

O P I C



C I P O

LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADEMARKS

Citation: 2022 TMOB 011
Date of Decision: 2022-01-27

IN THE MATTER OF OPPOSITIONS

Ultima Foods Inc.

Opponent

and

M-C Dairy Company (1991) Limited

Applicant




**1,752,998 for M-C DAIRY
BLUEBERRY KEFIR & DESIGN
1,753,006 for M-C DAIRY PEACH
KEFIR & DESIGN
1,753,015 for M-C DAIRY
RASPBERRY KEFIR & DESIGN
1,753,017 for M-C DAIRY
STRAWBERRY KEFIR & DESIGN
1,753,022 for M-C DAIRY SWEET
VANILLA LASSI & DESIGN
1,753,030 for M-C DAIRY
ALPHONSO MANGO LASSI &
DESIGN**




Applications

INTRODUCTION

[1] M-C Dairy Company (1991) Limited (the Applicant) has applied for registration of the trademarks M-C DAIRY BLUEBERRY KEFIR & DESIGN, M-C DAIRY PEACH KEFIR & DESIGN, M-C DAIRY RASPBERRY KEFIR & DESIGN, M-C DAIRY STRAWBERRY KEFIR & DESIGN, M-C DAIRY SWEET VANILLA LASSI & DESIGN, and M-C DAIRY ALPHONSO MANGO LASSI & DESIGN (depicted below and hereinafter sometimes


collectively referred to as the Marks), based on proposed use in Canada in association with dairy products, namely kefir or lassi (a drink made from a yogurt or buttermilk base with water), depending on the mark:




Application No.	Trademark	Goods
1,752,998		Dairy products, namely kefir.
1,753,006		Dairy products, namely kefir.
1,753,015		Dairy products, namely kefir.




1,753,017			Dairy products, namely kefir.
1,753,022			Dairy products, namely lassi.
1,753,030			Dairy products, namely lassi.

[2] Ultima Foods Inc. (the Opponent) has opposed the applications on the basis, inter alia, of confusion between the Marks and the Opponent’s registered and unregistered trademarks set out in the tables below (affectionately nicknamed within the Opponent’s company “CRITTERS” – the word used in English to refer to small imaginary creatures), which have been used and advertised extensively in Canada by the Opponent, notably in association with drinkable yogurt, the fact that the Applicant’s proposed use of the Marks is likely to have the effect of depreciating the value of the goodwill attaching to the Opponent’s registered trademarks, and that the Marks

are an unauthorized copy of a substantial part of copyrighted works owned by the Opponent, or a colourable imitation thereof:

REGISTERED TRADE-MARKS			
Mark	Goods	Reg'n N°	Reg'n Date
<p>FLOWER DESIGN</p> 	<p>(1) Dairy products, namely fresh unripened cheese, fermented milk.</p> <p>(2) Dairy products, namely yogurt, drinkable yogurts, yogurt drinks, yogurt-based beverages.</p>	945,308	August 4, 2016
<p>RASPBERRY DESIGN</p> 	<p>(1) Dairy products, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages.</p>	945,311	August 4, 2016

<p>BANANA DESIGN</p> 	<p>(1) Dairy products, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages.</p>	<p>945,312</p>	<p>August 4, 2016</p>
<p>STRAWBERRY DESIGN</p> 	<p>(1) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages, and snacks containing a combination of yogurt and fruit purees.</p>	<p>945,313</p>	<p>August 4, 2016</p>
<p>BLUEBERRY DESIGN</p> 	<p>(1) Dairy products and products containing dairy ingredients, namely yogurt, fresh unripened cheese, fermented milk and snacks containing a combination of yogurt and fruit purees.</p>	<p>945,314</p>	<p>August 4, 2016</p>

UNREGISTERED TRADE-MARKS			
Trade-mark	Goods	App'n N ^o	Date of First Use
<p>APPLE DESIGN</p> 	(1) Dairy products and products containing dairy ingredients, namely snacks containing a combination of yogurt and fruit purees.	1810482	(1) August 2015
<p>CHERRY DESIGN</p> 	(1) Dairy products and products containing dairy ingredients, namely snacks containing a combination of yogurt and fruit purees.	1810477	(1) August 2015
<p>PEACH DESIGN</p> 	(1) Dairy products and products containing dairy ingredients, namely fresh unripened cheese and snacks containing a combination of yogurt and fruit purees.	1810476	(1) August 2015

[3] For the reasons that follow, the applications are refused.

FILE RECORDS

[4] All six applications were filed on November 2, 2015 and advertised for opposition purposes in the *Trademarks Journal* on November 28, 2016.

[5] The Opponent opposed each application on December 2, 2016 under section 38 of the *Trademarks Act*, RSC 1985, c T-13 (the Act). All references herein are to the Act as amended on June 17, 2019, with the exception of references to the grounds of opposition which refer to the

Act before it was amended. The grounds of opposition in all six oppositions are the same and are based upon sections 30 (non-compliance), 12 (non-registrability), 16 (non-entitlement) and 2 (non-distinctiveness) of the Act.

[6] The Applicant filed and served counter statements denying the Opponent's allegations.

[7] At the outset of the proceedings, the parties agreed and were allowed by the Registrar to file only one set of evidence and written representations.

[8] The Opponent's evidence consists of one set of four affidavits and certified copies of the Opponent's trademark registrations and applications identified above in paragraph 2.

[9] The Applicant elected not to file any evidence.

[10] Only the Opponent submitted one set of written representations, and only the Opponent requested and attended an oral hearing where all six oppositions were heard together. The Applicant indicated by letter dated March 15, 2019 addressed to the Registrar that it remains interested in these applications.

THE PARTIES' RESPECTIVE BURDEN OR ONUS

[11] The Opponent has the initial evidential burden to adduce sufficient admissible evidence from which it could reasonably be concluded that the facts alleged to support each ground of opposition exist. Once that burden is met, the Applicant bears the legal onus of establishing, on a balance of probabilities, that the particular grounds of opposition should not prevent the registration of the Marks [*John Labatt Ltd v Molson Companies Ltd* (1990), 30 CPR (3d) 293 (FCTD); and *Dion Neckwear Ltd v Christian Dior, SA et al*, 2002 FCA 29].

OVERVIEW OF THE EVIDENCE

[12] As indicated above, the Opponent's evidence is comprised of four affidavits, which are summarized below. None of the affiants were cross-examined on their affidavits.

The affidavit of Daniel Racine sworn August 25, 2017 (the Racine affidavit)

[13] Mr. Racine is the Brand Manager, Children's Products (*Chef de marques, produits enfants*) of the Opponent. His affidavit canvasses the history, nature and scope of the Opponent's business, including the adoption and use of the CRITTERS marks, and details the Opponent's advertising and promotional efforts, exposure and expenditures over the years.

[14] As summarized in part by the Opponent in its written representations in French, Mr. Racine attests to the following :

- As a result of a collaboration between the two most important dairy cooperatives in Canada (Agropur and Agrifoods), Ultima is created in 1993. Agropur and Agrifoods are its two shareholders [para 6].
- In 2012, Ultima launched a new range of dairy products called IÖGO nanö. It includes drinkable yogurt, fresh unripened cheese, yogurt tubes and snacks containing a combination of yogurt and fruit purees. It is on all of these products (with the exception of yogurt tubes) that the CRITTERS marks have been displayed since the launch of the range (hereinafter the "IÖGO nanö Products" or the "products bearing the CRITTERS marks") [paras 9, 15 to 17, and 27; Exhibit DR-1].
- The number of CRITTERS marks has increased as new products were added to the IÖGO nanö range. Ultima thus quickly formed a CRITTERS family of marks including the CRITTERS marks pleaded by the Opponent in its statement of opposition as well as other CRITTERS subsequently created [para 25]. A table setting out the details of the Opponent's trademarks comprising the CRITTERS family of marks, as provided at paragraph 28 of the Racine affidavit is attached hereto as Schedule A.
- The packaging has undergone a slight evolution since the launch in 2012, but there has always been a CRITTERS mark on each of the products in the IÖGO nanö range. Since 2012, the CRITTERS mark "Strawberry" appears on the strawberry IÖGO nanö Products, the CRITTERS mark "Vanilla" appears on the vanilla IÖGO nanö Products, and so on. The CRITTERS marks are the common thread ("*fil conducteur*") running throughout the marketing strategy behind the IÖGO nanö Products [paras 30 and 31].

- The Opponent's products are the only ones in the Canadian yogurt and fermented dairy market to be associated with marks representing personified fruits, flowers and vegetables [paras 23 and 24].
- Ultima is the owner of the copyright in the CRITTERS marks [para 26; Exhibit DR-2].
- Since 2012, CRITTERS marks have found themselves on 245 million packaged portions that have been sold in Canada and 35 million overpacks [para 32].
- As of December 2016, CRITTERS branded products were sold in more than 3,000 stores across Canada [para 35; Exhibit DR-6].
- Sales of IÖGO nanö Products have grown steadily since the launch in August 2012. Today, these products are among the leaders in Canada in the children's dairy category [para 37].
- The retail sales figures for IÖGO nanö Products are compiled by a third party commissioned by Ultima, the Nielsen company [see the affidavit of Clément Bourbon discussed below]. These figures are impressive and testify to the popularity of the products bearing the CRITTERS marks among Canadian consumers [para 38].
- As a result of the promotional efforts made by the Opponent, the CRITTERS marks have got high visibility in Canada [paras 39 to 70; Exhibits DR-7 to DR-23].
- IÖGO nanö Products are of paramount importance to Ultima. Between 2011 and 2016, Ultima invested approximately \$1.3 million in the development of the CRITTERS marks and the packaging of the IÖGO nanö Products, the production of promotional posters bearing the CRITTERS marks and the organization of tastings of products bearing the CRITTERS marks in stores [para 67].
- Additional sums of approximately \$2.6 million were invested for the creation, production and dissemination in the media of audiovisual and visual promotional materials showing the CRITTERS marks [para 68; Exhibit DR-22].
- The goods associated with the applied-for Marks compete with the Opponent's products on which are displayed the CRITTERS marks. They are sold in the same type of distribution points and in the same section of refrigerated dairy products. They are snacks, substitutable, in theory, to each other [para 74].

The affidavit of Clément Bourbon sworn August 23, 2017 (the Bourbon affidavit)

[15] Mr. Bourbon is Client business partner at ACNielsen Company of Canada (Nielsen Canada). Nielsen Canada is part of the international Nielsen marketing research organization (Nielsen), which studies consumer habits worldwide. Nielsen specializes in consumer measurement, providing its clients with consumer-related information ranging from sales data to audience engagement data and surveys.

[16] The Bourbon affidavit provides information with respect to the Canadian sales of IÖGO nanö Products on which have been displayed the CRITTERS marks between 2012 and 2016. The information is organised under three separate tables showing (i) retail sales data for IÖGO nanö Products in kilograms and in selling units per year; (ii) retail sales data for IÖGO nanö Products in selling units per product type, per year; and (iii) retail sales data for IÖGO nanö Products per region and per year, and attesting to the fact that millions of IÖGO nanö Products have been sold across Canada in each of the years between 2012-2016.

The affidavit of Scott Mitchell sworn August 25, 2017 (the Mitchell affidavit)

[17] Mr. Mitchell is Manager of Client Services at Inmar Promotions – Canada Inc. (Inmar Canada). Inmar Canada is an affiliate of Inmar, Inc. (Inmar). Inmar is in the business of coupon processing and settlement between coupon issuers and retailers, among other things. For over 35 years, Inmar has been working with companies like Ultima to manage their coupons and offers.

[18] The Mitchell affidavit provides information with respect to coupons for IÖGO products for the period August 2012 to December 2016. The information is provided in two reports, including Exhibit SM-1 that presents information about coupons identified as specifically covering IÖGO nanö products redeemed by consumers in Canada and processed by Inmar Canada between August 2012 and December 2016. This report shows that 366 107 coupons for IÖGO nanö products have been redeemed by consumers in Canada and processed by Inmar during that period of time [see also Racine affidavit, para 40 and Exhibits DR-10, DR-13, DR-14 and DR-16, which provide examples of coupons for the IÖGO nanö products on which are displayed the CRITTERS marks].

The affidavit of Catherine Ganske sworn August 25, 2017 (the Ganske affidavit)

[19] Ms. Ganske is Director of Operations at Ad Dynamics Inc. (Ad Dynamics). Ad Dynamics assists companies in managing their offers to consumers through flyers and other market intelligent solutions based on comprehensive analysis of the advertising and promotional landscape in Canada. Ad Dynamics tracks and collects information about promotional flyer circulation in Canada. At the request of Ultima, Ad Dynamics has been collecting data with respect to flyers featuring Ultima's products since August 2014.

[20] The Ganske affidavit provides information that Ad Dynamics collected and processed with respect to flyers covering the IÖGO nanö brand. Attached to her affidavit as Exhibit CG-1 is a report presenting the information retrieved, namely the brand name, the stores associated with each flyer, the sale start and end dates of the flyers, the market and the region. Also attached to her affidavit as Exhibit CG-2 is a series of printed visuals compiled by Ad Dynamics of the clips listed in Exhibit CG-1, with the corresponding information about the banner, the sale start and end dates of the flyers, the market and the region. The Ganske affidavit shows that thousands of flyers covering the IÖGO nanö products on which are displayed the CRITTERS marks were distributed in at least 26 different banners across Canada, including Atlantic Superstore, Coopers Foods, Costco, Dominion, Extra Foods, Giant Tiger, IGA, Loblaws, Metro, No Frills, Safeway, Sobeys, Walmart.

ANALYSIS OF THE GROUNDS OF OPPOSITION

Ground of opposition based on section 12(1)(d) of the Act

[21] The Opponent has pleaded that each of the Marks is not registrable since they are confusing with the Opponent's registered trademarks set out above in paragraph 2.

[22] I have exercised the Registrar's discretion to confirm that the Opponent's registrations are in good standing as of today's date, which is the material date to assess a ground of opposition based on section 12(1)(d) of the Act.

[23] As the Opponent's burden has been satisfied, the Applicant must therefore establish, on a balance of probabilities, that there is not a reasonable likelihood of confusion between each of the Marks and one or more of the Opponent's registered trademarks.

The test for confusion

[24] The test for confusion is one of first impression and imperfect recollection. Section 6(2) of the Act 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.

[25] Thus, section 6(2) of the Act does not concern the confusion of the trademarks themselves, but of the goods or services from one source as being from another. In the present case, the question is essentially whether a consumer, with an imperfect recollection of the Opponent's CRITTERS marks, who sees the Applicant's applied for goods in association with each of the Marks, would think that they emanate from, are sponsored by or approved by the Opponent.

[26] In applying the test for confusion, the Registrar must have regard to all the surrounding circumstances, including those listed at section 6(5) of the Act, namely: (a) the inherent distinctiveness of the trademarks and the extent to which they have become known; (b) the length of time the trademarks have been in use; (c) the nature of the goods, services or business; (d) the nature of the trade; and (e) the degree of resemblance between the trademarks in appearance or sound or in the ideas suggested by them. This list is not exhaustive, and all relevant factors are to be considered. Further, all factors are not necessarily attributed equal weight as the weight to be given to each depends on the circumstances [see *Mattel, Inc v 3894207 Canada Inc* 2006 SCC 22, 49 CPR (4th) 321; *Veuve Clicquot Ponsardin v Boutiques Clicquot Ltée* 2006 SCC 23, 49 CPR (4th) 401; and *Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27, 92 CPR (4th) 361 for a thorough discussion of the general principles that govern the test for confusion].

The inherent distinctiveness of the trademarks and the extent to which they have become known

[27] The parties' marks are inherently distinctive. While each of the CRITTERS marks represents a flavour (i.e. strawberry, blueberry, vanilla, and so on), and as such comprises a suggestive or descriptive part, still each of them also comprises fanciful and arbitrary design elements, resulting in an artistic and creative personified fruit or flower. The same comment applies to each of the Marks, which also comprises other graphical elements and the letters and word "M C Dairy" within an ellipse and other purely descriptive words.

[28] The degree of distinctiveness of a trademark may be increased by means of it becoming known through promotion or use.

[29] There is no evidence that the Applicant's Marks have been used or have become known in Canada in association with the applied for goods to any extent.

[30] In contrast, the Opponent has provided extensive evidence of prior use and making known of each of its CRITTERS marks since their adoption in 2012. While the various specimens of use and advertising attached to the Racine and Ganske affidavits show that the CRITTERS marks have always been displayed on the IÖGO nanö Products in combination with the separate and distinct "master brand" IÖGO nanö, it is well established that multiple trademarks may be used together on the same product [*AW Allen Ltd v Warner Lambert Canada Inc* (1985), 6 CPR (3d) 270 at 272 (FCTD)].

[31] Consequently, taking into account both the inherent distinctiveness of the parties' marks and the extent to which they have become known, this factor favours the Opponent.

The length of time the trademarks have been in use

[32] For the reasons given above, this factor also favours the Opponent.

The nature of the goods, services or business; and the nature of the trade

[33] As noted in my review of the Racine affidavit, the applied for goods directly compete with those of the Opponent associated with its CRITTERS marks. In the absence of evidence to

the contrary, it is fair to assume that the parties' channels of trade would also be the same or overlapping.

[34] Accordingly, these factors favour the Opponent.

The degree of resemblance between the trademarks in appearance or sound or in the ideas suggested by them

[35] In *Masterpiece, supra*, the Supreme Court of Canada considered the importance of section 6(5)(e) in conducting an analysis of the likelihood of confusion (see para 49):

...the degree of resemblance, although the last factor listed in s. 6(5) is the statutory factor that is often likely to have the greatest effect on the confusion analysis ... if the marks or names do not resemble one another, it is unlikely that even a strong finding on the remaining factors would lead to a likelihood of confusion...

[36] When considering the degree of resemblance between trademarks, they must be considered in their totality; it is not correct to lay them side by side and compare and observe similarities or differences among the elements or components of the marks [*Veuve Clicquot, supra*, at para 20].

[37] In *Masterpiece, supra* at paragraph 64, the Court further advised that while in some cases, the first word or syllable of a trademark will be the most important for the purpose of distinction, the preferable approach to considering resemblance "is to first consider whether there is an aspect of the trade-mark that is particularly striking or unique".

[38] Applying these principles to the present cases, I find there is a relatively high degree of resemblance between the parties' marks in terms of appearance and ideas suggested by them owing to the fact that I consider the most striking element of each of the Marks to be the design of the playful cartoon-like characters/personified fruits (or flower, as the case may be), which element further shares, in all cases, very similar or overlapping features with each of the Opponent's registered CRITTERS trademarks and the Opponent's family of CRITTERS marks [I will return below to the principles governing the concept of "family" of marks]. More particularly, and without wishing to give the impression of doing a side-by-side comparison between each of the Marks and each of the pleaded registered CRITTERS trademarks, I find that

the very similar or overlapping features consist of a personified fruit (or flower, as the case may be) representing, in each case, a flavour (either the very same flavour or that of another fruit), very expressive and large eyes, and a playful and funny attitude appealing to children.

[39] Phonetically speaking, I find it is unclear how each of the parties' marks would be sounded. This is particularly so with respect to each of the Opponent's CRITTERS marks as each of them consists solely of a design element with no reading matter. With respect to each of the Marks, it may be that there would be no pronunciation of the design elements made up of the playful cartoon-like characters/personified fruits and that each of them would be pronounced only by the letters and word "M C dairy". That said, I find the differences existing between the parties' marks when sounded do not outweigh the significant resemblance existing between them in terms of appearance and ideas suggested. This is particularly so in view of the Opponent's uncontroverted evidence according to which the Opponent's products are the only ones in the Canadian yogurt and fermented dairy market to be associated with marks representing personified fruits, flowers and vegetables [Racine affidavit, para 24. See also paras 21 to 23].

[40] Overall, when all three aspects of resemblance are considered, I find the parties are, at best for the Applicant, about as alike as they are different.

Additional surrounding circumstance – CRITTERS Family of trademarks

[41] As an additional surrounding circumstance, the Opponent relies on the concept of family of marks. More particularly, the Opponent submits that the existence of its family of CRITTERS marks entitles the Opponent to a broader ambit of protection, as per the following excerpt from A. Kelly Gill, *Fox on Canadian Law of Trade-marks and Unfair Competition* [Toronto, Carswell, 2015, pp 8-76.1 to 8-76.8 [hereinafter *Fox on Canadian Law of Trade-marks*]:

The existence of a family of marks [h]as been held to be a most material consideration when determining a likelihood of confusion. Generally, where there exists a family of marks, the owner is entitled to a broader ambit of protection for the common characteristic than would otherwise be the case if there existed only one registration. A court or board may conclude that a straight-forward comparison of two competing marks leads to the conclusion that the trade-marks are not confusing. But, in the context of a family of trade-marks, there is a greater likelihood than otherwise would be the case that the public would consider the impugned trade-mark to signify merely another product

manufactured (or service provided) by the same person or persons who own the family of trade-marks. [...]

[42] A party seeking to establish use of a family of marks must first establish that it is using more than one or two trademarks within the alleged family, which the Opponent has done in the present cases.

[43] Accordingly, I agree with the Opponent that this is a significant additional surrounding circumstance favouring it in the present cases.

Conclusion regarding the likelihood of confusion

[44] As indicated above, the Applicant bears the legal onus of establishing, on a balance of probabilities, that there is not a reasonable likelihood of confusion as to the source of the parties' goods. The presence of an onus on the Applicant means that if, after all the evidence is in, a determinate conclusion cannot be reached, the issue must be decided against the Applicant [see *John Labatt, supra*].

[45] Having considered all of the surrounding circumstances, I am not satisfied that the Applicant has sufficiently distinguished each of its Marks from each of the CRITTERS marks of the Opponent. At best for the Applicant, I find the probability of confusion is evenly balanced between a finding of confusion and of no confusion. In the absence of any additional surrounding circumstances favouring the Applicant, I must therefore find against the Applicant.

[46] Accordingly, the section 12(1)(d) ground of opposition is successful in each case.

Remaining grounds of opposition


[47] As I have already refused each of the Applicant's applications under the section 12(1)(d) ground of opposition, I do not consider it necessary to decide the remaining grounds of opposition.



DISPOSITION




[48] Pursuant to the authority delegated to me under section 63(3) of the Act, I refuse each application pursuant to section 38(12) of the Act.



Annie Robitaille
Member
Trademarks Opposition Board
Canadian Intellectual Property Office



SCHEDULE A


Marque	No.	Dates de la demande et/ou de l'enregistrement	Emploi
FLOWER DESIGN 	LMC945,308	Demande : 28 mai 2015 Enregistrement: 4 août 2016	(1) Août 2012 (2) Déclaration d'emploi déposée le 20 juillet 2016
(1) Dairy products, namely fresh unripened cheese, fermented milk. (2) Dairy products, namely yogurt, drinkable yogurts, yogurt drinks, yogurt-based beverages.			

Marque	No.	Dates de la demande et/ou de l'enregistrement	Emploi
RASPBERRY DESIGN 	LMC945,311	Demande : 28 mai 2015 Enregistrement: 4 août 2016	Août 2012
(1) Dairy products, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages.			
BANANA DESIGN 	LMC945,312	Demande : 28 mai 2015 Enregistrement: 4 août 2016	Février 2014
(1) Dairy products, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages.			

Marque	No.	Dates de la demande et/ou de l'enregistrement	Emploi
STRAWBERRY DESIGN 	LMC945,313	Demande : 28 mai 2015 Enregistrement: 4 août 2016	Août 2012
(1) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages, and snacks containing a combination of yogurt and fruit purees.			
BLUEBERRY DESIGN 	LMC945,314	Demande: 28 mai 2015 Enregistrement: 4 août 2016	Août 2012
(1) Dairy products and products containing dairy ingredients, namely yogurt, fresh unripened cheese, fermented milk and snacks containing a combination of yogurt and fruit purees.			
APPLE DESIGN 	1810482	Demande: 21 novembre 2016	(1) Août 2015

Marque	No.	Dates de la demande et/ou de l'enregistrement	Emploi
<p>(1) Dairy products and products containing dairy ingredients, namely snacks containing a combination of yogurt and fruit purees</p> <p>(2) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages, yogurt-based shakes; dairy-based desserts; frozen yogurt; frozen yogurt confections; yogurt-based dips and sauces; yogurt-based smoothies</p>			
<p>CHERRY DESIGN</p> 	1810477	Demande: 21 novembre 2016	(1) Août 2015
<p>(1) Dairy products and products containing dairy ingredients, namely snacks containing a combination of yogurt and fruit purees</p> <p>(2) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fresh unripened cheese, fermented milk, yogurt drinks, yogurt-based beverages, yogurt-based shakes; dairy-based desserts; frozen yogurt; frozen yogurt confections; yogurt-based dips and sauces; yogurt-based smoothies</p>			
<p>PEACH DESIGN</p> 	1810476	Demande: 21 novembre 2016	(1) Août 2015
<p>(1) Dairy products and products containing dairy ingredients, namely fresh unripened cheese and snacks containing a combination of yogurt and fruit purees</p> <p>(2) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fermented milk, yogurt drinks, yogurt-based beverages, yogurt-based shakes; dairy-based desserts; frozen yogurt; frozen yogurt confections; yogurt-based dips and sauces; yogurt-based smoothies</p>			

Marque	No.	Dates de la demande et/ou de l'enregistrement	Emploi
BEEF DESIGN 	1810484	Demande: 21 novembre 2016	(1) Juillet 2016
<p>(1) Dairy products and products containing dairy ingredients, namely fresh unripened cheese and snacks containing a combination of yogurt and fruit purees</p> <p>(2) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fermented milk, yogurt drinks, yogurt-based beverages, yogurt-based shakes; dairy-based desserts; frozen yogurt; frozen yogurt confections; yogurt-based dips and sauces; yogurt-based smoothies</p>			
SQUASH DESIGN 	1810474	Demande: 21 novembre 2016	(1) Juillet 2016
<p>(1) Dairy products and products containing dairy ingredients, namely fresh unripened cheese</p> <p>(2) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fermented milk, yogurt drinks, yogurt-based beverages, yogurt-based shakes; dairy-based desserts; frozen yogurt; frozen yogurt confections; yogurt-based dips and sauces; snacks containing a combination of yogurt and fruit purees; yogurt-based smoothies</p>			

Marque	No.	Dates de la demande et/ou de l'enregistrement	Emploi
CARROT DESIGN 	1810481	Demande: 21 novembre 2016	(1) Juillet 2016
<p>(1) Dairy products and products containing dairy ingredients, namely fresh unripened cheese</p> <p>(2) Dairy products and products containing dairy ingredients, namely yogurt, drinkable yogurt, fermented milk, yogurt drinks, yogurt-based beverages, yogurt-based shakes; dairy-based desserts; frozen yogurt; frozen yogurt confections; yogurt-based dips and sauces; snacks containing a combination of yogurt and fruit purees; yogurt-based smoothies</p>			

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

HEARING DATE 2021-09-29

APPEARANCES

Philip Lapin

FOR THE OPPONENT

No one appearing

FOR THE APPLICANT

AGENTS OF RECORD

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For the Opponent

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For the Applicant