

Date: 20250626
Docket: CI 25-01-50204
(Winnipeg Centre)
Indexed as: Manitoba Liquor and Lotteries Corporation v.
IL Nido Ltd. et al.
Cited as: 2025 MBKB 89

COURT OF KING’S BENCH OF MANITOBA

B E T W E E N:

MANITOBA LIQUOR AND LOTTERIES CORPORATION,
applicant,
- and -
IL NIDO LTD. AND SANCTUM IP HOLDINGS LTD.,
respondents.)
) Gregory M. Fleetwood
) Tan Ciyiltepe
) Chanakya Sethi
) for the applicant
)
) No Appearance
) IL Nido Ltd.
)
) No Appearance
) for Sanctum IP Holdings Ltd.
)
)
) JUDGMENT DELIVERED:
) June 26, 2025

HARRIS J.

INTRODUCTION

[1] Manitoba Liquor and Lotteries Corporation (MBLL) seeks to prohibit the respondents from offering, advertising, operating online gambling products and services through Bodog.eu, Bodog.net, or any other related successor or replacement websites, or to advertise online gambling products and services to

persons located in Manitoba. Although duly served as attested to in the affidavit of Karla Ibarra, the respondents were not present in court, were not represented by counsel and have not filed any materials in response to those of the applicant.

[2] At the hearing of the application on May 26, 2025, I granted the relief sought by the applicant, with reasons to follow. These are those reasons. As the only materials were those of the applicant, what follows is necessarily a summary of uncontested facts as presented by the applicant.

FACTS

[3] All betting, gaming and lottery activities in Canada, online or otherwise, are prohibited by the ***Criminal Code*** of Canada (see, for example, sections 202 and 206 of the ***Criminal Code***, R.S.C., 1985, c. C-46). Section 207 provides an exception for provinces to conduct gaming operations or to license organizations to do so. In Manitoba, MBLL is vested with the exclusive authority to conduct, manage and offer lotteries in Manitoba, including online gambling products and services. Its authority is derived from subsection 207(1)(a) of the ***Criminal Code***, ***The Manitoba Liquor and Lotteries Corporation Act***, C.C.S.M. c. L155 (the ***LLCA***) and ***The Liquor, Gaming and Cannabis Control Act***, C.C.S.M. c. L153 (the ***GCCA***) (collectively, the ***Acts***). MBLL primarily offers these gambling products and services through the website www.playnow.com/mb (***PlayNow***).

[4] MBLL's operations are governed by the ***Acts*** and it is regulated by The Liquor, Gaming and Cannabis Authority of Manitoba (***LGCA***). MBLL is required

to comply with a variety of federal and provincial statutory and regulatory obligations.

[5] Profits generated by MBLL are returned to the Province of Manitoba and used to fund healthcare, education, housing, supports for First Nations, Indigenous groups, social services, and other government programs in the province. For the fiscal year ending March 31, 2024, MBLL returned nearly \$380 million from its casino, lottery, online gambling and video lottery offerings, while in the previous year their return was more than \$390 million.

[6] MBLL's audited financial statements are reviewed annually by the Auditor General of Manitoba who may subject MBLL to its own audit. MBLL also implements anti-money laundering policies for the funds wagered on its platforms, and institutes measures designed to create safer gambling experiences for its players.

[7] The respondent, Il Nido Ltd., is an entity incorporated in Antigua and Barbuda. It purports to be licensed by the Antigua and Barbuda Financial Services Regulatory Commission pursuant to licenses issued by the Commission. Il Nido operates Bodog pursuant to these licenses. Sanctum IP Holdings Ltd. is listed as the registrant of a Canadian trademark for Bodog for online entertainment services.

[8] Bodog operates two online platforms accessible to the residents of Manitoba: www.bodog.eu and www.bodog.net. [Bodog.eu](http://www.bodog.eu) allows players located in Manitoba to deposit and wager Canadian dollars on various sporting events,

table games such as Poker and Blackjack, and casino games such as Roulette. Bodog.net offers free versions of these games under the same Bodog branding. Bodog also operates another online gambling platform, www.bodog.com, however, a resident of Manitoba is prevented from accessing the www.bodog.com site through “geo-blocking” technology and is instead provided a link redirecting the user to the www.bodog.eu domain. Bodog does not geo-block the www.bodog.eu domain in Manitoba.

[9] Bodog’s “real money” site markets itself as a leading, safe and legal gambling destination for Canadians. Critically, it advertises itself as a “legal online casino in Canada” and says that, “it is one of the safest places to gamble online within the realms of [Canada]”. It states, “register today for the safest and most exciting online gambling experience in Canada” and “Bodog also offers unique Canadian online casino experiences like Kino and Kino Draw, numerous versions of bingo and a brand new casino game that could net you up to \$100,000 thunder crash!”. There are numerous other statements in the websites indicating the target marketing is to Canada. Bodog has no physical presence in Manitoba, and operates through third-party service providers, including payment providers, payment processors, internet service providers, webhosting providers, online advertising providers and domain-name providers. Some of these providers are themselves offshore entities located outside Canada.

[10] As noted, the ***Criminal Code*** prohibits all gambling in Canada that does not fit within the specified statutory exception. No such exception applies to

Bodog. It has no legal authority to operate in Manitoba or any other Canadian jurisdiction. Its advertising is contrary to the **Competition Act**, R.S.C., 1985, c. C-34, and the **Trademarks Act**, R.S.C., 1985, c. T-13, in that Bodog falsely promotes the online gambling platform by misrepresenting itself as “the most trusted site in Canada to play casino games”, “the most trusted Canadian casino online” and one of the “safest places to gamble online within the realms of the country”. Bodog is misleading Manitobans as to the lawfulness, character and quality of the www.bodog.eu and the www.bodog.com platforms.

[11] Pursuant to its investigation into the operations and advertising activities of the respondents, MBLL retained Ning Fung Tse, the managing director in data and analytics and forensic ana-litigation consulting in the Toronto office of FTI Consulting Inc. (Tse). Tse holds a Bachelor of Engineering in computer engineering from the City University of Hong Kong and a Bachelor of Laws from the University of London. He has extensive experience in data analytics, computer forensics, e-Discovery and systems integration, and holds several related professional designations.

[12] The Bodog platform is accessible to residents of Manitoba and are not operated under any license issued by any Canadian regulatory authority or pursuant to any agreement with any Canadian government. Bodog does not have any authority granted by the MBLL, **LGCA**, the **Acts** or the Government of Manitoba. They do not claim to, nor do they operate pursuant to any exception to the prohibitions on gambling set out in the **Criminal Code**.

[13] Tse determined, through his investigations, that individuals located in Manitoba who wish to gamble on the Real Money site have been able to access the Real Money site in a variety of ways, including via a simple Google search, register an account using a Manitoba address, deposit funds from a Canadian bank account in Canadian dollars and place bets including on sporting events involving teams based in Winnipeg. Bodog never prompts a Manitoba player for their location and despite possessing the technological ability to do so, does not impose location-based restrictions with respect to the depositing of funds, size of wagers, or the availability of gaming and betting. Similarly, the Manitoba player can access Bodog's Free Roll site, and play the free versions of the casino and table games offered under the same Bodog branding and trademarks as is featured on the Real Money site.

[14] Bodog's Real Money site advertises and promotes its unlawful gambling offerings to Manitobans through a variety of False and misleading statements, including by misrepresenting that:

- "Bodog is a legal online casino in Canada";
- Bodog is "one of the safest places to gamble online within the realms of the country"; and
- "Bodog is the most trusted site in Canada".

[15] Bodog also extensively advertises and promotes its unlawful gambling platforms to Manitoba residents through extensive social media advertising

directed at and accessible to Manitobans including on Instagram, Tik Tok, X (formerly Twitter), Facebook and YouTube.

Harms caused by Bodog to MBLL and the Residents of Manitoba

[16] While MBLL returns its profits to the Government of Manitoba to fund programs identified earlier, all of the revenue Bodog receives through its platforms in Manitoba is revenue that has been diverted from Manitobans. Bodog operates for its own profit and without any accountability to Manitobans or other Canadians.

[17] As it is not regulated by any Canadian authority or subject to scrutiny by such authority, there is no authority requiring Bodog to implement betting limits or other responsible gambling features. Bodog does not operate under the same financial reporting obligations to remit any funds to the Government of Manitoba, or pay taxes, increasing the risk of money laundering and fraud. There is a risk that the unlawful and misleading misrepresentations with respect to its status as a safe and legal operator in Canada will continue to delegitimize MBLL's operations in the eyes of Manitobans and undermine the goodwill associated with the registered MBLL trademarks. Bodog's operation in the Province of Manitoba has created significant confusion among Manitoba residents regarding the legality of gambling platforms accessible to them.

[18] Prior to this application, the Canadian Lottery Coalition, comprising the Atlantic Lottery Corporation, Lotto Quebec, Lotteries and Gaming Saskatchewan, Manitoba Liquor and Lotteries Corporation and British Columbia Lottery Corporation sent letters to Bodog on behalf of MBLL and any other members to

Bodog's registered corporate addresses and e-mail accounts demanding that Bodog cease:

- (a) making Bodog.eu accessible to Manitobans by deploying the geo-blocking technology it possesses to prevent players physically located in Manitoba from being able to use the services offered on the platform; and
- (b) advertising or promoting its online gambling products to anyone located in Manitoba.

Those demands were made in both February and June 2023. Confirmation of receipt was acknowledged by e-mail, but Bodog provided no further response. Bodog has refused to comply with the demands described in the letters and continues its unlawful activities in Manitoba.

Relief Sought

[19] Against the backdrop of those facts, MBLL was granted the following injunctive and declaratory relief:

- a declaration that the respondents have no lawful authority to (i) offer online gambling products and services or (ii) advertise such online gambling products and services to persons located in Manitoba, as these activities are contrary to sections 202 and 206 of the ***Criminal Code***;
- a declaration that the respondents' advertising of the websites bodog.eu and bodog.net (including any related, successor, or replacement websites) whether directly or indirectly, to any person located in

Manitoba as a legitimate, lawful, “safe”, or “trusted” online gambling site constitutes (i) a false representation contrary to section 52(1) of the ***Competition Act***, and (ii) a false description of the respondents’ goods and services that is likely to mislead the public contrary to section 7(d) of the ***Trademarks Act***;

- a declaration that the respondents, as unauthorized and illegal gambling site operators in Manitoba, have engaged in tortious conduct by committing the unlawful means tort;
- a permanent injunction requiring the respondents, their affiliates, successors, and assigns, and their respective officers, directors, agents, representatives, and employees to:
 - cease operating, hosting, registering, displaying, or otherwise setting up the online gambling website bodog.eu in a manner accessible to persons located in Manitoba;
 - cease any and all advertising targeted at or accessible to persons located in Manitoba, including advertising of the respondents’ online gambling products or services, whether paid or unpaid, including advertising on television networks, streaming services, subscription channels, broadcast channels, radio stations, websites, entertainment venues, public forums, and all other forms of physical, digital, or online media;

- refrain from inducing, directing, or authorizing any other person or entity to commit the acts in paragraph (i) and (ii) above; and
- implement geo-blocking technology at the website bodog.eu to prevent anyone located in Manitoba from accessing, viewing, purchasing, or otherwise engaging with any online gambling products or services offered by the respondents.

[20] Section 34 of ***The Court of King's Bench Act***, C.C.S.M. c. C280 provides as follows:

Declaratory orders

34 The court may make a binding declaration of right whether or not consequential relief is or could be claimed.

Ordonnances déclaratoires

34 Le tribunal peut rendre un jugement déclaratoire, que des mesures de redressement accessoires soient ou non réclamées ou puissent être ou non réclamées.

[21] In ***Parkinson v. Health Sciences Centre***, 1982 CanLII 2908 (MB CA), the Court of Appeal noted (at para. 14) that the broad scope of the right to secure declaratory relief was emphasized by Dickson J. in the case of ***Solosky v. The Queen***, (1980), 1979 SCC 9, 105 D.L.R. (3d) 745, where that court stated as follows (at page 753):

Declaratory relief is a remedy neither constrained by form nor bounded by substantive content, which avails persons sharing a legal relationship, in respect of which a "real issue" concerning the relative interests of each has been raised and fails to be determined.

The principles which guide the Court in exercising jurisdiction to grant declarations have been stated time and again. In the early case of *Russian Commercial and Industrial Bank v. British Bank for Foreign Trade Ltd.*, [1921] 2 A.C. 438, in which parties to a contract sought assistance in construing it, the Court affirmed that declarations can be granted where

real, rather than fictitious or academic, issues are raised. Lord Dunedin set out this test (at p. 448):

The question must be a real and not a theoretical question; the person raising it must have a real interest to raise it; he must be able to secure a proper contradictor, that is to say, some one presently existing who has a true interest to oppose the declaration sought.

In *Pyx Granite Co. Ltd. v. Ministry of Housing and Local Government*, [1958] 1 Q.B. 554 (reversed [1960] A.C. 260, on other grounds), Lord Denning described the declaration in these general terms (p. 571):

... if a substantial question exists which one person has a real interest to raise, and the other to oppose, then the court has a discretion to resolve it by a declaration, which it will exercise if there is good reason for so doing.

The jurisdiction of the Court to grant declaratory relief was again stated. in the broadest language, in *Pharmaceutical Society of Great Britain v. Dickson*, [1970] A.C. 403 (H.L.), a case in which the applicant sought a declaration that a proposed motion of the pharmaceutical society, if passed, would be *ultra vires* its objects and in unreasonable restraint of trade. In the course of his judgment, Lord Upjohn stated, at p. 433:

A person whose freedom of action is challenged can always come to the court to have his rights and position clarified, subject always, of course, to the right of the court in exercise of its judicial discretion to refuse relief in the circumstances of the case.

As A.H. Hudson suggests in his article, "Declaratory Judgments in Theoretical Cases: The Reality of the Dispute" (1976–77), 3 Dal. L.J. 706:

The declaratory action is discretionary and the two factors which will influence the court in the exercise of its discretion are the utility of the remedy, if granted, and whether, if it is granted, it will settle the questions at issue between the parties.

[22] I agree with MBLL that each instance of declaratory relief sought is well founded in the uncontradicted evidence before the court, all of which corresponds to the questions before this court – namely, the legality and propriety of Bodog's

provision of gambling offerings and services in the province, and will have a significant practical utility of affirming to Bodog and its customers and its advertising partners that Bodog is operating illegally in Manitoba.

Declaration that Bodog has no lawful authority to offer or advertise online gambling products and services to persons located in Manitoba

[23] Sections 202 and 206 of the ***Criminal Code*** prohibit the provision of betting, pool-selling, or bookmaking and the conducting and managing of a lottery scheme or other games of chance. Based on the evidence as outlined above, I am satisfied that Bodog is conducting itself contrary to both sections 202 and 206 of the ***Criminal Code***. Bodog records and registers bets in Manitoba, controls money related to the recording and registration of those bets, advertises invitations to bet on the lotteries and games of chance on its platforms and/or aids and abets in all the above activities. Bodog does in fact conduct and manage for profit lottery schemes and other games of chance accessible to Manitobans and induces Manitobans to stake money and other valuable property on the www.bodog.eu platform and/or aids and abets in all of the above.

Declaration that Bodog's False representations regarding its legality, legitimacy, trustworthiness and safety are violations of the Competition Act and the Trademarks Act

[24] Section 52(1) of the ***Competition Act*** prohibits the knowing or reckless making of materially false or misleading representations to the public for the purpose of promoting any business interest. Section 52(1) provides that, a breach is established where there exists:

- (a) a false or misleading statement knowingly or recklessly made;
- (b) tending to discredit the business, wares or services of a competitor;
- and
- (c) resulting in damage.

[25] It is clear that Bodog contravenes section 52(1) of the **Competition Act** by repeatedly and publicly advertising to players in Manitoba that its online gambling platforms are lawful, legitimate, trusted and safe for the purpose of attracting players to these platforms. These statements are demonstrably false and misleading.

[26] Section 7(d) of the **Trademarks Act** prohibits the use of any description associated with goods or services that is false in a material respect and is likely to mislead the public as to the character or quality of its goods and services. Bodog contravenes this section by using its registered trademark for the brand name Bodog on its online gambling platforms and social media posts in connection with demonstrably false representations regarding lawfulness, legitimacy, trustworthiness and safety of the www.bodog.eu and www.bodog.net sites in Manitoba. These statements mislead Manitobans about the propriety and safety of Bodog platforms. It diminishes the goodwill associated with the MBLL marks, and the MBLL status is the only true legal provider of gambling and lottery schemes in the province. All of this causes significant incalculable financial harm to the applicant.

Declaration that Bodog has committed the unlawful means tort by operating as an unauthorized and illegal gambling operator in Manitoba

[27] The unlawful means tort creates liability in a three-party situation, allowing one party to sue for economic loss resulting from the defendant's unlawful act against a third party (***A.I. Enterprises Ltd. v. Bram Enterprises Ltd.***, 2014 SCC 12, [2014] 1 S.C.R. 177 (at para. 23)). This tort is established where:

- (a) the defendant intended to injure the plaintiff's economic interests;
- (b) the injury has been perpetrated by illegal or unlawful means; and
- (c) the plaintiff suffers economic loss as a result.

[28] I am satisfied on the facts outlined earlier in these reasons, that:

- (a) Bodog's conduct intentionally harms the economic interests of MBLL;
- (b) Bodog has inflicted these injuries on MBLL through its ongoing illegal conduct in the province perpetrated against unwitting third-party players and their deposited funds, unlawfully funnelling revenues and that they have done so through unlawful means by breaching the ***Criminal Code***, the ***Competition Act*** and the ***Trademark Act***, and
- (c) Bodog's unlawful means caused MBLL to suffer direct financial losses in the form of revenues lost to Bodog's illegal platforms and expenses incurred by MBLL to educate and protect Manitoba players from the dangers of legal, unrelated gambling operators such as Bodog.

[29] MBLL also seeks a permanent injunction as described above. The party requesting a permanent injunction must demonstrate that it enjoys legal rights that damages are an inadequate remedy and that there is no impediment to the court's discretion to grant the injunction (*Google Inc. v. Equustek Solutions Inc.*, 2017 SCC 34, [2017] 1 S.C.R. 824 (at para. 66)). Here, MBLL clearly enjoys legal rights with respect to online gaming. MBLL has the sole legal authority to operate online gambling platforms in Manitoba. Granting a permanent injunction, as requested by MBLL, would have the effect of confirming that MBLL has the sole legal right to conduct and manage lottery schemes and gambling offerings in the Province of Manitoba, free from Bodog's illegal interference and with the acknowledgement that Bodog's current operations are both unlawful and inflict serious financial harm on MBLL and those who benefit from the operations of MBLL.

[30] The evidence filed by MBLL demonstrates the damages are an inadequate remedy. Damages may be inadequate where the quantum of harm may be ascertainable, but the amount is unlikely to be recovered and where the wrong is continuing (*Google* at para. 66). Bodog's ongoing operation of its illegal gambling platforms in Manitoba inflicts new and ever increasing and incalculable harm on MBLL each day. The fact that their operations are situated offshore, outside the reach of Canadian authorities, makes it highly unlikely that MBLL would be successful in any effort to enforce the significant monetary judgment against them.

[31] Finally, there is no impediment to this court's discretion to grant the injunction. The evidence presented by the MBLL establishes the required elements and the various causes of actions pleaded in the Notice of Application. Bodog did not respond to these materials, and I conclude that Bodog is not contesting the facts or the relief sought in the Notice of Application. MBLL has established that it has suffered and will continue to suffer harm from Bodog's illegal operations. All of MBLL's prior demands have been met with silence by Bodog. There is no adequate alternative remedy that would protect MBLL from the ongoing harm created by Bodog's activities. Damages are wholly inadequate and unlikely to be recovered. There is nothing to indicate that pursuing some alternate form of remedy through the Justice system in Antigua and Barbuda would even be possible. There are no residual equitable considerations that factor into the analysis in these proceedings.

[32] Finally, the terms of the injunction sought by MBLL are carefully circumscribed to enjoin Bodog only in respect of its operations in Manitoba and then only in respect of the gambling platforms and related media that MBLL has demonstrated perpetuating these firms. The injunction only applies to the necessary parties, to specific and identifiable conduct and to technological capabilities that are already in Bodog's possession.

[33] The applicant is also entitled to its costs.

_____ J.