

**IN THE MATTER OF AN OPPOSITION by  
Reb Bull GmbH to Application No. 1101825  
for the Trade-mark EXTREME BULL filed  
by Gwynne Sykes**

**I The Pleadings**

On May 2, 2001, Gwynne Sykes (the “Applicant”) filed an application to register the trade-mark EXTREME BULL (the “Mark”) in association with t-shirts, mugs and mouse pads (the “Wares”); and in association with the services of licensing cartoon character (the “Services”). The application was based on use in Canada since August 6, 2000 for the Wares and since September 24, 1998 for the Services. The application was advertised on November 13, 2002 in the Trade-marks Journal for opposition purposes.

Red Bull GmbH (the “Opponent”) filed on April 11, 2003, a statement of opposition forwarded on May 26, 2003 by the Registrar to the Applicant. The Applicant filed on June 23, 2003 what has been considered as a counter statement dated April 23, 2003.

The Opponent’s evidence consists of the affidavits of Micheal David Mercer, Robert W. White, Volker Vietchbauer and Christopher Reindl as well as a certified copy of registration number TMA550062 for the trade-mark RED BULL, while the Applicant advised the Registrar by letter received on February 19, 2004 that she did not intend to submit evidence.

Both parties filed written arguments and no oral hearing was held.

I may add at this point that the Trade-marks Regulations (1996) are quite clear that any evidence must be filed in the form of an affidavit or a statutory declaration at specific periods of time or with leave to file after the prescribed delay if such leave is requested and the applicable criteria are met. The Registrar did forward to the Applicant’s attention documentation to inform her about the opposition process, including a copy of the pertinent Rules and Practice Notice. I shall

apply those rules of practice. I am therefore not considering any documents attached to the Applicant's correspondence, counter statement, amended counter statement, or written argument. The Applicant decided to advise the Registrar and the Opponent that she would not file any evidence and the Opponent decided to manage its file accordingly. A party cannot at the argument stage decide to file whatever documents it may consider pertinent to support its contention.

## **II The grounds of Opposition**

The Opponent amended its statement of opposition, with leave of the Registrar, so that the grounds of opposition presently pleaded can be summarised as follow:

- 1) Based on s. 38(2)(a) and 30(a) of the *Trade-marks Act* R.S.C. 1985, c. T-13 (the "Act"), the application does not comply with the requirements of s. 30 of the Act in that the Services are not described in ordinary commercial terms because it is vague and does not specify whose cartoon character is being licensed to whom and for what purpose. In the alternative, the Applicant is engaged in the licensing of the Applicant's own cartoon character which is not a service and in any event does not constitute the services described in the application;
- 2) Based on s. 38(2)(a) and 30(b) of the Act, the Applicant has not used the Mark in Canada as of the claimed date of first use in association with the Services;
- 3) Based on s. 38(2)(a) and s.30(i), the Applicant could not have been satisfied that it is entitled to use the Mark in Canada in association with the Wares and Services in view of the Opponent's registered trade-mark RED BULL, number TMA550062 and those of the other trade-marks within the Opponent's family of "bull" trade-marks listed in Schedule A to this decision, for which applications had been previously filed in Canada by the Opponent;
- 4) Based on s. 38(2)(b) and 12(1)(d) of the Act, the Mark is not registrable as it is confusing with the Opponent's registered trade-mark RED BULL number TMA550062 in association with non-alcoholic beverages, namely sports drinks and energy drinks;
- 5) Based on s. 38(2)(c) and 16(1)(a) and (b) of the Act, the Applicant is not the person entitled to the registration of the Mark as at the alleged date of first use of the Mark, it was confusing with the Opponent's trade-marks listed in schedule A previously made known in Canada and for which applications had been previously filed in Canada by the Opponent;
- 6) Based on s. 38(2)(d) and 2 of the Act, the Mark is not distinctive of the Applicant because it does not actually distinguish, nor is it adapted to distinguish the Wares from

the wares and services of others or from the wares and services of the Opponent associated with the Opponent's trade-marks.

In an amended counter statement the Applicant conceded that the application was not in compliance with the Act and the Regulations in so far as the Services were concerned and filed an amended application deleting the Services from the original application. By decision dated February 14, 2005 the Registrar accepted the amended application. Therefore the first two grounds of opposition are moot and will not be the subject of this decision. The application now covers only the Wares.

### **III Analysis of the remaining grounds of opposition**

The legal burden is upon the Applicant to show that its application complies with the provisions of the Act, but there is however an initial onus on the Opponent to establish the facts relied upon by it in support of each ground of opposition. Once this initial onus is met, the Applicant still has to prove, on a balance of probabilities, that the particular grounds of opposition should not prevent the registration of the Mark [See *Joseph E. Seagram & Sons Ltd. et al v. Seagram Real Estate Ltd.*, 3 C.P.R. (3d) 325, at pp. 329-330; *John Labatt Ltd. v. Molson Companies Ltd.*, 30 C.P.R. (3d) 293 and *Wrangler Apparel Corp. v. The Timberland Company*, [2005] F.C. 722].

In its written argument the Opponent states that one of the issues raised in this opposition is that the application does not comply with s. 30(b) of the Act because the Applicant has not used the Mark since the date of first use alleged in the application, namely August 6, 2000 with "t-shirts, mugs and mouse pads". In order to dispose of this argument suffice to say that the details provided in paragraph 1(a)(ii) of the amended statement of opposition to support such ground of opposition refer specifically to the non-use of the Mark in association with the Services. Therefore such ground of opposition has not been specifically pleaded. Moreover the Opponent has not adduced any evidence to support such contention. Contrary to the Opponent's assertion, the Applicant does not have an initial onus to prove use of the Mark as of the claimed date of first use. As I disregarded any documents annexed to the Applicant's counter statement and amended counter statement, having not been filed properly, the Opponent cannot refer to them to meet its low threshold initial onus. As such the Opponent cannot rely on *Labatt Brewing Co. Ltd.*

*v. Molson Breweries, A Partnership* (1996), 68 C.P.R. 216. Consequently a ground of opposition based on non-compliance to s. 30(b) of the Act with respect to the Wares would also be dismissed.

i) Ground of opposition under s. 30(i)

The affidavits of Micheal David Mercer, Robert W. White, Volker Vietchbauer and Christopher Reid do not contain allegations that enable the Opponent to meet its initial onus with respect to the third ground of opposition. The mere existence of the Opponent's registered trade-mark RED BULL does not preclude the Applicant to state in her application that she is satisfied that she is entitled to use the Mark in Canada in association with the Wares. In any event, where an applicant has provided such statement, this ground of opposition should only succeed in exceptional cases such as where there is evidence of bad faith on the part of an applicant. [*Sapodilla Co. Ltd. v. Bristol-Myers Co.* (1974), 15 C.P.R. (2d) 152 (T.M.O.B.) at 155]. Therefore the third ground of opposition is also dismissed.

ii) Ground of opposition under s. 12(1)(d)

The material date to determine if the trade-mark is registrable is the date of the Registrar's decision. [See *Park Avenue Furniture Corporation v. Wickes/Simmons Bedding Ltd.* (1991), 37 C.P.R. (3d) 413 at 424 (F.C.A)]

The Opponent did file a copy of certificate of registration number TMA550062 for its trade-mark RED BULL registered in association with non-alcoholic beverages, namely sports drinks and energy drinks (as of the date of my decision) and therefore met its initial onus with respect to the fourth ground of opposition.

The test to determine if there exists a reasonable likelihood of confusion is set forth in s. 6(2) of the Act and I must have regard to all the surrounding circumstances, including those listed in s. 6(5): the inherent distinctiveness of the trade-marks or trade-names and the extent to which they have become known; the length of time the trade-marks or trade-names have been in use; the

nature of the wares, services, or business; the nature of the trade; and the degree of resemblance between the trade-marks or trade-names in appearance, or sound or any ideas suggested by them. Those criteria are not exhaustive and it is not necessary to give each one of them equal weight [See *Clorox Co. v. Sears Canada Inc.* (1992), 41 C.P.R. (3d) 483 (F.C.T.D.) and *Gainers Inc. v. Marchildon* (1996), 66 C.P.R. (3d) 308 (F.C.T.D.)].

The Supreme Court of Canada through Mr. Justice Binnie in *Mattel, Inc. v. 3894207 Canada Inc.*, (2006) 49 C.P.R. (4th) 321 described the test of confusion as follow:

What, then, is the perspective from which the likelihood of a “mistaken inference” is to be measured? It is not that of the careful and diligent purchaser. Nor, on the other hand, is it the “moron in a hurry” so beloved by elements of the passing-off bar: *Morning Star Co-Operative Society Ltd. v. Express Newspapers Ltd.*, [1979] F.S.R. 113 (Ch. D.), at p. 117. It is rather a mythical consumer who stands somewhere in between, dubbed in a 1927 Ontario decision of Meredith C.J. as the “ordinary hurried purchasers”: *Klotz v. Corson* (1927), 33 O.W.N. 12 (Sup. Ct.), at p. 13. See also *Barsalou v. Darling* (1882), 9 S.C.R. 677, at p. 693. In *Delisle Foods Ltd. v. Anna Beth Holdings Ltd.* (1992), 45 C.P.R. (3d) 535 (T.M.O.B.), the Registrar stated at p. 538:

When assessing the issue of confusion, the trade marks at issue must be considered from the point of view of the average hurried consumer having an imperfect recollection of the opponent’s mark who might encounter the trade mark of the applicant in association with the applicant’s wares in the market-place.

(...)

In opposition proceedings, trade-mark law *will* afford protection that transcends the traditional product lines unless the applicant shows the likelihood that registration of its mark will *not* create confusion in the marketplace within the meaning of s. 6 of the *Trade-Marks Act*. Confusion is a defined term, and s. 6(2) requires the Trade-marks Opposition Board (and ultimately the court) to address the *likelihood* that in areas where both trade-marks are used, prospective purchasers will infer (incorrectly) that the wares and services - though not being of the same general class - are nevertheless supplied by the same person. Such a mistaken inference can only be drawn here, of course, if a link or association is likely to arise in the consumer's mind between the source of the well-known BARBIE products and the source of the respondent's less well-known restaurants. If there is no likelihood of a link, there can be no likelihood of a mistaken inference, and thus no confusion within the meaning of the Act.

I shall now review the Opponent's evidence in the context of each criteria listed above to determine if there exists, on a balance of probabilities, a likelihood of confusion between the Mark and the Opponent's registered trade-mark RED BULL.

Both marks in issue are inherently distinctive, as RED BULL and EXTREME BULL have no connotation when used in association with their respective wares. There is no evidence of use of the Mark in Canada in association with the Wares. The Opponent argues that the evidence filed shows that its trade-mark RED BULL and "associated family of BULL trade-marks" have become well known in Canada. I will consider the issue of the family of trade-marks as an additional surrounding circumstance hereinafter, but first can I conclude from the evidence to be described herein that the Opponent's trade-mark RED BULL has become known in Canada within the meaning of s. 6(5)(a) of the Act?

Mr. Vietchtbauer is general counsel for the Opponent since 1999 and has been one of its employees since 1996. He alleges that he has access to the Opponent's books and records. The first portion of his affidavit consists in the history of the creation of an energy drink lunched in Austria in 1987 under the trade-mark RED BULL ENERGY DRINK. The affiant refers in paragraph 5 of his affidavit to two different trade-marks: RED BULL ENERGY DRINK and RED BULL. In the early 1990's the product was launched in other European countries and in the United States in 1997. Throughout his affidavit Mr. Vietchtbauer is silent on the sale of energy drinks in Canada in association with either of these trade-marks. In fact in paragraph 12 of his affidavit he explains that the Opponent is still waiting the regulatory approval from the Canadian authorities to sell this product in Canada. Therefore clearly there has been no use of the Opponent's aforesaid trade-marks in Canada, including the Opponent's registered trade-mark RED BULL, within the meaning of s. 4 of the Act in association with energy drinks when Mr. Vietchtbauer executed his affidavit and as such they cannot have become known in Canada.

I wish to point out that I make a distinction between the concept of a trade-mark that has become known (s. 6(5)(a) of the Act) and a trade-mark that is deemed to be made known in Canada (s. 5 of the Act) in view of the difference in the wording used by the Legislator in those sections of the Act. However should these expressions mean the same thing, I would conclude that the

admissible evidence filed in the record does not enable me to conclude that the Opponent's trade-mark RED BULL has become known in Canada for the same reasons outlined in my analysis of the evidence under the ground of opposition of entitlement (s. 16(1)(a) of the Act). Therefore the first factor does not favour any of the parties.

There is no evidence of use in Canada of the Opponent's trade-mark RED BULL in association with energy drinks as well as the Mark in association with the Wares. Therefore this second factor does not favour any of the parties.

The nature of the wares of the respective parties is clearly different. There is no relationship between energy drink and t-shirt, mouse pad and mugs. Such factor favours the Applicant.

There is no evidence on the nature of the Applicant's business. As stated earlier, I do not take into consideration whatever statements included in the written pleadings filed by the Applicant that would constitute evidence. Even if I was to take into consideration that the Mark denotes employment of the ambiance/accoutrements of extreme sports without the skill required to participate, the nature of the Opponent's business is to sell energy drinks. It might target fans of extreme sports but this is not sufficient to create a link in the mind of a consumer between a business of selling energy drinks and the commerce of selling t-shirts, mugs and mouse pads. This factor also favours the Applicant.

In *Polo Ralph Lauren Corp. v. United States Polo Assn.* (2000), 9 C.P.R. (4th) 51 (F.C.A.) Mr. Justice Malone stated:

“With respect to the degree of resemblance in appearance, sound or ideas under subparagraph 6(5) (e), the trade-marks at issue must be considered in their totality. As well, since it is the combination of elements that constitutes a trade-mark and gives distinctiveness to it, it is not correct to lay the trade-marks side by side and compare and observe similarities or differences among the elements or components of the marks when applying the test for confusion. In addition, trade-marks must not be considered in isolation but in association with the wares or services with which they are used.”

It has been held that the first portion of a trade-mark is the most relevant when assessing the degree of resemblance. [See *Molson Companies Ltd. v. John Labatt Ltd.* (1990), 28 C.P.R. (3d) 457 at p. 461 (F.C.T.D.) and *Conde Nast Publications Inc. v. Union Des Editions Modernes* (1979), 46 C.P.R. (2d) 183 (F.C.T.D.) at p. 188]

The only common element is the noun “bull”. The adjectives “extreme” and “red” give a different meaning to the word “bull”. The colour red has been associated to the animal bull. On the other hand the adjective “extreme” can serve to qualify the type of animal. But in the mind of the average consumer the expression “extreme bull” as stated by the Applicant in her written representation expresses a colloquialism, with the word “bull” being used as a less vulgar common contraction for the vernacular “bullshit” meaning: nonsense, foolish, preposterous, misleading or false. As such not only the trade-marks in issue are phonetically and visually different but the ideas suggested by them are different. As a whole, this factor also favours the Applicant.

The Opponent is arguing that its registered trade-mark RED BULL is part of a family of trade-marks comprising the word “bull” and is therefore claiming a wider protection than what would normally be afforded to its trade-mark RED BULL alone. The family of trade-marks consists of applications still pending listed in schedule A. Even if I was to consider the concept of a family of trade-marks based on pending applications in the context of a ground of opposition based on s. 12(1)(d), which I am not prepared to do, the onus is on the Opponent in an opposition to establish use in Canada of each of the trade-marks allegedly part of the family of trade-marks. [See *MacDonald’s Corporation v. Yogi Yogurt Ltd.* (1982), 66 C.P.R. (2d) 101] There is no such evidence in the record and consequently this argument is not a factor to be taken into consideration in my decision.

From the evidence summarized above I conclude that the Applicant has discharged her burden to prove, on a balance of probabilities, that the Mark will not cause a reasonable likelihood of confusion with the Opponent’s registered trade-mark RED BULL. Therefore the fourth ground of opposition is also dismissed.



iii) Grounds of opposition based on s. 16(1) of the Act

As stated above, the Opponent has not established use of any of its trade-marks listed in Schedule A annexed hereto. However has it established that any one of those marks have been made known in Canada within the meaning of s. 5 of the Act at the claimed date of first use of the Mark by the Applicant?

Mr. Vietchtbauer provides the worldwide sales of the Opponent but such evidence is not sufficient to demonstrate that the trade-marks RED BULL ENERGY DRINK or RED BULL are known in Canada within the meaning of s. 16(1)(a) and s. 5 of the Act. He alleges spill over advertising from television, radio and cinema advertisements aired in the United States on stations that can be viewed in Canada. Such evidence could be pertinent but in our case those allegations constitute inadmissible hearsay evidence. He filed a copy of a report from Carat Study to demonstrate the spill over in Canada of some television programs aired in the United States. The production of this report is also inadmissible hearsay evidence, as the author of such report did not file it.

He alleges that the trade-mark RED BULL appears on marketing material such as articles of clothing but we have no evidence of the circulation in Canada of such items nor samples of those products. He further alleges that the Opponent was the owner and sponsor of a formula one racing car team on which appears the trade-mark RED BULL and Design. He alleges that those races are broadcasted on television in Canada but again this statement constitutes inadmissible hearsay evidence. He states that the Opponent sponsors motorcycle races and extreme sports competitions held worldwide. Any evidence filed by Mr. Vietchtbauer to support his assertion that such events have been broadcasted in Canada is inadmissible hearsay evidence. He also alleges that the Opponent's trade-mark RED BULL is well known in Austria and Germany. Beside the fact that there is no material evidence to support such contention, it is irrelevant to the issues to be determined in this opposition proceeding.

Mr. Reindl is the Opponent's head of event marketing since 1999. In paragraph 4 of his affidavit he refers to the trade-mark RED BULL ENERGY DRINK. Most of his evidence relates to

sponsorship by the Opponent of various sporting activities. He has filed pictures of a formula one race car bearing the trade-mark RED BULL & design that participated in the Canadian Grand Prix between 1995 to 2002. The allegations concerning the attendances at such racing event constitutes inadmissible hearsay evidence. In any event even if I was to accept the sponsorship of a racing car team as reliable evidence in this proceeding it does not associate the trade-mark RED BULL with the Opponent's energy drinks. At the utmost it associates the aforesaid trade-mark with a formula one racing car team.

He has filed a copy of an article published in the Edmonton Journal on an athlete that the Opponent sponsors. However neither in the article nor on the picture can we see the trade-mark RED BULL or RED BULL & design. As for the other articles of the same nature published in various magazines we have no evidence that they circulated in Canada except for the magazine Mountain Bike Action that, according to the affidavit of Mr. Robert W. White, vice-president of the Audit Bureau of Circulations, had a limited circulation of 8000 copies in Canada. On the excerpts of this magazine filed in the record we see an athlete wearing a baseball cap on which appears the trade-mark RED BULL & design. There are also newspaper clips of the National Post, the Toronto Star, Toronto Sun, Chronicle Herald and Windsor Star on which appears an illustration of a man in a carbon fibre wing-suit with the trade-mark RED BULL & design attempting to cross the English Channel. Circulation figures of these newspapers were provided through the affidavit of Mr. White.

The extracts of printed publications filed as exhibits are articles written for the leisure of the readers of these publications. They do not constitute advertisements of the Opponent's trade-mark RED BULL in association with energy drinks. Thus they do not meet the requirements of s. 5 of the Act. [See *Williams Companies Inc. et al v. William Tel Ltd.*, (2000) 4 C.P.R. (4<sup>th</sup>) 253]

Finally Mr. Mercer has been a student-at-law employed by an agent firm representing the Opponent at the time of the execution of his affidavit. He alleges having phoned a representative of the Canadian Grand Prix in order to have the attendance figures of the Canadian Grand Prix held in Montreal during the years 2001, 2002 and 2003. He also phoned a representative of the Canadian television network CTV in order to obtain confirmation of the broadcasting of such

events on different television channels in Canada. All the information contained in his affidavit on those topics constitutes inadmissible hearsay evidence. He does allege having attended the 2000 Canadian Grand Prix but he does not allege having seen the trade-mark RED BULL or RED BULL & design during such sporting event.

Therefore we have no evidence of use of the trade-mark RED BULL in Canada within the meaning of s. 4 of the Act and no admissible evidence that it has been advertised in Canada such that it would have been made known within the meaning of s. 5 of the Act. As a result the ground of opposition based on s. 16(1)(a) is dismissed for failure to meet the initial onus of proof.

There remains the ground of opposition based on s. 16(1)(b) where prior use or making known is not a prerequisite. Under such section the Opponent has to ascertain the existence of an application filed prior to the alleged date of first use claimed by the Applicant and that it was still pending at the time of advertisement of the present application (s.16 (4) of the Act). The Opponent has not filed any copy of the applications for the registration of the trade-marks listed in Schedule A. In a strict sense I could conclude that the Opponent failed to meet its initial onus. However the case law has established that the Registrar has discretion to check the register to determine if in fact those applications were on the register at the alleged date of first use of the Mark referred to in the present application and still pending at its advertisement date. [See *Royal Appliance Mfg. Co. v. Iona Appliances Inc.* (1990), 32 C.P.R. (3d) 525 (T.M.O.B.) at 529]

From the list of applications detailed in Schedule A, I will focus my analysis on three of them:

- EXTREME BULL, application number 1092195 filed on February 9, 2001 and still pending on November 13, 2002. It covers basically alcoholic and non-alcoholic beverages and the services of providing of food and drink, namely pub, restaurant, take-out and fast foods services; temporary accommodation, namely hotel, accommodation and lodging services; technical consultation and surveying, including computer programming in the area of beverage production sales and food service and accommodation industries, organization of fairs and exhibitions;

- BULL DESIGN, application number 1056233 filed on April 25, 2000, and still pending on November 13, 2002, covering amongst other items articles of clothing;
- RED BULL DESIGN, application number 1005315 filed on February 15, 1999 in association with a long list of wares that includes articles of clothing. Despite the fact that the trade-mark is identified as RED BULL DESIGN the application is for the following trade-mark:



which is the same design trade-mark as application 1056233. It was still pending on November 13, 2002.

I chose those three trade-marks for the reasons that the first application is for the identical trade-mark while the other two cover articles of clothing. I consider them to be the Opponent's best-case scenario. The Mark is not confusing with the other trade-marks listed in Schedule A for the same reasons outlined in support of my conclusion that the fourth ground of opposition ought to be dismissed.

With respect to application number 1092195 for the trade-mark EXTREME BULL it was filed after the material date and therefore cannot be considered as a relevant citation.

As for applications 1056233 and 1005315 for BULL DESIGN, the marks do not look alike. The ideas suggested by the Mark and those design marks are totally different. Those design marks represent a fighting bull while the meaning of the Mark has been exposed above. The only factors favouring the Opponent would be that the nature of the wares are identical which could lead to an argument that their possible channels of trade would also be identical in the absence of proof to the contrary. However the dissimilarities of the marks in issue outweigh the other two criteria favouring the Opponent (nature of wares and channels of trade).

I therefore conclude that, on a balance of probabilities, there is no reasonable likelihood of confusion between the Mark and any of the three Opponent's trade-marks hereinabove mentioned. Consequently the fifth ground of opposition is also dismissed.

iv) Distinctiveness

It is generally accepted that the relevant date to assess this ground of opposition is the filing date of the statement of opposition. [See *Andres Wines Ltd. and E&J Gallo Winery* (1975), 25 C.P.R. (2d) 126 at 130 (F.C.A.), *Park Avenue Furniture Corporation*, op. cit and *Metro-Goldwyn-Meyer Inc. v. Stargate Connections Inc.* (2004), 34 C.P.R. (4<sup>th</sup>) 317 (F.C.T.D.)].

The Opponent has an evidential burden to show that, as of April 11, 2003, any of its trade-marks listed in Schedule A had become known sufficiently to negate the distinctiveness of the Mark [*Motel 6, Inc. v. No. 6 Motel Ltd.* (1981), 56 C.P.R. (2d) 44 (F.C.T.D.) at 58]. Once this burden is met, the Applicant has a legal onus to show that the Mark is adapted to distinguish or actually distinguishes the Wares from the wares/services of the Opponent throughout Canada. [See *Muffin Houses Incorporated v. The Muffin House Bakery Ltd.* (1985), 4 C.P.R. (3d) 272 (T.M.O.B.)]

The Opponent has not filed any evidence of use of its trade-marks in Canada within the meaning of s. 4 of the Act nor did it prove that they were made known within the meaning of s. 5 of the Act (see my analysis above on making known) prior to the filing date of its statement of opposition. Therefore it did not meet its initial onus of proof. Consequently, this ground of opposition is also dismissed.

#### **IV Conclusion**

Having been delegated authority 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) of the Act.

DATED IN BOUCHERVILLE, QUEBEC, THIS 28th DAY OF MARCH 2007.

Jean Carrière  
Member  
Trade-marks Opposition Board

## SCHEDULE "A"

### REGISTRATIONS

| Trade-mark | <u>Appl. No.</u> | <u>Reg. No.</u> |
|------------|------------------|-----------------|
| RED BULL   | 1,043,166        | TMA 550,062     |

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### PENDING APPLICATIONS

| Trade-mark                     | <u>Appl. No.</u> | <u>Filing Date</u>   |
|--------------------------------|------------------|----------------------|
| BAD BULL                       | 1,031,939        | October 12, 1999     |
| BLACK BULL                     | 1,031,948        | October 12, 1999     |
| Bull Design (right sided)      | 1,056,233        | April 25, 2000       |
| BULL RUSH                      | 1,031,938        | October 12, 1999     |
| BULL                           | 1,031,947        | October 12, 1999     |
| ENERGY BULL                    | 1,031,941        | October 12, 1999     |
| EXTREME BULL                   | 1,092,195        | February 9, 2001     |
| FL YING BULL                   | 1,031,946        | October 12, 1999     |
| FUNKY BULL                     | 1,031,945        | October 12, 1999     |
| GOLDEN BULL                    | 1,031,944        | October 12,<br>1999  |
| LORD BULL                      | 1,031,942        | October 12, 1999     |
| POWER BULL                     | 1,031,943        | October 12, 1999     |
| RED BULL Design                | 1,005,315        | February 15,<br>1999 |
| RED BULL Design                | 1,043,167        | January 18, 2000     |
| RED BULL ENERGY DRINK & Design | 1,013,121        | April 23, 1999       |
| RED BULL ENERGY DRINK & Design | 1,041,846        | January 7, 2000      |
| RED BULL                       | 777,100          | March 6, 1995        |
| SPEEDY BULL                    | 1,031,951        | October 12, 1999     |
| VODKA BULL                     | 1,031,940        | October 12, 1999     |