



The Tribunal certifies a Federation composed of the APVQ and the STCVQ

On March 4, 2003, the Tribunal rendered Decision 2003 CAPPRT 041, a final decision on an application for certification filed jointly by the Association des professionnelles et des professionnels de la vidéo du Québec (APVQ) and the Syndicat des techniciens du cinéma et de la vidéo du Québec (STCVQ).

More than six years elapsed from the day the APVQ filed for certification on November 7, 1996 until the Tribunal's final decision granting the APVQ-STCVQ Federation a sector pursuant to the *Status of the Artist Act*. Twice the APVQ had asked the Tribunal to suspend the proceedings regarding its application: the first time in order to wait for the adoption of the *Professional Category Regulations* which were enacted on April 22, 1999; and the second time, in order to study the possibility of submitting an amended application jointly with the STCVQ. Decision 2003 CAPPRT 041 concerns the amended application for certification filed on July 7, 2000 by the APVQ-STCVQ Federation.

Between January 8 and August 15, 2001, three interim decisions were rendered in this complex case. They are Decisions 2001 CAPPRT 032, 2001 CAPPRT 034 and 2001 CAPPRT 035, dealing with a request for intervention, a declaration requesting the disqualification of a law firm and a preliminary objection dealing with the status of the individuals in the proposed sector.

On June 21, 2002, a partially competing application for certification was filed by the Directors Guild of Canada

(DGC). The Federation filed a preliminary objection to the competing application alleging that it was inadmissible due to lateness in filing. The Tribunal upheld the Federation's preliminary objection.

The hearing on the merits of the Federation's application for certification was held April 2 and August 21, 22 and 23, 2002. In Decision 2003 CAPPRT 041, the Tribunal granted certification to the Federation to represent, for the purposes of collective bargaining, a sector composed of:

[UNOFFICIAL TRANSLATION] all professional independent contractors engaged by a producer subject to the *Status of the Artist Act* to perform the function of assistant director, first assistant director, director of photography, camera operator, cameraman (including steady-cam, baby-boom, and camera operated through a specialized system [C.O.S.S.]), lighting director, sound man, sound effects technician, computer graphics designer, computer graphics special effects technician, make-up designer, supervising make-up artist, make-up artist, make-up assistant, special effects make-up artist, prosthetic make-up technician, prosthetic make-up assistant, hair stylist designer, assistant hair stylist, hair dresser, wig-maker, costume designer, costumer, puppet designer, assistant art director, set designer, props designer, propsman crewleader, head painter, scenic painter, sculptor-
m o l d e r , d r a u g h t s m a n ,

➔ *certification... continued from page 1*

studio special effects technician, set director (excluding dubbing directors), floor manager, location manager, script-clerk, editor, off-line editor, in-line editor, sound editor, sound mixer, in all audiovisual productions shot primarily in the province of Quebec, in any language, in all forms and in all mediums, including film, television, video, multimedia and the recording of commercials.

This decision takes on a significant importance since virtually all 42 professions included in the Federation's sector were granted pursuant to the *Professional Category Regulations*. Only Decision 2003 CAPPRT 037 in which the Tribunal granted certification to the Association des professionnels des arts de la scène du Québec and to the Associated Designers of Canada had previously made reference to the *Regulations*. The *Regulations* specify the professional categories that include professions in which the practitioner contributes directly to the creative aspects of the production in the area of performing arts, music, radio and television, etc. These professional categories are in addition to the professions covered by the *Act*, such as writers, music composers, musicians, actors, directors, etc. In considering the Federation's application for certification, the Tribunal was of the opinion that it had to give a broad interpretation to the *Regulations* in order to respect the *Act*'s objectives. The Tribunal considered each profession the Federation sought to include in its sector and based its analysis on the following criteria:

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- a. the nature of the tasks;
- b. the fact that one can identify an original finished product derived from some artistic ability;
- c. the fact that the result of the work contributes to giving life to or to realizing the vision of the director, the designer or another creator;
- d. the influence that an individual can exercise within the hierarchical level of the function in the context of a production.

The complete Reasons for Decision are available on the Tribunal's web site. ♦

What's new at the Tribunal

David P. Silcox of Toronto, part-time Chairperson and Chief Executive Officer, and John M. Moreau of Calgary, part-time member, have been re-appointed for a term of two years, effective March 1, 2003. ♦

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