

Federal Court



Cour fédérale

Date: 20140306

**Dockets: T-1664-11
T-1665-11**

Citation: 2014 FC 223

Ottawa, Ontario, March 6, 2014

PRESENT: The Honourable Mr. Justice de Montigny

BETWEEN:

LONDON DRUGS LIMITED

Applicant

and

INTERNATIONAL CLOTHIERS INC.

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an appeal pursuant to section 56 of the *Trade-marks Act*, RSC 1985, c T-13 (the “Act”) of two decisions rendered by the Trade-marks Opposition Board (the “Board”) of the Canadian Intellectual Property Office (“CIPO”) as a delegate of the Registrar of Trade-marks, dated July 26, 2011 and rendered by Ms Andrea Flewelling (the “Officer”) in respect of application numbers 1,280,468 and 1,280,469 (the “Trade-mark Applications”).

Factual background


[2] On November 22, 2005, International Clothiers Inc. (“INC”, the “Respondent”) filed Canadian Trade-mark Application Nos 1,280,468 and 1,280,469, both for the trade-mark SMITH & BARNES LONDON. These Applications were filed on the basis of proposed use in association with “retail clothing store services; retail department store services” (Application No 1,280,468 – the “Services” Application) and with a wide variety of wares (Application No 1,280,469 – the “Wares” Application) that can be categorized as follows: clothing, ladies’ accessories (hats, gloves, hair clips, jewellery, etc.), soft goods (handbags, purses, wallets, briefcases), housewares (cookware, giftware, dinnerware), kitchen accessories, home furnishing (furniture, bedding, pillows, towels, etc.). The full list of wares is included in Appendix A.

[3] The Services Application was advertised in the *Canadian Trade-marks Journal* on October 17, 2007. An *erratum* was published on November 7, 2007 correcting an error with the advertisement which had wrongly included disclaimers for the words SMITH and BARNES. The Applicant filed a Statement of Opposition on December 17, 2007. As for the Wares Application, it was advertised on January 9, 2008 and the Applicant filed its Statement of Opposition on February 5, 2008.

[4] The Applicant is a well-known Canadian drugstore and retailer of general merchandise in Western Canada. The grounds of opposition for both Applications can be summarized as follows:

- The trade-mark SMITH & BARNES LONDON is not registrable pursuant to paragraphs 38(2)(b) and 12(1)(d) of the *Act*, because it is confusing with the

Applicant's trade-mark registrations covering a wide range of wares and services listed in Appendix B below;

- The Respondent is not the person entitled to registration of the trade-mark SMITH and BARNES pursuant to paragraph 38(2)(c) of the *Act*, because at the date of filing of the Application:
 - the applied-for Mark was confusing with the Applicant's marks which had previously been used in Canada for the goods and services set out in Appendix B and other goods and services which are of the same type as the services and wares including the sale of clothing and clothing accessories, the clothing and clothing accessories, housewares, jewellery and home furnishings (paragraph 16(3)(a));
 - the applied-for Mark was confusing with the trade-mark applications previously filed by the Applicant which were pending at the date of advertisement of the application for the Mark, details of which are set out in Appendix C of these reasons (paragraph 16(3)(b)):
 - i. LONDON DEPARTMENT STORES – 1,095,092 – filed March 6, 2001
 - ii. LONDON PREMIERE – 1,247,283 – filed February 15, 2005
 - iii. LONDON GOURMET – 1,204,476 – filed January 28, 2004
 - iv.  – 1,204,845 – filed February 2, 2004
 - the applied-for Mark was confusing with the Applicant's trade names LONDON, LONDON DRUGS and LONDON DRUGS LIMITED (the

“Applicant’s Trade Names”) which had previously been used by the Applicant in Canada (paragraph 16(3)(c))

- The trade-mark is not distinctive nor is it adapted to distinguish the wares and services of the Applicant from the wares and services of the Respondent, pursuant to paragraph 38(2)(d) and section 2 of the *Act*.

[5] In support of its opposition, the Applicant filed with the Board two affidavits (one for each application) of Grant Ball (General Manager, General Merchandise), sworn on September 17, 2008.

Mr Ball was not cross-examined on his affidavits. In his affidavits, Mr Ball alleges the following:

- The Applicant is a leading Canadian drugstore and retailer of general merchandise, including but not limited to clothing, footwear, fashion accessories, cosmetics, health & beauty aids, photographic products, photographic development services, housewares, furniture, food, electronic equipment, audio-visual equipment, computers, stationery, books, magazines, jewellery, watches and optical products;
- The Applicant has been in operation since approximately 1946 and has used the LONDON DRUGS trade-mark in association with the operation of a drugstore and the operation of a department store since approximately 1977. This is evidenced by the sample advertising flyers attached to the affidavits, the first of which is from 1977;
- As of the date of swearing his affidavits, the Applicant operates 69 stores in Canada, specifically 25 in British Columbia, 20 in Alberta, 3 in Saskatchewan and 1 in Manitoba. Flyers were provided in cities in which the Applicant operates;

- There is substantial use in Canada of the Applicant's marks in association with various wares and services;
- On average, approximately three-quarters of a million transactions take place at the retail locations each week;
- In the last 5 years, the total volume of goods sold using the trade-marks related to the Services Application have been well in excess of 150 million unit annually. Annual gross sales from 2003-2007 have been in excess of \$1 billion;
- In the last 5 years, the total volume of goods sold using the trade-marks related to the Wares Application have been well in excess of 7 million unit annually. Annual gross sales from 2004-2007 have been in excess of \$50 million;
- The Applicant has spent in excess of \$50 million on advertising expenditures, including the flyers mentioned previously;
- The Applicant advertises its services on its website (a copy of which was attached to the Ball affidavits) and the number of hits to the website have been in excess of 2, 4, 6 and 8 million respectively in the years 2004 to 2007.

[6] The Respondent filed the affidavit of Gay Owens, a trade-mark searcher hired by the Respondent's agent. She states that on January 14, 2009, she conducted a State of the Register search for trade-marks including the word "London" in the field of "clothing, housewares, home furnishings, retail clothing store services and/or department store services". Her search revealed that there were over 50 trade-mark registrations for wares including clothing and/or accessories, headwear, footwear, leather goods, etc. which included the word "London" in the field of "clothing, housewares, home furnishings, retail clothing store services and/or department store services".

The impugned decision

[7] In both of his decisions dated July 26, 2011, the Officer first addressed the *onus* and the material dates. The Officer found that an opponent bears an initial evidential burden to adduce sufficient admissible evidence to support the facts alleged in support of each ground of opposition. An applicant then bears the legal *onus* of establishing, on a balance of probabilities, that the application complies with the requirements of the Act and that the particular grounds of opposition should not prevent registration of the mark. The Officer determined that this *onus* is applicable to all grounds of opposition.

[8] The Officer also established the following material dates. With respect to the first ground of opposition (registrability/confusion), the material date is that of the Officer's decision. With respect to the second, third and fourth grounds (entitlement to register/confusion), the material date is the application filing date. Finally, the material date for the last ground of opposition (distinctiveness) is the date when the Statement of Opposition was filed.

[9] In addressing the first ground of opposition, the Officer focused her analysis on the trade-mark LONDON DRUGS (TMA311,269) covering the following services “operation of a drugstore and the operation of a department store”, as she found it to be representative of the Applicant’s marks. The Officer also determined that only three of the Applicant’s marks cover limited wares which overlap with the applied-for Marks of the Respondent: LONDON GOLD MINE (TMA370,629), LONDON DRUGS JEWELLERY (TMA300,627) and LONDON PREMIERE & DESIGN (TMA581,005). The question, therefore, was whether or not there is confusion between these marks and the Respondent’s applied-for Mark.

[10] The Officer stated that the test for confusion is one of first impression and imperfect recollection. She summarized subsection 6(2) of the *Act* and indicated that in applying the test for confusion, the Registrar must have regard to all the surrounding circumstances, including those specifically enumerated in subsection 6(5) of the *Act*. She added that in most instances, the degree of resemblance between the trade-marks in appearance or sound or in the ideas suggested is the dominant factor.

[11] Starting with the degree of resemblance, the Officer found that there is no similarity between the SMITH and BARNES elements of the trade-mark SMITH & BARNES LONDON and the DRUGS element of the Applicant's LONDON DRUGS trade-mark in either appearance or sound. The Officer left aside the word "London" because it possesses little inherent distinctiveness due to its geographical connotation. She further found that, aside from the inclusion of the place name "London", there is no similarity in the ideas suggested by both trade-marks (drugs for LONDON DRUGS and two individuals by the names of SMITH and BARNES for the trade-mark SMITH & BARNES LONDON). Ultimately, the Officer concluded that the fact that both trade-marks share the word LONDON is not sufficient to find that the parties' trade-marks share any significant degree of resemblance in either appearance, sound or ideas suggested.

[12] The Officer then analysed the remaining factors and found the following. With respect to paragraph 6(5)(a) (inherent distinctiveness/acquired distinctiveness), she found that the word LONDON present in both parties' marks is a geographic designation which, as such, is not inherently distinctive. SMITH and BARNES similarly possess little inherent distinctiveness by

virtue of their surname significance. DRUGS is also descriptive of the nature of the Applicant's services and thus possesses little inherent distinctiveness. The same is true of the words GOLD MINE and DRUGS JEWELLERY in the first two of the Applicant's marks covering wares, as they are suggestive of the associated jewellery wares. As for the word PREMIERE, it does not add either to the inherent distinctiveness of the mark LONDON PREMIERE & Design. As a result, the Officer found that neither of the parties' marks is inherently strong, and that even small differences will accordingly be sufficient to distinguish between them.

[13] Nevertheless, a trade-mark can have an acquired distinctiveness depending on the extent to which this trade-mark has become known. The Respondent did not file any evidence directed to the use of its applied-for trade-mark, and the Officer was therefore unable to conclude as to the extent to which that Mark has become known. The Applicant, on the other hand, has filed significant evidence of use and was able to establish a significant reputation for the LONDON DRUGS trade-mark in Canada. Based on the evidence submitted by the Applicant, in particular the Ball Affidavits, the Officer was satisfied that the LONDON DRUGS trade-mark had established a significant reputation in Canada in association with the claimed services. With respect to the Applicant's registrations for relevant wares, the Officer noted significant deficiencies in the evidence, including the fact that the use of the marks in advertising does not qualify as use of the marks in association with wares, and the absence of detailed sales figures for each of the relevant categories of wares.

[14] In the end, the Officer agreed with the Respondent that, "regardless of the extent to which parties' marks may have become known, the inherent distinctiveness of the marks remains a

relevant surrounding circumstance that must be considered in the analysis of the likelihood of confusion between trade-marks” (at para 41 of the “Services” decision and para 45 of the “Wares” decision). The Officer also concluded that the reputation of the Applicant does not extend to the word LONDON but only to the mark itself:

While I agree that a common word, like “London”, can develop strong secondary meaning through extensive use as a trade-mark, it is important to note that, in the context of this opposition proceeding, the Opponent’s reputation extends only to the Opponent’s Marks, not to the word “London” by itself. Through its submissions, the Opponent is essentially attempting to claim a monopoly over the word “London”. While I agree that the Opponent has developed an extensive reputation for the Opponent’s Marks, it has not acquired a reputation for the word “London” by itself sufficient to take it outside of its common meaning. It is important to note that each of the Opponent’s Marks include other elements which serve to create substantial differences between the parties’ marks, as discussed above in the analysis of the s. 6(5)(e) factor.

“Services” Decision, para 42.

[15] As for the length of time each mark has been in use (paragraph 6(5)(b)), the Officer found that this factor favoured the Applicant as of the material date. While the Respondent has not filed any evidence directed to the use of its proposed Mark subsequent to the filing of his applications on November 22, 2005, the Applicant has provided extensive evidence establishing the use of its LONDON DRUGS trade-mark in association with the operation of a drugstore and the operation of a department store since approximately 1977. However, there is no evidence of significant and continuous use of the LONDON GOLD MINE, LONDON DRUGS JEWELLERY and LONDON PREMIERE trade-marks.

[16] With respect to the nature of the wares and services (paragraph 6(5)(c)), the Officer’s starting point is the Respondent’s statement of services and wares as defined in its applications

versus the Applicant's registered wares and services. She found that there is direct overlap between the parties' services in the form of department store services, and some similarity between the Respondent's "retail clothing store services" and the Applicant's "retail department store services". As for the wares, the Officer found that there is also some similarity between the Respondent's wares and the Applicant's "retail department store services", on the basis of the evidence provided by the Respondent that it sells small leather goods, clothing, headwear, footwear, accessories, housewares and home furnishings in its retail stores. Yet, the majority of these goods are third-party branded products that may or may not display other trade-marks, and therefore it does not constitute use of the Applicant's marks in association with these products in accordance with subsection 4(1) of the *Act*. Finally, the Officer was also of the view that there is some overlap in the nature of the parties' wares with respect to the trade-marks LONDON GOLD MINE, LONDON DRUGS JEWELLERY, and LONDON PREMIERE & DESIGN.

[17] Concerning the nature of the trade (paragraph 6(5)(d)), the Officer noted that neither the Applicant's registrations nor the Respondent's applications includes any restriction on the channels of trade. She found, therefore, that the channels of trade associated with the Respondent's Mark and the Applicant's marks could overlap given the direct overlap in the parties' wares and services.

[18] The Officer also looked at some additional surrounding circumstances. With respect to the State of the Register, the Officer held that, in view of the number of co-existing LONDON marks disclosed by the Owens affidavit (over 50 trade-mark registrations for wares including clothing and/or accessories/headwear/footwear/leather goods/etc.), this factor favoured the

Respondent in connection with the Wares Application. On the other hand, as few (only three) co-existing LONDON marks were found within the store services field, the Officer found that this did not favour the Respondent in relation to the Services Application.

[19] The second surrounding circumstance considered by the Officer is the Applicant's alleged family of LONDON trade-marks. The Officer found that the Applicant has succeeded in establishing its ownership of a family of the following four trade-marks: LONDON DRUGS, LONDON PREMIERE, LONDON GOURMET and LONDON HOME. She noted that a family of four "London" trade-marks is insufficient to overcome the fact that the word "London" possesses little inherent distinctiveness and is a geographical word for which the Applicant has not established sufficient reputation therein. She added that the additional elements of these marks are common words which are suggestive of the Applicant's wares and services and thus possess little inherent distinctiveness.

[20] On the basis of all these factors and surrounding circumstances, the Officer was satisfied that the Respondent had discharged its burden of showing, on a balance of probabilities, that there is no reasonable likelihood of confusion between the applied-for Mark and the Applicant's marks.

[21] The Officer then addressed the non-entitlement arguments presented by the Applicant. The Officer acknowledged that the Applicant had provided sufficient evidence of use of its trade-marks and of its pending applications to satisfy its evidential burden with respect to each of these three grounds of opposition. Based on her previous finding that there is no likelihood of

confusion between the parties' trade-marks, and given that the different material dates do not materially affect her conclusion in that respect, she dismissed these non-entitlement grounds.

[22] As for the non-distinctiveness ground, the Officer was satisfied that the Applicant had provided sufficient evidence to support a finding that one or more of its marks had become known sufficiently to negate the distinctiveness of the proposed Mark as at the date of filing the Statement of Opposition. Again, this ground was nevertheless dismissed because of the Officer's prior finding that the proposed Mark is not confusing with the Applicant's marks.

New evidence

[23] Additional affidavit evidence was filed by both parties as a result of the Notices of Application for an appeal of the TMOB decisions. The Applicant filed the affidavit of Robert Felix (General Manager and Business Unit Manager General Merchandise). The Respondent filed three additional affidavits, that of Jessica Koper (private investigator employed by CKR Global Investigations), of Gay Owens and of Pamela Tuchlin (law clerk at Smart & Biggar). The Applicant cross-examined Jessica Koper on her affidavit.

- The Felix Affidavit

[24] In his affidavit, Mr Felix provides an updated list of trade-mark registrations and applications which are owned by London Drugs in Canada. The trade-marks LONDON PREMIERE, LONDON GOURMET and LONDON GOURMET & Design, which were pending at the time of the Ball Affidavits (see Appendix C), have since been registered with the Canadian Trade-marks Office, while applications for the trade-marks LONDON ORCHARDS, LONDON

LOOK, and LONDON PLANTATION were filed based on proposed use after the Ball Affidavits. It is also stated that London Drugs owns registrations and applications that were not included in the Ball Affidavits.

[25] Mr Felix then focuses on a selection of the LONDON Marks and their associated products and services, and sets out a general description and/or examples of the types of products sold by London Drugs within various categories. He then provides a breakdown of the number of units and overall sales for each category of goods sold by London Drugs. He gives the specific locations of London Drugs' stores, and attaches copies of photographs of exterior signage and of various departments within these stores. He also reiterates and updates the figures already given in the Ball Affidavits with respect to the annual advertising budget, the flyers circulation and the number of annual visits to the London Drugs website. Copies of newspaper articles from 2000 to 2011 with London Drugs as the headline of the story are also attached as exhibits to the affidavit.

[26] Mr Felix also attaches to his affidavit copies of photographs, packaging and/or labels of representative products sold in association with the LONDON DRUGS brand in various categories of wares. He also provides the annual sales for selected categories of goods sold by London Drugs in association with its private label LONDON DRUGS and LONDON DRUGS & Design. The products imported by London Drugs are tracked separately from their ordinary private label products and are not included in the sales figures mentioned above. The majority of the LONDON imports are sold with LONDON DRUGS marked either on a sticker attached to the product packaging or on the hand tag physically attached to the product.

[27] Finally, the Felix Affidavit provides copies of photographs, packaging and/or labels of representative products and services sold in association with the selection of the LONDON marks referred to above. It also provides the volume and gross sales of products or services annually for the past ten years or so. Mr Felix concludes that, to his knowledge, the Applicant is the only general merchandise retailer in Western Canada using the name LONDON in association with a wide variety of products and services, and the only retail department store using LONDON as a trade-mark in association with services. He believes that the use of LONDON in SMITH & BARNES LONDON by a competitor will lead the public to believe or at least question whether the Respondent's products and services are affiliated with the Applicant.

- The Koper Affidavit and cross-examination

[28] On June 12, 2012, counsel for the Respondent instructed CKR Global Investigations to examine the state of the marketplace in Canada for third party uses of business and corporate names that include the word "LONDON", in particular those businesses in the fields of clothing and accessories, home furnishings and housewares. Ms Koper searched the yellow pages website, the Registraire des Entreprises du Québec website and did a NUANSsearch of corporations and registered business having the name LONDON in their business or corporate names. She also followed up with further searches to obtain information on the status and the nature of these businesses. She found 46 businesses and corporate names of active businesses that include the word LONDON in the fields of clothing and accessories, home furnishings and/or housewares.

[29] On cross-examination, Ms Koper confirmed that she did not have personal knowledge of whether all the businesses identified in her affidavit were active at the time she swore her affidavit, nor did she have personal knowledge of what they sold, when they commenced business and what their volume of sales were. She did not visit or make a purchase from any of the businesses listed in her affidavit or even look at the store in Google Streetview; she only knows about what the businesses sell from viewing the website or looking at the categories they were in on the Canada 411 listings. She was not aware either of the signage used at these businesses, or whether any of them were actually using a trade name that includes the word LONDON, with a few exceptions when the stores answered the phone.

- The 2012 Owens Affidavit

[30] On June 11, 2012, Ms Owens conducted another computer-assisted State of the Register search using the CDNameSearch Corp system for the purpose of locating active trade-mark registrations and applications containing the word LONDON in the field of clothing, housewares, home furnishings, retail clothing store services and/or department store services. This evidence essentially replaces her previous affidavit filed in 2009 before the Board as part of the opposition. In this new affidavit, there are 134 trade-marks listed containing the word LONDON, of which there are 102 registrations. It appears that none of them relate to retail department store services (in 2009, three were found). Only two relate to a retail clothing business (AQUASCUTUM OF LONDON and AQUASCUTUM OF LONDON, ENGLAND) and one relates to a retail footwear store (SACHA LONDON). The affidavit also establishes that there are numerous co-existing registrations in Canada (more than what was found in 2009) which include the word LONDON within the field of clothing, accessories, soft goods,

housewares and home furnishings. For example, with respect to housewares, three related registrations were found and another three relate to home furnishing (in 2009, none were found). It also appears that the word LONDON has been disclaimed in many registrations.

- The Tuchlin Affidavit

[31] The Affidavit of Pamela Tuchlin provides copies of corporation profile reports and business name reports for entities in Canada that include the word LONDON in their corporate and business names. Thirty-seven (37) businesses with the word LONDON in their trade names were found, thirty-three (33) of which were in Ontario, one (1) in Quebec, two (2) in Nova Scotia and one (1) incorporated federally. Most of those were canvassed by Ms Koper's investigation.

Issues

[32] The issues to be resolved in this appeal are the following:

- a) What is the applicable standard of review?
- b) Depending on the applicable standard of review, was the Officer's decision reasonable / correct?

Analysis

- a) The standard of review

[33] It is settled law that, in the absence of additional evidence produced on appeal under section 56 of the *Act*, the reasonableness standard of review applies. It is also well established that when new evidence is submitted, it is necessary to assess the significance and probative

value of such evidence. Where the new evidence adduced is sufficiently significant and probative, to the point that it would have materially affected the Board's findings of fact or the discretion exercised, the standard of review to be applied is correctness. As Mr Justice Rothstein stated (writing for the majority of the Federal Court of Appeal) in *Molson Breweries v John Labatt Ltd* (2000), 5 CPR(4th) 180, [2000] 3 FC 145, at para 51:

I think the approach in *Benson & Hedges v. St. Regis* and in *McDonald's Corp. v. Silcorp* are consistent with the modern approach to standard of review. Even though there is an express appeal provision in the *Trade-marks Act* to the Federal Court, expertise on the part of the Registrar has been recognized as requiring some deference. Having regard to the Registrar's expertise, in the absence of additional evidence adduced in the Trial Division, I am of the opinion that decisions of the Registrar, whether of fact, law or discretion, within his area of expertise, are to be reviewed on a standard of reasonableness simpliciter. However, where additional evidence is adduced in the Trial Division that would have materially affected the Registrar's findings of fact or the exercise of his discretion, the Trial Division judge must come to his or her own conclusion as to the correctness of the Registrar's decision.

[34] That decision has been explicitly endorsed by the Supreme Court in *Mattel Inc v 3894207 Canada Inc*, [2006] 1 SCR 772, at para 41 [*Mattel*], and it is therefore clear that this Court has an unfettered discretion to come to its own conclusion as to the correctness of the Board's decision if new evidence has been filed that is significant and would materially affect the Registrar's decision: see *Telus Corp v Orange Personal Personal Communications Services Ltd*, 2005 FC 590, at para 397; *Bojangles' International, LLC v Bojangles Café Ltd*, 2006 FC 657, at paras 9-10; *CEG License Inc v Joey Tomato's (Canada) Inc*, 2012 FC 1541, at para 14-16.

[35] Having considered all of the affidavits filed before this Court, and bearing in mind that the test is one of quality, not of quantity (*Wrangler Apparel Corp v The Timberland Company*,

2005 FC 722, at paras 7-9), I am of the opinion that the new evidence is not of such significance that it would have materially affected the Officer's findings of fact or the exercise of her discretion.

[36] At the hearing, counsel for the Respondent readily conceded that the Koper and Tuchlin affidavits do not have much weight and would not be sufficient to call for the application of the correctness test. There was no evidence relating to the state of the marketplace before the Officer, who relied instead on the information presented in relation to the State of the Register. While the Respondent attempted to address this deficiency with the Koper Affidavit, its shortcomings undermine much of its weight. She was not questioned on many of the businesses referred to in her affidavit, but the fact remains that she did not know about the existence or the nature of a large number of the businesses that she identified. Even if, as submitted by the Respondent, 16 of the 46 businesses that include the word LONDON in their names were confirmed by Ms Koper as being active, it is far from clear that this would be sufficient to draw any conclusion as to the state of the marketplace. We do not know what these businesses sell, when they commenced business, what their volume of sales, what their reputation is, etc. Moreover, many of these businesses appear to operate in the area of London, Ontario, and the use of LONDON in their names obviously refers to their geographic location more so than to a trade-mark.

[37] The same is true, to a large extent, of the Tuchlin Affidavit. Much like the businesses referred to in the Koper Affidavit, we do not know the field of business for any of the entities

referred to in her affidavit, and whether they are still active. Moreover, the vast majority of these businesses were already canvassed by Ms Koper in her investigation.

[38] As for the second Owens Affidavit, it is essentially an updated version of the first one filed before the Officer. It suggests that, just as in 2009, there are still three relevant registrations for retail clothing store services and/or department store services, a number that was considered by the Officer to be insufficient to infer anything regarding the state of the marketplace. It also adds to a vast number of registrations relating to clothing, soft goods and accessories, three registrations for home furnishings and three others for housewares. The Officer rejected the Applicant's argument that the absence of registration for housewares or home furnishings and only three relevant registrations for retail clothing store services and/or department store services did not permit the Opposition Board to make any inferences as to the actual use of any of these trade-marks in the Canadian marketplace for these wares and services. Clearly, the addition of registrations for housewares and home furnishings would only reinforce his finding that the extensive use of the word "LONDON" for clothing, accessories, leather goods, etc. serves to decrease the likelihood of confusion between the parties' marks.

[39] There remains the Felix Affidavit. It will be recalled that the Officer, in his decision on the Wares Application, indicated that the only evidence of use of the Applicant's LONDON trade-marks on relevant wares, shown in the Ball Affidavits, is in respect of the trade-marks LONDON DRUGS, LONDON DRUGS & Design, and LONDON PREMIERE & Design. In addition, the Officer agreed with the Respondent's position that the Ball Affidavits did not provide detailed sales figures for each category of wares sold in association with the Applicant's

trade-marks, such that the Applicant's overall sales may have taken place in categories that do not overlap with the wares of the Respondent. Finally, the Officer also concluded in both of his decisions that the Applicant had only shown use of four members of the family of LONDON trade-marks: LONDON DRUGS, LONDON PREMIERE, LONDON GOURMET, and LONDON HOME.

[40] I do not find that this affidavit would have radically changed the Board's decision. Counsel for the Applicant submitted that the evidence of use of the Applicant's LONDON trade-marks is greatly expanded upon in the Felix Affidavit, with a detailed breakdown of sales by different departments. I note, first of all, that some of the new evidence relates to trade-marks that were not even relied upon or pleaded within the Applicant's Statements of Opposition. More importantly, this new evidence does not substantially address the main grounds upon which the Board's decision rests. The Officer was aware of the many trade-marks owned by the Applicant and that they are widely used over a broad range of products. Adding more trade-marks to the mix and providing more evidence of their use in relation to even more products would not have altered his view that LONDON possesses little distinctiveness due to its geographical connotation, or that there is no similarity between the SMITH and BARNES elements of the Respondent's Mark and the DRUGS element of the Applicant's LONDON DRUGS trade-mark in either appearances or sound.

[41] For those reasons, I am of the view that the Court must consider the merits of these applications on a standard of reasonableness. As a result, the issue to be decided is whether the

Board's decision falls within a range of possible, acceptable outcomes that are defensible with respect to the facts and the law.

b) Was the Officer's decision reasonable?

- Registrability

[42] As will be recalled, the first ground of opposition raised by the Applicant is that the Mark SMITH & BARNES LONDON is not registrable pursuant to paragraph 38(2)(b) and paragraph 12(1)(d) of the *Act* because it is confusing with its own trade-mark registrations. These provisions read as follows:

Grounds	Motifs
38 (2) A statement of opposition may be based on any of the following grounds:	38 (2) Cette opposition peut être fondée sur l'un des motifs suivants :
(...)	(...)
(b) that the trade-mark is not registrable;	b) la marque de commerce n'est pas enregistrable;
When trade-mark registrable	Marque de commerce enregistrable
12. (1) Subject to section 13, a trade-mark is registrable if it is not	12. (1) Sous réserve de l'article 13, une marque de commerce est enregistrable sauf dans l'un ou l'autre des cas suivants :
(...)	(...)
(d) confusing with a registered trade-mark;	d) elle crée de la confusion avec une marque de commerce déposée;

[43] Subsection 6(2) of the *Act* expands on what is meant by a trade-mark that is “confusing with a registered trade-mark”, for the purposes of paragraph 12(1)(d). In considering the issue of “likelihood of confusion”, regard must be had to all the surrounding circumstances, including the factors itemised in subsection 6(5) of the *Act*:

When mark or name confusing	Quand une marque ou un nom crée de la confusion
(...)	(...)
Idem	Idem
6 (2) The use of a trade-mark causes confusion with another trade-mark if the use of both trade-marks in the same area would be likely to lead to the inference that the wares or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the wares or services are of the same general class.	6 (2) L’emploi d’une marque de commerce crée de la confusion avec une autre marque de commerce lorsque l’emploi des deux marques de commerce dans la même région serait susceptible de faire conclure que les marchandises liées à ces marques de commerce sont fabriquées, vendues, données à bail ou louées, ou que les services liés à ces marques sont loués ou exécutés, par la même personne, que ces marchandises ou ces services soient ou non de la même catégorie générale.
(...)	(...)
What to be considered	Éléments d’appréciation
6 (5) In determining whether trade-marks or trade-names are confusing, the court or the Registrar, as the case may be, shall have regard to all the surrounding circumstances including	6 (5) En décidant si des marques de commerce ou des noms commerciaux créent de la confusion, le tribunal ou le registraire, selon le cas, tient compte de toutes les circonstances de l’espèce, y compris :
(a) the inherent distinctiveness	a) le caractère distinctif inhérent

of the trade-marks or trade-names and the extent to which they have become known;	des marques de commerce ou noms commerciaux, et la mesure dans laquelle ils sont devenus connus;
(b) the length of time the trade-marks or trade-names have been in use;	b) la période pendant laquelle les marques de commerce ou noms commerciaux ont été en usage;
(c) the nature of the wares, services or business;	c) le genre de marchandises, services ou entreprises;
(d) the nature of the trade; and	d) la nature du commerce;
(e) the degree of resemblance between the trade-marks or trade-names in appearance or sound or in the ideas suggested by them.	e) le degré de ressemblance entre les marques de commerce ou les noms commerciaux dans la présentation ou le son, ou dans les idées qu'ils suggèrent.

[44] In *Mattel* at paras 56-57, the Supreme Court recognized that confusion is to be considered from the perspective “...of the average person endowed with average intelligence acting with ordinary caution” and that “we owe the average consumer a certain amount of credit” and that “one must not proceed on the assumption that the prospective customers or members of the public generally are completely devoid of intelligence or of normal powers of recollection or are totally unaware or uninformed as to what goes on around them”.

[45] The Officer correctly identified the governing legal principles, and the only issue in this appeal is therefore the reasonableness of his assessment of the facts in light of these principles. I shall therefore turn to each of the factors set out in subsection 6(5) with a view to determine if the conclusions reached by the Officer can be supported by the evidence filed by the parties.

a) Inherent distinctiveness and extent known (paragraph 6(5)(a))

[46] Counsel for the Applicant submitted that the Officer erred in finding that the trade-mark LONDON DRUGS has little inherent distinctiveness. Counsel submitted that a trade-mark incorporating a geographic designation may be distinctive where it is used in association with wares and services that have no pre-existing connection to that geographic designation. It is only where a geographic designation is used in relation to wares or services for which that area is renowned, and merely seeks to capitalize on the existing public association between the two, that the resultant trade-mark will have little inherent distinctiveness.

[47] I agree with the Respondent that such an argument stems from a fundamental misconception and misunderstanding of paragraph 6(5)(a) of the *Act* and of the very notion of distinctiveness. The distinctiveness of a mark has to do with its originality, uniqueness and inventiveness, not with the absence of deception. As stated by this Court in *ITV Technologies Inc v WIC Television Ltd*, 2003 FC 1056 (aff'd 2005 FCA 96) at paras 119-121:

The inherent distinctiveness of a mark refers to its originality. A mark that is composed of a unique or invented name, such that it can only refer to one thing, will possess more inherent distinctiveness than a word that is commonly used in the trade.

It is well established that the stronger the mark is, the greater ambit of protection it will be accorded (*Miss Universe, Inc., supra*). In *Carson v Reynolds*, [1980] 2 F.C. 685, 49 C.P.R.(2d) 57 (F.C.T.D.), Mahoney J. noted at page 691 that a trade-mark may be:

...so generally identified with [a person] that its use in association with anything else, however remote from entertainment services, would be confusing in the sense that its use in both associations would be likely to lead to the inference that all the wares and services, whatever they might be, emanated from [that person].

By contrast, weak marks will be accorded less protection. In *General Motors Corp. v Bellows*, [1949] S.C.R. 678, 10 C.P.R. 101, the Supreme Court of Canada stated at page 691:

[...] where a party has reached inside the common trade vocabulary for a word mark and seeks to prevent competitors from doing the same thing, the range of protection to be given him should be more limited than in the case of an invented or unique or non-descriptive word [...]

See also: *Fox on Canadian Law of Trade-marks and Unfair Competition*, 4th ed, Volume 1 (Carswell 2002), pp 8-26 to 8-28.

[48] Contrary to the Applicant's submission, there is no logical link between the fact that a trade-mark is not deceptive and the fact that it will have some inherent distinctiveness. These are two different concepts, and they are indeed dealt with in two separate paragraphs of subsection 6(5) of the *Act*. The cases relied upon by the Applicant in support of its thesis were tellingly argued on the basis of paragraph 12(1)(b) of the *Act*, and not of paragraph 12(1)(d): see *Gainers Inc v Hygrade Food Products Corporation* (1995), 63 CPR (3d) 265 (TMOB); *Institut National des Appellations d'Origine v Pepperidge Farm, Incorporated* (1997), 84 CPR (3d) 540 (TMOB); *Institut National des Appellations d'Origine v Chock Full O'Nuts Corp* (2000), 9 CPR (4th) 394 (TMOB); *Bata Industries Limited v Seychelles Inc* (1993), 48 CPR (3d) 414 (TMOB); *Cabel Hall Citrus Limited v Latchman*, 2009 CanLII 90399 (TMOB); *Guyana Sugar Corporation v Bedessee Imports Ltd* 2011 TMOB 102.

[49] This Court has consistently held that geographic designations, such as names, surnames, initials, descriptive terms and common symbols are not inherently distinctive and should not be accorded a high degree of protection unless, of course, they have acquired distinctiveness over time. Nobody can claim a monopoly on a geographic name, especially when it is as well known

as LONDON. The best known case in that respect is *California Fashions Industries v Reitmans* (1991), 38 CPR (3d) 439. In that case, the parties had registered trade-marks including the words “St. Tropez” for use in association with the sale of women’s clothing (SAINT TROPEZ WEST for the applicant and CLUB ST-TROPEZ & Design for the respondent). The applicant, having discovered the later registration of the respondent’s mark, claimed that it was confusingly similar and therefore unregistrable. Dealing with this issue, Justice Cullen stated, at pp 444-445:

As pointed out by the respondent, St. Tropez is a geographic location in the south of France and I agree that it is accepted that St. Tropez is just such a geographic location. Further, geographic locations are not inherently distinctive and consequently do not deserve a wide ambit of protection. Although the applicant made the point that St. Tropez is associated with elegance, exclusivity and designer clothes, no real contention was put forth that “Saint Tropez West” had lost its primary meaning by use or otherwise and had acquired a secondary meaning nor has any evidence led to support such a contention. The jurisprudence is clear that normally geographically descriptive words cannot be registered unless they have acquired a secondary graphic name or meaning or have become distinctive of the wares or services...

[50] I fail to see how Justice Cullen’s finding that geographic locations are not inherently distinctive can be said to be an “obiter”, or that his finding that the marks were not highly distinctive was predicated on the association between St Tropez and fashion. In any event, subsequent cases from this Court and from the Court of Appeal have confirmed that geographical names are not inherently distinctive, even when associated with wares and services that are not typically associated with that area: see *Cushman & Wakefield, Inc v Wakefield Realty Corp* (2004), 35 CPR (4th) 460, at para 42, aff’d (2004), 37 CPR (4th) 212, at para 6; *Prince Edward Island Mutual Insurance v Insurance Co of Prince Edward Island* (1999), 86 CPR (3d) 342, at paras 32-33. In a similar fashion, other members of the Opposition Board have also recognized the weakness of the Applicant’s LONDON trade-marks: *London Drugs Limited v Coty*

Deutschland GmbH, 2012 TMOB 193, at para 25; *Home Hardware Stores Limited v London Drugs Limited*, 2012 TMOB 107, at para 14.

[51] I am therefore of the view that the Officer did not err in coming to the conclusion that the Applicant's LONDON DRUGS trade-mark is inherently weak. He correctly applied the relevant case law and his finding is most certainly reasonable.

[52] Counsel for the Applicant also submitted that the Officer erred by not giving enough weight to the acquired distinctiveness of its marks. According to the Applicant, the significant reputation acquired by its marks and the overwhelming evidence in that respect should have made immaterial any weakness in inherent distinctiveness.

[53] This argument must be rejected for two reasons. First of all, I agree with the Officer that the inherent distinctiveness of a mark must be considered and cannot be ignored in the analysis of the likelihood of confusion even in those cases where an originally weak mark has subsequently acquired a significant reputation. Paragraph 6(5)(a) of the *Act* quite clearly refers to both inherent and acquired distinctiveness, and there is no authority in support of the proposition that the inherent distinctiveness of a mark becomes irrelevant once it has acquired a reputation. Both of these circumstances must be balanced when determining whether trade-marks or trade-names are confusing. That being the case, it is not for this Court to reweigh the evidence; when reviewing a decision on a standard of reasonableness, the role of the Court is not to substitute its views for that of the decision maker, but to examine "whether the decision falls within a range of

possible, acceptable outcomes which are defensible in respect of the facts and law”: *Dunsmuir v New Brunswick*, 2008 SCC 9, at para 47.

- b) Length of time the marks have been in use (paragraph 6(5)(b))
- Nature of the wares (paragraph 6(5)(c))
- Nature of the trade (paragraph 6(5)(d))

[54] The Officer found that each of these three factors favoured the Applicant. The new evidence submitted before this Court somehow reinforces such findings, but does not dramatically alter the weight to be given to these factors in the overall balancing of all the surrounding circumstances called for by subsection 6(5) of the *Act*.

- The degree of resemblance (paragraph 6(5)(e))

[55] The Officer properly relied on the recent decision of the Supreme Court of Canada in *Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27 [*Masterpiece*] for the proposition that the most important factor to be considered is the last one enumerated at subsection 6(5) of the *Act*.

At para 49 of that decision, the Supreme Court stated:

[...] 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. The other factors become significant only once the marks are found to be identical or very similar [...] As a result, it has been suggested that a consideration of resemblance is where most confusion analyses should start [...]

[56] This is precisely what the Officer did. She found that, aside from the inclusion of the place name “London” in both the Applicant’s and the Respondent’s marks, there is no similarity in either appearance, sound or ideas suggested. When the marks are considered as a whole, the

mere fact that they both contain the non-distinctive word “London” was not sufficient to find that they share any significant degree of similarity.

[57] There is no single method or recipe to assess the degree of resemblance between two marks. It has been held that the first word is important for purposes of distinctiveness: see *Conde Nast Publications Inc v Union des éditions modernes* (1979), 46 CPR (2d) 183, at p 188 (FC). In *Masterpiece* at para 64, the Supreme Court added that while this may be true in some cases, the preferable approach is to first consider “whether there is an aspect of the trade-mark that is particularly striking or unique”. While the average customer’s attention will no doubt be drawn by the dominant component of a mark, that consumer will also look at the mark as a whole.

[58] Counsel for the Applicant would have the Court reverse this finding on the ground that the Officer failed to take into consideration the fact that the word “LONDON” is the most striking and unique aspect of the Applicant’s family of LONDON marks, and that LONDON is also the word that catches the attention of the consumer in the Respondent’s trade-mark SMITH & BARNES LONDON.

[59] It is not at all obvious that the word LONDON, a geographical name with little distinctiveness, is the most striking feature of the Applicant’s mark. It is even less obvious that such is the case when considering the Respondent’s Mark. There is no evidence to show that an average consumer will be immediately drawn to the word LONDON when looking at the marks LONDON DRUGS or SMITH & BARNES LONDON to such an extent that he or she will

almost entirely forget about the other words of these marks, all the more so since it is the first word in the Applicant's mark and the last in the Respondent's Mark.

[60] It cannot be disputed that the likeness or unlikeness between trade-marks is at least in part intuitive. In the case at bar, it can hardly be said that LONDON DRUGS and SMITH & BARNES LONDON are so similar that they are confusing. It is well established that where marks possess little or no inherent distinctiveness, as in the present case, small differences will serve to distinguish marks. Considering the total absence of similarity in appearance, sound or meaning between the parties' respective trade-marks, it was perfectly reasonable for the Officer to conclude that the parties' marks do not resemble each other to any significant extent. As the Supreme Court stated in *Mattel* (at para 25), the Board is only required to deal with potential sources of confusion that, in its view, have about them an "air of reality". This is clearly not the case here.

- Other surrounding circumstances

[61] It is beyond dispute that a family of trade-marks is a factor to be considered when assessing the likelihood of confusion, as it may prompt a consumer to believe more easily that an applied-for mark containing a common feature comes from the same source as the goods covered by the family of marks: *Molnlycke Aktiebolag v Kimberly-Clark of Canada Ltd* (1982), 61 CPR (2d) 42 (FC); *Mission Pharmacal Co v Ciba-Geigy Canada Ltd* (1990), 30 CPR (3d) 101 (FC).

[62] In the case at bar, the Officer found that the Applicant had only succeeded in establishing ownership of a family of four trade-marks (LONDON DRUGS, LONDON PREMIERE,

LONDON GOURMET and LONDON HOME). He noted that for each of these marks, the additional elements are common words which are suggestive of the Applicant's wares and services and therefore possess little inherent distinctiveness. As a result, he found that the Applicant's ownership of these marks was insufficient to overcome the little inherent distinctiveness of the word "London". Much the same can be said of the new evidence submitted by the Applicant before this Court.

[63] To overcome the Officer's finding, the Applicant filed the Felix Affidavit which contains evidence with respect to the use of the trade-marks LONDON DRUGS and LONDON DRUGS & Design for retail clothing and department store services, as well as the use of the trade-marks LONDON GOURMET and LONDON GOURMET & Design, LONDON HOME and LONDON HOME & Design, LONDON LIGHTS, LONDON LOOK, LONDON NATURALS and LONDON NATURALS & Design, LONDON ORCHARDS, LONDON PLANTATION, LONDON PREMIERE and LONDON PREMIERE & Design, LONDON CUSTOMWORKS and LONDON SPA for a wide variety of products and services.

[64] First, I note that most of the above-mentioned trade-marks were not mentioned in the Applicant's Statements of Opposition. While they may nevertheless be considered as part of the surrounding circumstances, it would have been more appropriate to have referred to them in the Statement of Opposition. The Officer can certainly not be blamed for not having taken them into consideration.

[65] More importantly, the additional elements for all of the marks now relied upon by the Applicant (Lights, Look, Naturals, Orchards, Plantation, Customworks, Spa) are all common words, and they are as suggestive of the Applicant's wares as are the words "Home" and "Gourmet" considered by the Officer. As such, they are equally insufficient to overcome the weak inherent distinctiveness of the word "London". Moreover, the evidence shows that trade-marks that include the word "London" are used and registered by others in Canada, especially in connection with clothing wares and apparel.

[66] I am therefore unable to find that the Applicant's ownership of a family of "London" trade-marks, even expanded, is sufficient to counter the low degree of inherent distinctiveness of the word "London". The new evidence submitted by the Applicant is not of such compelling weight to materially affect the reasoning of the Officer and does not warrant a reversal of his decision. The Applicant's trade-marks, whether considered separately or collectively, all used the same geographical designation in the same pattern and with a descriptive word. There is no resemblance between LONDON DRUGS and SMITH & BARNES LONDON, and the mere fact that there is a so-called family of LONDON trade-marks (irrespective of the size of this family) would not lead a consumer to believe more easily that the Respondent's trade-mark is part of that family because of the common word LONDON.

[67] Counsel for the Applicant also relied on the new evidence submitted before this Court (especially the 2012 Owens Affidavit) to contend that the State of the Register and the state of the marketplace favour the Applicant. There appears to be only three third-party registrations that include the word LONDON in association with retail clothing and department store services.

[68] The Officer was well aware that the evidence with respect to the State of the Register will only be relevant insofar as one can make inferences from it about the state of the marketplace. Such inferences can only be drawn where large numbers of relevant registrations are located: *Ports International Ltd v Dunlop Ltd* (1992), 41 CPR (3d) 432; *Kellogg Salada Canada Inc v Maximum Nutrition Ltd* (1992), 43 CPR (3d) 349, at 359 (FCA); *Welch Foods Inc v Del Monte Corp* (1992), 44 CPR (3d) 205, at 209 (FC); *In-Touch Network Systems Inc v 01 Communique Laboratory Inc* (2007)), 63 CPR (4th) 224, at 233 (TMOB).

[69] The Officer established that the few co-existing LONDON marks found within the store services field did not favour the Respondent in relation to the Services Application. However, the Officer found that this factor favoured the Respondent in view of the many co-existing LONDON marks in connection with the Wares Application. The additional evidence filed before this Court supports the reasonableness of the Board's conclusions as it reveals the existence of more LONDON marks only in connection with the Wares Application. I agree with the Respondent that, as a result, there is no basis for judicial intervention arising from the Officer's conclusions in relation to the State of the Register and the State of the Marketplace.

[70] Finally, the Applicant submitted that the Board erred by restricting its likelihood of confusion analysis to only one trade-mark (LONDON DRUGS) with respect to the Services Application, and to only four of the Applicant's registrations (LONDON DRUGS, LONDON GOLD MINE, LONDON DRUGS JEWELLERY and LONDON PREMIERE & Design) with respect to the Wares Application.

[71] This argument has clearly no merit. If anything, the Applicant's other trade-marks are even more dissimilar to the trade-mark SMITH & BARNES LONDON than LONDON DRUGS. It is obvious that there is even less similarity in appearance, sound or meaning between LONDON GOLD MINE, LONDON DRUGS JEWELLERY and LONDON PREMIERE & Design, on the one hand, and SMITH & BARNES LONDON, on the other, and therefore less likelihood of confusion.

[72] In those circumstances, it was perfectly reasonable for the Board to assess the likelihood of confusion between the trade-mark SMITH & BARNES LONDON and the trade-mark of the Applicant that is most similar to it. If SMITH & BARNES LONDON is not likely to cause confusion with LONDON DRUGS, it is even less likely that it will cause confusion with trade-marks that are less similar to it, and there was therefore no need for the Officer to proceed to that exercise: *Masterpiece*, at para 61.

[73] The Officer also rejected the non-entitlement grounds of opposition (based on paragraphs 38(2)(c) and 16(3)(a),(b) and (c) of the *Act*) and the ground of opposition based on distinctiveness (section 2 and paragraph 38(2)(d) of the *Act*), on the grounds that the different material dates that apply to these grounds of opposition do not materially affect her conclusion with respect to the confusion issue. I agree with the Officer, for the reasons already given above, that none of the new evidence submitted before this Court would be sufficient to change the Officer's conclusion. The Officer's finding was clearly reasonable, and the supplementary affidavits filed in this appeal are not of such material impact as to alter her reasoning.

[74] For all of the above reasons, the appeal is dismissed with costs.

JUDGMENT

THIS COURT'S JUDGMENT is that the appeal is dismissed with costs.

"Yves de Montigny"

Judge

Appendix A

Ladies', men's and children's clothing, namely, suits, jackets, skirts, pants, dresses, coats, blouses, t-shirts, halter tops, tank tops, sweaters, sweater jackets, pullovers, cardigans, sweatsuits, swimwear, jeans; intimate apparel, namely, lingerie, pantyhose, hosiery, sleepwear, nightgowns, pajamas, robes, underwear, foundations, bras, camisoles; ladies' accessories, namely, hats, gloves, jewellery, socks, hair clips, scarves, handbags, belts; small leather goods, namely, wallets, purses, key chains, briefcases and eyeglass cases; housewares, namely, flatware, cookware, glassware, giftware and table top items, namely: dinnerware made of porcelain, fine or bone china, pottery or stoneware, coffee mugs, café au lait cups, espresso cups, beverage glassware, wine glasses, martini glasses, serving plates and platters, vegetable bowls, salad bowls, butter dishes, cream and sugar sets, sugar bowls, gravy boats, salt and pepper shakers, egg cups, ice cream dishes, onion soup bowls, pitchers, hors d'oeuvre plates, butter warmers, butter cups, tea and coffee pots, eating utensils (namely forks, knives, spoons, chop sticks, seafood forks, lobster tongs, cocktail forks, butter knives), cooking pots, stock pots, pans, skillets, roasting pans, crock pots, casserole dishes, woks, rice cookers, baking sheets, baking pans, muffin tins, pie plates and servers, quiche dishes, soufflé dishes, waffle irons, fondue sets, fondue plates, fondue forks, burners and ignition fuel in liquid or solid form for fondues, ramekins, tureens, colanders, rolling pins, cake plates and servers, milk frothers, paper towel holders, utensil holders, spoon rests, trivets, tongs, peelers, rotary cheese graters, rolling mincers, food slicers, graters, corers, zesters, pizza wheels, spaghetti measurers, cheese plates, grapefruit trimmers, lemon squeezers, pie servers, jar openers, ice cream scoops, kitchen knives, bottle openers, can openers, scissors, candy thermometers, oven thermometers, garlic presses, turners, spatulas, cooking spoons, cooking forks, ladles, spoon rests, skimmers, strainers, corkscrews, spaghetti servers, potato mashers, whisks, measuring cups, measuring spoons,

spice racks, canister sets, cookie jars, bread boxes, cutlery trays, jams jars, coaster sets, cheese boards, cutting boards, carving boards, lazy Susans, condiment sets, cookbooks, cookbook holders, wine racks, kitchen clocks, napkin holders, knife blocks, banana holders, nut crackers with picks, salad sets, chip and dip sets, dish racks, fruit bowls; home furnishings, namely: furniture for the kitchen, bedroom, bathroom, living room, dining room, rec room, office and outdoors, bedding, sheets, pillow cases, duvet covers, comforter covers, bed skirts, bedspreads, afghans, decorative pillow covers, pillow shams, pillows, mattress pads, mattress covers, quilts, quilt covers, duvets, hand and bath towels, wash cloths, bath mats and window treatments (the Wares).

Appendix B

Schedule A of the TMOB decision regarding the Services Application


Trade-mark Reg. No.	Wares/Services	Reg. Date
LONDON DRUGS TMA238,839	Services: Operating modern day drug stores featuring all of the services offered by such establishments with which the public is familiar, including the operation of dispensaries; Operation of a retail outlet dealing in optical accessories.	Jan. 4, 1980
LONDON DRUGS TMA297,076	Services: Drugstore and department stores; Operation of a retail outlet dealing in optical accessories; Operation of a retail outlet dealing in the sale of watches and jewellery and repairing watches and jewellery; Operation of a retail outlet dealing in the sale and rental of video tapes, video equipment and all services and accessories related thereto; Operation of a retail outlet dealing in computer repairs, computer education programs, customer training in the use of computer software, consulting services to purchasers of computer software; Operation of a retail outlet providing photofinishing, photographic equipment, cameras, accessories and camera store services.	Nov. 16, 1984
LONDON DRUGS TMA311,269	Services: Operation of a drugstore and the operation of a department store.	Feb. 14, 1986
LONDON DRUGS TMA538,386	Wares: Dental hygiene products, namely interdental stimulators, dental tape, dental floss, fluoride drops; vitamin and mineral supplements; anti-nausea tablets; body cream, namely vitamin E cream; oral hygiene products, namely mouthwash and antiseptic rinse; baby care products, namely baby oil, baby shampoo; Baby care products, namely baby powder, baby lotion; hydrogen peroxide; isopropyl rubbing alcohol; petroleum jelly; shampoo; creams and lotions, namely collagen elastin cream, cold cream, cocoa butter, aloe vera cream, hand cream; car care products, namely windshield cleaning and antifreeze solution; Baby care products, namely baby wipes; household cleaning products, namely dishwashing liquid detergent, dishwasher	Dec. 6, 2000

detergent, liquid toilet bowl cleaner, window cleaning liquid, all purpose liquid cleaner, disinfectant liquid cleaner, all purpose spray cleaner, drain opener; Thermometers; hot water bottles; elasticated fabric bandages; plastic bandages; rubber gloves; make-up removal pads; cotton facial pads; Disposable diapers; antibiotic topical ointment; cough syrup; enteric-coated acetaminophen tablets; acetylsalicylic acid tablets; cotton swabs; absorbent cotton balls; motor oil; household products, namely plastic sandwich bags, plastic food wrap; plastic drawstring garbage bags, plastic garbage bags for household use, plastic gardening garbage bags, aluminum foil; air fresheners; school and stationery supplies, namely maths sets, pencils, rulers, tape; Dental hygiene products, namely children's and adult toothbrushes; travel kits, namely toothbrush and toothpaste sets; laxatives; sunscreen lotion, sunburn relief gel; sunless tanning lotion; feminine hygiene products, namely panty liners, sanitary napkins; men's and women's deodorants; clothes' hangers; reusable kitchen cloths; household ammonia; laundry cleaning products, namely fabric softener, bleach, stain remover; Oral hygiene products, namely breath spray; absorbent roll bandages; liquid antacid; glycerin suppositories; children's acetaminophen tablets, adult's acetaminophen tablets; cold remedies, namely hot lemon decongestant liquids, cold capsules, nose drops, nasal decongestants; mineral oil; antihistamines; artificial sweeteners; facial tissues; toilet tissues; Oral hygiene products, namely dental rinse; baby care products, namely disposable baby bottle liners; petroleum jelly; hairspray, hair conditioner; bath oil, plastic and wooden bath brushes; loofah bath sponges, loofah bath gloves, loofah bath brushes, loofah body and facial pads; bath sea sponges; liquid soap; razor blade cartridges; disposable razors; shaving brushes; cosmetic implements and accessories, namely sponge tip eye shadow brushes, cosmetic sponges and facial puffs; powder puffs; tweezers, eyelash curlers, eyelash curler refills, cosmetic pencil sharpeners; makeup sponges; mirrors; cosmetic

	<p>brushes; nail care products, namely nail polish remover, cuticle scissors, nail scissors, nail clippers, toe nail clippers, cuticle nippers, nail nippers, nail files, emery boards, nail pencils, cuticle pushers, cuticle trimmers, manicure sticks, manicure brushes; personal grooming implements, namely barber scissors, thinning scissors, mustache scissors; pumice stones, pumice sponges, corn plane removers, corn plane blades; bingo markers; gardening tools, namely forks, rakes, trowels and hoes; lunch bags; stationery products, namely envelopes, stationery paper, writing blocks, blank video cassettes; photographic film; Clumping cat litter; Pregnancy tests; Aerosol lint remover for electronic equipment; Stepping stools.</p> <p>Services: Operation of a retail and general merchandise store; the operation of a drugstore; photofinishing services; the operation of a retail photographic equipment and photographic accessories outlet; camera store services; Operation of a retail store specializing in the sale of cosmetics, hair care products, skin care products, perfumery products and toilet preparations; Operation of a retail store specializing in the sale of radio and sound reproduction equipment, audio reproduction equipment, video reproduction equipment, electrical and electronic devices and instruments, telephones, clocks, audio and video accessories; Operation of retail and wholesale outlets dealing in computer software, computer hardware and computer related accessories; computer services, namely customer training, computer repairs, computer education services, computer systems integration and computer programming; Operation of a retail business dealing in the sale, distribution, installation, delivery and system balancing and assembly of sound, projection and audio and video hardware equipment and products.</p>	
<p>LONDON DRUGS TMA423,787</p>	<p>Wares: Dental hygiene products, namely interdental stimulators, dental tape, dental floss, fluoride drops; vitamin and mineral supplements;</p>	<p>Feb 25, 1994</p>

anti-nausea tablets; Body cream, namely vitamin E cream; Oral hygiene products, namely mouthwash and antiseptic rinse; baby care products, namely baby oil, baby shampoo; Baby care products, namely baby powder, baby lotion; hydrogen peroxide; isopropyl rubbing alcohol; petroleum jelly; shampoo; creams and lotions, namely collagen elastin cream, cold cream, cocoa butter, aloe vera cream, hand cream; car care products, namely windshield cleaning and antifreeze solution; Baby care products, namely baby wipes; household cleaning products, namely dishwashing liquid detergent, dishwasher detergent, liquid toilet bowl cleaner, window cleaning liquid, all purpose liquid cleaner, disinfectant liquid cleaner, all purpose spray cleaner, drain opener; Thermometers; hot water bottles; elasticated fabric bandages; plastic bandages; rubber gloves; make-up removal pads; cotton facial pads; acetaminophen tablets; acetylsalicylic acid tablets; cotton swabs; absorbent cotton balls; motor oil; household products, namely plastic sandwich bags, plastic food wrap, plastic drawstring garbage bags, kitchen catcher plastic garbage bags, plastic gardening garbage bags, aluminum foil; air fresheners; school and stationery supplies, namely maths sets, pencils, rulers, tape; Dental hygiene products, namely children's and adult toothbrushes; travel kits, namely toothbrush and toothpaste sets; laxatives; sunscreen lotion, sunburn relief gel; sunless tanning lotion; feminine hygiene products, namely panty liners, sanitary napkins; men's and women's deodorants; clothes' hangers; reusable kitchen cloths; household ammonia; laundry cleaning products, namely fabric softener, bleach, stain remover; Oral hygiene products, namely breath spray; absorbent roll bandages; liquid antacid; glycerin suppositories; children's acetaminophen tablets, adult's acetaminophen tablets; cold remedies, namely hot lemon decongestant liquids, cold capsules, nose drops, nasal decongestants; mineral oil; antihistamines; artificial sweeteners; facial tissues; toilet tissues; Oral hygiene products, namely dental rinse; baby care


	<p>products, namely disposable baby bottle liners; petroleum jelly; hairspray, hair conditioner; bath oil, plastic and wooden bath brushes; loofah bath sponges, loofah bath gloves, loofah bath brushes, loofah body and facial pads; bath sea sponges; liquid soap; razor blade cartridges; disposable razor; shaving brushes; cosmetic implements and accessories, namely sponge tip eyeshadow brushes, cosmetic sponges and facial puffs; powder puffs; tweezers, eyelash curlers, eyelash curler refills, cosmetic pencil sharpeners; makeup sponges; mirrors; cosmetic brushes; nail care products, namely nail polish remover, cuticle scissors, nail scissors, nail clippers, toe nail clippers, cuticle nippers, nail nippers, nail files, emery boards, nail pencils, cuticle pushers, cuticle trimmers, manicure sticks, manicure brushes; personal grooming implements, namely barber scissors, thinning scissors, mustache scissors; pumice stones, pumice sponges, corn plane removers, corn plane blades; bingo markers; gardening tools, namely forks, rakes, trowels and hoes; lunch bags; stationery products, namely envelopes, stationery paper, writing blocks; video cassettes; photographic film.</p> <p>Services: Operation of a drug and general merchandise store, namely retail store services incorporating the marketing of merchandise of various kinds and sundry household and consumer products.</p>	
<p>THE MANY FACES OF LONDON DRUGS</p> <p>TMA516,099</p>	<p>Services: Operation of a drug and general merchandise store; operation of a retail business dealing in sale, distribution, installation, delivery, repair and system balancing and assembly of sound, projection and audio and video hardware equipment and products; operation of a retail outlet dealing in the sale of watches and jewellery and repairing watches and jewellery; operation of a retail outlet dealing in hearing aid batteries and optical accessories; operation of retail and wholesale outlets dealing in computer software, computer hardware and computer related accessories; computer services, namely customer training, computer repairs, computer education services, computer systems integration,</p>	<p>Sept. 9, 1999</p>

	computer programming, computer networking; operation of a retail outlet providing photofinishing, photographic equipment, cameras, accessories and camera store services.	
THE COSMETICS DEPARTMENT OF LONDON DRUGS TMA427,029	Services: Operation of a retail store specializing in the sale of cosmetics, hair care products, skin care products, perfumery products and toilet preparations.	May 6, 1994
THE MANY FACES OF LONDON DRUGS TMA517,132	Services: Operation of a drug and general merchandise store; operation of a retail business dealing in sale, distribution, installation, delivery, repair and system balancing and assembly of sound, projection and audio and video hardware equipment and products; operation of a retail outlet dealing in the sale of watches and jewellery and repairing watches and jewellery; operation of a retail outlet dealing in hearing aid batteries and optical accessories; operation of retail and wholesale outlets dealing in computer software, computer hardware and computer related accessories; computer services, namely customer training, computer repairs, computer education services, computer systems integration, computer programming, computer networking; operation of a retail outlet providing photofinishing, photographic equipment, cameras, accessories and camera store services.	Sept. 28, 1999
THE OPTICAL DEPARTMENT OF LONDON DRUGS TMA300,626	Wares: Eyeglass frames, contact lenses, optical lenses and optical accessories, namely eyeglass and contact lens cases, contact lens solutions, eyeglass chains and cords, eyeglass head bands for sports users, repair kits, nose pads, temple tites, eyeglass cleaners, magnifying glasses; lens cleaner and hearing aid batteries. Services: Operation of a retail outlet in applicant's drugstores dealing in eyeglass frames, contact lenses, hearing aid batteries and optical accessories; filling eyeglass and contact lens prescriptions and grinding optical lenses to specification.	Mar. 8, 1985
	Services: Operation of a drug store and department store.	June 14, 1991

TMA385,764		
LONDON CUSTOM WORKS TMA657,323	Services: Retail and commercial sale of audio and video equipment; audio and video system design, engineering, sales, consultation and installation services; audio and video repair and maintenance services; audio, video and home networking system pre-wire services; lighting system sale, design, engineering and installation services; home automation and integration system design, engineering and installation services; audio, video, networking and lighting system design, engineering, sales, consultation and installation services with respect to multi-media presentation rooms and board rooms, community theatre systems for condominium buildings, apartment buildings and resorts, retail sales environment systems, environmental acoustic systems for executive offices, and restaurants, sports bars and night clubs.	Jan. 25, 2006
LONDON CUSTOM WORKS TMA656,757	Services: Retail and commercial sale of audio and video equipment; audio and video system design, engineering, sales, consultation and installation services; audio and video repair and maintenance services; audio, video and home networking system pre-wire services; lighting system sale, design, engineering and installation services; home automation and integration system design, engineering and installation services; audio, video, networking and lighting system design, engineering, sales, consultation and installation services with respect to multi-media presentation rooms and board rooms, community theatre systems for condominium buildings, apartment buildings and resorts, retail sales environment systems, environmental acoustic systems for executive offices, and restaurants, sports bars and night clubs.	Jan. 18, 2006
LONDON CUSTOM WORKS TMA657,303	Services: Retail and commercial sale of audio and video equipment; audio and video system design, engineering, sales, consultation and installation services; audio and video repair and maintenance services; audio, video and home networking system pre-wire services; lighting system sale, design, engineering and installation services; home automation and integration	Jan. 25, 2006

	<p>system design, engineering and installation services; audio, video, networking and lighting system design, engineering, sales, consultation and installation services with respect to multi-media presentation rooms and board rooms, community theatre systems for condominium buildings, apartment buildings and resorts, retail sales environment systems, environmental acoustic systems for executive offices, and restaurants, sports bars and night clubs.</p>	
<p>LONDON COLOUR DIGITAL IMAGING</p> <p>TMA596,467</p>	<p>Wares: Computer software for organizing, sorting, accessing, retrieving, manipulating, editing and retouching digital photographs and other graphic images and for creating screensavers, computer wallpaper, calendars and virtual albums; digital storage devices, namely memory cards for digital cameras; blank disks, compact disks and video tapes, recordable digital photofinishing disks; digital storage media containing photographic images.</p> <p>Services: Placing photographic images on standard computer, magnetic or optical media; manipulation and restoration of images provided by customers; placement of digital images on promotional items; internet photofinishing services; creating photographic prints from digital image files.</p>	<p>Dec. 4, 2003</p>
<p>LONDON DRUGS PHOTO STATION</p> <p>TMA557,245</p>	<p>Wares: Blank disks and blank recordable compact disks, recordable digital photofinishing disks.</p> <p>Services: Placing photographic images on standard computer, magnetic or optical media; manipulation and restoration of images provided by customers; placement of digital images on promotional items; internet photofinishing services.</p>	<p>Jan. 31, 2002</p>
<p>LONDON COLOUR PHOTODISK</p> <p>TMA510,245</p>	<p>Wares: Disks, compact discs and tape, excluding disks, compact discs and tapes which contain stock photographs, archival photographs, art, illustrations and graphic designs.</p> <p>Services: Placing photographic images provided by customers on standard computer, magnetic or optical media.</p>	<p>Mar. 29, 1999</p>

<p>PCC – THE PERSONAL COMPUTER CENTER OF LONDON DRUGS</p> <p>TMA300,796</p>	<p>Wares: Computers, computer peripherals, namely monitors, printers, auxiliary disk devices, disk drives, keyboards, cables, expansion boards, modems, graphics input generators, and other related accessories, namely diskettes, diskette storage containers, paper products, computer furniture, computer covers, computer ribbons, cassettes, reference guides and manuals, memory boards, computer keyboard templates and computer software.</p> <p>Services: Computer repairs, computer education services and programs, customer training in the use of computer software and consulting services to purchasers of computer software.</p>	<p>Mar. 15, 1985</p>
<p>LONDON DRUGS 1 HOUR PHOTO FINISHING</p> <p>TMA662,529</p>	<p>Wares: Photographic film; Computer software for organizing, sorting, accessing, retrieving, manipulating, editing and retouching digital photographs and other graphic images and for creating screensavers, computer wallpaper, calendars and virtual albums; digital storage devices, namely memory cards for digital cameras; blank disks, compact disks and video tapes, recordable digital photofinishing disks; digital storage media containing photographic images.</p> <p>Services: Photofinishing services; Placing photographic images on standard computer, magnetic or optical media; manipulation and restoration of images provided by customers; placement of digital images on promotional items; internet photofinishing services; creating photographic prints from digital image files.</p>	<p>April 11, 2006</p>
<p>COSMETICS DEPARTMENT OF LONDON DRUGS</p> <p>TMA427,029</p>	<p>Services: Operation of a retail store specializing in the sale of cosmetics, hair care products, skin care products, perfumery products and toilet preparations.</p>	<p>May 6, 1994</p>
<p>ELECTRONICS DEPARTMENT OF LONDON DRUGS</p> <p>TMA427,335</p>	<p>Services: Operation of a retail store specializing in the sale of radio and sound reproduction equipment, audio reproduction equipment, video reproduction equipment, electrical and electronic devices and instruments, telephones, clocks, audio and video accessories.</p>	<p>May 13, 1994</p>
<p>THE JEWELLERY</p>	<p>Wares: Jewellery, watches, ornaments and</p>	<p>Mar. 8, 1985</p>

DEPARTMENT OF LONDON DRUGS TMA300,628	giftware, namely clocks, brassware, crystal, figurines, lighters, pens, cutlery, cuff-links and costume jewellery. Services: Repairing watches and jewellery.	
AUDIO-VIDEO SYSTEMS DEPARTMENT LONDON DRUGS TMA427,026	Services: Operation of a retail business dealing in the sale, distribution, installation, delivery, repair and system balancing and assembly of sound, projection and audio and video hardware equipment and products.	May 6, 1994
 TMA298,030	Wares: Baby wipes; dental floss; shampoo; household products, namely window cleaner; and all purpose spray cleaner, cosmetic products, namely cotton puffs, skin cream; first aid products namely plastic bandages and bulk cotton rolls; hot water bottles; personal hygiene products, namely sanitary napkins and tampons of all types; carbonated non-alcoholic beverages. Services: Drug store and department store services.	Dec. 14, 1984
LONDON GOLD MINE TMA370,629	Wares: Jewellery Services: Operation of a retail jewellery store.	July 13, 1990
THE COMPUTER DEPARTMENT OF LONDON DRUGS TMA291,940	Wares: Computers, computer peripherals, computer software. Services: Computer repairs, computer education programs, customer training in the use of computer software and consulting services to purchasers of computer software.	June 15, 1984
LONDON DRUGS COMPUTERS TMA300,602	Wares: Computers, computer peripherals, namely monitors, printers, auxiliary disk devices, disk drives, keyboards, cables, expansion boards, modems, graphics input generators, computer software. Services: Computer repairs, computer education programs, customer training in the use of computer software, consulting services to purchasers of computer software.	Mar. 8, 1985
PC – THE PERSONAL COMPUTER CENTER OF LONDON DRUGS	Wares: Computers, computer peripherals, namely monitors, printers, auxiliary disk devices, disk drives, keyboards, cables, expansion boards, modems, graphics input generators, and other	Mar. 8, 1985

TMA300,604	<p>related accessories, namely diskettes, diskette storage containers, paper products, computer furniture, computer covers, computer ribbons, cassettes, reference guides and manuals, memory boards, computer keyboard templates and computer software.</p> <p>Services: Computer repairs, computer education services and programs, customer training in the use of computer software and consulting services to purchasers of computer software.</p>	
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Schedule A of the TMOB decision regarding the Wares Application

Trade-mark Reg. No.	Wares/Services	Reg. Date
LONDON DRUGS TMA238,839	Services: Operating modern day drug stores featuring all of the services offered by such establishments with which the public is familiar, including the operation of dispensaries; Operation of a retail outlet dealing in optical accessories.	Jan. 4, 1980
LONDON DRUGS TMA297,076	Services: Drugstore and department stores; Operation of a retail outlet dealing in optical accessories; Operation of a retail outlet dealing in the sale of watches and jewellery and repairing watches and jewellery; Operation of a retail outlet dealing in the sale and rental of video tapes, video equipment and all services and accessories related thereto; Operation of a retail outlet dealing in computer repairs, computer education programs, customer training in the use of computer software, consulting services to purchasers of computer software; Operation of a retail outlet providing photofinishing, photographic equipment, cameras, accessories and camera store services.	Nov. 16, 1984
LONDON DRUGS TMA311,269	Services: Operation of a drugstore and the operation of a department store.	Feb. 14, 1986
LONDON DRUGS TMA538,386	Wares: Dental hygiene products, namely interdental stimulators, dental tape, dental floss, fluoride drops; vitamin and mineral supplements; anti-nausea tablets; body cream, namely vitamin	Dec. 6, 2000

E cream; oral hygiene products, namely mouthwash and antiseptic rinse; baby care products, namely baby oil, baby shampoo; Baby care products, namely baby powder, baby lotion; hydrogen peroxide; isopropyl rubbing alcohol; petroleum jelly; shampoo; creams and lotions, namely collagen elastin cream, cold cream, cocoa butter, aloe vera cream, hand cream; car care products, namely windshield cleaning and antifreeze solution; Baby care products, namely baby wipes; household cleaning products, namely dishwashing liquid detergent, dishwasher detergent, liquid toilet bowl cleaner, window cleaning liquid, all purpose liquid cleaner, disinfectant liquid cleaner, all purpose spray cleaner, drain opener; Thermometers; hot water bottles; elasticated fabric bandages; plastic bandages; rubber gloves; make-up removal pads; cotton facial pads; Disposable diapers; antibiotic topical ointment; cough syrup; enteric-coated acetaminophen tablets; acetylsalicylic acid tablets; cotton swabs; absorbent cotton balls; motor oil; household products, namely plastic sandwich bags, plastic food wrap; plastic drawstring garbage bags, plastic garbage bags for household use, plastic gardening garbage bags, aluminum foil; air fresheners; school and stationery supplies, namely maths sets, pencils, rulers, tape; Dental hygiene products, namely children's and adult toothbrushes; travel kits, namely toothbrush and toothpaste sets; laxatives; sunscreen lotion, sunburn relief gel; sunless tanning lotion; feminine hygiene products, namely panty liners, sanitary napkins; men's and women's deodorants; clothes' hangers; reusable kitchen cloths; household ammonia; laundry cleaning products, namely fabric softener, bleach, stain remover; Oral hygiene products, namely breath spray; absorbent roll bandages; liquid antacid; glycerin suppositories; children's acetaminophen tablets, adult's acetaminophen tablets; cold remedies, namely hot lemon decongestant liquids, cold capsules, nose drops, nasal decongestants; mineral oil; antihistamines; artificial sweeteners; facial tissues; toilet tissues; Oral hygiene products, namely dental rinse; baby

care products, namely disposable baby bottle liners; petroleum jelly; hairspray, hair conditioner; bath oil, plastic and wooden bath brushes; loofah bath sponges, loofah bath gloves, loofah bath brushes, loofah body and facial pads; bath sea sponges; liquid soap; razor blade cartridges; disposable razors; shaving brushes; cosmetic implements and accessories, namely sponge tip eye shadow brushes, cosmetic sponges and facial puffs; powder puffs; tweezers, eyelash curlers, eyelash curler refills, cosmetic pencil sharpeners; makeup sponges; mirrors; cosmetic brushes; nail care products, namely nail polish remover, cuticle scissors, nail scissors, nail clippers, toe nail clippers, cuticle nippers, nail nippers, nail files, emery boards, nail pencils, cuticle pushers, cuticle trimmers, manicure sticks, manicure brushes; personal grooming implements, namely barber scissors, thinning scissors, mustache scissors; pumice stones, pumice sponges, corn plane removers, corn plane blades; bingo markers; gardening tools, namely forks, rakes, trowels and hoes; lunch bags; stationery products, namely envelopes, stationery paper, writing blocks, blank video cassettes; photographic film; Clumping cat litter; Pregnancy tests; Aerosol lint remover for electronic equipment; Stepping stools.

Services: Operation of a retail and general merchandise store; the operation of a drugstore; photofinishing services; the operation of a retail photographic equipment and photographic accessories outlet; camera store services; Operation of a retail store specializing in the sale of cosmetics, hair care products, skin care products, perfumery products and toilet preparations; Operation of a retail store specializing in the sale of radio and sound reproduction equipment, audio reproduction equipment, video reproduction equipment, electrical and electronic devices and instruments, telephones, clocks, audio and video accessories; Operation of retail and wholesale outlets dealing in computer software, computer hardware and computer related accessories; computer services,

	<p>namely customer training, computer repairs, computer education services, computer systems integration and computer programming; Operation of a retail business dealing in the sale, distribution, installation, delivery and system balancing and assembly of sound, projection and audio and video hardware equipment and products.</p>	
<p>LONDON DRUGS TMA423,787</p>	<p>Wares: Dental hygiene products, namely interdental stimulators, dental tape, dental floss, fluoride drops; vitamin and mineral supplements; anti-nausea tablets; Body cream, namely vitamin E cream; Oral hygiene products, namely mouthwash and antiseptic rinse; baby care products, namely baby oil, baby shampoo; Baby care products, namely baby powder, baby lotion; hydrogen peroxide; isopropyl rubbing alcohol; petroleum jelly; shampoo; creams and lotions, namely collagen elastin cream, cold cream, cocoa butter, aloe vera cream, hand cream; car care products, namely windshield cleaning and antifreeze solution; Baby care products, namely baby wipes; household cleaning products, namely dishwashing liquid detergent, dishwasher detergent, liquid toilet bowl cleaner, window cleaning liquid, all purpose liquid cleaner, disinfectant liquid cleaner, all purpose spray cleaner, drain opener; Thermometers; hot water bottles; elasticated fabric bandages; plastic bandages; rubber gloves; make-up removal pads; cotton facial pads; acetaminophen tablets; acetylsalicylic acid tablets; cotton swabs; absorbent cotton balls; motor oil; household products, namely plastic sandwich bags, plastic food wrap, plastic drawstring garbage bags, kitchen catcher plastic garbage bags, plastic gardening garbage bags, aluminum foil; air fresheners; school and stationery supplies, namely maths sets, pencils, rulers, tape; Dental hygiene products, namely children's and adult toothbrushes; travel kits, namely toothbrush and toothpaste sets; laxatives; sunscreen lotion, sunburn relief gel; sunless tanning lotion; feminine hygiene products, namely panty liners, sanitary napkins; men's and women's deodorants;</p>	<p>Feb 25, 1994</p>

clothes' hangers; reusable kitchen cloths; household ammonia; laundry cleaning products, namely fabric softener, bleach, stain remover; Oral hygiene products, namely breath spray; absorbent roll bandages; liquid antacid; glycerin suppositories; children's acetaminophen tablets, adult's acetaminophen tablets; cold remedies, namely hot lemon decongestant liquids, cold capsules, nose drops, nasal decongestants; mineral oil; antihistamines; artificial sweeteners; facial tissues; toilet tissues; Oral hygiene products, namely dental rinse; baby care products, namely disposable baby bottle liners; petroleum jelly; hairspray, hair conditioner; bath oil, plastic and wooden bath brushes; loofah bath sponges, loofah bath gloves, loofah bath brushes, loofah body and facial pads; bath sea sponges; liquid soap; razor blade cartridges; disposable razor; shaving brushes; cosmetic implements and accessories, namely sponge tip eyeshadow brushes, cosmetic sponges and facial puffs; powder puffs; tweezers, eyelash curlers, eyelash curler refills, cosmetic pencil sharpeners; makeup sponges; mirrors; cosmetic brushes; nail care products, namely nail polish remover, cuticle scissors, nail scissors, nail clippers, toe nail clippers, cuticle nippers, nail nippers, nail files, emery boards, nail pencils, cuticle pushers, cuticle trimmers, manicure sticks, manicure brushes; personal grooming implements, namely barber scissors, thinning scissors, mustache scissors; pumice stones, pumice sponges, corn plane removers, corn plane blades; bingo markers; gardening tools, namely forks, rakes, trowels and hoes; lunch bags; stationery products, namely envelopes, stationery paper, writing blocks; video cassettes; photographic film.



Services: Operation of a drug and general merchandise store, namely retail store services incorporating the marketing of merchandise of various kinds and sundry household and consumer products.


**THE MANY FACES
OF LONDON DRUGS**

Services: Operation of a drug and general merchandise store; operation of a retail business dealing in sale, distribution, installation, delivery,


Sept. 9, 1999


TMA516,099	<p>repair and system balancing and assembly of sound, projection and audio and video hardware equipment and products; operation of a retail outlet dealing in the sale of watches and jewellery and repairing watches and jewellery; operation of a retail outlet dealing in hearing aid batteries and optical accessories; operation of retail and wholesale outlets dealing in computer software, computer hardware and computer related accessories; computer services, namely customer training, computer repairs, computer education services, computer systems integration, computer programming, computer networking; operation of a retail outlet providing photofinishing, photographic equipment, cameras, accessories and camera store services.</p>	
<p>THE COSMETICS DEPARTMENT OF LONDON DRUGS</p> <p>TMA427,029</p>	<p>Services: Operation of a retail store specializing in the sale of cosmetics, hair care products, skin care products, perfumery products and toilet preparations.</p>	<p>May 6, 1994</p>
<p>THE MANY FACES OF LONDON DRUGS</p> <p>TMA517,132</p>	<p>Services: Operation of a drug and general merchandise store; operation of a retail business dealing in sale, distribution, installation, delivery, repair and system balancing and assembly of sound, projection and audio and video hardware equipment and products; operation of a retail outlet dealing in the sale of watches and jewellery and repairing watches and jewellery; operation of a retail outlet dealing in hearing aid batteries and optical accessories; operation of retail and wholesale outlets dealing in computer software, computer hardware and computer related accessories; computer services, namely customer training, computer repairs, computer education services, computer systems integration, computer programming, computer networking; operation of a retail outlet providing photofinishing, photographic equipment, cameras, accessories and camera store services.</p>	<p>Sept. 28, 1999</p>
<p>THE OPTICAL DEPARTMENT OF LONDON DRUGS</p> <p>TMA300,626</p>	<p>Wares: Eyeglass frames, contact lenses, optical lenses and optical accessories, namely eyeglass and contact lens cases, contact lens solutions, eyeglass chains and cords, eyeglass head bands for sports users, repair kits, nose pads, temple tites, eyeglass cleaners, magnifying glasses; lens</p>	<p>Mar. 8, 1985</p>

	<p>cleaner and hearing aid batteries.</p> <p>Services: Operation of a retail outlet in applicant's drugstores dealing in eyeglass frames, contact lenses, hearing aid batteries and optical accessories; filling eyeglass and contact lens prescriptions and grinding optical lenses to specification.</p>	
 TMA385,764	<p>Services: Operation of a drug store and department store.</p>	June 14, 1991
 TMA657,323	<p>Services: Retail and commercial sale of audio and video equipment; audio and video system design, engineering, sales, consultation and installation services; audio and video repair and maintenance services; audio, video and home networking system pre-wire services; lighting system sale, design, engineering and installation services; home automation and integration system design, engineering and installation services; audio, video, networking and lighting system design, engineering, sales, consultation and installation services with respect to multi-media presentation rooms and board rooms, community theatre systems for condominium buildings, apartment buildings and resorts, retail sales environment systems, environmental acoustic systems for executive offices, and restaurants, sports bars and night clubs.</p>	Jan. 25, 2006
LONDON CUSTOM WORKS TMA656,757	<p>Services: Retail and commercial sale of audio and video equipment; audio and video system design, engineering, sales, consultation and installation services; audio and video repair and maintenance services; audio, video and home networking system pre-wire services; lighting system sale, design, engineering and installation services; home automation and integration system design, engineering and installation services; audio, video, networking and lighting system design, engineering, sales, consultation and installation services with respect to multi-media presentation rooms and board rooms, community theatre systems for condominium</p>	Jan. 18, 2006

	buildings, apartment buildings and resorts, retail sales environment systems, environmental acoustic systems for executive offices, and restaurants, sports bars and night clubs.	
 TMA657,303	Services: Retail and commercial sale of audio and video equipment; audio and video system design, engineering, sales, consultation and installation services; audio and video repair and maintenance services; audio, video and home networking system pre-wire services; lighting system sale, design, engineering and installation services; home automation and integration system design, engineering and installation services; audio, video, networking and lighting system design, engineering, sales, consultation and installation services with respect to multi-media presentation rooms and board rooms, community theatre systems for condominium buildings, apartment buildings and resorts, retail sales environment systems, environmental acoustic systems for executive offices, and restaurants, sports bars and night clubs.	Jan. 25, 2006
LONDON COLOUR DIGITAL IMAGING TMA596,467	Wares: Computer software for organizing, sorting, accessing, retrieving, manipulating, editing and retouching digital photographs and other graphic images and for creating screensavers, computer wallpaper, calendars and virtual albums; digital storage devices, namely memory cards for digital cameras; blank disks, compact disks and video tapes, recordable digital photofinishing disks; digital storage media containing photographic images. Services: Placing photographic images on standard computer, magnetic or optical media; manipulation and restoration of images provided by customers; placement of digital images on promotional items; internet photofinishing services; creating photographic prints from digital image files.	Dec. 4, 2003
LONDON DRUGS PHOTO STATION TMA557,245	Wares: Blank disks and blank recordable compact disks, recordable digital photofinishing disks. Services: Placing photographic images on standard computer, magnetic or optical media;	Jan. 31, 2002

	manipulation and restoration of images provided by customers; placement of digital images on promotional items; internet photofinishing services.	
LONDON COLOUR PHOTODISK TMA510,245	Wares: Disks, compact discs and tape, excluding disks, compact discs and tapes which contain stock photographs, archival photographs, art, illustrations and graphic designs. Services: Placing photographic images provided by customers on standard computer, magnetic or optical media.	Mar. 29, 1999
PCC – THE PERSONAL COMPUTER CENTER OF LONDON DRUGS TMA300,796	Wares: Computers, computer peripherals, namely monitors, printers, auxiliary disk devices, disk drives, keyboards, cables, expansion boards, modems, graphics input generators, and other related accessories, namely diskettes, diskette storage containers, paper products, computer furniture, computer covers, computer ribbons, cassettes, reference guides and manuals, memory boards, computer keyboard templates and computer software. Services: Computer repairs, computer education services and programs, customer training in the use of computer software and consulting services to purchasers of computer software.	Mar. 15, 1985
LONDON DRUGS 1 HOUR PHOTO FINISHING TMA662,529	Wares: Photographic film; Computer software for organizing, sorting, accessing, retrieving, manipulating, editing and retouching digital photographs and other graphic images and for creating screensavers, computer wallpaper, calendars and virtual albums; digital storage devices, namely memory cards for digital cameras; blank disks, compact disks and video tapes, recordable digital photofinishing disks; digital storage media containing photographic images. Services: Photofinishing services; Placing photographic images on standard computer, magnetic or optical media; manipulation and restoration of images provided by customers; placement of digital images on promotional items; internet photofinishing services; creating photographic prints from digital image files.	April 11, 2006

<p>COSMETICS DEPARTMENT OF LONDON DRUGS</p> <p>TMA427,029</p>	<p>Services: Operation of a retail store specializing in the sale of cosmetics, hair care products, skin care products, perfumery products and toilet preparations.</p>	<p>May 6, 1994</p>
<p>ELECTRONICS DEPARTMENT OF LONDON DRUGS</p> <p>TMA427,335</p>	<p>Services: Operation of a retail store specializing in the sale of radio and sound reproduction equipment, audio reproduction equipment, video reproduction equipment, electrical and electronic devices and instruments, telephones, clocks, audio and video accessories.</p>	<p>May 13, 1994</p>
<p>THE JEWELLERY DEPARTMENT OF LONDON DRUGS</p> <p>TMA300,628</p>	<p>Wares: Jewellery, watches, ornaments and giftware, namely clocks, brassware, crystal, figurines, lighters, pens, cutlery, cuff-links and costume jewellery.</p> <p>Services: Repairing watches and jewellery.</p>	<p>Mar. 8, 1985</p>
<p>LONDON DRUGS JEWELLERY</p> <p>TMA300,627</p>	<p>Wares: Jewellery, watches, ornaments and giftware, namely clocks, brassware, crystal, figurines, lighters, pens, cutlery, cuff-links and costume jewellery.</p> <p>Services: Repairing watches and jewellery.</p>	<p>Mar. 8, 1985</p>
<p>AUDIO-VIDEO SYSTEMS DEPARTMENT LONDON DRUGS</p> <p>TMA427,026</p>	<p>Services: Operation of a retail business dealing in the sale, distribution, installation, delivery, repair and system balancing and assembly of sound, projection and audio and video hardware equipment and products.</p>	<p>May 6, 1994</p>
 <p>TMA298,030</p>	<p>Wares: Baby wipes; dental floss; shampoo; household products, namely window cleaner; and all purpose spray cleaner, cosmetic products, namely cotton puffs, skin cream; first aid products namely plastic bandages and bulk cotton rolls; hot water bottles; personal hygiene products, namely sanitary napkins and tampons of all types; carbonated non-alcoholic beverages.</p> <p>Services: Drug store and department store services.</p>	<p>Dec. 14, 1984</p>
<p>LONDON GOLD MINE</p> <p>TMA370,629</p>	<p>Wares: Jewellery</p> <p>Services: Operation of a retail jewellery store.</p>	<p>July 13, 1990</p>
<p>THE COMPUTER DEPARTMENT OF LONDON DRUGS</p>	<p>Wares: Computers, computer peripherals, computer software.</p>	<p>June 15, 1984</p>

TMA291,940	Services: Computer repairs, computer education programs, customer training in the use of computer software and consulting services to purchasers of computer software.	
LONDON DRUGS COMPUTERS TMA300,602	Wares: Computers, computer peripherals, namely monitors, printers, auxiliary disk devices, disk drives, keyboards, cables, expansion boards, modems, graphics input generators, computer software. Services: Computer repairs, computer education programs, customer training in the use of computer software, consulting services to purchasers of computer software.	Mar. 8, 1985
PC – THE PERSONAL COMPUTER CENTER OF LONDON DRUGS TMA300,604	Wares: Computers, computer peripherals, namely monitors, printers, auxiliary disk devices, disk drives, keyboards, cables, expansion boards, modems, graphics input generators, and other related accessories, namely diskettes, diskette storage containers, paper products, computer furniture, computer covers, computer ribbons, cassettes, reference guides and manuals, memory boards, computer keyboard templates and computer software. Services: Computer repairs, computer education services and programs, customer training in the use of computer software and consulting services to purchasers of computer software.	Mar. 8, 1985
 TMA581,005	Wares: Small kitchen appliances namely, can openers, coffee makers, jug kettles, food steamers, hand mixers, mini choppers, popcorn makers, toasters; housewares, namely irons and steam irons; hair appliances, namely combo curl brush/iron, curling brushes, curling irons, hair dryers, hot air brushes, mini fold hair dryers; health and beauty aids, namely beard and moustache trimmers, hair clipper sets, hair clippers.	May 8, 2003

Appendix C

Schedule B of the TMOB decision regarding the Services Application

Trade-mark and Appl. No.	Wares/Services	Appl. Date
<p>LONDON DEPARTMENT STORES</p> <p>1,095,092</p>	<p><u>Wares</u>: Dental hygiene products, namely interdental stimulators, dental tape, dental floss, fluoride drops, children's and adult toothbrushes; travel kits, namely toothbrush and toothpaste sets; vitamin and mineral supplements; anti-nausea tablets; Body cream, namely vitamin E cream; Pharmaceutical products, namely intestinal antiseptic digestant and treatment for gastrointestinal disorders; Oral hygiene products, namely mouthwash, antiseptic rinse, denture cleansers, deodorizers and antiseptics; breath spray; Baby care products, namely baby powder, baby lotion, baby wipes, disposable diapers, disposable baby bottle liners, baby oil, baby shampoo; hydrogen peroxide; isopropyl rubbing alcohol; petroleum jelly; creams and lotions, namely collagen elastin cream, cold cream, cocoa butter, aloe vera cream, hand cream; car care products, namely windshield cleaning and antifreeze solution; Household cleaning products, namely dishwashing liquid detergent, dishwasher detergent, liquid toilet bowl cleaner, window cleaning liquid, all purpose liquid cleaner, disinfectant liquid cleaner, all purpose spray cleaner, drain opener; Thermometers; hot water bottles; elasticated fabric bandages; plastic bandages; rubber gloves; make-up removal pads; cotton facial pads; antibiotic topical ointment; cough syrup; enteric-coated acetaminophen tablets for use in the treatment of mild to moderate pain; acetylsalicylic acid tablets for use in the treatment of mild to moderate pain, fever and inflammation and in the prevention of thrombosis; cotton swabs; absorbent cotton balls; motor oil; household products, namely plastic sandwich bags, plastic food wrap, plastic drawstring garbage bags, plastic garbage bags for household use, plastic gardening garbage bags, aluminum foil; air fresheners; school and</p>	<p>March 6, 2001</p>

stationery supplies, namely maths sets, pencils, rulers, tape; Laxatives; sunscreen lotion, sunburn relief gel; sunless tanning lotion; feminine hygiene products, namely panty liners, sanitary napkins; men's and women's deodorants; clothes' hangers; reusable kitchen cloths; household ammonia; laundry cleaning products, namely fabric softener, bleach, stain remover; Absorbent roll bandages; liquid antacid; glycerin suppositories for use in the treatment of constipation; children's acetaminophen tablets for use in the treatment of mild to moderate pain and the reduction of fever, adult's acetaminophen tablets for use in the treatment of mild to moderate pain and the reduction of fever; cold remedies, namely hot lemon decongestant liquids, cold capsules, nose drops, nasal decongestants; mineral oil; antihistamines; artificial sweeteners; facial tissues; toilet tissues; Petroleum jelly; hair care products, namely shampoos and conditioners; personal care products, namely skin and bath preparations; plastic and wooden bath brushes; loofah bath sponges, loofah bath gloves, loofah bath brushes, loofah body and facial pads; bath sea sponges; liquid soap; bath oil; razor blade cartridges; disposable razors; shaving brushes; cosmetic implements and accessories, namely sponge tip eye shadow brushes, cosmetic sponges and facial puffs; powder puffs; tweezers, eyelash curlers, eyelash curler refills, cosmetic pencil sharpeners; makeup sponges; mirrors; cosmetic brushes; nail care products, namely nail polish remover, cuticle scissors, nail scissors, nail clippers, toe nail clippers, cuticle nippers, nail nippers, nail files, emery boards, nail pencils, cuticle pushers, cuticle trimmers, manicure sticks, manicure brushes; personal grooming implements, namely barber scissors, thinning scissors, mustache scissors; pumice stones, pumice sponges, corn plane removers, corn plane blades; bingo markers; gardening tools, namely forks, rakes, trowels and hoes; lunch bags; stationery products, namely envelopes, stationery paper, writing blocks; blank video cassettes; photographic film; Hair appliances, namely

combo curl brush/iron, curling brushes, curling irons, hair dryers, hot air brushes, mini fold hair dryers; health and beauty aids, namely beard and moustache trimmers, hair clipper sets, hair clippers; Clumping cat litter; pregnancy tests; aerosol lint remover for electronic equipment; stepping stools; Computers; accessories and peripherals for computers and electronic transmission equipment, namely cards, blank cassettes, blank disks, blank diskettes, disk files, disk packs, files, fixed-disk files, floppy disks, light pens, paper tapes, printers, display systems, card readers, card punches, paper tape punches, document sorters; computer paper goods, namely computer paper; labels; printed forms; diskette mailer envelopes; computer diskette storage cases; computer printer accessories, namely toner cartridges, printer ribbons; computer accessories, namely mouse pads; mice; cables; modems; adapters; Eyeglass frames, contact lenses and optical lenses sold in applicant's drugstores; optical accessories, namely eyeglass and contact lens cases, contact lens solutions, eyeglass chains and cords, eyeglass head bands for sports users, repair kits, nose pads, temple tites, eyeglass cleaners, magnifying glasses; lens cleaner and hearing aid batteries; Kitchen appliances, namely coffee makers, jug kettles, food steamers, hand mixers, mini choppers, popcorn makers, toasters, blenders, electric food blenders, food processors, electric food processors, electric coffee grinders, electric can openers, electric knives; dinnerware, namely plates, bowls, cups, saucers, salad plates, serving plates and serving bowls; cookware, namely pots, pans, frying pans, roasting pans; kitchen accessories, namely strainers, measuring cups, cutting boards, pot holders, oven mitts, placemats, dish cloths, tea towels, aprons, ironing board covers; kitchen gadgets, namely graters, tongs, peelers, slicers, corers; glassware, namely mugs, teapots, glasses, salad sets; tableware, namely stainless steel cutlery , pitchers, plates, cream and sugar sets, salt and pepper sets; bakeware, namely casserole dishes, cookie sheets, loaf pans, muffin tins, pie plates; Housewares, namely irons and steam irons;


Computer software for organizing, sorting, accessing, retrieving, manipulating, editing and retouching digital photographs and other graphic images and for creating screensavers, computer wallpaper, calendars and virtual albums; Printed publications, namely magazines and newsletters focusing on health care; pre-natal, new-born and infant development and care manuals; parenting manuals;

Services: Operation of a retail and general merchandise store; the operation of a drugstore; the operation of a pharmacy; the operation of a retail outlet providing photofinishing, photographic equipment, cameras, accessories and camera store services; Operation of a retail store specializing in the sale of cosmetics, hair care products, skin care products, perfumery products and toilet preparations; Operation of a retail outlet dealing in the sale of watches and jewellery and repairing watches and jewellery; Operation of a retail store specializing in the sale of radio and sound reproduction equipment, audio reproduction equipment; video reproduction equipment, electrical and electronic devices and instruments, telephones, clocks, audio and video accessories; Operation of retail and wholesale outlets dealing in computer software, computer hardware and computer related accessories; computer repairs, computer systems integration, computer networking and computer programming; educational services, namely conducting classes, seminars and workshops in computer education; Operation of a retail business dealing in the sale, distribution, installation, delivery, repair and system balancing and assembly of sound, projection and audio and audio-video hardware equipment and products; Dissemination of health information over the Internet; Advertising and promotional services, namely promoting the goods and services of others through in-store promotions, sales flyers, and by placing advertisements in electronic sites accessed through computer networks and placing promotional displays in electronic sites; providing baby care products and redeemable

	coupons.	
LONDON PREMIERE 1,247,283	<u>Wares</u> : Cosmetic applicators, namely, cotton swabs, cotton balls, brushes, beauty implements, namely, eyelash curlers, tweezers, men's toiletries, namely, facial and body cleansers, electric shavers and accessories, hair accessories, namely, brushes, combs, barrettes, hair pins, clasps, hair ornaments, hair rollers, footwear accessories, namely, heel cushions, cushioning pads; foot care materials, namely, corn cushions, callous cushions, bunion cushions; toasters, counter top ovens, griddles, fry pans, coffee grinders, coffee makers, electric kettles, kitchen appliances, namely, mixers and hand mixers, electric food processors, can openers, clothing irons and steamers, water fountains.	February 15, 2005

Schedule B of the TMOB decision regarding the Wares Application

Trade-mark and Appl. No.	Wares/Services	Appl. Date
LONDON PREMIERE 1,247,283	<u>Wares</u> : Cosmetic applicators, namely, cotton swabs, cotton balls, brushes, beauty implements, namely, eyelash curlers, tweezers, men's toiletries, namely, facial and body cleansers, electric shavers and accessories, hair accessories, namely, brushes, combs, barrettes, hair pins, clasps, hair ornaments, hair rollers, footwear accessories, namely, heel cushions, cushioning pads; foot care materials, namely, corn cushions, callous cushions, bunion cushions; toasters, counter top ovens, griddles, fry pans, coffee grinders, coffee makers, electric kettles, kitchen appliances, namely, mixers and hand mixers, electric food processors, can openers, clothing irons and steamers, water fountains.	February 15, 2005
LONDON GOURMET 1,204,476	<u>Wares</u> (as set out in statement of opposition; only the italicized wares remain as of the date of my decision) <i>Cookware, namely, boxed cookware sets, open stock cookware, fry pans</i> ; dinnerware, namely open stock dinnerware, boxed dinnerware; kitchen linens; stove top kettles; bake wares; mixing bowls; serving dishes; glass ware; drink ware; kitchen gadgets, namely can openers, wine openers and corkscrews,	January 28, 2004

	<p>wine accessories, namely, wine glasses, wine racks, drip stop rings, bottle sealers, stemware charms in the nature of a metallic ring with an attached miniature ornament for the purpose of identifying a user of a wine glass, corks, wine bottle foil cutters, carafes, decanters, coolers for wine, coasters, measuring spoons, measuring cups, garlic presses, potato peelers, pairing knives, scissors, cheese graters, ice cream scoops, pizza cutters, pepper mills, diet scales, scrapers, basters, whisks, citrus zesters, potato mashers; flatware; kitchenware, namely paper towel holders, napkin holders, fruit bowls, recipe card holders; knives, soup ladles, spatulas (metal/rubber), tongs, slotted spoons, serving spoons, serving forks, cake lifters, pasta forks, spice containers, spice racks, trivets, cake decorating items, cookie presses, spoon rests</p>	
 <p>1,204, 845</p>	<p><u>Wares:</u> (as set out in statement of opposition; only the italicized wares remain as of the date of my decision) <i>Cookware, namely, boxed cookware sets, open stock cookware, fry pans</i>; dinnerware, namely open stock dinnerware, boxed dinnerware; kitchen linens; stove top kettles; bake wares; mixing bowls; serving dishes; glass ware; drink ware; kitchen gadgets, namely can openers, wine openers and corkscrews, wine accessories, namely, wine glasses, wine racks, drip stop rings, bottle sealers, stemware charms in the nature of a metallic ring with an attached miniature ornament for the purpose of identifying a user of a wine glass, corks, wine bottle foil cutters, carafes, decanters, coolers for wine, coasters, measuring spoons, measuring cups, garlic presses, potato peelers, pairing knives, scissors, cheese graters, ice cream scoops, pizza cutters, pepper mills, diet scales, scrapers, basters, whisks, citrus zesters, potato mashers; flatware; kitchenware, namely paper towel holders, napkin holders, fruit bowls, recipe card holders; knives, soup ladles, spatulas (metal/rubber), tongs, slotted spoons, serving spoons, serving forks, cake lifters, pasta forks, spice containers, spice racks, trivets, cake decorating items, cookie presses, spoon rests</p>	<p>February 2, 2004</p>

FEDERAL COURT

SOLICITORS OF RECORD

DOCKETS: T-1664-11 AND T-1665-11

STYLE OF CAUSE: LONDON DRUGS LIMITED v INTERNATIONAL CLOTHIERS INC.

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: SEPTEMBER 30, 2013

**REASONS FOR JUDGMENT
AND JUDGMENT:** DE

MONTIGNY J.

DATED: MARCH 6, 2014

APPEARANCES:

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Kwan Loh

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Mark Evans

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