



# Canadian Intellectual Property Office

## **THE REGISTRAR OF TRADEMARKS**

**Citation:** 2023 TMOB 068

**Date of Decision:** 2023-04-14

## **IN THE MATTER OF AN OPPOSITION**

**Opponent:** Fila Luxembourg S.A.R.L.

**Applicant:** Fila Incorporation Limited

**Application:** 1,871,269 for FILA

### **INTRODUCTION**

[1] Fila Incorporation Limited (the Applicant) has applied to register the trademark FILA (the Mark), for use in association with the following goods:

flavoured beers; non-alcoholic carbonated beverages; fruit beverages and fruit juices; syrups for beverages.

[2] Fila Luxembourg S.A.R.L. (the Opponent) opposes registration of the Mark. The Opponent's primary allegation is that the Mark is confusing with the Opponent's numerous trademarks consisting of the word FILA, a stylized version of that word, or a stylized letter "F". The Opponent alleges that its trademarks have been registered and used in Canada in association with many goods relating primarily to clothing, sports

apparel and athletic goods. One of the Opponent's stylized FILA trademarks is also registered for use in association with "beverages for replacing energy".

[3] For the reasons that follow, the application is refused.

### **THE RECORD**

[4] The application for the Mark was filed on December 5, 2017, and was advertised for opposition purposes on May 8, 2019.

[5] On July 8, 2019, the Opponent filed a statement of opposition under section 38 of the *Trademarks Act*, RSC 1985, c T-13 (the Act). In its statement of opposition, the Opponent asserts that it is the owner of the several trademarks identified in Schedule A to these reasons (the Opponent's Trademarks). The Opponent asserts five specific grounds of opposition, which are described below.

[6] The Applicant served and filed a counterstatement on September 20, 2019, denying each of the allegations in the statement of opposition.

[7] In support of its opposition, the Opponent submitted the affidavit of Dennis Koop, sworn August 20, 2021. Mr. Koop is Vice President, Product Merchandising and Sourcing for Fila Canada, ULC (Fila Canada), the Canadian licensee of the Opponent [para 1]. His affidavit describes:

- the Opponent and its business [paras 1 to 3];
- the Opponent's brand and trademark rights [paras 4 to 17]; and
- the Opponent's product sales, promotion, and advertising in Canada, all in connection with its trademarks [paras 18 to 26].

[8] The Opponent also submitted the affidavit of Jane Buckingham, sworn August 19, 2021. Ms. Buckingham is a senior trademark searcher with Gowling WLG (Canada) LLP, the Opponent's trademark agents. Her affidavit provides printouts of various webpages and documents from the following web sites:

- *www.cr.gov.hk* and *www.icris.cr.gov.hk* [paras 2 to 3 and Exhibits A and B];
- *filabeverage.com*, as well as archived copies of pages from this site obtained from *archive.org*, and a “WHOIS” report for *filabeverage.com* obtained from *whois.domaintools.com* [para 4 and Exhibit C];
- *www.ipo.gov.uk* [para 5 and Exhibit D]; and
- *tmsearch.uspto.gov*, *tsdr.uspto.gov*, *ttabvue.usto.gov*, and *assignments.uspto.gov* [para 6 and Exhibit E].

[9] Ms. Buckingham’s affidavit also contains a copy of what is alleged to be a decision of the Korean Intellectual Property Office, together with a notarized translation [para 7 and Exhibit F].

[10] Neither Mr. Koop nor Ms. Buckingham were cross-examined, and the Applicant elected not to submit evidence in support of its application.

[11] Only the Opponent submitted written representations and no hearing was held.

**GROUND OF OPPOSITION, EVIDENTIAL BURDEN AND LEGAL ONUS**

[12] The Opponent relies on the following grounds of opposition in this matter:

- the Mark is not registrable pursuant to section 12(1)(d) of the Act (the Non-registrability Ground);
- the Applicant is not entitled to register the Mark pursuant to section 16(3)(a) of the Act (the Section 16(3)(a) Ground);
- the Applicant is not entitled to register the Mark pursuant to section 16(3)(c) of the Act (the Section 16(3)(c) Ground);
- the Mark is not distinctive within the meaning of section 2 of the Act (the Non-distinctiveness Ground); and

- the application does not comply with the requirements of section 30(i) of the Act (the Section 30(i) Ground).

[13] Numerous amendments to the Act came into force on June 17, 2019, after the advertisement of the application, but before the Opponent's opposition was commenced. Pursuant to section 70 of the Act as amended, the grounds of opposition will be assessed based on the Act as it read immediately before June 17, 2019, with some exceptions [stated in section 70(1)(a) of the Act as amended]. Unless stated otherwise, references to sections of the Act will be to the Act as it read immediately before June 17, 2019.

[14] For each of the Opponent's grounds of opposition, there is an initial evidential burden on the Opponent to adduce evidence from which it could reasonably be concluded that the facts alleged to support that ground of opposition are true. If this initial burden is met, then the Applicant bears the legal onus of satisfying the Registrar that, on a balance of probabilities, the ground of opposition should not prevent registration of the Mark [see *John Labatt Ltd v Molson Companies Ltd* (1990), 30 CPR (3d) 293 (FCTD)].

### **THE NON-REGISTRABILITY GROUND**

[15] Pursuant to section 38(2)(b) of the Act, the Opponent alleges that the Mark is not registrable in view of section 12(1)(d) of the Act, because the Mark is confusing with the Opponent's Trademarks (identified in Schedule A), within the meaning of section 6 of the Act.

[16] Unless indicated otherwise, I will focus my analysis on the Opponent's trademark registration No. TMA359,974 (the '974 Registration). The trademark that is the subject of that registration (the '974 Trademark) is shown below, along with the details of the colour claim included in the registration, and the goods in connection with which it is registered:



Colour Claim: Red for the upper part of the "F" and blue for all the rest.

Goods: (1) Men's, women's and children's fragrance and cosmetic products namely perfumes, toilet waters, face shield, dry oil spray, anti-perspirant stick, performing deodorant spray, daily shampoo, daily conditioner, protective lip balm, cooling talc, bath and shower gel, vitamin and mineral nutritional supplements, beverages for replacing energy.

[17] The '974 Registration includes the goods "beverages for replacing energy", which appear to be similar to, if not the same as, the applied-for goods. Accordingly, in my view the '974 Registration presents the Opponent's strongest case.

[18] As the Opponent's '974 Registration is extant on the Register, the Opponent meets its initial burden under this ground. Accordingly, the Applicant must establish on a balance of probabilities that this ground of opposition should not prevent registration of the Mark. In other words, the Applicant must establish that, on a balance of probabilities, the Mark is not confusing with the '974 Trademark, within the meaning of section 6 of the Act. The material date for assessing confusion under this ground is the date of this decision [*Simmons Ltd v A to Z Comfort Beddings Ltd* (1991), 37 CPR (3d) 413 (FCA)].

### ***The Test for Confusion***

[19] The use of a trademark will cause 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 emanate from the same source [see section 6(2) of the Act as amended]. The test for confusion is a matter of first impression in the mind of a casual consumer somewhat in a hurry, who sees the applicant's trademark at a time when they have no more than an imperfect recollection of the opponent's trademark. This casual, hurried consumer does not pause to give the matter any detailed consideration or scrutiny, nor to examine closely the similarities and

differences between the trademarks [*Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée*, 2006 SCC 23 at para 20].

[20] Applying the test for confusion is an exercise in finding facts and drawing inferences [*Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27 at para 102]. All surrounding circumstances of the case must be considered, including those listed at section 6(5) of the Act, namely:

- 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.

[21] This list is not exhaustive; all relevant factors are to be considered, although they are not necessarily attributed equal weight [see *Mattel, Inc v 3894207 Canada Inc*, 2006 SCC 22 at para 54; *Veuve Clicquot, supra* at para 21].

### ***Degree of Resemblance***

[22] The degree of resemblance between the trademarks often has the greatest effect on the confusion analysis [*Masterpiece* at para 49]. In this case, the Mark consists of the word FILA, which is identical to the word depicted in the '974 Trademark. The trademarks are therefore highly similar in appearance, and are identical in sound. I also find that ideas suggested by the trademarks are identical, since the word components of the trademarks are identical, and there is no evidence that the design components of the '974 Trademark add to or alter the idea suggested by that trademark.

[23] Accordingly, I find the degree of resemblance between the trademarks to be high, and that this factor strongly favours the Opponent.

### ***Inherent Distinctiveness, and Extent Known***

[24] Both the '974 Trademark and the Mark consist of the word FILA. Exercising the Registrar's discretion to take judicial notice of dictionary definitions [see *Tradall SA v Devil's Martini Inc*, 2011 TMOB 65], I note that FILA is the plural of the ordinary English word FILUM, which the online dictionary *dictionary.com* defines as "a threadlike structure" or a "filament". Since this meaning does not appear to be descriptive or suggestive of either the goods of the '974 Registration or the applied-for goods, both trademarks have a fair degree of inherent distinctiveness in connection with their respective goods. Since the '974 Trademark includes additional unique design elements, such as the stylized presentation of the word FILA and the colour features, I find that the '974 Trademark is somewhat more inherently distinctive than the Mark.

[25] As for the extent to which the trademarks have become known, there is no evidence that either trademark has become known to any substantial extent, in association with their respective goods. While the '974 Registration contains a declaration that the trademark was in use as of June, 1989, I am not prepared to accept this declaration alone as evidence of continuous use since that date, in association with the goods of the '974 Registration [see *Tokai of Canada v Kingsford Products Company, LLC*, 2018 FC 951]. While Mr. Koop's affidavit does present evidence of the Opponent's use and promotion of the Opponent's FILA Marks generally, the affidavit is silent with respect to use in connection with the goods of the '974 Registration.

[26] As for the Mark, it is applied for on the basis of proposed use, and there is no evidence that the Applicant has used or promoted the Mark in Canada.

[27] In view of the fact that the '974 Trademark is somewhat more inherently distinctive than the Mark, I find that this factor slightly favours the Opponent.

### ***Length of Time in Use***

[28] In the absence of evidence of continuous use of either trademark in association with the relevant goods, this factor does not favour either party.

### ***Nature of the Goods, and Nature of the Trade***

[29] With regard to nature of the goods and the nature of the trade, the applied-for goods must be compared with the statement of goods in the '974 Registration [see *Henkel Kommanditgesellschaft auf Aktien v Super Dragon Import Export Inc* (1986), 12 CPR (3d) 110 (FCA); see also *Mr Submarine Ltd v Amandista Investments Ltd* (1987), 1987 CanLII 8953 (FCA), 19 CPR (3d) 3 (FCA)].

[30] In this case, the '974 Registration includes “beverages for replacing energy”. Most of the applied-for goods appear to be highly similar, in that they are also types of types of beverages (or ingredients for making beverages). In the absence of evidence of the nature of the parties' beverage goods and trade, or limitations on the channels of trade in the statements of goods, there is potential that the parties' highly similar goods will be available in the same channels of trade.

[31] With regard to the applied-for goods defined as “flavoured beers”, the degree of similarity is potentially reduced. Considering the plain meaning of parties' goods in the absence of evidence as to their specific nature, one would reasonably expect: (a) “flavoured beers” to be alcoholic; and (b) “beverages for replacing energy” to be non-alcoholic. As for the nature of the trade, once again, in the absence of evidence of the Applicant's trade, the Applicant's “flavoured beers” could potentially be available in the same channels of trade as the Opponent's beverages.

[32] Overall, since the parties' goods are at least similar (and in most cases, highly similar), and since the goods could potentially move in the same channels of trade, I find that these factors favour the Opponent.

### ***Conclusion regarding Confusion***

[33] The test to be applied is a matter of first impression in the mind of an average consumer somewhat in a hurry, who sees the trademark FILA used in association with the applied-for goods, at a time when he or she has no more than an imperfect recollection of the '974 Trademark, and does not pause to give the matter any detailed consideration or scrutiny [*Veuve Clicquot* at para 20]. If such a consumer would be



reasonably likely to infer that the applied-for goods emanate from the same source as the those of the '974 Registration, then the Mark is confusing with the '974 Trademark.

[34] Again, it is the Applicant's onus to establish, on a balance of probabilities, that the Mark is not confusing within the meaning of section 6 of the Act. Having considered all surrounding circumstances of this case, I find that the Applicant has failed to discharge its onus in respect of the '974 Trademark. In view of the high degree of resemblance between the trademarks, the similarity (and in most cases, high similarity) between the parties' goods, and the potential for those goods to move in the same channels of trade, I find it reasonably likely, on a balance of probabilities, that the Mark is confusing with the '974 Trademark.

[35] Accordingly, this ground of opposition is successful.

### **SECTION 16(3)(A) GROUND**

[36] Pursuant to section 38(2)(c) of the Act, the Opponent pleads that the Mark is not registrable in view of section 16(3)(a) of the Act because, as of the filing date of the application, the Mark was confusing with the Opponent's Trademarks (identified in Schedule A), all of which had been previously used in Canada by the Opponent or predecessors-in-title in connection with the goods stated in the Opponent's registrations, and which had not been abandoned as of the date on which the application was advertised for opposition purposes.

### ***Opponent's Initial Evidential Burden***

[37] In order to meet its initial burden under this ground, the Opponent must show that the Opponent's Trademarks were used or made known in Canada prior to the filing date of the application (December 5, 2017), and that these trademarks were not abandoned at the date of advertisement of the application (May 8, 2019). I will focus my analysis on the Opponent's trademark shown below [the FILA Design Mark] because, in my view, this presents the Opponent's strongest case.



[38] The prior use that must be established is that which is defined in section 4 of the Act. In the case of goods, “use” of a trademark occurs if, at the time of the transfer of the property in or possession of the goods, in the normal course of trade, the trademark is marked on the goods themselves or on the packages in which they are distributed, or is in any other manner associated with the goods such that notice of the association is given.

[39] The evidence establishes that the Opponent offers several types of products that are marked with the FILA Design Mark, including sports apparel, sports-inspired streetwear, baseball hats, athletic footwear, athletic bags, and water bottles (the Opponent’s Goods) [Koop Affidavit, para 18 and Exhibit G]. The evidence also establishes that:

- the Opponent has sold the Opponent’s Goods, bearing the FILA Design Mark, in Canada over the past 30 years [Koop Affidavit, para 20]; and
- sales of the Opponent’s Goods were continuing at least in the period of 2016 to 2019 [see Koop Affidavit, para 22].

[40] In view of the evidence described above, I am satisfied that the Opponent has met its burden of establishing use of the FILA Design Mark, in connection with the Opponent’s Goods, prior to the filing date of the application. Furthermore, since this use was ongoing during the period of 2016 to 2019, which includes the date of advertisement of the application, I am satisfied that the FILA Design Mark had not been abandoned as of that date.

***Confusion as of Application Filing Date***

[41] Since the Opponent has met its burden, the Applicant bears the onus of establishing, on a balance of probabilities, that the Mark was not confusing with the

FILA Design Mark as of the filing date of the application (December 5, 2017). Aside from the change in the material date for assessing confusion, the test for confusion under this ground of opposition is the same as that in respect of the Section 12(1)(d) Ground. All surrounding circumstances of the case must be considered, including those set out in section 6(5) of the Act.

#### Degree of Resemblance

[42] Since the FILA Design Mark is essentially identical to the '974 Trademark, the degree of resemblance in respect of this ground of opposition is also high, and strongly favours the Opponent.

#### Inherent Distinctiveness, Extent Known, and Length of Time in Use

[43] Unlike the case in respect of the Section 12(1)(d) Ground, there is evidence of substantial use of the FILA Design Mark in connection with the Opponent's Goods. The evidence establishes that, from 2015 to the date of Mr. Koop's affidavit, the Opponent's Goods were available in the Canadian market through several retailers, including Costco, TJX/Winners, Footlocker Canada, Hudson's Bay and Sport Check [Koop Affidavit, para 19]. Total net sales in Canada averaged over \$36 million per year in the period of 2016 to 2019 [Koop Affidavit, para 22].

[44] There is also evidence to suggest that, as of the filing date of the application, the FILA Design Mark had become known in Canada in several other ways, in addition to sales of the Opponent's Goods in Canada:

- for the four-year period beginning in 2016, Fila Canada spent an average of \$300,000 per year promoting and advertising the Opponent's Trademarks (including the FILA Design Mark) in Canada. Promotional activities included direct retailer marketing, promotional apparel and accessories, and special event promotions [Koop Affidavit, para 23];
- in 2016 Fila Canada sponsored the Rogers Cup annual tennis tournament, and became the official apparel provider for Tennis Canada [Koop Affidavit, para 23];

- as of the application filing date several athletes had been sponsored by the Opponent [Koop Affidavit, para 10 and Exhibit D, first page to fourteenth page], although there is no indication of the extent to which the Opponent's Trademarks were promoted by the sponsored athletes;
- as of the filing date of the application, the Opponent had collaborated with the makers of the soft drink MOUNTAIN DEW to create a special promotional shoe bearing both the Opponent's Trademarks (including the Opponent's FILA Design Mark) and colours associated with MOUNTAIN DEW. This shoe was available in packaging bearing both the Opponent's Trademarks and those of MOUNTAIN DEW [Koop Affidavit, para 12 and Exhibit E, first to fifth pages]. While Mr. Koop claims that this collaboration was highly publicized [para 12], the extent to which it was publicized has not been quantified. For example, no sales volumes of the promotional shoes or advertising distribution figures have been provided;
- the Opponent's trademarks (including the Opponent's FILA Design Mark) have been referenced in publications such as the *New York Times*, the *Wall Street Journal* and *Forbes Magazine* [Koop Affidavit, para 5 Exhibit B]. At least one of these references occurred prior to the filing date of the application, in the *Wall Street Journal* [Exhibit B, first to fourth pages]. The Opponent argues, and I agree, that I can take judicial notice of the fact that the *Wall Street Journal* enjoys a general circulation in Canada [see *Motel 6 Inc v No 6 Motel Ltd* (1981), 1 FC 638];
- clothing featuring the Opponent's FILA Design Mark has been worn by global celebrities such as Beyoncé, Rihanna and Kendall Jenner [Koop Affidavit, para 6]. The Opponent argues, and I agree, that I can take judicial notice of famous names in popular culture. However, there is no indication as to whether the Opponent's FILA Design Mark was worn by celebrities prior to the application filing date, or the extent of any media coverage that publicised these celebrities wearing the trademark.

[45] Despite the noted deficiencies in the evidence, I am satisfied that, as of the application filing date, the Opponent's FILA Design Mark had become known in the Canadian marketplace to at least a fair extent, given the substantial sales of the Opponent's Goods and the promotional activities that had occurred as of said date.

[46] As for the Mark, the application was filed on the basis of proposed use in Canada, and there is no evidence that the Mark had been used or promoted in Canada by the Applicant, as of the application filing date.

[47] Accordingly, the inherent distinctiveness of the trademarks and the extent to which they have become known, as well as the length of time the trademarks have been in use, all favour the Opponent.

#### Nature of the Goods and Trade

[48] Since the Opponent relies on an unregistered trademark in respect of this ground, the applied-for goods must be compared to the goods the Opponent was actually selling, and the channels of trade in which those goods moved, as of the application filing date [see *Hayabusa Fightwear Inc v Suzuki Motor Corporation*, 2014 FC 784 at paras 46-47]. As discussed above in respect of the Opponent's initial evidential burden, the Opponent has established use of the Opponent's FILA Design Mark in connection with the Opponent's Goods, as of the application filing date. Accordingly, it is these goods that will be compared with the applied-for goods. Since the Opponent has not evidenced use of any trademark in connection with "beverages for replacing energy", or other goods of the '974 Registration, these goods will not be considered in respect of the Section 16(3)(a) Ground.

[49] While the Opponent's Goods are not as similar to the applied-for goods as the goods of the '974 Registration, the Opponent's Goods are still related to the applied-for goods in a few ways. The Opponent's Goods include water bottles, which could be used by consumers in conjunction with the beverage goods in the application. The fact that goods can be used together tends to increase the likelihood of confusion [*Schwan's IP, LLC v Sobeys West Inc*, 2017 FC 38 at paras 22, 75].

[50] In addition, the evidence demonstrates a relationship between the goods through the Opponent's collaboration with beverage companies. As of the filing date of the application, the Opponent's collaboration with MOUNTAIN DEW had occurred. In my view, this gives rise to a reasonable possibility that consumers would infer that the footwear of the Opponent's Goods, and the beverages of the applied-for goods, when sold in connection with highly similar trademarks, are associated with the same source.

[51] As for the nature of the trade, again in the absence of evidence I find that the parties' goods were potentially available in overlapping channels of trade, particularly in the case of those Opponent's Goods that were produced in collaboration with a beverage manufacturer.

[52] In view of the potential connections between the parties' goods, and potential overlap in the channels of trade, I find that these factors favour the Opponent, although to a lesser degree than in respect of the Section 12(1)(d) Ground.

#### Conclusion regarding confusion

[53] Applying the same test for confusion as in the case of the Section 12(1)(d) Ground, I find that the Applicant has failed to demonstrate that the Mark was not confusing with the Opponent's FILA Design Mark, as of the application filing date. Considering that, as of the application filing date the degree of resemblance between the trademarks was high, the Opponent's FILA Design Mark was known to Canadian consumers to at least a fair extent, the parties' goods were at least somewhat related, and the parties' trades were potentially overlapping, I find it somewhat more likely than not that the Mark is confusing with the Opponent's FILA Design Mark, within the meaning of section 6 of the Act.

[54] Accordingly, this ground of opposition is successful.

#### **REMAINING GROUNDS OF OPPOSITION**

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

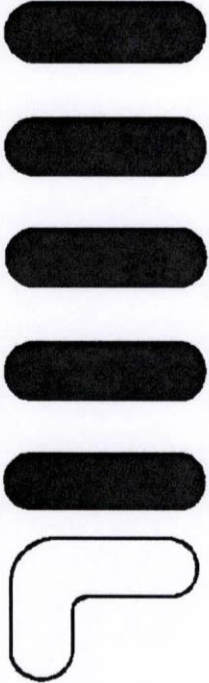


**DISPOSITION**

[56] For the foregoing reasons, pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the application pursuant to section 38(12) of the Act as amended.





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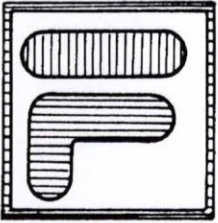


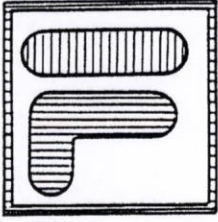
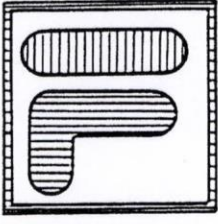

Jaimie Bordman  
Member  
Trademarks Opposition Board  
Canadian Intellectual Property Office



**SCHEDULE A – TRADEMARKS ASSERTED BY THE OPPONENT**


Trade-mark	Appln/Regn No.	Owner	Goods/Services
<p>F &amp; DESIGN</p> 	<p>App 1012685 Reg TMA556502</p>	<p>Fila Luxembourg S.A.R.L.</p>	<p>(1) Clothing namely jackets, pants, shirts, suits, bermudas, socks, sweaters, fleece pants and sweaters, gloves, outerwear jackets, shorts, knit shirts, t-shirts; footwear namely tennis shoes, jogging shoes, running shoes, walking shoes, sailing shoes, deck shoes, sandals; headgear namely hats, caps, visors, headbands.</p>
<p>FILA DESIGN</p> 	<p>App 842458 Reg TMA504794</p>	<p>Fila Luxembourg S.A.R.L.</p>	<p>(1) Clothing and footwear for men, women and children, namely, sportswear, namely, shirts, hats, jackets, jogging suits, pants, coats, t-shirts, headbands, visors, shorts, swimsuits, tanktops, skirts, warm-up suits, belts, socks, sweatshirts and underwear; footwear, namely, tennis shoes, jogging shoes, running shoes, walking shoes, sailing shoes, deck shoes, basketball shoes, sandals.</p>
<p>F FILA &amp; DESIGN</p> 	<p>App 842459 Reg TMA504828</p>	<p>Fila Luxembourg S.A.R.L.</p>	<p>(1) Clothing and footwear for men, women and children, namely, sportswear, namely, shirts, hats, jackets, jogging suits, pants, coats, t-shirts, headbands, visors, shorts, swimsuits, tanktops, skirts, warm-up suits, belts, socks, sweatshirts and underwear; footwear, namely, tennis shoes, jogging shoes, running shoes, walking shoes, sailing shoes, deck shoes, basketball shoes, sandals.</p>



Trade-mark	Appln/Regn No.	Owner	Goods/Services
FILASPORT <b>FILASPORT</b>	App 824720 Reg TMA489363	Fila Luxembourg S.A.R.L.	(1) Clothing, namely, jackets, vests, pants, shirts, suits, jeans, bermudas, scarves, socks, underwear, sweaters, fleece, gloves, hats, raincoats, outdoor jackets, ties, shorts, trunks; knits, namely, sweaters, knit shirts, t-shirts, waistcoats, made of knitted fabrics.
F & DESIGN 	App 679627 Reg TMA398990	Fila Luxembourg S.A.R.L.	(1) Tennis shoes, jogging shoes, running shoes, walking shoes, sailing shoes, deck shoes, basketball shoes, sandals.
FILA DESIGN <b>FILA</b>	App 679628 Reg TMA400331	Fila Luxembourg S.A.R.L.	(1) Tennis shoes, jogging shoes, running shoes, walking shoes, sailing shoes, deck shoes, basketball shoes, sandals.
FILA DESIGN 	App 634600 Reg TMA388563	Fila Luxembourg S.A.R.L.	(1) Bicycles, bicycle frames, their parts and accessories, namely: water bottle, cycle frames, cycle saddles, gloves, helmets, caps.
F & DESIGN 	App 634601 Reg TMA388200	Fila Luxembourg S.A.R.L.	(1) Bicycles, bicycle frames their parts and accessories, namely: water bottle, cycle frames, cycle saddles, gloves, helmets, caps.
FILA DESIGN 	App 602945 Reg TMA361831	Fila Luxembourg S.A.R.L.	(1) Wrist watches. (2) Suit-case, wardrobe bags, (wardrobe trunks), attaches-cases, carry-on-cases, beauty-cases, school-bags, bags for men, hand-bags, trunk, wallets, check-book cover, passport cover, belts, necessaires, namely: work bag, sewing box, manucure set, toilet bag, sponge bag, grip; key-cases and chain, ash-trays.

Trade-mark	Appln/Regn No.	Owner	Goods/Services
F & DESIGN 	App 602410 Reg TMA356405	Fila Luxembourg S.A.R.L.	(1) Wrist-watches.
FILA DESIGN 	App 588523 Reg TMA359974	Fila Luxembourg S.A.R.L.	(1) Men's, women's and children's fragrance and cosmetic products namely perfumes, toilet waters, face shield, dry oil spray, anti-perspirant stick, performing deodorant spray, daily shampoo, daily conditioner, protective lip balm, cooling talc, bath and shower gel, vitamin and mineral nutritional supplements, beverages for replacing energy.
FILA DESIGN 	App 588524 Reg TMA361776	Fila Luxembourg S.A.R.L.	(1) Spectacles, spectacle-frames, lenses, sun-glasses.
F DESIGN 	App 588525 Reg TMA354827	Fila Luxembourg S.A.R.L.	(1) Check-book-cover, passport-cover (2) Suit-cases, wardrobe-bags (wardrobe trunks), attaches-cases, carry-on cases, beauty-cases, bags for men, big bags, hand-bags, wallets, necessaires, namely work bag (3) Belts
F DESIGN 	App 588526 Reg TMA354828	Fila Luxembourg S.A.R.L.	(1) Spectacles, spectacle-frames, sun-glasses.
F DESIGN 	App 588527 Reg TMA361495	Fila Luxembourg S.A.R.L.	(1) Men's, women's and children's fragrance and cosmetic products namely: perfumes, toilet waters, face shield, dry oil spray, anti-perspirant stick, performing deodorant spray, daily shampoo, daily conditioner, protective lip balm, cooling talc, bath and shower gel; vitamin, salt and

Trade-mark	Appln/Regn No.	Owner	Goods/Services
			glucose enriched beverages; bottles to hold energetic beverages.
FILA	App 496983 Reg TMA358668	Fila Luxembourg S.A.R.L.	(1) Sunglasses.
FILA DESIGN 	App 444855 Reg TMA258009	Fila Luxembourg S.A.R.L.	(1) Shorts, shirts, culottes, pullovers, jackets, cardigans, women's shirts and skirts, track suits, swimsuits, bathing caps, bathing gowns, trousers, jacket hoods, towels, socks, caps, visors, headbands, leotards, wristbands, hoods, vests, overalls, pants, underpants, blazers, tennis warm-up suits, kilts, tennis dresses, tennis racquets, strings for tennis racquets, racquet stands, racquet covers, tennis ball cases, golf gloves, shoe stands, bags (non-leather), umbrellas and jewelry.
F & DESIGN 	App 432566 Reg TMA249328	Fila Luxembourg S.A.R.L.	(1) Clothing namely: pullovers, cardigans, sweaters, jerseys, socks, shorts, jackets, training suits, skirts, trousers, pants, dungarees, shirts; ski wear namely: sweaters, underwear, overalls, suits, jackets, wind resistant jackets, sweat shirts; bathing suits, bath gowns, towels; sport articles namely: tennis, ski and bathing bags, tennis wrist bands, tennis rackets and strings.
FILA	App 432567 Reg TMA259480	Fila Luxembourg S.A.R.L.	(1) Clothing namely: pullovers, cardigans, sweaters, jerseys, socks, shorts, jackets, training suits, skirts, trousers, pants, dungarees, shirts; ski wear namely: sweaters, underwear, overalls, suits, jackets, wind resistant jackets, sweat shirts; bathing suits, bath gowns, towels; sport articles namely: tennis, ski and bathing bags, tennis wrist bands, tennis rackets and strings.

Trade-mark	Appn/Regn No.	Owner	Goods/Services
<p>FILA INDUSTRIE LANIERE &amp; DESIGN</p> 	<p>App 345168 Reg TMA189112</p>	<p>Fila Luxembourg S.A.R.L.</p>	<p>(1) Tissues (piece goods).</p>

# Appearances and Agents of Record

**HEARING DATE:** No hearing held

## **AGENTS OF RECORD**

**For the Opponent:** Gowling WLG (Canada) LLP

**For the Applicant:** Neomark Ltd.