

JACQUES JAUNET S.A.,
Opposer,

INTER PARTES CASE NO. 1816

OPPOSITION TO:

- versus-

Application Serial No. 38080
Filed : April 9, 1979
Applicant : Luxland (Jeans)
Garment Factory Ltd.
Trademark : LAWMAN
Used on : Jeans, jackets, trousers,
vests, blazers, pullovers,
overalls, T-shirts, skirts,
shirts and outer garment

LUXLAND (JEANS) GARMENT
FACTORY LTD.
Respondent-Applicant.
x-----x

DECISION NO. 88-100 (TM)
October 11, 1988

DECISION

Jacques Jaunet S.A., a French limited company, filed an Opposition (Inter Partes Case No. 1816) to Application Serial No. 38080 for the trademark "LAWMAN" used on goods under Class 25, which the application was filed on April 19, 1979 by Luxland (Jeans) Garment Factory Ltd. Of Hong Kong.

Opposer filed this Opposition on the ground, among others, that Respondent-Applicant's trademark "LAWMAN" is confusingly similar with Opposer's registered trademark "NEW MAN" (Certificate of Registration No. 23554). Opposer argued that the trademarks under consideration have glaring similarities namely: (1) in both their first syllables, the dominance of the sound of "W" is apparent when they are pronounced; (2) their last syllables are also similar, i.e., "MAN"; (3) they have the same number of letters and syllables; and (4) they are used on similar goods under Class 25 and therefore flow through the same channels of trade.

Respondent-Applicant, on the other hand, argued that Opposer's trademark "NEW MAN" is a combination of the word "NEW" which means "recent in origin, modern, novel, lately made, produced, invented or discovered" etc. and "MAN" which means "a human being, and adult human male, mankind", etc., while Respondent-Applicant's trademark "LAWMAN" signifies one who enforced the law; that Opposer's trademark consists of the bare words "NEW MAN", while Respondent-Applicant's trademark as actually used consists of the word "LAWMAN" and a representation of a man's head with a hat signifying the image of common law enforcer of the Old West; and that the other features of Respondent-Applicant's trademark are different from that of Opposer's.

The issue to be resolved is whether or not Respondent-Applicant's trademark "LAWMAN" is confusingly similar with Opposer's trademark "NEW MAN".

A comparison of the labels of the trademark "LAWMAN" (Exh. "3"p. 4) and "NEW MAN" (Exh. "B"; see labels submitted to this Bureau) shows the following similarities and differences:

- A. Similarities
1. last syllable ("MAN")
 2. third letter ("W")
 3. number of letters (6 each), and
Syllables (2 each)

4. goods (Class 25)

B. Differences

1. Meaning; "NEW MAN" means "man as regenerated by religious conversion or experience; while "LAWMAN" means "a law enforcement officer", as a sheriff or policeman. (See Webster Third New International Dictionary.)
2. Sound: when the words "NEW" and "LAW" are pronounced, the sounds produced are different.
3. Layout of Words, Type and Size of Lettering:
 - a) The trademark "NEW MAN" consists of two separate words (New and Man), while the trademark "LAWMAN" consists of only one whole word.
 - b) The trademark "NEW MAN" is arranged in two lines (the word "NEW" is printed immediately above the word "MAN"), while the trademark "LAWMAN" is ranged only in one line.
 - c) In the trademark "NEW MAN", the letters "E" and "A" are printed in small letters and the rest in capital, and the letters "W" and "M" are slanted to the right in style, while in the trademark "LAWMAN", all the letters are printed in capital and vertical style.
4. Representation Made: the trademark "LAWMAN" as actually used contains the representation of a man's head with a hat signifying the image of a law enforcer of the Old West, while the trademark "NEW MAN" has no such representation.

This Bureau is convinced that while there are similarities in the two trademarks, there are also substantial and striking differences between them which preclude likelihood of confusion.

Thus, the Supreme Court has ruled that:

"x x x The trademarks in their entirety as they appear in the respective labels must also be considered in relation to the goods to which they are attached. The discerning eye of the observer must focus not only on the predominant words but also on the features appearing in both labels in order that he may draw his conclusion whether one is confusingly similar to the other. Having this view in mind, we believe that while there are similarities in two marks, there are also differences or dissimilarities which are glaring and striking to the eye as the former. x x x" (mead Johnson & Co. v. N.V.J Van Dorf, Ltd., 7 SCRA 768, 771)

"An examination of the documentary evidence submitted by the parties confirms the findings of the Director of Patents that there are striking differences between the two labels, Exhibits B and C, which preclude the possibility of the purchasing public confusing one product with the other. Said labels are entirely different in size, background, colors, contents, and pictorial arrangement; in short, the general appearances of the labels bearing the respective trademarks are so distinct from each other that petitioner cannot assert that the dominant features, if any, of its trademark were used or appropriated in respondent's own." (American Cyanamid Co. v. Director of Patents, 76 SCRA 568, 573)

"As to the design and coloring scheme of the hand tags, We believe that while there are similarities in the two marks like the red apple at the center of each mark, We also find differences or dissimilarities which are glaring and striking to the eye x x x." (Fruit of the Loom, Inc. v. Court of Appeals, 133 SCRA 405, 411)

WHEREFORE, the Opposition is DENIED; Application Serial No. 38080 is given due course.

Let the records of this case be remanded to the Application, Issuance and Publication Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO
Director