



LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADE-MARKS

Citation: 2018 TMOB 106

Date of Decision: 2018-09-28

IN THE MATTER OF AN OPPOSITION

Scotch & Soda B.V.

Opponent

And

Sweat & Soda Barcafe Ltd.

Applicant

1,641,659 for SWEAT & SODA

Application

INTRODUCTION

[1] On August 30, 2013, Sweat & Soda Barcafe Ltd. (the Applicant) filed an application to register the trade-mark SWEAT & SODA (the Mark) based on proposed use in Canada in association with the following goods and services (as amended):

Goods

Coffee; Clothing namely, t-shirts, shorts, socks, shoes, baseball caps, hats, shirts, night shirts, sweaters, jerseys, pullovers, jackets, kimonos, pants; Sweat clothing, namely, sweat pants, sweat shorts, sweat socks, sweat jackets, sweatshirts, sweat suits; Athletic clothing namely T-shirts, shorts, warm-up suits and sweatshirts; leisure suits, casual suits, tennis suits, dresses, tennis dresses, skirts, gloves, toques, tank tops, posing trunks, belts, wrist straps, wrist wraps, knee wraps, socks, bathing suits, robes, shoes, boots and belt buckles; athletic bags, tote bags and knapsacks; rugby pants, warm-up pants, running shorts; Rainwear, namely, wind and rain resistant jackets, coats and hats, shirts, sweaters,

pants and jackets; Lifting belts, drink coasters, mugs, drinking glasses, sunglasses, key chains, toy flying saucers for toss games, rosin, chalk, ankle weights, wrist weights, skipping ropes, business card holders, license plate frames, wallets, posters, pens, pencils, notebooks, measuring tapes, desk pads, mats, jewelry and bumper stickers.

Services

Restaurant, bar and cocktail lounge services; snack bar services; providing banquet and social function facilities for special occasions; catering for the provision of food and beverages.

[2] The application was advertised for opposition purposes in the *Trade-marks Journal* of July 29, 2015.

[3] On December 29, 2015, Scotch & Soda Barcafe Ltd. (the Opponent) filed a statement of opposition. The grounds are summarized below:

(a) contrary to section 30(e) of the *Trade-marks Act*, RSC 1985, c T-13 (the Act), the Applicant did not have a bona fide intention to use the Mark in association with all of the applied for goods and services;

(b) contrary to section 12(1)(d) of the Act, the Mark is confusing with the Opponent's trade-marks SCOTCH & SODA, registration No. TMA671,475 and SCOTCH & SODA AMSTERDAM COUTURE, registration No. TMA814,320 (the Opponent's Marks);

(c) contrary to section 16(3)(a) of the Act, the Applicant is not the person entitled to registration of the Mark because at the filing date of the application it was confusing with the Opponent's use of the Opponent's Marks;

(d) contrary to section 16(3)(c) of the Act, the Applicant is not the person entitled to registration of the Mark because at the filing date of the application it was confusing with the Opponent's use of the trade-name Scotch & Soda B.V. which had been previously used by the Opponent in Canada in the retail, clothing, footwear and accessories industries; and

(e) contrary to section 2 of the Act, the Mark is not distinctive of the Applicant, nor has it been adapted to distinguish the Applicant's goods and services from (i) those of the Opponent and (ii) those of others.

[4] The Applicant filed and served a counter statement in which it denied the Opponent's allegations. In support of its opposition, the Opponent filed the affidavits of Ynse Stapert and Jo-Anne McConnery, as well as certified copies of the Opponent's Marks. The Applicant filed the affidavit of Guy Ozeny. The Opponent alone filed a written argument and attended a hearing on August 27, 2018.

ONUS AND MATERIAL DATES

[5] The Applicant bears the legal onus of establishing, on a balance of probabilities, that the application complies with the requirements of the Act. However, there is an initial evidential 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 [see *John Labatt Limited v The Molson Companies Limited* (1990), 30 CPR (3d) 293 (FCTD) at 298].

[6] The material dates with respect to the grounds of opposition are as follows:

- sections 38(2)(a)/30 of the Act - the filing date of the application [*Georgia-Pacific Corp v Scott Paper Ltd* (1984), 3 CPR (3d) 469 (TMOB) at 475];
- sections 38(2)(b)/12(1)(d) of the Act - the date of my decision [*Park Avenue Furniture Corporation v Wickes/Simmons Bedding Ltd and The Registrar of Trade Marks* (1991), 37 CPR (3d) 413 (FCA)];
- sections 38(2)(c)/16(3) of the Act – the filing date of the application; and
- sections 38(2)(d) of the Act - the filing date of the opposition [*Metro-Goldwyn-Mayer Inc v Stargate Connections Inc* (2004), 2004 FC 1185 (CanLII), 34 CPR (4th) 317 (FC)].

SECTION 30 GROUND OF OPPOSITION

[7] Section 30(e) of the Act requires that an applicant for a proposed trade-mark state that the applicant, by itself or through a licensee, or by itself and through a licensee, intends to use the trade-mark in Canada.

[8] In this case, since the application contains a statement that the Applicant by itself and/or through a licensee intends to use the trade-mark in Canada, it formally complies with section 30(e). The issue therefore becomes whether or not the Applicant substantially complied with section 30(e), i.e. was the Applicant's statement that it intended to use the Mark true? [*Home Quarters Warehouse, Inc v Home Depot, USA, Inc* (1997), 76 CPR (3d) 219 (TMOB); *Jacobs Suchard Ltd v Trebor Bassett Ltd* (1996), 69 CPR (3d) 569 (TMOB).]

[9] Since the facts regarding the Applicant's intentions are particularly within the knowledge of the Applicant, the initial burden on the Opponent is lighter than usual regarding section 30(e) [*Molson Canada v Anheuser-Busch, supra*]. However, if the Opponent relies upon the Applicant's evidence to meet its initial burden, the Opponent must show that the Applicant's evidence is clearly inconsistent with the Applicant's claim [*York Barbell Holdings Ltd v ICON Health & Fitness Inc* (2001), 13 CPR (4th) 156 (TMOB)].

[10] In the present case, I am not satisfied that the Opponent has met its initial onus under section 30(e) for the following reasons. First, as noted above, there is no requirement on the Applicant to show use of its Mark until it has been approved [*Molson Canada v Anheuser Busch, supra*]. Therefore, the fact that the Applicant's evidence does not show that the Applicant has used the Mark to date outside of services in the area of food and drink is not relevant. Second, the fact that cafes, bars, cocktail lounges and catering services may not, in the normal course of trade, be involved in the manufacture or sales of brand name clothing, bags, jewellery, fashion accessories, measuring tapes, sunglasses, etc. is not evidence that the Applicant does not have a bona fide intention to use the Mark with the other applied for goods and services.

[11] The section 30(e) ground is accordingly dismissed.

SECTION 12(1)(D) GROUND OF OPPOSITION

[12] I have exercised my discretion and checked the Register to confirm that the registrations relied on by the Opponent, set out in the attached Schedule A, are extant [*Quaker Oats Co Ltd of Canada v Menu Foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)]. Therefore, the Opponent has met its initial burden with respect to this ground.

[13] I will assess the likelihood of confusion between the Mark and the Opponent's SCOTCH & SODA trade-mark as I consider this mark to represent the Opponent's strongest case because it is more similar to the Mark than the Opponent's SCOTCH & SODA AMSTERDAM COUTURE mark and is for overlapping or related goods and services. If confusion is not likely between the Opponent's SCOTCH & SODA mark and the Mark, then confusion will not be likely between the Mark and the Opponent's SCOTCH & SODA AMSTERDAM COUTURE mark.

The test for confusion

[14] The test to determine the issue of confusion is set out in section 6(2) of the Act where it is stipulated that the use of a trade-mark causes confusion with another trade-mark if the use of both trade-marks in the same area would likely lead to the inference that the goods and services associated with those trade-marks are manufactured, sold or leased by the same person, whether or not the goods and services are of the same general class. In making such an assessment, I must take into consideration all the relevant surrounding circumstances, including those listed in section 6(5): the inherent distinctiveness of the trade-marks and the extent to which they have become known; the length of time the trade-marks have been in use; the nature of the goods and services or business; the nature of the trade; and the degree of resemblance between the trade-marks in appearance, or sound or in the ideas suggested by them.

[15] These criteria are not exhaustive and different weight will be given to each one in a context specific assessment [*Mattel, Inc v 3894207 Canada Inc*, 2006 SCC 22 (CanLII), [2006] 1 SCR 772 (SCC) at para 54]. I also refer to *Masterpiece Inc v Alavida Lifestyles Inc* (2011), 2011 SCC 27 (CanLII), 92 CPR (4th) 361 (SCC) at para 49, where the Supreme Court of Canada

states that section 6(5)(e), the resemblance between the marks, will often have the greatest effect on the confusion analysis.

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

[16] In the present case the Mark incorporates the same distinctive “& SODA” feature of the Opponent’s SCOTCH & SODA mark. I therefore find there to be some resemblance between the marks in appearance and sound.

[17] With respect to ideas suggested, however, I find that the marks are more different than alike. In this regard, the Opponent’s SCOTCH & SODA mark suggests a type of alcoholic beverage. The Mark, on the other hand, suggests goods and services related to having a beverage after exercise.

[18] On balance, I find that this section 6(5) factor favours the Opponent slightly, mostly because the Mark essentially incorporates the very distinctive second portion of the Opponent’s SCOTCH & SODA mark. Therefore, given the similarity of the trade-marks at issue, the other factors take on added significance [*Masterpiece supra*].

Inherent distinctiveness of the marks

[19] The McConnery affidavit shows that the word “soda” is not a word commonly used with clothing. I therefore consider the Opponent’s mark to be inherently strong because it is comprised of dictionary words which are not suggestive of the associated goods or services. While the Mark is also comprised of dictionary words, it is slightly less distinctive than the Opponent’s mark because it is somewhat suggestive of the Applicant’s restaurant services and snack bar services.

Extent known and length of time in use

[20] The evidence of Mr. Stapert, General Counsel of the Opponent, may be summarized as follows:

- The Opponent is an apparel, footwear and accessories company founded more than 30 years ago in Amsterdam, Netherlands;
- The Opponent's goods and services have been sold or provided in over 7000 stores around the world including the Netherlands, Canada, the United States, the United Kingdom, France, Germany, Sweden, Italy, Spain, Switzerland and Belgium;
- The Opponent provides its goods and services by online sales by the website located at <https://www.scotch-soda.com>; SCOTCH & SODA branded stores, and third party retailers;
- All of the Opponent's goods carry labels, tags and/or hang tags displaying the SCOTCH & SODA Marks as well as tags bearing the Opponent's company name and address; photos of representative samples of labels, tags and hangtags affixed to the Opponent's goods sold in Canada since at least 2006 are attached as Exhibits A and B;
- The Opponent began to sell its goods in Canada prior to 2006 by way of third party retailers including national department stores such as Hudson's Bay, Winners and Holt Renfrew; a list of retail stores that sell the Opponent's goods in Canada is attached as Exhibit C;
- Customers have also been able to order and obtain the Opponent's goods and services in Canada through the Opponent's website since November 2009;
- The Opponent's goods have also been sold in its brand stores, the first of which opened in the Chinook Centre mall in Calgary, Alberta in 2011;
- From 2011 to 2015, total revenue generated from Canadian sales of the Opponent's goods exceeded \$47 million;
- The Opponent's Marks are advertised in retail stores through point of purchase displays, on the exterior and interior signage of the Opponent's brand stores and through the Opponent's online store; Examples of the types of displays are attached as Exhibits E, F; and H;

- From the fiscal year 2012 (July 1, 2011 – June 30, 2012) to fiscal year 2016 (July 1, 2015 to June 30, 2016), the Opponent’s marketing budget for Canada exceeded \$905,000; and
- The number of visits to the Opponent’s Canadian online store from 2012 – 2015 ranged between 5548 and 202341.

[21] Although the Opponent’s evidence relates to both of its marks, in view of the extensive sales and advertising, I am satisfied that the Opponent’s SCOTCH & SODA mark has become known to a significant extent in Canada.

[22] While the Mark is based on proposed use, the Applicant has provided some evidence of use of its Mark since the filing date of its application. In this regard, the evidence of Mr. Ozery, the Applicant’s co-owner, may be summarized as follows:

- the Applicant is a café and community fitness hub that has been in operation since May, 2016;
- in addition to serving food and drink, the Applicant organizes and conducts fitness activities including runs, walks, and bike rides for local participants in an effort to motivate and encourage healthy lifestyles;
- the Applicant operates a website available at <http://sweatandsoda.com>, excerpts of which are attached to his affidavit as Exhibit 1;
- since May 2016, the Applicant’s sales in Canada of the services have generated revenue in excess of \$80,000;
- the Applicant’s services have been offered on premise at the Applicant’s café in Toronto since May 2016;
- the Mark has been prominently displayed in the café’s front window and within the café since May 2016; and

- the Applicant has been featured in an online Toronto Star Touch article, dated July 11, 2016, as well as in an online BlogTO article, dated June 29, 2016, copies of which are attached as Exhibits 2 and 3 to Mr. Ozery's affidavit.

[23] In view of the evidence furnished by the Applicant, I find that the Mark has only become known to a limited extent in Canada, most if not all of which has been in Toronto.

[24] In view of the above, I am satisfied that the Opponent's mark has become known to a greater extent in Canada and has also been in use for a longer period of time than the Applicant's Mark. These factors therefore favour the Opponent.

Nature of the goods, services or business; the nature of the trade

[25] As for the goods and trades of the parties, it is the Applicant's statement of goods and services in its application and the Opponent's statement of goods and services in its registration that govern: *Mr Submarine Ltd v Amandista Investments Ltd* (1987), 19 CPR (3d) 3 at 10-11 (FCA); *Henkel Kommanditgesellschaft v Super Dragon* (1986), 12 CPR (3d) 110 at 112 (FCA) and *Miss Universe, Inc v Dale Bohna* (1994), 58 CPR (3d) 381 at 390-392 (FCA). However, these statements must be read with a view to determining the probable type of business or trade intended by the parties rather than all possible trades that might be encompassed by the wording. In this regard, evidence of the actual trades of the parties is useful: see the decision in *McDonald's Corporation v Coffee Hut Stores Ltd* (1996), 68 CPR (3d) 168 at 169 (FCA).

[26] With respect to the goods, this factor mostly favours the Opponent. In this regard, the Opponent's SCOTCH & SODA registration covers items of clothing, footwear and accessories while the applied for goods include coffee, clothing, accessories, footwear, houseware and miscellaneous novelty items. I agree with the Opponent that almost all of the Applicant's goods, excluding coffee, either overlap with or are related to the registered goods of the Opponent.

[27] With respect to the services, however, I find that this factor favours the Applicant. In this regard, there is no apparent overlap between restaurant, bar and cocktail lounge services; snack bar services; providing banquet and social function facilities for special occasions or catering for

the provision of food and beverages and the Opponent's registered services including retail store services, advertising and business services.

[28] With respect to the parties' channels of trade, the Opponent submits that there is direct overlap in the channels of trade of the Opponent's goods and the Applicant's goods. I agree with respect to all of the applied for goods except coffee (the reason for which will be further explained below). The Opponent also submits, however, that since there is no limitation in the application regarding where the Applicant may sell its goods, and in view that the Opponent's channels of trade include all aspects of retail sales, (including through branded stores, department stores, and boutiques), it is possible that the parties' goods could be sold in the same stores and in close proximity. The Opponent maintains that because of this, the average consumer who sees the Mark on coffee or other services will think it is a natural extension of the Opponent's goods and services.

[29] The jurisprudence is clear, however, that in assessing whether the average casual purchaser would confuse one mark with another one must examine how the trade-marks are used in the course of business. In this regard, MacKay J. set out the following proposition in *Joseph E. Seagram & Sons Ltd v Seagram Real Estate Ltd* (1990), 33 CPR (3d) 454 at pp. 468-9 (FCTD):

...The question is whether the use of the respondent's trade mark and trade name is likely to be confusing with the appellants' in the sense that such use is likely to lead to the inference that the service offered by the respondent emanates from the same source as the products offered by the appellants. Such an inference will be inferred from showing either that the respondent has taken an actual or substantial copy of the appellants' trade mark or trade name, or the essential features or a colourable imitation of the appellants' mark. The marks however, are to be compared as they are used in business and as they will be recalled by imperfect recollection; they are not simply to be viewed side by side thereby encouraging a critical examination of every minute detail. A trade mark does not lie in each of its particular parts but in the combination of them all. It is well established that it is the impression produced by the mark as a whole which the court must consider: see *British Drug Houses Ltd. v. Battle Pharmaceuticals* (1944), 4 C.P.R. 48 at pp. 57-8, [1944] 4 D.L.R. 577, [1944] Ex.C.R. 239 (per Thorson P.) (emphasis added).

In this case, the Applicant's evidence shows that it has been operating a café and community fitness hub on Queen Street East in Toronto, Ontario under the Mark since May, 2016 [Ozery, para. 2]. In addition to serving food and drink, the Applicant organizes and conducts fitness

activities including runs, walks, and bike rides for local participants in an effort to motivate and encourage healthy lifestyles [Ozery, para. 3].

[30] The Opponent, on the other hand, is a well-known fashion business that sells apparel, footwear and accessories in various types of retail locations. None of the Opponent's registered services include the operation of a restaurant or café. Further, there is no evidence that the Opponent's retail stores would ever sell coffee. In the absence of such evidence, and in view of the Applicant's evidence of use to date, I do not find that either the Applicant's coffee or any of its applied for services would be considered by the average consumer as a natural extension of the Opponent's business. I therefore do not find that the parties' channels of trade would overlap for coffee or any of the applied for services.

Conclusion

[31] I conclude that, on a balance of probabilities, there is a reasonable likelihood of confusion between the Opponent's SCOTCH & SODA trade-mark and the Mark for use in association with all of the goods except coffee. I conclude this based on the degree of resemblance between the trade-marks and the significant overlap in the nature of the remaining applied for goods with the Opponent's registered goods. Accordingly, this ground of opposition is successful for all of the goods except coffee. This ground of opposition is rejected with respect to the applied for services since the differences in the nature of the services and the Opponent's registered services shift the balance of probabilities in the Applicant's favour.

SECTIONS 16(3)(A) & (C) GROUNDS OF OPPOSITION

[32] The Opponent has alleged that the Applicant is not the person entitled to register the Mark as it is confusing with its prior use of the SCOTCH & SODA registered trade-mark and the SCOTCH & SODA B.V. trade-name. The Opponent's evidence detailed above is sufficient to meet its burden that its trade-mark and trade-name were used in Canada prior to the filing date of the application and had not been abandoned at the date of advertisement of the application (section 16(5) of the Act).

[33] For the reasons set out with respect to the section 12(1)(d) ground of opposition, I find that the Applicant has failed to meet its legal onus of proving that there is no reasonable likelihood of confusion between the Mark and the SWEAT & SODA trade-mark or the SWEAT & SODA B.V. trade-name with respect to all of the goods except coffee. These grounds of opposition succeed with respect to the goods, excluding coffee, and are rejected with respect to the services.

DISTINCTIVENESS GROUND OF OPPOSITION

[34] The Opponent has pleaded that the Mark neither distinguishes nor is adapted to distinguish the applied for goods and services from those of others, including the Opponent. The Opponent must prove that its SCOTCH & SODA trade-mark had become sufficiently known as of December 29, 2015, to negate the distinctiveness of the Mark [*Bojangles' International, LLC v Bojangles Café Ltd* (2006), 48 CPR (4th) 427 (FC) at para 34]. The Opponent's evidence detailed above is sufficient to meet its burden to show that its mark had become known sufficiently as of the material date to negate the distinctiveness of the Mark.

[35] The conclusion reached on the issue of likelihood of confusion discussed with respect to the section 12(1)(d) and 16 grounds of opposition are equally applicable to this ground of opposition. Consequently, the same result follows and the ground of opposition is successful with respect to the applied for goods, excluding coffee, and is rejected with respect to the services.

DISPOSITION

[36] In view of the above, and pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the application with respect to the following goods:

Clothing namely, t-shirts, shorts, socks, shoes, baseball caps, hats, shirts, night shirts, sweaters, jerseys, pullovers, jackets, kimonos, pants; Sweat clothing, namely, sweat pants, sweat shorts, sweat socks, sweat jackets, sweatshirts, sweat suits; Athletic clothing namely T-shirts, shorts, warm-up suits and sweatshirts; leisure suits, casual suits, tennis suits, dresses, tennis dresses, skirts, gloves, toques, tank tops, posing trunks, belts, wrist straps, wrist wraps, knee wraps, socks, bathing suits, robes, shoes, boots and belt buckles; athletic bags, tote bags and knapsacks; rugby pants, warm-up pants, running shorts; Rainwear, namely, wind and rain resistant jackets, coats and hats, shirts, sweaters, pants

and jackets; Lifting belts, drink coasters, mugs, drinking glasses, sunglasses, key chains, toy flying saucers for toss games, rosin, chalk, ankle weights, wrist weights, skipping ropes, business card holders, license plate frames, wallets, posters, pens, pencils, notebooks, measuring tapes, desk pads, mats, jewelry and bumper stickers.

and I reject the opposition with respect to coffee and all of the applied for services pursuant to section 38(8) of the Act [*Produits Ménagers Coronet Inc v Coronet-Werke Heinrich Schlerf GmbH* (1986), 10 CPR (3d) 482 (FCTD) as authority for a split decision].

Cindy R. Folz
Member
Trade-marks Opposition Board
Canadian Intellectual Property Office

SCHEDULE A

Opponent's Marks

Trade-mart	Registration No.	Goods and Services
SCOTCH & SODA	TMA671,475	<p>Goods:</p> <p>1) Clothing namely coats, jackets, sweaters, shirts, t-shirts, polo shirts, jackets, pants, trousers, suits, shorts, scarves, ties, socks, swimming suits, dresses, skirts, pullovers, blouses, sportswear namely jogging suits, sweat suits, evening wear namely tuxedos, gowns, cummerbunds, ties, dinner jackets, caps, gloves, underwear; footwear namely slippers, flip-flops</p> <p>(2) Goods in precious metals or coated therewith, namely rings, necklaces, bracelets, earrings, brooches, pins, pendants, buckles, cuff links, tie clips, tie pins; horological and chronometric instruments, namely watches, chronometers, clocks; leather and imitations of leather, and goods made of these materials, namely leather and imitation leather bags, leather and imitation leather key chains; bags, namely all purpose sport bags, school bags, book bags, carry-all bags; saddle belts of leather, trunks and travelling bags; umbrellas, parasols.</p> <p>Services:</p> <p>(1) Advertising and business services, namely administration of the business affairs of franchises, advisory services relating to publicity for franchises and business assistance relating to the establishment and operation of franchises; retail trade services in the field of clothing and footwear, goods in precious metals and coated therewith, horological and chronometric instruments, leather and imitations of leather, bags, trunks and travelling bags, umbrellas, parasols.</p>
SCOTCH & SODA AMSTERDAM COUTURE	TMA814,320	<p>Goods:</p> <p>(1) Goods in precious metals or coated therewith, namely rings, necklaces, bracelets, earrings, brooches, pins namely hair pins, hat pins, lapel pins, safety pins, tie pins, pendants, buckles, cuff links, tie clips; horological and chronometric instruments,</p>

		<p>namely watches, chronometers, clocks; leather and imitations of leather, and goods made of these materials namely leather and imitation leather bags, leather and imitation leather key chains; bags namely all purpose sport bags, school bags, book bags, carry-all bags; saddle belts of leather, trunks and travelling bags; umbrellas, parasols; clothing, namely jumpers, pajamas, coats, jackets, sweaters, shirts, t-shirts, polo shirts, jackets, pants, trousers, suits, shorts, scarves, ties, socks, swimwear, dresses, skirts, pullovers, blouses; sportswear, namely, jogging suits; headwear namely caps; gloves, slippers, flip-flops, underwear.</p> <p>(2) Goods in precious metals or coated therewith, namely rings, necklaces, bracelets, earrings, brooches, pins namely hair pins, hat pins, lapel pins, safety pins, tie pins, pendants, buckles, cuff links, tie clips; horological and chronometric instruments, namely watches, chronometers, clocks; leather and imitations of leather, and goods made of these materials namely leather and imitation leather bags, leather and imitation leather key chains; bags namely all purpose sport bags, school bags, book bags, carry-all bags; saddle belts of leather, trunks and travelling bags; umbrellas, parasols; clothing, namely jumpers, pajamas, coats, jackets, sweaters, shirts, t-shirts, polo shirts, jackets, pants, trousers, suits, shorts, scarves, ties, socks, swimwear, dresses, skirts, pullovers, blouses; sportswear, namely, jogging suits; headwear namely caps; gloves, slippers, flip-flops, underwear.</p> <p>Services:</p> <p>(1) Advertising and business services for third parties, namely administration of the business affairs of franchises, advisory services relating to publicity for franchises and business assistance relating to the establishment and operation of franchises; retail trade services of clothing, shoes, jewelry, horological and chronometric instruments, bags, fashion accessories.</p>
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**TRADE-MARKS OPPOSITION BOARD
CANADIAN INTELLECTUAL PROPERTY OFFICE
APPEARANCES AND AGENTS OF RECORD**

HEARING DATE 2018-08-27

APPEARANCES

Heidi Jensen

FOR THE OPPONENT

No one appearing

FOR THE APPLICANT

AGENT(S) OF RECORD

Jensen & Company

FOR THE OPPONENT

Ridout & Maybee

FOR THE APPLICANT