

**THIS OPINION IS NOT A
PRECEDENT OF
THE T.T.A.B.**

Mailed: May 21, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Coach Services, Inc.
v.
Master Leather Corp.

Opposition No. 91185554
to application Serial No. 77310097

Norman H. Zivin and Hindy Dym of Cooper & Dunham LLP for
Coach Services, Inc.

Dionne McNeff of Law Offices of Cameron A. Hopkins for
Master Leather Corp.

Before Holtzman, Cataldo and Taylor,
Administrative Trademark Judges.

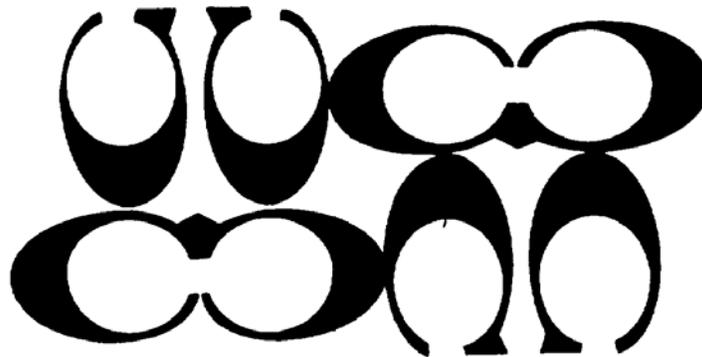
Opinion by Cataldo, Administrative Trademark Judge:

Applicant, Master Leather Corp., has applied to register on the Principal Register the mark shown below based upon its allegation of a bona fide intent to use the mark in commerce for the following goods: "evening handbags, handbags, leather handbags" in International Class 18.¹

¹ Application Serial No. 77310097 was filed on October 22, 2007.



Registration has been opposed by opposer, Coach Services, Inc. As grounds for opposition, opposer asserts that it is the owner of the famous "Signature C" mark shown below, previously used and registered on the Principal Register for the following goods: "handbags, purses, clutches, shoulder bags, portfolios, tote bags, waist pouches, backpacks, cosmetic cases sold empty, toiletry cases sold empty, briefcases, luggage, garment bags, billfolds, wallets, key cases, business card cases, credit card cases, passport holders, identification cases, and coin pouches" in International Class 18.²



² Registration No. 2626565 issued on April 24, 2002. Section 8 affidavit accepted; Section 15 affidavit acknowledged.

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Opposer argues that it has used its famous registered mark in connection with the above listed goods since prior to any date upon which applicant may rely for purposes of priority of use of its involved mark; that applicant's mark, when used on applicant's goods so resembles opposer's mark for its recited goods as to be likely to cause confusion, to cause mistake, and to deceive; and that opposer will be damaged thereby.

Applicant's answer consists of a general denial of the allegations in the notice of opposition.

The record in this case consists of the pleadings and the file of the involved application. See Trademark Rule 2.122(b); 37 C.F.R. § 2.122(b). During its testimony period, opposer timely filed notices of reliance, introducing thereby excerpts from copies of printed publications containing advertisements and articles related to the mark and goods in opposer's pleaded registration. In addition, opposer filed the testimony deposition of Ms. April Pyatt, opposer's Intellectual Property Manager. During Ms. Pyatt's deposition, opposer introduced a copy of its pleaded registration; copies of communications between opposer and United States Customs and Border Protection regarding seizure of applicant's goods under its involved

mark; and a copy of the file of the application for the involved mark.³

Applicant did not take testimony or offer any other evidence during its assigned testimony period.⁴ Only opposer filed a brief on the case.

Opposer's Standing

Because opposer has properly made its pleaded registration of record, we find that opposer has established its standing to oppose registration of applicant's mark. See *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842 (Fed. Cir. 2000); and *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982).

Priority of Use

Moreover, because opposer's pleaded registration is of record, Section 2(d) priority is not an issue in this case as to its "Signature C" mark as well as the goods covered thereby. See *King Candy Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108 (CCPA 1974).

Likelihood of Confusion

Our likelihood of confusion determination under Section 2(d) is based on an analysis of all of the facts in evidence that are relevant to the factors bearing on the likelihood

³ It is noted that applicant's officer, Mr. Kyung "Donnie" Yoo, failed to attend his testimony deposition noticed by opposer.

⁴ It is noted in addition that applicant did not attend the testimony deposition of Ms. Pyatt.

of confusion issue, even those not specifically discussed in this decision. See *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). See also *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005); *In re Majestic Distilling Company, Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003); and *In re Dixie Restaurants Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997).

Fame of Opposer's "Signature C" Mark

We begin our likelihood of confusion analysis with the fifth *du Pont* factor, which requires us to consider evidence of the fame of opposer's mark and to give great weight to such evidence if it exists. See *Bose Corp. v. QSC Audio Products Inc.*, 293 F.3d 1367, 63 USPQ2d 1303 (Fed. Cir. 2002); *Recot Inc. v. Becton*, 214 F.3d 1322, 54 F.2d 1894 (Fed. Cir. 2000); and *Kenner Parker Toys, Inc. v. Rose Art Industries, Inc.*, 963 F.2d 350, 22 USPQ2d 1453 (Fed. Cir. 1992).

Fame of an opposer's mark or marks, if it exists, plays a "dominant role in the process of balancing the *DuPont* factors," *Recot*, 214 F.3d at 1327, 54 USPQ2d at 1456, and "[f]amous marks thus enjoy a wide latitude of legal protection." *Id.* This is true as famous marks are more likely to be remembered and associated in the public mind than a weaker mark, and are thus more attractive as targets for would-be copyists. *Id.* Indeed, "[a] strong mark ... casts a long shadow which competitors must avoid." *Kenner Parker Toys*, 963 F.2d at 353, 22 USPQ2d

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at 1456. A famous mark is one "with extensive public recognition and renown." *Id.*

Bose Corp. v. QSC Audio Products Inc., supra, 63 USPQ2d at 1305.

The testimony deposition of Ms. April Pyatt, opposer's Manager of Intellectual Property, and associated exhibits, along with opposer's notices of reliance, establish the following undisputed facts. Opposer first used its "Signature C" mark in connection with various bags, cases and related items in 2001 and has used such mark continuously since then (Pyatt dep. at 5, Exhibit 2). Opposer sells the goods identified by its "Signature C" mark in its own stores and other department stores such as Macy's, Dillard's, and Bloomingdales, as well as over the internet (Pyatt dep. at 8-9). Opposer has generated over \$1 billion in annual sales of goods under its "Signature C" mark over the last five years (Pyatt dep. at 6). We find these numbers to be substantial.

Opposer extensively advertises its goods under the "Signature C" mark in newspapers, magazines, and other periodicals, including Harper's Bazaar, The New Yorker, Mademoiselle, Marie Claire, Essence, Glamour, Gourmet, Real Simple, Elle, and Vanity Fair, as well as printed catalogues and its internet website (Pyatt Dep. at 7-8; First and Second Notices of Reliance).

Unsolicited print media coverage of opposer's goods under its "Signature C" mark is widespread. Articles and editorials concerning opposer's goods under its pleaded mark appear in such general interest magazines as InStyle; North Shore; Worth; Bride's; W Magazine; Essence; Investor's Business Daily; The New York Post; and Women's Wear Daily among many others (Notices of Reliance).

Based upon this undisputed evidence of record, we find that opposer's "Signature C" mark is famous for purposes of the fifth *du Pont* factor. Such fame must be accorded dominant weight in our likelihood of confusion analysis. *See Recot, supra*, at 1327. *See also Miss Universe L.P., LLLP v. Community Marketing, Inc.*, 82 USPQ2d 1562 (TTAB 2007).

The Goods and Their Trade Channels

Next, we turn to our consideration of the similarities or dissimilarities between the parties' goods. In this case, the goods recited in the involved application and opposer's pleaded registration are, in part, identical. Applicant's "handbags" are fully encompassed within the goods identified in opposer's registration. In addition, applicant's "evening handbags and leather handbags" are subsumed within opposer's "handbags" and, further, are closely related to the "purses, clutches, shoulder bags, and tote bags" identified therein.

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Because the parties' goods are identical and/or closely related and there are no restrictions as to their channels of trade or classes of purchasers, we must assume that the goods are, or will be, sold in all the normal channels of trade to all the usual purchasers for such goods, and that the channels of trade and the purchasers for applicant's and opposer's goods would be the same. See *Interstate Brands Corp. v. McKee Foods Corp.*, 53 USPQ2d 1910 (TTAB 2000).

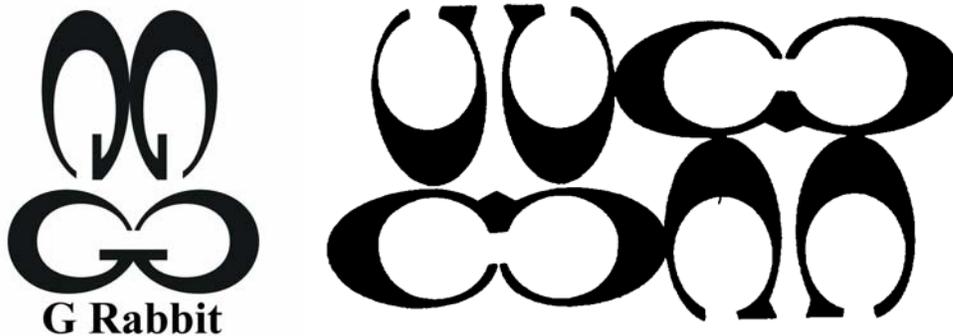
It is clear that if these identical and closely related goods are offered under similar marks there would be a likelihood of confusion.

Thus, we turn to the marks, keeping in mind that when marks would appear on identical goods, as they do here, the degree of similarity between the marks necessary to support a finding of likely confusion declines. See *Century 21 Real Estate v. Century Life*, 970 F.2d 874, 23 USPQ2d 1698 (Fed. Cir. 1992).

The Marks

In comparing the marks, we consider the first *du Pont* factor, i.e., whether applicant's mark and opposer's famous mark are similar or dissimilar when viewed in their entirety in terms of appearance, sound, connotation and commercial impression. See *Palm Bay Imports, Inc. v. Veuve Clicquot*, *supra*.

In this case, applicant's mark and opposer's mark, displayed side by side below,



are highly similar in that both utilize interlocking pairs of stylized letters arranged in novel directions. Applicant's mark includes two pairs of the letter "G" with one pair facing one another and the other rotated ninety degrees to the right. These letters are arranged in exactly the same manner as two of the four pairs of the letter "C" that comprise opposer's famous mark. We note in addition that the stylization of the two pairs of the letter "G" in applicant's mark is strikingly similar to the stylization of the four pairs of the letter "C" comprising opposer's famous mark. In fact, the stylization in the letters is so highly similar that it is difficult to distinguish between them, notwithstanding that they contain the letter "G" on the one hand and "C" on the other.

Applicant's mark also contains the wording "G Rabbit" located below the interlocking pairs of the letter "G." However, the wording "G Rabbit" is much smaller in size and

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far less prominent than the interlocking letters located above. Thus, while the "G Rabbit" portion of applicant's mark is dissimilar from opposer's famous mark, the mere addition of this material to the much larger and strikingly similar interlocking pairs of letters located above is not sufficient to create a commercial impression that is separate from that of opposer's famous mark. As a result, we find that applicant's mark is highly similar in appearance, connotation and overall commercial impression to opposer's famous mark. Such similarities overcome the dissimilarities between the marks.

This *du Pont* factor also favors opposer.

Summary

In view of the foregoing, we find that opposer has established its standing to bring this proceeding; its priority of use; that its "Signature C" mark is famous; that the parties' goods are, in part, identical and otherwise related; and that the striking similarities between applicant's mark and opposer's famous mark outweigh the differences between them.

DECISION: The opposition is sustained on the ground of priority and likelihood of confusion, and registration to applicant is refused.