

FEDERAL COURT

BETWEEN:

CANADIAN PROCESS SERVING INC.

Plaintiff

- and -

**1589818 ONTARIO INC. c.o.b. PROCESS SERVERS OF ONTARIO, PROCESS
SERVERS OF NIAGARA and ONTARIO PROCESS SERVERS, ROBERT J.
KAUS c.o.b. TRI-CITY PROCESS SERVERS, ROBERT J. KAUS, ADRIENNE
CECILE HUMMEL**

Defendants

AMENDED STATEMENT OF CLAIM
(Amended March 8, 2007 pursuant to Rule 200)

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the *Federal Courts Rules*, serve it on the plaintiffs solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, **WITHIN 30 DAYS** after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: February , 2007

Issued by: _____
Registry Officer

Address of local office: 180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

**TO: 1589818 ONTARIO INC. c.o.b. PROCESS SERVERS OF ONTARIO,
PROCESS SERVERS OF NIAGARA and ONTARIO PROCESS
SERVERS**
35 Anvil Street
Kitchener, Ontario N2P 1X6

AND TO: ROBERT J. KAUS
35 Anvil Street
Kitchener, Ontario N2P 1X6

AND TO: ROBERT J. KAUS c.o.b. TRI-CITY PROCESS SERVERS
35 Anvil Street
Kitchener, Ontario N2P 1X6

AND TO: ADRIENNE CECILE HUMMEL
35 Anvil Street
Kitchener, Ontario N2P 1X6

CLAIM

1. The Plaintiff claims:

(a) a declaration that:

- (i) the advertisement, promotion, offering for sale, selling, performing and dealing in process serving and related and/or ancillary services, including the Unauthorized Services (as defined herein) in association with the trade-names and trade-marks Process Servers of Ontario and Ontario Process Servers;
- (ii) the use of the Plaintiff's trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING:
 - (1) within the body of the meta tag section of the source code of the Defendants' websites, including as the keywords that are used by search engines to locate websites; and
 - (2) as domain names and trade-marks, including as <canadianprocessserving.ca> and <ontarioprocessserving.ca>;
- (iii) the diversion of traffic from the Plaintiff's websites to the Defendants' websites;
- (iv) the registration and use of the business names Process Servers of Ontario and Ontario Process Servers in association with the advertisement, promotion, offering for sale, selling, performing and dealing in process serving and related and/or ancillary services, including the Unauthorized Services;

- (v) the use of the phrases "Process Servers of Ontario" and "Ontario Process Servers" as key words for paid advertising with search engines, directories and portals,

constitute:

- (i) infringement of the plaintiff's registered trade-mark CANADIAN PROCESS SERVING, registration No. TMA667,447, contrary to Sections 19 and 20 of the *Trade-marks Act*, R.S.C. 1985, c. T-13, as amended (the "*Act*");
 - (ii) infringement the plaintiff's registered trade-mark ONTARIO PROCESS SERVING, registration No. TMA668,840, contrary to Sections 19 and 20 of the *Act*;
 - (iii) passing off of the Defendants' Unauthorized Services and business as and for the Services (as defined herein) and business of the Plaintiff, contrary to Section 7(c) of the *Act*;
 - (iv) directing public attention to the Defendants' Unauthorized Services and business in such a way as to cause or be likely to cause confusion between the Defendants' Unauthorized Services and business and the Services and business of the Plaintiff, contrary to Section 7(b) of the *Act*;
 - (v) depreciation of the value of the goodwill attaching to the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, contrary to Section 22 of the *Act*; and
 - (vi) unfair competition.
- (b) An interim, interlocutory and permanent injunction enjoining and restraining the Defendants, and each of their respective officers, directors,

employees, agents, servants, and all those with whom they act in concert and those over whom they exercises control, from, directly or indirectly:

- (i) infringing the Plaintiff's registered trade mark CANADIAN PROCESS SERVING, registration No. TMA667,447, contrary to Sections 19 and 20 of the *Act*;
- (ii) infringing the plaintiff's registered trade mark ONTARIO PROCESS SERVING, registration No. TMA668,840, contrary to Sections 19 and 20 of the *Act*;
- (iii) passing off of the Defendants' Unauthorized Services and business as and for the Services and business of the Plaintiff, contrary to Section 7(c) of the *Act*;
- (iv) directing public attention to the Defendants' Unauthorized Services and business in such a way as to cause or be likely to cause confusion between the Defendants' Unauthorized Services and business and the Services and business of the Plaintiff, contrary to Section 7(b) of the *Act*;
- (v) infringing the Plaintiff's registered trade-mark CANADIAN PROCESS SERVING by carrying on business under the trade-names Ontario Process Servers and Process Servers of Ontario, contrary to Section 20 of the *Act*;
- (vi) using the terms "Ontario Process Servers" and "Process Servers of Ontario" as key words for paid advertising with search engines, directories and portals;
- (vii) depreciating the value of the goodwill attaching to the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and

ONTARIO PROCESS SERVING, contrary to Section 22 of the *Act*;

- (viii) using the Plaintiff's trade-mark CANADIAN PROCESS SERVING, or any other trade-mark, trade-name, corporate name, business name, domain name or other term, confusingly similar thereto, in association with the advertising, promotion, offering for sale, selling and dealing in process serving services and any related and ancillary services, including the Unauthorized Services;
- (ix) using the Plaintiff's trade-mark ONTARIO PROCESS SERVING, or any other trade-mark, trade-name, corporate name, business name, domain name or other term, confusingly similar thereto, in association with the advertising, promotion, offering for sale, selling and dealing in process serving services and any related and ancillary services, including the Unauthorized Services;
- (x) using the Plaintiff's trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING within the body of the meta tag section of the source code of the Defendants' websites, including as the keywords that are used by search engines to locate websites;
- (xi) diverting traffic from the Plaintiff's websites to the Defendants' websites; and
- (xii) dealing in, transferring, assigning, selling or otherwise conveyancing or divesting themselves of the Unauthorized Domain Names, the Defendants' websites or any of them, the trade-names Ontario Process Servers and Process Servers of Ontario and any other trade-mark, trade-name, business name, corporate name, domain name or other identifier that is confusingly similar to the

Plaintiff's trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, or either of them;

- (c) An order directing the Defendants to destroy under oath, or alternatively, or deliver up to the Plaintiff, as the Plaintiff may elect, all goods, packaging, promotional material, including advertisements, pamphlets, brochures, bills and posters, or matter of any medium whatsoever in its possession and control, the use of which would contravene the injunctions sought in paragraph 1(a);
- (d) An order directing the Defendants to transfer or arrange the transfer of the Unauthorized Domain Names to the Plaintiff and to execute any and all documents and do any and all such acts in furtherance thereof;
- (e) An order requiring the Defendants to remove any text or graphics from their websites that would contravene the injunctions sought in paragraph 1(a);
- (f) Damages, or in the alternative, profits, as the Plaintiff may elect following discovery thereon in respect of all infringing activities. This amount, exclusive of interest and costs, exceeds \$50,000. This is not a simplified action;
- (g) Punitive and exemplary damages in the sum of \$750,000.00;
- (h) Pre- and post-judgment interest at the maximum allowable rate on all monetary awards;
- (i) Costs of this action, including investigative fees, on the highest scale, and together with any applicable Goods and Services Tax; and
- (j) Such further and other relief as counsel may request and this Honourable Court may permit.

The Parties

2. The Plaintiff, Canadian Process Serving Inc. is a company incorporated pursuant to the laws of the Province of Ontario, with its principal place of business at 142 Catharine Street South, Hamilton, Ontario, L8N 2J8. The Plaintiff was incorporated on July 9, 1991 and has been operating continuously since then. The Plaintiff carries on the business of, *inter alia*, services of legal process, filing court documents, filing registry documents, filing and processing all document associated with bailiff services, registry searches, skip tracing, litigation file searches, asset searches, credit searches, license searches and occupancy searches (the "Services").

3. The Defendant, Robert J. Kaus ("Kaus"), is an individual residing in Kitchener, Ontario. Kaus carries on the business of process serving and related and ancillary services as Tri-City Process Servers. Kaus is also involved in the real estate business and is a sales representative of Century 21 Home Realty Inc. Brokerage with a principal place of business at 1-1770 King Street East., Kitchener, Ontario, N2G 2P1.

4. The Defendant Adrienne Cecile ~~Cecile~~ Hummel ("Cecile ~~Cecile~~ Hummel"), is an individual residing in Kitchener, Ontario. ~~Cecile~~ Hummel is the president of 1589818 Ontario Inc.

5. The Defendant, 1589818 Ontario Inc., is a corporation incorporated under the laws of the Province of Ontario, with its principal place of business at 35 Anvil Street, Kitchener, Ontario, N2P 1X6. 1589818 Ontario Inc. carries on the business of process serving and related and ancillary services under the registered business names Ontario Process Servers, Process Servers of Ontario and Process Servers of Niagara.

6. The Defendant, Tri-City Process Servers ("Tri-City"), is an unincorporated and otherwise unregistered entity with a principal place of business at 35 Anvil Street, Kitchener, Ontario, Canada, N2P 1X6. Tri-City carries on the business of process serving and related and ancillary services for Kaus.

7. Each of Kaus and ~~Cecile~~ Hummel are the directing minds of Tri-City and 1589818 Ontario Inc., are shareholders, directors or officers of 1589818 Ontario Inc. and/or are

employees thereof and have control over and responsibility for this company and its activities.

8. All the Defendants carry on the same process serving and related and ancillary services (the "Unauthorized Services") business from the same address, namely 35 Anvil Street, Kitchener, Ontario, Canada, N2P 1X6.

Plaintiff's Intellectual Property Rights

9. The Plaintiff was established in Ontario on July 9, 1991. Since then, the Plaintiff has become the largest provider of the Services in Canada. The Plaintiff now provides its Services out of 112 locations across Canada. The Plaintiff is Canada's largest and most respected firm of its kind and is a professional association of retired peace officers. The Plaintiff is well known to all, and has developed a vast reputation among, members of the Canadian Bar Association and judiciary and attends all the major conferences as an exhibitor and financial supporter across Canada.

10. Since at least as early as January 31, 1990, the Plaintiff has provided the Services in Canada in association with the trade-mark CANADIAN PROCESS SERVING and, since at least as early as 1990, in Ontario, in association with the trade-mark ONTARIO PROCESS SERVING.

11. The Plaintiff is the owner of the Canadian trade-mark registration nos. TMA667,447 and TMA668,840 for the trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, respectively. Copies of these registrations are attached as Schedules "A" and "B", respectively.

12. These registrations are valid and subsisting on the Canadian Trade-marks Register. By virtue of section 19 of the *Act*, the Plaintiff has the exclusive right to use the CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING trade-marks throughout Canada in association with the Services, the services covered by these registrations.

13. Through its extensive and continued use of the CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING trade-marks, the Plaintiff has developed a vast reputation and tremendous goodwill therein.

14. The Plaintiff has also registered the domain names <canadianprocessserving.com> and <ontarioprocessserving.com> and uses them as URLs for its websites, which it uses to promote, advertise, offer for sale and sell its Services.

The Defendants' Infringing Activities

Unauthorized Registration of Domain Names

15. The Defendants carry on the business of, *inter alia*, process serving in Ontario and promote, advertise, offer for sale, sell, perform and otherwise deal in the Unauthorized Services. In association with the Defendants' process serving business, including the Unauthorized Services, the Defendant Kaus has, without the authorization of the Plaintiff, registered or caused to be registered in his own name the following domain names:

- (a) <canadianprocessserving.ca>; and
- (b) <ontarioprocessserving.ca>.

Unauthorized Registration and Use of <canadianprocessserving.ca>

16. The Defendants' domain name <canadianprocessserving.ca> is identical to the Plaintiff's:

- (a) registered trade-mark CANADIAN PROCESS SERVING; and
- (b) registered domain name <canadianprocessserving.com> - the only insignificant difference is that the Plaintiff's domain name is registered as a <.com> domain name and the Defendants' domain name is registered as a <.ca> domain name,

as is aptly illustrated in the following table:

Plaintiff's registered trade-mark:	CANADIAN PROCESS SERVING
Plaintiff's domain name:	canadianprocessserving.com
Defendants' domain name:	canadianprocessserving.ca

17. The Defendants are operating a website at the <canadianprocessserving.ca> domain name and is available to Canadians (the "First Unauthorized Website"). At the First Unauthorized Website, the Defendants:

- (a) advertise the services of the Defendant Tri-City Process Servers;
- (b) provide links to their other websites (as set out below at paragraph 27); and
- (c) use the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING within the body of the meta tag section of the source code of the First Unauthorized Website, including as keywords that are used by search engines to locate websites, to divert traffic from the Plaintiff's websites to the First Unauthorized Website.

Unauthorized Registration and Use of <ontarioprocessserving.ca>

18. The Defendants' domain name <ontarioprocessserving.ca> is identical to the Plaintiff's:

- (a) registered trade-mark ONTARIO PROCESS SERVING; and
- (b) registered domain name <ontarioprocessserving.com> - the only insignificant difference is that the Plaintiff's domain name is registered as a <.com> domain name and the Defendants' domain name is registered as a <.ca> domain name,

as is aptly illustrated in the following table:

Plaintiff's registered trade-mark:	ONTARIO PROCESS SERVING
Plaintiff's domain name:	ontarioprocessserving.com

Defendants' domain name:	ontarioprocessserving.ca
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19. The Defendants are operating a website at the <ontarioprocessserving.com> domain name and is available to Canadians (the "Second Unauthorized Website"). At this Second Unauthorized Website, the Defendants:

- (a) advertise the services of the Defendant Process Servers of Ontario;
- (b) provide links to their other websites (as set out below at paragraph 27);and
- (c) use the Plaintiff's registered trade-marks within the body of the meta tag section of the source code of the Second Unauthorized Website, including as keywords that are used by search engines to locate websites, to divert traffic from the Plaintiff's websites to the Second Unauthorized Website.

20. The Defendants are aware of the reputation and goodwill associated with the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING and domain names <canadianprocessserving.com> and <ontarioprocessserving.com> and have and continue to attempt to attract the custom and benefit of same to themselves through their conduct.

21. The Defendants' use of the <canadianprocessserving.ca> and <ontarioprocessserving.ca> domain names is clearly designed to misappropriate the tremendous goodwill and reputation the Plaintiff has developed in and to its CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING registered trade-marks and domain names <canadianprocessserving.com> and <ontarioprocessserving.com>.

22. The Defendants are relying on the notoriety, fame and familiarity of the Plaintiff's rights to promote and sell their Unauthorized Services and business. Such use has and continues to cause confusion in the minds of the public and has and continues to lead to the mistaken impression that the Defendants' business and Unauthorized Services are authorized or approved by the Plaintiff or are associated with the Plaintiff.

23. Furthermore, when the <canadianprocessserving.com> domain name is typed in as a URL, it automatically redirects a user and resolves to the <www.tricityservers.net> URL, one of the Defendants' websites. This is clear indication of the Defendants' efforts to divert traffic from the Plaintiff's website to their own. The Defendants have and continue to mislead the public into believing that their websites are associated with the Plaintiff and, therefore, the Defendants' acts constitute an attempt to pass off their services and business as and for those of the Plaintiff.

24. The use and presence of the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING within the body of the meta tag section of the source code of the Defendants' websites, including as keywords that are used by search engines to locate websites, results in the Defendants' websites being ranked higher or highest in searches performed using the Plaintiff's trade-marks. As a result, the Defendants' actions also constitutes a false representation to ultimate consumers that their websites are connected, authorized, approved, endorsed or otherwise affiliated with the Plaintiff. These misrepresentations are calculated to injure the business and goodwill of the Plaintiff. The Defendants' conduct is also calculated to deceive the public into believing that they are accessing the Plaintiff's websites and such deception or confusion is a reasonably foreseeable consequence of the conduct referred to herein. The activities of the Defendants direct public attention to their Unauthorized Services and business in such a way as to cause and be likely to cause confusion in Canada with the Services and business of the Plaintiff.

25. The Defendants use, without the authorization of the Plaintiff, the <canadianprocessserving.ca> and <ontarioprocessserving.ca> domain names as trade-marks and as domain names in association with the sale of process serving services in Ontario, including the Unauthorized Services. As a result, the Defendants have and continue to, directly and/or indirectly:

- (a) infringe of the registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, contrary to Sections 19 and 20 of the *Act*;
- (b) pass off of the Defendants' Unauthorized Services and business as and for the Services and business of the Plaintiff, contrary to section 7(c) of the *Act*;
- (c) direct public attention to the Defendants' Unauthorized Services and business in such a way as to cause or be likely to cause confusion between the Defendants' Unauthorized Services and business and the Services and business of the Plaintiff, contrary to Section 7(b) of the *Act*;
- (d) depreciate the value of the goodwill attaching to the CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING registered trade-mark, contrary to Section 22 of the *Act*; and
- (e) unfairly compete with the Plaintiff and its business.

The Defendants' Other Websites

26. The Defendant Kaus has also registered or caused to be registered in his own name the following domain names:

- (a) <processservers.info>;
- (b) <theprocessservers.ca>
- (c) <tricityservers.net>;
- (d) <tricityservers.ca>;
- (e) <theprocessservers.net>; and
- (f) <processservices.ca>.

27. The Defendants also operate websites at these domain names. These domain names and websites are related to the Defendants and to each other as follows:

Domain Name	Comments
<processservers.info>	resolves to a website for the Defendant Process Servers of Ontario this is a different website than that hosted at <ontarioprocessserving.ca>
<theprocessservers.ca>	resolves to a website for the Defendant Tri-City Process Servers this is a different website than that hosted at the www.tricityservers.net URL
<tricityservers.net>	resolves to the same website at the www.tricityservers.net URL
<tricityservers.ca>;	resolves to the same website at the www.tricityservers.net URL
<theprocessservers.net>	resolves to a website for the Defendant Process Servers of Niagara
<processservices.ca>	resolves to a website for the Defendant Ontario Process Services

28. The Defendants promote their Unauthorized Services and business through these websites. Also, each of these websites contains direct links to all the other websites. In addition, each of these websites contains additional links to the Defendant Kaus' real estate business related websites, including the MarketKing Website and several others.

29. The Defendants also use the trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING within the body of the meta tag section of the source code of each of these websites, including as keywords that are used by search engines to locate websites.

30. The Defendants have and continue to divert traffic from the Plaintiff's websites to their own.

31. As a result, the Defendants have and continue to, directly or indirectly:

- (a) infringe the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, contrary to Section 20 of the *Act*;
- (b) pass off of the Defendants' Unauthorized Services and business as and for the Services and business of the Plaintiff, contrary to section 7(c) of the *Act*;
- (c) direct public attention to the Defendants' Unauthorized Services and business in such a way as to cause or be likely to cause confusion between the Defendants' Unauthorized Services and the Services and business of the Plaintiff, contrary to Section 7(b) of the *Act*;
- (d) depreciate the value of the goodwill attaching to the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, contrary to Section 22 of the *Act*; and
- (e) unfairly compete with the Plaintiff and its business.

Unauthorized Registration and Use of Business Names "Process Servers of Ontario" and "Ontario Process Servers"

32. The Defendant 1589818 Ontario Inc. has registered the business names "Process Servers of Ontario" and "Ontario Process Servers" and uses these business names as trade-names and trade-marks in association with the promotion, sale and performance of their process serving services in Ontario, including the Unauthorized Services.

33. The Defendants are aware of the reputation and goodwill associated with the Plaintiff's registered trade-marks and domain names and have and continue to attempt to attract the custom and benefit of same to themselves through their conduct.

34. The Defendants' use of the trade-names and trade-marks "Process Servers of Ontario" and "Ontario Process Servers" is clearly designed to misappropriate the tremendous goodwill and reputation the Plaintiff has developed in and to its trade-marks and trade-name.

35. The Defendants are relying on the notoriety, fame and familiarity of the Plaintiff's rights to promote and sell their services and business, including the Unauthorized Services.

36. The Defendants' use of "Process Servers of Ontario" and "Ontario Process Servers" as trade-names and trade-marks in association with the promotion and sale of process serving services, including the Unauthorized Services, has and continues to:

- (a) lead to the mistaken impression and inference that the Defendants' services and business are sold by the Plaintiff, or are associated with, endorsed, approved or licensed by the Plaintiff; and
- (b) cause confusion in the minds of the public.

37. As a result, the Defendants have and continue to, directly or indirectly:

- (a) infringe the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, contrary to Section 20 of the *Act*;
- (b) pass off of the Defendants' Unauthorized Services and business as and for the Services and business of the Plaintiff, contrary to section 7(c) of the *Act*;

- (c) direct public attention to the Defendants' Unauthorized Services and business in such a way as to cause or be likely to cause confusion between the Defendants' Unauthorized Services and the Services and business of the Plaintiff, contrary to Section 7(b) of the *Act*;
- (d) depreciate the value of the goodwill attaching to the Plaintiff's registered trade-marks CANADIAN PROCESS SERVING and ONTARIO PROCESS SERVING, contrary to Section 22 of the *Act*; and
- (e) unfairly compete with the Plaintiff and its business.

Defendant Kaus' Real Estate Business

38. As part of the Defendant Kaus' real estate business, he is operating a website at the URL <www.marketking.ca> (the "MarketKing Website"). Kaus is the registrant of the domain name <marketking.ca>, which was registered on June 26, 2003. On the MarketKing Website, which is devoted exclusively to the real estate business, Kaus provides links to Tricity Process Servers, Process Servers of Ontario, Ontario Process Serving, Process Servers of Niagara and South Western Process Services. These links resolve to the websites hosted at the following URLs, respectively: www.tricityservers.net, www.processservers.info, www.ontarioprocessserving.ca, www.theprocessservers.net and www.theprocessservers.ca.

39. Both Kaus' and ~~Cecile~~ Hummel's actions amount to a deliberate knowing pursuit or conduct to commit wrongful or unlawful acts, which could not have been undertaken other than without good faith.

40. Kaus and ~~Ceeile~~ **Hummel** knowingly, deliberately and wilfully misappropriated the Plaintiff's intellectual property to unfairly compete with the Plaintiff and to solicit existing and potential clients of the Plaintiff.

41. The Plaintiff has demanded that the Defendants immediately cease all activities complained of herein, but the Defendants have refused to do so. The Defendants threaten to continue their unlawful acts unless restrained by this Honourable Court.

42. As of November 2006, Kaus has contacted the Plaintiff and offered to sell the <canadianprocessserving.ca> and <ontarioprocessserving.ca> domain names, websites and companies to the Plaintiff for \$50,000.00.

43. Most recently, on December 22, 2006, the Plaintiff demanded that the Defendants, and each of them, to immediately cease all activities complained of herein, failing which the Plaintiff will have this Statement of Claim, a draft copy of which was attached, issued and served.

44. On January 22, 2007, Plaintiff's counsel spoke to Kaus to inquire into whether a response to the letter of December 22, 2006 would be forthcoming. Kaus indicated that he had forwarded the letter to his counsel. On the same date, Plaintiff's counsel confirmed his conversation with Kaus in writing and asked that that letter be forwarded to Kaus' counsel. To date, the Plaintiff, neither directly nor through its counsel, has been contacted by Kaus' counsel.

Punitive and Exemplary Damages

45. The Defendants have persisted in a wilful, intentional, knowing, calculated and systematic violation of the Plaintiff's rights and usurpation of the Plaintiff's tremendous national goodwill and reputation.

46. The Defendants have and continue to demonstrate a blatant disregard of the Plaintiff's intellectual property rights.

47. Further, the Defendants have consistently ignored the Plaintiff's demand letters and misrepresented to the Plaintiff that they have retained counsel.

48. The Defendants' actions are deliberate, wilful, calculated and done with full knowledge and intent to profit from the Plaintiff's success, goodwill and reputation. Such conduct justifies an award of punitive or exemplary damages as against the Defendants, and each of them, and an award of costs on a solicitor client basis.

49. Full particulars of the Defendants' activities are not known to the Plaintiff, but the Plaintiff seeks relief in relation to all infringing or wrongful acts of the Defendants.

50. By reason of their infringing activities, the Defendants have made and continue to make unjust profit and the Plaintiff has suffered and continues to suffer damage.

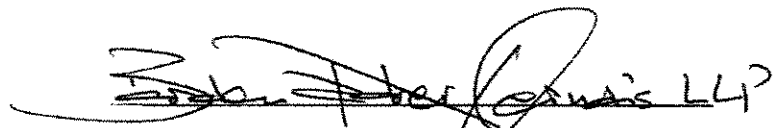
51. The Plaintiff proposes this action be tried at Toronto, Ontario.

Date: February 21, 2007

Amended March 8, 2007 pursuant to Rule 200

;

Date: February 21, 2007



BORDEN LADNER GERVAIS LLP
40 King Street West, Scotia Plaza
Toronto, Ontario M5H 3Y4

Ziad J. Katul

Tel: (416) 367-6713
Fax: (416) 682-2822

Solicitors for the Plaintiff

SCHEDULE "A"



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CANADIAN TRADE-MARK DATA

*** Note Data on trade-marks is shown in the official language in which it was submitted.

The database was last updated on: 2007-02-27

APPLICATION NUMBER:
1244805

REGISTRATION NUMBER:
TMA667447

STATUS:	REGISTERED
FILED:	2005-01-25
FORMALIZED:	2005-01-26
ADVERTISED:	2005-12-07
REGISTERED:	2006-07-12

REGISTRANT:
CANADIAN PROCESS SERVING INC.
605-175 HUNTER STREET EAST
HAMILTON
L8N 4E7
ONTARIO

REPRESENTATIVE FOR SERVICE:
MARK ARTHUR KOCH
866 MAIN STREET EAST
HAMILTON
ONTARIO L8M 1L9

TRADE-MARK:



MARK DESCRIPTIVE REFERENCE:
CANADIAN PROCESS SERVING & design

DISCLAIMER TEXT:
The applicant disclaims the exclusive use of CANADIAN apart from the trademark. The applicant disclaims the exclusive use of the words PROCESSING SERVING apart from the trademark.

INDEX HEADINGS:
CANADIAN PROCESS SERVING

VIENNA INFORMATION:
Code Description

1.3.2 Other representations of the sun

1.5.1 Terrestrial globes

WARES:

(1) Booklets, brochures and pamphlets featuring information regarding legal process serving.

SERVICES:

(1) Services of legal process, filing court documents, filing registry documents, filing and processing all document associated with bailiff services, registry searches, skip tracing, litigation file searches, asset searches, credit searches, license searches, occupancy searches.

CLAIMS:

Used in CANADA since January 31, 1990.

ASSOCIATED MARKS:

TMA667,654 TMA668,840

ACTION	DATE	BF	COMMENTS
Filed	25 January 2005		
Created	26 January 2005		
Formalized	26 January 2005		
Note to File	10 February 2005		Trade-mark corrected to read Canadian Process Serving & design
Search Recorded	19 May 2005		
Examiner's First Report	24 May 2005	24 September 2005	
Approved	02 November 2005		
Translation Requested	08 November 2005	30 November 2005	20051124130220
Translation Received	24 November 2005		
Extracted for Advertisement	24 November 2005		Vol.52 Issue 2667 2005/12/07
Advertised	07 December 2005		Vol.52 Issue 2667
Allowed	24 February 2006		
Allowance Notice Sent	24 February 2006	24 August 2006	
Registered	12 July 2006		

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Last updated: 2007-02-27



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SCHEDULE "B"



Canadian Intellectual Property Office / Office de la propriété intellectuelle du Canada



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CANADIAN TRADE-MARK DATA

*** Note Data on trade-marks is shown in the official language in which it was submitted.

The database was last updated on: 2007-02-27

APPLICATION NUMBER:
1244804

REGISTRATION NUMBER:
TMA668840

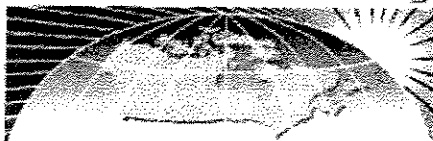
STATUS: REGISTERED
FILED: 2005-01-25
FORMALIZED: 2005-01-26
ADVERTISED: 2005-12-07
REGISTERED: 2006-07-27

REGISTRANT:
 Canadian Process Serving Inc.
 605-175 Hunter Street East
 Hamilton
 L8N 4E7
 ONTARIO

REPRESENTATIVE FOR SERVICE:
 MARK ARTHUR KOCH
 866 MAIN STREET EAST
 HAMILTON
 ONTARIO L8M 1L9

TRADE-MARK:

Ontario Process Serving



MARK DESCRIPTIVE REFERENCE:

ONTARIO PROCESS SERVING & design

DISCLAIMER TEXT:

The right to the exclusive use of the words ONTARIO and PROCESS SERVING is disclaimed apart from the trade-mark.

INDEX HEADINGS:

ONTARIO PROCESS SERVING

VIENNA INFORMATION:

Code Description

1.3.2 Other representations of the sun

1.5.1 Terrestrial globes

WARES:

(1) Booklets, brochures and pamphlets featuring information regarding legal process serving.

SERVICES:

(1) Services of legal process, filing court documents, filing registry documents, filing and processing all documents associated with bailiff services, registry searches, skip tracing, litigation file searches, asset searches, credit searches, license searches, occupancy searches.

CLAIMS:

Declaration of Use filed June 20, 2006.

ASSOCIATED MARKS:

TMA667,447 TMA667,654

ACTION	DATE	BF	COMMENTS
Filed	25 January 2005		
Created	26 January 2005		
Formalized	26 January 2005		
Search Recorded	19 May 2005		
Examiner's First Report	24 May 2005	24 September 2005	
Correspondence Created	20 September 2005	20 January 2006	
Approved	02 November 2005		
Translation Requested	08 November 2005	30 November 2005	20051124130220
Translation Received	24 November 2005		
Extracted for Advertisement	24 November 2005		Vol.52 Issue 2667 2005/12/07
Advertised	07 December 2005		Vol.52 Issue 2667
Allowed	24 February 2006		
Allowance Notice Sent	24 February 2006	25 January 2008	
Registered	27 July 2006		

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Court No. T-336-07

FEDERAL COURT

B E T W E E N:

CANADIAN PROCESS SERVING INC.

Plaintiff

- and -

1589818 ONTARIO INC. c.o.b. PROCESS
SERVERS OF ONTARIO, PROCESS SERVERS
OF NIAGARA and ONTARIO PROCESS
SERVERS, ROBERT KAUS c.o.b. TRI-CITY
PROCESS SERVERS, ADRIENNE CECILE
HUMMEL

Defendants

AMENDED STATEMENT OF CLAIM

BORDEN LADNER GERVAIS LLP
40 King Street West
Toronto, Ontario
M5H 3Y4

Ziad J. Katul

Tel: (416) 367-6282

Fax: (416) 361-7321

Solicitors for the Plaintiff