



LE REGISTRAIRE DES MARQUES DE COMMERCE  
THE REGISTRAR OF TRADE-MARKS

**Citation: 2016 TMOB 27**  
**Date of Decision: 2016-02-19**

**IN THE MATTER OF AN OPPOSITION**

**Advance Magazine Publishers Inc.**

**Opponent**

**and**

**Allan M.R. MacRae**

**Applicant**

**1,566,440 for INVOGUE DESIGNER**

**Application**

[1] Advance Magazine Publishers Inc. opposes registration of the trade-mark INVOGUE DESIGNER (the Mark) that is the subject of application No. 1,566,440 by Allan M.R. MacRae.

[2] Filed on February 29, 2012, the application is based on proposed use of the Mark in Canada in association with goods described as “authentic designer handbags, sunglasses, watches, jewelry and other luxury goods namely wallets” and services described as “online sale of authentic designer handbags, sunglasses, watches, jewelry and other luxury goods namely wallets”.

[3] The Opponent alleges that (i) the application does not conform to the requirements set out in section 30 of the *Trade-marks Act*, RSC 1985, c T-13 (the Act), (ii) the Mark is not registrable under section 12(1)(d) of the Act, (iii) the Applicant is not the person entitled to the registration of the Mark under section 16 of the Act, and (iv) the Mark is not distinctive under section 2 of the Act.

[4] For the reasons that follow, I refuse the application.

## The Record

[5] The Opponent filed its statement of opposition on May 28, 2013, which was amended on November 21, 2013 with leave from the Registrar. The Applicant filed and served its counter statement on July 23, 2013, which was amended on March 3, 2014 with leave from the Registrar, denying all of the grounds of opposition.

[6] In support of its opposition, the Opponent filed the affidavit of Elenita Anastacio, a trade-mark and trade-mark related information searcher employed by the Opponent's trade-mark agent. In support of its application, the Applicant filed his own affidavit. Mr. MacRae was cross-examined; the transcript of his cross-examination with the accompanying exhibit, and his replies to undertakings, has been made of record.

[7] Only the Applicant filed a written argument; both parties attended a hearing.

## The Parties' Respective Burden or Onus

[8] The Applicant bears the legal onus of establishing, on a balance of probabilities that its application complies with the requirements of the Act. However, there is an initial evidential burden on the Opponent to adduce sufficient admissible evidence from which it could reasonably be concluded that the facts alleged to support each ground of opposition exist [see *John Labatt Ltd v Molson Companies Ltd* (1990), 30 CPR (3d) 293 (FCTD) at 298].

## Does the Application Conform to the Requirements of Section 30 of the Act?

[9] The Opponent alleges that the Applicant could not have been satisfied of his entitlement to use the Mark in Canada in view of the fact that the Applicant was well aware of the Opponent's use of its trade-marks set out in Schedule "A" to the decision, their notoriety, and the fact that use of the Mark would cause confusion with those of the Opponent, contrary to section 30(i) of the Act.

[10] The Opponent further alleges that use of the Mark by the Applicant will depreciate and diminish the value of the goodwill of the Opponent's trade-marks set out in Schedule "A" to the decision, contrary to sections 22 and 30(i) of the Act.

[11] The material date for assessing a section 30 ground is the filing date of the application, namely February 29, 2012 in this case [see *Georgia-Pacific Corp v Scott Paper Ltd* (1984), 3 CPR (3d) 469 (TMOB) at 475].

[12] Section 30(i) of the Act requires an applicant to declare in the application that it is satisfied that it is entitled to use the trade-mark in Canada. Where an applicant has provided the required statement, the jurisprudence suggests that non-compliance with section 30(i) of the Act can be found only where there are exceptional circumstances that render the applicant's statement untrue [see *Sapodilla Co Ltd v Bristol-Myers Co* (1974), 15 CPR (2d) 152 (TMOB) at 155].

[13] The Opponent did not provide nor refer to any evidence in support of its section 30(i) ground of opposition. Moreover, the mere fact that an applicant might have been aware of an opponent's trade-marks would not by itself have been sufficient to put into question the statement.

[14] While the validity of a ground of opposition based on sections 30(i) and 22 of the Act has not been clearly established, even if it was to be considered a valid ground of opposition, it would not succeed for the Opponent has failed to adduce any evidence supporting a likelihood of depreciation of goodwill [see *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée* 2006 SCC 23, (2006), 49 CPR (4th) 401 (SCC)].

[15] Consequently, I dismiss the section 30(i) ground of opposition in view of the Opponent's failure to meet its initial burden.

#### Is the Mark Confusing with the Opponent's Registered Trade-marks?

[16] The Opponent alleges that the Mark is not registrable pursuant to section 12(1)(d) of the Act on the ground that it is confusing with the Opponent's registered trade-marks, set out in Schedule "A" to this decision.

[17] The material date for considering this issue, which arises from the section 12(1)(d) ground of opposition, is the date of my decision [see *Park Avenue Furniture Corporation v*

*Wickes/Simmons Bedding Ltd and The Registrar of Trade Marks* (1991), 37 CPR (3d) 413 (FCA)].

[18] An opponent's initial onus is met with respect to a section 12(1)(d) ground of opposition if the registration(s) relied upon is(are) in good standing. In this regard, the Registrar has the discretion to check the register in order to confirm the existence of the registration(s) relied upon by an opponent [see *Quaker Oats of Canada Ltd/La Compagnie Quaker Oats du Canada Ltée v Menu foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)]. Having exercised the Registrar's discretion, I confirm that all of the registered trade-marks alleged by the Opponent in its statement of opposition are in good standing.

[19] Since the Opponent has satisfied its initial evidential burden, the issue becomes whether the Applicant has met its legal burden to establish, on a balance of probabilities, that there is no reasonable likelihood of confusion between the Mark and any of the Opponent's registered trade-marks.

[20] For the reasons that follow, I accept this ground of opposition and decide this issue in favour of the Opponent.

[21] The test for confusion is one of first impression and imperfect recollection. Section 6(2) of the Act indicates that 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 goods or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class.

[22] In applying the test for confusion, the Registrar must have regard to all the surrounding circumstances, including those specifically enumerated in section 6(5) of the Act, namely: (a) the inherent distinctiveness of the trade-marks and the extent to which they have become known; (b) the length of time each has been in use; (c) the nature of the goods, services or business; (d) the nature of the trade; and (e) the degree of resemblance between the trade-marks in appearance or sound or in the ideas suggested by them. These enumerated factors need not be attributed equal weight [see *Mattel, Inc v 3894207 Canada Inc* (2006), 49 CPR (4th) 321 (SCC); *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée et al*, *supra*; and *Masterpiece Inc v Alavida Lifestyles Inc*

(2011), 92 CPR (4th) 361 (SCC) for a thorough discussion of the general principles that govern the test for confusion].

[23] In my opinion, taking into account the goods and services at issue, comparing the Mark and the registered trade-mark TEEN VOGUE of registration Nos. TMA821,328 and TMA641,823 will effectively decide the section 12(1)(d) ground of opposition. In other words, if confusion is not likely between the Mark and TEEN VOGUE, then it would not be likely between the Mark and any of the other registered trade-marks alleged by the Opponent.

[24] I will now turn to the assessment of the section 6(5) factors.

*Section 6(5)(a) - the inherent distinctiveness of the trade-marks and the extent to which they have become known*

[25] The overall consideration of the section 6(5)(a) factor involves a combination of inherent and acquired distinctiveness of the parties' trade-marks. I assess both parties' trade-marks to have a similar degree of inherent distinctiveness in that neither is a particularly strong trade-mark. In terms of the Opponent's trade-mark, the term TEEN possesses little inherent distinctiveness as it describes that the Opponent's goods and services are designed for teenagers, while the term VOGUE is suggestive of the goods and services being fashionable. Similarly, the term INVOGUE is suggestive of the Applicant's goods and services being "in vogue" or fashionable, while the term DESIGNER is descriptive of the Applicant's authentic designer fashion accessories and the sale thereof.

[26] The strength of a trade-mark may be increased by means of it becoming known in Canada through promotion or use. However, neither party provided any evidence of promotion or use of their marks in Canada.

[27] At the hearing, the Opponent submitted that the Registrar should take judicial notice of the extent to which its VOGUE trade-mark has become known and of its notoriety in Canada. The Opponent appears to rely on this proposition in place of filing any evidence of promotion and use of its trade-marks in this proceeding.

[28] The only evidence submitted by the Opponent in the present case are the particulars of its trade-mark registrations and applications set out in Schedule “A” to this decision. Suffice it to say that I am not prepared to take judicial notice of the extent to which any of the Opponent’s trade-marks are known in Canada and I do not consider there to be any public interest in completing the Opponent’s evidence in its place.

[29] In view of the foregoing, the section 6(5)(a) factor does not favour either party.

*Section 6(5)(b) - the length of time the trade-marks have been in use*

[30] The application for the Mark is based upon proposed use in Canada and there is no evidence that the Mark has been used to date.

[31] In comparison, while it is true that the Opponent’s registration No. TMA641,823 claims use in Canada since at least as early as September 2000 and that a declaration of use was filed for registration No. TMA821,328 on March 23, 2012, the mere existence of the Opponent’s registrations can establish no more than *de minimis use* and cannot give rise to an inference of significant and continuous use of the mark [see *Entre Computer Centers, Inc v Global Upholstery Co* (1991), 40 CPR (3d) 427 (TMOB)].

[32] In the absence of evidence of actual use of either party’s marks, the section 6(5)(b) factor does not significantly favour either party.

*Sections 6(5)(c) and (d) - the nature of the goods, services, trade and business*

[33] Sections 6(5)(c) and (d) factors involve the nature of the goods, services, trade and business.

[34] When considering sections 6(5)(c) and (d) of the Act, it is the statements of goods and services as defined in the application for the Mark and in the Opponent’s registration Nos. TMA641,823 and TMA821,328 that govern the assessment of the likelihood of confusion under section 12(1)(d) of the Act [see *Henkel Kommanditgesellschaft auf Aktien v Super Dragon Import Export Inc* (1986), 12 CPR (3d) 110 (FCA); and *Mr Submarine Ltd v Amandista Investments Ltd* (1987), 19 CPR (3d) 3 (FCA)].

[35] Furthermore, the statements of goods and/or services must be read with a view to determine the probable type of business or trade intended by the parties rather than all possible trades that might be encompassed by the wording [see *McDonald's Corp v Coffee Hut Stores Ltd* (1996), 68 CPR (3d) 168 (FCA); *Procter & Gamble Inc v Hunter Packaging Ltd* (1999), 2 CPR (4th) 266 (TMOB); *American Optical Corp v Alcon Pharmaceuticals Ltd* (2000), 5 CPR (4th) 110 (TMOB)].

[36] The Opponent's trade-mark TEEN VOGUE is registered for use in association with goods including totebags, handbags, backpacks, cosmetic bags, and accessory cases for laptops and wireless handheld telecommunication devices, as well as related services including the operation of online retail services featuring beauty, fashion and entertainment.

[37] The Mark is applied for use in association with authentic designer handbags, sunglasses, watches, jewelry and wallets, as well as the online sale of those items. During cross-examination, Mr. MacRae explained that while he has not ruled out the possibility of designing and making his own products under the Mark, he has not used the Mark on the applied for goods thus far and the intention is for a company by the name of INVOGUE DESIGNER HANDBAGS INC. to sell authentic designer handbags and other applied for goods online [see MacRae cross-examination Qs17 to 21, 33 to 36, and 38 to 41].

[38] There is clear overlap between the parties' goods and services as both pertain to fashion accessories and the sale thereof. In addition, neither of the Opponent's registrations nor the subject application contains any restriction on the parties' channels of trade. Given that the parties' goods and services clearly overlap, for the purpose of assessing confusion, I conclude that there is potential for overlap between the parties' channels of trade.

[39] Accordingly, these two factors clearly favour the Opponent.

*Section 6(5)(e) - the degree of resemblance between the trade-marks in appearance or sound or in the ideas suggested by them*

[40] In his affidavit, the Applicant includes the search results of the *Canadian Trade-marks Database* for trade-marks that contain the term "invogue". Aside from the subject application,

there appears to be only one other application for a trade-mark that includes the term “invogue”, which has been abandoned under section 36 of the Act. This information is of no assistance to the Applicant’s case as both parties’ trade-marks need not be identical for there to be a likelihood of confusion. In this regard, likelihood of confusion is assessed by taking into consideration all the surrounding circumstances, including the degree of resemblance between the trade-marks in appearance or sound or in the ideas suggested by them.

[41] When considering the degree of resemblance, the law is clear that the trade-marks must be considered in their totality. It is not correct to lay them side by side and compare and observe similarities or differences among the elements or components of the trade-marks. It is nevertheless possible to focus on particular features of a mark that may have a determinative influence on the public’s perception of it [see *United Artists Corp v Pink Panther Beauty Corp* (1998), 80 CPR (3d) 247 at 263 (FCA)].

[42] Moreover, while the first component of a trade-mark is often considered more important for the purpose of distinction [see *Conde Nast Publications Inc v Union des Editions Modernes* (1979), 46 CPR (2d) 183 (FCTD) and *Park Avenue Furniture Corp v Wickes/Simmons Bedding Ltd* (1991), 37 CPR (3d) 413 (FCA)], the preferable approach is to begin by determining whether there is an aspect of the trade-mark that is particularly striking or unique [see *Masterpiece* at para 64].

[43] In the case of the Opponent’s trade-mark, I am of the view that the term VOGUE represents the relatively more striking component of the trade-mark considering that the word TEEN describes that the Opponent’s goods and services are designed for teenagers. In the case of the Mark, I am of the view that the term INVOGUE is the relatively more striking component of the trade-mark considering that the word DESIGNER describes the Applicant’s authentic designer fashion accessories and the sale thereof.

[44] When considered in their entirety, there is a high degree of resemblance between the striking component of the Opponent’s trade-mark and that of the Mark in appearance, sound, and in ideas suggested owing to the terms VOGUE and INVOGUE. In this regard, both parties’ marks evoke the idea of fashion accessories that are in vogue or fashionable.



[45] Accordingly, this factor favours the Opponent.

*Additional surrounding circumstances*

[46] As mentioned above, at the hearing, the Opponent asked the Registrar to take judicial notice of the extent to which its VOGUE trade-mark has become known and of its notoriety in Canada. The Opponent also pointed to the Opponent's "VOGUE derivative marks" and the ability for a well known mark to transcend beyond goods and services of its own category.

[47] For reasons explained above, I will not take judicial notice of the extent to which any of the Opponent's trade-marks are known in Canada. Moreover, to the extent that the Opponent is relying on a family of VOGUE marks, it must evidence use of those trade-marks in the marketplace and it has not done so [see *McDonald's Corp v Yogi Yogurt* (1982), 66 CPR (3d) 101 (FCTD)]. In the absence of any evidence of promotion and use of any of its trade-marks, I do not consider these to be additional surrounding circumstances in the present case.

[48] In his affidavit, the Applicant sets out the results of an Internet search he conducted regarding the use of the terms "IN VOGUE" and "IN-VOGUE" by third parties in association with goods and services other than magazines. In particular, Mr. MacRae identifies 21 businesses whose names and/or trade-marks appear to include the terms "IN VOGUE" and "IN-VOGUE", along with their geographical locations, as well as their respective website addresses. To the extent that the Applicant is relying on this evidence to show commonality or coexistence of businesses names and/or trade-marks using the term "IN VOGUE" or "IN-VOGUE" in the marketplace in association with goods and services similar to those of the Applicant, this proposition must fail for a number of reasons.

[49] First, none of the businesses identified by the affiant are located in Canada, thus use of the term outside of the Canadian marketplace has no bearing on the subject opposition proceeding. Second, there is no indication that any of these websites have been accessed by Canadians during the material time, thus there is no indication that use of these terms have any impact on the average Canadian consumer. Third, there is no evidence of the nature of the goods, services, or trade of these businesses, thus I am unable to determine the relevance of such third party usages in the context of the goods and services in question in the present proceeding.

Fourth, the question at issue is whether the use of the Mark would cause confusion with any of the Opponent's registered trade-marks in Canada if the use of both in the same area would be likely to lead to the inference that the goods or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class. In the present case, the goods and services registered in association with the Opponent's trade-marks set out in Schedule "A" to this decision extend well beyond magazines; they include goods and services that directly overlap with or are closely related to the Applicant's goods and services. In the end, evidence of use of the terms "IN VOGUE" and "IN-VOGUE" by third party businesses outside of Canada submitted by the Applicant is of no assistance to the confusion analysis in the present proceeding.

*Conclusion in the likelihood of confusion*

[50] In applying the test for confusion, I have considered it as a matter of first impression and imperfect recollection. Having considered all of the surrounding circumstances, while the Opponent's trade-mark does not possess a high degree of inherent distinctiveness, in view of the clear overlap in the nature of the parties' goods and services and the potential for overlap in their channels of trade, as well as the similarity of the parties' marks in appearance, sound, and ideas suggested, I am not satisfied that the Applicant has discharged its burden to prove, on a balance of probabilities, that there is no likelihood of confusion between the Mark and the Opponent's registered trade-mark TEEN VOGUE.

[51] Accordingly, the section 12(1)(d) ground of opposition is successful.

Was the Applicant the person entitled to registration of the Mark?

[52] The Opponent alleges that the Applicant is not the person entitled to registration of the Mark:

- pursuant to section 16(3)(a) of the Act, on the ground that it is confusing with the Opponent's trade-marks set out in Schedule "A" to this decision, which have been used by the Opponent continuously and extensively in Canada, and are very well known and famous in Canada; and

- pursuant to 16(3)(b) of the Act, on the ground that it is confusing with the Opponent's applied for trade-marks, set out in Schedule "A" to this decision, for which an application had been previously filed.

[53] The material date for considering these grounds of opposition is the filing date of the subject application, namely February 29, 2012.

[54] For the reasons that follow, I reject the section 16(3)(a) ground of opposition and accept the section 16(3)(b) ground of opposition.

The section 16(3)(a) ground

[55] With respect to the section 16(3)(a) ground of opposition, the Opponent has the initial burden of proving that one or more of the alleged trade-marks were used or made known in Canada prior to the material date and had not been abandoned at the date of advertisement of the application for the Mark [section 16(5) of the Act]. It has not done so [see *Rooxs, Inc v Edit-SRL* 23 CPR (4th) 265 at 268].

[56] Accordingly, the section 16(3)(a) ground of opposition is dismissed for the Opponent's failure to meet its initial burden.

The section 16(3)(b) ground

[57] With respect to the section 16(3)(b) grounds of opposition, the Opponent has the initial burden of establishing that one or more of the alleged applications were filed prior to the filing date of the Applicant's application, and that it was not abandoned at the date of advertisement of the application for the Mark [section 16(4) of the Act].

[58] The Registrar has the discretion to check the register in order to confirm the existence of registrations and applications relied upon by an opponent [see *Quaker Oats of Canada Ltd/La Compagnie Quaker Oats du Canada Ltée v Menu foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)]. I have exercised that discretion and confirm that with the exception of the trade-mark TEEN VOGUE of application No. 1,598,521, all of the remaining Opponent's applications set out in

Schedule “A” to this decision were filed prior to February 29, 2012, and were pending as of January 2, 2013.

[59] As the Opponent has satisfied its initial burden, the Applicant must therefore establish, on a balance of probabilities, that there was not a reasonable likelihood of confusion between its Mark and any of the Opponent’s pending trade-marks as of February 9, 2012.

[60] In my opinion, taking into account the goods and services at issue, comparing the Mark and the applied for trade-mark TEEN VOGUE of application No. 1,521,538 will effectively decide the section 16(3)(b) ground of opposition. In other words, if confusion is not likely between the Mark and TEEN VOGUE, then it would not be likely between the Mark and any of the other applied for trade-marks alleged by the Opponent.

[61] The facts are essentially identical to those considered in the section 12(1)(d) ground of opposition for the Opponent’s pending TEEN VOGUE trade-mark whose application is based on proposed use of the mark. Notably, the Opponent’s trade-mark is also applied for use in association with fashion items and fashion accessories including cases for mobile phones and tablet computers, a variety of jewelry, handbags, tote bags, backpacks, cosmetic bags, wallets, t-shirts, casual footwear, scarves, gloves and belts. Once again, there is no evidence of promotion and/or use of the mark.

[62] The considerations are essentially the same as those under the section 12(1)(d) ground and the difference in relevant dates does not affect my analysis.

[63] Accordingly, the section 16(3)(b) ground is successful.

#### Is the Mark Distinctive of the Applicant’s Goods and Services?

[64] The Opponent alleges that the Mark is not distinctive under section 2 of the Act as it does not distinguish, nor is it adapted to distinguish, the Applicant’s goods and services in view of the Opponent’s continuous and extensive use of its “very well known” and “famous” trade-marks set out in Schedule “A” to this decision in Canada.

[65] In order to meet its initial burden with respect to the non-distinctiveness ground of opposition, the Opponent was required to show that at least one of the alleged trade-marks had become known sufficiently in Canada, as of the filing date of the statement of opposition, that is May 28, 2013, to negate the distinctiveness of the Mark [see *Metro-Goldwyn-Mayer Inc v Stargate Connections Inc* (2004), 34 CPR (4th) 317 (FC); *Motel 6, Inc v No 6 Motel Ltd* (1981), 56 CPR (2d) 44 (FCTD); and *Bojangles' International LLC v Bojangles Café Ltd* (2006), 48 CPR (4th) 427 (FC)]; it has not done so.

[66] In the absence of evidence of use and/or reputation of any of its trade-marks, the Opponent has not met its initial evidential burden with respect to the non-distinctiveness ground.

[67] Accordingly, the non-distinctiveness ground of opposition is dismissed.

#### Disposition

[68] In view of the foregoing, pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the application pursuant to section 38(8) of the Act.

---

Pik-Ki Fung  
Member  
Trade-marks Opposition Board  
Canadian Intellectual Property Office

**TRADE-MARKS OPPOSITION BOARD  
CANADIAN INTELLECTUAL PROPERTY OFFICE  
APPEARANCES AND AGENTS OF RECORD**

---

**HEARING DATE:** November 6, 2015

**APPEARANCES**

NATHAN FAN

FOR THE OPPONENT

ALLAN M.R. MACRAE

FOR THE APPLICANT

**AGENTS OF RECORD**




Sim & McBurney

FOR THE OPPONENT

No agent appointed

FOR THE APPLICANT

**Schedule "A"**

<b>Opponent's Registered Trade-mark</b>	<b>Registration no.</b>	<b>Goods and Services</b>
VOGUE	UCA4268	Goods: (1) Magazines and similar publications.
"VOGUE"	TMDA42009	Goods: (1) Patterns.
	TMDA19676	Goods: (1) A trade journal
VOGUE CAREER	TMA346,637	Goods: (1) Books and paper patterns.
VOGUE DECORATION	TMA388,687	Goods: (1) Printed publications, namely magazines.
	TMA468,713	Goods: (1) Paper sewing patterns for making clothes. (2) Paper sewing patterns.
VOGUE	TMA576,133	Services: (1) Online magazine and publications distributed in electronic format via the internet; operating an internet website which allows consumers to subscribe to consumer magazines and allows advertisers to promote their goods and services via the internet.
	TMA561,966	Goods: (1) Printed publications, namely magazines, books and periodicals. Services: (1) Internet services, namely providing fashion and style information via the internet.
VOGUE HOMBRE	TMA576,327	Services: (1) Online magazines and publications distributed in electronic format via the internet; operating an internet website which allows consumers to subscribe to consumer magazines and allows advertisers to promote their goods and services via the internet.
VOGUE HOMMES INTERNATIONAL MODE	TMA595,905	Goods: (1) Magazines, newspapers and pamphlets.

Opponent's Registered Trade-mark	Registration no.	Goods and Services
TEEN VOGUE	TMA641,823	<p>Goods:            (1) Printed matter, namely periodic publications, namely a fashion and entertainment magazine; newspapers, books, magazines.</p> <p>Services:            (1) Disseminating a wide range of information all relating to fashion, beauty and entertainment by means of computer databases available via a global computer network, wireless, satellite, and other communication media; transmitting and broadcasting live action entertainment services all relating to fashion, beauty and entertainment by means of computer databases available via a global computer network, wireless broadcast, satellite, internet, CD-ROMs, electronic publications and multimedia interactive software, telephonic and cable; operating online retail services featuring beauty, fashion and entertainment; operating interactive forums and chatrooms all relating to a fashion, beauty and entertainment; computer services, namely providing fashion, beauty and entertainment information and instruction over the internet.</p>
VOGUE	TMA774,911	<p>Goods:            (1) Electronic publications, namely magazines, computer software, namely periodicals and magazines in electronic form.</p>
VOGUE PATTERNS	TMA781,295	<p>Goods:            (1) Printed and electronic publications, namely, books, catalogues, directories, journals, magazines, manuals, newsletters and periodicals; Sewing patterns, patterns, namely, for clothes making, craft, embroidery design and knitting.</p> <p>Services:            (1) Operating websites which provide information in the field of patterns for knitting and making clothes.</p>
VOGUEPEDIA	TMA857,115	<p>Goods:            (1) Software products, namely downloadable computer software for mobile phones, personal computers, consoles and tablets, for downloading, transmitting, receiving, providing, publishing extracting, encoding, decoding, reading, storing and organizing audio visual, videographic and written data all in conjunction with a global computer network.</p> <p>Services:            (1) Providing an online interactive encyclopaedia and providing information in the field of fashion, style, people and entertainment; providing electronic publishing services; electronic transmission of data and documents, namely audio clips, video clips, photographs, articles and text in the field of beauty, fashion, fashion shows, publishing, photography, modelling entertainment and pop culture, via the internet and other databases.</p>



Opponent's Registered Trade-mark	Registration no.	Goods and Services
VOGUE	TMA847,253	<p>Services:</p> <p>(1) Broadcasting services, namely the operation of a television channel; cable transmission services, namely the electronic transmission of television and radio programming, and video, audio and voice clips over a cable system; satellite transmission services, namely the transmission of television via satellite; providing downloadable ring tones, music, MP3's, graphics, games, videos, pictures and information in the field of fashion and style for wireless mobile communication devices; providing wireless transmission services to enable the uploading and downloading of ring tones, voice clips, music, MP3's, graphics, games, videos, pictures, information in the field of fashion and style and news via a global computer network to a wireless mobile communication device; voting and polling through a wireless mobile communication device; sending and receiving voice and text messages between wireless mobile communications; providing on-line voting system via the internet or a wireless communication device; internet and communication services, namely streaming live, pre-recorded and downloadable video and audio signals, namely musical performances, music videos, radio shows, television shows, video clips, audio clips and film clips, via the Internet; educational, teaching and training services, namely organizing, presenting, sponsoring, providing and staging conferences, training sessions, seminars, courses, workshops and conventions on topics in the field of fashion, style, television, movies, live performances, sports, and culture; production, distribution and transmission of radio and television programs; production, distribution of films and live entertainment features, namely musical performances, comedic performances and plays; production, distribution and transmission of animated motion pictures and television programs; scheduling, distribution, transmission and broadcast of motion pictures, television programs and live entertainment performances, namely musical performances, concerts, comedic performances and plays, and shows; production and distribution and publishing of books, magazines and periodicals; providing information on the applicant's television programming services to multiple users via the world wide web or the internet or other on-line databases, on-line voting system; production, distribution and transmission of dance shows, music shows and video award shows; broadcasting of live and pre-recorded comedy shows, game shows and sports events before live audiences; live musical concerts; TV news shows; organizing talent contests and music and television award events; production and distribution of information in the field of entertainment, namely fashion, style and culture, by means of a global computer network; entertainment services, namely the development, production, scheduling, distribution, transmission and broadcast of television programming; television programming services, namely the provision of television programs featuring a wide range of cultural, educational and entertainment topics; online services, namely the operation of an Internet website containing audio clips, video clips, musical performances, musical videos, film clips, photographs, text and links to other websites in the field of television, fashion, style, culture and haute couture.</p>

<b>Opponent's Registered Trade-mark</b>	<b>Registration no.</b>	<b>Goods and Services</b>
TEEN VOGUE	TMA821,328	Goods: (1) Totebags, handbags, backpacks; cosmetic bags; accessory cases for laptops and wireless handheld telecommunications devices.

<b>Opponent's Applied For Trade-mark</b>	<b>Application no.</b>	<b>Goods and Services</b>
TEEN VOGUE	1,521,538	Goods: (1) Cases for mobile phones and tablet computers. (2) Jewelry, namely costume jewelry items such as bracelets, necklaces, earrings, rings, key chains as jewelry. (3) Handbags, tote bags, backpacks, travel bags, laptop bags, cosmetic bags, wristlet bags, wallets. (4) T-shirts, footwear, namely, casual footwear; scarves, gloves, belts.
TEEN VOGUE	1,458,146	Goods: (1) Bedding; sheets, comforters, quilts, throws, blankets, bed skirts, pillows. (2) Furniture, namely desks, chairs, bookcases; window treatments, namely cotton fabrics for use in connection with window frame decoration; rugs, chairs, ottomans, bean bag chairs. (3) Storage products, namely storage containers made out of plastic, rubber, wood and/or metal; drawers, hampers, namely laundry baskets and laundry storage containers. (4) Table and floor lamps, lava lamps, night lights.
VOGUE	1,467,908	Services: (1) Café, lounge, hotel, bar, restaurant services.
TEEN VOGUE	1,598,521	Goods: (1) Hair tools, namely, flat irons, hair dryers, hair curlers; Computer storage devices, namely, USB flash drives, thumb drives, headphones, earbuds; luggage, rolling luggage, suitcases, travel bags, duffle bags; room/dorm room organizers, namely, plastic and cardboard shelf and closet organizers, storage containers, shoe racks, desk organizers; furniture, namely, headboards, desks, bookcases, stools, dressers, tables; pet accessories, namely, collars, leashes, pet apparel, travel crates, carrying bags; room decor, namely, picture frames, jewelry boxes, ceramic jars, wall art.
VOGUE CAFÉ	1,500,897	Services: (1) Restaurant and bar services, night clubs and cafes.

Opponent's Applied For Trade-mark	Application no.	Goods and Services
VOGUE	1,524,925	<p>Goods:</p> <p>(1) Clothing, footwear, headwear and promotional items, namely bathrobes, towels, face cloths, hand soaps, shampoo, conditioners, skin lotions, skin creams, t-shirts, bath sheets, beach towels, hats, caps, visors, golf towels, golf balls, sandals, flip flops and beach balls.</p> <p>Services:</p> <p>(1) Hotel services featuring a reward program for use in hotels, restaurants, shopping and resorts.</p> <p>(2) Providing meeting facilities featuring an incentive award program directed to users of the facilities.</p> <p>(3) Health club services, namely providing instruction and equipment in the field of physical exercise; health clubs providing physical fitness facilities for recreational purposes.</p> <p>(4) Health resort services, namely, providing food and lodging that specialize in promoting patrons' general health and well-being; resort, health and day spa services.</p> <p>(5) Beauty salon and health spa services, namely, facials, body massages, mineral baths, cosmetic body care services.</p> <p>(6) Arranging meetings, conferences, seminars and social functions in the field of fashion and style, arranging seminars/classes in the field of arts, crafts, wine, food, travel, culinary arts, sports, yoga and physical fitness.</p> <p>(7) Real estate development services; real estate brokerage, real estate and land acquisitions, real estate equity sharing, namely, managing and arranging for ownership of real estate, condominiums, apartments; real estate investment, real estate management, real estate time sharing and leasing of real estate and real property, including condominiums and apartments; hotel services, motel services, resort lodging services, motor inn services; restaurant, café, cafeteria, cocktail lounge services; temporary accommodation services, namely, hotels, motels, motor inns and resorts accommodation services; concierge services; casino and gaming services.</p> <p>(8) Restaurant, bar, cocktail, catering, and food and beverage services, namely preparation of and serving food and beverages.</p> <p>(9) Entertainment services namely live entertainment services, namely fashion shows, provision of night club services; provision of amusement arcade services; health and sport club services; discotheque services, production of plays and cabarets, gaming services, bowling centres.</p> <p>(10) Arranging and organizing conferences, seminars in the field of fashion and style.</p>