

TO THE SUPREME MOOT COURT FOR INTELLECTUAL PROPERTY APPEALS

BETWEEN:

HEALTHWARD CANADA

Appellant

and

VAXCO, LTD.

Respondent

APPELLANT'S FACTUM

TABLE OF CONTENTS

<i>PART I – General Overview</i>	2
<i>PART II – Statement of Facts</i>	2
<i>PART III – Issues</i>	6
<i>PART IV – Argument</i>	7
Issue 1: Does use of the FLUSTOPPA trademark infringe the official mark FLUSTOPPER?.....	7
A) The FLUSTOPPA mark is an infringement of the rights conferred by the FLUSTOPPER official mark.....	7
B) Healthward is a public authority which benefits from protections for its official mark FLUSTOPPER	8
Issue 2: Did the Registrar err in refusing to allow the "FLUSTOPPA" trademark registration given Healthward's official mark?	13
A) The "FLUSTOPPA" trademark has not been used in connection with any products	13
B) The "FLUSTOPPA" trademark has not been used in connection with any services	14
<i>PART VI – Table of Authorities</i>	18

PART I – General Overview

[1] In the modern world, trademarks are everywhere, representing a guarantee of quality or authenticity, a symbol of luxury or of originality. In keeping with this concern for authenticity and in order to protect the interests of public authorities, certain trademarks have been reserved. These “official marks” benefit from broader and more aggressive protections to dissociate the authorities from any potential confusion with another product. This appeal therefore questions their scope.

[2] In 2019, after operating primarily in the United States, Vaxco Ltd. (“Vaxco”) obtained approval to sell its vaccines in the Canadian market. However, the Registrar refused to register its trademark, FLUSTOPPA, on the basis that it could cause confusion with the official mark owned by Healthward Canada (“Healthward”), FLUSTOPPER. Vaxco challenged this decision as well as the validity of Healthward's official mark.

[3] Hence, the appeal addresses the capacity required as a public agency to benefit from the broader rights conferred by an official mark. The appeal also calls into question the notion of use of trademark. Healthward is therefore seeking a declaration that Vaxco's trademark causes confusion with its own, in addition to seeking an injunction to prevent its use.

PART II – Statement of Facts

[4] The parties both operate in the field of health and immunization. While Vaxco has been operating primarily in the United States for several years, Healthward began operations in Canada in 2014.

Healthward's official mark FLUSTOPPER

[5] Healthward Canada is a not-for-profit organization working in public health and vaccination. Based in Toronto, it commenced operations in 2014. Initially lobbying the federal government, it then entered into a funding agreement with Health Canada in 2015.¹

[6] Pursuant to the funding agreement with Health Canada, Health Canada covers up to 75% of Healthward's operating expenses, with the remainder coming mainly from private donations and licensing revenue.² Healthward's mission is to establish educational programs on the importance of vaccination, and to provide mobile vaccination clinic services to communities in need, identified by Health Canada.

[7] Health Canada is also on Healthward's Board of Directors, with two to five seats on the board, and is also permitted to advise Healthward on its educational programs. Lastly, each of the parties has the right to terminate the agreement upon reasonable notice to the other party.³

[8] In January 2019, Healthward obtained its official mark, FLUSTOPPER, following the public notice of adoption and use.⁴

[9] Healthward is also affiliated with Healthward Industries Corp ("Industries"), a corporation that has been manufacturing vaccines and medical supplies since 1990⁵ and a direct competitor

¹ *Vaxco v. Healthward*, 2020 TCCIP 1222 at para 10.

² *Ibid.*

³ *Ibid* at para 11.

⁴ *Ibid* at para 8.

⁵ *Ibid* at para 12.

of Vaxco. Industries also supplies several Canadian hospitals and vaccination clinics with vaccines and the supplies it produces. Industries also supplies Healthward with medical supplies for its mobile clinics. Therefore, Industries has an authorization from Healthward to use its official mark on its products, in exchange for royalties on sales thereof.⁶

Vaxco's FLUSTOPPA trademark

[10] Vaxco has been operating for over 20 years manufacturing, distributing and selling vaccines in the United States using its FLUSTOPPA trademark. However, it was not until February 2019, one month after obtaining the Healthward official mark, that Vaxco was able to sell its products and services in Canada.⁷

[11] In March 2019, the Vaxco filed a trademark registration application for FLUSTOPPA and its logo⁸ in association with the following goods and services:

Goods

(1) Pharmaceutical preparations, diagnostic preparations and biological products for human use, namely, influenza vaccine; vaccine injectors; syringes; parts and fittings for vaccine injectors and syringes.

Services.

- (1) Research and development services for pharmaceutical preparations and substances.
- (2) Training relating to vaccination practices.
- (3) Medical advice and information in connection with vaccination.
- (4) Retail, wholesale and distribution services online and in-store in the field of vaccination⁹

⁶ *Ibid* at para 13.

⁷ *Ibid* at para 4.

⁸ *Ibid* at para 6.

⁹ *Ibid* at para 7.

[12] The Registrar refused the application pursuant to subsection 12(1)(e) of the *Trademarks Act* (“TMA”),¹⁰ citing Healthward's official mark FLUSTOPPER.¹¹

Judgment at Trial

[13] In May 2020, Vaxco petitioned the Court of First Instance of Canada, Intellectual Property Division, seeking to overturn the Registrar's decision to refuse the trademark registration application. It also petitioned cancellation of the trademark owned by Healthward. Healthward, on the other hand, brought an application seeking a declaration that Vaxco's use of the trademark infringes Healthward's official mark, as well as seeking an injunction prohibiting its use in Canada.¹²

[14] The Court found that the Healthward official mark was valid and that the Vaxco trademark is confusingly similar to it.¹³ However, the Court did not believe that Vaxco's claims of use actually constitute use of the trademark in Canada within the meaning of the TMA, and therefore denied the injunction requested by Healthward.¹⁴

Decision Appealed

[15] In its appeal of the decision, in September 2020, Vaxco argued that the trial judge erred in law with respect to the validity of Healthward's registration and also with respect to the presence of use of the trademark by Vaxco in Canada.¹⁵

¹⁰ *Trademarks Act*, R.S.C. 1985, c. T-13.

¹¹ *Vaxco v. Healthward*, *supra* note 1 at para 8.

¹² *Ibid* at para 3.

¹³ *Ibid* at para 21.

¹⁴ *Ibid* at para 26.

¹⁵ *Vaxco v. Healthward*, 2020 CAIP 333 at para 2.

[16] The Court of Appeal reversed the decision at trial, ruling in effect that, on the one hand, there was no confusion between the two trademarks¹⁶ and that the judge erred in deciding that Healthward was a public authority within the meaning of section 9 of the TMA. If its official mark was invalid, it could not block Vaxco's registration.¹⁷ Furthermore, the Court also denied Healthward's application for the injunction, finding that Vaxco's use in Canada prior to the filing of the official mark had been demonstrated.¹⁸

PART III — Issues

There are two issues before the Court:

Issue 1: Does use of the FLUSTOPPA trademark infringe the official mark

FLUSTOPPER?

Issue 2: Did the Registrar err in refusing registration of “FLUSTOPPA” given Healthward's official mark?

¹⁶ *Ibid* at para 6.

¹⁷ *Ibid* at para 10.

¹⁸ *Ibid* at para 14.

PART IV – Argument

Issue 1: Does use of the FLUSTOPPA trademark infringe the official mark FLUSTOPPER?

A) The FLUSTOPPA mark is an infringement of the rights conferred by the FLUSTOPPER official mark

[18] Official marks enjoy special protection in the *Trademarks Act*: no one may register one of the prohibited marks set out in subsection 9(1)(n)(iii)

TMA. Case law considers that as soon as a public authority adopts and publishes a valid official mark, it becomes “hardy and virtually unexpungeable”.¹⁹ When a public authority gives public notice of adoption and use of the official mark to the Registrar of Trademarks, the Registrar does not have discretion to refuse an official mark.²⁰ Courts should refrain from interfering in the official mark adoption process, as lawmakers have held that a public authority should have broad rights over its marks, regardless of the hypothetical consequences on other merchants.²¹ If the lawmaker had wanted to impose limits on the rights of a public authority, it would have done so.

[19] The applicable test in determining whether a trademark infringes an official mark is that of first impression and imperfect recollection, that is,

¹⁹ *Mihaljevic v. British Columbia*, [1979] 23 CPR (3rd) 80 at para 17; *Ontario Assn of Architects v. Assn of Architectural Technologists of Ontario*, 2002 FCA 218 at para 63.

²⁰ *Insurance Corporation of British Columbia v. Registrar of Trademarks*, [1980] 1 FC 669 at para 74.

²¹ *Ibid.*

“whether a person, who, on a first impression, knowing of one mark only and having an imperfect recollection of it, would likely be deceived or confused”.²²

[20] The trial judge correctly applied the criteria listed in subsection 6(5) TMA in the confusion analysis of subsection 9(1) TMA.²³ In the present case, not only are the nature of the business, the kind of goods and services and the sound of the words almost the same, but also the only element specific to the FLUSTOPPA mark is its ending, which is simply the less formal abbreviation of the word FLUSTOPPER. The result of such an analysis is clear: a person looking at the FLUSTOPPA mark would, as a matter of first impression, certainly confuse it with the FLUSTOPPER official mark.

[21] As infringement is easily established, the only real issue is the respondents’ application for invalidity of the official mark FLUSTOPPER, and thus the qualification of Healthward as a public authority. In the present case, Healthward Canada is a public authority and therefore has the right to use an official mark and the rights conferred by such mark under subsection 9(1)(n)(iii) TMA.

B) Healthward is a public authority which benefits from protections for its official mark FLUSTOPPER

[22] An entity will be considered to be a public authority when the following conditions are met:²⁴

²² *Canadian Olympic Assn Health Care Employees Union of Alberta*, [1992] F.C.J. No. 1129 at para 23; *Big Sisters Assn of Ontario v. Big Brothers of Canada*, [1997] F.C.J. No. 627 at para 88.

²³ *The Queen v. Kruger* (1978), 44 C.P.R. (2d) 135 at para 12; *Big Sisters Assn. of Ontario v. Big Brothers of Canada*, *supra* note 22 at para 88.

²⁴ *Canada (Registrar of Trademarks) v. Cdn Olympic Association*, [1982] 1 FC 692.

- a) [the organization must have] a duty to the public;
- b) there must be a significant degree of government control over the organization; and
- c) any profit earned by the organization must be for the benefit of the public and not for private benefit.

[23] Justice Urie of the Federal Court²⁵ and subsequent case law²⁶ held that the organization does not need to have an enforceable obligation to the public, but there must at least be a public interest.

[24] The two most important aspects are therefore government control over the organization and the public interest of its operations.²⁷ In the present case, Healthward meets both of these criteria.

i) Healthward is subject to ongoing and significant government control

[25] The level of government control must not be absolute, but significant enough.²⁸ In *See You In – Canadian Athletes Fund Corporation v. Canadian Olympic Committee*, the Federal Court asserted that “control is both matter of fact and law which can be exercised both directly and indirectly”.²⁹ It is therefore important to examine the entire context of the agreement between Healthward and the federal government, and not just one clause among many.

[26] First, government control over Healthward's activities is demonstrated by the substantial funding of its immunization and public education program. The mere presence of government funding to an entity was sufficient to make a finding of public authority status.³⁰

²⁵ *Ibid* at paras 24-26.

²⁶ *Ontario Assn of Architects v. Assn of Architectural Technologists of Ontario*, *supra* note 19 at paras 49-51; *Stadium Corporation of Ontario Ltd v. Wagon-Wheel Concessions Ltd (TD)*, [1989] 3 F.C. 132 at para 12.

²⁷ *Ontario Assn of Architects v. Assn of Architectural Technologists of Ontario*, *supra* note 19 at para 51.

²⁸ *See You In – Canadian Athletes Fund Corp v. Canadian Olympic Committee*, 2007 F.C. 406 at para 60.

²⁹ *Ibid* at para 63.

In *See You In – Canadian Athletes Fund Corporation*, the Court held that even funding of 30% of activities was an indication of sufficient control over the activities of the public authority.³¹ It is therefore clear that Healthward, with substantial government funding of 75% of its annual expenditures, is under sufficient government control.

[27] Second, the presence of two government-appointed members on Healthward's board of directors under this funding arrangement is a demonstration of sufficiently significant control over Healthward. The mere presence of members representing the government on the board of directors was considered by the Superior Court of Ontario to be a sufficient indication of control that could give rise to the status of public authority.³²

[28] Third, the continued oversight of Health Canada in the management and organization of Healthward's activities is an important contextual relationship to consider. As part of its funding, Health Canada instructs Healthward on the actual content of its immunization and public education programs.³³ In addition, Health Canada orders Healthward to serve underprivileged populations with their mobile clinics under penalty of taking back a portion of their funding if Healthward is unable to do so.³⁴

³⁰ *Council of Natural Medicine College of Canada v. College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia*, 2013 F.C. 287 at para 57; *Ontario Assn. of Architects v. Assn. of Architectural Technologists of Ontario*, *supra* note 19 at para 20.

³¹ *See You In – Canadian Athletes Fund Corp v Canadian Olympic Committee*, *supra* note 28 at para 61.

³² *Anne of Green Gables Licensing Authority Inc v. Avonlea Traditions Inc*, [2000] OJ 740 at para 170.³³

Vaxco v. Healthward, *supra* note 1 at para 11.

³⁴ *Ibid.*

[29] These elements go beyond a mere contractual relationship between the parties and are indicative of significant government control over virtually all of Healthward's activities.

ii) Healthward operates in the public interest

[30] Both the trial judge and the Court of Appeal held that Healthward's operations constituted a clear benefit to the public. These immunization and public education activities constitute a real tangible benefit to the public under the direction of the government.

[31] The Court of Appeal, having not made a definitive finding on this aspect, stated that the relationship with Healthward Industries was inappropriate and did not benefit the public. In *Ontario Assn. of Architects v. Assn. of Architectural Technologists of Ontario*, Justice McKeown found that although some of the organization's activities may serve private interests, the organization also benefits the public, and this benefit is significant enough.³⁵ The Court therefore recognizes the possibility that both private and public interests may be served at the same time. In *See You In – Canadian Athletes Fund Corporation*, Justice Phelan also acknowledges that some of the organization's activities were not necessarily of public benefit.³⁶

[32] Healthward gave Healthward Industries its consent to use its official mark for its immunization activities under subsection 9(2)(a) TMA. The law is clear: only the organization which publishes the notice of adoption and use can be a public authority within the meaning of subsection 9(1)(n)(iii) TMA. This same obligation does not appear in subsection 9(2) TMA,

³⁵ *Ontario Assn. of Architects v. Assn. of Architectural Technologists of Ontario*, *supra* note 19 at para 20.

³⁶ *See You In – Canadian Athletes Fund Corp. v. Canadian Olympic Committee*, *supra* note 28 at para 64.

when a public authority decides to give its consent to the use of its mark. The lawmaker's intention was therefore not to limit the freedom of a public authority to offer the use of an official mark to another entity. Moreover, Justice Cattanach recognizes that the lawmaker has given a great deal of freedom to the public authority to use its official mark “without any restriction or control other than its own conscience”.³⁷

[33] The Court should therefore refrain from considering whether a public authority gives its consent to another public authority, since Parliament has not provided for any such condition in 9(2) TMA. Whether the organization is a non-profit or a public authority, once the entity receives consent from a public authority to use an official mark, the analysis of the entity receiving the consent is irrelevant for the purposes of analyzing the official mark validly obtained from the Registrar.

[34] In conclusion, the FLUSTOPPA trademark is an infringement of the rights conferred by the FLUSTOPPER official mark Vaxco’s defence of challenging the validity of this official mark on the basis of Healthward’s status must be rejected, as Healthward meets the criteria of public authority established by the case law.

[35] The injunction sought by Healthward should also be granted. Vaxco received approval from Health Canada to market its products in February 2019³⁸ and had already started selling its FLUSTOPPA vaccines in March 2019.³⁹ The facts demonstrate Vaxco's clear intention to market its products and services in Canada. The Court must

³⁷ *Insurance Corporation of British Columbia v. Registrar of Trademarks*, supra note 20 at para 75.

³⁸ *Vaxco v. Healthward*, supra note 1 at para. 11.

³⁹ *Vaxco v. Healthward*, supra note 1 at para. 6.

intervene to protect the rights conferred by the official mark FLUSTOPPER and to cease the harm caused to Healthward since Vaxco began operations in February 2019.

Issue 2: Did the Registrar err in refusing registration of "FLUSTOPPA" given Healthward's official mark?

[36] The Registrar did not err in refusing registration of FLUSTOPPA since it is likely to cause confusion with Healthward's official mark, which was already on the register.

[37] Vaxco cannot rely on valid past use to use its trademark, which has not been used in association with its products and services.

A) The "FLUSTOPPA" trademark has not been used in connection with any products

[38] Pursuant to subsection 4 TMA, the use of a trademark in respect of goods constitutes valid use if the goods are "within the normal course of trade" in Canada. Indeed, when transferred, such goods bearing the trademark must be part of a transaction⁴⁰ resulting in a sale, with the objective of generating profits.⁴¹

[39] However, prior to February 2019, Vaxco had never sold its FLUSTOPPA products in Canada. The educational content featured on Vaxco's website was available free of charge and therefore generated no profit for Vaxco.

⁴⁰ *Molson Cos. v Halter*, [1976] F.C.J. No. 302 on page 177; *Window World International, LLC (Re)*, 2019 COMC 40 at para 44.

⁴¹ *Cast Iron Soil Pipe Institute v. Concourse International Trading Inc* (1988), 19 CPR (3d) 393 TMOB; *Riches, McKenzie & Herbert v. Cosmetic Warriors Limited*, 2017 COMC 36 at para 19.

[40] Further, it was not until February 2019 that Vaxco started selling its FLUSTOPPA vaccines in Canada. However, since Healthward's mark was obtained in January 2019, Vaxco's sales are not relevant to establishing prior use in Canada.

[41] The evidence shows that Vaxco advertised on billboards in a few Canadian cities near the U.S. border to encourage Canadians to travel to the United States to purchase and receive the FLUSTOPPA vaccines. Vaxco's website did not allow Canadians to buy their products in Canada and therefore, there was only an offer for sale in the United States, not proving valid use in Canada. Promotion and advertising do not provide proof of use of a trademark in connection with goods.⁴² Moreover, the offer for sale does not constitute use.⁴³

[42] Thus, the Registrar did not err in refusing registration of FLUSTOPPA since it causes confusion with the mark previously used by the applicant Healthward. Moreover, FLUSTOPPA has not been used with respect to its goods “in the normal course of trade” in Canada. The combination of certain facts, namely the absence of sales and profits of FLUSTOPPA vaccines prior to February 2019, is fatal to the establishment of prior use by Vaxco under subsection 4(1) TMA.

B) The “FLUSTOPPA” trademark has not been used in connection with any services

[43] Subsection 4(2) of the TMA provides that “a trademark is deemed to be used in association with services if it is used or displayed in the performance or advertising of those services”.

⁴² *Loblaws Inc. v. Columbia Insurance Co.*, 2019 FC 961 at para 131.

⁴³ *Mustafa Attar (Re)*, 2017 COMC 118 at para 27; *RAVINTORAIŠIO OY (Re)*, 2018 COMC 55 at para 34; *Forbes (Re)*, 2019 COMC 114 at para 15.

The services presented in Vaxco's registration application include but are not limited to “medical advice and information relating to vaccination” as well as “retail, wholesale and distribution services online and in-store in the field of vaccination”.

[44] The facts show that Vaxco maintains a website providing educational information on the importance of vaccines and that this site uses the FLUSTOPPA mark. However, the mere fact of having a website accessible in Canada is not in itself sufficient to constitute use,⁴⁴ nor even the mere display or advertisement of the trademark in Canada.⁴⁵

[45] The services must still be provided or, at the very least, be available for performance in Canada.⁴⁶ It is important not to equate the advertisement of services to actual service delivery.⁴⁷ In the present case, Canadians can pay to book appointments at Vaxco clinics, but the services are ultimately delivered in the United States, and not in Canada.

[46] Moreover, although the TMA does not define what constitutes a “service”, it has been established that use in Canada does not exist when the advertised services can only be performed by way of travel outside of Canada.⁴⁸

⁴⁴ *AT&T Intellectual Property II, L.P. (Re)*, 2016 COMC 91 at para 56.

⁴⁵ *Porter v. Don the Beachcomber*, [1966] Ex.C.R. 982; *Cornerstone Securities Canada Inc. v. Canada (Registrar of Trademarks)*, [1994] F.C.J. No. 1713 at para. 420; *Tint King of California Inc. v. Canada (Registrar of Trademarks)*, 2006 FC1440 at para 44; *Yeti Coolers, LLC v. HowSue Holdings Inc.*, 2019 FC 316 at para 26.

⁴⁶ *Orange Brand Services Ltd. (Re)*, 2016 COMC 111 at para 65; *Swing Paints Ltd. (Re)*, 2016 COMC 48 at para 7. *J. Benny Inc. (Re)*, 2016 COMC 55 at para 4; *Supershuttle International, Inc. (Re)*, 2014 COMC 155 at para 32.

⁴⁷ *Dollar General Corp (Re)*, 2017 COMC 46 at para 68; *Kamlins-Plaskacz v. Alibaba Group Holding Limited*, 2018 COMC 105 at para 28.

⁴⁸ *Marineland Inc v. Marine Wonderland and Animal Park Ltd*, [1974] ACF No. 163 at para 52.

[47] Although the benefit that an activity provides to consumers may constitute a service,⁴⁹ these must be tangible and significant benefits from Canada.⁵⁰ Case law⁵¹ recognizes that in order to prove the use of this activity, it is important to demonstrate “a certain level of interactivity with potential Canadian customers in order for there to be a benefit to Canadians sufficient to support such a registration”.⁵²

[48] However, the Vaxco website does not allow Canadians to purchase and receive FLUSTOPPA vaccines in Canada. They may only use the website to search for products offered by Vaxco and to book appointments to receive their vaccines at Vaxco clinics in the United States.

[49] These activities, that is, viewing educational content on the Vaxco website and booking appointments, do not represent concrete and sufficient benefits for Canadians, from Canada. The level of interactivity between the website and Canadians is not sufficiently high given to the absence of the shipment of goods to Canada. The evidence does not show that Vaxco's website contained any specific guidance or information for Canadians.

[50] It must therefore be concluded that the Registrar did not err in refusing the registration of FLUSTOPPA given the presence in the register of the FLUSTOPPER official mark. The Vaxco trademark was not used in connection with the services advertised in Vaxco's registration application prior to obtaining Healthward's official mark. The services advertised in connection with the FLUSTOPPA mark are neither available nor performed in Canada.

⁴⁹ *Ibid* at para 8.

⁵⁰ *Hilton Worldwide Holding LLP v. Miller Thomson*, 2018 FC 895 at para 90.

⁵¹ *Dollar General Corp v. 2900319 Canada Inc.*, 2018 FC 778.

⁵² *Ibid*, at para 19, citing *West Seal, Inc (Re)*., 2012 COMC 114 at para 27-28; *TSA Stores, Inc. v. Canada* (Registrar of Trademarks), 2011 FC 273 at para. 19-21.

Ancillary services of the FLUSTOPPA mark, i.e., visiting the Vaxco website and booking appointments, do not represent concrete and sufficient benefits for Canadians to qualify them as services used in Canada.

PART V — Order Sought

[51] Healthward requests that this appeal be allowed, and that the decision of the Court of Appeal be set aside. Healthward also requests that the Court award costs in the appellant's favour, here and in the lower courts, against Vaxco.

Signed January 12, 2021

Team No. 10

Counsel for appellant

PART VI — Table of Authorities

Legislation

Trademarks Act, R.S.C. 1985, c. T-13.

Case Law

Anne of Green Gables Licensing Authority Inc v. Avonlea Traditions Inc, [2000] OJ 740.

AT&T Intellectual Property II, LP (Re), 2016 COMC 91.

Big Sisters Assn of Ontario v. Big Brothers of Canada, [1997] FCJ No. 627.

Canada (Registrar of Trademarks) v. Cdn Olympic Association, [1982] 1 FC 692.

Canadian Olympic Assn v. Health Care Employees Union of Alberta, [1992] FCJ No. 1129.

Cast Iron Soil Pipe Institute v. Concourse International Trading Inc (1988), 19 CPR (3d) 393 TMOB.

Cornerstone Securities Canada Inc v. Canada (Registrar of Trademarks), [1994] FCJ No. 1713.

Council of Natural Medicine College of Canada v. College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia, 2013 FC 287.

Dollar General Corp v. 2900319 Canada Inc, 2018 FC 778.

Dollar General Corp (Re), 2017 COMC 46.

Forbes (Re), 2019 COMC 114.

HENAN REBECCA HAIR PRODUCTS INC (Re), 2018 COMC 150.

Hilton Worldwide Holding LLP v. Miller Thomson, 2018 FC 895.

Insurance Corporation of British Columbia v. Registrar of Trademarks, [1980] 1 FC 669.

J. Benny Inc (Re), 2016 COMC 55.

Kamlins-Plaskacz v. Alibaba Group Holding Limited, 2018 COMC 105.

Loblaws Inc v. Columbia Insurance Co, 2019 FC 961.

Marineland Inc v. Marine Wonderland and Animal Park Ltd, [1974] FCJ No. 163.

Mihaljevic v. British Columbia, [1979] 23 CPR (3rd) 80.

Molson Cos. v. Halter, [1976] FCJ No. 302.

Mustafa Attar (Re), 2017 COMC 118.

Ontario Assn of Architects v. Assn of Architectural Technologists of Ontario, 2002 FCA 218.

Orange Brand Services Ltd (Re), 2016 COMC 111.

Porter v. Don the Beachcomber, [1966] ExCR 982.

RAVINTORAISSIO OY (Re), 2018 COMC 55.

Riches, McKenzie & Herbert c Cosmetic Warriors Limited, 2017 COMC 36.

See You In – Canadian Athletes Fund Corp v. Canadian Olympic Committee, 2007 FC 406.

Société nationale des chemins de fer français v. Venice Simplon-Orient-Express Inc., [2000] FCJ No. 1897.

Stadium Corporation of Ontario Ltd v. Wagon-Wheel Concessions Ltd (TD), [1989] 3 FC 132.

Supershuttle International Inc (Re), 2014 TMOB 155.

Swing Paints Ltd (Re), 2016 COMC 48.

The Queen v. Kruger (1978), 44 C.P.R. (2d) 135.

Tint King of California Inc v. Canada (Registrar of Trademarks), 2006 FC 1440.

TSA Stores, Inc v. Canada (Registrar of Trademarks), 2011 FC 273. *Vaxco v. Healthward*, 2020 TCCIP 1222.

Vaxco v. Healthward, 2020 CAIP 333.

West Seal, Inc (Re), 2012 COMC 114.

Window World International, LLC (Re), 2019 COMC 40.

Yeti Coolers, LLC v. HowSue Holdings Inc, 2019 FC 316.