



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

Citation: 2016 TMOB 71
Date of Decision: 2016-05-05

IN THE MATTER OF AN OPPOSITION

TM25 Holding B.V. **Opponent**

and

1148 Company Inc. **Applicant**

1,400,841 for Raw is Vintage **Application**

I Background

[1] On June 23, 2008, the Applicant filed an application for the trade-mark Raw is Vintage (the Mark), as shown below. The application is based upon proposed use in Canada and it covers a range of goods including wearing apparel, accessories, footwear, luggage, toys, etc. A complete list of the goods covered by the application for the Mark is set out in Schedule “A” to this decision.



[2] The application for the Mark was advertised for opposition purposes in the *Trade-marks Journal* on March 10, 2010.

[3] On August 10, 2010, the Opponent's predecessor-in-title G-Star International B.V. opposed the application for the Mark by filing a statement of opposition, as required under section 38 of the *Trade-marks Act*, RSC 1985, c T-13 (the Act).

[4] A request for leave to file an amended statement of opposition was subsequently filed to update the name of the Opponent to Facton Ltd., due to an assignment of rights that had occurred. The request for leave to amend was granted on May 19, 2015.

[5] On April 28, 2016, a further request for leave to file an amended statement of opposition was filed to update the name of the Opponent to TM25 Holding B.V., as a result of another assignment of rights that had occurred. For reasons which will be discussed in more detail later on in my decision, this leave request is also being granted. In view of this, the Opponent in this proceeding is now TM25 Holding B.V.

[6] The grounds of opposition are: (i) the application does not conform to the requirements of sections 30(e) and 30(i) of the Act; (ii) the Mark is not registrable under section 12(1)(d) of the Act, as it is confusing with the Opponent's registered trade-marks RAW SHOES (registration no. TMA770,144) and RAW FOOTWEAR (registration no. TMA770,308), both of which cover a variety of goods including footwear, clothing, accessories and services relating thereto; iv) the Applicant is not the person entitled to registration of the Mark under section 16(3)(a) of the Act in view of the Opponent's (or its predecessors') prior use of the registered trade-marks RAW SHOES and RAW FOOTWEAR, as well as the trade-mark RAW *per se*, in association with the aforementioned goods and services; and (v) the Mark is not distinctive within the meaning of section 2 of the Act.

[7] A counter-statement denying all of the allegations set out in the statement of opposition was filed by the Applicant on December 16, 2010.

[8] As evidence in support of its opposition, the Opponent filed certified copies of its registration nos. TMA770,144 (RAW SHOES) and TMA770,308 (RAW FOOTWEAR).

[9] As evidence in support of its application, the Applicant filed the affidavit of Grace Brooks, sworn May 14, 2014. Ms. Brooks was not cross-examined.

[10] As evidence in reply, the Opponent filed the affidavit of Shannon Young, sworn October 17, 2014. Ms. Young was not cross-examined.

[11] Both parties filed a written argument. No hearing was held.

II Preliminary Matters

[12] At the outset, I wish to note that a hearing for this matter had been scheduled to take place on April 28, 2016 and both parties had indicated that they would be in attendance. However, the day before the hearing was scheduled to take place, both parties advised the Board that they would no longer be attending. Consequently, the hearing was cancelled and the matter was brought forward for decision.

[13] At the time that the Applicant advised that it would no longer be attending the hearing, it also proceeded to submit a copy of a “Statement of Reasons for Decision”, dated February 5, 2016 by the Registrar of Trademarks Hong Kong, wherein an opposition against the same trade-mark which is the subject of the present application was rejected.

[14] The Applicant did not make any submissions regarding the significance or relevancy of this document to the case at hand. However, I do not find it to be relevant, as foreign decisions are not binding on the Registrar and although such decisions can sometimes have persuasive value, I do not consider that to be the case here, as there is no evidence of record to establish that the registration of the Mark in Hong Kong was based on any similar factual or legal context to that which is before me.

[15] Finally, I note that pursuant to the Practice Notice entitled *Practice in Trade-mark Opposition Proceedings*, which came into effect on March 31, 2009, parties are required to provide one another and the Registrar with their case law lists and copies of any unreported decisions at least 5 days prior to the hearing and in this case, the Applicant only provided a copy of this decision to the Registrar the day before the hearing was scheduled to take place.

[16] In addition to the aforementioned document, the Applicant also filed a photocopy of a Confirmation of Change of Title issued by the Registrar of Trade-marks on July 3, 2015,

confirming the recordal of an assignment of the trade-marks relied upon in the statement of opposition from Facton Ltd. to TM25 Holding B.V.

[17] The Applicant made submissions in its letter to the effect that Facton Ltd. no longer had any rights or standing with respect to this opposition as a result of the assignment and requested that the opposition be rejected on this basis.

[18] I note that if a party wishes to file additional submissions in the form of written arguments or to file additional evidence at this stage in a proceeding, it must request leave to do so under sections 46(2) or 44(1) of the Act. The Applicant has not done so.

[19] Nevertheless, as mentioned previously, on April 28, 2016, the Opponent requested leave to file an amended statement of opposition to properly identify the Opponent as TM25 Holding B.V., the current owner of the registrations relied upon in the statement of opposition.

[20] These proceedings are at an extremely late stage and the Opponent has not provided adequate reasons to explain why it could not have requested leave to amend its statement of opposition earlier. However, given the importance of the amendment in correctly identifying the name of the Opponent and given that there would be no prejudice to the parties, I am hereby granting leave. The amended statement of opposition accompanying the Opponent's letter of April 28, 2016 is therefore now considered to be of record.

[21] I wish to add that the granting of leave has no impact on the outcome of my decision in this case. Pursuant to section 38(1) of the Act any "person" may oppose an application and while an opponent may need to be the owner of the trade-marks being asserted in an opposition in order to have standing for some grounds of opposition, that is not the case for all grounds. In particular, I note that an opponent is free to rely upon third party registrations in challenging the registrability of an applicant's mark in relation to a section 12(1)(d) ground [*USV Pharmaceuticals of Canada Ltd v Sherman and Ulster Ltd* (1974), 15 CPR (2d) 79].

[22] In the present case (for reasons that will be discussed in more detail below), the section 12(1)(d) ground of opposition is the only ground of opposition which remains at issue. Thus, even if I had denied the Opponent's request for leave to amend the statement of opposition

in this case, it would not have resulted in the opposition being rejected on the basis that there was a lack of standing.

III Onus and Material Dates

[23] 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 [*John Labatt Limited v The Molson Companies Limited* (1990), 30 CPR (3d) 293 (FCTD) at 298].

IV Analysis

Grounds of Opposition Summarily Dismissed

Non-conformity - Section 30(e)

[24] The Opponent has pleaded that contrary to section 30(e), the Applicant could not have intended to use the Mark in Canada because at the filing date of the application, it must be deemed to have been aware of the Opponent's prior rights in its trade-marks. Section 30(e) of the Act requires an applicant to make a statement that it, either by itself or through a licensee intends to use the applied for trade-mark in Canada. The application contains such a statement. It therefore formally complies with section 30(e) of the Act. In view of this, and since there is no evidence of record to suggest any lack of intention to use the Mark on the part of the Applicant, the Opponent has not met its initial burden in respect of this ground.

[25] Accordingly, this ground of opposition is summarily dismissed.

Non-conformity – Section 30(i)

[26] Where an applicant has provided the statement required by section 30(i), a ground of opposition based upon this section should only succeed in exceptional cases such as where there is evidence of bad faith on the part of the applicant [*Sapodilla Co Ltd v Bristol-Myers Co* (1974), 15 CPR (2d) 152 (TMOB) at 155]. Mere knowledge of the existence of an opponent's trade-

mark(s) does not in and of itself support an allegation that an applicant could not have been satisfied of its entitlement to use the Mark [*Woot, Inc v WootRestaruants Inc Les Restaurants Woot Inc* 2012 TMOB 197 (CanLII)]. The application for the Mark contains the requisite statement and there is no evidence that this is an exceptional case.

[27] Accordingly, this ground of opposition is also summarily dismissed.

Non-entitlement – Section 16(3)(a)

[28] The Opponent has pleaded that the Applicant is not the person entitled to registration of the Mark in view of the Opponent's prior use of its trade-marks RAW SHOES and RAW FOOTWEAR, as well as its trade-mark RAW, each of which had allegedly been used in Canada by the Opponent (or a predecessor) prior to the filing date of the application for the Mark. With respect to this ground of opposition, there is an initial burden on the Opponent to evidence use of its trade-marks prior to the Applicant's filing date and show that it had not abandoned them as of the date of advertisement of the Applicant's application [section 16(5)]. Since the Opponent has not provided any evidence of use of its trade-marks, it has failed to meet its initial evidential burden in relation to this ground of opposition.

[29] Accordingly, this ground of opposition is also summarily dismissed.

Non-distinctiveness – Section 2

[30] The Opponent has pleaded that the Mark does not distinguish and is not adapted to distinguish the Applicant's goods from the goods and services of others, including those of the Opponent. In order to satisfy its initial burden in relation to a non-distinctiveness ground of opposition, an opponent's evidence must show that its trade-marks had become known sufficiently as of the commencement of the opposition to negate the distinctiveness of the applied-for trade-mark [see *Metro-Goldwyn-Mayer Inc v Stargate Connections Inc* (2004), 34 CPR (4th) 317 (FC) and *Motel 6, Inc v No. 6 Motel Ltd* (1981), 56 CPR (2d) 44 at 58 (FCTD)]. Since the Opponent has not filed any evidence in this case to establish that its trade-marks have been used or become known in Canada, it has failed to meet its initial burden in respect of this ground.

[31] Accordingly, this ground of opposition is also summarily dismissed.

Remaining Ground of Opposition

Section 12(1)(d)

[32] The Opponent has pleaded that the Mark is not registrable because it is confusing with its trade-marks RAW SHOES (registration no. TMA770,144) and RAW FOOTWEAR (registration no. TMA770,308).

[33] The material date to assess the section 12(1)(d) ground of opposition is the date of my decision [*Park Avenue Furniture Corporation v Wickes/Simmons Bedding Ltd and The Registrar of Trade Marks* (1991), 37 CPR (3d) 413 (FCA)]. I have exercised my discretion and checked the register to confirm that the Opponent's registrations are extant [*Quaker Oats Co of Canada v Menu Foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)].

[34] The Opponent has therefore met its initial burden with respect to this ground. As the Opponent's evidential burden has been satisfied, the Applicant must therefore establish on a balance of probabilities, that there is no reasonable likelihood of confusion between the Mark and the Opponent's trade-marks.

Test for Confusion

[35] 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.

[36] 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 [*Mattel, Inc v 3894207 Canada Inc* (2006), 49 CPR (4th) 321 (SCC) and *Masterpiece Inc v Alavida Lifestyles Inc* (2011), 92 CPR (4th) 361 (SCC)].

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

[37] In its written argument, the Opponent submits that the term RAW has no connection to any features, traits or characteristics of the goods associated with the Opponent’s trade-marks and that it is not remotely suggestive of their quality or character. The Opponent therefore submits that the RAW SHOES and RAW FOOTWEAR trade-marks have some measure of inherent distinctiveness.

[38] By contrast, the Applicant submits that the word RAW in the Opponent’s trade-marks could be perceived to be suggestive of “raw” leather materials used in the manufacture of its goods. In addition, the Applicant points out that the addition of the words SHOES and FOOTWEAR do not add anything to the Opponent’s marks, as they are descriptive of at least some of the Opponent’s goods. In view of this, the Applicant submits that the Opponent’s trade-marks lack inherent distinctiveness. I agree with the Applicant’s submission regarding the inclusion of the terms SHOES and FOOTWEAR in the Opponent’s marks. Insofar as its submission regarding the suggestiveness of the word RAW is concerned, I note that the same could be said to be true of the Mark, as it is associated with many of the same types of goods as those of the Opponent.

[39] As for the Mark, the Applicant takes the position that it possesses a higher degree of inherent distinctiveness due to its design aspect, which the Applicant submits gives it a more “rugged” look and connotation. In addition, the Applicant is of the view that the addition of the word VINTAGE and the fact that the “R” in the Mark is inverted such that the word RAW may be interpreted as being either RAW or WAR, also add to the overall distinctiveness of the Mark.

[40] I agree with the Applicant that some of these aforementioned features do add to the overall inherent distinctiveness of the Mark. I therefore find the Mark to be slightly more inherently distinctive than the Opponent’s trade-marks.

[41] The distinctiveness of a trade-mark may be further increased through promotion or use. However, in this case, neither party has filed any evidence in this regard.

[42] In view of the foregoing, I find that this factor, which is a combination of the inherent distinctiveness of the parties' trade-marks and the extent to which they have become known, slightly favors the Applicant.

Section 6(5)(b) – length of time in use

[43] Neither party has filed any evidence of use whatsoever and I cannot infer anything other than *de minimus* use from the mere existence of the Opponent's registrations [*Entre Computer Centers, Inc v Global Upholstery Co* (1991), 40 CPR (3d) 427 (TMOB)].

[44] In view of this, I do not find that this factor significantly favors either party.

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

[45] When considering sections 6(5)(c) and (d) of the Act, it is the statement of goods in the application for the Mark and the statement of goods and services in the Opponent's registrations that governs the assessment of the likelihood of confusion under section 12(1)(d) of the Act [*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)].

[46] There is either direct overlap or a close relationship between the vast majority of the goods which are covered by the Opponent's registrations and those which are included in the application for the Mark. Both parties' marks are associated with a range of goods which may generally be described as clothing, apparel, footwear, headwear and carrying cases. In my view, the only goods in the application for the Mark that do not appear to be closely related to or overlap with those of the Opponent are "watch straps", "toys namely games, puzzles, statuettes, figurines and china ware", "watches" and "walking canes".

[47] In view of the overlap in the nature of the parties' goods and in the absence of any evidence to the contrary, I consider it reasonable to conclude that there would also be some

overlap in their respective channels of trade, particularly since there are no restrictions in this regard in the Opponent's registrations or in the application for the Mark.

[48] In view of the foregoing, for those goods which are closely related or in respect of which there is overlap, I find that these factors favor the Opponent.

Section 6(5)(e) – degree of resemblance between the trade-marks

[49] In *Masterpiece Inc v Alavida Lifestyles Inc et al [supra]*, the Supreme Court of Canada indicated that the most important factor amongst those listed under section 6(5) of the Act is often the degree of resemblance between the parties' trade-marks [see also *Beverley Bedding & Upholstery Co v Regal Bedding & Upholstering Ltd* (1980), 47 CPR (2d) 145 (FC), at 149, affirmed (1982), 60 CPR (2d) 70 (FCA)]. If the parties' trade-marks do not resemble one another, it is unlikely that even a strong finding on the remaining factors would lead to a likelihood of confusion.

[50] It is well-established that when considering the degree of resemblance between trade-marks, the trade-marks must be considered in their totality and it is not correct to lay them side by side and carefully compare and observe the similarities or differences among their elements. It is also not correct to dissect the marks.

[51] In *Masterpiece*, the Supreme Court also observed that even though the first word of a trade-mark may be the most important, for the purpose of distinctiveness [*Conde Nast Publications Inc v Union des éditions modernes* (1979), 46 CPR (2d) 183 (FCTD)], the preferable approach when comparing marks is to begin by determining whether there is an aspect of the trade-mark that is particularly striking or unique.

[52] In this case, I am of the view that the word RAW which appears in the dominant first position of both of the parties' marks does happen to be what stands out most. In my view, it is what would most likely register first as a matter of first impression and be most memorable to the consumer. As pointed out by the Applicant, the words SHOES and FOOTWEAR which appear at the end of the Opponent's trade-marks are clearly descriptive and consequently add nothing to the overall distinctiveness of those marks. In the case of the Mark, I note that it is a

design mark and the word RAW takes up a significant part of it. In addition, the reverse R in RAW tends to draw attention to that aspect of the Mark. Thus, I find there to be a fair degree of visual and phonetic similarity between the parties' marks. In terms of connotation, I note that the Mark comes across as a statement (i.e. "RAW" is "vintage"). While there is no reference to anything being "vintage" in the Opponent's trade-marks, the manner in which this additional matter appears in the Mark serves to modify and place emphasis on the word RAW. Thus, while there are some differences in connotation, in part, due to there being no reference to the word "vintage" in the Opponent's trade-marks, the focus of both parties' marks is still the word RAW, which suggests a similar idea in both parties' marks.

[53] In view of the foregoing, despite the design features and additional words which are present in the Mark, I consider there to be a fair degree of resemblance between the parties' trade-marks.

Additional Surrounding Circumstances

State of the Register

[54] As an additional surrounding circumstance, the Applicant relies on state of the register evidence which was filed by way of the Brooks affidavit. Ms. Brooks states that she conducted a search of the Canadian trade-mark register to locate trade-marks containing the word "RAW" in association with the same or similar goods to those of the Applicant [para 2]. Upon completing her search, Ms. Brooks narrowed the search results down to trade-marks relating specifically to clothing, apparel and footwear [para 6]. According to Ms. Brooks, this narrowing down resulted in 27 trade-marks, 12 of which are owned by the Opponent. The particulars for the remaining 15 marks owned by third parties are attached as Exhibits D and E to her affidavit [para 6]. I note that some of the applications for the 15 remaining marks were still pending at the time Ms. Brooks swore her affidavit and had not yet issued to registration. In addition, some of them do not appear to be particularly relevant. For example, I note that the marks which are the subject of registration nos. TMA859,940, TMA552,604, TMA543,429 and TMA591,571 do not contain the word "RAW" and in registration no. TMA546,678, the word RAW appears within the context of the words BIG JOE MUFFERAU.

[55] While state of the register evidence can be useful to assess the commonality or distinctiveness of a trade-mark or portion of a trade-mark in relation to the register as a whole, it has been held that such evidence is only relevant insofar as inferences may be made with respect to the state of the marketplace, and inferences about the state of the marketplace can only be drawn when a significant number of pertinent registrations are located [*Ports International Ltd v Dunlop Ltd* (1992), 41 CPR (3d) 432 (TMOB); *Welch Foods Inc v Del Monte Corp* (1992), 44 CPR (3d) 205 (FCTD); and *Maximum Nutrition Ltd v Kellogg Salada Canada Inc* (1992), 43 CPR (3d) 349 (FCA)].

[56] Given that Ms. Brooks identified a fairly small number of relevant trade-marks containing the word RAW, I am not prepared to draw any inferences regarding the state of the marketplace in this case. In light of this finding, I do not consider it necessary to discuss the contents of the Young affidavit in any detail, as her affidavit primarily consists of results for various internet searches conducted by Ms. Young for the purpose of establishing that many of the marks identified in Exhibits D and E to the Brooks affidavit are either not in use, have been expunged, or are associated with goods or services of a different or more specified nature.

Conclusion on Likelihood of Confusion

[57] As indicated above, section 6(2) of the Act is not concerned with confusion of the marks themselves, but confusion of the goods from one source as being goods from another source.

[58] The test to be applied is a matter of first impression in the mind of a casual consumer somewhat in a hurry who sees the Mark (RAW IS VINTAGE, as shown above in para 1) on the Applicant's goods, at a time when he or she has no more than an imperfect recollection of the Opponent's RAW SHOES and RAW FOOTWEAR trade-marks in association with goods which are the same as or related in nature to those of the Applicant and does not pause to give the matter any detailed consideration or scrutiny, nor to examine closely the similarities and differences between the marks [*Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée, supra* at para 20]. The question posed is whether this individual would be likely to conclude that the Applicant's goods are manufactured or sold by the same source as those covered in the Opponent's registrations for RAW SHOES and RAW FOOTWEAR. In the present case, I would answer this question in the affirmative with respect to the goods of the parties which overlap or

are closely related and in the negative with respect to the remaining goods, namely, “watch straps”, “walking canes”, “watches” and “toys namely games, puzzles, statuettes, figurines and china ware”.

[59] I acknowledge that the Mark is slightly more inherently distinctive than the Opponent’s trade-marks and that the Opponent hasn’t filed any evidence to show that either of those marks has been used for any period of time. However, in view of the fair degree of resemblance between the Mark and the Opponent’s trade-marks, to the extent that there is overlap or a close relationship between some of the parties’ goods, I consider it likely that a consumer would confuse the source of such goods.

[60] Accordingly, the section 12(1)(d) ground of opposition is unsuccessful in relation to “watch straps”, “walking canes”, “watches” and “toys namely games, puzzles, statuettes, figurines and china ware” and successful in relation to the remaining goods in the application for the Mark.

V Disposition

[61] In view of the foregoing, pursuant to the authority delegated to me under section 63(3) of the Act, I reject the opposition with respect to the goods “watch straps”, “walking canes”, “watches” and “toys namely games, puzzles, statuettes, figurines and china ware” and I refuse the application with respect to the remainder of the goods 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].

Lisa Reynolds
Member
Trade-marks Opposition Board
Canadian Intellectual Property Office

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

HEARING DATE: No hearing held.

AGENTS OF RECORD

Marks & Clerk

FOR THE OPPONENT

Morton Bessner

FOR THE APPLICANT

Schedule "A"

Application No. 1,400,841

Goods:

(1) Men's, ladies, women's, children and teens' wearing apparel, namely, shirts, dress shirts, sport shirts, knit shirts, t-shirts, over-shirts, blouses, halters, sweat shirts, turtleneck shirts, mock turtleneck shirts, polo shirts, tanks tops, sweat tops, jerseys, camisoles, chemises, baseball shirts, pullover tops with pouch pockets, kangaroo tops, muscle tops, golf shirts, night shirts, cardigans, sleeveless sweaters, short sleeved sweaters, long sleeved sweaters, pullovers, warm-up tops, singlets, pants, trousers, slacks, jeans, sweat pants, warm-up pants, pantaloons, rompers, jodhpurs, jumpers, shorts, walking shorts, Bermudas, boardwalk shorts, culottes, parkas, pea jackets, bomber jackets, topcoats, duffel coats, rain coats, trench coats, waist coats, overcoats, sweat jackets, jackets, suits, blazers, tuxedos, windbreakers, ponchos, rain suits, training suits, play-suits, coveralls, overalls, shortalls, jumpsuits, jogging suits, sweat suits, sun suits, warm-up suits, uniforms, namely, uniforms for athletic teams, sports officials, musical bands, ushers, commentators, medical personnel, hotel services personnel, members of staff, serving at tables, as well as uniforms for the identification of corporations, the military, the police and firemen, dresses, skirts, kimonos, coats, housecoats, smocks, shop coats, pajamas, sleep wear, dressing gowns, robes, bathrobes, sleepers, underwear, boxer shorts, briefs, active wear, ski wear, outer wear, athletic wear, swimsuits, swim wear, shoes, slippers, boots, sandals, running shoes, tennis shoes, walking shoes, sport shoes, deck shoes, sneakers, specific purpose athletic shoes and general purpose sport shoes, tights, leotards, leg warmers, handkerchiefs, mittens, bibs, wristbands, bandanas, neckties, bandanas, visors, tuques, berets, suspenders, scarves, gloves, mittens, head bands, wrist bands, hosiery, socks, stockings, panty hose, casual wear, Halloween and masquerade costumes; Luggage and related items namely all purpose gear carrying bags, all-purpose sporting goods bags, athletic bags, attaché cases, barrel bags, beach bags, billfolds, briefcases, card-holders, change holders, clutch bags, purses, cosmetic cases sold empty, drawstring bags, duffel bags, duffel tote bags, flight bags, garment bags, garment travel bags, gym bags, key cases, overnight bags, parasols, passport covers, purses, coin purses, school bags, book bags, fanny packs, knapsacks, waist packs, shoulder bags, sport bags, stadium tote bags, suitcases, diaper bags, tote bags, suitcases, trunks, vanity cases, wardrobe bags, watch straps, walking canes; Watches, cigarette cases; Toys namely games, puzzles, statuettes, figurines and china ware.