means (the Remaining Services).

[39] The use of the Mark in association with services is governed by section 4(2) of the Act, which provides that a trade-mark is used in association with services if it is used or displayed in the performance or advertising of those services. It has been held that section 4(2) contemplates that the services advertised in Canada be performed in Canada [*Porter v Don the Beachcomber* (1966), 48 CPR 280 (Ex Ct)]. However, it has also been held that section 4(2) of the Act may be complied with if it is shown that the trade-mark owner is offering and is prepared to perform the services in Canada [*Wenward (Canada) Ltd v Dynaturf Co* (1976), 28 CPR (2d) 20 (RTM)].

[40] As a first matter, I note that I am satisfied that the evidence filed by the Registrant in this proceeding is sufficient to establish that the licensed use of the Mark in Canada complied with section 50(1) of the Act, which requires the owner of a trade-mark to control, either directly or indirectly, the character or quality of the goods or services in order to benefit from the use of its trade-mark by a licensee. In other words, I am satisfied that the Registrant has benefited from the licensed use of the Mark in Canada during the relevant period. I would add that this is not disputed by the Requesting Party.

[41] However, the Requesting Party submits that the Canadian Franchise Agreements do not evidence use of the Mark in association with the Remaining Services within the meaning of section 4(2) of the Act. Although this is not disputed by the Registrant, the latter points out that the Canadian Franchise Agreements specifically reference the Mark and provide for performance requirements in regards to specific services that are defined in each of the agreement. The Registrant submits that the Franchise Agreement with the Previous Franchisee “very much contributes towards evidencing that services have been advertised or rendered in Canada association with the Mark during the relevant period”, especially when considered with the Reports.

[42] At this juncture, I note that since I will return later on to the services defined in the Canadian Franchise Agreements, I have reproduced the definition of the term “Services” found in each of them at Schedule C to this decision.

[43] Clearly, the Canadian Franchise Agreements do not establish use of the Mark in the performance or advertisement of services under section 4(2) of the Act. However, I agree that they corroborate the allegations of Mr. Brink with respect to the use of the Mark in Canada in association with the concierge business operated by the Registrant during the relevant period. The same holds true for the Reports.

[44] In the same vein, I accept the partly signed copy of The Perry Contract as well as the unsigned copies of the Scotia Contract and the iGet.it Proposal as evidence establishing that the Registrant, through its Previous Franchisee, was prepared to perform services in Canada in association with the Mark [Exhibit JB-4]. I would add that I am prepared to infer that the invoice dated January 31, 2012 in Exhibit JB-3 is the result of The Perry Contract, as argued by the

Registrant. This leads me to revert to the evidentiary value of the invoices included in Exhibit JB-3 and of other exhibits bearing in mind my comments under the first issue.

[45] I accept the appearance of the term **QUINTESENTIALLY** in the description part of the invoices filed as Exhibit JB-3 as use of the Mark in Canada during the relevant period in association with the services offered and performed, or prepared to be performed, by the Registrant, through the Previous Franchisee, as part of the purchased membership.

[46] I also accept excerpts of its website filed as Exhibit JB-5 as evidence showing use of the Mark in the advertisement or performance of services offered and provided to members during the relevant period. Indeed, as rightly noted by the Registrant, in most instances where price reductions or other member benefits are offered, the Mark appears as an adjective qualifying “Members”.

[47] As for the iGet.it Proposal included in Exhibit JB-4, I accept the appearance of the term **QUINTESENTIALLY**, in bold, in the heading “**Quintessentially: Service, Members & Membership**” as trade-mark use in association with services offered and performed, or prepared to be performed, by the Registrant, through the Previous Franchisee, during the relevant period. The same applies to the appearance of the term **QUINTESENTIALLY** as an adjective qualifying “Member” and “Membership”.

[48] Finally, considering the evidence as a whole, I see no reason not to accept that the *Quintessentially Lifestyle* marketing brochure used by the Current Franchisee is representative of the marketing brochure that would have been used by the Previous Franchisee.

[49] That being said, the question remains whether the evidence of use of the Mark in Canada in the performance or offer of the services provided as part of the Registrant’s concierge business, is sufficient to maintain each of the Remaining Services.

[50] For the reasons that follow, I decide this issue in favour of the Requesting Party for part of the Remaining Services.

[51] In considering the issue, I am mindful that services should be given a generous or broad interpretation [*Venice Simplon-Orient-Express, Inc v Société Nationale des Chemins de Fer Français* (2009), 9 CPR (4th) 443 (FCTD); *TSA Stores Inc v Canada (Registrar of Trade-marks)* (2011), 91 CPR (4th) 324 (FC); and *Renaud Cointreau & Co v Cordon Bleu International Ltd* (2000), 11 CPR (4th) 95 (FCTD), aff'd 18 CPR (4th) 415 (FCA)]. I am also mindful of the fact that in certain cases, a statement of service will contain overlapping and redundant terms in the sense that the performance of one service necessarily implies the performance of another [*Gowling Lafleur LLP v Key Publishers Co*, 2010 TMOB 7 (CanLII)].

[52] It is with these principles in mind that I shall now address the parties' representations with respect to the Remaining Services, but neither in the order listed in the registration nor in the order and grouping presented in the parties' written representations. In this regard, I would note that the Registrant's written representations discuss all of the Remaining Services whereas the Requesting Party's written representations discuss most of them. That said, I stress that in coming to my decision I did consider all of the Remaining Services in assessing the evidence. Also, I have considered the fact that except for "*security services for the protection of property and individuals*", all of the Remaining Services have been identified by Mr. Brink at paragraph 2 of his affidavit [see paragraph 13 of my decision]. Even though I read paragraph 2 of the Brink affidavit as an assertion of use of the Mark in association with the listed services, it remains a bald allegation of use of the Mark during the relevant period.

➤ "*club membership administration services*"

[53] The Requesting Party submits that this service ought to be deleted because it is not a service by itself, but rather relates to the Registrant's own administration so as to eventually provide other services such as, for example, reservation services for show tickets. I disagree. I rather agree with the Registrant that its evidence satisfactorily establishes the use of the Mark in association with this service.

[54] Indeed, the fact that the service is incidental to other services offered or performed as part of a purchased membership is not fatal to the Registrant's case. The law is clear that there is no distinction in the Act between primary, incidental or ancillary services. As long as some members of the public, consumers or purchasers, receive a benefit from the activity, it is a

service [*Venice Simplon-Orient-Express, Inc, supra*; and *TSA Stores Inc, supra*]. In the present case, the provision of the service goes beyond the Registrant's own administration. Suffice it to say that the iGet.it Proposal shows that the extent of the services offered increased according to the level of the membership, i.e. Dedicated Members, Dual Dedicated Members, Bespoke Elite Members and Global Elite Members.

- *“arranging discounts for travel”, “arranging discounts for service and retail outlets”, “arranging discounts in connection with the provision of services and goods by others”*

[55] The Requesting Party submits that there is no evidence that the Registrant get discounts for third parties; the Registrant rather appears to provide upscale and deluxe services offered to wealthy clients and there is no mention that the services are offered at a discount.

[56] Clearly, the Registrant provides upscale services. However, with due respect, I believe the Requesting Party's representations concerning the lack of evidence about discounts for third parties and services offered at a discount are the result of a misreading of the statement of services. In any event, I agree with the Registrant that its evidence satisfactorily establishes the use of the Mark in association with each of these services.

- *“club membership information relating to services provided via the Internet, database or other electronic means”*

[57] As I understand its submissions, the Requesting Party contends that although clubs are often discussed in the evidence, this service is not explained in the evidence; there is no evidence that this service is performed for the benefit of others. I disagree.

[58] As indicated before, services must be given a broad interpretation. As long as some members of the public, consumers or purchasers, receive a benefit from the activity, it is a service. The evidence provided by the Registrant satisfies me that this service, which is listed more than once in the registration, ought to be maintained. For instance, I agree with the Registrant's reliance on excerpts of its website as evidence of use of the Mark in the performance of the service [Exhibit JB-5].

- *“ticket information services for entertainment and sporting events”, “ticket procurement services for entertaining and sporting events”, “reservation services for concert tickets, show tickets and theatre tickets”, “provision of information relating to sport and entertainment”, “restaurant reservation services”*

[59] Given its alternate submissions, I conclude that the Requesting Party does not debate the sufficiency of the evidence for *“ticket information services for entertainment and sporting events”, “reservation services for concert tickets, show tickets and theatre tickets”* and *“provision of information relating to sport and entertainment”*. Thus, suffice it to say that I find that the evidence satisfactorily establishes the use of the Mark in association with each of these services.

[60] Further, in the absence of representations from the Requesting Party to convince me otherwise, I agree with the Registrant that its evidence establishes the use of the Mark in association with *“ticket procurement services for entertaining and sporting events”*. I reach the same conclusion with respect to *“restaurant reservation services”*.

- *“ticket reservation services for travel and tourists”, “travel agency services”, “travel arrangements services”*

[61] Here also, given the Requesting Party’s alternate submissions, I conclude that it does not debate the sufficiency of the evidence for *“ticket reservation services for travel and tourists”*. Thus, suffice it to say that I find that the evidence satisfactorily establishes the use of the Mark in association with this service.

[62] As I understand its representations, the Requesting Party contends that both *“travel agency services”* and *“travel arrangement services”* ought to be deleted from the registration because the provision of travel agency services in Canada is subject to specific legislative and regulatory provisions and must be authorized by specific permits. For its part, the Registrant essentially relies on excerpts of the Reports, of The Perry Contract and of the iGet.it Proposal as relevant evidence.

[63] I would first comment that compliance with legislative and regulatory provisions concerning travel agency services is not at issue in this proceeding. It has been held that the

Registrar only has the authority to consider “lawfulness” as contemplated in the Act [*Lewis Thomson & Sons Ltd v Rogers, Bereskin & Parr* (1988), 21 CPR (3d) 483 (FCTD)]. Further, I agree with Registrant that “*travel arrangement services*” have been shown to be offered or provided in the operation of its concierge business.

[64] However, as Mr. Brink’s testimony is that the Registrant operates a concierge business, and not a travel agency, I find there it is merit to the Requesting Party’s contention that “*travel agency services*” ought to be deleted. Indeed, although the provision of travel agency services could include the provision of other of the Remaining Services, in particular “*travel arrangement services*” or “*ticket reservation services for travel and tourists*”, the Registrant separately listed “*travel agency services*” and so the Registrant itself made a clear distinction between this service and these other Remaining Services. In other words, the Registrant itself distinguishes the provision of travel agency services from the provision of the travel related services offered or performed in the operation of its concierge business.

[65] In the end, as use must be shown in association with each of the Remaining Services, I conclude that the Registrant has not shown use for “*travel agency services*” [By way of analogy, see *United Distillers Glenmore, Inc v El Toro Restaurant & Pizzeria Ltd* (1996), 70 CPR (3d) 346 (TMOB) where a clear distinction between “*serving of alcoholic beverages*” and “*restaurant services*” resulted in the deletion of “*serving alcoholic beverages*” from the registration even though “*restaurant services*”, for which use had been shown, could include the serving of alcoholic beverages.]

➤ “*information, advisory and consultancy services relating to the aforesaid*”

[66] As noted before, these services are listed more than once in the registration. The Requesting Party contends that there is no clear evidence to establish that they have been advertised or performed in Canada.

[67] For its part, the Registrant contends that the provision of information, advisory and consultancy services is part and parcel to other of the Remaining Services. As I understand its representations, the Registrant contends more particularly that “*information, advisory and consultancy services relating to the aforesaid*” is part and parcel to either “*travel agency*

services; ticket reservation services for travel and tourists” or “ticket procurement services for entertaining and sporting events”.

[68] Based on a fair reading of the statement of services, I agree with the Registrant that “*information, advisory and consultancy services relating to the aforesaid*” must be considered in relation with other services listed in the registration. Nonetheless, based on a fair reading the statement of services in the registration in its entirety, the term “aforesaid” in “*information, advisory and consultancy services relating to the aforesaid*” is clearly not restricted to the specific Remaining Services pointed out by the Registrant.

[69] In my view, it would have been a fairly simple matter for Mr. Brink to state clearly, for example, that the provision of information, advisory and consultancy services relates to the specific Remaining Services pointed out by the Registrant. Also, the fact that “*information, advisory and consultancy services relating to the aforesaid*” is found twice in the statement of services does not assist the Registrant’s case. Instead, it generates ambiguity.

[70] In the end, I am not satisfied that I may conclude that “*information, advisory and consultancy services relating to the aforesaid*” ought to be maintained in the registration because of other Remaining Services for which use has been shown.

- “*services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs*”

[71] It may not be without merit for the Requesting Party to contend that there is no clear evidence to establish the advertisement or performance of this service. Indeed, although the Registrant relies on the Reports filed as Exhibit JB-8 and the statements at paragraph 24 of the Brink affidavit, the Registrant does not point out to any specific parts of the Reports, nor does Mr. Brink. Yet, Exhibit JB-8 exceeds 60 pages. However, I did note the reference to this service in the Table by reliance on the *Quintessentially Lifestyle* marketing brochure and the *Quintessentially Lifestyle Canada* newsletters included in Exhibit JB-10. The *Quintessentially Lifestyle* marketing brochure, which I have accepted as representative of the marketing brochure that would have been used by the Previous Franchisee, clearly references the benefit of access to private members’ clubs.

[72] In the end, considering the evidence as a whole, I am satisfied that these services have been shown to be offered in association with the Mark in the operation of the Registrant's concierge business.

➤ *“provision of social club services”*

[73] Although this service is referenced at paragraph 3.2.24 of the Requesting Party's written representations, a fair reading of this paragraph leads me to conclude that the representations do not relate to the provision of social club services.

[74] For its part, the Registrant in its written representations relies on the reference to “Quintessentially Member Mixers” at article 5.3.7 of the Scotia Contract as advertising of this service.

[75] The nexus between “Quintessentially Member Mixers” and the provision of social club services certainly could have been clarified and explained through the testimony of Mr. Brink, which in my view has not been done. As a matter of fact, *“provision of social club services”* is not referenced in the Table. Also, I find it is of note that the provision of social club services is not found in the definition of “Services” in the Canadian Franchise Agreements.

[76] In the end, I am not satisfied that sufficient facts have been presented to enable me to accept the mere reference to “Quintessentially Member Mixers” in the Scotia Contract as evidence establishing use of the Mark in association with *“provision of social club services”*.

➤ *“telecommunication services, namely messaging services provided by telephone, facsimile, e-mail or SMS messages”*

[77] The Requesting Party submits that there is no reference to *“telecommunication services, namely messaging services provided by telephone, facsimile, e-mail or SMS messages”* in the exhibits to the Brink affidavit. By contrast, the Registrant relies on article 3(a) of the “Marketing” part of The Perry Contract as evidence of advertising of this service. More particularly, the Registrant relies on the following mention: “Quintessentially Estates will feature The Perry in the Quintessentially Estates e-Newsletter.”

[78] Having considered the parties' representations, I find it is of note that while Mr. Brink references the provision of telecommunication services at paragraph 2 of his affidavit, he does not reference it in the Table. Although not determinative, I also find it is of note that this service is not found in the definition of "Services" in the Canadian Franchise Agreements. Once again, the provision of telecommunication services of the type described in the registration certainly could have been clarified and explained through the testimony of Mr. Brink, which has not been done.

[79] In the end, the Registrant did not convince me to accept "Quintessentially Estates e-Newsletter", at article 3(a) of The Perry Contract, as evidence establishing use of the Mark in association with the provision of "*telecommunication services, namely messaging services provided by telephone, facsimile, [...] or SMS messages*". At most, considering the evidence altogether, including the distribution of newsletters by both the Previous Franchisee and the Current Franchisee, I accept The Perry Contract as evidence that the Registrant offered "*telecommunication services, namely messaging services provided by [...] e-mail [...]*" in association with the Mark during the relevant period.

➤ "*the publication of magazines*"

[80] The Registrant relies on article 3(b) of the "Marketing" part of The Perry Contract as evidence of advertising of this service. More particularly, the Registrant relies on the mention that "Summercove can also purchase Additional Advertising for The Perry [among others in] Quintessentially Magazine, distributed quarterly Seen by 40,000 people".

[81] Once again, I find it is of note that while Mr. Brink references the publication of magazines at paragraph 2 of his affidavit, he does not reference it in the Table or at paragraph 24 of his affidavit. I also find it is of note that this service is not found in the definition of "Services" in the Canadian Franchise Agreements.

[82] Presumably, it would have been a fairly simple matter for Mr. Brink to explain the publication of magazines by the Registrant, or at the very least provide a specimen of a magazine published by the Registrant, to establish that it was prepared to perform this service during the relevant period.

[83] In the end, I am not satisfied that sufficient evidence has been presented to enable me to accept the mere reference to the Quintessentially Magazine in The Perry Contract as evidence establishing use of the Mark by the Registrant in association with “*the publication of magazines*”.

- “*provision of temporary accommodation services*”, “*services for providing food and drink*”, “*lounge and bar services*”, “*conciierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals*”

[84] The Requesting Party submits that, while unclear from the evidence, the Registrant may be acting as an intermediary for “*provision of temporary accommodation services*”, “*services for providing food and drink*” and “*lounge and bar services*”.

[85] The Requesting Party also argues that the Registrant does not operate a restaurant, hotel or a “club” in the sense that it would be a place where customers would go and so the Registrant does not offer concierge services in the hotel industry in the ordinary sense, i.e. a concierge working at the counter of the reception area of hotel.

[86] With due respect, I find it is somewhat unclear whether the Requesting Party’s representations about the hotel industry are meant to apply to each of these services, or to “*provision of temporary accommodation services*”, “*services for providing food and drink*” and “*lounge and bar services*”, but not “*conciierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals*”.

[87] In any event, as rightly pointed out by the Registrant, there is no mention of “hotel” in the statement of services. Further, I agree with the Registrant that its evidence satisfactorily establishes the use of the Mark in association with “*conciierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals*”. I would add that my reading of its written representations leads me to conclude that the Requesting Party is implicitly acknowledging the sufficiency of the evidence for the provision of concierge services for others.

[88] Now reverting to “*provision of temporary accommodation services*”, “*services for providing food and drink*” and “*lounge and bar services*”, I acknowledge that each of them is defined as part of the term “Services” in the Canadian Franchise Agreements. However, the Canadian Franchise Agreements are the only exhibits referenced in both the Table and the Registrant’s written representations to support “*services for providing food and drink*” and “*lounge and bar services*”.

[89] By contrast, “*provision of temporary accommodation services*” is referenced in the Table and the Registrant’s written representations by reliance on the Reports and paragraph 24 of the Brink affidavit. Also, I did note the reference to this service in the Table by reliance on the *Quintessentially Lifestyle* marketing brochure, which I have accepted as representative of the marketing brochure that would have been used by the Previous Franchisee. This marketing brochure clearly references “Luxury Apartment Rental in association with Quintessentially Estates”.

[90] In the end, I am not prepared to accept on the sole basis of the defined services in the Canadian Franchise Agreements that the Registrant was prepared to perform “*services for providing food and drink*” and “*lounge and bar services*” in association with the Mark during the relevant period. In other words, I conclude that the evidence does not provide sufficient facts to enable me to conclude to the use of the Mark in association with each of these services.

[91] However, considering the Brink affidavit in its entirety, I am satisfied that sufficient evidence has been presented for me to conclude that the Registrant offered and was prepared to perform “*provision of temporary accommodation services*” in association with the Mark during the relevant period as part of its concierge business.

➤ “*security services for the protection of property and individuals*”

[92] As I previously indicated, this service is not referenced by Mr. Brink at paragraph 2 of his affidavit. However, it is referenced in the Table by reliance on the Canadian Franchise Agreements. I acknowledge that “*security services for the protection of property and individuals*” is included in the definition of the term “Services” in the Canadian Franchise

Agreements. Thus, I cannot agree with the Requesting Party that there is no mention of security services in the evidence.

[93] That being said, none of the other exhibits makes references to security services. Once again, the Canadian Franchise Agreements are the only exhibits referenced in the Registrant's written representations to support the provision of security services. Also, there is no mention of security services at paragraph 24 of the affidavit where Mr. Brink specifically references a number of the Remaining Services stating that their provision is illustrated by Reports which are said to display "all services" requested by members and provided by the Previous Franchisee.

[94] In the end, in the absence of a clear statement from Mr. Brink concerning the provision of "security services for the protection of property and individuals" by the Registrant, I conclude that use has not been shown. I would add that even if it was to infer that the absence of reference to "security services for the protection of property and individuals" at paragraph 2 of the affidavit was the result of an oversight or transcribing error, I would not accept on the sole basis of the defined services in the Canadian Franchise Agreements that the Registrant was prepared to perform this service in association with the Mark during the relevant period. In other words, I would conclude that the evidence does not provide sufficient facts to enable me to conclude to the use of the Mark in association with this service.

Conclusion on the Remaining Services

[95] Having considered the evidence in its entirety, I am satisfied that sufficient facts have been presented to enable me to conclude that the Registrant, through its Previous Franchisee, has offered and was prepared to perform, or did in fact perform, the following of the Remaining Services in association with the Mark during the relevant period:

(1) Club membership administration services; [...] arranging discounts for travel; arranging discounts for service and retail outlets; arranging discounts in connection with the provision of services and goods by others; [...] club membership information relating to services provided via the Internet, databases or other electronic means; telecommunication services, namely messaging services provided by [...] e-mail [...]; [...] ticket reservation services for travel and tourists; [...] travel arrangement services; club membership information relating to services, provided via the Internet, databases or other electronic means; [...] ticket information services for entertainment and sporting events; ticket procurement services for entertaining and

sporting events; reservation services for concert tickets, show tickets and theatre tickets; provision of information relating to sport and entertainment; [...] services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs; [...] club membership information relating to services, provided via the Internet, databases or other electronic means; [...] restaurant reservation services; provision of temporary accommodation services; [...] club membership information relating to services, provided via the Internet, databases or other electronic means; concierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals; [...] club membership information relating to services, provided via the Internet, databases or other electronic means.

[96] Accordingly, I conclude that the evidence shows use of the Mark in Canada, within the meaning of sections 4(2) and 45 of the Act in association with these services.

[97] However, I am not satisfied that sufficient evidence has been presented to enable me to conclude that the Registrant has offered and was prepared to perform, or did in fact perform, the following of the Remaining Services in association with the Mark during the relevant period:

(1) [...] telecommunication services, namely messaging services provided by telephone, facsimile, [...] or SMS messages; [...] travel agency services; [...] information and consultancy services relating to the aforesaid; [...] provision of social club services; [...] the publication of magazines; [...] information, advisory and consultancy services relating to the aforesaid; [...] services for providing food and drink; lounge and bar services; [...] security services for the protection of property and individuals; [...].

[98] Further, the Brink affidavit does not put forward special circumstances to justify the absence of use of the Mark in Canada, within the meaning of sections 4(2) and 45 of the Act, in association with these services. Accordingly, they will be deleted from the registration for the Mark.

Disposition

[99] In view of all of the foregoing, pursuant to the authority delegated to me under section 63(3) of the Act and in compliance with section 45 of the Act, registration No. TMA687,363 will be amended to delete the statement of goods as well as the following from the statement of services:

(1) [...] financial services, namely the introduction of financial advisors, credit and debit card services, insurance brokerage, insurance consultancy, the issuing of tokens of value, issuing of travellers cheques, safe deposit services, cheque verification (*sic*) services; charge card services; credit card services; [...] introduction services to financial advisors and insurance brokers; insurance services; real estate affairs; [...] telecommunication services, namely messaging services provided by telephone, facsimile, [...] or SMS messages; provision of Internet access; travel agency services; [...] information and consultancy services relating to the aforesaid; [...] provision of social club services; provision of club recreation facilities; leisure club services; the publication of magazines; [...] information, advisory and consultancy services relating to the aforesaid; [...] the provision of leisure club facilities; [...] design and development of computer hardware and software; legal services; [...] services for providing food and drink; lounge and bar services; [...] security services for the protection of property and individuals; [...]

[100] Accordingly, the amended statement of services will be as follows:

(1) Club membership administration services; arranging discounts for travel; arranging discounts for service and retail outlets; arranging discounts in connection with the provision of services and goods by others; club membership information relating to services provided via the Internet, databases or other electronic means; telecommunication services, namely messaging services provided by e-mail; ticket reservation services for travel and tourists; travel arrangement services; club membership information relating to services, provided via the Internet, databases or other electronic means; ticket information services for entertainment and sporting events; ticket procurement services for entertaining and sporting events; reservation services for concert tickets, show tickets and theatre tickets; provision of information relating to sport and entertainment; services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs; club membership information relating to services, provided via the Internet, databases or other electronic means; restaurant reservation services; provision of temporary accommodation services; club membership information relating to services, provided via the Internet, databases or other electronic means; concierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals; club membership information relating to services, provided via the Internet, databases or other electronic means.

Céline Tremblay
Member
Trade-marks Opposition Board
Canadian Intellectual Property Office

Schedule A

Statement of Goods and Services of Registration No. TMA713,080

Goods:

(1) Writing implements, namely pens, pencils, fountain pens and crayons; photographs; stationery, namely paper, envelopes, notepaper, notepads, headed notepaper, writing paper, erasers, stapling machines, staple extractors, adhesive tape dispensers and adhesive note dispensers; furniture, namely cabinets, storage chests, chairs, desks, tables, mirrors, picture frames; household or kitchen utensils and containers, namely boxes of wood or plastic, magazine racks, plate racks, serving trays; combs and sponges; glassgood, porcelain and earthengood, namely plates, cups, bowls, mugs, saucers and serving dishes, glasses for drinks, vases, cooking pots and casserole dishes.

Services:

(1) Club membership administration services; financial services, namely the introduction of financial advisors, credit and debit card services, insurance brokerage, insurance consultancy, the issuing of tokens of value, issuing of travellers cheques, safe deposit services, cheque verification (*sic*) services; charge card services; credit card services; arranging discounts for travel; arranging discounts for service and retail outlets; arranging discounts in connection with the provision of services and goods by others; introduction services to financial advisors and insurance brokers; insurance services; real estate affairs; club membership information relating to services provided via the Internet, databases or other electronic means; telecommunication services, namely messaging services provided by telephone, facsimile, e-mail or SMS messages; provision of Internet access; travel agency services; ticket reservation services for travel and tourists; information and consultancy services relating to the aforesaid; travel arrangement services; club membership information relating to services, provided via the Internet, databases or other electronic means; provision of social club services; provision of club recreation facilities; leisure club services; the publication of magazines; ticket information services for entertainment and sporting events; ticket procurement services for entertaining and sporting events; reservation services for concert tickets, show tickets and theatre tickets; provision of information relating to sport and entertainment; information, advisory and consultancy services relating to the aforesaid; services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs; the provision of leisure club facilities; club membership information relating to services, provided via the Internet, databases or other electronic means; design and development of computer hardware and software; legal services; restaurant reservation services; provision of temporary accommodation services; services for providing food and drink; lounge and bar services; club membership information relating to services, provided via the Internet, databases or other electronic means; concierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals; security services for the protection of property and individuals; club membership information relating to services, provided via the Internet, databases or other electronic means.

Schedule B

Document	Services Illustrated
<p>2009 Franchise Agreement* Exhibit JB-1 2012 Franchise Agreement Exhibit JB-2</p>	<ul style="list-style-type: none"> • Club membership services • Restaurant reservation services • Provision of temporary accommodation services • Services for providing food and drink • Lounge and bar services; club membership information relating to such services, provided via the internet, database or other electronic means • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals • Security services for the protection of property and individuals; club membership information relating to such services, provided via the internet, databases or other electronic means
<p>Correspondence with Previous Franchise Partner – Exhibit JB-3</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals
<p>Invoices – Exhibits JB-3 & JB-9</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals • Club membership administration services • Club membership information relating to such services, provided via the internet, database or other electronic means • Ticket reservation services for travel and tourists • Travel arrangement services • Restaurant reservation services
<p>The Perry contract – Exhibit JB-4</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific

	<p>information to meet the needs of individuals</p> <ul style="list-style-type: none"> • Travel agency services • Ticket reservation services for travel and tourists • Arranging discounts in connection with the provision of services and goods by others • Restaurant reservation services • Services in providing information and advice regarding facilities and benefits provided by social clubs, recreational clubs and leisure clubs
<p>Scotia Wealth Management contract – Exhibit JB-4</p> <p>(Again, these correspond with items listed in the contract as expected to be provided by Q)</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals • Travel agency services • Ticket reservation services for travel and tourists • Travel arrangement services • Ticket information services for entertainment and sporting events • Ticket procurement services for entertaining and sporting events • Arranging discounts in connection with the provision of services and goods by others • Restaurant reservation services
<p>iGet.it contract – Exhibit JB-4</p> <p>(these terms correspond with services which Q specifically highlights in the contract as ones which they can provide)</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals • Ticket reservation services for travel and tourists • Travel arrangement services • Ticket procurement services for entertaining and sporting events • Arranging discounts in connection with the provision of services and goods by others • Restaurant reservation services
<p>Archived website material – Exhibit JB-5</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals <p>Toronto City Guide</p> <ul style="list-style-type: none"> • Arranging discounts in connection with the provision of services and goods by others • Arranging discounts for service and retail

	<p>outlets</p> <p>Vancouver City Guide</p> <ul style="list-style-type: none"> • Travel arrangement services <p>7 June 2010 newsletter</p> <ul style="list-style-type: none"> • Restaurant reservation services • Information and consultancy services relating to travel agency services <p>8 November 2010 letter</p> <ul style="list-style-type: none"> • Travel agency services
Website analytics – Exhibit JB-6	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals
Membership lists – Exhibits JB-3 & JB-7	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals
Report of requested services – Exhibit JB-8	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals • Arranging discounts for travel • Arranging discounts in connection with the provision of services and goods by others • Travel agency services • Ticket reservation services for travel and tourists • Information and consultancy services relating to the aforesaid • Travel arrangement services • Ticket information services for entertainment and sporting events • Ticket procurement services for entertaining and sporting events • Reservation services for concert tickets, show tickets and theatre tickets • Provision of information relating to sport and entertainment • Information and advisory and consultancy services in relation to the aforesaid • Services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs • Club membership information provided via the internet, databases or other electronic

	<p>means</p> <ul style="list-style-type: none"> • Restaurant reservation services • Provision of temporary accommodation services • Club membership information relating to services provided via the internet, databases or other electronic means
<p>Quintessentially Lifestyle Brochure (Canada) – Exhibit JB-10</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals • Arranging discounts for travel • Travel agency services • Ticket reservation services for travel and tourists • Travel arrangement services • Ticket information services for entertainment and sporting events • Ticket procurement services for entertaining and sporting events • Reservation services for concert tickets, show tickets and theatre tickets • Club membership information relating to such services, provided via the internet, database or other electronic means • Restaurant reservation services • Provision of temporary accommodation services • Services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs
<p>Quintessentially Lifestyle Canada Newsletters – Exhibit JB-10</p>	<ul style="list-style-type: none"> • Concierge services for others comprising making requested personal arrangements and providing customer specific information to meet the needs of individuals • Club membership administration services • Arranging discounts for service and retail outlets • Arranging discounts in connection with the provision of services and goods by others • Ticket information services for entertainment and sporting events • Ticket procurement services for entertaining and sporting events • Services in providing information and advice regarding the facilities and benefits provided by social clubs, recreational clubs and leisure clubs • Restaurant reservation services

Schedule C

Agreement of October 27, 2009 between the Registrant and the Previous Franchisee

- ‘Services’ Means the following concierge and lifestyle management services:
- (a) club membership administration services;
 - (b) restaurant reservation services; provision of temporary accommodation services; services for providing of food and drink; lounge and bar services; club membership information relating to such services, provided via the internet database or other electronic means;
 - (c) The (*sic*) use of “Quintessentially” logo on bank cards and credit cards provided to the Franchisee’s Members;
 - (d) concierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals; security services for the protection of property and individuals; club membership information relating to such services provided via the internet, databases or other electronic means; and
 - (e) facilitating and resolving requests made by Members, more particularly described in Schedule 1 (such term shall refer to services provided by Franchisee and, where specified herein, Quintessentially and its other franchisees).

Agreement of August 31, 2012 between the Registrant and the Current Franchisee

- ‘Services’ means the following concierge and lifestyle management services:
- (a) club membership administration services;
 - (b) restaurant reservation services; provision of temporary accommodation services; services for providing of food and drink; lounge and bar services; club membership information relating to such services, provided via the internet database or other electronic means;
 - (c) concierge services for others comprising of making requested personal arrangements and providing customer specific information to meet the needs of individuals; security services for the protection of property and individuals; club membership information relating to such services provided via the internet, databases or other electronic means; and
 - (d) facilitating and resolving Requests made by Members, more particularly described in Schedule 1 (such term shall refer to services provided by Franchisee and, where specified herein, Quintessentially and its other franchisees)