



LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADEMARKS

Citation: 2021 TMOB 48
Date of Decision: 2021-03-18

IN THE MATTER OF THREE OPPOSITIONS

Anheuser-Busch, LLC	Opponent
and	
Tequila Cuervo, S.A. de C.V.	Applicant
1,647,683 for TEAGARITA	Applications
1,647,688 for JOSE CUERVO	
TEAGARITA	
1,650,449 for CUERVORITA	

INTRODUCTION

[1] Anheuser-Busch, LLC (the Opponent) opposes registration of the trademarks TEAGARITA (application No. 1,647,683), JOSE CUERVO TEAGARITA (application No. 1,647,688), and CUERVORITA (application No. 1,650,449) (collectively, the Marks), each applied for by Tequila Cuervo, S.A. de C.V. (the Applicant).

[2] The Marks are applied for in association with the goods “Non-alcoholic cocktail mixes; alcoholic cocktail mixes”, based on proposed use in Canada.

[3] The oppositions are primarily based on an allegation that the Marks are confusing with the Opponent’s “RITA”-suffixed trademarks, previously registered and used in Canada in association with similar goods.

[4] For the reasons that follow, I find that the oppositions ought to be rejected.

THE RECORDS

[5] The table below summarizes some of the key particulars for each of the applied-for Marks, namely the dates of filing, advertisement and opposition.

Application No.	Filed	Advertised	Statement of opposition
1,647,683 (TEAGARITA)	October 11, 2013	April 22, 2015	September 22, 2015
1,647,688 (JOSE CUERVO TEAGARITA)	October 11, 2013	April 22, 2015	September 22, 2015
1,650,449 CUERVORITA	November 1, 2013	June 10, 2015	November 10, 2015

[6] The oppositions were brought under section 38 of the *Trademarks Act*, RSC 1985, c T-13 (the Act). The grounds of opposition are based on sections 30(i), 12(1)(d), 16(3), and 2 of the Act. Numerous amendments to the Act came into force on June 17, 2019. As the applications were advertised prior to that date, pursuant to section 70 of the Act, the grounds of opposition will be assessed based on the Act as it read immediately before June 17, 2019, an exception being that, with respect to confusion, sections 6(2) to (4) of the Act as it currently reads will be applied.

[7] The Applicant submitted counter statements denying the grounds set out in each statement of opposition.

[8] Amended statements of opposition were made of record on November 3, 2016 to reflect the maturation to registration of some of the Opponent's trademark applications. Corresponding amended counter statements were made of record in February 2017 in each proceeding.

[9] In support of its oppositions, the Opponent submitted the same evidence in each proceeding as follows:

- Affidavit of Maria Guest, sworn April 22, 2016 (the Guest Affidavit); and
- Affidavit of Dane Penney, sworn January 31, 2018 (the Penney Affidavit), as reply evidence.

[10] Ms. Guest was cross-examined and transcripts of the cross-examination were submitted and made of record in each case.

[11] In support of its applications, the Applicant submitted the same evidence in each case, as follows:

- Affidavit of Thomas James, sworn March 24, 2017 (the James Affidavit); and
- Affidavit of Eric Devenny, sworn June 1, 2017 (the Devenny Affidavit).

[12] Both parties submitted written representations and were represented at an oral hearing.

[13] Before assessing the grounds of opposition, I will first provide an overview of the parties' evidence, the evidential burden on the Opponent, and the legal onus on the Applicant.

OVERVIEW OF THE OPPONENT'S EVIDENCE

[14] The Opponent is the owner of the following, collectively the Opponent's Registered Trademarks, with registration dates ranging between May 2015 to September 2016:

Trademark	Reg. No.	Goods
BUD LIME LIME-A-RITA	TMA904,868	Beer
LIME-A-RITA	TMA922,333	Alcoholic cocktails; alcoholic coolers
MANG-O-RITA	TMA922,541	Beer
LIME-A-RITA	TMA923,461	Flavored beers
CRAN-BER-RITA	TMA932,796	Flavored beers
APPLE-AHHH-RITA	TMA932,801	Flavoured beers
BUD LIGHT LIME STRAW-BER-RITA	TMA933,008	Flavoured beers
RAZ-BER-RITA	TMA933,026	Beer
STRAW-BER-RITA	TMA934,710	Alcoholic cocktails, alcoholic coolers
BL RAZ-BER-RITA	TMA948,278	Beer
CRAN-BRRR-RITA	TMA948,283	Beer
BL MANG-O-RITA	TMA948,288	Beer
BL CRAN-BRRR-RITA	TMA948,289	Beer
STRAW-BER-RITA	TMA949,024	Flavored beers

Guest Affidavit

[15] Ms. Guest is the Director of Marketing at Labatt Brewing Company Limited (Labatt), a company related to the Opponent. The Guest Affidavit evidences the following:

- The Opponent's relation to Labatt and the Anheuser-Busch InBev group of companies, a multinational beverage and brewing organization headquartered in Belgium [paras 1 to 3];
- The history of the Opponent's LIME-A-RITA alcoholic beverage product since 2012 in the U.S., its 2013 launch in Canada, and the subsequent launch of other "RITA" products in Canada (including STRAW-BER-RITA, MANGO-RITA, CRAN-BRRR-RITA, APPLE-AHHH-RITA, RAZ-BER-RITA, MIX-A-RITA and WATER-MELON-RITA) [paras 4 to 6];
- The manner and volume of sales in Canada of the Opponent's RITA products [paras 7 to 10, Exhibit A];
- Advertising and marketing related to the Opponent's RITA products in Canada since May 2013 [paras 11 to 31], including online marketing [paras 13 and 14, Exhibits B and C]; outdoor advertising [paras 15 and 16, Exhibit D]; television [para 17 to 21, Exhibits E and F]; in-store promotions [paras 22 and 23, Exhibit G]; product launches [paras 24 and 25, Exhibits H to J]; and events and related contests [paras 26 to 31 and Exhibits K to O].

[16] Relevant portions of Ms. Guest's cross-examination will be addressed below.

Penney Affidavit

[17] Mr. Penney is a trademark search specialist employed by the Opponent's agent. The Penney Affidavit, submitted as reply evidence, consists of search results of online resources (*translate.google.com*, *geonames.org*, *dictionary.com*, *Wikipedia.org*, and *babynames.com*) for terms incorporating the suffix "-rita".

OVERVIEW OF THE APPLICANT'S EVIDENCE

James Affidavit

[18] Mr. James is a trademark research analyst employed by CompuMark, an intellectual property research firm. The James Affidavit consists of trademark register and Internet search results for terms with the suffix RITA in association with beer and alcoholic beverages.

Devenny Affidavit

[19] Mr. Devenny is employed by the Applicant's agent. The Devenny Affidavit relates to search results for and purchases of third-party alcoholic beverage products that incorporate the RITA suffix in the product name.

EVIDENTIAL BURDEN AND LEGAL ONUS

[20] In accordance with the usual rules of evidence, there is an evidential burden on an opponent to prove the facts inherent in its allegations pleaded in the statement of opposition [*John Labatt Ltd v Molson Companies Ltd*, 1990 CarswellNat 1053, 30 CPR (3d) 293 (FCTD)]. The presence of an evidential burden on the opponent with respect to a particular issue means that in order for the issue to be considered at all, there must be sufficient evidence from which it could reasonably be concluded that the facts alleged to support that issue exist.

[21] For those allegations for which the opponent has met its evidential burden, the legal onus is on the applicant to show that the application does not contravene the provisions of the Act as alleged by an opponent in the statement of opposition. The presence of a legal onus on an applicant means that, if a determinate conclusion cannot be reached once all the evidence has been considered, then the issue must be decided against the applicant.

[22] I will first consider the Opponent's opposition to application No. 1,647,683 for the trademark TEAGARITA.

Section 12(1)(d) Ground of Opposition – Confusion with a Registered Trademark

[23] The Opponent pleads that the Mark is not registrable within the meaning of section 12(1)(d) of the Act in that it is confusing with the Opponent’s Registered Trademarks.

[24] The material date with respect to confusion with a registered trademark is the date of this decision [*Park Avenue Furniture Corporation v Wickes/Simmons Bedding Ltd*, 1991 CarswellNat 1119, 37 CPR (3d) 413 (FCA)]. I have exercised my discretion to check the register and confirm that the Opponent’s registrations remain extant [*Quaker Oats Co of Canada v Menu Foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)]. As the Opponent has met its initial burden, the Applicant must establish, on a balance of probabilities, that there is not a reasonable likelihood of confusion between the Mark and any of the Opponent’s Registered Trademarks.

[25] In the present case, I note that the nature of the Opponent’s Registered Trademarks and the parties’ evidence necessarily results in some overlap in the analysis and consideration of the surrounding circumstances. However, I agree with the Applicant that the Opponent’s marks must be reviewed individually and not collectively as a “family of marks” for the purpose of assessing the likelihood of confusion with the Applicant’s TEAGARITA trademark. As such, I will begin my analysis by focusing on the Opponent’s LIME-A-RITA trademark (TMA922,33) – which I consider represents the strongest case for confusion – and then comment briefly on the remaining Opponent’s Registered Trademarks.

Test to determine confusion

[26] The test to determine the issue of confusion is set out in section 6(2) of the Act which provides that the use of a trademark causes confusion with another trademark if the use of both trademarks in the same area would be likely to lead to the inference that the goods or services associated with those trademarks are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class or appear in the same class of the Nice Classification.

[27] This test is a matter of first impression in the mind of a casual consumer “somewhat in a hurry” who sees the Applicant’s TEAGARITA trademark in association with the applied-for goods at a time when they have no more than an imperfect recollection of the Opponent’s trademark and does not pause to give the matter any detailed consideration or scrutiny [*Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée*, 2006 SCC 23 at para 20].

[28] In making such an assessment, I must take into consideration all the relevant surrounding circumstances, including those listed in section 6(5) of the Act: the inherent distinctiveness of the trademarks and the extent to which they have become known; the length of time the trademarks have been in use; the nature of the goods, services or business; the nature of the trade; and the degree of resemblance between the trademarks in appearance, or sound or in the ideas suggested by them.

[29] The criteria in section 6(5) of the Act 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, 1 SCR 772 at para 54]. In *Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27, 92 CPR (4th) 361, the Supreme Court of Canada stated that section 6(5)(e), the degree of resemblance between the trademarks, will often have the greatest effect on the confusion analysis [at para 49] and that, while the first word in the trademark may be the most important in some cases, the preferable approach is to first consider whether there is an aspect of the trademark that is particularly “striking or unique” [at para 66]. Given its importance, I will consider the degree of resemblance factor first.

Degree of Resemblance

[30] The Applicant submits that the only overlap between the parties’ trademarks is the RITA suffix, arguing that it is not distinctive of the Opponent in association with alcohol, as it is suggestive of margaritas, a well-known drink [Applicant’s written representations, para 49]. Furthermore, the Applicant submits that the suffix RITA is widely used in the alcohol industry [para 35].

[31] I note that the Applicant’s TEAGARITA mark and the Opponent’s LIME-A-RITA mark actually share the “-arita” element. Consequently, at the hearing, the Opponent submitted that in

addition to the common “RITA” suffix, the parties’ trademarks share a particular cadence and structure, given the number of syllables and the construction of a suggestive term/flavour plus the suffix “RITA” (or “ARTIA”) in each mark. In this respect, it analogizes the present case to *Unilever Canada Inc v Rain Shields*, 2019 TMOB 32, in which the application for the trademark STARSICLES was refused in part due to prior use and registration of the trademark POPSIKLE and other SIKLE-suffixed trademarks for similar goods.

[32] While the Supreme Court has confirmed that the first portion of a trademark is often to be considered the most important for purposes of considering the degree of resemblance, this is not always the case, as illustrated in *Unilever*. However, that case can be distinguished on its particular facts, if only that the evidence of use of the opponent’s SIKLE-suffixed family of trademarks was overwhelming and the applicant in that case did not evidence the state of the marketplace with respect to any third-party use of “SIKLE”.

[33] Here, notwithstanding the Opponent’s submissions, in particular with respect to the Devenny Affidavit and the James Affidavit, I accept that the RITA (or ARITA) portion of the subject trademarks invokes the generic term “margarita” and appears to be common to the trade. To the extent that the structure, rhythm or cadence of the trademarks are similar, at most, this too merely invokes the idea of margaritas. Accordingly, I do not consider the “RITA” or “ARITA” suffix to be the relevant striking element of the parties’ trademarks in this case.

[34] As such, given that the first portion of the parties’ marks differ, I find this important factor favours the Applicant.

Inherent Distinctiveness and the Extent Known

[35] In association with the relevant alcohol and beverage goods, the Opponent’s LIME-A-RITA trademark is suggestive of lime-flavoured margarita-type beverages and the Applicant’s TEAGARITA trademark is suggestive of tea-flavoured margarita-type beverages. As such, the marks have similarly low inherent distinctiveness.

[36] However, given the evidence of use and advertising of the Opponent’s LIME-A-RITA-branded beverages (further addressed below), this factor nominally favours the Opponent.

Length of Time in Use

[37] In its representations, the Applicant submits that any evidenced use of the RITA-suffixed trademarks in Canada was by an unlicensed entity, namely Labatt [Applicant's written representations, paras 14 to 25]. In this respect, the Applicant cites questions 160 to 170 of the Guest cross-examination to allege that Labatt "has unilaterally amended the appearance of the trademark on all packaging and advertising in Canada, without input or approval from the Opponent" [para 18]. The Applicant further alleges that, notwithstanding Ms. Guest's assertion that the Opponent "controls the character and quality of the products", the Opponent has also not shown that it exercises such control of any RITA-brand products manufactured and packaged by Labatt [paras 19 to 21].

[38] Sections 50(1) and (2) of the Act state as follows:

50(1) For the purposes of this Act, if an entity is licensed by or with the authority of the owner of a trademark to use the trademark in a country and the owner has, under the licence, direct or indirect control of the character or quality of the goods or services, then the use, advertisement or display of the trademark in that country as or in a trademark, trade name or otherwise by that entity has, and is deemed always to have had, the same effect as such a use, advertisement or display of the trademark in that country by the owner.

(2) For the purposes of this Act, to the extent that public notice is given of the fact that the use of a trademark is a licensed use and of the identity of the owner, it shall be presumed, unless the contrary is proven, that the use is licensed by the owner of the trademark and the character or quality of the goods or services is under the control of the owner.

[39] First, I agree with the Opponent that there is some evidence of packaging displaying the notice contemplated by section 50(2) [*e.g.*, Guest Affidavit, Exhibit A]. In any event, I do not read anything in the Guest cross-examination as refuting her statement regarding the Opponent's control. First, I would also note that section 50(1) contemplates "direct or indirect control of the character or quality of the goods", and not display of the trademark *per se*. As such, to the extent that the Applicant relies on purported "unilateral" amendments to the appearance of the Opponent's trademark(s) by Labatt, this is at best a red herring issue.

[40] In any event, in view of Ms. Guest's sworn statement regarding control, the evidenced relationship between Labatt and the Opponent, and the evidence as a whole, I accept that the Opponent has evidenced relevant use of its LIME-A-RITA trademark as well as some of its other RITA-suffixed trademarks in Canada.

[41] As there is no evidence of use of the Applicant's TEAGARITA mark in Canada, this factor necessarily favours the Opponent.

Nature of the Goods, Services or Business / Nature of the Trade

[42] In its written representations, the Applicant attempts to distinguish the nature of the parties' goods, focusing on the distinction between Labatt's "beer and malt-based beverages" versus the Applicant's "tequila and related beverages", in particular its applied-for "cocktail" goods [paras 42 to 47]. It submits that the Registrar and the Federal Court have held that "the buying public can easily distinguish beer from alcoholized liqueur", citing *Labatt Brewery Co/Brasserie Labatt Ltée v Mark Anthony Group Inc*, 2003 CarswellNat 4954, 36 CPR (4th) 178 (TMOB) at para 28, as an example. However, given that this and similar decisions pre-date the guidance of the Supreme Court in *Masterpiece*, the purported principle should be taken with caution in terms of relevance to the overall confusion analysis. It should also be taken with caution in terms of a valid assumption, given the potential for the marketplace to have evolved since the purported principle was first articulated. Indeed, the nature of the Opponent's LIME-A-RITA product as a flavoured beer akin to a margarita demonstrates a blurring of the lines somewhat between different types of alcoholic products, as well as their non-alcoholic equivalents.

[43] In any event, when considering the nature of the goods of the parties in respect of the issue of confusion, it is the statements in the subject application and registration that govern [*Mr Submarine Ltd v Amandista Investments Ltd*, 1987 CarswellNat 749, 19 CPR (3d) 3 (FCA); *Miss Universe Inc v Bohna*, 1994 CarswellNat 1443, 58 CPR (3d) 381 (FCA)]. In this case, there is no limit on the channels of trade and the goods of both parties would likely be sold in similar channels and targeted at similar consumers. While I acknowledge the distinction made in previous cases, the goods of both parties overlap in the simple sense that they are alcoholic beverages; furthermore I consider there to be overlap in the applied-for "cocktail mixes" and the

beer and alcohol goods of the Opponent. Certainly, it would appear there is overlap in the nature of the parties' businesses. Per Ms. Guest's cross-examination, "all alcohol" companies can be characterized as competitors of the Opponent [Q57 to 63]. In my view, the attempt to make a distinction between the parties with respect to these factors splits too fine a hair.

[44] As such, these factors favour the Opponent. However, I find that this is only nominally so, given my finding above that the shared RITA element of the parties' trademarks is common in the trade and invokes the generic term "margarita".

Additional Surrounding Circumstance: State of the Register and Marketplace

[45] State of the register evidence is relevant insofar as one can make inferences from it about the state of the marketplace [*Ports International Ltd v Dunlop Ltd*, 1992 CarswellNat 1431, 41 CPR (3d) 432 (TMOB); and *Welch Foods Inc v Del Monte Corp*, 1992 CarswellNat 178, 44 CPR (3d) 205 (FCTD)]. Inferences about the state of the marketplace can only be drawn from state of the register evidence where large numbers of relevant registrations are located [*Maximum Nutrition Ltd v Kellogg Salada Canada Inc*, 1992 CarswellNat 124, 43 CPR (3d) 349 (FCA)].

[46] In any event, per the Devenny Affidavit, I accept that the Applicant has directly evidenced that RITA is a common element in the marketplace for alcohol-related products. This is consistent with the James Affidavit and the evidence as a whole, which demonstrate that, in association with the relevant beverage goods, the RITA suffix is derivative of "margarita". Even where that element is not necessarily derivative of "margarita" (e.g., a place name), it is enough that the suffix RITA appears to be common in the trade.

[47] Accordingly, this is a surrounding circumstance that favours the Applicant.

Conclusion – Confusion with the Opponent's LIME-A-RITA Trademark

[48] Having considered all of the surrounding circumstances and applying the test for confusion as a matter of first impression and imperfect recollection, I conclude that, on a balance of probabilities, the Applicant has satisfied its legal burden to show that there is no reasonable likelihood of confusion between its TEAGARITA trademark and the Opponent's LIME-A-RITA trademark in association with the applied-for goods. I conclude this based on the generic and

common use of the shared RITA element in the trademarks, the lack of resemblance otherwise, and notwithstanding the Opponent's evidenced use of its trademark and the evidenced sales and marketing of its RITA-suffixed products in Canada.

[49] I would note that I would reach this conclusion even if I were to consider the Opponent to have clearly established a family of RITA-suffixed trademarks or if I were to consider confusion as against the Opponent's purported family of trademarks as a whole.

Conclusion – Confusion with the Opponent's Registered Trademarks

[50] As I considered the Opponent's LIME-A-RITA trademark to represent its strongest case, it follows that I come to a similar conclusion with respect to the remaining Opponent's Registered Trademarks.

[51] Accordingly, I reject the ground of opposition based on section 12(1)(d) of the Act.

Section 16 Ground of Opposition – Non-Entitlement

[52] The Opponent pleads that the Applicant is not the person entitled to registration of the TEAGARITA mark pursuant to section 16 of the Act in that, as of the date of filing of the application, namely, October 11, 2013, it was confusing with the Opponent's 17 RITA-suffixed trademarks, applications for which had been previously filed in Canada (or deemed previously filed in Canada under section 34 of the Act).

[53] I have exercised my discretion to confirm that most of these applications were pending as of the advertisement of the application for TEAGARITA. However, the ground otherwise turns on the issue of confusion, and I do not find my conclusion above to substantively differ with respect to this ground. Indeed, the earlier material date diminishes the Opponent's case given that use of its RITA-suffixed trademarks largely post-dates the material date for this ground.

[54] In view of the foregoing, the ground of opposition based on section 16 of the Act is rejected.

Section 2 Ground of Opposition – Non-Distinctiveness

[55] The Opponent pleads that the TEAGARITA trademark is not distinctive, under section 2 of the Act, because it does not distinguish, nor is it adapted to distinguish, the Applicant's applied-for goods from the goods and services of others, particularly from the alcoholic beverage products associated with the Opponent's trademarks LIME-A-RITA, STRAW-BER-RITA, RAZ-BER-RITA, MANG-O-RITA, MIX-A-RITA, APPLE-AHHH-RITA, and CRAN BRRR-RITA, which have become known in Canada to such an extent as to negate the distinctiveness of the Applicant's trademark.

[56] The material date for this ground of opposition is the filing date of the opposition [*Metro-Goldwyn-Mayer Inc v Stargate Connections Inc*, 2004 FC 1185, 34 CPR (4th) 317 at para 25]. In order to meet its initial evidential burden under this ground of opposition, the Opponent must show that its trademarks had a substantial, significant or sufficient reputation in Canada in association with the relevant goods as of the material date [*Bojangles' International LLC v Bojangles Café Ltd*, 2006 FC 657 at para 34].

[57] In this case, while I accept that TEAGARITA is a coined term, there is no evidence of use of the Applicant's trademark. However, to the extent that this ground otherwise ultimately may turn on the issue of confusion, I do not find my conclusion above to substantially differ with respect to this ground.

[58] Accordingly, the ground of opposition based on non-distinctiveness is rejected.

Section 30(i) Ground of Opposition – Entitled to Use Statement

[59] The Opponent pleads that the application does not conform to the requirements of section 30(i) of the Act because, contrary to the Applicant's statement in the application, the Applicant could not have been satisfied when it filed the application that it was entitled to use the TEAGARITA trademark in Canada in association with the applied-for goods. The Opponent further pleads that the Applicant could not have been so satisfied because it was aware at that time that i) the Opponent's LIME-A-RITA trademark had been used, advertised and promoted extensively in Canada; and ii) the Applicant's use in Canada of the TEAGARITA trademark

would be likely to cause confusion in Canada with such trademark of the Opponent in violation of section 7(b) of the Act.

[60] Section 30(i) of the Act, as it then was, merely required that an applicant include a statement in its application that it is satisfied that it is entitled to use its trademark in Canada in association with the goods or services described in the application. Where this statement has been provided, a section 30(i) ground should only succeed in exceptional cases, such as where there is evidence of bad faith on the part of the applicant [*Sapodilla Co Ltd v Bristol Myers Co*, (1974) CarswellNat 476, 15 CPR (2d) 152 (TMOB)]. Knowledge of the existence of an opponent's trademark does not in and of itself support an allegation that an applicant could not have been satisfied of its entitlement to use its trademark [*Woot, Inc v WootRestaurants Inc*, 2012 TMOB 197].

[61] Nothing in the evidence indicates this is an exceptional case or that the Opponent has met its burden; in any event, in view of my findings above with respect to confusion, this ground of opposition is rejected.

APPLICATION NO. 1,647,688 FOR JOSE CUERVO TEAGARITA

[62] As noted above, the opposition against application No. 1,647,688 for the trademark JOSE CUERVO TEAGARITA raises the same grounds and the parties submitted substantially identical evidence. All in all, the issues, evidence and submissions regarding the application for JOSE CUERVO TEAGARITA are analogous to those discussed above with respect to the application for TEAGARITA.

[63] Consequently, I reach the same conclusions above with respect to each of the grounds of opposition. In fact, I agree with the Applicant that the additional and distinctive JOSE CUERVO element strengthens its case with respect to the issue of confusion.

[64] Accordingly, each of the grounds of opposition against this application are rejected.

APPLICATION NO. 1,650,449 FOR CUERVORITA

[65] As noted above, the opposition against application No. 1,650,449 for the trademark CUERVORITA raises the same grounds and the parties submitted substantially identical evidence. While the filing and advertisement dates differ slightly, the issues, evidence and submissions regarding this application are analogous to those discussed above with respect to the application for TEAGARITA. Consequently, notwithstanding any slight differences in the applicable material dates, I reach the same conclusions above with respect to each of the grounds of opposition.

[66] Accordingly, each of the grounds of opposition against this application are rejected.

DISPOSITION

[67] In view of all of the foregoing, pursuant to section 38(12) of the Act and the authority delegated to me under section 63 of the Act, I reject the oppositions.

Andrew Bene
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

**TRADEMARKS OPPOSITION BOARD
CANADIAN INTELLECTUAL PROPERTY OFFICE
APPEARANCES AND AGENTS OF RECORD**

HEARING DATE: 2020-11-03

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