



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

**Citation: 2016 TMOB 148**  
**Date of Decision: 2016-08-30**

**IN THE MATTER OF AN OPPOSITION**

**SanDisk Corporation**

**Opponent**

**and**

**UC Mobile Co. Ltd.**

**Applicant**

**1,610,856 for Squirrel Design**

**Application**

Introduction

[1] SanDisk Corporation (the Opponent) opposes registration of the trade-mark Squirrel Design (the Mark) as illustrated below:



[2] The application was filed by UC Mobile Co. Ltd. (the Applicant) on January 22, 2013 on the basis of proposed use in Canada.

[3] The Applicant filed an amended application on May 30, 2016 to amend the list of goods and services. The Registrar accepted such amendment on June 13, 2016. The list of goods (the Goods) and services (the Services) enumerated in the amended application is reproduced at Annex A to this decision.

#### The Record

[4] The application was advertised in the *Trade-marks Journal* on June 12, 2013.

[5] The Opponent filed a statement of opposition on November 12, 2013 under section 38 of the *Trade-marks Act*, RSC 1985, c T-13 (the Act). The grounds of opposition pleaded are based on sections: 30(i), 16(2)(b), 16(3)(b) and 2 (distinctiveness).

[6] The Applicant filed and served a counter statement on February 11, 2014 in which it denied each ground of opposition pleaded by the Opponent.

[7] The Opponent filed as its evidence the affidavit of Ms. Alica Del Valle executed September 10, 2014. The Applicant filed as its evidence the affidavit of Zhao Wei executed on December 23, 2014.

[8] Only the Opponent filed written arguments and both parties were represented at the hearing.

[9] For the reasons explained below, I refuse in part the application.

#### Preliminary remarks

[10] I wish to point out that in reaching my decision I have considered all the evidence in the file but I will only refer in my reasons for this decision to the relevant portions of the evidence.

[11] Two days prior to the hearing, the Opponent filed a supplemental written argument raising the issue of the Registrar's lack of jurisdiction to issue a split decision. The Applicant did not object to the filing of such document. Therefore, I consider the Opponent's supplemental written argument to form part of the record.

[12] I will address that issue later in this decision.

### Grounds of opposition summarily dismissed

[13] I pointed out to the Opponent that the application was filed solely on the basis of proposed use in Canada. A ground of opposition based on section 16(2)(b) of the Act concerns the entitlement of an applicant to register a trade-mark where the application is based on a registration obtained in or for the country of origin of the applicant and that the trade-mark has been used. No argument was made by the Opponent in its written argument and at the hearing on this ground of opposition.

[14] Consequently, I dismiss the ground of opposition based on section 16(2)(b) of the Act.

[15] As for the ground of opposition based on the provisions of section 30(i) of the Act, it reads:

Pursuant to Section 38(2)(a) of the Act, the Applicant's application does not comply with the provisions of Section 30(i) of the Act, namely, the Applicant could not have been satisfied that it was entitled to use the SQUIRREL DESIGN trademark in Canada in association with the wares and services noted in the application.

[16] This ground of opposition is insufficiently pleaded and is therefore dismissed. There are no material facts alleged to support this ground of opposition. In any event, it has often been ruled that section 30(i) of the Act only requires an applicant to declare itself satisfied that it is entitled to use the mark applied for in Canada in association with the goods and services described in the application. Such a statement is included in the present application. An opponent may rely on section 30(i) in specific cases such as where bad faith on the part of the applicant is alleged [see *Sapodilla Co Ltd v Bristol Myers Co* (1974), 15 CPR (2d) 152 (TMOB)]. There is no allegation to that effect in the statement of opposition or evidence of bad faith on the part of the Applicant in the record.

[17] Consequently, this ground of opposition is dismissed.

### The parties' respective burden of proof

[18] The legal onus is on the Applicant to show that its application does not contravene the provisions of the Act as alleged in the statement of opposition. This means that if a determinate conclusion cannot be reached once all the evidence is in, then the issue must be decided against

the Applicant. However, there is also an evidential burden on the Opponent to prove the facts inherent to its pleadings. The presence of an evidential burden on the Opponent means that in order for a ground of opposition to be considered at all, there must be sufficient evidence from which it could reasonably be concluded that the facts alleged to support that ground of opposition exist [see *John Labatt Ltd v Molson Companies Ltd* (1990), 30 CPR (3d) 293 (FCTD); *Dion Neckwear Ltd v Christian Dior, SA et al* 2002 FCA 291, 20 CPR (4th) 155; and *Wrangler Apparel Corp v The Timberland Company*, 2005 FC 722, 41 CPR (4th) 223].

Ground of opposition based on section 16(3)(b) of the Act

[19] The ground of opposition based on section 16(3) of the Act must be assessed at the filing date of the application which is January 22, 2013 [see section 16(3) of the Act]. The Opponent pleaded in its statement of opposition that the Mark was confusing with the Opponent's trade-mark RED SQUIRREL Design, the subject of application 1568162, previously filed in Canada, namely on March 9, 2012. Consequently, the Opponent had the initial burden to prove that it had previously filed such application in Canada.

[20] For sake of reference I reproduce the the Opponent's trade-mark RED SQUIRREL Design:



Colour is claimed as a feature of that Mark. The squirrel is red with a white eye and the geometric design is black.

[21] Ms. Del Valle has been the Director, Legal Global Trademark, Advertising & Brand Protection of the Opponent. She states that the Opponent obtained the registration for RED SQUIRREL Design in the United States and filed as Exhibit B a copy of such registration. She goes on to allege that the Opponent filed on March 9, 2012 an application in Canada for the same

trade-mark, under application number 1568162, based on proposed use in Canada and claiming priority based on the US application filed on September 9, 2011 for the following goods: mobile application software that allows users to manage and transfer digital data; memory cards. She filed as Exhibit C a copy of the filing receipt for such Canadian application.

[22] Section 16(4) of the Act provides that application 1568162 must be pending at the advertisement date of the Applicant's application (June 12, 2013). The Applicant, through the affidavit of Mr. Wei, the Intellectual Property Manager of the Applicant, and in particular by referring to Exhibit F to his affidavit, an extract of the register, tried to establish that the Opponent's application had been abandoned.

[23] I used my discretion and checked the register. In fact a default notice was sent but on December 2, 2014 to the Opponent with respect to its pending application. However, the Registrar removed the default notice on December 17, 2014. Consequently, application 1568162 was still pending on June 13, 2013.

[24] From this portion of the evidence, I conclude that the Opponent has met its initial burden.

[25] The test for confusion is outlined in section 6(2) of the Act. Some of the surrounding circumstances to be taken into consideration when assessing the likelihood of confusion between two trade-marks are described in section 6(5) of the Act: the inherent distinctiveness of the trade-marks and the extent to which they have become known; the length of time the trade-marks or trade-names have been in use; the nature of the goods, services, or business; the nature of the trade; and the degree of resemblance between the trade-marks in appearance, or sound or any ideas suggested by them. Those criteria are not exhaustive and it is not necessary to give each one of them equal weight [see *Mattel Inc v 3894207 Canada Inc* 2006 SCC 22 (CanLII), 49 CPR (4th) 321 (SCC); *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée* 2006 SCC 623(CanLII), 49 CPR (4th) 401 (SCC); and *Masterpiece Inc v Alavida Lifestyles Inc et al* 2011 SCC 27 (CanLII), 92 CPR (4th) 361 (SCC)].

[26] The test under section 6(2) of the Act does not concern the confusion of the marks themselves, but confusion of goods or services from one source as being from another source. In the instant case, the question posed by section 6(2) is whether a consumer, with an imperfect recollection of the Opponent's RED SQUIRREL Design mark, who sees the Applicant's Goods

and Services in association with the Mark, would think they emanate from, or are sponsored by, or approved by the Opponent.

*Inherent distinctiveness of the trade-marks and the extent to which they have become known*

[27] The parties' respective marks consist of a squirrel design and are therefore both inherently distinctive. The degree of distinctiveness of a trade-mark may be enhanced through its use or promotion in Canada.

[28] Mr. Wei has been the Intellectual Property Manager of the Applicant since February 2013. He alleges that the design trade-mark was created on August 27, 2012 and that the Applicant has been using the Mark in Canada since December 2012 when it adopted the Mark as the new logo for its UC Browser product. To substantiate such allegation, Mr. Wei filed as Exhibit B printouts from the Applicant's website about the launch of the new logo for its UC Browser, as well as printouts of its Facebook page and from amazon.ca showing the Mark in association with UC Browser available for download with an initial release of December 24, 2012.

[29] However, the application was filed on the basis of proposed use. The ground of opposition pleaded is based on section 16(3) of the Act. Under these circumstances, I do not consider relevant any evidence of use of the Mark prior to the relevant date. In any event, the evidence described above does not constitute proper evidence of use of a trade-mark in association with its UC Browser product within the meaning of section 4(1) of the Act. There is no evidence of transfer of property of any of the Goods in association with the Mark.

[30] As for the Opponent's use of its RED SQUIRREL Design mark prior to the relevant date, in her affidavit, Ms. Valle states that the Opponent has been using RED SQUIRREL Design mark in Canada since September 26, 2011 which is the date when the Opponent's Memory Zone mobile application (App) was released to the public via the Google Play mobile application store.

[31] The evidence contained in Ms. Valle's affidavit on this issue can be summarized as follow:

- She filed as Exhibit "F" pages from Amazon.com and Amazon.ca showing the RED SQUIRREL Design trade-mark with the App available for downloading, with an initial release date of October 13, 2011;
- She filed as Exhibit "G" a screenshot from the Opponent's Facebook page dated September 30, 2011 depicting online promotion of the App and showing the RED SQUIRREL Design trade-mark;
- She filed as Exhibit "H" a screenshot of an advertisement for the App showing the RED SQUIRREL Design trade-mark;
- She filed as Exhibit "I" screenshots from YouTube website depicting third-party video product reviews and commentary regarding the App and showing the RED SQUIRREL Design trade-mark;
- She filed as Exhibit "J" numerous screenshots of third-party blog-posts and online media coverage from 2011 and 2012 reviewing, discussing, and promoting the App and showing the RED SQUIRREL Design trade-mark;
- She asserts that, beginning on March 16, 2012, the Opponent featured the RED SQUIRREL Design trade-mark on product packaging for smartphone and tablet compatible memory cards to promote the App. She filed as Exhibit "K" images of the Opponent's product packaging for smartphone and tablet compatible memory cards featuring the RED SQUIRREL Design trade-mark with the first version in use as early as March 16, 2012;
- She then filed as Exhibit "L" a Google Analytics screenshot showing the number of visits between September 1, 2011 and July 23, 2014 to the Opponent's Memory Zone microsite found on the *www.sandisk.com* website. As of July 23, 2014, visitor page views originating from Canada rank 12th among all countries with access to the website, accounting for 13,454 of the 661,427 global page views;
- She alleges that on December 4, 2011, the App was ranked in Canada as the 50th most downloaded "Productivity" application on Google Play. Since that time to the present, the App has consistently been a top 300 most downloaded productivity app in Canada. She then filed as Exhibit "M" screenshots from the App Annie website, which provides global download rankings for mobile applications, regarding the Opponent's Memory Zone App.

[32] However, I noted the following flaws:

- With respect to Exhibits F and G, there is no information on the number of viewers from Canada;
- With respect to Exhibit H, there is no date provided; where this advertisement was published; and the number of Canadians that viewed it;
- Concerning Exhibit I, there is no information on the number of Canadians who made reviews;
- As for Exhibit J, some pages are written in a foreign language; there is no information on the origin of those blog-posts; most of them are undated and some have a copyright notice of 2014, which is after the relevant date;
- Finally, regarding Exhibit L, since the period covered by the report is from September 1, 2011 and July 23, 2014, we have no information on the number of visits up to the relevant date. It could be that the visits occurred after the relevant date.

[33] Despite those deficiencies, I conclude that the Opponent's RED SQUIRREL Design trade-mark was known in Canada to some extent as of the relevant date. This factor favours the Opponent, but is not a determining factor given the absence of the use of that trade-mark as discussed under the next sub-heading.

*The length of time the marks have been in use*

[34] There is no evidence of use of the Opponent's trade-mark RED SQUIRREL Design prior to the relevant date as there is no evidence of transfer of property in association with the Opponent's trade-mark RED SQUIRREL Design within the meaning of section 4(1) of the Act. The application is based on proposed use. In any event, as discussed above, there is no evidence of use of the Mark in Canada in association with any of the Goods or Services within the meaning of section 4 of the Act. Accordingly, this factor does not favour any of the parties.

*The nature of the goods and services and their channels of trade*

[35] The Applicant argues that the nature of the Goods and Services is different than the Opponent's goods and the latter is of the contrary view. I shall now summarize the evidence in the record concerning this issue.

[36] Ms. Del Valle states that the Opponent is in the business of designing, developing and manufacturing data storage solutions in various forms using flash memory, controller, firmware, and software technologies for consumer electronics, including mobile phones, tablets, digital cameras, gaming devices, and personal computers as well as client computing platforms and enterprise data centers. She filed as Exhibit A screenshots of the Opponent's website and copies of brochures depicting the Opponent's business.

[37] Ms. Del Valle explains that the Opponent's trade-mark RED SQUIRREL Design is used in Canada in association with mobile application software that allows users to manage and transfer digital data as well as in association with memory cards. She adds that the Opponent has used that trade-mark in association with its Memory Zone mobile application ("App"), released to the public via the Google Play mobile application store. The App allows mobile device users to manage and backup Android™ powered device memory. It frees up the storage capacity of a mobile device by enabling interconnectivity between a mobile device, available memory cards,



and a number of third-party online storage services. The Opponent's Memory Zone makes it easy for users to organize, browse, access and password protect a variety of file formats stored in different places and to move files back and forth from a memory card to select cloud services, or from a cloud storage service directly to a user's mobile device.

[38] As it appears from the packaging filed as Exhibit K to Ms. Del Valle's affidavit, the Opponent's product is for smartphone and tablet.

[39] Mr. Wei states that the Applicant is a leading provider of Internet software and services. Mr. Wei filed, as Exhibit A to his affidavit, a brochure providing information on the nature of the Applicant's business. In the brochure, it is stipulated that the Applicant's mission is 'to provide better mobile internet experience to billions of users around the world.' It goes on to state: 'UC Browser, the flagship product of [the Applicant] is available on more than 3,000 different models of cell phones from over 200 cell phone manufacturers.' Finally, I note that the Mark appears on that brochure.

[40] At the hearing, the Applicant argued that most of the Goods refer to computers as opposed to smartphones and tablets in the case of the Opponent. As such, according to the Applicant, there is a clear distinction between the Goods and the Opponent's products. With all due respect for the Applicant, I disagree.

[41] Firstly, some of the Goods are for mobile phones as it appears from a plain reading of the description of those goods. I refer to: web browser software for mobile phones; computer software for browsing the internet and intranet for mobile phones; computer software for the social network for mobile phones (the Mobile Phones goods).

[42] Moreover, in this day and age, there exists a synergy between personal computers, laptops, tablets and mobile phones. Even though they constitute different electronic devices, they are all consumer electronic devices used to access information and to communicate.

[43] There is an overlap between the Opponent's products and the Mobile Phones goods. As for the various computer software, hardware and operating programs part of the Goods namely, computer operating programs; computer software for creating computer games; computer network adapters; network interface cards; network servers; computer hardware and software for

setting up and configuring local area networks; network access server operating software; security software; computer utility virus protection programs; computer software for creating, sending and receiving e-mail (the Computer Related goods), I consider that there exists a close relationship between them and mobile application software. The difference in the type of electronic device used to communicate or access information, in the absence of evidence to the contrary, is not sufficient to distinguish their respective hardware and software.

[44] However, there is clearly no overlap between the Opponent's products and periodical publications.

[45] As for the Services, again in the absence of evidence to the contrary, I believe that there exists a relationship between each of the Services related to computers namely: word processing; data processing; management of computerized databases; computer database management services; technical support services in the form of troubleshooting of computer hardware and software problems; computer software design; updating of computer software; computer repair services; computer site design services; computer software project management services; cloud computing providing software for database management; computer anti-virus protection services; Internet service provider (ISP) services; providing search engines for the Internet (the Computer Related services) and the Opponent's products.

[46] Nonetheless, there is no overlap between the Opponent's products and the following services: advertising the wares and services of others; electronic billboard advertising of the wares and services of others; conducting public opinion surveys; market research services; commercial information agencies providing legal information; developing marketing strategies and marketing concepts for others; and business administration services (the Non-Related services).

[47] There is also clear evidence in the record that there is an overlap in the parties' channels of trade. Ms. Del Valle filed as Exhibit E pages from Google Play showing the App in association with the RED SQUIRREL Design trade-mark available for downloading. Also, she filed, as Exhibit F, pages from the Amazon.com and Amazon.ca showing the App in association with its trade-mark RED SQUIRREL Design available for downloading. Finally, she filed, as

Exhibit G, a screenshot from the Opponent's Facebook page depicting online promotion of the App in association with the RED SQUIRREL Design trade-mark.

[48] Mr. Wei produced, as Exhibit B, printouts of the Applicant's Facebook page and from amazon.ca website showing that its product in association with the Applicant's trade-mark UC BROWSER is also available for download.

[49] In all, in view of the evidence in the record and given the nature of the Computer Related goods, the Mobile Phones goods and the Computer Related services, I conclude that there is an overlap in the nature of the parties' businesses and their channels of trade in so far as those goods and services are concerned.

[50] There is no overlap in the parties' nature of their respective businesses, in so far as the periodical publication and the Non-Related services are concerned.

*The degree of resemblance*

[51] As stated by the Supreme Court of Canada in *Masterpiece*, in the majority of cases, the degree of resemblance between the marks in issue is the most important factor. In this case, this factor favours the Opponent. The marks in issue do represent a side view of a squirrel in a similar position.

[52] It is interesting to note that Ms. Del Valle alleges that the RED SQUIRREL Design trade-mark is suggestive of the highly accurate spatial memory of many squirrel species and their innate ability to stockpile food in numerous, and potentially distant, small caches for later recovery and use. On the other hand, Mr. Wei states that the Mark represents three propositions for the Goods: speed, smartness and security. All of these aforesaid characteristics are associated to a squirrel.

[53] Finally, if one would like to refer to the Mark by sound, he (she) would pronounce the word 'squirrel', and the same applies to the RED SQUIRREL Design trade-mark.

[54] Consequently, not only there is visual resemblance between the marks in issue, but also they do resemble each other in sound and the ideas suggested by them.

*Additional relevant criteria*

[55] Mr. Wei alleges that the Applicant obtained registration of the Mark in China and in the United States. Moreover, the Opponent did not oppose the registration of the Mark in the United States.

[56] The fact that the Applicant was able to obtain the registration of the Mark under foreign jurisdictions is not a relevant factor in this opposition. The applicable laws may differ from one jurisdiction to another. The Opponent may have had reasons not to oppose the registration of the Mark in the United States. In all, I do not consider these facts to be pertinent in this case.

*Conclusion*

[57] Given the nature of the Opponent's products compared to the Mobile Phones goods, the Computer Related goods and the Services, excluding the Non-Related services, and the degree of resemblance between the parties' marks, I conclude that the Applicant has not discharged its burden to prove, on a balance of probabilities, that there exists no likelihood of confusion between the parties' marks in so far as Mobile Phones goods, the Computer Related goods and the Services, excluding the Non-Related services, are concerned.

*Authority for a split decision*

[58] In its supplemental written argument, the Opponent argues that the Registrar is without jurisdiction to issue what has been commonly identified as a 'split decision' whereas an application will be accepted for certain goods and/or services and refuse for others. The often cited authority to support such a ruling is the Federal court decision in *Produits Menagers Coronet Inc v Coronet-Werke Heinrich Schlerf GmbH* (1986), 10 CPR (3d) 492 (FCTD).

[59] The Opponent has raised interesting arguments to support its position: Statutory interpretation principles and the context and purpose of the Act. Moreover, the Opponent argues that in *Coronet*, the Federal court did not engage in a textual, contextual and purposive analysis of section 38(8) of the Act. It contends that such analysis has never been undertaken by either the Board or the Federal court. Finally, in *Molson Canada 2005 v Anheuser-Busch Incorporated* 2010 FC 283 the argument was raised, but the court found that it was not necessary to consider the argument.

[60] All these arguments may have some merits, but still as of this date the Federal court decision in *Coronet* is the authority for the principle that a split decision can be issued. If this practice is wrong under the current Act, it is up to the Federal court to dispose of this issue. I shall therefore issue a split decision in accordance with the conclusion reached above.

[61] Consequently, this ground of opposition is maintained in part.

#### Distinctiveness ground of opposition

[62] It is generally accepted that this ground of opposition must be assessed as of the filing date of the statement of opposition (November 12, 2013) [see *Metro-Goldwyn-Mayer Inc v Stargate Connections Inc* 2004 FC 1185, 34 CPR (4th) 317 (FC)].

[63] In *Bojangles' International, LLC v Bojangles Café Ltd*, 2006 FC 657, 48 CPR (4th) 427 the Federal court determined that:

- A mark needs to be known in Canada to some extent at least to negate another mark's distinctiveness;
- Alternatively, a mark could negate another mark's distinctiveness if it is well known in a specific area of Canada.

[64] The Opponent had therefore the initial burden to prove that its RED SQUIRREL Design trade-mark was known in Canada to some extent or it was well known in a specific area of Canada.

[65] The detailed summary of the Opponent's evidence described above leads me to conclude that the Opponent has met its initial burden to prove that its aforesaid mark was known in Canada at the relevant date. In any event, in addition to the evidence described above, I may add that Ms. Del Valle mentioned in her affidavit that on December 4, 2011, the App was ranked in Canada as the 50<sup>th</sup> most downloaded "Productivity" application on Google Play. Since that time to the present, the App has consistently been a top 300 most downloaded productivity app in Canada. She also filed as Exhibit "M" screenshots from the App *Annie* website, which provides global download rankings for mobile applications, regarding the Opponent's Memory Zone App.

[66] Consequently, the burden shifted on the Applicant who had to show, despite the fact that the Opponent's trade-mark RED SQUIRREL Design trade-mark was known in Canada, that the

Mark could serve to distinguish the Goods and Services from the Opponent's products. The same factors listed in section 6(5) of the Act are used to determine such issue.

[67] The difference in the relevant dates does not materially alter such analysis. I would have to take into consideration the evidence of use of the Mark and in particular Exhibit C to Mr. Wei's affidavit, namely printouts from DISTIMO website which shows ranking of apps in Nokia Ovi Store and Windows Phone Store in Canada as well as screenshots from the App Annie website showing the ranking of UC Browser in January 2013 and January 2014.

[68] The end result is the same namely, that there existed a likelihood of confusion at the relevant date, when the Mark was used in association with the Mobile Phones goods, the Computer Related goods and the Services, excluding the Non-Related services, such that it did not distinguish them from the Opponent's products sold in association with its trade-mark RED SQUIRREL Design trade-mark.

[69] Consequently this ground of opposition is also maintained in part.

#### Disposition

[70] Pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the application with respect to:

Computer operating programs; Computer software for creating computer games; Web browser software for mobile phones; Computer network adapters; Network interface cards; Network servers; Computer hardware and software for setting up and configuring local area networks; Computer software for browsing the internet and intranet for mobile phones; Network access server operating software; Security software; Computer utility virus protection programs; Computer software for the social network for mobile phones; Computer software for creating, sending and receiving e-mail; and  
Word processing; Data processing; Management of computerized databases; Computer database management services; Technical support services in the form of troubleshooting of computer hardware and software problems; Computer software Design; Updating of computer software; Computer repair services; Computer site Design services; Computer software project management services; Cloud computing providing software for database management; Computer anti-virus protection services; Internet service provider (ISP) services; Providing search engines for the internet.

and dismiss the opposition with respect to the following goods:

Periodical publications;

and the following services:

advertising the wares and services of others; Electronic billboard advertising of the wares and services of others; Conducting public opinion surveys; Market research services; Commercial information agencies providing legal information; Developing marketing strategies and marketing concepts for others; business administration services.

pursuant to section 38(8) of the Act [see *Produits Ménagers Coronet Inc v Coronet-Werke Heinrich Schlerf GmbH* (1986), 10 CPR (3d) 482 (FCTD) as authority for a split decision].

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Jean Carrière  
Member  
Trade-marks Opposition Board  
Canadian Intellectual Property Office

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

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**HEARING DATE:** 2016-07-13

**APPEARANCES**

Mr. L.E. Trent Horne

FOR THE OPPONENT

Mr. Douglas B. Thompson

FOR THE APPLICANT

Agents of Record

Bennett Jones LLP

FOR THE OPPONENT

Thompson Cooper LLP

FOR THE APPLICANT



## ANNEX A

The goods and services covered by the application are:

Periodical publications; Computer operating programs; Computer software for creating computer games; Web browser software for mobile phones; Computer network adapters; Network interface cards; Network servers; Computer hardware and software for setting up and configuring local area networks; Computer software for browsing the internet and intranet for mobile phones; Network access server operating software; Security software; Computer utility virus protection programs; Computer software for the social network for mobile phones; Computer software for creating, sending and receiving e-mail (the Goods).

Advertising the wares and services of others; Electronic billboard advertising of the wares and services of others; Conducting public opinion surveys; Market research services; Commercial information agencies providing legal information; Developing marketing strategies and marketing concepts for others; Word processing; Data processing; Management of computerized databases; Computer database management services; Business administration services. Technical support services in the form of troubleshooting of computer hardware and software problems; Computer software Design; Updating of computer software; Computer repair services; Computer site Design services; Computer software project management services; Cloud computing providing software for database management; Computer anti-virus protection services; Internet service provider (ISP) services; Providing search engines for the internet. (the Services)