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I S S U E D	FEDERAL COURT COUR FÉDÉRALE May 10, 2024 10 mai 2024
Alice Prodan-Gil	
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Court File No.

FEDERAL COURT

B E T W E E N:

(Court Seal)

MARTINIZING INTERNATIONAL, LLC

Applicant

and

C&D MAKRIDIS HOLDINGS LTD.

Respondent

APPLICATION UNDER Rules 61 and 300 of the *Federal Courts Rules* and the *Trademarks Act*, R.S.C. 1985, c. T-13 as amended.

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Applicant. The relief claimed by the Applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor or, if the Applicant is self-represented, on the Applicant, WITHIN 10 DAYS after being served with this notice of application.

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 OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date _____ Issued by _____
(Registry Officer)

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

TO: C&D Makridis Holdings Ltd.
214 Bedford Highway
Halifax, Nova Scotia
B3M 2K3

APPLICATION

The applicant, Martinizing International, LLC ("Martinizing International"), makes Application for:

1. A declaration that:
 - (i) the respondent, C&D Makridis Holdings Ltd. ("C&D Makridis"), infringed and is deemed to have infringed the rights of the applicant, in the trademarks defined below as the "MARTINIZING Trademarks", contrary to sections 19 and 20 of the *Trademarks Act*,
 - (ii) the respondent has directed public attention to its goods, services and/or business in such a way as to cause or be likely to cause confusion in Canada between its goods services and/or business and the goods, services and/or business of the applicant, contrary to section 7(b) of the *Trademarks Act*,
 - (iii) the respondent has depreciated the value of the goodwill attaching to the MARTINIZING Trademarks contrary to subsection 22(1) of the *Trademarks Act*,

including, without limitation, by adopting and using MARTINIZING as, or as part of, a trademark or trade name, and including any other trademarks, trade names, social media account names and domain names that use, or are confusing with or likely to be confused with, the MARTINIZING Trademarks (as defined below).

2. An interim, interlocutory and permanent injunction to restrain the respondent, its parent, subsidiary, affiliated and related corporations, and their respective

officers, directors, servants, agents, shareholders, employees, successors, heirs, assigns as well as other entity over whom any of the foregoing directly or indirectly exercise control from:

- (i) infringing the MARTINIZING Trademarks, or otherwise advertising, promoting, and/or offering goods and services in association with the MARTINIZING Trademarks or any other trademark confusing with the MARTINIZING Trademarks;
- (ii) directing public attention to their goods, services and/or business in such a way as to cause or be likely to cause confusion in Canada between their goods, services and/or business and the goods, services and/or business of the applicant;
- (iii) using the MARTINIZING trademark or any other corporate names, trademarks, trade names, or Internet domain names that are confusing with the MARTINIZING Trademarks;
- (iv) otherwise infringing the applicant's rights in the MARTINIZING Trademarks contrary to sections 19 and 20 of the *Trademarks Act*; and
- (v) depreciating the value of the goodwill in the MARTINIZING Trademarks.

3. An Order directing the respondent to deliver up to the applicant or destroy under oath, or under the supervision of the Court, all materials, including but not limited to signage, printed matter, advertising and sales materials, and any other matter or materials that offend in any way against any Order which may be made herein.

4. Damages in the amount of one million dollars (\$1,000,000.00) or, in the alternative, as the applicant may elect, an accounting of the profits made by the respondent as a result of its unlawful activities as aforesaid.
5. Punitive damages and exemplary damages.
6. Pre-judgment and post-judgment interest.
7. Costs of this Application on a solicitor and client basis.
8. All applicable taxes on the foregoing.
9. Such further and other relief as the applicant may request and this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

I. The Parties

1. The applicant, Martinizing International, is a limited liability corporation incorporated pursuant to the laws of the State of Delaware and having an address of 711 5th Avenue South, Suite 210, Naples, Florida 34102, United States of America.
2. Martinizing International is the owner of the international franchise system which offers licenses to franchisees to operate dry cleaning and laundry businesses under the Martinizing brand. The Martinizing brand was founded over 75 years ago and today encompasses over 350 franchises around the world, including four in Canada. Via its franchisees, the applicant offers a range of goods and services in the field of dry cleaning and laundry, as described in greater detail below.

3. The respondent, C&D Makridis Holdings Ltd., is a company incorporated and existing under the laws of the Province of Nova Scotia and has a registered address at 214 Bedford Highway, Bedford, Nova Scotia, B3M 2K3. Its directors are Aristidis D. Makridis and Aristidis C. Makridis.

4. C&D Makridis operates and has operated a dry cleaning business at 214 Bedford Highway, Bedford, Nova Scotia, B3M 2K3 and at 6954 Mumford Rd, Nova Scotia, B3L 4V9.

II. Martinizing International's Trademarks

5. Martinizing International owns 11 registered trademarks that comprise or include the trademark "MARTINIZING", including two registrations for MARTINIZING (registrations numbers TMA343,040 and TMA1035,361), which are registered for use in association with dry cleaning and laundry services, fabric cleaning and processing services, and operation of stores providing fabric cleaning and processing services, among other goods and services (the "MARTINIZING Goods and Services"). The MARTINIZING trademark and trade name have been in use in Canada by Martinizing International and its predecessors-in-title for over 35 years. Particulars of the MARTINIZING trademark registrations TMA343,040 and TMA1,035,361 are attached as Schedule "A" and particulars of the MARTINIZING Trademarks are attached as Schedule "B" (collectively, the "MARTINIZING Trademarks").

6. Martinizing International and its predecessors-in-title have extensively and continuously used, advertised and promoted, in their own right or through their licencees, the MARTINIZING Trademarks in Canada. The MARTINIZING Trademarks are well-known to the Canadian public as identifying the MARTINIZING

Goods and Services and business of Martinizing International. Martinizing International has thereby developed valuable and substantial goodwill in association with each of the MARTINIZING Trademarks individually and with the MARTINIZING Trademarks collectively.

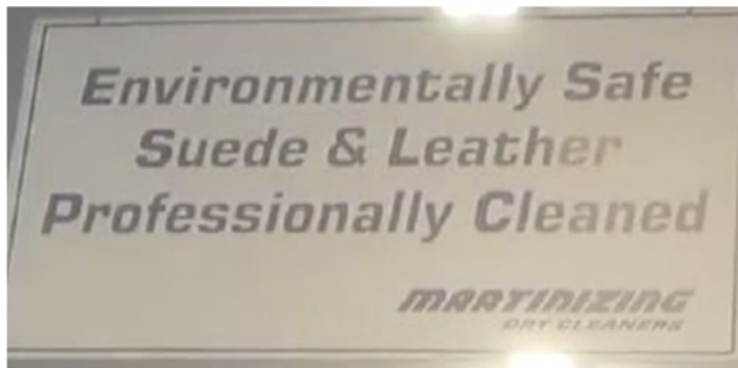
7. C&D Makridis knows and at all relevant times has known of Martinizing International's rights in and to the MARTINIZING Trademarks and the significant reputation and goodwill Martinizing International has in the MARTINIZING Trademarks.

III. C&D Makridis' Infringing Activities

8. C&D Makridis commenced, at a time unknown to Martinizing International but known to the respondent, and continues to advertise, promote, offer, sell, and perform dry cleaning and laundry services and related goods and services without licence, authority, or consent of Martinizing International and with prior knowledge of Martinizing International and its rights, in association with trademarks or trade names that consist of or include "MARTINIZING".

9. For example, C&D Makridis' locations display and have displayed "MARTINIZING" on both indoor and outdoor signage, as shown in the examples below:





10. C&D Makridis uses and has used the trademarks on its website and Facebook social media profile, respectively, at maritimedrycleaners.ca and www.facebook.com/MartinizingDC.

11. C&D Makridis' use of the MARTINIZING Trademarks or any trademark or trade name confusingly similar therewith is not authorized by Martinizing International. The continued use by C&D Makridis of the MARTINIZING Trademarks

is likely to lead members of the public to the inference that the goods, services and/or business of C&D Makridis are associated with Martinizing International, or that Martinizing International authorizes, endorses or otherwise approves of the goods, services and/or business of C&D Makridis.

12. C&D Makridis has infringed and is deemed to have infringed the exclusive rights of Martinizing International in the MARTINIZING Trademarks, contrary to sections 19 and 20 of the *Trademarks Act*.

13. C&D Makridis has used the MARTINIZING Trademarks in a manner likely to have the effect of depreciating the goodwill attaching thereto, contrary to section 22 of the *Trademarks Act*.

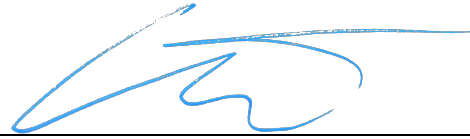
14. C&D Makridis has directed public attention to its goods, services and/or business in such a way as to cause, or to be likely to cause confusion in Canada between its goods, services and/or business and the services and/or business of Martinizing International, contrary to section 7(b) of the *Trademarks Act*.

15. Since at least as early as September 29, 2023, when Martinizing International learned of C&D Makridis' activities complained of herein, Martinizing International has repeatedly requested that it stop its infringing activities and cease use of the MARTINIZING Trademarks. Nevertheless, C&D Makridis has refused to stop its infringing activities. C&D Makridis will continue the activities complained of unless restrained by this Honourable Court.

THIS APPLICATION WILL BE SUPPORTED BY:

16. The applicant's supporting affidavits and accompanying exhibits, all to be provided in accordance with the *Federal Courts Rules*.

17. Such further and other material as counsel may advise and the Court may permit.



May 10, 2024

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