



Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2023 TMOB 023

Date of Decision: 2023-02-07

IN THE MATTER OF AN OPPOSITION

Opponent: Kenneth Cole Productions, Inc.

Applicant: Mankind Grooming Studio for Men Inc.

Application: 1,725,560-01 for MANKIND GROOMING STUDIO FOR MEN &
Design

INTRODUCTION

[1] Mankind Grooming Studio for Men Inc. (the Applicant) is a grooming business in Toronto, Ontario, offering a variety of barbershop and aesthetic services for men, including haircuts, shaves and hair colouring. The Applicant currently owns a registration for the trademark MANKIND GROOMING STUDIO FOR MEN & Design, shown below (the Mark), in association with various grooming services including “men’s barber shop and aesthetics services, namely manicure, pedicure, haircuts, beard trims, shaves, hair camouflage and colour...”:



[2] The Applicant has filed an application under No. 1,725,560-01 (the Application) to extend the statement of goods under the Mark to include “men’s grooming products, namely shampoos, conditioners, hair products, shaving foams, shaving creams, beard balms, beard oils, and facials scrubs, facial lotion” (the Goods).

[3] Kenneth Cole Productions, Inc. (the Opponent) is a company with headquarters in New York, NY, USA, that designs, sources, and markets a range of fashion apparel, footwear and accessories, and personal care products in Canada, the United States, and internationally. The opposition is primarily based on an allegation that the applied for Mark is confusing with the Opponent’s previous use and registration of the trademark MANKIND KENNETH COLE in association with goods including cologne, shampoo, after shave lotions, and facial moisturizers.

[4] For the reasons that follow, the Application is refused as the Applicant has not met its burden to demonstrate that there is no reasonable likelihood of confusion between the parties’ trademarks.

THE RECORD

[5] The Application to extend the goods was filed on March 12, 2018, and is based on proposed use. The Application was advertised for opposition purposes in the *Trademarks Journal* of March 25, 2020, and the Opponent filed a statement of opposition under section 38 of the *Trademarks Act*, RSC 1985, c T-13 (the Act) on June 15, 2020.

[6] The Act was amended on June 17, 2019. As the Application was advertised after June 17, 2019, the Act as amended applies (see section 69.1 of the Act).

[7] The Opponent raises grounds of opposition based on registrability under section 12(1)(d), entitlement under section 16(1)(a), distinctiveness under section 2, and non-compliance with section 38(2)(e) of the Act.

[8] The Applicant filed a counter statement denying the grounds of opposition.

[9] Both parties filed evidence. Only the Opponent filed written representations and no hearing was held.

OVERVIEW OF THE EVIDENCE

[10] Pertinent portions of the evidence are summarized below, and are further discussed in the analysis of the grounds of opposition.

Opponent's evidence

[11] The Opponent's evidence includes a certified copy of its registration for the trademark MANKIND KENNETH COLE (TMA989,451). The Opponent also filed the affidavit of Marc Goldfarb, sworn February 12, 2021 (the Goldfarb affidavit).

Mr. Goldfarb is the senior vice president and general counsel for the Opponent, and has held this role since January 2018.

[12] Mr. Goldfarb states that by virtue of his position, he has access to the Opponent's records as they relate to trademark filings and trademark use. Except as otherwise stated, Mr. Goldfarb's evidence is based on his personal knowledge or derived from his personal knowledge of the Opponent's records, or his personal knowledge of the records of Parlux, Ltd. ("Parlux"), the Opponent's licensee for fragrance and related items, as provided to him in connection with this matter (para 3). Mr. Goldfarb was not cross-examined on his affidavit.

The Opponent's business

[13] Mr. Goldfarb states that the Opponent sells its products both at retail and online, with several hundred department and specialty stores carrying its products worldwide (para 7). The Opponent designs, markets and sells its apparel, footwear and accessories principally through its Kenneth Cole New York, Kenneth Cole Reaction, Reaction Kenneth Cole, Unlisted, and Gentle Souls brand names (para 8).

[14] Mr. Goldfarb states that the Opponent's products are available and/or have been sold in Canada at: the Opponent's freestanding store on Queen Street West in Toronto, department and specialty stores such as Shoppers Drug Mart, Rexall/Rexall Pharma

Plus, Costco Canada, Sears Canada, and to the wholesalers that service such stores; independent Canadian stores including Avenue Sassy, Boutique Olivier Pour Homme, Dolomiti, Moxxi Boutique, and Pragai Couture; and third party e-commerce stores such as *amazon.ca*, *fragrancenet.com*, and 'Perfume Online' that sell to Canadians (paras 9, 10).

The Opponent's Goods in association with the MANKIND KENNETH COLE trademark

[15] Mr. Goldfarb states that in Canada, the USA and worldwide, Kenneth Cole (who I understand to be the namesake designer) and/or its affiliate, the Opponent, provide Parlux with a trademark license for the manufacture and sale of the goods associated with the registered trademark MANKIND KENNETH COLE, namely: fragrances, colognes namely, aftershave cologne, perfumery, deodorants for personal use, body wash, body sprays, body lotions, shampoo, after shave lotions, moisturizers namely, body moisturizers and facial moisturizers" (the Opponent's Goods) (para 11).

[16] Mr. Goldfarb states that pursuant to the license, the Opponent controls the character and quality of the Opponent's Goods that are sold in association with the MANKIND KENNETH COLE mark through samplings, quality control checks and approval procedures (para 12). The Opponent, through its licensee, began offering the Opponent's Goods in association with the MANKIND KENNETH COLE trademark in 2015 (para 13).

[17] Mr. Goldfarb provides approximate annual sales figures from 2015 to 2018, altogether totalling in excess of \$915,750 USD (para 14); Mr. Goldfarb is advised by Parlux that these sales figures are for fragrances, colognes, body sprays and deodorants sold in association with the MANKIND KENNETH COLE mark (the MANKIND KENNETH COLE Products) (para 15). Exhibit B is described as printouts of the Canadian sales figures generated from the Parlux financial system for the years 2015 to 2018. Mr. Goldfarb is advised by Parlux that these figures are an accurate representation of the sales of MANKIND KENNETH COLE Products in Canada (para 16). In the absence of cross-examination or objection by the Applicant, I am prepared to give full weight to this evidence as I consider that it would be reasonable that a

licensor/licensee relationship would involve sharing sales information of the Opponent's licensed goods. Exhibit C consists of photographs of the MANKIND KENNETH COLE Products described as representative of the products listed in Exhibit B (para 17). This exhibit includes photographs of containers of fragrance, deodorant, body spray, after shave balm, and hair and body wash prominently displaying the MANKIND KENNETH COLE trademark on the product packaging (both bottle/container and outer box packaging).

[18] Mr. Goldfarb states that the MANKIND KENNETH COLE Products are advertised and offered for sale to Canadian consumers on third party websites such as Perfume Online (*perfumeonline.ca*), Fragrance Buy (*fragrancebuy.ca*), Walmart (*walmart.ca*), Ace Gifts Plus (*acegiftsplus.ca*), Eleganscents (*eleganscents.ca*), and Shoppers Drugs Mart (*shoppersdrugmart.ca*). Exhibit D consists of representative screen shots of these webpages taken on November 6, 2020 (para 18).

[19] Mr. Goldfarb states that the Opponent's MANKIND KENNETH COLE trademark is also featured prominently in advertisements to Canadian consumers through a variety of means including via online and social media on the Opponent's channels including Facebook, Youtube, and Instagram. Exhibit E consists of representative screen shots of such posts displaying the MANKIND KENNETH COLE Products, in particular, fragrance. (Exhibit 19).

Applicant's evidence

[20] The Applicant's evidence includes a certified copy of its registration No. TMA990,832 for the Mark in association with the following services: "men's barber shop and aesthetics services, namely manicure, pedicure, facials, waxing services and massages, haircuts, beard trims, shaves, line-ups, hair camouflage and color, and education and training of men's barber shop staff" (the Grooming Services). The Applicant also filed the affidavit of Ioana Ancuta Miron, sworn October 14, 2021 (the Miron affidavit). Ms. Miron is the director of the Applicant, and has held this role since February 26, 2015; she is also a barber at the Applicant. Ms. Miron states that the facts set out in her affidavit are from her personal knowledge or from information contained in

the Applicant's relevant records, kept in the ordinary course of business, to which she has access. Ms. Miron was not cross-examined on her affidavit.

The Applicant's grooming business

[21] Ms. Miron states that the Applicant was founded in Toronto in 2009. The first location on Richmond St. West opened on October 19, 2009, and a second location opened on September 20, 2011 on Eglinton Ave East and later moved to Redpath Avenue. Currently, eight barbers work at these two locations (para 3).

[22] Ms. Miron states that the Mark has been used by the Applicant in association with the Grooming Services since at least as early as October 19, 2009 (para 6). The Applicant displays the Mark on exterior and interior signage at its locations where it performs the Grooming Services, on barber capes worn by customers while receiving the Grooming Services, on bags given to customers that purchase grooming products, and on shirts worn by staff members while performing the Grooming Services (para 8). Representative examples of how the Mark is displayed these ways are attached as Exhibits A1-A5. The Mark is prominently displayed in each instance.

[23] Ms. Miron states that the Applicant also displays the Mark in its advertising, including: on its website at *www.mankindgrooming.com*, which has been active since 2009 and received more than 600,000 visitors each year; on the Applicant's social media accounts including Facebook, Instagram, and Twitter; on business/appointment cards; on 5000 lip balms given to customers between 2017 and 2019; on the exterior of two vehicles driven by staff of the Applicant; and through sponsorship of charitable causes, including the 2016 '100 Guys Who Care' bike rally and the 2019 People with AIDS bike ride from Toronto to Montreal. In both of these events, the Applicant's staff participated while wearing cycling jerseys displaying the Mark. Exhibits B1 to B6 show the Mark as it appears in each form of advertising. The Mark is prominently displayed in each instance.

[24] Ms. Miron states that the Applicant is also regularly featured in Toronto media. As an example, Ms. Miron refers to a CP24 TV segment that aired on July 16, 2021 about the reopening of the Applicant after an eight month lockdown due to COVID-19

(para 10). Exhibit C contains screen captures of this video and the Mark is visible both on a shirt worn by a staff member and on a barber cape worn by a client.

[25] Ms. Miron states that the Applicant has, since its founding, consistently displayed the Mark with the silhouette of a man, in orange, serving as the letter “I” in the word “MANKIND” (para 11).

[26] Ms. Miron states that before the 2020-2021 COVID-19 pandemic, the Applicant’s barbers gave customers 25,000 haircuts a year on average (para 12).

[27] Ms. Miron is not aware of any reports of the public inquiring whether there is any affiliation or connection between the Applicant and the Opponent or believing that the Grooming Services are performed by the Opponent (para 13).

LEGAL ONUS AND EVIDENTIAL BURDEN

[28] The Applicant bears the legal onus of establishing, on a balance of probabilities, that the Application complies with the requirements of the Act. This means that if a determinate conclusion cannot be reached in favour of the Applicant after a consideration of all of the evidence, then the issue must be decided against the Applicant. 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 [*John Labatt Limited v The Molson Companies Limited* (1990), 30 CPR (3d) 293 (FCTD) at 298].

ANALYSIS OF THE GROUNDS OF OPPOSITION

Section 12(1)(d) ground of opposition

[29] The Opponent has pleaded that the Mark is not registrable because, contrary to section 12(1)(d), the Mark is confusing with the Opponent’s registration for the trademark MANKIND KENNETH COLE.

[30] The material date for this ground of opposition is the date of my decision [*Park Avenue Furniture Corporation v Wickes/Simmons Bedding Ltd* (1991), 37 CPR (3d) 413 (FCA)].

[31] I have exercised my discretion to check the Register and confirm that this registration remains extant [*Quaker Oats Co Ltd of Canada v Menu Foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)]. The Opponent has therefore met its initial evidential burden with respect to this ground of opposition. As a result, the Applicant bears the legal burden of demonstrating on a balance of probabilities that there is no likelihood of confusion between the Mark and the Opponent's registered trademark.

Test for confusion

[32] In determining whether two trademarks are confusing, all the surrounding circumstances should be considered, 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 and services or business; the nature of the trade; and the degree of resemblance between the trademarks, including in appearance or sound or in the ideas suggested by them. 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, [2006] 1 SCR 772 (SCC) at para 54; *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée*, 49 CPR (4th) 401].

[33] The test for confusion is assessed as a matter of first impression in the mind of a casual consumer somewhat in a hurry who sees the applicant's mark, at a time when he or she has no more than an imperfect recollection of the opponent's trademark, and does not pause to give the matter any detailed consideration or scrutiny, nor to examine closely the similarities and differences between the marks [*Veuve Clicquot, supra*, at para 20]. Also, where it is likely the public will assume an applicant's goods or services are approved, licensed, or sponsored by the opponent so that a state of doubt and uncertainty exists in the minds of the purchasing public, it follows that the trademarks are confusing [see *Glen-Warren Productions Ltd v Gertex Hosiery Ltd* (1990), 29 CPR (3d) 7 (FCTD) at para 21].

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

[34] Neither party submitted evidence of the meanings of the word elements of the trademarks in issue. However, the Registrar may take judicial notice of dictionary definitions [see *Tradall SA v Devil's Martini Inc*, 2011 TMOB 65 (TMOB) at para 29], which I have done in this case by having reference to the *Canadian Oxford Dictionary* (2nd ed).

[35] I consider the Opponent's trademark MANKIND KENNETH COLE to possess a limited degree of inherent distinctiveness since the word "MANKIND" is somewhat suggestive of being for "male people, as distinct from female" (as defined in the *Canadian Oxford Dictionary*, 2nd ed), and the remaining elements are inherently weak being the given name and surname "KENNETH COLE" [*Sarah Coventry Inc v Abrahamian* (1984), 1 CPR (3d) 238 (FCTD); *Ricard v Molson Breweries, a Partnership*, 1999 CanLII 19465; *Boutique Jacob Inc v Joseph Limited* 2015 TMOB 121]. The Opponent's registration appears in capital lettering and so is not restricted to any particular font or colour [*Les Restaurants La Pizzaiolle Inc v Pizzaiolo Restaurants Inc* (2015), 2015 FC 240].

[36] As for the Applicant's Mark, I find that its inherent distinctiveness is also limited given the suggestive nature of the word "MANKIND" and the descriptiveness of the phrase "grooming studio for men". However, in my view the Mark holds a slightly higher degree of inherent distinctiveness given the inclusion of a design element featuring the silhouette of a man used in place of the letter "I" in the word MANKIND against a dark background.

[37] The strength of a trademark may be increased by means of it becoming known through promotion or use. The Goldfarb affidavit includes representative samples of the use of the Opponent's trademark in association with the Opponent's Goods since 2015. The Goldfarb affidavit also provides annual sales figures in Canada for the MANKIND KENNETH COLE Products between 2015 and 2018, totaling approximately \$915,000 USD. Samples of representative advertisements for Canadian consumers is also provided. Notwithstanding that the reach of these advertisements is not clear (for

instance, neither advertising expenditures by the Opponent nor information on the number of Canadian visitors accessing the Opponent's various social media are provided), and only partial sales information is provided (no information after 2018), I am prepared to find that the Opponent's trademark has become known to at least some extent in Canada.

[38] While the Applicant has provided evidence use of the Mark in association with the Applicant's Grooming Services, there is no evidence that the Mark has become known to any extent in association with the applied for Goods.

[39] Overall, given the greater acquired distinctiveness of the Opponent's trademark in Canada, I find this factor, which is a combination of inherent and acquired distinctiveness, favours the Opponent.

The length of time the trademarks have been in use

[40] The evidence indicates that the Opponent's MANKIND KENNETH COLE trademark has been used by the Opponent in Canada since 2015. While the Applicant has provided evidence of use of the Mark in association with its Grooming Services dating back to October 2009, it has filed no evidence to indicate that it has commenced use of the Mark in association with the Goods (the Application includes a claim of proposed use with the Goods). Accordingly, this factor favours the Opponent.

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

[41] The Opponent's registration covers the goods "fragrances, colognes namely, aftershave cologne, perfumery, deodorants for personal use, body wash, body sprays, body lotions, shampoo, after shave lotions, moisturizers namely, body moisturizers and facial moisturizers", and the Opponent's evidence establishes use with fragrances, colognes, body sprays and deodorants.

[42] The Application includes grooming products that either directly overlap with the Opponent's registered goods or are closely related. With respect to the nature of the trade, the Goods as described in the Application are of a nature that they could be sold in the same stores (brick and mortar or online) as the goods of the Opponent. Indeed,

there is nothing in the description of the Goods in the Application that would appear to limit the Applicant's channels of trade.

[43] Overall, I consider these factors to favour the Opponent.

Degree of resemblance

[44] In *Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27 at paragraph 49, 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.

[45] When considering the degree of resemblance, it is preferable to start by considering whether there is an aspect of the trademark that is particularly striking or unique [*Masterpiece, supra* at paragraph 64]. In my view, a striking aspect of the Opponent's trademark MANKIND KENNETH COLE is the word MANKIND given that it does not comprise part of a name (unlike the remaining elements of the trademark) and considering its positioning in the mark [*Conde Nast Publications Inc v Union Des Editions Modernes* (1979), 26 CPR (2d) 183 at 188 (FCTD)].

[46] I also consider the word MANKIND to be a striking element of the Applicant's Mark given its position in the Mark and the descriptive nature of the remaining text "grooming studio for men". The word MANKIND is also featured in a much larger font than the rest of the text within the design of the Mark. Another striking element of the Mark is the design of a male silhouette used as a replacement for the letter "I" in the word MANKIND; this element assists in distinguishing between the marks in appearance. While the Applicant indicates that the silhouette has consistently appeared in orange, I note that the Application does not contain a corresponding colour claim, nor does the Opponent's registration contain any limitations on the colours in which its trademark may be depicted.

[47] In terms of ideas suggested, there is similarity in that both parties' marks share the word MANKIND. However, the addition of the name KENNETH COLE in the Opponent's mark does assist in distinguishing the marks in ideas suggested insofar as

KENNETH COLE would be recognized as an identifier of the source of the Opponent's goods.

[48] Overall, notwithstanding the differences between the marks, I find there to be a meaningful degree of resemblance between the parties' marks, particularly when sounded, given that MANKIND is a striking element in both parties' trademarks. Accordingly, this factor favours the Opponent, though only slightly.

Surrounding circumstance – lack of evidence of confusion despite co-existence

[49] Ms. Miron states that she is not aware of any reports of members of the public inquiring whether there is any affiliation or connection between the Applicant and the Opponent or believing that the Applicant's Grooming Services are performed by the Opponent (Miron affidavit, para 13). The Opponent's Goods are grooming products that are closely related to the Applicant's Grooming Services.

[50] The Federal Court has indicated that the extent to which an inference may be drawn from a lack of actual confusion depends on the circumstances [*Scott Technologies Inc v 783825 Alberta Ltd*, 2015 FC 1336 at paragraph 69 (*Scott Technologies*); *Caesarstone Sdot-Yam Ltd v Ceramiche Caesar SPA*, 2016 FC 895 (*Caesarstone*)]. In *Scott Technologies*, the court noted:

The extent to which a court may draw an inference from a lack of actual confusion depends on the circumstances. In *Mr Submarine Ltd v Amandista Investments Ltd*, 1987 CanLII 8953 (FCA), [1988] 3 FC 91 [*Mr Submarine*], the Federal Court of Appeal recognized at para 29 that the lack of evidence of actual confusion was a "very weighty fact," given that the parties had been using their respective trademarks in association with restaurant businesses in the Dartmouth area for the past 10 years. This may be contrasted with *Absolute Software Corporation v Valt.X Technologies Inc*, 2015 FC 1203 [*Absolute*], where I held at para 8 that the lack of evidence of actual confusion was "not surprising given that the Respondent is in start-up and development mode and has sold less than \$2000 in product thus far."

[51] The facts in this case fall somewhere between those in *Mr. Submarine* and *Absolute*. While there is evidence of co-existence, the duration is less than a decade. The Opponent states that it commenced use of its trademark in Canada in 2015 and while it does not indicate the month, the yearly sales for 2015 are very small (less than \$1000 USD) such that I assume the Opponent's use began in late 2015. The Opponent

provides annual sales corresponding to the sales of grooming products under its trademark for 2016, 2017, and 2018, but no other yearly sales information is provided (despite the affidavit being sworn in February 2021). The Applicant's evidence is that it has been using the Mark in association with Grooming Services since October 19, 2009. While no sales figures are provided, the Applicant notes that before the 2020-21 COVID-19 pandemic, when the Applicant had to close due to lockdown, the Applicant gave customers 25,000 haircuts a year on average (paras 10, 12).

[52] Arguably, it is also unclear the extent to which the parties carried out their activities in the same geographic areas. The Applicant's Grooming Services and the majority of its advertising initiatives appear to be limited to the Toronto area (store signage, vehicle advertising, lip balms given to customers, and exposure on a local Toronto TV station) whereas the Opponent's Goods appear to be sold more broadly, including at department and specialty stores with a national presence (Shoppers Drug Mart, Rexall, Costco Canada).

[53] On balance, I find this to be a relevant surrounding circumstance favouring the Applicant, though only slightly.

Surrounding circumstance – Applicant's prior registration

[54] As noted above, the Applicant already owns a registration for the Mark in association with the Grooming Services. However, it is well established that section 19 of the Act does not give the owner of a registration an automatic right to obtain any further registrations [*Coronet-Werke Heinrich Schlerf GmbH v Produits Menagers Coronet Inc*, 4 CPR (3d) 108 (TMOB); and *Groupe Lavo Inc v Proctor & Gamble Inc*, 32 CPR (3d) 533 (TMOB)]. That said, the Applicant has evidenced use of the Mark in association with the Grooming Services in its registration, and the applied for Goods (grooming products) are closely related to its Grooming Services. As such, I find this to be a relevant surrounding circumstance favouring the Applicant [*Caesarstone, supra* at paragraphs 50-56].

Conclusion on the section 12(1)(d) ground

[55] Having considered all of the surrounding circumstances, and in particular the degree of resemblance between the trademarks, the overlap or close relationship in the nature of the goods and channels of trade, as well as the acquired distinctiveness and length of time in use of the Opponent's mark, I find that at best for the Applicant, the probability of confusion between the Mark and the Opponent's trademark is evenly balanced between a finding of confusion and no confusion. While the lack of evidence of confusion despite co-existence of the parties' trademarks and the Applicant's prior registration and use of the Mark in association with the Grooming Services are relevant surrounding circumstances favouring the Applicant, they are not sufficient to outweigh the overall consideration of the section 6(5) factors discussed above. As an aside, I note that given the Applicant's evidence of use in association with the Grooming Services largely pertains to the Toronto area, it may be that outside of this specific geographic area, the Applicant's case would be even weaker.

[56] As the onus is on the Applicant to demonstrate on a balance of probabilities that there is no reasonable likelihood of confusion between the trademarks, I must therefore find against the Applicant. Accordingly, the section 12(1)(d) ground of opposition is successful.

Section 16(1)(a) ground of opposition

[57] The Opponent has pleaded that the Applicant is not the person entitled to registration of the Mark since, at the date of filing of the Application, namely March 12, 2018, and at all relevant times, the Mark was confusing with the Opponent's MANKIND KENNETH COLE trademark which had been previously used in Canada in association with fragrances, colognes namely aftershave cologne, perfumery, body wash, body sprays, shampoo and after shave lotions.

[58] The Opponent has met its initial evidential burden through its evidence demonstrating use of its trademark since prior to the material date for this ground of opposition.

[59] In my view, the earlier material date for this ground of opposition does not alter to any meaningful degree the confusion analysis for the section 12(1)(d) ground of opposition set out above. Accordingly, the Applicant has not met its legal burden to demonstrate no likelihood of confusion as of the material date for the non-entitlement ground, and the section 16(1)(a) ground of opposition is also successful.

Remaining grounds of opposition

[60] As the Opponent has already succeeded under two grounds of opposition, it is not necessary to address the remaining grounds of opposition.

DISPOSITION

[61] In view of the above, pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the Application to extend the statement of goods and services to include the Goods pursuant to section 38(12) of the Act.

Jennifer Galeano
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

Appearances and Agents of Record

HEARING DATE: No hearing held

AGENTS OF RECORD

For the Opponent: Norton Rose Fulbright Canada LLP/S.E.N.C.R.L., s.r.l.

For the Applicant: Bereskin & Parr LLP/S.E.N.C.R.L., s.r.l.