



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

Citation: 2015 TMOB 17
Date of Decision: 2015-01-29

**IN THE MATTER OF A SECTION 45
PROCEEDING requested by David T. Michaels
against registration No. TMA548,091 for the
trade-mark W Design in the name of Starwood
Hotels & Resorts Worldwide, Inc.**

[1] This is a decision involving a summary expungement proceeding with respect to registration No. TMA548,091 for the trade-mark W Design shown below (the Mark), owned by Starwood Hotels & Resorts Worldwide, Inc.



[2] The trade-mark is registered for use in association with the following services (the Services):

Hotel, motel, resort hotel and motor inn services; restaurant, bar and catering services, food and beverage preparation services, café and cafeteria services; beauty salon and hairdressing services; provision of conference and meeting facilities; entertainment services namely producing live entertainment.

[3] On May 9, 2012, at the request of David T. Michaels (the Requesting Party), the Registrar of Trade-marks issued a notice under section 45 of the *Trade-marks Act* RSC 1985, c T-13 to Starwood Hotels & Resorts Worldwide, Inc. (the Owner). The notice required the Owner to provide evidence showing that the Mark was in use in Canada at any time between May 9, 2009 and May 9, 2012, in association with each of the Services. If the Mark had not been so used, the Owner 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.

[4] In respect of services, section 4(2) of the Act sets out the meaning of use as follows:

4(2) A trade-mark is deemed to be used in association with services if it is used or displayed in the performance or advertising of those services.

[5] It has been 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”. The criteria for establishing use are not demanding and an overabundance of evidence is not necessary. However, sufficient evidence must nevertheless be provided to allow the Registrar to conclude that the trade-mark was used in association with each of the registered services during the relevant period [see *Uvex Toko Canada Ltd v Performance Apparel Corp* (2004), 31 CPR (4th) 270 (FC)]. Furthermore, mere statements of use are insufficient to prove use [see *Plough (Canada) Ltd v Aerosol Fillers Inc* (1980), 53 CPR (2d) 62 (FCA)].

[6] In response to the Registrar’s notice, the Owner furnished the affidavit of Ms. Cynthia Bond, sworn April 11, 2013, together with Exhibits A through E. While only the Owner filed written submissions, both parties were represented at an oral hearing.

[7] The main issue to be decided in this case is whether use has been shown of the Mark in Canada in association with *each* of the Services. For the reasons that follow, I conclude that the registration ought to be maintained with respect to the following Services only:

Hotel, resort hotel; restaurant, bar and catering services, food and beverage preparation services, and café services; beauty salon services; provision of conference and meeting facilities; entertainment services namely producing live entertainment.

[8] Before discussing the reasons for my decision, I will begin with a brief summary of the evidence.

The Evidence

[9] In her affidavit, Ms. Bond states that she is the Regional Director of Public Relations of the Owner, and that she is employed through the Owner's "wholly owned indirect subsidiary Franchise and License (Canadian) OPS Limited Partnership (Starwood Canada)."

[10] She describes the Owner as one of the world's largest hotel and leisure companies, with over a thousand owned and managed properties in nearly 100 countries and territories. Included among the Owner's brand names of hotels, resorts and other properties, she explains, are the brands W® and W HOTELS®. She explains that the Mark is a core element of the branding of W Hotels, and states that the Mark was displayed in the performance or advertising of the Services offered at W Hotels across the world, including Canada.

[11] Ms. Bond explains that the Owner authorizes the use of the Mark to licensees, including the W Montréal in Canada. She also states that the Owner, either directly or indirectly controls the character and quality of the Services with which the Mark is and was used in Canada throughout the relevant period. Ms. Bond emphasizes that quality is controlled by:

... internally creating an established set of W brand standards; W architectural and design standards; templates for all W collateral and other W branded advertising; employing an internal Interactive Marketing group that designs websites and Social Media platforms for the W brand; and having independent third party of LRA Worldwide that inspects and otherwise audits the operational and brand quality of Starwood hotels, including the W Montréal, via their LRA Brand Assurance Program.

[12] Ms. Bond further attests that the Mark was prominently displayed during the relevant period in the performance or advertising of the Services available at the W Montréal. She states that the Mark was displayed in multiple ways within each hotel room and throughout a variety of spaces located within the W Montréal such as lobbies, elevators, bars, lounges, cafés and restaurants.

[13] In support of the above-noted assertions, Ms. Bond provides Exhibits A to C, and attests that what is shown in these exhibits is representative of the use of the Mark by the Owner during the relevant period.

[14] Exhibit A includes depictions of how the Mark was used or displayed in each W Montréal hotel room in the following manner:

- On breakfast order and service cards left with room order trays;
- On cards advertising the W Café located in the hotel;
- On hotel slippers and complimentary toiletries made available to guests, as well as to clients in the AWAY spa by W Hotels located in the hotel;
- On postcards, notepads and shopping bags for guests' use; and
- Throughout the guest services binder, which sets out the array of services available at the hotel.

I note that the Mark is prominently displayed on each of these items.

[15] Exhibit B includes depictions of how the Mark was used or displayed throughout a variety of spaces in the W Montréal in the following manner:

- On cards advertising live entertainment taking place at the hotel's Wunderbar and Plateau Lounge;
- On exterior signage and etched on the glass doors of the exterior of the hotel;
- On advertising panels located on walls throughout the hotel featuring AWAY spa by W Hotels located in the hotel; and
- On the spa menu of the AWAY spa located at the W Montréal.

I note that the Mark is prominently displayed on each of these items.

[16] Exhibit C includes depictions of how the Mark was used or displayed in restaurants, bars, lounges, room service, grab-and-go facilities, wedding receptions,

catering services, and in providing food and beverages for conferences and meetings in the following manner:

- Along the glass walls, in close proximity to the bar counter and stools, of the W Bartini bar located in the hotel;
- On the menu of the W Bartini;
- On napkins served at the W Café located in the hotel;
- Etched onto the glass walls in the lobby of the hotel; and
- On promotional material featuring catering and provision of conference and meeting facilities at the hotel.

I note that the Mark is prominently displayed on each of these items.

[17] Ms. Bond also attests that throughout the relevant period, the Owner maintained and continues to maintain numerous websites featuring the Mark in the performance or advertising of the Services available at the W Montréal. She states that the Owner maintains websites at *www.starwoodhotels.com/whotels* (the Website) and *www.whotels.com*, which devolves to the Website. Ms. Bond explains that the Website sets out a detailed overview of each W Brand property, offers worldwide online booking, special promotions, as well as a schedule of upcoming events at W Hotels worldwide, including the W Montréal.

[18] She provides at Exhibit D printouts from the Website dated from the relevant period. The first of these printouts clearly features the W Montréal and the Mark is displayed at the top left corner. Ms. Bond attests that these printouts are representative of the use of the Mark by the Owner throughout the relevant period. She also attests that the *www.whotels.com* website enjoys millions of hits yearly from Canada, with more than 3.2 million hits in 2011; 3,374,000 hits in 2010; and 3,062,000 hits in 2009.

[19] Ms. Bond also states that the Owner maintains a property specific web presence for the W Montréal at both *www.wMontrealhotel.com* and at *www.facebook.com/WMontreal*, which she attests were available to and accessed by users in Canada throughout the relevant period.

[20] Ms. Bond provides at Exhibit E printouts from these websites with information about the Services. I note that the Mark is clearly displayed on these printouts. Ms. Bond

attests that these are representative of the use of the Mark by the Owner throughout the relevant period.

[21] She also explains that the Owner operates a loyalty program, which offers members deals at hotels worldwide, including at W Brand properties. She attests that as of January 2008, more than 622,000 Canadian residents have joined the program. She emphasizes that in 2011, more than 23,000 stays at W Brand properties were made by Canadian members alone, which included thousands of stays at the W Montréal; in 2012, the number of stays made by Canadian members surpassed 25,000.

[22] Moreover, the Bond Affidavit includes a chart with the gross room revenue for W Hotels in Canada from 2009 to 2012. Ms. Bond notes that these values evidence the strong reputation and popularity of the W Montréal during the relevant period:

Fiscal Year	Gross Room Revenue
2009	In excess of USD \$7,500,000
2010	In excess of USD \$9,100,000
2011	In excess of USD \$10,000,000
2012	In excess of USD \$6,400,000 (until September 2012)

Requesting Party's Submissions

Trade-name not trade-mark use

[23] As a preliminary issue, the Requesting Party submitted on various occasions during the oral hearing that the evidence shows use of the Mark as a trade-name, and not as a trade-mark. For example, the Requesting Party submitted that the manner in which the Mark appears on the W Bartini menu at Exhibit C is merely for the purpose of telling the consumer that the bar is located in the hotel.

[24] I disagree with this submission. The Mark is clearly displayed on the menu at Exhibit C with no other trade-mark present. It appears on its own, separated from the surrounding material in a prominent and bolded font. Furthermore, the Mark is not displayed in conjunction with an address or other corporate indicia such that it would be perceived as merely a trade-name. Although the word "Montreal" appears as additional

material below the Mark, I am satisfied that it would be perceived only as clearly descriptive of the hotel's location [see *Nightingale Interloc Ltd v Prodesign Ltd* (1984), 2 CPR (3d) 535 (TMOB)].

[25] As well, although the Mark appears above an address on the webpages at Exhibit D, the Mark is distinguished in a larger and bolded font such that a customer would perceive it as the primary brand. Use of the word "Montreal" as additional material beside the Mark would again be perceived merely as clearly descriptive of the hotel's location. In any case, the Mark is also displayed as the primary mark in the top left corner of these webpages.

[26] As such, I find it reasonable to conclude that a customer encountering the W Bartini menu during his or her stay at the W Montréal or accessing the Website during the relevant period would consider the Mark to be a trade-mark associated with the performance or advertising of the Services [see *Road Runner Trailer Mfg Ltd v Road Runner Trailer Co Ltd et al* (1984), 1 CPR (3d) 443 (FCTD)].

Use of the Mark in association with the Services

[27] At the oral hearing, the Requesting Party took the approach of separating the Services into four categories for the purpose of their submissions. I will discuss each in turn.

- Category 1: hotel and resort hotel services; and provision of conference and meeting facilities.
- Category 2: motel and motor inn services; cafeteria services; and hairdressing services.
- Category 3: restaurant, bar services; and café services.
- Category 4: all remaining services, namely catering services, food and beverage preparation services; beauty salon services; and entertainment services namely producing live entertainment.

Use with respect to Category 1 services

[28] With respect to hotel and resort hotel services; and provision of conference and meeting facilities, the Requesting Party conceded to a finding of use of the Mark in

association with these services and asked that the registration be amended to delete services as opposed to wholly cancelled. These services will thus be maintained on the registration.

Use with respect to Category 2 services

[29] With respect to motel and motor inn services; cafeteria services; and hairdressing services, the Requesting Party submitted that the Owner provided no evidence of use at all. The Owner submits that this is merely a matter of semantics and that it is possible for one set of services to stand for a broader range of services. Citing *Ridout & Maybee LLP v Omega SA* (2005), 39 CPR (4th) 261 (FCTD) [*Omega*], the Owner submitted during the oral hearing that for the purpose of section 45, demonstrated use of particular services can serve as evidence of use of an entire category of services on a plain reading of the registration. Regarding “motel and motor inn services”, the Owner submitted that the evidence satisfies all types of establishments whether a hotel, motel or motor inn. The Owner further submitted that the same principle holds true for “hairdressing services” and “cafeteria services” as evidence furnished with respect to beauty salon services provided by the W Montréal’s AWAY Spa and food services at the hotel is sufficient to stand for general categories of services that include hairdressing and cafeteria services.

[30] I do not agree that this is sufficient to satisfy the requirement of use under sections 4(2) and 45 of the Act. As the Requesting Party submitted, the principle from *Omega* only applies where there are defined classes of services, which is not so in this case. As such, the Owner must still provide sufficient facts to permit the Registrar to conclude that the Mark is in use in association with each service [*Uvex Toko Canada Ltd v Performance Apparel Corp* (2004), 31 CPR (4th) 270 (FCTD)]. Moreover, given that each of these services are separately designated in the Owner’s statement of services, a distinction must be made between them and they cannot merely be regarded as being in the same category as other listed services. As such, it is clear that the Owner is required to furnish evidence showing use of *each* of these services as separate items included in the registration [see *John Labatt Ltd v Rainier Brewing Co et al* (1984) 80 CPR (2d) 228 (FCA)].

[31] This situation is also distinguishable from cases that have given a fairly liberal interpretation of services [see for example: *Société Nationale des Chemins de Fer v Venice Simplon-Orient Express* (2000), 2000 CanLII 16547 (FC), 9 CPR (4th) 443 and *Borden Ladner Gervais LLP v WestCoast Hotels, Inc* (2006), 53 CPR (4th) 361 (TMOB)], in that in the present situation, there is no evidence that it is an ancillary or incidental service that is being relied upon to support use in association with a primary service.

[32] In this case, Ms. Bond makes no specific mention of motel or motor inn services in her affidavit. It is clear from the exhibits attached to the Bond Affidavit that the services that are being offered concern the luxury hotel W Montréal. There is nothing in the evidence that permits me to draw the inference that this luxury hotel also provides motel and motor inn services.

[33] Regarding “hairdressing services”, the Requesting Party submitted that although there is an AWAY Spa located in the W Montréal, the spa menu furnished at Exhibit B provides no evidence that hairdressing is a service that is actually offered at the spa.

[34] In reviewing the exhibits, I agree with the Requesting Party. Although the AWAY Spa offers an array of aesthetics services, there is nothing that shows or permits the inference that such services extend also to hairdressing services. Consequently, I do not find this sufficient to show use of the Mark in association with hairdressing services.

[35] Regarding “cafeteria services”, the Bond Affidavit makes no mention of such services. Thus, I agree with the Requesting Party that the Owner furnished no evidence of such use.

[36] Accordingly, the registration will be amended to delete “motel and motor inn services; cafeteria services; and hairdressing services”.

Use with respect to Category 3 services

[37] With respect to restaurant, bar services and café services, the Owner emphasized at the oral hearing that the Bond Affidavit as a whole clearly demonstrates a vibrant

brand associated with a full-service hotel. With regards to food services in particular, the Owner submitted that there is abundant evidence furnished to show that a customer would have been confronted by the Mark when ordering food or when engaged with any related food services throughout the W Montréal. The Requesting Party, however, provided numerous submissions with respect to the affidavit evidence.

Restaurant Services

[38] Regarding “restaurant” services, the Requesting Party submitted that although meal order cards furnished at Exhibit A were available in the hotel rooms, a distinction must be drawn between in-room dining and restaurant services. The Requesting Party submitted that the meal order cards only support use of the Mark in association with room service but not restaurant services as registered.

[39] The Requesting Party also pointed to the first page of Exhibit D, which depicts a “Dining Overview” that lists Wunderbar, Plateau Lounge, W Bartini and Ristorante Otto as the only dining options located at the W Montréal. The Requesting Party submitted that Ristorante Otto is a separate entity from the W Montréal as it does not have the “W” in its name. The Requesting Party also emphasized the lack of signage, other than the external W signage and lobby signage depicted at Exhibit B, which it submitted cannot support use with restaurant services, particularly when the restaurant is under a different name than the hotel.

[40] I note, however, one of the webpages furnished at Exhibit E clearly promotes restaurant services at the W Montréal’s Ristorante Otto within the www.wmontrealhotel.com website. The Mark is prominently displayed on the page. The webpage features four links to the breakfast, lunch, dinner and dessert menus. The description also states that “in addition to our standard offerings, we also have a children’s menu, W2GO menus, an hors d’oeuvres menu, and the ultimate treatment at this Montreal pet friendly hotel – a pet’s menu available 24 hours a day”.

[41] Furthermore, under the “Hang Out” section of the “Amplify Your Stay” flyer furnished at Exhibit C, the description states that customers can “abandon the expected

and *sample creative cuisine by our executive chef Yves Lowe at Otto Restaurant*” [my emphasis]. The mark is clearly displayed at the bottom right corner of the flyer.

[42] In addition to the restaurant services available at the W Montréal’s Ristorante Otto, the evidence in the Bond Affidavit also shows use of the Mark in association with restaurant services throughout the hotel. I note that several webpages furnished at Exhibit E feature menus for “Breakfast”, “Breaks”, “Lunch”, “Reception”, and “Dinner” table or plated services available at the W Montréal. In particular, the “Plated Dinner” service is described as being “based on 90 minutes of continuous service” with soups, pastas and fishes options clearly seen on the webpage. The Mark is prominently displayed at the top right corner.

[43] As well, the “Taste. Sample. Savor.” flyer furnished at Exhibit C promotes cocktail party dining options at the W Montréal. The flyer describes how customers can “toast the evening with [their] guests and *sample a selection of tantalizing bites created by our Executive Chef Yves Lowe*” [my emphasis], including “Holiday”, “Urban” or “Jet Set” options of “15 bites/pers” or “12 bites/pers” priced at \$90, \$100 and \$150 per person respectively.

[44] The “Happy Hour at W Montréal” flyer furnished at Exhibit C also promotes a selection of food choices offered with open bar at the W Montréal, including the “Cool Happy House” option with “6 cold bites per person (cherry tomatoes, mini bruschettas, smoked duck skewers, Bresaola, beef tartars and grilled artichokes)” priced at \$70 per person. The Mark appears prominently at the bottom right corner of both these flyers.

[45] Overall, it is clear that the W Montréal has an executive chef and that the restaurant is a part of the hotel itself. The evidence as a whole shows that the W Montréal is a full-service hotel which provides food services as well as a restaurant. I note that this is consistent with the model followed by W Hotels worldwide as described in the “Beverage + Food” section of the “W Hotels Worldwide – Fact Sheet”, which states that “W has partnered with ... top restaurateurs to create unique signature restaurants that have become instant destinations in themselves”. These restaurants are referred to as “celebrated W eateries”.

[46] Furthermore, I note that it is acceptable for two trade-marks to be used simultaneously in relation to the same services [*AW Allen Ltd v Warner-Lambert Canada Inc* (1985), 6 CPR (3d) 270 (FCTD)]. Thus, the fact that Ristorante Otto is of a different name than the other W dining establishments does not preclude simultaneous use of the Mark in association with the advertising or performance of restaurant services at the restaurant.

[47] Considering the evidence as a whole, I am satisfied that the Owner performed restaurant services in association with the Mark during the relevant period in Canada.

Bar Services

[48] Regarding “bar” services, the Requesting Party submitted that the menu furnished at Exhibit C for W Bartini makes no reference to the Mark. I note, however, that the Mark is prominently displayed at the bottom right corner of each of the four “Menu Bartini” pages at Exhibit C. The menu features a variety of alcoholic beverages including wine and cocktails, as well as non-alcoholic and hot drinks.

[49] With respect to the use of the Mark along the glass walls of the W Bartini as depicted in the photograph furnished at Exhibit C, the Requesting Party submitted that such use is merely decorative and functions simply to tell customers that the bar is located in the W Montréal. I disagree however, and find the display of the Mark along the glass walls of the bar, in close proximity to the actual bar counter and stools, to be clear use of the Mark in association with the performance of bar services.

[50] As well, webpages furnished at Exhibits D and E clearly promote bar services at the W Bartini and the Wunderbar of W Montréal on the Website and at www.wmontrealhotel.com. Specifically, description of the Wunderbar states that it “provides jet set cocktail with a local twist”. The Mark is prominently displayed on these pages, indicating use of the Mark in association with bar services that are available to be performed in Canada.

[51] Furthermore, I again note that it is acceptable for two trade-marks to be used simultaneously in relation to the same services. Thus, whether or not Bartini and Wunderbar are registered trade-marks on their own does not preclude simultaneous use of the Mark in association with the advertising or performance of bar services at these establishments in the W Montréal.

Café Services

[52] Regarding “café” services, the Requesting Party noted that there is no reference to a café on the “Dining Overview” webpage at Exhibit D. It also submitted that although the Bond Affidavit furnishes W Café promotional cards bearing the Mark, the fact that complimentary coffee and tea are served at the “Living Room”, which is actually the hotel lobby, makes this service ancillary to hotel services and there is no evidence of the Mark being used in association with café services on its own. The Requesting Party also submitted that since the napkin furnished at Exhibit C is only available where there was free coffee offered, it does not support the performance or advertisement of café services.

[53] Overall, I agree with the Owner that the Requesting Party has engaged in a “highly technical” reading of the evidence in order to find ambiguity with respect to these services [see *Loro Piana SPA v Canadian Council of Professional Engineers*, 2009 FC 1096]. I find the Requesting Party’s submissions dissecting the exhibits to be overly technical. The evidence must be considered as a whole and such a technical approach is inconsistent with the intent and purpose of section 45 proceedings. As stated in *John Labatt Ltd v Rainier Brewer Co et al* (1984), 80 CPR (2d) 228 (FCA):

Use must be shown to satisfy the Registrar. Trade mark legislation does not create a highly technical process to be used by a third party to usurp the rights of a prior user of the mark.

[54] In any event, one of the webpages at Exhibit E features “Theme Breaks” menus available at the W Montréal. Options include the “W Health AM” for example, which is priced at \$21 and provides “red antioxidant juice, a yogurt parfait and sugar free jelly cubes, your own espresso machine, variety of teas.” There is also a “Sweet & Salty” menu with a selection of baked goods including cupcakes, croissants, cookies and

macarons. The Mark is clearly displayed at the top right corner of the page, indicating use of the Mark in association with the performance of café services in Canada.

[55] In view of all the foregoing, I am satisfied that the evidence, on a whole, supports that the Owner performed restaurant, bar and café services in Canada during the relevant period.

Licensed use with respect to bar, restaurant and café services

[56] The Requesting Party, however, contended at the oral hearing that even if the evidence furnished in the Bond Affidavit can be accepted to the extent that there is use with respect to these services, such use does not enure to the benefit of the Owner. In this regard, the Requesting Party points to paragraph 8 of the Bond Affidavit, which reads:

[The Owner] authorizes the use of the [the Mark] to licensees, including the W Montreal property in Canada. [The Owner] either directly or indirectly, controls the character and quality of the Services in association with which W Design is and was used in Canada throughout the Relevant Period.

[57] The Requesting Party submitted that “Services” is only a reference to the hotel services, namely with respect to the operation and quality of the hotel, and that there is no reference to the operation of the restaurant and bars. It notes that it is not uncommon for hotels to have other brands inside the hotel, and in this case, no one would think that the W Montréal controls the character and quality of Ristorante Otto for example.

[58] On this issue, it has been held that a clearly sworn statement is a sufficient method by which an owner can demonstrate requisite control to satisfy the requirements of section 50(1) of the Act [*Empresa Cubana Del Tabaco v Shapiro Cohen*, 2011 FC 102 (CanLII), 2011 FC 102 (FC) aff’d 2011 FCA 340 (CanLII)].

[59] In this case, paragraph 8 of the Bond Affidavit clearly details the existence of a license and the variety of ways that the Owner exercised control over the character and quality of the Services in association with which the Mark was used. I am thus satisfied that Ms. Bond’s sworn statement meets the requirements of section 50 of the Act. As such, it is clear that any use of the Mark shown by the restaurants, bars and cafés in the W Montréal enures to the Owner’s benefit.

Use with respect to Category 4 services

[60] With respect to the remaining services, the Requesting Party submitted that although these services may be referred to on the webpage printouts, actual performance of such services has not been shown. It notes that no invoices or sale figures that are broader than hotel services have been provided. Evidence in the Bond Affidavit regarding these remaining services is thus ambiguous and as such, any ambiguity must be resolved against the Owner [*Plough (Canada) Ltd v Aerosol Fillers Inc.* (1979), 45 C.P.R. (2d) 194, aff'd (1980), 53 CPR (2d) 63 (FCA)].

[61] The Owner, however, submits that there is no requirement under section 4(2) to show evidence of sales. I agree with the Owner that the only question is whether there is use of the Mark in the performance or the advertising of such services.

[62] As such, given the evidence outlined above, I am satisfied that the Owner has provided sufficient evidence of use of the Mark in association with the remaining services, namely catering services (webpage featuring “Montreal Catering” and menus at Exhibit E), food and beverage preparation services (menus describing plating and pricing at Exhibit E); beauty salon services (the AWAY Spa menu and photographs of signage at Exhibit B; webpage featuring “Montreal Spa – Away Spa” at Exhibit E); provision of conference and meeting facilities (“Meeting and Events” promotional material at Exhibit C; “W Meetings – Meetings Magnified” webpage at Exhibit D; webpages at Exhibit E featuring “Montreal meetings and events offers”); and entertainment services namely producing live entertainment (promotional material for live events at the Plateau Lounge and Wunderbar at Exhibit B, webpages and promotional material at Exhibit E describing “nightlife and entertainment” at the Plateau Lounge Montreal).

Disposition

[63] In view of all of the foregoing, pursuant to the authority delegated to me under section 63(3) of the Act, registration No. TMA548,091 will be amended in compliance with the provisions of section 45 of the Act to delete the following services: motel, motor inn services; cafeteria services; and hairdressing services.

[64] The amended statement of services will read as follows:

Hotel, resort hotel services; restaurant, bar and catering services, food and beverage preparation services, café services; beauty salon services; provision of conference and meeting facilities; entertainment services namely producing live entertainment.

Kathryn Barnett
Hearing Officer
Trade-marks Opposition Board
Canadian Intellectual Property Office