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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204296
Party	Plaintiff JJI International, Inc.
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Signature	/Craig M. Scott/
Date	01/13/2014
Attachments	Notice of Filing Testimony - Fong.pdf(31815 bytes) Declaration of Dr. Geoffrey Fong.pdf(4546131 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
THE TRADEMARK TRIAL AND APPEAL BOARD

JJI INTERNATIONAL, INC. :
Opposer, : Appl. Ser. No.: 85356064
v. : Opposition No.: 91204296
SPARKLE LIFE, LLC :
Applicant. :

NOTICE OF FILING OF TESTIMONY

TO: Thomas E. Toner
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Pursuant to Trademark Rule of Practice 2.123(b) and 2.125 and TBMP 703.01(b),
Opposer, JJI International, Inc. (“JJJ”), hereby files with the Trademark Trial and Appeal Board
the testimony declaration of Dr. Geoffrey T. Fong, Ph.D., along with the Expert Report of Dr.
Geoffrey T. Fong, Ph.D. attached thereto as Exhibit 1.

A copy of said declaration and exhibit are enclosed and thereby served upon you.
you.

JJI INTERNATIONAL, INC.

By: /Craig M. Scott/
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Attorney for Opposer

Dated: January 13, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing *Notice of Filing of Testimony* has been served on counsel to Sparkle Life LLC by sending said copy on January 13, 2014 via electronic mail and First Class Mail, postage prepaid to:

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/s/ Craig M. Scott/

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JJI INTERNATIONAL, INC. :
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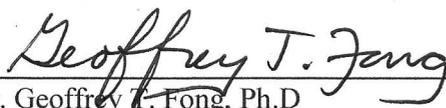
DECLARATION OF DR. GEOFFREY T. FONG

I, Dr. Geoffrey T. Fong, Ph.D., under oath depose and state as follows:

1. I am a Professor of Psychology at the University of Waterloo, Canada.
2. My experience includes designing and implementing a wide variety of surveys—such as face-to-face surveys, mall intercept surveys and web-based surveys—across a broad range of populations throughout the United States and the world. I apply my 30 years of experience as an academic, a researcher and as a social psychologist to the implementation of trademark surveys, including likelihood of confusion, secondary meaning and genericness surveys.
3. I have been retained by Opposer, JJI International, Inc. (“JJI”) to provide expert testimony in this case concerning the likelihood of confusion between JJI’s SPLASHES & SPARKLES® mark and Applicant, Sparkle Life, LLC’s (“Sparkle Life”) SPARKLE LIFE mark.
4. On January 3, 2013, I issued the attached expert report, the contents of which are specifically incorporated herein. (The Expert Report of Dr. Geoffrey T. Fong, Ph.D. (the “Fong Report”) is attached hereto and incorporated herein as Exhibit 1.)

5. As detailed in my report, after conducting a trademark likelihood of confusion survey that I designed, it is my expert opinion that there is a likelihood of consumer confusion between JJI's federally registered trademark, SPLASHES & SPARKLES®, and Sparkle Life's junior mark, SPARKLE LIFE. Specifically, it is my expert opinion that there exists a statistically significant rate of likelihood of consumer confusion of 16.5 % between the SPLASHES & SPARKLES® and SPARKLE LIFE brands of jewelry products. (Fong Report at 15.)

I declare under penalty of perjury that the foregoing is true and correct.



Dr. Geoffrey T. Fong, Ph.D

Dated: January 9, 2014

EXHIBIT 1

**Results of a Survey to Measure the Likelihood of Confusion
Caused By the Names of Competing Lines of Jewelry**

Geoffrey T. Fong, Ph.D.

January 3, 2013

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A. QUALIFICATIONS AND HISTORY

I received my bachelor's degree in psychology at Stanford University in 1978, where I graduated with departmental honors and distinction. I received my Ph.D. in social psychology at the University of Michigan in 1984. I held faculty positions at Northwestern and Princeton before moving to the University of Waterloo, where I am now a full professor of psychology, with tenure, in the Department of Psychology and in the School of Public Health and Health Systems. In 2007, I was the first researcher to be awarded the position of Senior Investigator at the Ontario Institute for Cancer Research, which is significant in that the OICR is mostly an institute of biomedical research on cancer, whereas I was awarded the position based on my work in behavioral research in cancer prevention. The Senior Investigator Award included a discretionary research fund of \$1.4 million over 5 years. In May 2012, my Senior Investigator Award was renewed for another 5 years (2012–17), including another \$1.4 million discretionary grant.

Over the past 30 years as a researcher, I have led or been a team member of a diverse set of research programs. I have conducted lab and field experiments and surveys relating to human judgment and decision-making in everyday life, multi-method evaluation studies of the impact of behavioral interventions to reduce risky sexual behavior among youth, experiments (lab and field) and surveys on the impact of alcohol intoxication on important social behaviors such as drinking and driving and risky sex, the impact of media depictions of smoking on promoting favorable attitudes toward smoking among smokers and among non-smokers, studies on environmental tobacco smoke (including air quality monitoring, biomarkers of tobacco smoke uptake, and surveys), and many other domains of health behavior.

I am the Founder and Chief Principal Investigator of the International Tobacco Control Policy Evaluation Project (the ITC Project), a large international collaboration of over 100 researchers across 22 countries who have come together to conduct parallel cohort (longitudinal) surveys of adult smokers in these 22 countries to evaluate the psychosocial and behavioral impact of national level tobacco control policies of the World Health Organization Framework Convention on Tobacco Control (FCTC), the world's first health treaty, which has been ratified by over 170 countries. The ITC Project is the only research project that is conducting cross-country evaluation of the impact of the treaty throughout the world and is designed to contribute to the evidence base for policymakers across the 170+ countries, which seek evidence to guide their selection and implementation of strong tobacco control policies in their fulfillment of their obligation under the FCTC. As a result, ITC Project findings have been in high demand.

I have published over 170 journal articles, including articles appearing in *Science*, *Journal of the American Medical Association*, *American Journal of Public Health*, *Cognitive Psychology*, *Journal of Experimental Psychology*, *Tobacco Control*) and close to 500 presentations at scientific meetings, university colloquia, and policy-making forums, including over 80 invited talks. I have contributed to important government reports, of which much of the relevant research (including my own) has involved survey research. These include contributions to the 2007 report by the Institute of Medicine, *Ending the Tobacco Problem: A Blueprint for the*

Nation; the chapter on research design for the 2009 Handbook on Cancer Prevention (Volume 12) by the WHO International Agency for Research on Cancer (IARC) entitled *Methods for Evaluating Tobacco Control Policies*, which is known as the compendium of best practices for evaluation of health policies; and a contribution to a chapter in the 2012 U.S. Surgeon General's Report on youth smoking. I am one of three editors of the forthcoming monograph from the US National Cancer Institute and the World Health Organization, *The Economics of Tobacco Control*. I have also presented the findings of our research to health ministers and other high-level governmental officials, as well as parliamentarians and policymakers throughout the world. I have also been an expert consultant to policy organizations, including the WHO, and to governments (including Canada, the United States, United Kingdom, Australia, Uruguay, China, Mauritius, and Bangladesh). The ITC Project is consulting with the U.S. Food and Drug Administration on evidence relevant to the FDA's new regulatory authority over tobacco products, as granted by the Family Prevention and Tobacco Control Act, which was signed by President Obama in 2009. I have made similar high-level contributions to policy in Canada. In December 2010, I testified at the Health Standing Committee of the House of Commons regarding the postponement of the revision of Canada's graphic warning labels, which had not been revised since 2000. I presented evidence from our ITC Canada Survey showing the declining impact of the Canadian warnings over the last 7 years. Three weeks later, the Health Minister reversed her initial decision, and as a result, revised warnings have now been introduced in Canada.

I have won major awards for my research. In addition to the Senior Investigator Award from the Ontario Institute for Cancer Research, described above, I and 2 colleagues won an inaugural *Top Canadian Achievement in Health Research Award* in 2009 from the Canadian Institutes for Health Research and the *Canadian Medical Association Journal* for the ITC Project. In 2011, I was awarded a prestigious five-year Prevention Scientist Career Award from the Canadian Cancer Society Research Institute, which provides for a five-year period (2011-2016) free of teaching obligations at the University of Waterloo; this Award is designed to allow me to pursue my research program full-time; the Award also provides a research fund of \$250,000 over the 5-year period. In November 2011, I received the prestigious Canadian Institutes of Health Research Knowledge Translation Prize, described as follows: "The CIHR Knowledge Translation Prize honours and supports the exemplary knowledge translation efforts and activities of an exceptional individual, team or organization that has made an outstanding contribution to increasing the application of research findings, improving the health of individuals, improving health services and products, or strengthening the health-care system." In May 2012, I received another national award—the Lise Manchester Award—from the Statistical Society of Canada. This award recognized the "unique and historic research effort" of the ITC Project, whose "rigor of statistical design has contributed greatly to its value to countries throughout the world in promoting evidence-based policies in tobacco control."

I have been very successful in obtaining grant funding for the ITC Project Survey research. I have been the Principal Investigator, Co-Principal Investigator, or Co-Investigator for over 30 grants, totaling over \$50 million. These grants have included the largest operating grant (open competition) from the Canadian Institutes of Health Research, several major grants from the

U.S. National Cancer Institute, and various other grants from health research funding agencies in several countries. All of these grants have involved extensive surveys.

I have considerable research expertise in the conduct of surveys, across a broad range of modalities (random-digit-dialed telephone methods, face-to-face surveys—from nationally representative household surveys to mall intercept surveys, intercept surveys of more targeted groups, and web-based surveys), and a broad range of populations (general population, specific groups, youth) not only in the United States and Canada but throughout the world.

I have expertise in statistical methods relevant to survey data. I have taught courses in advanced statistical methods and research design (including experimental and survey methods,) at the University of Michigan (where I was a faculty member in the world-renowned ICPSR Summer Statistics Program for over a decade, beginning when I was still a graduate student), Northwestern, Princeton, and Waterloo.

I have expertise in trademark surveys, including those involving issues of likelihood of confusion, secondary meaning, and genericness (Appendix A).

B. BACKGROUND AND ASSIGNMENT

JJI International, Inc. (hereafter referred to as "JJI") designs, sources, and manufactures various products, including jewelry items that it sells under its registered SPLASHES & SPARKLES mark. SPARKLE LIFE, LLC (hereafter referred to as "SPARKLE LIFE"), another jewelry company, uses the SPARKLE LIFE mark for its products. I have been asked by counsel for JJI to develop, field, and analyze a survey to determine whether or not individuals comprising the relevant universe are confused about the source of the products because of the similarity of the product names.

Under my direction, part of the work was conducted by personnel at Applied Marketing Science, Inc. (hereafter referred to as "AMS"). I am being compensated for my work on this matter at \$550 per hour. My compensation is not contingent upon the conclusions I reach or on the outcome of this matter.

A list of the documents I reviewed in connection with this assignment is included in Appendix B. My work is ongoing, and I may supplement this report should additional relevant data become available.

C. SUMMARY OF OPINIONS

Based on the results of the survey, which was conducted among members of the relevant universe, that is, purchasers of jewelry at the appropriate price points in the appropriate channels, it is my opinion to a reasonable degree of professional certainty that a likelihood of confusion exists between the origins of the two jewelry brands, marketed under the names SPLASHES & SPARKLES (JJI) and SPARKLE LIFE (SPARKLE LIFE, LLC).

D. METHODOLOGY

D.1. Survey Design

The survey was designed in accordance with the relevant factors outlined in the Manual for Complex Litigation (4th edition) published in 2004 by the Federal Judicial Center. These include:

- whether the population was properly chosen and defined;
- whether the sample chosen was representative of that population;
- whether the data gathered were accurately reported;
- whether the data were analyzed in accordance with accepted statistical principles;
- whether the questions asked were clear and not leading;
- whether the survey was conducted by qualified persons following proper interview procedures; and
- whether the process was conducted so as to ensure objectivity (e.g., that respondents were unaware of the sponsor of the survey and how the results would be used, and that response options were randomized to eliminate order effects).

D.2. Data Collection Methods—Internet Survey

Internet surveys are an increasingly common form of market research. Over 78% of the U.S. population has access to the Internet.¹ Many major corporations use Internet surveys to support multi-million dollar marketing decisions.² Courts accept the results of Internet surveys in a wide range of cases.^{3,4}

An Internet survey is conducted by contracting with one of the numerous companies that have pre-recruited potential respondents who have indicated their willingness to participate in market research surveys. For this case, I selected ResearchNow (formerly eRewards), a well-established international market research service firm that maintains a panel of nearly 3 million active members in the United States.⁵ AMS has worked with ResearchNow on a number of other projects and has found them to be a consistently reliable and high quality supplier of qualified survey respondents. As part of the ResearchNow panel recruitment process, each potential panel member completes a demographic questionnaire.

For the present survey, ResearchNow created a random sample of its national panel. All respondents were verified at the onset of the survey by matching the self-reported data for age

¹ <http://www.internetworldstats.com/stats14.htm> as of December 31, 2011 (viewed 12/29/2012).

² According to an annual study conducted by Inside Research®, 43% of survey research in the U.S. was conducted online in 2008.

³ Robert H. Thornburg, *Trademark Surveys: Development of Computer-Based Survey Methods*, 4 J. Marshall Rev. Intell. Prop. L. 91 (2005).

⁴ Gabriel M. Gelb and Betsy D. Gelb, "Internet Surveys for Trademark Litigation: Ready or Not, Here They Come," *The Trademark Reporter*, Vol. 97, No. 5, Sept-Oct, 2007, p. 1073.

⁵ Active members are defined as having responded to a survey invitation in the past 12 months.

and gender in the survey to the panel profile information provided by ResearchNow. This is a common validation procedure for Internet surveys.

D.3. Survey Administration

Potential respondents received an email invitation. This invitation included a link to the actual survey, which was hosted on a website maintained by AMS. This link contained an embedded identification number that ensured that each respondent could only complete the survey once. Respondents who qualified and completed the survey were given reward points that could be used toward the redemption of items such as gift cards. This is a standard procedure for compensating respondents for participating in surveys.

Data collection on the survey began on Thursday, December 27, 2012 and ended on Friday, December 28, 2012. A total of 1,100 respondents entered the survey, of which 412 (37%) were ultimately qualified for inclusion because they met all the screening criteria described below.

AMS coordinated all data collection and oversaw the data collection process. Of the 15,500 e-mail invitations that were sent, 1,100 individuals entered the survey. Of these individuals, 688 failed to qualify because they were under the age of 18 or failed to specify their age (8), they self terminated (10), they were not completing the survey on either a desktop, a laptop, or tablet computer (55), they failed to pass the age/gender validation (i.e., their age and/or gender responses did not match their panel profile information) (54), they have family members who work for a company that makes or sells jewelry (24), or they have not purchased/would not consider purchasing a piece of women's jewelry in the qualifying price ranges at the qualifying stores in the last/next twelve months (537). The remaining 412 respondents qualified as members of the relevant population. (See Appendix C for a complete list of response statistics).

E. SURVEY INSTRUMENT

It is important to note that this study followed a strict experimental design in which qualified respondents were randomly assigned to a Test or Control Condition group. **The only difference between the two conditions of the survey was the jewelry brand name (SPARKLE vs. SHIMMER LIFE) compared with SPLASHES & SPARKLES.** Any differences in response on the critical question, regarding the likelihood of confusion between the marks SPLASHES & SPARKLES and SPARKLE LIFE, can only be due to this difference in the jewelry brand name. Nothing else differed between the two conditions. Experimental methods have been effectively used and are specifically noted as an indication of strong design in many trademark surveys, stemming from their high regard in scientific research more generally.^{6,7} Screenshot images of the survey may be found in Appendix D.

⁶ Diamond, S.S. (2011) Reference Guide on Survey Research. (3rd edition) in Reference Manual on Scientific Evidence. Washington, D.C.: Federal Judicial Center, 398.

⁷ McCarthy, McCarthy on Trademarks and Unfair Competition §32:173.50 and 32:177 (4th ed. 2011).

E.1. Screening

The survey began with a series of screening questions to determine whether a respondent was qualified to participate in the survey. The first screening question asked respondents to enter a code shown on the screen into a CAPTCHA box to ensure that the respondent was an actual person as opposed to a computer program.⁸ Next, respondents indicated the type of electronic device they were using to complete the survey (S1). To ensure that all respondents could properly view the survey images and questions, the survey instructed respondents who indicated that they were taking the survey on a device with a small screen (e.g., a smart phone or other mobile or electronic device) to log back into the survey using a laptop, desktop, or tablet computer. Next, respondents provided their age and gender (S2 and S3, respectively). Respondents younger than 18 were not permitted to continue. Age and gender information also validated that the person taking the survey is the same person who registered with the panel provider; respondents who entered age or gender information that did not match the age and gender information on file with the panel provider were terminated for a failure to validate. The next screening question asked whether the respondent or anyone in his/her household was employed at a company that makes or sells jewelry, computers, kitchen appliances, or home furnishings (S4). Anyone who indicated an employment affiliation in the jewelry category was not permitted to continue.

Next, a purchase qualification question was asked about women's jewelry (S5). I sought to evaluate a range of price points across the junior user's (SPARKLE LIFE's) products from \$25 to over \$250, with the majority of SPARKLE LIFE's products priced as components bought in combinations (i.e., earrings, bracelets, necklace chains, and one or more beads). Respondents were asked to consider a range of store types. All respondents were asked to specify in which stores type(s) and in which price range(s) they had purchased a piece of women's jewelry in the past twelve months. Past purchase can be a good indicator of future jewelry purchases for two reasons: at the high end, a recent purchase may not be repeated for a while, and at the low end, there are more impulse purchases, which may be hard for respondents to acknowledge in a question about future behavior. Those who indicated they had purchased a piece of women's jewelry in a local jewelry store or boutique, a local or chain gift store, or a campus bookstore (included because these are major retail outlets for SPARKLE LIFE, LLC) in either the \$25-99 or \$100-249 price range were qualified for the survey and were skipped to the main part of the survey. The order of presentation for the store types was randomly rotated.

⁸ A CAPTCHA challenge refers to a program that protects websites against bots (i.e., computer-generated responses) by generating and grading tests that humans can pass, but current computer programs cannot. The acronym CAPTCHA stands for Completely Automated Public Turing Test To Tell Computers and Humans Apart. See, e.g., "CAPTCHA: Telling Humans and Computers Apart Automatically," CAPTCHA, <http://www.captcha.net/>, visited on December 31, 2012.

S5. In the last 12 months, have you purchased a piece of women's jewelry (e.g., pair of earrings, necklace, ring) for yourself or for someone else in any of the following price ranges, in any of the following types of stores?

You may select as many price ranges and as many store types as necessary to indicate where you have purchased a piece of women's jewelry and what you paid for a piece in the last 12 months.

[RANDOMIZE STORE TYPES]	Less than \$25	\$25-99	\$100-249	\$250 or more	I have not shopped for jewelry at this type of store [EXCLUSIVE]
Local jewelry store or boutique or its website	<input type="checkbox"/>				
Local or chain gift store or its website	<input type="checkbox"/>				
Campus bookstore or its website	<input type="checkbox"/>				
Regional or national jewelry store chain (e.g., Claire's, Forever 21) or its website	<input type="checkbox"/>				
Discount retailer (e.g., Walmart, Target) or its website	<input type="checkbox"/>				
Online from the manufacturer	<input type="checkbox"/>				

The shaded areas in the matrix of store types by price of jewelry purchased indicates those store type x price combinations that qualified the respondent as being a member of the relevant universe. The shading is provided here for illustration; the actual matrix presented to each potential respondent had no shading.

For those who did not qualify in S5 on past purchase behavior in the ranges where the majority of SPARKLE LIFE's products are priced, a similar question (S6) was asked to evaluate consideration of future purchase. In S6, respondents were asked to specify in which store type(s) and in which price range(s) they would consider purchasing a piece of women's jewelry in the next twelve months. Those who indicated they would consider purchasing a piece of women's jewelry in a local jewelry store or boutique, a local or chain gift store, or a campus bookstore in either the \$25-99 or \$100-249 price range were qualified as considerers and members of the relevant universe, and were allowed to continue in the survey. The order of presentation for the store types was shown in the same random order as in S5.

S6. In the next 12 months, would you consider purchasing a piece of women's jewelry (e.g., pair of earrings, necklace, ring) for yourself or for someone else in any of the following price ranges, in any of the following types of stores?

You may select as many price ranges and as many store types as necessary to indicate where you would consider purchasing a piece of women's jewelry and what you would consider paying for a piece in the next 12 months.

[RANDOMIZE STORE TYPES IN SAME ORDER AS S5]	Less than \$25	\$25-99	\$100-249	\$250 or more	I would not shop for jewelry at this type of store [EXCLUSIVE]
Local jewelry store or boutique or its website	<input type="checkbox"/>				
Local or chain gift store or its website	<input type="checkbox"/>				
Campus bookstore or its website	<input type="checkbox"/>				
Regional or national jewelry store chain (e.g., Claire's, Forever 21) or its website	<input type="checkbox"/>				
Discount retailer (e.g., Walmart, Target) or its website	<input type="checkbox"/>				
Online from the manufacturer	<input type="checkbox"/>				

Similar to S5, the shaded areas in the matrix of store types by price of jewelry that would be considered for purchase in S6 indicates those store type x price combinations that qualified the respondent as being a member of the relevant universe. As in S5, the shading in the depiction of S6 above is provided for illustration; the actual matrix presented to each potential respondent had no shading.

E.2. Main Questionnaire

Once they had qualified for the survey by fulfilling the screening criteria, respondents were instructed to look at an image of SPLASHES & SPARKLES jewelry. Images used in the survey may be found in Appendix E.

The image below shows a piece of jewelry that you might see in a store or online. Please look at the image as if you were considering shopping for this type of jewelry. *(Please scroll to see the whole image, if necessary.)*

Below the SPLASHES & SPARKLES image, respondents were asked to indicate if they have seen this brand before (Q1). The response options of "Yes" and "No" were randomized across respondents to eliminate any order effects. "Unsure" was always shown last.

Q1. Have you ever seen this brand of jewelry before (in person or in an advertisement)?
(Select one only)

- Yes
- No
- Unsure

Next, respondents were instructed to look at a different piece of jewelry.

The image below shows a different piece of jewelry. Please look at the image as if you were considering shopping for this type of jewelry. (Please scroll to see the whole image, if necessary.)

Below this instruction, respondents were shown the SPARKLE LIFE image or the SHIMMER LIFE image, depending on whether they were randomly placed in the Test (SPARKLE LIFE) or Control (SHIMMER LIFE) Condition group. The Test and Control images are shown in Appendix D. At the bottom of this page, respondents were asked about the source of the jewelry (Q2).

Q2. Do you think that the jewelry in the image above is put out by the same company or by a different company that puts out the jewelry in the image you saw before, or are you unsure? (Select one only)⁹

- The jewelry in each image is put out by the same company
- The jewelry in each image is put out by a different company
- Unsure

Those respondents who indicated that the jewelry in both images was put out by the same company were prompted to explain their rationale (Q3).

⁹ The order of "same" and "different" in the question text, along with their corresponding response options were randomized across respondents to eliminate any potential order effects.

Q3. As fully as possible, please explain why you say that the jewelry in each image is put out by the same company. *(Please answer as completely as possible. You are not limited by the size of the answer box)*

Those respondents who perceived that the jewelry shown in both images was produced by different companies, or were unsure, were asked if they thought that there existed an affiliation or a connection between the two companies (Q4). The same Test or Control image was once again shown to respondents.

Q4. Do you think that the company that puts out the jewelry in the image above is affiliated or connected with the company that puts out the jewelry in the image you saw before, it is NOT affiliated or connected, or are you unsure? *(Select one only)*¹⁰

- I believe that the two companies are affiliated or connected
- I believe that the two companies are NOT affiliated or connected
- Unsure

Those respondents who indicated that the company that put out the jewelry in the second image was affiliated or connected with the company that put out the jewelry in the first image were then prompted to explain their rationale (Q5).

Q5. As fully as possible, please explain why you say that the two companies are affiliated or connected. *(Please answer as completely as possible. You are not limited by the size of the answer box)*

¹⁰ Once again, the response options ("are affiliated or connected" and "are NOT affiliated or connected") were randomized across respondents to eliminate any potential order effects, and shown in the same logical order as in Q2 to avoid confusion across questions.

F. RESULTS

Respondents were asked whether a single company produced both of the brands of jewelry they saw, if the jewelry was produced by different companies, or if they were unsure. Table 1 presents the frequencies and associated percentages of the 206 Test Condition respondents and 206 Control Condition respondents. The only difference between the conditions was the name of the jewelry brands compared with SPLASHES & SPARKLES, presented as SPARKLE LIFE (Test Condition) or SHIMMER LIFE (Control Condition)

Table 1. Frequencies (N) and Percentages (%) of the Perception That the Jewelry Is Put Out by the Same or Different Company

Do you think that the jewelry in the image above is put out by the <u>same</u> company or by a <u>different</u> company that puts out the jewelry in the image you saw before, or are you unsure?	SPLASHES & SPARKLES and SPARKLE LIFE (Test Condition)		SPLASHES & SPARKLES and SHIMMER LIFE (Control Condition)		Difference
	N	%	N	%	
Same Company	70	34.0%	34	16.5%	+ 17.5%
Different Company	76	36.9%	102	49.5%	- 12.6%
Unsure	60	29.1%	70	34.0%	- 4.9%
TOTAL	206	100.0%	206	100.0%	

The results show the net confusion (meaning those who thought SPLASHES & SPARKLES and SPARKLE LIFE were put out by the same company compared with those who thought SPLASHES & SPARKLES and SHIMMER LIFE were put out by the same company) to be 17.5%. A statistical test showed that there was a difference between the two conditions in the responses, χ^2 (df = 2) = 17.029, $p = .0002$. This probability is very low (far lower than the standard threshold for "statistical significance" of $p = .05$). This means that the two conditions do differ in the pattern of responding to the "same company" vs. "different company" question.

Table 2 presents the data in Table 1 that focuses specifically on the percentage of respondents in each of the two conditions that believed that the two jewelry brand names came from the same company vs. either those who believed the jewelry to be from different companies or those who were unsure. In other words, Table 2 is the same as Table 1 except "Different Company" is combined with "Unsure."

Table 2. Frequencies (N) and Percentages (%) of the Perception That the Jewelry Is Put Out by the Same or Different Company—Combining the Two Non-“Same Company” Categories

	SPLASHES & SPARKLES and SPARKLE LIFE (Test Condition)		SPLASHES & SPARKLES and SHIMMER LIFE (Control Condition)		Difference
	N	%	N	%	
Do you think that the jewelry in the image above is put out by the <u>same</u> company or by a <u>different</u> company that puts out the jewelry in the image you saw before, or are you unsure?					
Same Company	70	34.0%	34	16.5%	+ 17.5%
Different Company + Unsure	136	66.0%	172	83.5%	- 17.5%
TOTAL	206	100.0%	206	100.0%	

A chi-square test was conducted that examines specifically whether those respondents providing their perceptions about SPLASHES & SPARKLES and SPARKLE LIFE (Defendant's mark) were more likely to believe them to come from the same company (34.0%) than were those respondents who provided their perceptions about SPLASHES & SPARKLES and SHIMMER LIFE (a control mark) (16.5%). This difference was 17.5%, and the chi-square test is the appropriate statistical procedure for testing whether this difference is statistically significant from a difference of zero. This chi-square test was highly statistically significant, χ^2 (df = 1) = 16.669, p = .00004449.

Following from standard statistical theory, there was only one chance in about 22,477 (that is, the reciprocal of the p value) that if the **TRUE** difference between the conditions was really ZERO (the statistical concept of the “null hypothesis”), a survey of 412 respondents (206 in the Test Condition and 206 in the Control Condition) would have resulted in a difference between these two conditions as high as 17.5%.

In other words, there is very strong evidence from the survey I conducted that consumers from the relevant universe are more likely to see SPARKLE LIFE (Defendant's actual mark, and the mark that is claimed by Plaintiff to lead to a likelihood of confusion) as coming from the same source as SPLASHES & SPARKLES than they are to see a similar mark without the overlap of the word "SPARKLE" as coming from the same source as SPLASHES & SPARKLES. In accordance with the logic of experimental design, the difference of 17.5% can be attributed to Defendant's use of the word "SPARKLE," which overlaps with Plaintiff's use of that word, relative to a neutral word "SHIMMER" (which has similar meaning) in the Control Condition. This is because there were **no other differences in the two conditions of the experiment.**

In the next part of the survey, those respondents who believed that the jewelry was put out by different companies or were unsure were asked if they thought there was an affiliation or connection between the companies that produce each of the pieces of jewelry.

Table 3 shows that some who did not think that SPLASHES & SPARKLES and SPARKLE LIFE were put out by the same company, or who did not think that SPLASHES & SPARKLES and SHIMMER LIFE were put out by the same company, or were unsure, did believe that the brands were somehow affiliated. The results show an incremental 27% and 26% likelihood of confusion because of affiliation in the Test and Control Conditions, respectively.

Table 3. Frequencies (N) and Percentages (%) of the Perception That the Jewelry Is Put Out by an Affiliated or Non-Affiliated Company

	SPLASHES & SPARKLES and SPARKLE LIFE (Test Condition)		SPLASHES & SPARKLES and SHIMMER LIFE (Control Condition)	
	N	%	N	%
Do you think that the company that puts out the jewelry in the image about <u>is affiliated or connected with</u> the company that puts out the jewelry in the image you saw before, it <u>is NOT affiliated or connected</u> , or are you unsure?				
Same Company (previously stated)	70	34.0%	34	16.5%
Affiliated Company	55	26.7%	57	27.7%
Not Affiliated	32	15.5%	41	19.9%
Unsure	49	23.8%	74	35.9%
TOTAL	206	100.0%	206	100.0%

Table 4 shows that the combined results are also significant when comparing the percentage of respondents who thought that both SPLASHES & SPARKLES and SPARKLE LIFE were from the same or an affiliated company, compared with those who drew one of the same conclusions with SPLASHES & SPARKLES and SHIMMER LIFE.

Table 4. Frequencies (N) and Percentages (%) of the Perception That the Jewelry Is Put Out by the Same or an Affiliated Company

	SPLASHES & SPARKLES and SPARKLE LIFE (Test Condition)		SPLASHES & SPARKLES and SHIMMER LIFE (Control Condition)		Difference
	N	%	N	%	
Do you think that the jewelry in the image above is put out by the <u>same</u> company or by a <u>different</u> company that puts out the jewelry in the image you saw before, or are you unsure?					
Do you think that the company that puts out the jewelry in the image about <u>is affiliated or connected with</u> the company that puts out the jewelry in the image you saw before, it <u>is NOT affiliated or connected</u> , or are you unsure?	N	%	N	%	%
Same Company or an Affiliated Company	125	60.7%	91	44.2%	+16.5%
Other (Not Same or Not Affiliated or Unsure)	81	39.3%	115	55.8%	-16.5%
TOTAL	206	100.0%	206	100.0%	

The results show the net confusion (meaning those who thought SPLASHES & SPARKLES and SPARKLE LIFE were put out by the same company or one that was affiliated, compared with those who thought SPLASHES & SPARKLES and SHIMMER LIFE were put out by the same or an affiliated company) to be 60.7% - 44.2% = 16.5%, which is highly statistically significant, χ^2 (df = 1) = 11.250, p = .000796.

Again, following from standard statistical theory, there was only one chance in about 1,256 that if the **TRUE** difference between the conditions was really ZERO, a survey of 412 respondents (206 in the Test Condition and 206 in the Control Condition) would have resulted in a difference between these two conditions as high as 16.5%.

Following from the basic logic of experimentation, the net confusion of 16.5% must be attributed to the product names, because SPARKLE LIFE vs. SHIMMER LIFE was the only difference between the two conditions.

Respondents who indicated that the jewelry was put out by the same company, or by companies that are affiliated, were asked to provide the reason for their judgment. Their responses are shown in Appendix F.

The analysis of the reasons given for the survey responses provides converging evidence for the importance of the similarity in names. Table 5 presents the results of the reasons respondents gave for their opinion that the two pieces of jewelry were put out by the same company.

Table 5. Frequencies (N) and Percentages (%) of the Reasons That the Jewelry Is Put Out by the Same Company

	SPLASHES & SPARKLES and SPARKLE LIFE (Test Condition)		SPLASHES & SPARKLES and SHIMMER LIFE (Control Condition)		Difference
	N	%	N	%	
Name-related reason	35	50.0%	8	23.5%	+26.5%
Non-Name-related reason	35	50.0%	26	76.5%	-26.5%
TOTAL	70	100.0%	34	100.0%	

Table 5 shows that of the 70 respondents in the Test Condition who believed that SPLASHES & SPARKLES and SPARKLE LIFE come from the same company and who gave a reason for their perception, 35 (50.0%) cited the similarities in the names as a reason for their judgment, by far the most common reason cited. In contrast, of the 34 respondents in the Control Condition who believed that SPLASHES & SPARKLES and SHIMMER LIFE come from the same company and who gave a reason for their perception, only 8 (23.5%) cited some reason having to do with names. This difference was highly statistically significant, χ^2 (df = 1) = 6.612, $p = .0101$.

As above, this p-level translates to the conclusion that there was only one chance in about 99 that if the **TRUE** difference between the conditions was really ZERO, the 104 respondents in this analysis (70 in the Test Condition and 34 in the Control Condition) would have been as different in the percentage who cited similarities in the names as was found in this survey (50.0% vs. 23.5%).

Table 6 presents the results of the reasons given by respondents who perceived that the two pieces of jewelry were put out by companies that were affiliated.

Table 6. Frequencies (N) and Percentages (%) of the Reasons That the Two Companies Were Affiliated

	SPLASHES & SPARKLES and SPARKLE LIFE (Test Condition)		SPLASHES & SPARKLES and SHIMMER LIFE (Control Condition)		Difference
	N	%	N	%	
Name-related reason	22	40.0%	9	15.8%	+24.2%
Non-Name-related reason	33	60.0%	48	84.2%	-24.2%
TOTAL	55	100.0%	57	100.0%	

Among those 55 respondents in the Test Condition who believed that SPLASHES & SPARKLES and SPARKLE LIFE have an affiliation and who gave a reason for their perception, 22 (40.0%) cited the similarities in the names. Of the 57 respondents in the Control Condition who believed that SPLASHES & SPARKLES and SHIMMER LIFE have an affiliation and who gave a reason for their perception, only 9 (15.8%) cited some reason having to do with the names. This difference was highly statistically significant, χ^2 (df = 1) = 8.196, p = .0042.

Applying the same statistical calculations as above, if the **TRUE** difference between the conditions was really ZERO, there is a probability of only about one out of 238 that the difference would have been as different from zero as we found (a difference of 24.2%).

Table 7 combines the two sets of respondents in an overall analysis of the extent to which respondents believing either that the jewelry came from the “same company” or that the two companies were affiliated had that perception because of the names—specifically whether this was more likely in the Test Condition than in the Control Condition.

Table 7. Frequencies (N) and Percentages (%) of the Reasons For Believing that the Jewelry Came From “One Company” or that the Two Companies Were Affiliated

	SPLASHES & SPARKLES and SPARKLE LIFE (Test Condition)		SPLASHES & SPARKLES and SHIMMER LIFE (Control Condition)		Difference
	N	%	N	%	
Name-related reason	57	45.6%	17	18.7%	+26.9%
Non-Name-related reason	68	54.4%	74	81.3%	-26.9%
TOTAL	125	100.0%	91	100.0%	

Combining these two categories of respondents: among the 125 respondents in the Test Condition who believed SPLASHES & SPARKLES and SPARKLE LIFE either come from the same company or are affiliated with each other and who gave a reason for their perception, 57 (45.6%) cited the similarities in the names as a reason for their judgment. In contrast, of the 91 respondents in the Control Condition who believed that SPLASHES & SPARKLES and SHIMMER LIFE either come from the same company or are affiliated with each other and who gave a reason for their perception, only 17 (18.7%) cited some reason having to do with names. This difference was highly statistically significant, χ^2 (df = 1) = 16.943, p = .00003852. Applying the same statistical calculations as above, if the **TRUE** difference between the conditions was really ZERO, there is a probability of only about one out of 25,962 that the difference would have been as different from zero as we found (a difference of 45.6% - 18.7% = 26.9%).

It is interesting to note some specific examples of these open-ended reasons:

“BECAUSE SPARKLE IS IN THE NAME OF BOTH OF THEM”

“[I] see the word sparkle in the brand so [I] assume it is a branch of the same company.”

“[B]oth had sparkle in their names--[I'd] assume same company, but different quality levels, perhaps one brand at [W]almart, the other at [K]ohls or similar.”

The pattern of the open-ended reasons reinforce the conclusion from the experimental results in the importance of the overlap of the name SPARKLE as being a dominant factor for why respondents from the relevant universe believed that SPLASHES & SPARKLES and SPARKLE LIFE either come from the same source or are affiliated.

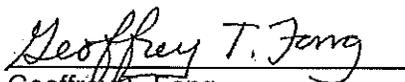
G. CONCLUSIONS

I conducted a consumer survey using commonly accepted methods for surveys of this kind, which included the survey method, survey administration, creation of survey questions, including the questions designed to identify members of the relevant universe and the critical questions assessing perceptions of these members of the relevant universe of the marks. I also employed a rigorous experimental design, which allowed me to test the explicit effect of the overlapping use of the word SPARKLE in Defendant's mark, compared to the neutral, non-overlapping (but semantically similar) word SHIMMER. I also conducted analyses that were reasonable and appropriate for the research questions that are relevant to this case.

The results of this survey, employing an experimental design, demonstrate that there exists a substantial, and highly statistically significant, difference of 17.5% between those in the Test and Control groups that believe that both sets of earrings are produced by the same jewelry manufacturer — and a 16.5% difference between these groups that believe both sets of earrings are either produced by the same company or have an affiliation.

The confusion between SPLASHES & SPARKLES and SPARKLE LIFE is further attributable to the overlapping use of the word SPARKLE through the open-ended responses given by respondents to explain their reason(s) for their judgments: 45.6% of respondents who believed that the two pieces of jewelry either came from the same company or from two companies that were affiliated and who gave a reason for their judgment cited the similarity of the names in the Test condition (comparing SPARKLE LIFE with SPLASHES & SPARKLES), compared to only 18.7% of the corresponding respondents in the Control condition (comparing SHIMMER LIFE with SPLASHES & SPARKLES).

In my professional opinion, to a reasonable degree of professional certainty, there exists a likelihood of confusion between the marks due to the similarity of the names SPLASHES & SPARKLES and SPARKLE LIFE as brands of jewelry.


Geoffrey T. Fong

Appendix A Curriculum Vitae

Appendix B List of Documents Reviewed/Materials Considered

Appendix C Response Statistics

Appendix D Survey Instrument – Screenshots

Appendix E Test and Control Images

Appendix F Open-Ended Responses

GEOFFREY T. FONG, Ph.D.
Curriculum Vitae (Abbreviated)—August 2012

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ACADEMIC DEGREES

A.B., Psychology, 1978, Stanford University (with Departmental Honors and Distinction)

Ph.D., Psychology, 1984, University of Michigan

ACADEMIC POSITIONS

2007-present Senior Investigator, Ontario Institute for Cancer Research
2007-present Professor of Psychology, University of Waterloo
1993-present Associate Professor of Psychology, University of Waterloo
1998 Visiting Scholar, Psychology Department, Stanford University
1994-1999 Visiting Research Collaborator, Psychology Department, Princeton University
1990-1993 Assistant Professor of Psychology, University of Waterloo
1988-1990 Visiting Assistant Professor of Psychology, University of Waterloo
1987-1988 Visiting Assistant Professor of Psychology, Princeton University
1984-1988 Assistant Professor of Psychology, Northwestern University

HONOURS AND AWARDS

1978 Graduation with Departmental Honors and Distinction, Stanford University
1978–1980 CIC-Lilly Foundation Minority Pre-Doctoral Fellowship
1980–1983 University of Michigan Fellowship
1981–1982 Rackham Pre-Doctoral Fellowship, University of Michigan
1999 Distinguished Teaching Award, University of Waterloo
2006 Outstanding Performance Award, University of Waterloo
2007–2012 Senior Investigator Award, Ontario Institute for Cancer Research (\$1.4M discretionary grant)
2009 Top Canadian Achievement in Health Research, Canadian Institutes of Health Research and *Canadian Medical Association Journal*, 2009 (With Mary E. Thompson and David Hammond): for global tobacco control research (the ITC Project). Description at: <http://www.cihr-irsc.gc.ca/e/40288.html> and <http://www.cihr-irsc.gc.ca/e/40292.html>
2011–2016 Canadian Cancer Society Prevention Initiative Research Scientist Award (\$500K teaching release and discretionary grant)
2011 CIHR Knowledge Translation Prize (“The CIHR Knowledge Translation Prize honours and supports the exemplary knowledge translation efforts and activities of an exceptional individual, team or organization that has made an outstanding contribution to increasing the application of research findings, improving the health of individuals, improving health services and products, or strengthening the health-care system.”) (\$100K award for knowledge dissemination activities)
2012 Lise Manchester Award, Statistical Society of Canada—in recognition of “the unique and historic research effort of the International Tobacco Control Policy Evaluation Project (of which I am the founder and Chief Principal Investigator), whose “rigor of statistical design has contributed greatly to its value to countries throughout the world in promoting evidence-based policies in tobacco control.”

RESEARCH EXPERTISE

Research methodology: survey research (telephone, face-to-face), experimental research, multivariate statistical methods, research design (experimental and quasi-experimental designs)

Health behavior: The use of survey methods in the evaluation of population-level interventions (notably public health policies) to reduce tobacco use; evaluation of public health policies; international tobacco control policies; global health; impact of warning labels; formulating, implementing, and evaluating behavioral interventions to reduce risky sexual behavior among adolescents; psychosocial and behavioral effects of alcohol use, economics of tobacco use

Psychology: cognitive social psychology, attitudes and beliefs, particularly as they relate to behavior, decision-making and judgment, errors and biases in reasoning

Trademark Surveys: survey research and research methods relevant to the conduct of trademark surveys (e.g., likelihood of confusion, secondary meaning)

EXPERIENCE IN TRADEMARK SURVEYS

Volkswagen Aktiengesellschaft, Audi Aktiengesellschaft, and Volkswagen of America, Inc. v. Uptown Motors, 91 CIV. 3447 (DLC) SDNY (Second Circuit). 1995 U.S. Dis. LEXIS 13869, July 13, 1995, Decided.

Conducted a three-site likelihood of confusion survey in New York City on behalf of plaintiff in order to determine the likelihood of confusion due to the Volkswagen logo. Wrote report, participated in pre-trial work. Testified at deposition. Case went to trial in May 1995 (bench trial). Direct testimony was submitted by affidavit. Cross-examination and redirect examination was in court. District Court found in favor of plaintiff.

Genesee Brewing Company v. Stroh Brewing Company, Eastern District New York, Second Circuit (1996)

Conducted a secondary meaning survey in Philadelphia and Buffalo on behalf of plaintiff in order to determine whether the words, "Honey Brown" had attained secondary meaning. Wrote report, participated in pre-trial work. Testified at deposition. Case went to trial in November 1996 (bench trial). Was available at oral argument for testimony in court but was not called. District Court found in favor of defendant; affirmed by the Second Circuit (on grounds unrelated to the secondary meaning survey).

Washington Education Association v. WEA Challenger Network, Washington State Court (1997)

Conducted a likelihood of confusion survey in Eugene, Oregon on behalf of defendant in order to determine whether defendant's newsletter, WEA Challenger Network News, was confusing because individuals in the relevant universe believe that it was published or supported by plaintiff. Case was settled before trial.

I.P. Trading ApS and Kroin Inc. v. Kohler Co. and Robern, Inc, First Circuit (2000-01)

Conducted a secondary meaning survey and a likelihood of confusion survey in New York City and Chicago on behalf of plaintiff. Wrote report, participated in pre-trial work. Testified at deposition. District Court granted summary judgment in favor of defendant.

CareFirst of Maryland, Inc., d/b/a CareFirst Blue Cross Blue Shield v. First Care, P.C., et al. Eastern District of Virginia (2004)

Evaluated and critiqued plaintiff's expert's survey that was designed to measure likelihood of confusion of the mark "FirstCare." Wrote report and testified at deposition. Court granted summary judgment in favor of defendant.

Eveready Battery Company, Inc. v. The Gillette Company TTAB (2005)

Conducted a secondary meaning survey in three locations: Orange County, California, Chicago, and Boston on behalf of Opposer Eveready Battery Company, Inc. (Schick), which established strong evidence supporting the acquisition of secondary meaning for Schick's mark "Quattro". Wrote initial report, participated in pre-trial work. TTAB decided in favor of Opposer.

Norwood Promotional Products, LLC v. KustomKoozies, LLC and Robert Liddle. Southern District of Indiana (2011)

Conducted a survey on behalf of plaintiff to assess consumers' judgments of whether the mark in question was perceived as a brand name or a common name. The case is in the process of settlement.

Roehrig v. Exica, Inc., Area 55, Inc., Vinturi, Inc., and Does 2 through 100 Superior Court of the State of California, County of San Diego (2011)

Conducted a survey on behalf of Defendant Vinturi to assess, among purchasers of defendant's product would have been less likely to purchase that product if additional information about the country of manufacturing of some of its parts. The case is in the process of settlement.

PROFESSIONAL ACTIVITIES DURING THE PAST FIVE YEARS (SELECTED)

Key Mentor, CIHR Strategic Training Program in Tobacco Research (2002–2008). University of Waterloo, University of Toronto, and University of British Columbia. Was Lead of Recruitment Component during the first year of the training program; Now Mentor on continuation and broadening of the CIHR Training Program to encompass chronic disease prevention.

Organizing Committee, Canadian Conference on Tobacco or Health (2007)

Member, International Scientific Advisory Panel, UK Clinical Research Collaboration: UKCRC Public Health Research Centres of Excellence, 2007.

Contributor to the U.S. Institute of Medicine Report (2007): *Ending the tobacco problem: A blueprint for the nation*. (co-author of an appendix on the impact of warning labels).

Key facilitator for WHO Tobacco Free Initiative Project on preventing tobacco use among children (2008)

Contributor to the U.S. Surgeon General's Report, 2010, on smoking among children (section on the impact of warning labels on youth smoking).

Co-Chair, Tobacco Policy Network, Society for Research on Nicotine and Tobacco (2010–present). SRNT is the leading scientific organization for tobacco (control) research.

Advisor, FCTC Secretariat. (July 2008 to present). Reporting Requirements for the Parties of the FCTC. I am one of 3 outside consultants (and the only researcher) to the FCTC Secretariat to assist in the creation of Reporting Requirements for the 170 nations that are Parties to the FCTC.

PUBLICATIONS

Articles in Peer-Reviewed Journals—Total of 163

Google Scholar: Total Citations = 7,709; Citations since 2007 = 5,287; h-index = 45

1. Thompson, W.C., Fong, G.T., & Rosenhan, D.L. (1981). Inadmissible evidence and jury verdicts. *Journal of Personality and Social Psychology*, 40, 453-463.
2. Fong, G.T., & Markus, H. (1982). Self-schemas and judgments about others. *Social Cognition*, 1, 191-205.
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6. Sanitioso, R., Kunda, Z., & Fong, G.T. (1990). Motivated recruitment of autobiographical memories. *Journal of Personality and Social Psychology*, 59, 229-241.
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158. Kennedy, R.D., Spafford, M.M., Behm, I., Hammond, D., Fong, G.T., & Borland, R. (in press; Accepted April 26, 2012). Positive impact of Australian "Blindness" tobacco warning labels: Findings from the ITC Four Country Survey. *Clinical and Experimental Optometry*.
159. Surani, N.S., Gupta, P.C., Fong, G.T., Pednekar, M.S., Quah, A.C.K., & Bansal-Travers, M. (in press; Accepted May 17, 2012). Intention to quit among Indian tobacco users: Findings from the International Tobacco Control Policy (TCP) Evaluation India Pilot Survey. *Indian Journal of Cancer*.
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162. Moore, K., Borland, R., Hong, H.H., Siahpush, M., Cummings, K.M., Thrasher, J.F., & Fong, G.T. (in press; Accepted June 1, 2012). Support for tobacco control interventions: Do country of origin and socioeconomic status make a difference? *International Journal of Public Health*.
163. Nagelhout, G.E., Willemsen, M.C., Gebhardt, W.A., van den Putte, B., Hitchman, S.C., Crone, M.R., Fong, G.T., van der Heiden, S., & de Vries, H. (in press, Accepted August 5, 2012). Does smoke-free legislation and smoking outside bars increase feelings of stigmatization among smokers? Findings from the International Tobacco Control (ITC) Netherlands Survey. *Health and Place*.

Manuscripts Under Review or Under Revision (Total of 12 as of August 5, 2012)

1. Zawahir, S., Omar, M., Awang, R., Yong, H.H., Borland, R., Sirirassamee, B., Fong, G.T., & Hammond, D. (2011, November). The association of anti-smoking media messages and education with knowledge of the health effects of smoking, risk perception of smoking and smoking susceptibility among youth: Findings from the International Tobacco Control Southeast Asia (ITC-SEA) Project. Submitted to *Nicotine & Tobacco Research*.
2. Szklo, A.S., Thrasher, J.F., Perez, C.A., Figueiredo, V.C., Fong, G.T., & Almeida, L.M. (2011, December). Are there opportunities for improving smoking cessation strategies in Brazil? Results from the 2009 ITC Brazil Survey. Submitted to *Health Policy and Planning*.
3. Thompson, M.E., Huang, Y.C., Boudreau, C., Fong, G.T., van den Putte, B., Nagelhout, G.E., & Willemsen, M.C. (2011, December). Accounting for the effects of data collection method with application to the International Tobacco Control (ITC) Netherlands Survey. Revision to be submitted to *Population* in August 2012.
4. Yong, H.H., Fong, G.T., Driezen, P., Borland, R., Quah, A.C.K., Sirirassamee, B., Hamann, S., & Omar, M. (2012, April 10). Adult smokers' reactions to health warnings on cigarette packs following the change from text-only to pictorial warnings in Thailand: Findings from the International Tobacco Control Southeast Asia (ITC-SEA) Survey. Revision submitted to *Nicotine & Tobacco Research*.
5. Sansone, N., Fong, G.T., Lee, W.B., Sirirassamee, B., Seo, H.G., Omar, M., Jiang, Y., & Laux, F.L. (2012, February). Comparing the experience of regret and its predictors among smokers in four Asian countries: Findings from the ITC Surveys in Thailand, South Korea, Malaysia, and China. Submitted to *Nicotine & Tobacco Research*.
6. Yong, H., Siahpush, M., Borland, R., Li, L., O'Connor, R.J., Yang, J., Fong, G.T., & Jiang, Y. (2012, April). Urban Chinese smokers from lower socioeconomic backgrounds face more barriers to quitting: Results from the International Tobacco Control (ITC) China Survey. Submitted to *Addiction*.
7. White, C.M., Hammond, D., Thrasher, J.F., & Fong, G.T. (2012, May). The potential impact of plain packaging of cigarette products among Brazilian women. Submitted to *BMC Public Health*.
8. Nagelhout, G.E., Crone, M., van den Putte, B., Willemsen, M., Fong, G.T., & de Vries, H. (2012, May). Age and educational inequalities in smoking cessation due to three population-level tobacco control interventions: Findings from the International Tobacco Control (ITC) Netherlands Survey. Revision submitted to *Health Education Research*.
9. McKee, S.A., Harrison, E.L.R., Cummings, K.M., Borland, R., Kahler, C.W., Fong, G.T., & Hyland, A. (2012, June). Varenicline use is associated with reductions in alcohol consumption among smokers in the International Tobacco Control Four Country Survey. Submitted to *Alcoholism: Clinical and Experimental Research*.

10. Sansone, G., Fong, G.T., Hall, P.A., Guignard, R., Beck, F., Mons, U., Pötschke-Langer, M., Yong, H.-H., Thompson, M.E., Omar, M., & Jiang, Y. (2012, June). Time perspective as a predictor of smoking status: Findings from the International Tobacco Control (ITC) Surveys in Scotland, France, Germany, China, and Malaysia. Submitted to BMC Public Health.
11. Mutti, S., Kennedy, R.D., Thompson, M.E., & Fong, G.T. (2012, June). Prepaid monetary incentives—Predictors of taking the money and taking the survey: Results from the International Tobacco Control (ITC) Four Country Survey. Revision submitted to Sociological Methods and Research.
12. O'Connor, R.J., Caruso, R.V., Borland, R., Cummings, K.M., Bansal-Travers-M., King, B., Hammond, D. & Fong, G.T. (2012, July). Relationship of demographics and cigarette-related perceptions to cigarette design features: Findings from the 2009 ITC United States Survey. Submitted to Cancer Epidemiology, Biomarkers & Prevention.

Books

1. International Agency for Research on Cancer (IARC) (2008). *Methods for Evaluating Tobacco Control Policies*. International Agency for Research on Cancer (IARC) Handbook 12 on Cancer Prevention, Tobacco Control. Lyon, France.
I was the lead author (with Mary Thompson as co-author) of Chapter 2.1: Design issues in the evaluation of tobacco control policies.
Description from the IARC website: <http://www.iarc.fr/ENG/Units/IARCHandbookVol12.php>
The Handbook proposes a common conceptual framework, including logic models outlining relevant constructs for evaluating the effectiveness of policies on tobacco taxation, smoke-free environments, tobacco product regulations, limits on tobacco marketing communications, product labelling, anti-tobacco public communication campaigns and tobacco use cessation interventions. It also provides examples of measures used to assess key constructs with special attention to measurement issues with survey methods. In addition, it includes descriptions of sources of data on tobacco control policies, tobacco production and trade, and repositories of youth and adult surveillance surveys."
2. Chaloupka, F.J., Yurekli, A., & Fong, G.T. (Eds) (in preparation; expected publication date: 2012), *The Economics of Tobacco and Tobacco Control*. U.S. National Cancer Institute Smoking and Tobacco Control Monograph 21. Bethesda, MD: US Department of Health and Human Services, National Institutes of Health. [Note: this volume will be an update of the 2002 monograph, *Tobacco Control in Developing Countries*, and its companion piece from the World Bank, *Curbing the Epidemic*, which was a seminal review/analysis of the economics of tobacco control. This Monograph is supported by the US National Cancer Institute and the World Health Organization.]

Chapters in Books—Total of 12

1. Nisbett, R.E., Krantz, D.H., Jepson, C., & Fong, G.T. (1982). Improving inductive inference. In Kahneman, D., Slovic, P., & Tversky, A. (Eds.). *Judgment under uncertainty: Heuristics and biases* (pp. 445-459). New York: Cambridge University Press.
2. Meichenbaum, D., & Fong, G.T. (1993). How individuals control their own minds: A constructive narrative perspective. In D.M. Wegner & J.W. Pennebaker (Eds.), *Handbook of mental control* (pp. 473-490). Englewood Cliffs, NJ: Prentice-Hall.
3. MacDonald, T.K., Zanna, M.P., & Fong, G.T. (1998). Alcohol and risky behaviors: Experimental evidence for a causal relationship. In J. Adair & F. Craik (Eds.), *Advances in psychological science*. Vol. 1: Social, personal, and cultural aspects (pp. 407-428). East Sussex, UK: Psychology Press Ltd.
4. Fong, G.T., & Hall, P.A. (2003). The importance of time perspective in predicting, understanding, and reducing health risk behaviors among adolescents. In D. Romer (Ed.), *Reducing adolescent risk: Toward an integrated approach* (pp. 106-112). Newbury Park, CA: Sage.
5. Dal Cin, S., Zanna, M.P., & Fong, G.T. (2004). Narrative persuasion and overcoming resistance. In E. Knowles & J. Linn (Eds.), *Resistance to persuasion* (pp.175-191). Mahwah, NJ: Erlbaum.
6. Fong, G.T., Hammond, D., & Zanna, M.P. (2006). Bridging to evidence-based public health policy. In P.A.M. Van Lange (Ed.), *Bridging Social Psychology*. Mahwah, NJ: Erlbaum.
7. Ferrence, R., Hammond, D., & Fong, G.T. (2007). Warning labels and packaging. In R.J. Bonnie, K. Stratton, & R.B. Wallace (Eds.), *Ending the tobacco problem: A blueprint for the nation* (pp. 435-448). Committee on Reducing Tobacco Use: Strategies, Barriers, and Consequences, Board on Population Health and Public Health Practice, Institute of Medicine. Washington, D.C.: National Academies Press.
8. Hall, P.A., Fong, G.T., & Sansone, G. (in press). Time perspective as a predictor of healthy behaviors and disease-mediating states. In M. Stolarski, W. van Beek, & N. Fioulaine (Eds), *Handbook of Time Perspective*.
9. Fong, G.T., Logel, C., Hitchman, S.C., Saffer, H., & Omar, M. (in press). The impact of information on tobacco demand. In F.J. Chaloupka, A. Yurekli, & G.T. Fong (Eds), *The Economics of Tobacco Control*. U.S. National

Cancer Institute Smoking and Tobacco Control Monograph 21. Bethesda, MD: US Department of Health and Human Services, National Institutes of Health.

10. da Costa e Silva, V.L., David, A.M., & Fong, G.T. (in press). Tobacco control policies of the Framework Convention on Tobacco Control. In F.J. Chaloupka, A. Yurekli, & G.T. Fong (Eds), *The Economics of Tobacco Control*. U.S. National Cancer Institute Smoking and Tobacco Control Monograph 21. Bethesda, MD: US Department of Health and Human Services, National Institutes of Health.
11. Guindon, E., Hyland, A., Chaloupka, F.J., & Fong, G.T. (in press). The impact of smoke-free air policies. In F.J. Chaloupka, A. Yurekli, & G.T. Fong (Eds), *The Economics of Tobacco Control*. U.S. National Cancer Institute Smoking and Tobacco Control Monograph 21. Bethesda, MD: US Department of Health and Human Services, National Institutes of Health.
12. Levy, D., Zaloshjna, E., Blackman, K., Chaloupka, F.J., & Fong, G.T. (in press). The role of tobacco control policies in reducing smoking and deaths caused by smoking in the eighteen nations with the largest smoking burden: Results from the SimSmoke Model of the MPOWER tobacco control policy package. In F.J. Chaloupka, A. Yurekli, & G.T. Fong (Eds), *The Economics of Tobacco Control*. U.S. National Cancer Institute Smoking and Tobacco Control Monograph 21. Bethesda, MD: US Department of Health and Human Services, National Institutes of Health.

Other Publications

Contributions to Major Reports

1. 2007—Contributed to the U.S. Institute of Medicine Report, *Ending the tobacco problem: A blueprint for the nation as a co-author on the chapter in the appendix on warning labels and packaging* (see Chapter #7: Ferrence, Hammond, & Fong).
2. 2010—Contributed to the 2010 Report Card of the Cancer Advocacy Coalition of Canada (CACC) by writing a background paper on the research evidence supporting a ban on smoking in cars: Saltman, D., Hitchman, S.C., Sendzik, T., & Fong, G.T. (2010). *The current status of bans on smoking in vehicles carrying children: A Canadian perspective*. Report Card on Cancer in Canada (2009–10), 12, 5-9.
3. 2011—Contributed to the UK Parliament All-Party Parliamentary Group Inquiry Into Smoking in Cars in Private Vehicles by writing a background paper (appearing as an Annex to the report) describing: (a) our research documenting the extremely high levels of tobacco smoke in cars after smoking just one cigarette, even during commonly used strategies by smokers to reduce the smoke, (b) ITC research in Canada and the UK showing the very high level of support (>80%) for bans on smoking in cars with children among smokers themselves.
4. 2012—Contributing author, U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012. [Contributed to section on product labeling and the impact of health warnings on youth smoking, Chapter 6.]

Research Reports Produced for the Canadian Government

- Fong, G.T. (2001, March). *A Review of the Research on Tobacco Warning Labels, With Particular Emphasis on the New Canadian Warning Labels*. Report prepared for Justice Canada, This report on the theoretical and empirical foundation for the Canadian graphic warning labels was prepared for the Government's defense of the 1997 Tobacco Act (JTI-Macdonald and Imperial Tobacco Canada and Rothmans, Benson & Hedges v. The Attorney General of Canada).
- Fong, G.T. (2005, January). *Evaluating the Effects of the September 2003 European Union Policy Banning "Light/Mild" Cigarette Brand Descriptors: Findings from the International Tobacco Control Policy Evaluation Survey*. Report prepared for Health Canada.
- Sendzik, T., Fong, G.T., Travers, M.J., & Hyland, A. (2008, March). *An Experimental Investigation of Tobacco Smoke Pollution in Cars*. Toronto, ON: Ontario Tobacco Research Unit, Special Report, March 2008. An article-length version of this report was published in *Nicotine and Tobacco Research* (Article #77) in 2009.

Book Review

- Fong, G.T. (1985). [Review of Cohen, J., & Cohen, P. *Applied multiple regression/correlation analysis for the behavioral sciences* (2nd ed.)]. *Journal of the American Statistical Association*, 80, 485-6.

Letter

- Hammond, D., Fong, G.T., McDonald, P.W., Brown, K.S., & Cameron, R. (2006). Showing leads to doing: Graphic cigarette warning labels are an effective public health policy. *European Journal of Public Health*, 16, 223-224 [letter].

Commentary/News

Nagelhout, G.E., & Fong, G.T. (2011). Netherlands: Plan to cut all health education. *Tobacco Control*, 20, 253-254 [Worldwide news and comment section.].

Peer-Reviewed Presentations at Professional Societies

Over 400 presentations given at scientific meetings and professional societies.

Invited Talks and Special Presentations/Colloquia

Over 80 invited talks and special presentations/colloquia, including invited briefings at the WHO Framework Convention on Tobacco Control First Conference of the Parties, Geneva (Feb 2006), Second COP, Bangkok (Aug 2007), and Third COP (Durban, South Africa), plenary presentations at the European Conference on Tobacco Control Policy, Limerick Ireland (June 2004), England Department of Health Tobacco Control Conference, London (November 2004), First Malaysia National Conference on Tobacco Control, Kuala Lumpur (May 2005), CIHR Institute of Cancer Research training meeting (May 2005), European Smoke-Free Meeting, Luxembourg (June 2005), International Tobacco Control Policy Summit, Buenos Aires/Montevideo (Aug 2005); Plenary presentation and 2 invited session talks at the World Conference on Tobacco or Health, Washington, DC (July 2006); Plenary panel presentation at 2008 World Cancer Congress, Geneva, Switzerland (August 2008) and International Congress of Behavioral Medicine, Tokyo (August 2008). Three invited presentations at the 2009 World Conference on Tobacco or Health, Mumbai (March 2009). Invited Public Health/Epidemiology Lecture at the 2009 Society for Research on Nicotine and Tobacco, Dublin (April 2009). Plenary presentation at the Asia Pacific Association to Control Tobacco (APACT), Sydney (October 2010), Plenary colloquium speaker at European Federation on Evidence-Based Prevention, Krems, Austria (October 2010), Plenary symposium speaker at Society For Prevention Research, Washington, DC (June 2011), 2 plenary presentations at Canadian Cancer Research Conference, Toronto (November 2011), closing plenary discussion at Canadian National Conference on Tobacco or Health, Toronto (November 2011), 3 invited symposia at the 15th World Conference on Tobacco or Health, Singapore (March 2012), invited presentation at symposium on tobacco control at the World Cardiology Congress, Dubai (April 2012), scientific workshop and political event to launch the ITC Uruguay National Report, Montevideo (August 2012).

SELECTED GRANT SUPPORT IN THE PAST FIVE YEARS (ONLY TOBACCO-RELATED GRANTS) (Total of 31 grants)

- Fong, G.T.**, and 17 co-investigators (October 1, 2002 to September 30, 2005). *International Tobacco Control Policy Survey*. Canadian Institutes for Health Research (#57897). Role on Grant: Principal Investigator. Total direct costs: \$1,835,477. (Largest of 400+ CIHR Operating Grants awarded in that funding competition cycle)
- Cummings, K.M., **Fong, G.T.**, Borland, R., Giovino, G.A. et al. (October 1, 2004 to September 30, 2009). *Building the Evidence Base for Tobacco Control Policies: Transdisciplinary Tobacco Use Research Center (TTURC)*. National Cancer Institute, U.S. (P50 CA111236-01). Role on Grant: Principal Investigator on Project 1—*Tobacco Control Policy Evaluation in Developed Countries* (ITC 4-Country Survey); Co-Principal Investigator on Project 2—*Tobacco Control Policy Evaluation in South East Asia* (ITC Survey in Thailand and Malaysia; Ron Borland, PI); Co-Principal Investigator on Data Management Core (Mary Thompson, PI). Total direct costs: \$7,121,449 (U.S.).
- Fong, G.T.**, and 18 co-investigators (May 1, 2005 to April 30, 2008). *International Tobacco Control Policy Survey*. National Cancer Institute, U.S. (R01 CA100362-01). Role on Grant: Principal Investigator. Total direct costs: \$1,622,047 (U.S.).
- Fong, G.T.** and 35 co-investigators (April 1, 2006 to March 31, 2011). *International Tobacco Control Policy Evaluation Project: Evaluating the Psychosocial and Behavioural Effects of the Framework Convention on Tobacco Control*. Canadian Institutes of Health Research (37280; Application #153668). Role on Grant: Principal Investigator. Total direct costs: \$3,880,438 (Largest of 430 CIHR Operating Grants awarded in cycle)
- Fong, G.T.**, Wu, C., Hammond, D., Giovino, G., Hyland, A., O'Connor, R., and 10 co-investigators (September 17, 2007 to July 31, 2012). *Evaluating Tobacco Control Policies in China and Korea: The ITC Asia Project*. National Cancer Institute, U.S. Total direct costs: \$2,875,544 U.S.
- Fong, G.T.** (May 1, 2007 to April 30, 2012). *Evaluation of Cancer Prevention Policies at the Global Level: The International Tobacco Control Policy Evaluation Project*. Ontario Institute for Cancer Research Senior Investigator Award. Total direct costs: \$1,400,000.
- Cummings, K.M., **Fong, G.T.**, Hammond, D., O'Connor, R.J., Thompson, M.E., et al. (April 1, 2009 to March 31, 2014). *Evaluating Tobacco Control Policies in Low and Middle Income Countries*. National Cancer Institute, U.S. (1P01 CA138389-01). Role on Grant: Principal Investigator on Project 1—*Tobacco Policy Evaluation in Low and Middle Income Countries: The ITC Cohort Surveys*; Co-Investigator on Project 2—*The Impact of Tobacco Health Warnings in Low and Middle Income Countries*; Co-Principal Investigator on Data Management Core (Mary Thompson, PI). Application submitted on May 27, 2008. Total direct costs: \$11,466,327 (U.S.). Priority Score was 125 (approximately the top 5%).

- Fong, G.T.** and 15 Co-Investigators (October 1, 2009 to September 30, 2014). *International Tobacco Control Policy Survey*. (5R01 CA100362-04) U.S. National Cancer Institute. Role on Grant: Principal Investigator. Total direct costs: \$3,035,040 (USD). NOTE: Received Priority Score of 108 (TOP 0.3% of applications).
- Fong, G.T.** (May 1, 2010 to April 30, 2011). *Advancing Evidence-Based Tobacco Control Policies in China, Bangladesh, Brazil, Bhutan, and Mauritius: Knowledge Transfer Activities of the International Tobacco Control Policy Evaluation Project*. Canadian Institutes of Health Research (Application # 213726). Role on Grant: Principal Investigator. Total direct costs: \$199,755.
- Fong, G.T.** (August 13, 2010 to July 31, 2011). *International Tobacco Policy Survey: Administrative Supplement for Special Research Priority on U.S. Food and Drug Administration (FDA) Tobacco Product Regulation*. U.S. National Cancer Institute. Role on Grant: Principal Investigator. Total direct costs: \$181,791 (USD).
- Fong, G.T.** (February 1, 2011 to January 31, 2016). *Supporting cancer prevention through Evaluation of Tobacco Control Policies: The International Tobacco Control Policy Evaluation Project (ITC Project) in Canada, China, India, Bangladesh, Kenya, and Zambia*. Prevention Scientist Initiative Award, Canadian Cancer Society Research Institute. Role on Grant: Principal Investigator. Total direct costs: \$500,000.
- Fong, G.T.** and 35 Co-Investigators (October 1, 2011–September 30, 2016). *The International Tobacco Control Policy Evaluation Project: Evaluating the Impact of the WHO Framework Convention on Tobacco Control With an Emphasis on Low and Middle Income Countries*. Canadian Institutes of Health Research (Application #246462). Role on Grant: Principal Investigator. Total direct costs: \$7,432,471. [Largest Operating Grant (Open Competition) in all of CIHR. Received a rating of 4.50 out of 5 from the Health Policy and Systems Management Research Committee, ranked 2nd in the group of 46 applications (top 4.35%).]

Appendix B: List of Documents Reviewed/Materials Considered

1. Notice of Opposition, THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE TRADEMARK TRIAL AND APPEAL BOARD, JJI INTERNATIONAL, INC., v SPARKLE LIFE, LLC. Application Serial No. 85356064, Published in the Official Gazette on or about November 15, 2011.
2. Applicant's Responses and Objections to JJI International, Inc.'s First Request For Production of Documents, Appl. Ser. No.: 85356064, Opposition: 91204296
3. Sparkle Life 2012 catalog
(http://issuu.com/sparklelife/docs/sparklelife_2012_catalog_online?mode=mobile&origin=email)
4. JJI International, Inc.'s Splashes & Sparkles catalogs (from 2008; 2009; 2009-2010; 2010; Fall 2010; 2012)
5. Splashes & Sparkles earrings specimens
6. Sparkle Life earring image
(<https://order.coopbookstore.com/webapps/CATITEMSJ.pgm?task=drilldown&rrn=000005435&FirstRowRRN=000000000&rnd=95434&crumb1=CLOTH&code1>)
7. Discussions with Counsel

Appendix C: Response Statistics

Invitations Sent	15,500	
Respondents Accessing the Survey Link	1,100	100%
Completed	412	37%
Self-Terminated	10	1%
QS1. On Hold (accessed survey on unapproved electronic device)	55	5%
QS2. Under 18 years old or preferred not to say	8	1%
QS4. Self or family member employed at a company that makes or sells jewelry	24	2%
QS6. Hasn't or does not intent to purchase jewelry in the venue, at the price point, or in the timeframe defined	537	49%
Failed to validate on age or gender	54	5%

Appendix D: Survey Screenshots

Introduction

Thank you for your willingness to participate in our study. The responses you give to these questions are very important to us. If you don't know an answer to a question or if you are unsure, please indicate this by choosing the UNSURE option. It is very important that you do not guess.

Your answers will be kept in confidence. The results of this study will not be used to try to sell you anything.

When you are ready to get started, please click the "NEXT" button. Please do not use your browser's "Back" and "Forward" buttons while in the survey.

NEXT

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Captcha

1P1ZVP

Please enter the code exactly as it appears in the image above, and then click "NEXT" to continue.

** code is case sensitive **

NEXT

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% complete

S1

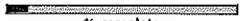
What type of electronic device are you using to complete this survey?

(Select one only)

- Desktop computer
- Laptop computer
- Smartphone (e.g., Blackberry, iPhone, Android)
- Tablet computer (e.g., Apple iPad, Kindle Fire, Samsung Galaxy)
- Other mobile or electronic device

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S2

Into which of the following categories does your age fall?

(Select one only)

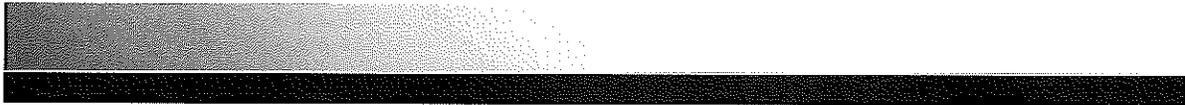
- Under 18
- 18 - 34
- 35 - 49
- 50 - 64
- 65+
- Prefer not to say

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S3



Are you...?

(Select one only)

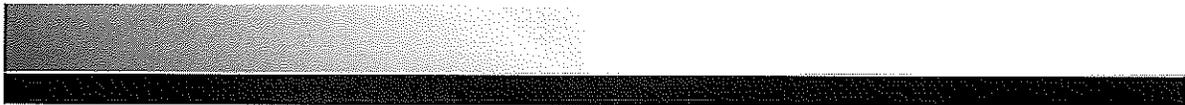
- Male
- Female

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S4



Are you or is anyone in your household currently employed at a company that makes or sells any of the following products?

(Select one response for each type of product)

	Yes	No	Unsure
Jewelry	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Kitchen appliances	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Computers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Home furnishings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

NEXT

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S5

In the last 12 months, have you purchased a piece of women's jewelry (e.g., pair of earrings, necklace, ring) for yourself or for someone else in any of the following price ranges, in any of the following types of stores?

You may select as many price ranges and as many store types as necessary to indicate where you have purchased a piece of women's jewelry and what you paid for a piece in the last 12 months.

	Less than \$25	\$25-99	\$100-249	\$250 or more	I have not shopped for jewelry at this type of store
Local jewelry store or boutique or its website	<input type="checkbox"/>				
Local or chain gift store or its website	<input type="checkbox"/>				
Discount retailer (e.g., Walmart, Target) or its website	<input type="checkbox"/>				
Online from the manufacturer	<input type="checkbox"/>				
Regional or national jewelry store chain (e.g., Claire's, Forever 21) or its website	<input type="checkbox"/>				
Campus bookstore or its website	<input type="checkbox"/>				

NEXT

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S6

In the next 12 months, would you consider purchasing a piece of women's jewelry (e.g., pair of earrings, necklace, ring) for yourself or for someone else in any of the following price ranges, in any of the following types of stores?

You may select as many price ranges and as many store types as necessary to indicate where you would consider purchasing a piece of women's jewelry and what you would consider paying for a piece in the next 12 months.

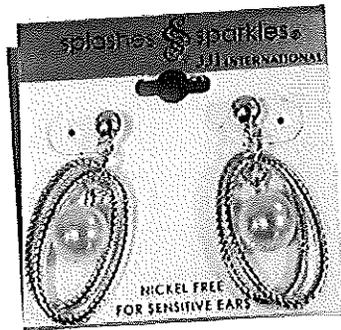
	Less than \$25	\$25-99	\$100-249	\$250 or more	I have not shopped for jewelry at this type of store
Local jewelry store or boutique or its website	<input type="checkbox"/>				
Local or chain gift store or its website	<input type="checkbox"/>				
Discount retailer (e.g., Walmart, Target) or its website	<input type="checkbox"/>				
Online from the manufacturer	<input type="checkbox"/>				
Regional or national jewelry store chain (e.g., Claire's, Forever 21) or its website	<input type="checkbox"/>				
Campus bookstore or its website	<input type="checkbox"/>				

NEXT



Q1

The image below shows a piece of jewelry that you might see in a store or online. Please look at the image as if you were considering shopping for this type of jewelry. (Please scroll to see the whole image, if necessary.)



Have you ever seen this brand of jewelry before (in person or in an advertisement)?

(Select one only)

- Yes
- No
- Unsure

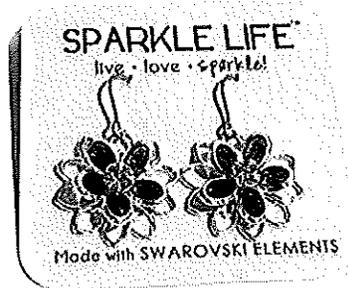
NEXT

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Q2 - Test

The image below shows a different piece of jewelry. Please look at the image as if you were considering shopping for this type of jewelry. (Please scroll to see the whole image, if necessary.)



Do you think that the jewelry in the image above is put out by a different company or by the same company that puts out the jewelry in the image you saw before, or are you unsure?

(Select one only)

- The jewelry in each image is put out by a different company
- The jewelry in each image is put out by the same company
- Unsure

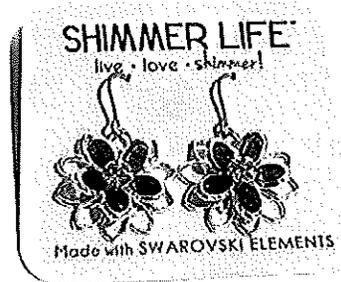
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Q2 – Control

The image below shows a different piece of jewelry. Please look at the image as if you were considering shopping for this type of jewelry. (Please scroll to see the whole image, if necessary.)



Do you think that the jewelry in the image above is put out by the same company or by a different company that puts out the jewelry in the image you saw before, or are you unsure?

(Select one only)

- The jewelry in each image is put out by the same company
- The jewelry in each image is put out by a different company
- Unsure

NEXT

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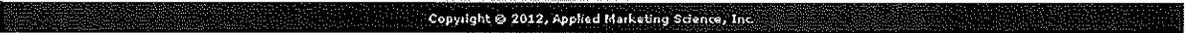
Q3



As fully as possible, please explain why you say that the jewelry in each image is put out by the same company.

(Please answer as completely as possible. You are not limited by the size of the answer box.)

NEXT

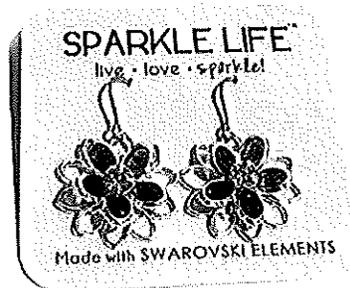


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Q4 – Test

The Image below shows the same piece of jewelry you just saw. (Please scroll to see the whole image, if necessary.)



Do you think that the company that puts out the jewelry in the Image above is NOT affiliated or connected with the company that puts out the jewelry in the Image you saw before, it is affiliated or connected, or are you unsure?

(Select one only)

- I believe that the two companies are NOT affiliated or connected
- I believe that the two companies are affiliated or connected
- Unsure

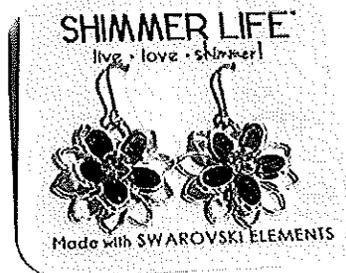
NEXT

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Q4 - Control

The image below shows the same piece of jewelry you just saw. (Please scroll to see the whole image, if necessary.)



Do you think that the company that puts out the jewelry in the image above is affiliated or connected with the company that puts out the jewelry in the image you saw before, it is NOT affiliated or connected, or are you unsure?

(Select one only)

- I believe that the two companies are affiliated or connected
- I believe that the two companies are NOT affiliated or connected
- Unsure

NEXT

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Q5



As fully as possible, please explain why you say that the two companies are affiliated or connected.

(Please answer as completely as possible. You are not limited by the size of the answer box.)

NEXT



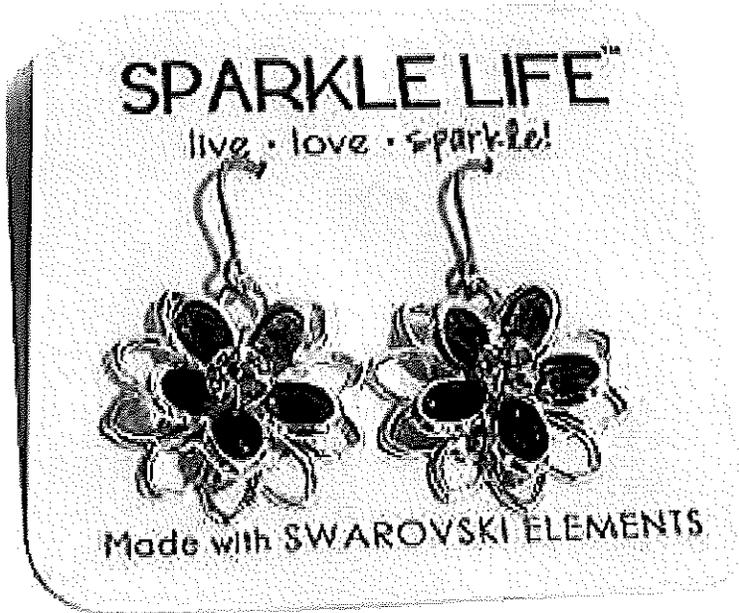
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Appendix E: Survey Images

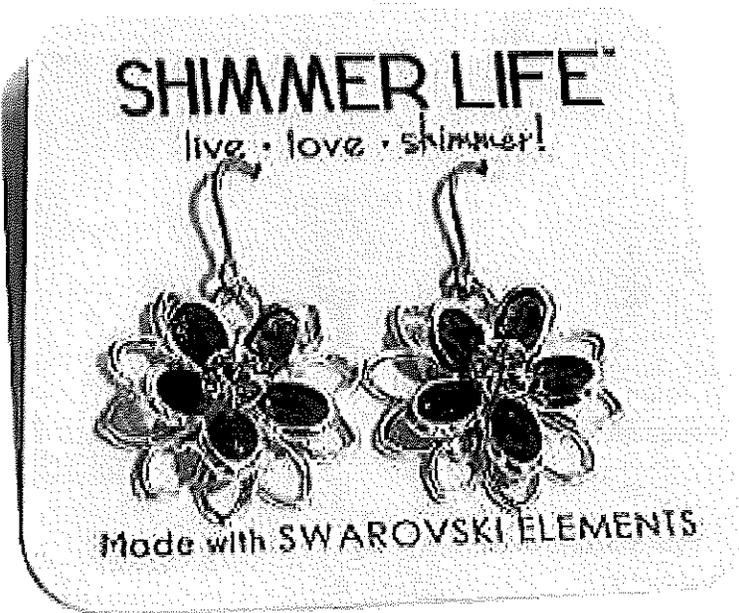
Splashes and Sparkles Image



Sparkle Life Image – Test



Sparkle Life Image- Control



Appendix F: Open End Responses (unedited)

Table F.1 Test Group's Open Ended Response Reasoning Why It Was Believed SPLASHES & SPARKLES and SPARKLE LIFE are Put Out By the Same Jewelry Company

Reasons Relating to the Names	
<ul style="list-style-type: none"> • Because it has "Sparkle Life" on the packaging. • BECAUSE SPARKLE IS IN THE NAME OF BOTH OF THEM • both had sparkle in their names--i'd assume same company, but different quality levels. perhaps one brand at walmart, the other at kohls or similar. • I BELIEVE THEY BOTH HAD THE SAME COMPANY NAME ON IT • I saw the words Sparkle Life on each image • i see the word sparkle in the brand so i assume it is a branch of the same company • i thought the name was the same i see the word sparkle in the brand so i assume it is a branch of the same company • i thought the name was the same • Isn't the name brand Sparkle? • It has the same name • look like same packaging and mentioned Sparkle • Looked similar given similar name • Packaging looks similar. Name looked familiar. • Same brand name • same brand name • same company name • Same name on the packaging • Similar brand titles. Similar rate of gaudiness . • similar design and brand names are quite similar • Similar styles, similar brand names • Sparkle Life was the name brand listed on the packaging of both items. • The brand name, Sparkle, is the same. • The name is similar or the same. • The name is the same -- Sparkle. • The name of the company is the same • THE NAME ON THE CARDBOARD BACKING. • The names and packaging designs are very similar • The naming on the marketing box is the same and I believe I saw an ad that had both of these displayed online. • The product name is very similar. • The style is similar and they use Sparkle in both brand names • The word "Sparkle" and the similar font • the word Sparkle • The word sparkle in each one and the type of jewelry • They both said "Sparkle Life" on the card holder, but different logos. • they both were titled sparkle life • They have similar names 	
Other Reasons	
<ul style="list-style-type: none"> • ALmost the same company logo • Beocuse it looks the same • both low quality pices • I saw the logo on both images • I think I saw the manufacturer on each. • I thought it looked the same • It looks similar • item looked similar and packaging was very alike • Jewelry appears comparable (e.g., price, style). • just looks the same junk jewelry • looks same • NOTHING 	(continued)

Table F.1 Test Group's Open Ended Response Reasoning Why It Was Believed SPLASHES & SPARKLES and SPARKLE LIFE are Put Out By the Same Jewelry Company (continued)

Other Reasons (continued)
<ul style="list-style-type: none"> • Nothing indicates that they wouldn't be put out by the same company. I suppose I'm thinking in the wider sense that jewelry style is so broad. • Packaging looks similar. • packaging looks similar. • Same label and style • Same type of idea. • Same type of marketing. • similar backing and style • Similar style, similar label printing. • size of the backer board, font type of lettering, the same type metal used in the jewelry • style, materials • The branding seems the same • The items are similiar in fashion sense. The pearl earrings may have the "S" crystals in it as well. • the lettering looked the same • The look similar in the design • The packaging looks very similar and I think I heard it online • The quality looks similar • The same seems similar. I would assume they use different packaging for different price ranges or retailers • The wording looks the same. As well as the typeface. however, they may go by different names. • They had the same advertising slogan. • They have similar wording and style • They have the same presentation and package appearance. • They look to be of similar style and quality. • They look very similar

Table F.2 Test Group's Open Ended Response Reasoning Why It Was Believed SPLASHES & SPARKLES and SPARKLE LIFE are Put Out By an *Affiliated* Jewelry Company

Reasons Relating to the Names
<ul style="list-style-type: none"> • Cause both name of the company is clear written in the package. • I do not think they are the same company. But the names and styles were so close that I think they are affiliated and or connected and that they are sold at different types of stores to reach more clientele. And the first one is sold more cheaply than the second one shown. • If I recall correctly it was the same company based upon the name at the top of the card • Same name • Same name • Same names and descriptions • same type name • Similar name • Similar names and design. • Similar names seem to connect the two companies • sparkle branding • The "sparkle" and modifiers • The name • The name of the company • the name sparkle on both pieces of jewelry • The names are similar and the style of earring is fairly similar. Look like items that might be sold at the same location. • the names seemed similar (brand) and both had crystal elements • The names were similar • the 'sparkle' name on brand makes it possible that they are related and that having 'sparkle' first and then another name following could mean a subdivision of that company especially since they are both selling jewelry • The style of the print, name and the use of the term "Svar,....". • The word "Sparkle" seems to be set off. There is a "catch phrase" • They both say Sparkle on the top of the card and I assume that's the name of the company.
Other Reasons
<ul style="list-style-type: none"> • Because • Because it's jewelry...there is always a possibility that they could be affiliated • Because one is the subsidiary of the other. • Because the packaging for the earrings resembles each other. • Both products have similar font styles and color palettes. • designs look the same • I thought the brand was the same, and the jewelry looks identical. • it stated on the bottom that it was from swaroski crystal • N/A • NA • Packaging concept is similar. Simple cardboard with products clearly displayed in front in direct view of customers. • quality looks the same • similar • Similar logo and style of jewelry • similar look and packaging • Similar package design and some common phrases • similar packaging, fonts & in appearance • The 2 pieces were advertised by the Swaroski • The design of the display is almost same • The flower gem earrings looked identical • the font on the packaging seemed similar • The items look similar in value • The jewelry appears to be of a similar quality and the packaging is fairly similar. Both look to be around \$10 and produced for a discount retailer like Walmart or Target. • the marketing of the product • The packaging • the packaging looked similar

(continued)

Table F.2 Test Group's Open Ended Response Reasoning Why It Was Believed SPLASHES & SPARKLES and SPARKLE LIFE are Put Out By an *Affiliated* Jewelry Company (continued)

Other Reasons (continued)
<ul style="list-style-type: none">• The packing is similar as far as color and font even though the style of jewelry is different.• The similar nature of the surrounding package as well as the similar make up of the products.• The two companies seem like they are affiliated with one another by how the jewelry was presented. The packaging looks very similar.• They are similar in look and feel.• They looked similar• they seemed to carry the same tagline but with varying branding• very similar packaging

Table F.3 Control Group's Open Ended Response Reasoning Why It Was Believed SPLASHES & SPARKLES and SHIMMER LIFE are Put Out by the Same Jewelry Company

Reasons Relating to the Names
<ul style="list-style-type: none"> • Because of the name • Brand name on holder was the same • company name • had the same name • I believe the name was the same. • the name • The name on the card seemed the same • The sound of the name
Other Reasons
<ul style="list-style-type: none"> • because of the printing • Card design • different designer • I say the same cause the jewelry seemed to be presented in identically to each other and it seem to bear the same artistic design. • I stated that they were put out by a different company ... • It has some creative similarities • Just the design and look of the items look like the same maker • logo • LOOKS LIKE THE PACKAGING WAS THE SAME • looks the same • na • Same type of style • Says so on package • seems that way • Similar aesthetics • Similar shape, style and color. • Similar style and quality • Style, construction • The holder was different but the crafting looked the same • The lettering and design on the backing that it is clipped to • The metal looks the same, and appears to be of an inexpensive nature. Both seem to be costume jewelry of similar composition and price range. • The packaging is the same • They look similar • They seem to have the same design • This jewelry packaging has very upbeat statements, the colors are bright and the look of the packaging seems similar. • VERY SIMILAR DESIGN AND PACKAGING

Table F.4 Control Group's Open Ended Response Reasoning Why It Was Believed SPLASHES & SPARKLES and SHIMMER LIFE are Put Out By an *Affiliated* Jewelry Company

Reasons Relating to the Names
<ul style="list-style-type: none"> • Because they have similar names and the products seem like they would appeal to the same types of consumers. • same brand title and description on the tag, same presentation • The names are very similiar • The title on the cards • Because it has the same name • Same company name • description at top was similar and both are of earrings • They have the same name. • had the same name on the pachaging
Other Reasons
<ul style="list-style-type: none"> • Ads are so similar as are the pieces • Because lots of manufacturers are affiliated. There are very few small independent businesses these days, it seems. • because they are being shown together • because they are on the same card • Because ththey look very much the same • Because you are showing them in the same survey and asking questions about them both • Due to the packaging and the the placement of the words and font. • Jewelry and packaging look very similar • jewerly stores and companies often look at each others work so they may be • Logos and design look similar • Many jewelers use different brands to sell the same or similar jewlwry • Overall, I considered the possibilty that the two brands may be appealing to different audiences. Both sets of earrings were pretty but seemed suited for different patrons. • Presentation is similar • Same brand and crystals • same descriptions • same elements highlighted. same design of earrings • similar artwork and marketing style • Similar font used in brand name • Similar in design, one youthful one aimed more towards older adults? • Similar packaging • Simular merchandising • thay look the same • The backing looks about the same, jewelry quality looks about the same. • The cards are similar as well as the descriptions. • The coloring and the wording looking very similiar to me. • the decoration looks similiar • The have the same packaging • THE ITEMS LOOK VERY SIMILAR IN DESIGN AND SIZE. • The jewelry is similar appearing quality and workmanship • the logos and the same as well as the svareskie element • The packaging • the packaging looks similar and the designs • The packaging looks similar, the presentation reminded me of the previous image • The packaging looks similar. They have very similar text and style • The packaging looks the same...the white background in particular. • The pieces are just so similar that it would be hard to make a duplicate. • The pieces looked identical, and 2 different companies cannot produce the same design • The style and presentation of the two pieces are quite similar. • The two pieces were comparable in style and looks and in the verbage used. • There is no clear connection • They are probably affillated as it is sometimes a marketing strategy to put out in the market two different brand names, which are made by the same company.

(continued)

Table F.4 Control Group's Open Ended Response Reasoning Why It Was Believed SPLASHES & SPARKLES and SHIMMER LIFE are Put Out By an *Affiliated* Jewelry Company (continued)

Other Reasons (continued)
<ul style="list-style-type: none">• They both look as though they are similar in style• they look similar• They look the same as far as the product and the card they are on.• They looked similar• They seem like the same type, but different material and design• very similar packaging, i think they are, but really cannot be sure• While not being made by the exact same company they could be affiliated manufacturers sharing a company trademark