



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

DECISION AND REASONS

File PR-2022-032

Star-Ting Incorporated

*Decision made
Tuesday, August 9, 2022*

*Decision and reasons issued
Monday, August 15, 2022*

IN THE MATTER OF a complaint filed pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*.

BY

STAR-TING INCORPORATED

AGAINST

**THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF
ALBERTA**

DECISION

Pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal has decided not to conduct an inquiry into the complaint. The Tribunal lacks jurisdiction to consider the complaint or grant the relief being sought.

Serge Fréchette

Serge Fréchette
Presiding Member

STATEMENT OF REASONS

SUMMARY OF THE COMPLAINT

[1] Star-Ting Incorporated (Star-Ting) filed three procurement complaints with the Canadian International Trade Tribunal (respectively, PR-2022-030, PR-2022-032 and PR-2022-035). This complaint is the second of the three complaints filed by Star-Ting.

[2] Star-Ting filed a first complaint (PR-2022-030) related to a request for proposal (solicitation 30001823) issued by the Department of Fisheries and Oceans (DFO) for the provision of professional services for a senior facilitator consultant under ProServices Stream 9.15. The Tribunal concluded that this first complaint was premature, as Star-Ting had not yet received a denial of relief from DFO.¹ Star-Ting filed a third complaint (PR-2022-035) related to this solicitation.² In both complaints, Star-Ting challenged the evaluation of the bid that it submitted in response to the solicitation.

[3] Star-Ting filed the present complaint³ (PR-2022-032) while an objection was still pending before DFO.⁴ This complaint mainly revolves around the alleged refusal of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) to issue a permit to practise or a certificate of authorization to qualify and practise as a professional geoscientist. As a result, Star-Ting argues that this “denial of service” was the root cause which contributed to DFO’s decision to reject its bid.⁵

[4] Moreover, Star-Ting purports that “[t]his complaint is in respect to [the *Special Import Measures Act*⁶ (SIMA)]”.⁷ It further argues that APEGA’s “denial of service” is unjustifiable and has “resulted in negative impacts on a woman-owned Canadian corporation”.⁸

[5] As a remedy, Star-Ting seeks to have “the process . . . be remediated”.⁹ Star-Ting is also seeking, among other things, compensation for lost opportunity as a result of APEGA’s alleged “lack of duty care”.¹⁰

[6] For the reasons below, the Tribunal has decided not to conduct an inquiry into the complaint. Simply put, the Tribunal lacks jurisdiction to consider the complaint or grant the relief being sought.

¹ *Star-Ting Incorporated* (5 August 2022), PR-2022-030 (CITT).

² On August 12, 2022, the Tribunal decided to conduct an inquiry into the third complaint (PR-2022-035). The Tribunal will issue its reasons and findings upon completion of the inquiry.

³ Exhibit PR-2022-032-01 at 1–9. Star-Ting filed with the Tribunal a new procurement complaint form. As a result, the Tribunal treated it as a separate complaint.

⁴ See the Tribunal’s decision in PR-2022-030.

⁵ Exhibit PR-2022-032-01 at 1–9, 13–15.

⁶ R.S.C., 1985, c. S-15.

⁷ Exhibit PR-2022-032-01 at 6, 13.

⁸ *Ibid.* at 1–9, 1–15.

⁹ *Ibid.* at 7.

¹⁰ *Ibid.* at 7–8.

ANALYSIS

[7] The Tribunal's authority is derived from the *Canadian International Trade Tribunal Act*¹¹ (CITT Act). For the purposes of procurement proceedings, subsection 30.11(1) of the CITT Act provides that a potential supplier may file a complaint with the Tribunal concerning any aspect of the procurement process that relates to a designated contract. Section 30.1 of the CITT Act defines the term "designated contract" as "a contract for the supply of goods or services that has been or is proposed to be awarded by a government institution and that is designated or of a class of contracts designated by the regulations". As for "government institution", the term is defined as "any department or ministry of state of the Government of Canada, or any other body or office, that is designated by the regulations".¹²

[8] Having reviewed the complaint, the Tribunal has determined that, on its face, the information provided by Star-Ting does not demonstrate that the subject matter of the complaint would be within the purview of the Tribunal's jurisdiction, as it is not in respect of a designated contract, nor is it in respect of a designated government institution.

[9] Rather, the Tribunal finds that Star-Ting's grounds of complaint fundamentally challenge the permit or licence registration process that took place before APEGA, a process that is independent and unrelated to the procurement process before the federal government institution, i.e. DFO. As a result, the Tribunal fails to see any nexus between Star-Ting's grounds of complaint and the ones that would arise in the context of any procurement process conducted by a federal government institution.

[10] As to the reference to SIMA, the Tribunal notes that it is inapplicable to the facts of the matter and would not constitute a proper course of action before the Tribunal, as Star-Ting's complaint does not relate to the dumping or subsidizing of imported goods.

[11] The Tribunal notes that Star-Ting filed additional information on the record consisting of correspondence between Star-Ting and counsel for APEGA,¹³ after the Tribunal made its decision but prior to its issuance and the issuance of these reasons. In the Tribunal's view, the extent of this additional information is immaterial to the Tribunal's finding on jurisdiction. Simply put, there is nothing that the Tribunal can do.

[12] For these reasons, the subject matter of this complaint does not fall under the jurisdiction of the Tribunal.

¹¹ R.S.C., 1985, c. 47 (4th Supp.).

¹² In that respect, see subsection 3(2) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (SOR/93-602).

¹³ Exhibit PR-2022-032-01.B. Star-Ting requested that the correspondence be added to the "filed APEGA complaint". See Exhibit PR-2022-032-01.B at 7.

DECISION

[13] Pursuant to subsection 30.13(1) of the CITT Act, the Tribunal has decided not to conduct an inquiry into the complaint. The Tribunal lacks jurisdiction to consider the complaint or grant the relief being sought.

Serge Fréchette

Serge Fréchette
Presiding Member