

Federal Court



Cour fédérale

Date: 20260514

Docket: T-3756-25

Citation: 2026 FC 627

Ottawa, Ontario, May 14, 2026

PRESENT: The Honourable Madam Justice Aylen

BETWEEN:

CANADIAN LINEN AND UNIFORM
SERVICE CORP.

Applicant

and

KHWAJA AZEEM SHAH

Respondent

REASONS AND JUDGMENT

I. Introduction

[1] This is an application brought by the Applicant, Canadian Linen and Uniform Services Corp., against the Respondent, Khwaja Azeem Shah, for monetary, declaratory and injunctive relief for alleged trademark infringement, passing off and depreciation of goodwill contrary to various provisions of the *Trademarks Act*, RSC 1985, c T-13.

[2] The Applicant has carried on business in Canada for over 100 years as a linen supply company, promoting, offering for sale and selling bedding, linen, sheets, towels, uniforms, floor mats, washroom and cleaning products, workwear and safety equipment, in association with a number of registered and common law CANADIAN LINEN trademarks.

[3] The Respondent, an individual, operates a towel, linen and textile goods business, targeting the Canadian consumer market by advertising its goods on its website, social media accounts and e-commerce storefronts using “Canadian Linen”. Despite having been served with the Notice of Application and the Applicant’s supporting evidence, the Respondent has not responded to this application.

[4] The following issues are before me for determination:

- A. Has the Applicant established, on a balance of probabilities, that the Respondent is liable for trademark infringement?
- B. Has the Applicant established, on a balance of probabilities, that the Respondent is liable for passing off?
- C. Has the Applicant established, on a balance of probabilities, that the Respondent has used its marks in a manner that is likely to have the effect of depreciating the value of the goodwill attached to those marks?

D. If the Applicant has established, on a balance of probabilities, any liability on the part of the Respondent, is the Applicant entitled to:

- i. An injunction and delivery up and, if so, of what scope?
- ii. Damages and, if so, in what amount?
- iii. Punitive damages and, if so, in what amount?
- iv. Costs and, if so, in what amount?

[5] For the reasons that follow, I find that the Respondent is liable to the Applicant for trademark infringement, passing off and depreciation of goodwill. Remedies in the form of monetary damages, declaratory relief, injunctive relief and delivery up shall be issued.

II. Analysis

A. **Issue No. 1 – Has the Applicant established, on a balance of probabilities, that the Respondent is liable for trademark infringement?**

(1) **The Applicant’s trademarks and business**

[6] I am satisfied based on the certificates of registration filed that the Applicant has established that it owns the following registered trademarks (hereinafter collectively referred to as the “CANADIAN LINEN Marks”):

Trademark	Registration No.	Nice Class & Statement
CANADIAN LINEN AND UNIFORM SERVICE	TMA571854 Registered December 5, 2002	<u>Services</u> Nice Class 35: (1) Operation of a business to sell, supply, rent, and

		clean dust control items, namely door mats and treated dust mops.
CANADIAN LINEN AND UNIFORM SERVICE	TMA601487 Registered February 5, 2004	<u>Services</u> Nice Class 35: (1) Operation of a business to sell, supply, rent, and clean textiles, uniforms, table linens, wiping towels.
CANADIAN LINEN FLEXFIT	TMA1115516 Registered December 8, 2021	<u>Goods</u> Nice Class 25: (1) Uniforms for use in the food service industry, corporate services industry, hospitality industry, athletic uniforms, construction industry, emergency services industry, security industry, transportation industry, medical services industry, laboratory industry, cleanroom uniforms, environmental industry, waste disposal industry, retail services industry, sports and recreation industry, and entertainment industry; wearing apparel, namely, shirts, pants, shorts, jackets, coats, caps being headwear, hats, socks, panty hose, coveralls, overalls, rainwear, underwear, gloves, sweaters, laboratory coats, smocks, belts, suspenders, aprons, vests, sweatshirts, visors being headwear, t-shirts, face-warming masks, scarves, skirts, dresses, sports coats, ties, all used as uniforms; performance apparel, namely, shirts, pants, jackets, coats, caps being headwear, hats, socks, panty hose, coveralls, overalls, rainwear, underwear, gloves, sweaters, laboratory coats, smocks, belts, suspenders, aprons, vests, sweatshirts, visors being headwear, t-shirts, face-warming masks,

		scarves, skirts, dresses, sports coats, ties.
C CANADIAN LINEN & UNIFORM SERVICE Logo 	TMA1285364 Registered January 24, 2025	<u>Goods</u> Nice Class 16: (1) Paper products, namely paper towels, paper aprons, paper sheets, paper pillow cases, paper tablecloths, paper napkins, commercial and industrial uniforms made of paper, paper wipes for cleaning, paper mats and paper dust mop, paper towels, paper wipers; paper fender covers. Nice Class 25: (2) Work related uniforms, namely uniforms used in the fields of restaurants and hospitality, food processing, healthcare, industrial, and automotive businesses <u>Services</u> Nice Class 35: (1) Operation of a business to sell dust control items, namely door mats and treated dust mops; operation of a business to sell uniforms, table linens and cleaning towels. Nice Class 37: (2) Laundry and dry cleaning services; Laundering of cloth, clothing, fabric, linen, and textile; cleaning of door mats and treated dust mops; cleaning of uniforms. Nice Class 39: (3) Laundry pick-up and delivery services. Nice Class 43: (4) Rental of bath, bed, and table linens. Nice Class 45: (5) Rental of work related uniforms.

[7] Based on the evidence filed by the Applicant, I am satisfied that the Applicant is one of the largest and most well-known uniform rental and linen supply companies in Canada, with operations in more than 32 facilities across the country delivering services to more than 300,000 customer locations. The registrations for the CANADIAN LINEN Marks cover a variety of goods and services that make up the core business of the Applicant, including the sale of clothing, accessories and headwear; the sale of uniforms; the operation of a business to sell, supply, rent, and clean textiles, uniforms, table linens and towels; laundry pick-up and delivery services; and linen rental services.

[8] In addition to these registered rights, the Applicant also asks the Court to recognize common law rights for CANADIAN LINEN and CANADIAN LINEN AND UNIFORM SERVICE trademarks and trade names in Canada in association with the Applicant's goods and services.

[9] The claims under sections 20 and 22 of the *Act* only apply to registered marks. As such, the asserted common law marks are only relevant to the subsection 7(b) claim for passing off. As CANADIAN LINEN AND UNIFORM SERVICE is also a registered mark, there is no reason to consider the corresponding common law right for the same trademark. Accordingly, only the common law CANADIAN LINEN mark need be considered when dealing with passing off.

[10] Common law trademark rights are established through use of the mark in association with goods and services in the Canadian marketplace. Therefore, when asserting common law trademark rights, evidence of use must be considered. In that regard, the evidence must show that

the Applicant used the CANADIAN LINEN mark for the purpose of distinguishing its wares or services from those of others [sections 2 and 4 of the *Act*; *Sani Bleu Inc v 9269-6806 Québec Inc*, 2002 FC 1711 at para 23]. Having considered the evidence before the Court, I am satisfied that the Applicant has met its burden with clear, convincing and cogent evidence. The Applicant (and its predecessor) has been operating under the CANADIAN LINEN name since at least the 1920s. The Applicant has, in a continuous, uninterrupted manner, presented and marketed its goods and services under the CANADIAN LINEN mark, which it has displayed visibly on its supply trucks, storefronts, its website, promotional materials and its social media accounts.

(2) The Respondent and his business

[11] As the Respondent has not participated in this proceeding, the evidence regarding the Respondent's business and his use of "Canadian Linen" is confined to the evidence given in two affidavits filed by the Applicant. The affidavits provide screen captures of the Respondent's website, e-commerce storefronts and social media accounts, as well documentation from an opposition proceeding (as detailed below).

[12] The Respondent has been operating a towel, linen and textile goods business, targeting the Canadian consumer market under the name and mark "Canadian Linen". The Respondent has also been operating a website with the domain name, www.canadianlinen.ca, since as early as November 23, 2018, based on evidence from the internet's WayBack archives.

[13] On December 24, 2019, the Respondent filed a trademark application (Application No. 2003112) to register the following design mark in association with a variety of linen and textile related goods:



[14] On June 19, 2023, the Applicant opposed the application on the grounds of bad faith, non-registrability due to confusion with a registered trademark, non-entitlement, non-distinctiveness, no use or proposed use and non-entitlement pursuant to paragraphs 38(2)(a.1), 38(2)(b), 38(2)(c), 38(2)(d), 38(2)(e) and 38(2)(f) of the Act. The Applicant filed detailed evidence in support of the opposition.

[15] In January 2024, in the midst of the opposition, the Respondent's website became inactive and displayed the message: "Pardon our dust! We're working on something amazing — check back soon!"

[16] The Respondent failed to file evidence in the opposition and on January 16, 2025, his application was deemed abandoned by the Registrar of Trademarks.

[17] In or about June 2023, at approximately the same time as the opposition, the Respondent began operating Amazon and Walmart e-commerce storefronts. At some point in 2025, the Respondent revived his website, making available for purchase a variety of towel, linen and textile-related goods in association with the "Canadian Linen" name and mark.

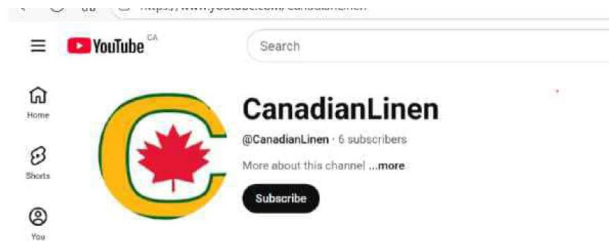
[18] The Respondent's website includes links to Facebook, Instagram, Threads, Pinterest, LinkedIn and YouTube accounts, each entitled "Canadian Linen". These social media accounts advertise the Respondent's business and associated goods and services.

[19] The Respondent's website, e-commerce storefronts and social media accounts prominently display the "Canadian Linen" name and the following iterations of a "Canadian Linen" logo:



[20] The reactivated website displays the Respondent's logo as applied for in his abandoned design mark application.

[21] The Respondent's YouTube channel displays the following logo:



[22] I find that the Respondent's use of his website, e-commerce storefronts and social media accounts to advertise and promote his products and services constitute use within the meaning of section 4 of the *Act* of the Canadian Linen trade name and the various versions of his Canadian Linen logo.

(3) Infringement – section 20 of the *Act*

[23] Under section 19 of the *Act*, registration of a trademark gives the owner the exclusive right to the use throughout Canada of the trademark in respect of the goods and services listed in the registration. That exclusive right is deemed to be infringed by anyone who sells, distributes or advertises goods or services in association with a confusing trademark or trade name [para 20(1)(a)].

[24] Pursuant to subsections 6(2) and 6(4) of the *Act*, confusion between two trademarks, or confusion between a trade name and a trademark, occurs if the use of both in the same area would be likely to lead to the inference that the goods or services associated with the business carried on under the trademark or the trade name, as the case may be, and those associated with the trademark

are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class or appear in the same class of the Nice Classification.

[25] More specifically, subsection 6(5) of the *Act* prescribes that confusion is assessed with reference to the following five non-exhaustive factors, in the context of “all the surrounding circumstances”: (a) the inherent or acquired distinctiveness of the trademarks or trade names and the extent to which they have become known; (b) the length of time the trademarks or trade names have been in use; (c) the nature of the goods, services or business; (d) the nature of the trade; and (e) the degree of resemblance between the trademarks or trade names in appearance or sound or in the ideas suggested by them.

[26] The test to be applied in the assessment of these factors is one of first impression in the mind of a casual consumer somewhat in a hurry who has no more than an imperfect recollection of the prior trademark and who does not stop to consider the differences and similarities between the marks or names in issue [*Veuve Clicquot Ponsardin v Boutiques Clicquot Ltée*, 2006 SCC 23 at paras 18–20].

[27] All of the subsection 6(5) factors must be considered in assessing the likelihood of confusion. However, the weight to be given to each factor will depend on the circumstances, and need not be equal, with the degree of resemblance often likely to have the greatest effect [*Sandhu Singh Hamdard Trust v Navsun Holdings Ltd*, 2019 FCA 295 at paras 25–28; *Veuve Clicquot* at para 21].

(a) Paragraph 6(5)(e) – degree of resemblance

[28] Resemblance is defined as the quality of being either like or similar. The term “degree of resemblance” in subsection 6(5)(e) of the *Act* implies that likelihood of confusion does not arise solely from identical trademarks and that it recognizes that some marks with some differences may still result in likely confusion [*Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27 at para 62].

[29] The degree of resemblance is the statutory factor often likely to have the greatest effect on the confusion analysis. If the marks or names do not resemble one another, it is unlikely that even a strong finding on the remaining factors would lead to a likelihood of confusion. As such, the other factors become significant only once the marks are found to be identical or very similar [*Masterpiece* at para 49].

[30] When considering the degree of resemblance, it is preferable to first consider whether there is an aspect of the trademark that is “particularly striking or unique” [*Masterpiece* at para 64].

[31] I find that “Canadian Linen” is the striking or dominant portion of each of the CANADIAN LINEN Marks. The Respondent is using “Canadian Linen” as both a trade name and as a trademark on his website, e-commerce platforms and social media accounts. I find that the Respondent’s use of “Canadian Linen” strongly resembles the Applicant’s CANADIAN LINEN Marks in appearance, in sound and in the ideas suggested. Accordingly, this factor strongly favours the Applicant.

(b) Paragraphs 6(5)(a) and (b) – inherent distinctiveness, length of time in use and extent to which the marks have become known

[32] The factors set out in paragraphs 6(5)(a) and (b) of the *Act* determine the strength of a particular trademark and the scope of protection it will be afforded. A mark with inherent and acquired distinctiveness will be afforded greater protection than one that is merely descriptive or suggestive of the associated goods or services or has not acquired any particular distinctiveness, reputation, or goodwill through extensive or lengthy use in the marketplace [*Reynolds Presto Products Inc v PRS Mediterranean Ltd*, 2013 FCA 119 at para 22].

[33] In this case, the Applicant does not assert that its marks have inherent distinctiveness. Rather, it asserts that the marks have acquired a high degree of distinctiveness.

[34] A mark that is not inherently distinctive may still acquire a high degree of distinctiveness through use in the marketplace, if it is shown that the mark has become known to consumers as originating from one particular source [*Pink Panther Beauty Corp v United Artists Corp (CA)*, 1998 CanLII 9052 (FCA), [1998] 3 FC 534 at para 24; *Julia Wine Inc v Les marques metro, SENC*, (*Les marques métro/metro Brands SENC*), 2016 FC 738 at paras 34–36].

[35] In determining whether a trademark has acquired distinctiveness, the Court considers factors such as sales, publicity and the extent of use when determining whether a trademark allows its owner to distinguish its goods or services from those of others [*Kamsut, Inc v Jaymei Enterprises Inc*, 2009 FC 627 at para 49; *Yat Sun Food Products Ltd v Griffith Foods International*

Inc, 2024 TMOB 194 at para 21; *Toys “R” Us (Canada) Ltd v Herbs “R” Us Wellness Society*, 2020 FC 682 at paras 24, 27].

[36] I am satisfied that the evidence establishes that the CANADIAN LINEN Marks have acquired a high degree of distinctiveness due to the Applicant’s continuous use of the marks across Canada, since as early as 1996 for the CANADIAN LINEN AND UNIFORM SERVICE Mark and since the 2010s for the remaining marks. The Applicant’s evidence of use includes: a large number of customers across Canada through 32 production facilities and service centers located throughout Canada; 10 million linen-based goods in circulation in Canada bearing its trademarks; strong advertising and promotional activities across Canada, including through online search tool ads, catalogues, charitable giving and community relations programs (with \$300,000 on average spent annually in advertising expenditures); sponsorship agreements with Canadian sports teams; significant Internet traffic to its website (with over tens of thousands of visitors annually, on average); its webstore and social media pages which prominently display the marks; and Canadian revenue since 2014 to present, exceeding at least \$2 billion in the aggregate, with Canadian revenue in 2024 alone exceeding \$300 million.

[37] I find that the evidentiary record does not support any finding of acquired distinctiveness for the Respondent’s use of “Canadian Linen”. The limited evidence before me suggests that the Respondent may have been operating his website since 2018 and there is no other evidence to support an acquired distinctiveness finding in relation to the Respondent’s use of “Canadian Linen”. In any event, the evidence establishes that the Applicant has been using the CANADIAN

LINEN Marks for a significantly longer period of time, during which the marks acquired a high degree of distinctiveness. Accordingly, this factor strongly favours the Applicant.

(c) Paragraphs 6(5)(c) and (d) – nature of goods, services or business and the nature of the trade

[38] The goods and services offered by the Applicant and the Respondent clearly overlap. Both businesses promote and offer a variety of linen and textile related goods in Canada. By way of example, the Respondent's website and e-commerce storefronts offer for sale bath, hand and face towels; white economy towels suited for hospitality and housekeeping; salon and spa towels; and aprons, bar mops and microfiber cloths. These same goods are offered for sale by the Applicant.

[39] The nature of the trade of the parties is similar if they both target the same end consumer [*Ciba-Geigy Canada Ltd v Apotex Inc*, [1992] 3 SCR 120 at paras 57–59]. In this case, the two parties both target those in the market for linen and towel goods, specifically kitchen and bath towels; hospitality and housekeeping businesses; and those in the market for online ordering and delivery of towel and linen goods. Both the Applicant and the Respondent target these same consumers through their respective websites and e-commerce storefronts, as well as through their respective social media accounts.

[40] Accordingly, I find that the parties' goods and services overlap and are offered through similar channels of trade. This factor favours the Applicant.

(d) Other surrounding circumstances

[41] The Applicant has not drawn to my attention any other surrounding circumstances that would be relevant to the confusion analysis.

(e) Conclusion on confusion

[42] Having found that each of the subsection 6(5) factors weight in favour of the Applicant, I am satisfied, in all of the circumstances, that as a matter of first impression, the casual consumer, somewhat in a hurry and with an imperfect recollection of the Applicant's CANADIAN LINEN Marks, would likely be confused as to the source of the goods and services sold and provided by the Respondent.

[43] Accordingly, I am satisfied that the Applicant has established its infringement claim pursuant to section 20 of the *Act*.

B. Issue No.2 – Has the Applicant established, on a balance of probabilities, that the Respondent is liable for passing off?

[44] Subsection 7(b) of the *Act* codifies the common law tort of passing off by prohibiting a trader from directing public attention to their goods, services or business in a manner likely to cause confusion between them and the goods, services or business of another [*Venngo Inc v Concierge Connection Inc (Perkopolis)*, 2017 FCA 96 at para 10].

[45] To establish a claim of passing off, the Applicant must meet an initial threshold requirement of establishing possession of a valid and enforceable trademark within the meaning of the *Act*, whether registered or unregistered, at the time the Respondent first began directing public attention to its own goods and services [*Sandhu Singh* at paras 36–39]. This requirement has already been satisfied by the Applicant’s demonstrated ownership of its registered trademarks and its common law CANADIAN LINEN mark, which were all in use in 2018 — the only date available to me regarding the time the Respondent first began directing public attention to its own goods and services.

[46] Beyond the threshold requirement, the Applicant must establish the three necessary elements of a passing off claim: (i) the existence of goodwill or reputation attached to the Applicant’s goods or services; (ii) deception of the public due to misrepresentation; and (iii) actual or potential damage to the Applicant [*Ciba-Geigy* at 132].

(1) Goodwill

[47] Goodwill for the purposes of passing off requires that a mark is distinctive and possesses reputation, which may engage consideration of distinctiveness, length of use, sales volumes, advertising, and intentional copying [*Sandhu Singh* at para 48; *Subway IP LLC v Budway, Cannabis & Wellness Store*, 2021 FC 583 at para 33].

[48] I am satisfied that the Applicant’s evidence clearly shows considerable goodwill in the collective CANADIAN LINEN Marks (including the common law CANADIAN LINEN mark, which has been extensively used for over 100 years). I have already determined that the

CANADIAN LINEN Marks have a high degree of acquired distinctiveness based on their extensive use, the Applicant's significant customer base and facilities across Canada, high sales volumes and extensive advertising and promotional activities. I make the same finding in relation to the common law CANADIAN LINEN mark. Further, I agree with the Applicant that the existence of goodwill in its marks is reinforced by the Respondent's conduct in taking advantage of that goodwill and reputation by using "Canadian Linen" in the conduct of his business.

(2) Misrepresentation

[49] The second element of misrepresentation will be met if the Applicant establishes that the Respondent has used a trademark that is likely to be confused with the Applicant's distinctive mark [*Sandu Singh Hamdard Trust v Navsun Holding Ltd*, 2016 FCA 69 (CanLII) at para 21]. For the same reasons discussed above, I conclude that there is a likelihood of confusion between the Applicant's collective CANADIAN LINEN Marks (including the common law CANADIAN LINEN mark) and the Respondent's use of "Canadian Linen".

[50] Further, the Respondent has also included on his YouTube channel an exact copy of the Applicant's registered design trademark (TMA1285366) as the profile image for his account. I find that the Respondent's use of this registered design trademark on his YouTube account was a deliberate attempt to confuse consumers and reinforce the false impression that the Respondent's business is identical to, or somehow affiliated with, the Applicant.

[51] Accordingly, I find that the Respondent has deceived the public by misrepresentation.

(3) Actual or potential damage

[52] The Applicant asserts that it has suffered damages in a variety of forms as a result of the Respondent's conduct.

[53] The Applicant relies on the loss of control over the use and commercial impact of its marks, which has been recognized as actual damage sufficient to meet the third requirement of the test for passing off [*Cheung v Target Event Production Ltd*, 2010 FCA 255 at paras 26–28; *Subway* at para 34]. I am satisfied that, as a result of the Respondent's conduct, the Applicant has had a loss of control over its marks. The resulting harm to their goodwill and reputation arising from the Respondent's conduct is sufficient to meet the third element of the passing off test. As such, I need not go on to consider the remaining damages arguments raised by the Applicant.

[54] I am therefore satisfied that Applicant has demonstrated each of the elements of passing off under subsection 7(b) of the *Act*.

C. Issue No. 3 – Has the Applicant established, on a balance of probabilities, that the Respondent has used its marks in a manner that is likely to have the effect of depreciating the value of the goodwill attached to those marks?

[55] Subsection 22(1) of the *Act* prohibits the use of a registered trademark by another person in a manner that is likely to have the effect of depreciating the value of the goodwill attached to that registered mark.

[56] Justice Binnie, at paragraph 46 of *Veuve Clicquot*, sets out the four elements that must be established to make out a claim under section 22:

[...] Firstly, that a claimant's registered trade-mark was used by the defendant in connection with wares or services — whether or not such wares and services are competitive with those of the claimant. Secondly, that the claimant's registered trade-mark is sufficiently well known to have significant goodwill attached to it. Section 22 does not require the mark to be well known or famous (in contrast to the analogous European and U.S. laws), but a defendant cannot depreciate the value of the goodwill that does not exist. Thirdly, the claimant's mark was used in a manner *likely* to have an effect on that goodwill (i.e. linkage) and fourthly that the *likely* effect would be to depreciate the value of its goodwill (i.e. damage). [...]

[Emphasis in original.]

(1) Use of the registered trademark

[57] Use for the purpose of section 22 means use as defined in section 4 of the *Act* but need not be use “as a trademark” [*Toys “R” Us* at para 53; *H-D USA, LLC v Berrada*, 2014 FC 207 at para 67].

[58] Section 22 does not require use of the identical registered trademark to attract liability. Rather, the Respondent's marks need only be “sufficiently similar to [the registered mark] to evoke in a relevant universe of consumers a mental association of the two marks” such that “[i]f the casual observer would recognize the mark used by the [Respondent] as the mark of the [Applicant],” then this will suffice. Notably, without a “link, connection or mental association in the consumer's mind” with the registered trademark, there can be no depreciation [*Veuve Clicquot* at paras 38,48–49].

[59] The Applicant argues that there is a strong resemblance between the Respondent's use of "Canadian Linen" and the Applicant's CANADIAN LINEN Marks such that a link, connection or mental association with the Applicant's marks is inevitable. I agree. I find that the Respondent's use of "Canadian Linen" is so closely akin to the CANADIAN LINEN Marks that the first part of the test under section 22 of the *Act* has been met.

(2) Sufficiently well known to have significant goodwill

[60] For the reasons given above, I am satisfied that the CANADIAN LINEN Marks are sufficiently well known to have significant goodwill.

(3) Linkage

[61] The connection or linkage required under section 22 has been described as a linkage, connection or mental association that is likely to have an effect on goodwill. While the question of linkage is one of evidence, this does not require specific consumer evidence or survey evidence to establish the likelihood of linkage [*Veuve Clicquot* at para 46; *Toys "R" Us* at para 59].

[62] The Applicant argues that that the necessary linkage in this case can be inferred from the Respondent's use of "Canadian Linen" because: (a) the Respondent has been advertising and selling unauthorized CANADIAN LINEN branded goods on its new website, e-commerce storefronts and social media accounts; and (b) online search results for "Canadian Linen" show a linkage between the Respondent's use of the CANADIAN LINEN Marks and the effect on the Applicant's business and goodwill.

[63] I am satisfied that the required linkage in the mind of a consumer can be inferred from the clear similarities between the CANADIAN LINEN Marks and the Respondent's use of "Canadian Linen" (being the dominant portion of the Applicant's marks), particularly given the evidence of the Applicant's extensive use, sales and advertising associated with the CANADIAN LINEN Marks.

(4) Damage

[64] The Applicant argues that it does not and cannot control the character or quality of goods and services that the Respondent is associating with the CANADIAN LINEN Marks. It argues that the Respondent's activities amount to another trader "bandying the mark about" and "whittling away" at the CANADIAN LINEN Marks' power to distinguish the Applicant's goods and services [Veuve Clicquot at paras 63–64; *Bean Box, Inc v Roasted Bean Box Inc*, 2022 FC 499 at para 67].

[65] I agree with the Applicant that the Respondent's conduct constitutes a depreciation of the goodwill attached to the Applicant's marks because the Applicant suffers a resulting loss of control over, and dilution of, the strength of its brand. In that regard, I note that the evidence demonstrates that the Respondent's Amazon storefront has received multiple poor reviews (consisting of one-, two- and three-star reviews) that criticize the poor quality and misrepresentation of the goods. The Applicant points to one review that reads: "Cheap quality. Not the same as shown. Not as advertised. Also not made by Canadian Linen." This evidence suggests that the Respondent's goods are to a lesser standard — a standard that is inconsistent with the way the Applicant has carefully curated and crafted its brand [1196278 *Ontario Inc (Sassafras) v 815470 Ontario Ltd (Sassafras Coastal Kitchen & Bar)*, 2022 FC 116 at paras 100–101].

[66] Given the foregoing, I am satisfied that the Applicant has, on a balance of probabilities, established that the Respondent's use of "Canadian Linen" is likely to have the effect of depreciating the goodwill associated with the CANADIAN LINEN Marks.

D. Issue No. 4 – If the Applicant has established, on a balance of probabilities, any liability on the part of the Respondent, is the Applicant entitled to:

(1) An injunction and delivery up

[67] The Respondent has not responded to the Applicant's cease and desist letters, nor to this application. He has shown no intent to cease using "Canadian Linen" in association with his goods and services. As such, I am satisfied that the Applicant is entitled to an injunction prohibiting the Respondent from using "Canadian Linen" in association with his goods and services.

[68] I am satisfied that I should also order: (a) delivery up or destruction of goods, labels, packaging, signage, advertising materials, and business paper or other materials that contain, are comprised of, or are confusing with, the CANADIAN LINEN Marks; (b) transfer of ownership of and all rights of access, administration and control over the domain name, www.canadianlinen.ca, and any other domain name owned or controlled by the Respondent that contain, are comprised of or are confusing with the CANADIAN LINEN Marks; and (c) termination of all social media accounts, including the Respondent's Facebook, Instagram, Threads, Pinterest, LinkedIn and YouTube, that contain, are comprised of or are confusing with the CANADIAN LINEN Marks [Ecolab USA Inc v 2431717 Ontario Inc (3D Eco Chemical Labs Canada), 2025 FC 595 at paras 93–96; *Telugu Association of North America, a Corporation of the State of Maryland, USA v*

Telugu Association of North America, a Canadian Federal Corporation with No 1243934-4, 2024 FC 631 at paras 62–63].

[69] Subsection 53.2(2) of the *Act* specifies that before making an order for delivery up, notice must be given to any person who has an interest or right in such item. I am satisfied that such notice has been given to the Respondent through service of the Notice of Application and there is no evidence of any other person who has an interest or right in such items.

(2) Damages

[70] The Applicant seeks compensatory damages of \$25,000 based on the harm to its trademark rights and the likely depreciation of goodwill. The Applicant argues that an award of nominal damages (which need not mean “small”) is appropriate in a case like this where the evidence with respect to prejudice is difficult to obtain or impossible to demonstrate. The Applicant asserts that the requested award would achieve the objective of deterrence, noting that the Respondent has been made well-aware of the Applicant’s intellectual property rights and has continued to wilfully infringe them and ignore judicial proceedings directed at his misconduct.

[71] I have considered the range of nominal damages awarded in the recent jurisprudence from the Court. In all of the circumstances (including the Respondent’s ongoing misconduct), I am satisfied that an award of \$25,000 is appropriate.

(3) Punitive damages

[72] The Applicant asserts that an award of punitive damages in the amount of \$35,000 is warranted in light of the following factors: (a) the Respondent has profited from his unlawful activities; (b) the Respondent's conduct has continued over many years over the express objections of the Applicant; (c) the Respondent's continuing conduct points to his repeated pattern of openly disregarding the Applicant's rights and the legal processes undertaken to protect such rights; (d) the Respondent's conduct in relaunching his website, which occurred after the Respondent was served with the applicant's evidence on this application, exhibits a disregard for the judicial process; and (e) the Respondent's failure to defend or participate in this application and to file evidence in the opposition proceeding indicates that he is indifferent to the results of his wrongful actions and has no issue causing further economic harm to the Applicant.

[73] Punitive damages are reserved for exceptional cases in which "malicious, oppressive and high-handed" misconduct represents a "marked departure from ordinary standards of decent behaviour" and offends the court's sense of decency. Various factors may inform the inquiry into whether a party's conduct merits the sanction of punitive damages [*Whiten v Pilot Insurance Co*, 2002 SCC 18 at paras 36, 112–113; *Louis Vuitton Malletier SA v Singga Enterprises (Canada) Inc*, 2011 FC 776 at para 166].

[74] In the intellectual property sphere, punitive damages have been awarded in cases of "outrageous" or "highly reprehensible" conduct, or conduct that constitutes a "callous disregard for the rights of the Plaintiff or for injunctions granted by the court" [*Singga* at para 168].

[75] I appreciate that the Respondent has, by his conduct, required the Applicant to expend time and money enforcing its rights, has failed to respond to this application and has profited from his ongoing misconduct. However, I do not find that the Respondent's conduct rises to the level required for an award of punitive damages. As such, no award of punitive damages will be made.

(4) Costs

[76] The Applicant seeks costs of \$15,398.27, comprised of legal fees of \$12,800, HST on legal fees of \$1,664, and disbursements of \$934.27.

[77] The legal fees sought by the Applicant were calculated in accordance with the top of Column III of Tariff B to the *Federal Courts Rules*, SOR/98-106. I am satisfied that the amount of legal fees is warranted, particularly in light of the Respondent's deliberate disregard for this proceeding and the expansion of his infringing activities after this proceeding was commenced (which necessitated the need for the Applicant to prepare an additional affidavit and bring a motion for leave to file same). I also find that the Applicant's disbursements are reasonable.

JUDGMENT in T-3756-25

THIS COURT’S JUDGMENT is that:

1. The Court declares that the trademark CANADIAN LINEN, associated with the goods and services offered by the Respondent, is confusing with the Applicant’s registered trademarks comprising CANADIAN LINEN AND UNIFORM SERVICE (TMA571854 and TMA601487), CANADIAN LINEN FLEXFIT (TMA1115516), and the C CANADIAN LINEN & UNIFORM SERVICE Logo (TMA1285364, image below) [together, the “CANADIAN LINEN Registered Marks”].



2. The Court declares that the Respondent has:
 - a. infringed the Applicant’s exclusive rights in the CANADIAN LINEN Registered Marks, in contravention of section 20 of the *Trademarks Act*.
 - b. directed public attention to his goods, services, or business in such a way as to cause or be likely to cause confusion in Canada, between his goods, services or business and the goods, services or business of the Applicant, contrary to subsection 7(b) of the *Trademarks Act*.
 - c. used the Applicant’s CANADIAN LINEN Registered Marks in a manner that is likely to have the effect of depreciating the value of the goodwill attaching thereto, contrary to subsection 22(1) of the *Trademarks Act*.

3. The Respondent, along with any owned affiliate business, or any and all other related companies and businesses, and any respective and collective officers, directors, employees, agents, partners, consultants, licensees, franchisees, successors, and assigns, and all other over whom any of the foregoing exercise control or authority, are permanently enjoined from directly or indirectly:

- a. using a trademark or trade name that is confusingly similar to the Applicant's CANADIAN LINEN Registered Marks or the Applicant's CANADIAN LINEN trademark at common law [together, the "CANADIAN LINEN Marks", which includes the Respondent's use of CANADIAN LINEN, in association with any paper goods; bedding cloth, clothing, fabric, linen, towel, or textile related goods; dust control goods; uniform related goods; any online or physical operation of a business to sell, supply, rent, and clean textiles, uniforms, table linens, towels, and dust control items; laundry, cleaning, and dry cleaning services; laundry pick-up and delivery services; any sale or rental of bath, bed, and table linens in all its phases; industrial linen or uniform rental service in all its phases; or the CANADIAN LINEN Goods and Services [together, the "Subject Goods and Services"]].
- b. offering, selling, distributing, or advertising the Subject Goods and Services in association with a trademark or trade name that is confusing with the Applicant's CANADIAN LINEN Registered Marks;
- c. directing public attention to his goods, services, or business in such a way as to cause or be likely to cause confusion in Canada, between his goods, services, or business and the goods, services, or business of the Applicant,

including without limitation by adopting, using, or promoting CANADIAN LINEN as or as part of any trademark, trade name, trading style, meta-tag (or other Internet search engine optimization tool or device), business name, storefront name, or domain name (including any active or merely re-directing domain name); and

- d. using any of the Applicant's CANADIAN LINEN Registered Marks in a manner that is likely to have the effect of depreciating the value of the goodwill attaching thereto.
4. The Respondent shall, within 15 days, either destroy under oath, or deliver to the Applicant or its designated agent, all goods, labels, packaging, signage, advertising material, business paper or other material (whether print or electronic) in his possession, power or control, where the use, employment or display thereof would violate this Judgment.
 5. The Respondent shall, within 15 days, transfer ownership of and all rights of access, administration and control over the domain name, www.canadianlinen.ca, to the Applicant, as well as any other domain names in the Respondent's possession, power or control that contain, are comprised of or are confusing with the CANADIAN LINEN Marks.
 6. The Respondent shall, within 15 days, terminate all social media accounts that contain, are comprised of or are confusing with the CANADIAN LINEN Marks, including but not limited to any Facebook, Instagram, Threads, Pinterest, LinkedIn

and YouTube accounts, as well as any other social media accounts that contain, are comprised of or are confusing with the CANADIAN LINEN Marks.

7. The Respondent shall, within 15 days, terminate his Amazon and Walmart e-commerce storefronts, together with any other online sales platforms owned or controlled by the Respondent, be it directly or indirectly, that contain, are comprised of or are confusing with the CANADIAN LINEN Marks.
8. The Respondent shall pay to the Applicant compensatory damages in the amount of \$25,000. This amount shall bear pre-judgment interest calculated at the rate of 6.55% per year from June 19, 2023 (the date on which the Applicant gave notice of its claim, in writing, to the Respondent).
9. The Respondent shall pay to the Applicant costs of this application fixed in the amount of \$15,398.27, inclusive of disbursements and taxes.
10. All amounts payable under this Judgment shall bear post-judgment interest at the rate of 6.55% per year from the date of this Judgment.

“Mandy Aylen”
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-3756-25

STYLE OF CAUSE: CANADIAN LINEN AND UNIFORM SERVICE
CORP. v. KHWAJA AZEEM SHAH

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 13, 2026

REASONS AND JUDGMENT: AYLEN, J.

DATED: MAY 14, 2026

APPEARANCES:

Noelle Engle-Hardy
Any Obando Ospina

FOR THE APPLICANT

SOLICITOR OF RECORD:

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Toronto, Ontario

FOR THE APPLICANT