

**IN THE MATTER OF AN OPPOSITION
by Wrangler Apparel Corp. to application
No. 1232130 for the trade-mark
WRANGLER filed by Big Rock Brewery
Partnership**

On September 29, 2004, Big Rock Brewery Partnership (the “Applicant”) filed an application for the registration of the trade-mark WRANGLER (the “Mark”) based on proposed use of the Mark in Canada in association with a relatively long list of wares including, amongst other things, brewed alcoholic beverages, drinking vessels, novelty items and stationery. The application was amended on December 7, 2004 so as to restrict the statement of wares to the following wares: “Brewed alcoholic beverages” (the “Wares”). The application was advertised for opposition purposes in the Trade-marks Journal issue of February 9, 2005.

On July 11, 2005, Wrangler Apparel Corp. (the “Opponent”) filed a statement of opposition against the application. The grounds of opposition can be summarized as follows:

1. The Mark is not registrable pursuant to s. 12(1)(d) of the *Trade-marks Act* (the “Act”) because it is confusing with one or more of the registered trade-marks of the Opponent listed in Schedule “A” attached hereto to my decision;
2. The Applicant is not the person entitled to registration of the Mark pursuant to s. 16(3)(c) of the Act in that as of the date of filing of the application, the Mark was confusing with one or more of the trade-marks listed in either Schedule “A” referred to above or Schedule “B” attached hereto, that had been previously used and/or made known in Canada by the Opponent in association with the wares set out in the above-mentioned registrations and applications, and/or for which applications for registration have been previously filed. The Opponent’s trade-marks referred to above have not and had not been abandoned as of the date of advertisement, namely February 9, 2005. As noted by the Applicant in its written argument, the Opponent wrongly made reference to s. 16(3)(c) of the Act which addresses confusion with a trade-name previously used in

Canada. Trade-marks previously made known in Canada and trade-mark applications previously filed in Canada should have been properly pleaded under s. 16(3)(a) and (b) respectively. Given the wording and amount of detail provided by the Opponent under this ground as well as the fact that the Applicant did address correctly such ground in its counter statement and did not pursue any submissions based on such error, I am satisfied that the Opponent's error in referring to s. 16(3)(c) instead of 16(3)(a) and (b) of the Act may be qualified as a typographical error most probably due to use of a template paragraph, in which attention was not given to making the appropriate changes;

3. The Mark is not distinctive of the Applicant pursuant to s. 38(2) of the Act in that the Mark neither distinguishes nor is adapted to distinguish the Wares of the Applicant from the wares of others, including the wares of the Opponent; and
4. The application does not comply with the provisions of s. 30(i) of the Act in that the Applicant could not have been satisfied that it was entitled to use the Mark in Canada because it knew, or ought to have known, of the Opponent's prior rights in and to its famous WRANGLER trade-marks set out in the foregoing paragraphs, and knew or ought to have known that there would be a likelihood of confusion between the Mark and said WRANGLER trade-marks. As noted by the Applicant in its written argument, the Opponent, when referring to the Applicant's application in this latter ground of opposition, made reference to No. 1026515, which is not the application filed by the Applicant. For the same reasons as those given above in respect of the s. 16(3) ground of opposition, I am satisfied that this is a typographical error.

By counter statement dated September 9, 2005, the Applicant denied each and every one of the allegations made in the statement of opposition.

In support of its opposition, the Opponent filed the affidavits of Brian Williams sworn April 3, 2006, Karl Stressman sworn April 6, 2006 and Jennifer Leah Stecyck sworn April 7, 2006. In support of its application, the Applicant filed the affidavit of Kimberly A. Cunningham sworn April 27, 2006.

Each party filed a written argument and was represented at an oral hearing.

Summary of the parties' evidence

Opponent's evidence

Affidavit of Karl Stressman

Mr. Stressman identifies himself as the Licensing Director of VF Jeanswear Limited Partnership ("VF Jeanswear"). He states that VF Jeanswear is the licensing representative of the Opponent. Mr. Stressman has been employed by VF Jeanswear since 1997. His duties include responsibility for the licensing and promotion of the Opponent's word mark WRANGLER and over 40 trademarks containing the word WRANGLER (the "WRANGLER marks") in the United States, Canada and elsewhere. VF Jeanswear licenses the WRANGLER marks from the Opponent, which is the successor by merger (in 1994) to Blue Bell, Inc.

Mr. Stressman states that the WRANGLER marks are registered and/or used in Canada, the United States and numerous countries around the world in association with high quality articles of clothing, accessories, and footwear, including jeans, jackets, slacks, shirts, belts, boots, shoes, and hats, as well as other non-clothing items such as sleeping bags, tote-bags, knapsacks, clocks, watches, radios, sunglasses, cameras, umbrellas, luggage, furniture and bedding.

Mr. Stressman then goes over the history of use of the Opponent's WRANGLER marks in Canada by the Opponent's licensees and predecessors in title.

Mr. Stressman states that since approximately 1994, VF Canada, Inc. ("VF Canada") has acted as either a sales agent or a distributor for articles of clothing bearing the Opponent's WRANGLER marks imported into Canada and distributed to Canadian retailers for resale to Canadian consumers. Said clothing has included jeans, jackets, pants, shirts and jackets (the "WRANGLER Clothing"). He states that VF Canada currently purchases WRANGLER Clothing from VF Jeanswear.

Mr. Stressman states that from 1988 until 1994, WRANGLER Clothing was imported and distributed to Canadian retailers by Western Glove Works Ltd., a licensee of Blue Bell, Inc. From 1964 until 1988, WRANGLER Clothing was imported and distributed to Canadian retailers by Blue Bell Canada, Inc., a corporation that was both owned by and a licensee of Blue Bell, Inc.

Mr. Stressman states, upon information and belief, that between 1943, when Blue Bell, Inc. acquired Casey Jones, the company that owned the WRANGLER trade-mark, and 1963, Blue Bell, Inc. directly imported into Canada and distributed to Canadian retailers for sale to Canadian consumers WRANGLER Clothing. He also states, upon information and belief, that between 1929, when the WRANGLER trade-mark was first used in Canada, and 1943, when Blue Bell, Inc. acquired Casey Jones and the WRANGLER trade-mark, Casey Jones distributed WRANGLER Clothing to Canadian retailers for sale to Canadian consumers.

Mr. Stressman states that for more than twelve (12) years, the Opponent has licensed VF Jeanswear or its predecessor in interest to use the WRANGLER marks in association with the WRANGLER Clothing in the United States, Canada and elsewhere. He states that pursuant to said license, the Opponent has, at all material times, controlled the manner in which the WRANGLER marks are used and the character or quality of the WRANGLER Clothing.

Mr. Stressman states that for more than twenty (20) years, the Opponent has licensed Master Hatters to be its exclusive licensee for one or more of the WRANGLER marks for use in association with cowboy hats in Canada (the "WRANGLER Hats"). He states that pursuant to said license, the Opponent has, at all material times, controlled the manner in which the WRANGLER marks are used and the character or quality of the WRANGLER Hats. He further provides the annual sales figures of the WRANGLER Hats in Canada for the years 2001 to 2006, which vary between US\$26,600 and US\$129,500 for a total sales in Canada of more than US\$621,000. The Applicant contends in its written argument that the Opponent has provided no supporting documentation that evidences those earnings. It further contends that it is not clear whether Master Hatters, VF Jeanswear or the Opponent has generated these earnings. I will address these contentions of the Applicant later on in my decision.

Mr. Stressman states that since 2001, the Opponent has licensed Chambers Bell Company to be its exclusive licensee for one or more of the WRANGLER marks for use in association with belts (the “WRANGLER Belts”). He states that pursuant to said license, the Opponent has, at all material times, controlled the manner in which the WRANGLER marks are used and the character or quality of the WRANGLER Belts. He further provides the annual sales figures of the WRANGLER Belts in Canada for the years 2002 to 2005, which vary between US\$99,900 and US\$195,500 for a total sales in Canada of more than US\$627,900. The Applicant contends in its written argument that the Opponent has provided no supporting documentation that evidences those earnings. It further contends that it is not clear whether Chambers Bell Company, VF Jeanswear or the Opponent has generated these earnings. I will address these contentions of the Applicant later on in my decision.

Mr. Stressman states that since 2002, the Opponent has licensed Professional’s Choice to be its exclusive licensee for one or more of the WRANGLER marks for use in association with equestrian products, ropes and halters in Canada (the “WRANGLER Equestrian Products”). He states that pursuant to said license, the Opponent has, at all material times, controlled the manner in which the WRANGLER marks are used and the character or quality of the WRANGLER Equestrian Products. He further provides the annual sales figures of the WRANGLER Equestrian Products in Canada for the years 2002 to 2005 and the first two months of 2006, for a total sales in Canada during the past four (4) plus years of more than US\$609,500. The Applicant contends in its written argument that the Opponent has provided no supporting documentation that evidences those earnings. It further contends that it is not clear whether Professional’s Choice, VF Jeanswear or the Opponent has generated these earnings. I will address these contentions of the Applicant later on in my decision.

Mr. Stressman then continues his affidavit by going over the sponsorship activities of the Opponent.

Mr. Stressman states that for the last thirty (30) years, the WRANGLER marks of the Opponent have been advertised and promoted in the United States and Canada by VF Jeanswear or its

predecessor in interest through one or more rodeo sponsorships. He states that during the sponsorship of these rodeos, the WRANGLER trade-mark is prominently displayed on in-arena signage, in the rodeo program and advertising and on clothing worn by the participants and announcers. He further states that many of the rodeos held in the United States are televised on FOX, CBS, NBC, ABC and OLN (a United States cable channel) and are shown in Canada. Mr. Stressman states that while visiting in Canada, he has personally viewed the United States Professional Rodeo Cowboys Association (PRCA) sanctioned rodeos on television. He states that the OLN or the United States national stations televise United States rodeos, particularly at the border areas and that he has personally watched United States rodeos in Calgary that were televised by ABC, CBS and NBC. As stressed by the Applicant in its written argument, Mr. Stressman does not provide evidence to support the allegations that rodeos held in the United States were broadcasted in Canada. Neither does he provide evidence to show sponsorship at any rodeo in Canada and the United States.

Mr. Stressman states that VF Jeanswear or its predecessor in interest has spent approximately \$5.5 million annually on rodeo sponsorship and related equine events in each of the last twenty (20) years.

Mr. Stressman further states that with the exception of events for children or youths, nearly every rodeo organization or event that VF Jeanswear has sponsored has also been sponsored by a beer and/or an alcoholic beverage company whose trade-marks are also prominently featured alongside the WRANGLER mark. Mr. Stressman cites as examples, the PRCA that is also sponsored by COORS beer and JACK DANIELS bourbon and the United States Professional Bull Riders Association (PBRA) that is also sponsored by BUD LIGHT beer and JACK DANIELS bourbon. Mr. Stressman states that COORS beer and JACK DANIELS bourbon are also partners with WRANGLER on the Wrangler Pro Rodeo Tour. As stressed by the Applicant in its written argument, Mr. Stressman has provided no evidence to support these allegations, either by way of physical evidence such as photographs to show the dual sponsorships, or any other kind of evidence.

Mr. Stressman further states that the WRANGLER marks are also advertised and promoted through extensive campaigns surrounding rodeo and other cowboy related events, through billboards, radio, and print advertising, and through in-store promotional materials coinciding with these events, including advertisements placed near events in Montana, Washington and North Dakota, where “spillover” into Canada occurs, via attendance of Canadians at these events. Mr. Stressman has attached to his affidavit as Exhibit “A”, representative specimens of said advertising. While the said specimens appear to be promoting the WRANGLER marks in association with western lifestyle and cowboy clothing, we do not have much information as to how, when and where they were used. I also wish to add that attendance of Canadians at events held in the United States do not constitute spillover into Canada.

Mr. Stressman continues his affidavit by stating that the Opponent promotes and advertises the WRANGLER marks through celebrity endorsements, featuring these celebrity endorsees in advertising campaigns, promotions, and event sponsorships. He states that celebrity endorsees of the WRANGLER marks include the country music singer and musician George Strait, the professional bull rider Ty Murray and the race car driver Dale Earnhardt Jr. He further attaches to his affidavit as Exhibits “B”, “C” and “D” representative specimens of advertisements featuring the said celebrities. As for the advertising specimens discussed above, we do not have much information as to how, when and where they were used.

Mr. Stressman then concludes his affidavit by stating that in his personal experience, the western and country life-style market in which the WRANGLER marks have a prominent presence is closely associated with certain product types, most prominently jeans, boots, cowboy hats, cars and beer. I am setting aside that last statement of Mr. Stressman’s affidavit, which in addition to being self-serving constitutes inadmissible personal opinion and argument.

Affidavit of Brian Williams

Mr. Williams states that he is Vice-President for Canada and Puerto Rico of VF Canada. He has been employed by VF Canada since 1993, initially as Director of Sales for Canada. He assumed the position of Vice President in March 1996.

Like Mr. Stressman, Mr. Williams states that since 1994, VF Canada has imported into Canada and distributed to Canadian retailers for sale to Canadian consumers articles of clothing bearing the Opponent's WRANGLER marks. Said clothing has included the WRANGLER Clothing discussed above. Like Mr. Stressman, Mr. Williams states that VF Canada purchases the said clothing from VF Jeanswear.

Mr. Williams states that since 1994, WRANGLER Clothing has been sold in Canada through distribution channels. WRANGLER Clothing styles of general appeal have been sold through "mass channel" stores including Zellers, Walmart, Loblaws, Moores and The Bay. Western-styled WRANGLER Clothing and accessories have been sold through the "Western Specialty channel" stores comprising over 400 small Western Specialty retailers, 95% of which are located in Alberta and Saskatchewan and including one large retailer, Lammle's Western Wear & Tack ("Lammle's"), which has 24 locations in Alberta. Mr. Williams attaches to his affidavit representative samples of cardboard tags displaying one or more of the Opponent's WRANGLER marks, which are attached to the WRANGLER Clothing and generally refer to the Opponent or bear a copyright notice referring to VF Jeanswear, as well as photocopies of representative invoices for WRANGLER Clothing in each of the two distribution channels in Canada, which have been issued by VF Jeanswear or the Opponent.

Mr. Williams states that VF Canada employs seven (7) sales representatives across Canada specifically for Western Specialty channel retailers. It employs a further three (3) representatives across Canada for the mass channel retailers. Mr. Williams attaches to his affidavit the catalogue that was at the time of his affidavit distributed by VF Canada to western speciality stores. The said catalogue identifies VF Canada as the Opponent's sales office in Canada. It also identifies under the heading "Product Categories", Master Hatters, Chambers and Professional Choice as the Opponent's contact representatives for the WRANGLER Hats, Belts and Equestrian Products. It further bears a copyright notice referring to VF Jeanswear.

Mr. Williams provides the number of units of WRANGLER Clothing sold in 2005 in the mass distribution channel, namely over 3 million units to Zellers, Walmart and Loblaws and over 250,000 units to Moores and The Bay. He also provides the said number for the Western

Specialty channel, namely over 800,000 units. He further attaches to his affidavit photographs of representative samples of WRANGLER Clothing sold in these channels. Mr. Williams also provides the total sales in Canada of WRANGLER Clothing by VF Canada to Canadian retailers in the years 1994 through 2005, which vary between a minimum of US\$9 million and US\$61 million, per year.

Mr. Williams then continues his affidavit by describing the advertising and promotion of the WRANGLER marks in Canada. Mr. Williams states that the WRANGLER marks and WRANGLER Clothing have been and continue to be advertised and promoted in Canada in a number of ways. VF Canada participates in co-operative advertising with Canadian retailers who sell WRANGLER Clothing. Mr. Williams attaches to his affidavit representative excerpts from specimens of print advertising and photographs of point-of-sale displays in Canada. He also attaches to his affidavit a copy of the “2006 Canadian Co-op Plan” that provides guidelines in respect of co-op advertising. The said plan bears a copyright notice referring to VF Jeanswear. It also refers indirectly to VF Canada in that the phone number provided for the Opponent’s Canadian Sales office located in Toronto matches the one of VF Canada indicated in the catalogue discussed above. Mr. Williams further states that VF Canada also markets and promotes the WRANGLER marks through a variety of promotional initiatives, many of which are western, country, and/or cowboy themed. These promotions generally involve the production and distribution of special items bearing one or more of the WRANGLER marks.

More particularly, Mr. Williams provides detailed information and supporting documentation showing promotion of one or more of the WRANGLER marks in the mass distribution and Western Specialty channels through various “gift with purchase” promotions, including from 1994 to 1998, a special edition music CD or cassette entitled “WRANGLER Cowboy Christmas”; in 1999, a pair of pliers entitled “WRANGLER Super Pliers”; in May/June 2004, through a Father’s Day promotion, a WRANGLER belt buckle; in 2005, a WRANGLER wool scarf; in 2005, through a Father’s Day promotion, a WRANGLER beverage cooler bag; since 2005, a poster of country music artist George Strait wearing WRANGLER jeans.

Mr. Williams states that in 1994, VF Canada promoted one or more of the WRANGLER marks

through co-promotion with Coors Light and Brahma Boots, featuring a can of Coors Light beer bearing the COORS LIGHT, BRAHMA BOOTS and WRANGLER trade-marks. He states that one million of these beer cans were distributed to people attending rodeos across Canada and he attaches to his affidavit photographs of one of said beer cans, as per reproduction below:



Mr. Williams states that over the past five (5) years, VF Canada has given away over 100,000 hat stickers bearing the WRANGLER trade-mark to community rodeos, to retailers, and to sales representatives for distribution to Canadian consumers and he attaches to his affidavit a specimen hat sticker. In 2005, 10,000 hat stickers were given to the largest western retailer, Lammle's, for distribution during the Calgary Stampede in July 2005. Mr. Williams also states that VF Canada gave away to Western Specialty sales representatives 10,000 bumper stickers bearing the WRANGLER trade-mark and he attaches to his affidavit a specimen bumper sticker.

Mr. Williams provides the amounts spent advertising and promoting the WRANGLER marks and WRANGLER Clothing in Canada for the years 1995 to 2006 (to the date of his affidavit), which vary between a minimum of \$1,2 million and \$3,20 million per year.

Mr. Williams states that the WRANGLER marks also appear in the print media via testimonials of celebrities. He attaches to his affidavit a copy of a feature on the "SUNshine Girl" in *The Calgary Sun*, July 11, 2000, holding a cowboy hat prominently displaying the trade-mark

WRANGLER. As stressed by the Applicant in its written argument, this is not an advertisement by VF Canada or the Opponent but a daily feature provided by the newspaper. In this particular feature, the daily feature happens to be the Calgary Stampede and the SUNshine Girl happens to be holding a WRANGLER hat.

Mr. Williams states that the Opponent has advertised WRANGLER Clothing in the United States on prime time network television. He states that a significant portion of said television advertising has spilled over into Canada. He states that on a number of occasions over the past twelve (12) years, he has personally viewed said television advertising in Canada. Mr. Williams attaches to his affidavit a DVD of the WRANGLER Cowboy Christmas television commercials that ran in December 2006. The broadcast of these televised advertisements is not corroborated in any way. I am not prepared to accord weight to this evidence filed by the Opponent.

Mr. Williams then continues his affidavit by describing the sponsorship activities in respect of the WRANGLER marks in Canada. He states that the WRANGLER marks have been advertised and promoted by VF Canada in Canada through rodeo sponsorships, including sponsorships of the Canadian Rodeo Finals and the Calgary Stampede. VF Canada has been a sponsor of the Canadian Rodeo Finals continuously since 1994. VF Canada sponsored the Calgary Stampede for 10 years beginning in 1991 and then in 2005 entered into a three-year sponsorship that continues through 2007. Mr. Williams attaches to his affidavit a copy of the Calgary Stampede 2005 Exposure Report wherein the Calgary Stampede officially announces its three-year partnership with the Opponent and VF Canada and welcomes the Opponent back to the Stampede family. He also attaches to his affidavit copies of the front and back cover of the July 2000, July 2004 and July 2005 Calgary Stampede Souvenir Program, all of which display one of more of the WRANGLER marks. Mr. Williams states that VF Canada has also been a member of the CPRA (Canadian Professional Rodeo Association) since at least 1994. He further states that the annual membership fee of \$110,000 has entitled VF Canada to advertising at rodeos sanctioned by the Association.

Mr. Williams states that as part of his responsibilities at VF Canada, he oversees the attendance by Jeff Chadwick, Senior Manager, Western Specialty Events, at meetings with marketing

directors of each of the rodeo events sponsored by VF Canada. Mr. Williams states that based on his personal experience and the information provided to him by Jeff Chadwick, nearly every rodeo organization or event is sponsored by a beer and/or an alcoholic beverage company whose trade-marks are also prominently featured alongside the WRANGLER mark. Mr. Williams cites as examples, the Canadian Finals Rodeo that is also sponsored by COORS LIGHT beer and the Calgary Stampede that is also sponsored by BUD LIGHT beer. As stressed by the Applicant in its written argument, Mr. Williams' reliance on the information provided by Mr. Chadwick constitutes hearsay. However, I note from a review of the Calgary Stampede 2005 Exposure Report mentioned above that this report includes a sample of a "day sheet logo recognition" displaying the logos of the Calgary Stampede sponsors, including the Opponent's WRANGLER mark alongside "BUD LIGHT", "BELL" (Bell Canada), "GMC" (General Motors of Canada), Lammle's Western Wear & Tack, "OLD DUTCH", and others.

Mr. Williams then concludes his affidavit by stating, like Mr. Stressman, that in his personal experience, the western and country life-style market in which the WRANGLER marks have a prominent presence is closely associated with certain product types, most prominently jeans, boots, cowboy hats, cars and beer. I am setting aside that last statement of Mr. William's affidavit, which in addition to being self-serving constitutes inadmissible personal opinion and argument.

Affidavit of Jennifer Leah Stecyk

Ms. Stecyk identifies herself as a trade-mark searcher employed by the firm acting as the Opponent's trade-mark agent in this proceeding.

Ms. Stecyk introduces into evidence certified copies of the Opponent's trade-mark registrations and applications for the WRANGLER marks listed in Schedules "A" and "B" referred to above in the grounds of opposition.

Applicant's evidence

Affidavit of Kimberley A. Cunningham

Ms. Cunningham identifies herself as a trade-mark searcher employed by the firm acting as the Applicant's trade-mark agent in this proceeding.

Ms. Cunningham attaches to her affidavit particulars of sixteen (16) trade-mark applications and/or registrations (including the application at issue) for either the word WRANGLER alone or that contain WRANGLER that are not owned by the Opponent.

Preliminary objection

The Applicant has contended in its written argument that the Stressman affidavit and the William affidavit "should not be properly adduced as evidence of the Opponent" as neither Mr. Stressman nor Mr. Williams are employed by the Opponent, but are employed by VF Jeanswear and VF Canada respectively. The Applicant contends that while both of these companies allegedly have close business relationships with the Opponent, no evidence has been adduced by either company, which documents such a relationship, or affiliation to the Opponent. While it is true that the Opponent has provided no agreement or purchase orders to evidence the relationship between VF Canada and/or VF Jeanswear and/or the Opponent, Mr. Stressman's testimony that VF Jeanswear has been the licensing representative of the Opponent since 1994, that VF Canada has acted either as a sales agent or a distributor for WRANGLER Clothing and that the Opponent has, at all material times, controlled the manner in which the WRANGLER marks are used as well as Mr. Williams' testimony that VF Canada has imported into Canada and distributed to Canadian retailers for sale to Canadian consumers articles of clothing bearing the Opponent's WRANGLER marks since 1994 are not only uncontradicted and unchallenged by cross-examination, but are also supported by some of the evidence, namely the catalogue, the 2006 Canadian Co-op Plan, the Calgary Stampede 2005 Exposure Report and some of the samples of cardboard discussed above. I find that the evidence as a whole is sufficient to conclude that any use of the WRANGLER marks by VF Jeanswear and VF Canada inure to the Opponent's benefit.

Onus and material dates

The Applicant bears the legal onus of establishing, on a balance of probabilities, that its application complies with the requirements of the Act. There is, however, an initial burden on the Opponent to adduce sufficient admissible evidence from which it could reasonably be concluded that the facts alleged to support each ground of opposition exist. The presence of an onus on the Applicant means that if a determinate conclusion cannot be reached once all the evidence is in, then the issue must be resolved against the Applicant [see *John Labatt Ltd v. Molson Companies Ltd.* (1990), 30 C.P.R. (3d) 293 (F.C.T.D.); *Dion Neckwear Ltd. v. Christian Dior, S.A. et al.* (2002), 20 C.P.R. (4th) 155 (F.C.A.)].

The relevant dates for considering the circumstances in regard to each of the grounds of opposition in this proceeding are the following:

- Ground based on s. 12(1)(d) of the Act: the date of my decision [see *Park Avenue Furniture Corp. v. Wickers/Simmons Bedding Ltd.* (1991), 37 C.P.R. (3d) 413 (F.C.A.)];
- Grounds based on s. 16(3) of the Act: the filing date of the application;
- Ground based on non-distinctiveness of the Mark: generally accepted as being the filing date of the opposition [see *Metro-Goldwyn-Mayer Inc. v. Stargate Connections Inc.* (2004), 34 C.P.R. (4th) 317 (F.C.T.D.)]; and
- Ground based on s. 30(i) of the Act: the filing date of the application [see *Georgia-Pacific Corp. v. Scott Paper Ltd.* (1984), 3 C.P.R. (3d) 469 (T.M.O.B.)].

Each of the first three grounds of opposition pleaded by the Opponent turns on the issue of the likelihood of confusion between the Applicant's Mark and the Opponent's marks. As the material date with respect to the registrability ground of opposition is the latest date at which the issue can be considered and as I consider the Opponent's case to be strongest with respect to this latter ground, I will address it first.

Section 12(1)(d) ground of opposition

As indicated above, the Opponent has provided through the Stecyk affidavit certified copies of the Opponent's trade-mark registrations for the WRANGLER marks.

Because of this evidence by the Opponent, the Applicant must establish on a balance of probabilities that there is no reasonable likelihood of confusion between the Mark and the Opponent's marks.

The test for confusion is one of first impression and imperfect recollection. Section 6(2) of the Act indicates that use of a trade-mark causes confusion with another trade-mark if the use of both trade-marks in the same area would be likely to lead to the inference that the wares or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the wares or services are of the same general class.

In applying the test for confusion, the Registrar must have regard to all the surrounding circumstances, including those listed at s. 6(5) of the Act, namely: (a) the inherent distinctiveness of the trade-marks and the extent to which they have become known; (b) the length of time the trade-marks have been in use; (c) the nature of the wares, services or business; (d) the nature of the trade; and (e) the degree of resemblance between the trade-marks in appearance or sound or in the ideas suggested by them. This list is not exhaustive and different weight will be attributed to different factors according to the context [see *Mattel, Inc. v. 3894207 Canada Inc.* (2006), 49 C.P.R. (4th) 321 (S.C.C.); and *Veuve Clicquot Ponsardin v. Boutiques Cliquot Ltée* (2006), 49 C.P.R. (4th) 401, [2006] 1 S.C.R. 824 (S.C.C.) for a thorough discussion of the general principles that govern the test for confusion].

As I consider the Opponent's case to be strongest with respect to the ground that the Mark is not registrable pursuant to s. 12(1)(d) of the Act due to the likelihood of confusion with the Opponent's word mark WRANGLER, I will focus my discussion on that one mark of the Opponent (and stylized versions thereof reproduced in Schedule "A"), unless indicated otherwise.

(a) the inherent distinctiveness of the trade-marks and the extent to which they have become known

The Applicant's Mark and the Opponent's mark are identical; they both consist of the word WRANGLER, which is defined in the Merriam-Webster Online dictionary as "a ranch hand who takes care of saddle horses, broadly: a cowboy".

The Applicant contends that the Opponent's mark is not inherently distinctive since it is suggestive, if not descriptive, that its associated wares, clothing, namely, jeans, hats, shirts, boots, etc. are wearing apparel that would be worn by ranch hands or cowboys. The Applicant further contends that, on the other hand, the Mark is inherently distinctive in that the word WRANGLER neither describes a quality or a characteristic of the wares with which it is proposed to be used.

While I agree with the Applicant that the Opponent's mark is not as inherently distinctive as is the Applicant's, I would not go so far as to conclude that the Opponent's mark lacks inherent distinctiveness. I consider the parties' marks to be relatively inherently distinctive, though to a lesser extent for the Opponent's mark given its greater suggestive connotation.

The strength of a trade-mark may be increased by means of it becoming known through promotion or use. There is however no evidence that the Applicant's proposed use Mark has been used and become known to any extent in Canada. In contrast, the evidence of use of the Opponent's mark establishes extensive use of the WRANGLER mark by the Opponent in association with the WRANGLER Clothing in Canada since considerable time.

The Opponent has contended in its written argument and at the oral hearing that its WRANGLER mark has been used in Canada since 1929, that is the date of first use claimed in the Opponent's registration No. UCA43173. However, in the absence of evidence supporting the said date of first use, a claimed date of first use set forth in a registration can establish no more than "de minimis" use and cannot give rise to an inference of significant or continuing use of the

mark. That said, I am nonetheless satisfied that the sales figures provided for the years 1994 to 2005, which amount to more than US\$500 million, together with the advertising and promotion of the WRANGLER mark by the Opponent in Canada in the same years, supports the Opponent's contention that its WRANGLER mark has deeper roots and has become known, if not well-known, in Canada in association with articles of clothing and accessories.

In light of the foregoing, the overall consideration of this first factor favours the Opponent.

(b) the length of time the trade-marks have been in use

For the reasons given above, this factor favours the Opponent.

(c) the nature of the wares, services or business; and (d) the nature of the trade

As indicated above, the Opponent's registrations cover articles of clothing and accessories, including, jeans, jackets, slacks, shirts, hats, belts, boots, etc. as well as non-clothing items such as sleeping bags, tote-bags, knapsacks, clocks, watches, radios, sunglasses, cameras, umbrellas, luggage, furniture and bedding whereas the Applicant's application covers brewed alcoholic beverages. The Applicant contends that the parties' wares and channels of trade are not at all similar and are unrelated. The Applicant contends that due to the fundamental difference between the Opponent's wares and the Applicant's Wares and due to the difference in the markets targeted by the Opponent and the Applicant, there is no confusion or likelihood of confusion in the marketplace. The Opponent contends for its part that although articles of clothing, sunglasses, watches, backpacks and leather goods may appear dissimilar to beer, the Opponent's evidence has established that Canadian consumers have recognized an association between the WRANGLER marks and the Canadian western, country and cowboy life-style, a life-style that features jeans, boots, cowboy hats and beer. The Opponent contends that this association contributes to a likelihood of confusion. The Opponent further contends that it can reasonably be inferred given the nature of the respective wares that the customers of both parties are average Canadian consumers with a penchant for the casual, western or country life-style and that this similarity in the nature of the prospective consumers enhances the likelihood of

confusion.

As indicated above, the test for confusion is whether someone who has an imperfect recollection of the Opponent's mark might conclude upon seeing the Applicant's Mark as a matter of first impression that the source of the Opponent's wares and the source of the Applicant's Wares are either the same or somehow related.

It is not necessary that the parties operate in the same general field or industry or that the respective wares be of the same type or quality. As stated in s. 6(5)(2) of the Act, confusion may occur, "whether or not the wares or services are of the same general class". Furthermore, as stated by the Supreme Court of Canada in *Mattel* and *Veuve Clicquot* [supra], a "connection" need not necessarily be established between areas of trade in order for a likelihood of confusion to be established.

In the present case, I agree with the Applicant that the parties' wares are dissimilar and are not part of the same industry and that they occupy different channels of trade. However, as I read the *Mattel* and *Veuve Clicquot* decisions, the question to be asked is whether the evidence presented demonstrates a mental association made by the consumer between the Opponent's well-known mark and the Applicant's Wares that is likely to confuse the consumer as to the source of the wares.

I agree with the Opponent that it has established a strong presence of the WRANGLER mark and its associated clothing and accessories in Canada be it through "mass channel" stores or "Western Specialty channel" stores. Considering that many of the promotional initiatives and sponsorship activities of the Opponent are western, country, and/or cowboy themed, I further agree with the Opponent that it can fairly be found that Canadian consumers have come to recognize a certain association between the western-styled WRANGLER Clothing of the Opponent and the Canadian western, country and cowboy life-style.

I further agree with the Opponent that it has established that brewers may sponsor rodeos alongside the Opponent. While the Opponent's evidence in this respect is tenuous, the

Opponent's position is supported by the Calgary Stampede 2005 Exposure Report that includes a sample of a "day sheet logo recognition" displaying the logos of the Calgary Stampede sponsors, including the Opponent's WRANGLER mark alongside "BUD LIGHT" and others. As indicated above, the Opponent has also promoted one or more of the WRANGLER marks through co-promotion with Coors Light and Brahma Boots, featuring a can of Coors Light beer bearing the COORS LIGHT, BRAHMA BOOTS and WRANGLER trade-marks, although I agree with the Applicant that it appears this was a one time promotion in 1994 and it is clear that the owner of the beer is COORS and not the Opponent (in other words, consumers would be purchasing the beer because it is COORS beer and not because they think it is the Opponent's beer). The photographs of NASCAR race car driver Dale Earnhardt Jr. included in the specimens of point-of-sale materials provided to Zellers stores also feature the WRANGLER mark alongside the "BUD" mark on Mr. Earnhardt's driving suit, which fact further supports indirectly the Opponent's contentions that brewers sponsor sporting events.

That said, the next question is has the Opponent established that the western and country life-style market in which the WRANGLER marks have a prominent presence is closely associated with certain product types, most prominently jeans, boots, cowboy hats *and beer*? I find that little, if any, evidence has been provided by the Opponent to establish that western and country life-style is closely associated with beer. The mere fact that brewers (like telecommunications company such as "Bell Canada" and car manufacturers such as "GMC" referred to in the Calgary Stampede 2005 Exposure Report) may happen to sponsor rodeos alongside the Opponent is not in itself sufficient to conclude that beer (like phone and other communications services and cars) is closely associated with western and country life-style. Am I supposed to take judicial notice of the fact that western and country life-style would be closely associated with beer? I doubt so. Not only has the Opponent failed to adduce supporting evidence on this point, it has also failed to adduce any evidence (such as any kind of survey evidence or studies, etc.) establishing that a mental association would be made by the consumer between the Opponent's well-known mark and the Applicant's Wares that is likely to confuse the consumer as to the source of the wares. The Opponent's contention in this respect appears to rely solely on the fame of its WRANGLER mark; it contends that this fame by itself would be sufficient to create that association. I will address that contention of the Opponent later on in my decision when considering the additional

surrounding circumstances of this case.

(e) the degree of resemblance between the trade-marks in appearance or sound or in the ideas suggested by them

As the trade-marks at issue are identical, this factor favours the Opponent.

Additional surrounding circumstances

State of the register

The Applicant contends that the state of the register search attached to the Cunningham affidavit indicates that the Opponent does not have a monopoly on the word WRANGLER as there are fifteen (15) trade-mark applications and/or registrations for either the word WRANGLER alone or that contain WRANGLER that are not owned by the Opponent. As acknowledged by the Opponent at the oral hearing, since the date of the register search, all of the pending applications have been allowed or registered except for one application.

More particularly, five (5) of these registrations stand in the name of Chrysler LLC and pertain to the trade-marks “WRANGLER”, “JEEP WRANGLER” and “WRANGLER UNLIMITED” in association with either trucks, sport utility vehicles or strollers. Another five (5) of these registrations stand in the name of The Goodyear Tire & Rubber Company and pertain to the trade-marks “WRANGLER”, “WRANGLER GS-A”, “WRANGLER SR-A”, “WRANGLER MT-R” and “WRANGLER RF-A” in association with tires. One (1) of these registrations stands in the name of United States Tobacco Company and pertains to the trade-mark “WRANGLER” in association with smokeless tobacco. Another one (1) of these registrations stands in the name of Pharmacia Corporation and pertains to the trade-mark “WRANGLER” in association with herbicides. Another one of these registrations stands in the name of Flying Chandar Sports, LLC and pertains to the trade-mark “LAS VEGAS WRANGLER & DESIGN” in association with paper goods and printed matter. The remaining two (2) applications pertain to the trade-marks “SNAKE WRANGLERS” (in association with pre-recorded video-cassettes and DVDs featuring documentaries concerning reptilian wildlife, etc.) and “THE WRANGLER” (in association with

meats and processed foods). The application for “SNAKE WRANGLERS” is still pending. The application for “THE WRANGLER” was abandoned after allowance.

The Opponent contends for its part that the above state of the register evidence is not substantial. The Opponent further contends that the aforesaid registrations cover wares that are completely unrelated to the wares at issue in this proceeding and that there is no evidence of actual use of any of these marks in the Canadian marketplace.

State of the register evidence is only relevant insofar as one can make inferences from it about the state of the marketplace, and inferences about the state of the marketplace can only be drawn where large numbers of relevant registrations are located [see *Ports International Ltd. v. Dunlop Ltd.* (1992), 41 C.P.R. (3d) 432 (T.M.O.B.); *Welch Foods Inc. v. Del Monte Corp.* (1992), 44 C.P.R. (3d) 205 (F.C.T.D.); and *Maximum Nutrition Ltd. v. Kellogg Salada Canada Inc.* (1992), 43 C.P.R. (3d) 349 (F.C.A.)]. In the present case, there are thirteen (13) registrations and one (1) allowed application standing in the name of six (6) different owners. While I agree with the Applicant that thirteen (13) registrations and one (1) allowed application support the Applicant’s contention that the Opponent does not have a monopoly on the word WRANGLER, I am reluctant to make any significant inferences about the state of the marketplace as the aforesaid thirteen (13) registrations and one (1) application are owned by only six (6) different owners. In any event, I do not consider that additional circumstance necessary in order to find in the Applicant’s favour.

“Fame” of the Opponent’s WRANGLER mark

The Opponent, relying on *Veuve Clicquot [supra]*, contends that the fame of its WRANGLER mark is an important surrounding circumstance because fame presupposes that the mark transcends, to some extent, the wares or services with which the mark is normally associated. The key factor in considering the extent to which a famous mark transcends the wares or services with which it is normally associated is whether an ordinary consumer is likely to mistakenly infer that the wares or services come from a common source or are in some way associated with each other.

The Applicant contends for its part that in the context of famous or well-known marks, the Supreme Court of Canada has imposed in *Mattel* [*supra*] a requirement that famous mark owners provide evidence that the “aura” of the famous marks extends to the other party’s wares and/or services. The Applicant further contends that if the Opponent’s mark is famous, there has been no evidence provided to support the position that the Opponent’s WRANGLER mark transcends beyond the articles of clothing, footwear and accessories. Given the Opponent’s current licensing practices and corporate diversification, thus far, to retailers of clothing and western apparel, the Applicant contends that there is no likelihood that a consumer would think the Applicant was affiliated with the Opponent or that the Opponent had granted the Applicant a third party license to allow it to use its trade-mark with brewed alcoholic beverages. I agree.

While I find that the Opponent’s mark has become well-known in Canada, such fame is tied, as indicated above, to clothing, footwear and accessories. As indicated by Mr. Justice Binnie in *Veuve Clicquot* [*supra*, at paragraph 26], whether one’s trade-mark aura extends to the facts of a particular case is a matter not of assertion, but of evidence. As indicated above, the Opponent has elected not to file any kind of evidence (such as survey evidence, studies, etc.) in support of its contention that a mental association would be made by the consumer between the Opponent’s well-known mark and the Applicant’s Wares that is likely to confuse the consumer as to the source of the wares. I find that fame itself is not sufficient to conclude that there is a reasonable likelihood of confusion in the present case. As stressed by the Applicant, it is not required of the Applicant to show there is no possibility that confusion may arise, but that there is no reasonable likelihood that confusion will occur. I also wish to add that the issue in this proceeding is the likelihood of confusion as opposed to the “depreciation of the value of the goodwill” of the Opponent’s mark.

Conclusion re likelihood of confusion

In view of my conclusions above, I find that the Applicant has satisfied me on a balance of probabilities, that the average consumer having an imperfect recollection of the Opponent’s WRANGLER mark would not likely be confused as to the source of the Wares upon seeing the

Mark. Accordingly, the s. 12(1)(d) ground of opposition is unsuccessful.

That said, I wish to reproduce the following words of caution of Mr. Justice Linden to the successful party in *Pink Panther Beauty Corp. v. United Artists Corp.* [1998] 3 F.C. 534 (C.A.) that equally find application in this case:

“55. [...] In other words, victory in this case, does not give the appellant *carte blanche* to exploit all of the trade-marks of the respondent in selling all products in any way it chooses. It is still subject to restrictions of the *Trade-marks Act* and the *common law*.”

Non-entitlement and non-distinctiveness grounds of opposition

As indicated above, these second and third grounds of opposition turn on the issue of confusion as of the date of filing of the application and as of the date of filing the opposition. While the Opponent has not shown use and non-abandonment of each and every one of the forty (40) trade-marks covered by the applications and registrations listed in Schedules “A” and “B” referred to above, it has nevertheless met its initial burden by evidencing use of the WRANGLER word mark (and of some of its stylized versions thereof) in association with some part of the wares specified in the aforementioned corresponding applications and registrations prior to the Applicant’s filing date and showing non-abandonment of the said marks as of the Applicant’s advertisement date. For the most part, my conclusions in respect of the first ground of opposition also apply to these second and third grounds. As I have found the Applicant’s Mark not confusing with the Opponent’s WRANGLER mark, these grounds are also unsuccessful.

Section 30(i) ground of opposition

The s. 30(i) ground of opposition is also unsuccessful, as it does not raise a proper ground of opposition. The mere fact that the Applicant may have been aware of the existence of the Opponent’s marks does not preclude it from truthfully making the statement required by s. 30(i) of the Act. Even if that ground had been properly pleaded, where an Applicant has provided the statement required by s. 30(i), a s. 30(i) ground should only succeed in exceptional

circumstances such as where there is evidence of bad faith on the part of the Applicant [*Sapodilla Co. Ltd. v. Bristol-Myers Co.* (1974), 15 C.P.R. (2d) 152 (T.M.O.B.)]. There is no such evidence in the present case. I wish to add that the fact the Applicant contends in its written argument that “prior to filing an application the Applicant carried out a search to determined [sic] if there were similar or confusing marks used in association with brewed alcoholic beverages and there were none”, has not been taken into account in my analysis since that latter contention of the Applicant is not supported by evidence and does not, in any event, evidence bad faith.


Disposition

Having been delegated by the Registrar of Trade-marks by virtue of s. 63(3) of the Act, I reject the opposition, the whole pursuant to s. 38(8).

DATED AT Montréal, Québec, THIS 5th DAY OF January 2009.

Annie Robitaille
Member
Trade-marks Opposition Board


Schedule « A »

Trade-mark	Registration No.	Wares
TIMBER CREEK BY WRANGLER	TMA630,896	Casual slacks, jeans and shirts for Men, women and children
WRANGLER	UCA43173	Western style dungarees and jackets; men's, women's boys' and girl's work shirts (2) boots (3) Moccasins (4) Casual footwear, namely shoes, slippers and sneakers
WRANGLER	TMA220,622	Sleeping bags, tents, knapsacks, and tote-bags
 WRANGLER & Design	TMA225,426	Sleeping bags, tents, knapsacks, and tote-bags
Wrangler WRANGLER DESIGN	TMA289,715	Men's and boys' jackets, jeans, shirts, slacks, and socks; ladies' and girls' jackets, jeans, blouses, sweaters, slacks, shorts, skirts, socks, hosiery, and panty hose; Tights, leotards and leg warmers
Wrangler WRANGLER DESIGN	TMA325,928	Clocks and watches
Wrangler WRANGLER DESIGN	TMA535,303	1) Hats. (2) Men's and boy's belts. (3) Work and casual wear socks. (4) Handkerchiefs. (5) Watches. (6) Radios, sunglasses and cameras. (7) Hats, baseball caps, boots, belts, boot socks, watches, bandannas, handkerchiefs and sunglasses.

Schedule « A »

Wrangler WRANGLER DESIGN	TMA507,174	Leather goods, imitations of leather goods, and nylon goods, namely bags, backpacks, waist packs, luggage, tote bags, lunch totes, cosmetic, cards, toiletry cases, shopping bags and umbrellas.
WRANGLER HERO	TMA457,623	Clothing, namely, jeans, jackets, shirts, casual pants and shorts
WRANGLER HERO	TMA464,437	Footwear, namely shoes, slippers, sneakers, boots moccasins and sandals
WRANGLER HERO	TMA513,267	Clothing, namely belts
WRANGLER HERO	TMA549,721	Timepieces namely watches and clocks
WRANGLER HERO	TMA584,146	Underwear
WRANGLER HERO	TMA579,995	Eyewear namely, eyeglasses, sunglasses, clip-on sunglasses, reading glasses, eyeglass cases and eyeglass cords
WRANGLER HERO	TMA607,785	Socks
WRANGLER RIATA	TMA593,479	Headwear, namely, hats, caps, bandanas and ear muffs
<i>Wrangler</i> WRANGLER ROPE DESIGN	TMA507,177	Leather goods, imitations of leather goods, and nylon goods, namely bags, backpacks, waist packs, luggage, tote bags, lunch totes, cosmetic, cards, toiletry cases, shopping bags and umbrellas
WRANGLER RUGGED WEAR	TMA458,935	(1) Clothing, namely jeans, pants, shirts, shorts, jackets, sweaters and belts (2) Headgear, namely hats, caps and scarves

Schedule « B »

Trade-mark	App. No.	Wares
AURA FROM THE WOMEN AT WRANGLER	1193751	Jeans, shorts, casual pants, slacks, trousers, overalls, beach coverups, belts, suspenders, blazers, bodysuits, camisoles, chemises, foundation garments, coveralls, t-shirts, woven shirts, knit shirts, button front shirts, pull-over shirts, tops, blouses, pullovers, sweaters, vests, jackets, coats, skirts, dresses, rompers, sleepers, bandanas, scarves, gloves, hats, caps, nightgowns, robes, pajamas.
BLUE BELL'S WRANGLER	1193537	Jeans, casual pants, slacks, trousers, shorts, overalls, coveralls, skirts, casual dresses, blouses, shirts, t-shirts, pullovers, sweaters, vests, jackets, coats, gloves, belts, suspenders, bandanas, caps, socks, shoes and boots.
GENUINE WRANGLER	1205806	Jeans, casual pants, shorts, skirts, casual dresses, blouses, shirts, t-shirts, pullovers, sweaters, vests, jackets, coats, gloves, belts, suspenders, bandanas, hats, caps, socks.
RIGGS WORKWEAR BY WRANGLER	1170814	Workwear clothing namely jeans, jackets made primarily of denim, work pants, work shorts, tee-shirts, woven workshirts, woven shirts with knit linings, vests, bib overalls, coveralls; fleece shirts, fleece tee-shirts, fleece sweatshirts, fleece jackets, fleece sweatjackets, fleece vests.
	1170667	Workwear clothing namely jeans, jackets made primarily of denim, work pants, work shorts, tee-shirts, woven workshirts, woven shirts with knit linings, vests, bib overalls, coveralls; fleece shirts, fleece tee-shirts, fleece sweatshirts, fleece jackets, fleece sweatjackets, fleece vests.
TIMBER CREEK BY WRANGLER	792805	Wallets, carrying bags, purses, tote bags, hand bags, duffle bags, back packs, travel cases, garment-bags, travel pouches and bags for carrying toiletries, plastic travel bottles and toothbrushes.
TIMBER CREEK BY WRANGLER	883864	Wearing apparel accessories namely belts.

Schedule « B »

Trade-mark	App. No.	Wares
WRANGLER	1220228	Perfumes, fragrances for personal use, room fragrances, sachets, perfume oils, colognes, lotions for face, hands, and body; shaving and after-shave lotions; aromatherapy lotions, oils, and sprays; cosmetics namely shampoos, soaps, and toners; bath and shower preparations namely gels, lotions, foams, beads, crystals, milks, oils, pearls, powders, and non-medicated salts; bubble bath, essential oils for personal use, incense.
WRANGLER	1225869	Rainwear, namely rain shirts, rain pants, rain jackets, rain ponchos, rain coats, rain gloves, rain hats, rain suits, rain boots, rain shoes; gloves, gardening gloves; gloves for general use (household); gloves for industrial use (protective).
<i>Wrangler</i>	1220207	Perfumes, fragrances for personal use, room fragrances, sachets, perfume oils, colognes, lotions for face, hands, and body; shaving and after-shave lotions; aromatherapy lotions, oils, and sprays; cosmetics namely shampoos, soaps, and toners; bath and shower preparations namely gels, lotions, foams, beads, crystals, milks, oils, pearls, powders, and non-medicated salts; bubble bath, essential oils for personal use, incense.
WRANGLER 47	1205098	Jeans, casual pants, shorts, skirts, casual dresses, blouses, shirts, t-shirts, pullovers, sweaters, vests, jackets, coats, gloves, belts, suspenders, bandanas, hats, caps, socks.
Wrangler	1220236	Perfumes, fragrances for personal use, room fragrances, sachets, perfume oils, colognes, lotions for face, hands, and body; shaving and after-shave lotions; aromatherapy lotions, oils, and sprays; cosmetics namely shampoos, soaps, and toners; bath and shower preparations namely gels, lotions, foams, beads, crystals, milks, oils, pearls, powders, and non-medicated salts; bubble bath, essential oils for personal use, incense.
Wrangler HOME	1176449	Home handicraft and decorating preparations namely, paints, colorants, varnishes, lacquers, stains, wood preservatives, shellacs, primers, sealers; metals in foil and powder form for home use as handicrafts or home decorating purposes; fabric paints... household items made of non-precious metals namely ... bottlecaps...

Schedule « B »

Trade-mark	App. No.	Wares
WRANGLER JEANS CO.	1225933	Backpacks, waist packs, duffel bags, tote bags, coin purses, handbags, leather goods and imitation leather goods namely straps used for bags; agenda covers, planners, organizers, card wallets namely business card holders and credit card holders, portfolios, notebooks, calculator cases, key cases, money clips, passport holders, phone cases, eyewear cases, CD and DVD and cassette holders, luggage, shoulder bags, cosmetic bags sold empty, toiletry cases sold empty, travel cases (sold empty), umbrellas; wallets, key fobs.
WRANGLER JEANS CO.	1225934	Watches, clocks, jewelry.
WRANGLER JEANS CO.	1225936	Eyeglasses, sunglasses, eyeglass cases, eyeglass cords.
WRANGLER JEANS CO.	1225939	Bandannas, belts, bib overalls, blazers, blouses, boots, caps, casual dresses, casual pants, coats, coveralls, denim clothing namely jeans, slacks, pants, shorts, skirts, shirts, blouses, vests, jackets, coats, gloves, hats, dungarees; gloves, hats, hooded jackets, hooded shirts, hosiery, jackets, jumpers, knit/woven shirts, leg warmers, leotards, overalls, ponchos, pullovers, shirts, shoes, shorts, skirts, slacks, socks, suspenders, sweat shirts, sweaters, sweatpants, sweat shorts trousers t-shirts vests work pants work shirts.
WRANGLER JEANS CO. ESTABLISHED 1947	1225867	Bandannas, belts, bib overalls, blazers, blouses, boots, caps, casual dresses, casual pants, coats, coveralls, denim clothing namely jeans, slacks, pants, shorts, skirts, shirts, blouses, vests, jackets, coats, gloves, hats, dungarees; gloves, hats, hooded jackets, hooded shirts, hosiery, jackets, jumpers, knit/woven shirts, leg warmers, leotards, overalls, ponchos, pullovers, shirts, shoes, shorts, skirts, slacks, socks, suspenders, sweat shirts, sweaters, sweatpants, sweat shorts trousers t-shirts vests work pants work shirts.
WRANGLER JEANS CO. ESTABLISHED 1947	1225935	Backpacks, waist packs, duffel bags, tote bags, coin purses, handbags, leather goods and imitation leather goods namely straps used for bags; agenda covers, planners, organizers, card wallets namely business card holders and credit card holders, portfolios, notebooks, calculator cases, key cases, money clips,

Schedule « B »

Trade-mark	App. No.	Wares
		passport holders, phone cases, eyewear cases, CD and DVD and cassette holders, luggage, shoulder bags, cosmetic bags sold empty, toiletry cases sold empty, travel cases (sold empty), umbrellas; wallets, key fobs.
WRANGLER JEANS CO. ESTABLISHED 1947	1225937	Watches, clocks, jewelry.
WRANGLER JEANS CO. ESTABLISHED 1947	1225938	Eyeglasses, sunglasses, eyeglass cases, eyeglass cords.
WRANGLER RUGGED WEAR	1105009	Leather and nylon accessories, namely wallets, change purses, handbags, toiletry cases and key fobs.