



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

**Citation: 2017 TMOB 14
Date of Decision: 2017-02-15**

IN THE MATTER OF AN OPPOSITION

673367 Ontario Ltd.

Opponent

and

Swatch AG (Swatch SA) (Swatch Ltd.)

Applicant

1,633,651 for iSWATCH (Dessin)

Application

Introduction

[1] 673367 Ontario Ltd. (the Opponent) opposes registration of the trade-mark iSWATCH in design form (the Mark), illustrated below, applied for registration under serial No. 1,633,651 in the name of Swatch AG (Swatch SA) (Swatch Ltd.) (the Applicant).

The logo for iSwatch, featuring a stylized lowercase 'i' with a dot above it, followed by the word 'swatch' in a lowercase, sans-serif font.

[2] The Mark has been applied for registration in association with horological and chronometric instruments, parts therefor, precious metals and their alloys, goods made therefrom or plated therewith, as well as in association with services in the field of horological instruments and jewelry, as more fully described below.

[3] The determinative issue in this proceeding is whether the Mark is confusing with the Opponent's trade-mark i watch registered for men's and ladies' wristwatches.

[4] For the reasons that follow, I find that the application ought to be refused in part.

The Record

[5] The statement of goods and services of the application, filed on July 3, 2013, reads as follows:

Goods: (1) Horological and chronometric instruments, namely watches, chronographs and alarm clocks. (2) Precious metals and their alloys and goods made of these materials or plated therewith, namely figurines, trophies, jewelry namely rings, earrings, cufflinks, bracelets, charms, brooches, chains, necklaces, pins tie, tie, jewelry boxes and cases, precious stones, semi-precious stones (gemstones); constitutive parts and fittings for watches, chronographs and alarm clockss (*sic*).

Services: Retail store services in the field of horological instrument and jewelry, on-line retail store services in the field of horological instruments and jewelry. Repair and maintenance of horological instruments and jewelry.

[6] The application is based on use of the Mark in Canada since at least as early October 24, 2012 for goods (1) and proposed use for goods (2) and for the services.

[7] The application was advertised in the *Trade-marks Journal* of May 28, 2014.

[8] The statement of opposition was filed on September 26, 2014. The Applicant requested an interlocutory ruling on the sufficiency of certain paragraphs of the statement of opposition. As a result, the Opponent filed an amended statement of opposition on November 17, 2014.

[9] On December 18, 2014, the Registrar granted leave to file the amended statement of opposition and ruled on the sufficiency of the pleadings challenged by the Applicant. The pleading that the application did not comply with the requirements of section 30(i) of the *Trade-marks Act*, RSC 1985, c T-13 (the Act) was struck by the Registrar and so there are six remaining grounds of opposition.

[10] Generally speaking, the first two grounds of opposition are that the application does not comply with the requirements of sections 30(b) and 30(e) of the Act respectively. The other

grounds of opposition are that: (i) the Mark is not registrable under section 12(1)(d) of the Act; (ii) the Applicant is not the person entitled to registration under sections 16(1)(a) and 16(3)(a) of the Act; and (iii) the Mark is not distinctive under section 2 of the Act. These other grounds of opposition are premised on allegations of confusion between the Mark and the Opponent's registered trade-mark i watch (No. TMA731,727) allegedly used in Canada in association with men's, ladies' and children's wristwatches, clocks and clip-on watches.

[11] The Applicant filed a counter statement denying each and every allegation in the statement of opposition.

[12] The Opponent's evidence consists of a certified copy of registration No. TMA731,727. This certified copy issued on February 23, 2015 shows that the Opponent's trade-mark i watch was registered for "men's, ladies' and children's wristwatches, clocks and clip-on watches".

[13] In support of its application, the Applicant filed certified copies of its trade-mark registration Nos. TMA333,168 for SWATCH Design, TMA493,277 for SWATCH ACCESS Design, and TMA622,953 for SWATCH. Particulars of these registrations are provided at Schedule A to my decision.

[14] On July 11, 2016, the Applicant was granted leave to file a certified copy of the Opponent's registration No. TMA731,727 as further evidence in the present proceeding. This certified copy issued on May 6, 2016 establishes that the registration was amended on April 8, 2016 to restrict the statement of goods to "men's and ladies' wristwatches".

[15] Only the Opponent filed a written argument.

[16] Each party was represented at the hearing.

Legal Onus and Evidential Burden

[17] The legal onus is on the Applicant to show, on a balance of probabilities, that the application does not contravene the provisions of the Act as alleged in the amended 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 initial

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 29, 20 CPR (4th) 155; and *Wrangler Apparel Corp v The Timberland Company*, 2005 FC 722, 41 CPR (4th) 223].

Grounds of Opposition Summarily Dismissed

[18] The Opponent in its written argument indicated that it would not be pursuing any of the grounds of opposition other than the registrability ground of opposition. At the hearing, the Opponent conceded that no evidence was filed in support of these grounds of opposition but that it wished to maintain them in the event of an appeal.

[19] Accordingly, the grounds of opposition alleging non-compliance of the application with sections 30(b) and 30(e) of the Act, the non-entitlement of the Applicant to the registration of the Mark under sections 16(1)(a) and 16(3)(a) of the Act, and non-distinctiveness of the Mark are dismissed for the Opponent's failure to meet its initial evidential burden.

Registrability Ground of Opposition

[20] The ground of opposition alleges that the Mark is not registrable under section 12(1)(d) of the Act in view of confusion with the Opponent's registration No. TMA731,727 for the trade-mark i watch (the Cited Mark).

[21] The material date to assess 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)].

[22] Having exercised the Registrar's discretion, I confirm that the Opponent's registration is extant for "men's and ladies' wristwatches". Since the Opponent has met its initial evidential

burden, the question becomes whether the Applicant has met its legal onus to show, on a balance of probabilities, that the Mark is not likely to cause confusion with the Cited Mark.

[23] The test for confusion is one of first impression and imperfect recollection. Section 6(2) of the Act indicates that the use of a trade-mark causes confusion with another trade-mark if the use of both trade-marks in the same area would be likely to lead to the inference that the 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.

[24] 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 the trade-marks have 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 SCC 22, 49 CPR (4th) 321; *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée et al*, 2006 SCC 23, 49 CPR (4th) 401; and *Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27, 92 CPR (4th) 361 for a thorough discussion of the general principles that govern the test for confusion.]

[25] In *Masterpiece, supra*, the Supreme Court of Canada stated that the degree of resemblance between marks, although the last factor listed in section 6(5) of the Act, is often likely to have the greatest effect on the confusion analysis; the Court chose to begin its analysis by considering that factor. I will do the same.

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

[26] 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.

[27] The first portion of a trade-mark is usually considered more important for assessing the likelihood of confusion [see *Conde Nast Publications Inc v Union des Editions Modernes* (1979), 46 CPR (2d) 183 at 188 (FCTD)]. At paragraph 64 of the *Masterpiece* decision, the Court writes that to measure the degree of resemblance, a preferable approach is to first consider whether there is an aspect of the trade-mark that is particularly striking or unique.

[28] In the present case, the prefix component of the parties' marks, i.e. the letter "i", is not particularly striking or unique. The word "watch" forming the Cited Mark is also not particularly striking or unique in the context of the Opponent's registered goods. Finally, as I will discuss below, while the Applicant argues that the word SWATCH will be perceived as an invented word, the Applicant ultimately acknowledges that SWATCH is a word of the ordinary English language. This last comment leads me to turn to the parties' representations with respect to the section 6(5)(e) factor.

[29] The Opponent contends that it is clearly favoured by the section 6(5)(e) factor. The following excerpts of its written argument reflect the Opponent's written submissions in this regard:

35. The marks in issue are virtually identical in appearance and sound since both commence with the letter "i" and conclude with the word "watch". The sole difference between the two marks in sound is a single letter, S, in the middle of the [Mark]. Even though the [Mark] was filed as a design mark, the only design aspect of the mark itself is a stylized font with the letter "i" in boldface, italic type.

36 Both marks are visually identical in stylization. The [Mark], which was filed as a design mark, contains all lowercase lettering, and the trade-mark **i watch** as it was filed and as it appears in the **i watch** Registration also contains all lowercase lettering.

37. The marks are also identical in terms of ideas they suggest. Although both marks are coined words, the single component of both of the marks with a common dictionary definition in English is the shared word "watch", which, in the context of the parties' respective goods and services, suggests ideas of jewelry and timepieces.

[30] At the hearing, the Opponent added that since the Cited Mark is a word mark, it is open to the Opponent, within the scope of its registration, to use any font and script for the letter "i" and the word "watch" (citing *Masterpiece Inc, supra*, at paragraph 58). Thus, the Opponent

submitted that the stylized lettering for the Mark does not assist the Applicant's case because the Opponent is entitled to use the same stylized lettering for the Cited Mark.

[31] Based on my understanding of its oral representations, the Applicant disputes the Opponent's contention that the Mark ends with the word WATCH. The Applicant submits that the Mark ends with the word SWATCH. Accordingly, the Applicant submits that the phonetic and visual differences between the words SWATCH and WATCH are significant enough to distinguish the trade-marks when considered in their totality. Furthermore, the Applicant submits that the word SWATCH in the Mark would be perceived as a coined word and so a consumer would not react to the Mark by thinking of watches. Alternatively, the Applicant submits that at most a consumer could react to the word SWATCH by thinking of a piece of cloth, which is the ordinary meaning of the word SWATCH.

[32] Having exercised my discretion to check dictionaries, I confirmed that SWATCH is a common word of the English language, the primary meaning of which is "a sample, esp. of cloth, fabric, or paint colours" [see online version of the *Canadian Oxford Dictionary* (2 ed.)].

[33] Moreover, considering the Mark in the context of the applied for goods and services, I find it reasonable to conclude that as a matter of first impression a consumer would react to the Mark by thinking of watches. Simply put, I do not think it is reasonable to set aside the fact that the word WATCH can be viewed in the Mark.

[34] Finally, I consider that there is a significant degree of resemblance between the trade-marks in terms of appearance and sound. Indeed, I do not consider the stylized lettering for the letter "i" and the word SWATCH comprising the Mark to be particularly striking or unique. In fact, the stylized lettering results in the Mark being perceived as two words, which arguably increases the degree of resemblance in appearance between the trade-marks. Also, although not identical, I find that the words WATCH and SWATCH resemble each other in terms of appearance and sound.

[35] Accordingly, the overall consideration of the section 6(5)(e) factor favours the Opponent.

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

[36] The overall consideration of the section 6(5)(a) factor involves a combination of inherent and acquired distinctiveness of the parties' trade-marks.

[37] The Opponent submits that both trade-marks possess the same degree of inherent distinctiveness. More particularly, the Opponent submits that the trade-marks have some inherent distinctiveness as they are both coined words with no clear meaning in either English or French. However, given its contention that both trade-marks are formed with the common dictionary word "watch", the Opponent submits that they "have a lower degree of inherent distinctiveness than coined marks comprising entirely made-up or unique words".

[38] The Applicant submits that the Mark is inherently more distinctive than the Cited Mark, which only possesses a low degree of inherent distinctiveness. More particularly, the Applicant submits that the Cited Mark has a low degree of inherent distinctiveness as it consists of the letter "i" followed by the name of the goods. Given its contention that the word SWATCH in the Mark would be perceived as a coined word, the Applicant submits that the Mark possesses a high degree of inherent distinctiveness. Finally, the Applicant submits that the design features of the Mark also serve to increase its inherent distinctiveness.

[39] I agree with the Applicant's submissions concerning the low degree of inherent distinctiveness of the Cited Mark. However, even though it may not be without merit for the Applicant to argue that the Mark is inherently more distinctive than the Cited Mark, I do not consider that the degree of inherent distinctiveness of the Mark is as significant as argued by the Applicant. For one thing, as discussed above, the Mark is not without suggestive connotation when considering the applied for goods and services. Furthermore, I find this is not a case where the design features of the Mark significantly increase its inherent distinctiveness since the stylized lettering is intrinsic to the letter "i" and the word SWATCH [see *Canadian Jewish Review Ltd v The Registrar of Trade Marks* (1961), 37 CPR 89 (Ex C)].

[40] The strength of a trade-mark may be increased by means of it becoming known in Canada through promotion or use. However, the Applicant did not file any evidence to establish that the Mark has acquired distinctiveness through promotion or use in Canada.

[41] As for the Cited Mark, the mere existence of the registration can establish no more than minimal use and cannot give rise to an inference of significant and continuous use in association with the Opponent's registered goods [see *Entre Computer Centers, Inc v Global Upholstery Co* (1991), 40 CPR (3d) 427 (TMOB)].

[42] In the present case, the Opponent submits that I am entitled to rely on the decision *Ridout & Maybee LLP v 673367 Ontario Ltd*, 2016 TMOB 1 with respect to the section 45 proceeding to infer that there has been more than minimal use of the Cited Mark in association with the Opponent's registered goods. Based on my understanding of its representations, the Opponent argues that I may take into account the evidence reviewed by the Registrar in the above mentioned decision. I disagree. Since the Opponent did not provide case law in support of its submissions, suffice it to say that the affidavit filed in the section 45 proceeding is not part of the Opponent's evidence in the present case. To take the approach argued by the Opponent would greatly prejudice the Applicant who has had no opportunity to respond to such evidence, nor test its veracity.

[43] In the end, contrary to the parties' representations, I find that the overall assessment of the section 6(5)(a) factor, does not significantly favour either party. In any event, even if I conclude that the Mark is slightly more inherently distinctive than the Cited Mark, this factor is not determinative of the outcome of the present opposition.

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

[44] The applicant did not file evidence supporting its claim of use of the Mark in Canada since at least as early October 24, 2012 in association with "horological and chronometric instruments, namely watches, chronographs and alarm clocks". All the other goods and the services listed in the application for the Mark were applied for on the basis of proposed use.

[45] By comparison, the Opponent's registration claims use of the Cited Mark in Canada since September 4, 2007. However, as discussed above, the mere existence of the registration cannot give rise to an inference of continuous use of the Cited Mark in Canada.

[46] In the absence of evidence of actual use of the trade-marks in Canada, the section 6(5)(b) factor does not favour either party.

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

[47] It is the statement of goods and services in the application for the Mark and the statement of goods in the registration for the Cited Mark, namely "men's and ladies' wristwatches", that must be taken into consideration when assessing the section 6(5)(c) and (d) factors under the section 12(1)(d) ground of opposition [see *Henkel Kommanditgesellschaft auf Aktien v Super Dragon Import Export Inc* (1986), 12 CPR (3d) 110 (FCA); *Mr Submarine Ltd v Amandista Investments Ltd* (1987), 19 CPR (3d) 3 (FCA); and *Miss Universe, Inc v Bohna* (1994), 58 CPR (3d) 381 (FCA)].

[48] As a first matter, I note that the Applicant at the hearing mostly argued that because of the low inherent distinctiveness of the Cited Mark, the differences between the parties' trade-marks are sufficient to distinguish them even if I decided that the section 6(5)(c) and (d) factors favour the Opponent. In fact, it emerges from the hearing that the Applicant:

- acknowledges that the applied for goods "horological and chronometric instruments, namely watches, chronographs and alarm clocks" directly overlap with the Opponent's goods;
- does not dispute the Opponent's submissions that there is a relationship between the applied for goods "constitutive parts and fittings for watches, chronographs and alarm clockss (*sic*)" and the Opponent's goods;
- does not take a position concerning the merit of the Opponent's submissions that the remaining applied for goods, "precious metals and their alloys and goods made of these materials or plated therewith, namely figurines, trophies, jewelry namely rings, earrings, cufflinks, bracelets, charms, brooches, chains, necklaces, pins tie, tie,

jewelry boxes and cases, precious stones, semi-precious stones (gemstones)” (the Remaining Goods) clearly relate to jewelry, which at least indirectly overlap with the Opponent’s goods; and

- does not take a position concerning the merit of the Opponent’s submissions as to the relationship between the Opponent’s goods and each of the applied for services, “Retail store services in the field of horological instrument and jewelry, on-line retail store services in the field of horological instruments and jewelry. Repair and maintenance of horological instruments and jewelry”, as they explicitly concern horological instruments.

[49] In the end, having considered the parties’ representations, I find that the Applicant’s goods “horological and chronometric instruments, namely watches, chronographs and alarm clocks” overlap with the Opponent’s registered goods. In addition, I find it reasonable to conclude to a relationship between the Applicant’s goods “constitutive parts and fittings for watches, chronographs and alarm clockss (*sic*)” and the Opponent’s registered goods.

[50] Insofar as the Remaining Goods are concerned, absent representations to the contrary from the Applicant, I find it reasonable to conclude to an overlap, be it direct or indirect, between watches and jewelry, including jewelry related goods. I believe this conclusion finds support in the fact that the applied for services associated with the Mark are specified in the application as services in the *field of horological instruments and jewelry*. However, based on a fair reading of the Remaining Goods listed in the application, I disagree with the Opponent’s submissions that all of these goods are “clearly jewelry”. Indeed, I do not think “figurines”, “trophies” and “tie” qualify as jewelry, nor are typically thought of as jewelry or jewelry related goods.

[51] Finally, absent representations to the contrary from the Applicant, I find it reasonable to conclude to a relationship between the applied for services and the Opponent’s registered goods.

[52] In turning to the nature of the trade, I am mindful that the Mark is associated with retail store services and on-line retail store services. However, absent a restriction in the statement of goods in the Applicant’s application as to the channels of trade associated with the goods, when considering the issue of confusion, I cannot take into consideration the possibility that the

Applicant may only be selling the applied for goods through a particular channel of trade such as its own retail stores [see *Henkel Kommanditgesellschaft auf Aktien, supra*].

[53] In the present case, neither party filed evidence concerning the nature of the trade associated with its trade-mark. Furthermore, neither the Applicant's application nor the Opponent's registration limit the channels of trade associated with the parties' respective goods.

[54] Accordingly, to the extent that I concluded to an overlap or relationship between the Opponent's goods and the Applicant's goods other than "figurines", "trophies" and "tie", for the purposes of assessing confusion, I also conclude to a potential for overlap between the parties' channels of trade.

[55] In view of the above, except for the applied for goods "figurines", "trophies" and "tie", the consideration of the section 6(5)(c) and (d) factors favours the Opponent,

Additional surrounding circumstance

[56] The Opponent in its written argument contends that the three registrations owned by the Applicant "are ostensibly irrelevant" as an additional surrounding circumstance in assessing confusion [Schedule A to my decision]. However, it is not necessary to further discuss the Opponent's submissions in this regard.

[57] Indeed, at the hearing, the Applicant confirmed that it was not relying on the registrations to establish its ownership of a family of trade-marks comprising the term SWATCH. Also, the Applicant conceded that its ownership of these registrations does not give the Applicant the automatic right to the registration of the Mark. Rather, the Applicant submitted that its position that there is no likelihood of confusion between the Mark and the Cited Mark finds support in the fact that the Cited Mark proceeded to registration despite the Applicant's prior registrations for the trade-marks SWATCH Design, SWATCH ACCESS Design, and SWATCH.

[58] I do not find that the Applicant's prior registered trade-marks assist the Applicant in proving that there is no likelihood of confusion between the Mark and the Cited Mark. For one thing, the Mark is not identical to any of the Applicant's registered trade-marks. In addition, and not less importantly, the burden on an applicant differs whether the application is at the

examination stage or at the opposition stage. More particularly, at the examination stage the Registrar is under an obligation to advertise an application unless he is satisfied that the trade-mark is not registrable [section 37 of the Act]. At the opposition stage, the burden is on an applicant to satisfy the Registrar that the trade-mark is registrable.

Conclusion on the likelihood of confusion

[59] As indicated above, section 6(2) of the Act is not concerned with confusion of the trade-marks themselves, but confusion of goods or services from one source as being from another source. In the present case, the question posed is whether a consumer with an imperfect recollection of the Cited Mark who sees the Mark in association with the Applicant's goods and services would, as a matter of first impression, think that the goods and services emanate from or are sponsored by or approved by the Opponent.

[60] I am aware that comparatively small differences may suffice to distinguish between "weak" marks, that is between marks possessing little inherent distinctiveness [see *GSW Ltd v Great West Steel Industries Ltd* (1975), 22 CPR (2d) 154 (FCTD)]. However, the Applicant did not convince me that this is such a case.

[61] Indeed, as discussed above, the degree of resemblance between the Mark and the Cited Mark significantly advances the Opponent's case. This coupled with the overlap or relationship between the parties' goods, except for the Applicant's goods "figurines", "trophies" and "tie", the relationship between the Opponent's goods and the Applicant's services, and the potential for overlap in the channels of trade favour the Opponent. In my view, the slightly higher degree of inherent distinctiveness of the Mark is not in itself sufficient to shift the balance of probabilities in favour of the Applicant.

[62] In weighing all of the factors enumerated at section 6(5) of the Act and their relative importance, at best for the Applicant and except for its goods "figurines", "trophies" and "tie", I find the balance of probabilities between finding that there is no reasonable likelihood of confusion, and finding that there is a reasonable likelihood of confusion, to be evenly balanced.

[63] As the onus is on the Applicant to show, on a balance of probabilities, that there is no reasonable likelihood of confusion, I must find that the Applicant has not discharged its legal onus of establishing that there is no reasonable likelihood of confusion between the Cited Mark and the Mark, except for the applied for goods “figurines”, “trophies” and “tie”. Indeed, despite the degree of resemblance between the trade-marks, I find that the differences between the Applicant’s goods “figurines”, “trophies” and “ties”, and the Opponent’s goods are sufficient to definitively tip the balance of probabilities in favour of the Applicant.

[64] Accordingly, the section 12(1)(d) ground of opposition succeeds with respect to all of the goods other than “figurines”, “trophies” and “ties”, as well as with respect to all of the services associated with the Mark.

[65] I wish to add that had the Applicant provided evidence that I would have considered sufficient to draw a meaningful conclusion with respect to acquire distinctiveness of the Mark or the Applicant’s ownership of a family of SWATCH trade-marks, this may have been sufficient to shift the balance of probabilities in favour of the Applicant.

Disposition

[66] In view of the foregoing, pursuant to the authority delegated to me under section 63(3) of the Act, I refuse application No. 1,633,651 under section 38(8) of the Act for all of the services and for the following goods:

(1) Horological and chronometric instruments, namely watches, chronographs and alarm clocks. (2) Precious metals and their alloys and goods made of these materials or plated therewith, namely [...], jewelry namely rings, earrings, cufflinks, bracelets, charms, brooches, chains, necklaces, pins tie, [...], jewelry boxes and cases, precious stones, semi-precious stones (gemstones); constitutive parts and fittings for watches, chronographs and alarm clockss (*sic*).

[67] However, I reject the opposition under section 38(8) of the Act for the following goods:

[...] (2) Precious metals and their alloys and goods made of these materials or plated therewith, namely figurines, trophies, [...] tie [...].

[See *Produits Menager Coronet Inc v Coronet-Werke Heinrich Schlerf GmbH* (1986), 10 CPR (3d) 492 (FCTD) as authority for a split decision.]

Céline Tremblay
Member
Trade-marks Opposition Board
Canadian Intellectual Property Office

Schedule A

<u>Trade-mark</u>	<u>Reg. No.</u>	<u>Reg. Date.</u>	<u>Goods / Claims</u>
swatch	TMA333,168	October 16, 1987	Watches and parts thereof. Used in Canada since as early as July 25, 1984.
swatch access	TMA493,277	April 20, 1998	<i>Montres et leurs parties.</i> Used in Canada since at least as early as August 2, 1996.
SWATCH	TMA622,953	October 20, 2004	<i>Articles de bijouterie, nommément : bagues, bracelets, colliers, boucles d'oreilles, boutons de manchettes et pendentifs.</i> Used in Canada since at least as early as September 29, 2000.

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

HEARING DATE: 2016-10-13

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