

THE COMPETITION TRIBUNAL

File No. CT-2003-009

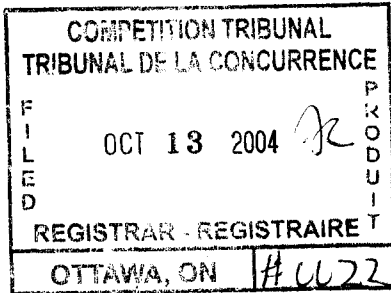
Registry Document No. 0022

BETWEEN:

ALLAN MORGAN AND SONS LTD.

Applicant

- and -



LA-Z-BOY CANADA LIMITED

Respondent

AFFIDAVIT OF DOCUMENTS

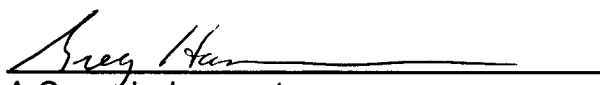
I, **Mark Wiltshire**, of the City of Waterloo, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Vice-President of Sales and Marketing of the corporation.
2. I have conducted a diligent search of the records of La-Z-Boy Canada Limited and have made appropriate enquiries of others to inform myself in order to make this Affidavit. This Affidavit discloses, to the full extent of my knowledge, information and belief, all documents relating to any matter in issue in this action that are or have been in La-Z-Boy Canada Limited's possession, control or power.
3. I have listed in Schedule "A" those documents that are in La-Z-Boy Canada Limited's possession, control or power of the corporation and that it does not object to producing for inspection.
4. I have listed in Schedule "B" those documents that are or were in La-Z-Boy Canada Limited's possession, control or power of the corporation and that it objects to producing because it claims they are privileged, and I have stated in Schedule "B" the grounds for each such claim.
5. I have listed in Schedule "C" those documents that were formerly in La-Z-Boy Canada Limited's possession, control or power of the corporation but are no longer in La-Z-Boy Canada Limited's possession, control or power of the corporation, and I have stated in Schedule "C" when and how it lost possession or control of or power over them and their present location.

6. The corporation has never had in its possession, control or power any document relating to any matter in issue in this action other than those listed in Schedules "A", "B" and "C".

SWORN BEFORE ME at the City)
)
of Waterloo, in the Province)
)
of Ontario, on 1 day)
)
of ~~September~~, 2004.)
19th *October* *MW*)


Mark Wiltshire


A Commissioner, etc.

CERTIFICATE OF SOLICITOR

I CERTIFY that I have explained to the deponent:

- (a) the necessity of making full disclosure of all relevant documents;
- (b) what kinds of documents are likely to be relevant to the allegations made in the pleadings;
- (c) if the action is brought under the simplified procedure, the necessity of providing the list required under rule 76.03.

Date: ^{October 5} ~~September~~ 5, 2004


KRISTINA SAVI-MASCARO

SCHEDULE "A"

Documents in the corporation's possession, control or power that it does not object to producing for inspection.

Tab No.	Date	Document
1.	Undated	Correspondence from Allan Morgan & Sons Ltd. to La-Z-Boy Canada Limited.
2.	Undated	Correspondence from Allan Morgan & Sons Ltd. to La-Z-Boy Canada Limited.
3.	Undated	La-Z-Boy Canada Swatch Program 2001 for General Dealers.
4.	Undated	La-Z-Boy Canada Swatch Program 2002 for General Dealers
5.	Undated	Statistical information for Canadian demand for household furniture.
6.	Undated	Allan Morgan & Sons Ltd. advertisement.
7.	Undated	Schedule depicting the number of orders made by Allan Morgan & Sons Ltd. from 1997 to 2003, organized by category.
8.	Undated	Map outlining location of Allan Morgan & Sons Ltd., Sears, Leon's Furniture Limited and La-Z-Boy Furniture Gallery and synopsis.
9.	Undated	Drive time map outlining location of Allan Morgan & Sons Ltd., Sears, Leon's Furniture Limited and La-Z-Boy Furniture Gallery and key for 75 minute drive time map.
10.	April 1, 1997	Correspondence from La-Z-Boy Canada Limited to all La-Z-Boy Dealers.
11.	January 9, 1999	Correspondence from La-Z-Boy Canada Limited to La-Z-Boy dealer.
12.	January 11, 1999	Memorandum from La-Z-Boy Canada Limited to All Residential Sales Representatives and Associates.
13.	July 5, 1999	Correspondence from La-Z-Boy Canada Limited to all Dealers.
14.	August 18, 1999	Correspondence from La-Z-Boy Canada Limited to Allan Morgan and Sons Ltd.

15.	September 27, 1999	Correspondence from La-Z-Boy Canada Limited to Allan Morgan & Sons Ltd.
16.	December 21, 1999	Correspondence from La-Z-Boy Canada Limited to Allan Morgan & Sons Ltd.
17.	January 10, 2000	Correspondence from La-Z-Boy Canada Limited to all Sales and Marketing Consultants.
18.	January 26, 2000	Memorandum from La-Z-Boy Canada Limited to all Sales and Marketing Consultants.
19.	July 15, 2000	Correspondence from La-Z-Boy Canada Limited to La-Z-Boy Dealer.
20.	April 18, 2001	Facsimile from Allan Morgan & Sons Ltd. to Danny Burbine.
21.	April 26, 2002	Order Form No. 1304490 from Allan Morgan & Sons Ltd. to La-Z-Boy Canada Ltd.
22.	May 1, 2002	Letter from Allan Morgan & Sons Ltd. to La-Z-Boy Canada Limited.
23.	May 6, 2002	Handwritten note from Island Furniture to La-Z-Boy Canada Limited.
24.	July 22, 2002	Facsimile from Allan Morgan & Sons Ltd. to Danny Burbine.
25.	August 27, 2002	Correspondence from La-Z-Boy Canada Limited to Allan Morgan & Sons Ltd.
26.	September 4, 2002	Correspondence from McInnes Cooper to La-Z-Boy Canada Limited.
27.	October 6, 2002	E-mail correspondence from Danny Burbine to Mark Wiltshire.
28.	December 11, 2002	Correspondence from La-Z-Boy Canada Limited to Allan Morgan & Sons Ltd.
29.	June 2, 2003	Article from Furniture Today – Canadian Factories brace for increased import heat.

SCHEDULE "B"

Documents that are or were in the corporation's possession, control or power that it objects to producing on the grounds of privilege.

Solicitor/Client Privilege:

Documents which are within the Wilson Walker LLP file which were prepared by solicitors of record in this action for the purpose of giving legal advice and opinions on the subject matter of this action, or were prepared by the in order to obtain legal advice or in order to provide information for use by solicitors in this litigation and arose in a confidence that such solicitor/client communication would not be disclosed. As such, the documents are privileged from production on the basis of solicitor and client privilege.

Without Prejudice Communications Privilege:

Documents containing or reflecting communication of a without prejudice nature concerning the matters and issues in this litigation. Privilege is claimed on the basis that the basis that the correspondence was written "without prejudice", either expressly or impliedly.

Litigation Privilege:

Documents comprised of notes, memoranda and confidential correspondence, and copies thereof, prepared for the purposes of obtaining or providing advice concerning this litigation, of obtaining or providing information and evidence to be used in this litigation, and preparing for and defending this action.

SCHEDULE "C"

Documents that were formerly in the corporation's possession, control or power but are no longer in its possession, control or power.

N/A

ALLAN MORGAN AND SONS LTD.

v

LA-Z-BOY CANADA LIMITED

Court File No.: CT-2003-009

THE COMPETITION TRIBUNAL

**AFFIDAVIT OF DOCUMENTS OF THE
RESPONDENT, LA-Z-BOY CANADA LIMITED**

**MYRON W. SHULGAN, Q.C.
KRISTINA SAVI-MASCARO
WILSON, WALKER LLP**
Barristers & Solicitors
300 - 443 Ouellette Avenue
P.O. Box 1390
Windsor, Ontario N9A 6R4
Telephone: (519) 977-1555
Facsimile: (519) 977-1565
**LSUC: 13823F-1B
LSUC: 46513-D**

Solicitors for the Respondent
File #120055-00016/saf