

Intellectual Property Weekly Abstracts Bulletin — Week Of August 15

August 17, 2016

Trademark Decisions

Registrar's finding of confusion for Mark "Irresistibles" is upheld on appeal
[*Julia Wine Inc. v. Les marques metro, S.E.N.C., \(Les marques métro/metro Brands S.E.N.C.\), 2016 FC 738*](#)

Julia Wine Inc, appealed a decision of the Registrar rejecting its application to register the trademark "Irresistibles" after the Respondent, Les Marques Métro Inc., filed a statement of opposition.

The Registrar had found that there was a risk of confusion between the Mark and the Respondent's mark. While the mark had a relatively low degree of inherent distinctiveness because it was a common adjective, the extent to which the Respondent's mark had become known in Ontario and Québec clearly favoured the Respondent. The Registrar also dismissed the Applicant's argument to the effect that wine was a type of ware that was distinct from the Respondent's products since wines could be considered a natural extension of the range of products marketed by the Respondent. Finally, the Registrar found that the Applicant did not discharge its burden of proving that it was satisfied that it was entitled to use the Mark at the time the application for registration was filed, pursuant to paragraph 30(i) of the Act.

On appeal to the FC, the Court found that the additional evidence filed by the Applicant did not affect the Registrar's findings and, therefore, proceeded to apply the standard of review of reasonableness. The Court noted that the Registrar's analysis was meticulous and detailed and her reasoning was supported by knowledge of the case law that is relevant to the issues raised. Given that the Registrar's findings on confusion and on compliance with paragraph 30(i) of the Act were based on the evidence and fell within a range of possible and acceptable outcomes, the Court dismissed the appeal.

Other Industry News

The Patent Appeal Board recently allowed claims to non-exemplified humanized antibodies. BLG's summary of the Board's decision and its practical effect on antibody patent applications can be found [here](#).

By

[Chantal Saunders](#), [Beverley Moore](#), [Adrian J. Howard](#), [Jillian Brenner](#)

Expertise

[Intellectual Property](#), [Copyright](#), [Licensing](#), [Patents](#), [Trademarks](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.