

Federal Court



Cour fédérale

Date: 20150918

Docket: T-653-13

Citation: 2015 FC 1091

Ottawa, Ontario, September 18, 2015

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

**CHANEL S. DE R.L.,
CHANEL LIMITED AND
CHANEL INC.**

Plaintiffs

and

**LAM CHAN KEE COMPANY LTD.,
ANNIE PUI KWAN LAM AND SIU-HUNG
LAM,
COLLECTIVELY DOING BUSINESS AS LAM
CHAN KEE; AND 2133694 ONTARIO INC.**

Defendants

JUDGMENT AND REASONS

[1] Having considered the totality of the evidence and the representations submitted by the parties, for the reasons that follow, the Court allows in part the motion for summary trial presented by the plaintiffs, Chanel S. de R.L., Chanel Limited [Chanel] and Chanel Inc. [collectively the plaintiffs]. The Court renders judgment against the defendant, Annie Pui Kwan

Lam [A. Lam or Madam Lam] and dismisses the action against the defendant Siu-Hung Lam [S. Lam] [collectively the individual defendants]. The Court also allows that part of the plaintiffs' motion for default judgment against the defendants Lam Chan Kee Company Ltd. [LCK Company] and 2133694 Ontario Inc. ['694 Inc] [collectively the corporate defendants] and renders judgment accordingly. The whole is ordered with costs.

[2] This action was commenced by a Statement of Claim issued on April 17, 2013, and amended on July 11, 2013 and July 10, 2014. In their Amended Statement of Claim dated July 10, 2014 [Amended Statement of Claim], the plaintiffs allege that the defendants have infringed and passed off various trade-marks owned by Chanel as set out in Schedule A of the Statement of Claim [Chanel Trade-marks], through the importation, advertisement, offer for sale and/or sale of fashion accessories bearing the Chanel Trade-marks. The plaintiffs further allege that as the landlord and owner of the relevant premises, Madam Lam aided and abetted, authorized, and sanctioned the importation, advertisement, offer for sale and/or sale of fashion accessories bearing the Chanel Trade-marks by the defendant '694 Inc. The individual defendants deny the allegations and inferences made by the plaintiffs. They allege that LCK Company ceased carrying on business on or about September 30, 2011, and did in fact sell its business assets to '694 Inc as alleged in their Amended Statement of Defence dated September 3, 2013.

[3] In support of their motion in summary trial and in default judgment, the plaintiffs filed on June 19, 2015 the affidavits of Jennifer Bleys (February 23, 2015), Angela Lam (February 13, 2015), Anthony Iafrate (February 18, 2015), Mario Iafrate (February 18, 2015) and Amy L. Jobson (February 26, 2015) [Jobson #1], together with the exhibits attached to the same motion

and transcript excerpts from the cross-examinations of Madam Lam (June 8, 2015), Suiwai (Ronald) Mak [Ronald Mak] (June 8, 2015) and Justin Lam (June 9, 2015). Leave was granted by the Court to file two supplementary affidavits of Amy L. Jobson (August 4, 2015) [respectively Jobson #2 and #3], as well as a written reply to the arguments raised by the individual defendants in their responding motion record.

[4] In their responding motion record, the individual defendants rely on the affidavits of Madam Lam (March 16, 2015), Justin Lam (March 16, 2015) and Ronald Mak (March 12, 2015), together with the exhibits attached and transcript excerpts from the cross-examinations of Madam Lam (June 8, 2015), Ronald Mak (June 8, 2015) and Justin Lam (June 9, 2015). Leave was granted by the Court to file a supplementary affidavit of Ronald Mak (June 16, 2015) and attached exhibits.

[5] The individual defendants submit that this is not a proper case to render judgment following a summary trial because there are credibility issues related to the purported transfer of assets which can only be decided by a conventional trial and hearing where witnesses testify and are cross-examined in front of the Court. However, simply raising this issue of credibility is not sufficient to make the matter unsuitable for summary trial, as this Court is satisfied that the questions as to whether there was an effective transfer of assets of the business, or alternatively that any transfer of assets was a fraudulent one, can both be resolved by this Court on the evidence before it and that it would not be unjust to deal with the matter by summary trial. In doing so, after having considered the evidence and representations of the parties, the Court is

satisfied that Madam Lam is personally liable. However, no case has been made against her husband, S. Lam.

[6] Neither of the defendants, LCK Company or '694 Inc, has filed a Statement of Defence in this action at any time. There has been no evidence or representations submitted on behalf of the corporate defendants, although the Court has considered a number of corporate documents involving LCK Company and '694 Inc which were produced by the individual defendants. Further noting that Justin Lam, an Officer and Director of '694 Inc, has been aware of this suit since 2013 and has in fact sworn an affidavit in these proceedings on behalf of the individual defendants, the Court is satisfied that it is a proper case for proceeding by default against the two corporate defendants. In so doing, after having considered the evidence and representations of the parties, the Court is satisfied that the corporate defendants are liable.

[7] LCK Company is currently active. LCK Company is a corporation incorporated pursuant to the laws of Ontario, with a registered address of Suite 122, 3255 Hwy 7 East, Markham, Ontario. At all relevant times, its Directors were the two individual defendants, while the Officer of LCK Company was Madam Lam. The individual defendants admit that at least until September 11, 2011, Madam Lam ran a business known as LAM CHAN KEE through LCK Company at Unit B25, Pacific Mall, 4300 Steeles Avenue East, Markham, Ontario [the Premises]. On a balance of probabilities, the Court finds that despite any transfer of shares to Justin and Jessica Lam, LCK Company and Madam Lam continued to operate and control the Lam Chan Kee business until at least May 28, 2013.

[8] '694 Inc is currently active. '694 Inc is a corporation incorporated pursuant to the laws of Ontario with a registered address of 119 Boake Trail, Richmond Hill, Ontario. From at least July 27, 2007 until at least June 30, 2012, Madam Lam was recorded as a Director, Secretary and Treasurer of '694 Inc. From at least July 27, 2007 until May 2, 2013, Madam Lam was recorded as the President of '694 Inc. Beginning at least as early as May 2, 2013, Justin Lam and Jessica Lam were recorded as Directors, Jessica Lam was listed as Secretary, and Justin Lam was recorded as Treasurer of '694 Inc. Beginning at least as early as May 28, 2013, Jessica Lam was recorded as President of '694 Inc. At all times, the personal addresses for the individual defendants, Justin Lam and Jessica Lam indicated on the corporate documents of '694 Inc were identical: 119 Boake Trail, Richmond Hill, Ontario.

[9] It is not challenged by the defendants that infringing activities have taken place at the conventional retail store operating under the name LAM CHAN KEE at the Premises. In this respect, the uncontradicted evidence of infringement submitted by the plaintiffs in this proceeding is reliable and conclusive. That being said, this is not the first infringement proceeding instituted against LCK Company and the individual defendants.

[10] Following the commencement of two actions [prior Actions], both on February 13, 2006, Madame Lam and LCK Company were ordered by consent judgment [Order], flowing from the Minutes of Settlement [Settlement] in Federal Court File No. T-313-06, to cease the sale of any merchandise bearing the Chanel Trade-marks, and to cease from directing public attention to their wares in such a way as to cause or be likely to cause confusion (the action against S. Lam was dismissed without costs). The Order reads:

4. THIS COURT ORDERS that the Subject Defendants are permanently restrained from offering for sale, displaying, advertising, selling, manufacturing, distributing, or otherwise dealing in Merchandise bearing any of the Chanel Trade-Marks.

5. THIS COURT ORDERS that the Subject Defendants are restrained from directing public attention to their wares in such a way as to cause or be likely to cause confusion in Canada between those wares and the wares of the Plaintiffs contrary to the provisions of section 7(b) of the *Trade-marks Act*, supra.

[11] In addition to the Order, Madam Lam was the subject of a further order in another matter where she was named as a defendant – namely, Federal Court File No. T-257-06 – as a result of her activities operating a second location where counterfeit Chanel merchandise was being offered for sale and sold [Second Order]. The Second Order was substantively the same as the Order [collectively the Orders], but involved other co-defendants. In particular, the Second Order reproduced paragraphs 4 and 5 quoted above.

[12] On October 23, 2011, the plaintiffs became aware that LCK Company and Madam Lam were continuing to possess for the purpose of sale or distribution, advertise, distribute and sell counterfeit Chanel merchandise through the business operating as LAM CHAN KEE. On December 9, 2011, the plaintiffs served a cease and desist letter on these defendants, demanding the immediate cessation of their illegal activities. Subsequent to the service of the cease and desist letter, and the commencement of the proceeding herein, these defendants apparently continued to possess for the purpose of sale or distribution, advertise, distribute and sell merchandise, notwithstanding interim settlement discussions. According to the evidence filed by the plaintiffs in this proceeding, the counterfeit Chanel merchandise possessed for the purpose of sale or distribution, advertised, distributed and sold by these defendants is clearly contrary to the

Orders made against these defendants. Indeed, the counterfeit Chanel merchandise possessed for the purpose of sale or distribution, advertised, distributed and sold by these defendants differs from Chanel's legitimate products in material respects, in that the counterfeit Chanel merchandise is of lower quality, and lacks the high standard quality control associated with genuine Chanel products in Canada.

[13] According to the allegations made by the individual defendants, the business Lam Chan Kee was apparently transferred in August or September 2011 to '694 Inc because Madam Lam's husband, S. Lam, the other individual defendant, is a non-resident of Canada and had been living in China, and she wanted to reside there with him. She states that her husband was never involved in the business of LCK Company, a point the Court is ready to accept. Despite the fact that Madam Lam's husband may have been a Director, his involvement in the day-to-day operations of LCK Company seems minimal. This is not the case with respect to Madam Lam. She also explains in her affidavit that '694 Inc was a shell company that she had incorporated in 2007 but was not using at the time of the alleged sale of the business to her two children, Jessica Lam and Justin Lam. She further affirms that on September 30, 2011, the ownership of '694 Inc was turned over to Jessica Lam and Justin Lam for their own use. The price of the sale was \$30,000 but they apparently only paid \$3,000 at the time. The rest of the sum was supposedly repaid (at least in part) by the children over a longer period of time, but in the absence of better corroborated documentary evidence, the Court is unwilling to accept Madam Lam's affirmations. Madam Lam also swears that since the alleged sale of the business took place, she and her husband have had nothing to do with any part of their children's business, including its day-to-day operations. Madam Lam swears that the new owners have been made aware that they must

not sell any counterfeit products that breach the trade-mark of any product. She maintains that there was no fraud between her husband and herself and '694 Inc. Indeed, Madam Lam and her husband asked their accountant Ronald Mak to assist them in the sale of the business. Madam Lam has always assumed that '694 Inc was not selling any product that breached or infringed any trade-mark. Other than this lawsuit and its allegations, she is unaware of '694 Inc retailing goods that infringe any trade-marks. Justin Lam and Ronald Mak apparently support Madam Lam's claims.

[14] The plaintiffs question the motivation of the defendants. The corporate defendants have never filed a Statement of Defence. Madam Lam was placed on repeated notice – both through the plaintiffs' cease and desist letter of December 9, 2011 and through settlement discussions and other correspondence – of the ongoing offer for sale and sale of counterfeit Chanel merchandise taking place on the Premises through the Lam Chan Kee retail store. The plaintiffs note that it was only following the service and filing of the Statement of Claim that the individual defendants took the position, for the first time, that the LCK Company ceased carrying on business on or about September 30, 2011 and had sold its business assets, including its goodwill, to the defendant '694 Inc. Indeed, in correspondence in 2012 and 2013, the defendants, through their previous counsel, represented or implied that A. Lam, S. Lam and LCK Company were responsible for the Lam Chan Kee business. Thus, the plaintiffs deny that any transfer of assets occurred at any at any time. In the alternative, if there was a valid transaction that led to a change in ownership, that transaction was a fraudulent transaction specifically directed to avoiding negative consequences arising from the recidivist and contemptible activities of the defendants and should therefore be set aside or ignored from the point of view of liability for the recidivist

activities of the defendants. Moreover, as the owner and landlord of the Premises, Madam Lam had, at all relevant times, control over the activities of her tenant, namely '694 Inc, and the ability to prevent the ongoing sale and offer for sale of the counterfeit Chanel merchandise at the Premises.

[15] The Court has considered the evidence about the sale of business submitted by the individual defendants, which it finds to be self-serving and inconclusive. The transfer of shares and sale of assets documents could have been prepared long after the alleged transfer of business to '694 Inc and change of ownership of '694. The change of ownership was only reported by Ronald Mak in May 2013, after the commencement of this suit. When asked why the change was not reported in 2011, Mak responded that "Ontario is terrible" and that he was "pretty sure it was mailed" but that "[he had] to ask [his] secretary". Alternatively, he stated that he had "no idea why" the required report wasn't filed in 2011. When asked again why the change was not made until 2013, Mak had no response. Besides, the Court notes that there are other contradictions in the evidence regarding who was present for, and witnessed, the execution of the transfer of shares and the purchase and sale agreement in 2011.

[16] The Court finds on a balance of probabilities that LCK Company continued to operate the Lam Chan Kee business until at least May 28, 2013, after which '694 Inc must be held responsible for the infringing activities on the Premises. The Court further finds that Madam Lam continued to use the property as her own after the alleged transfer. There is also clear evidence on record suggesting that Madam Lam continued to control the business. Moreover, it is not clear whether staff were notified of the change in ownership. Furthermore, Madam Lam

continued to be the owner and landlord of the Premises. It was Madam Lam who hired counsel, not Justin Lam, when the present action was taken by the plaintiffs. Nor did Madam Lam talk to her children regarding the cease and desist letter that was delivered on December 9, 2011 to the operator of the Lam Chan Kee business on the Premises. While the Court comes to the conclusion that Madam Lam must be held personally liable for infringing activities on the Premises up and until May 28, 2013, together with the two corporate defendants, there is not enough evidence to support such a conclusion against the other individual defendant, S. Lam, as I am not satisfied the latter was the controlling mind of the two corporate defendants or was personally involved in the infringing activities.

[17] In their written submissions to the Court, the plaintiffs develop their grounds for seeking declaratory and injunctive relief as well as general and punitive damages. The written and oral submissions made in respect of remedies by the individual defendants have been minimal and do not really address the arguments made by the plaintiffs in their comprehensive submissions. Thus, I have no reason not to endorse the plaintiffs' general reasoning in granting the remedies sought in this matter against LCK Company, '694 Inc and Madam Lam [the subject defendants].

[18] Based on the evidence on record, the Court finds that in defiance of the Orders, the subject defendants have continued to possess for the purpose of sale or distribution, advertise, distribute and sell counterfeit Chanel merchandise bearing the Chanel Trade-marks, and have continued to direct public attention to their wares (now referred to in the amended *Trade-marks Act* as "goods") in such a way as to cause or be likely to cause confusion. In particular, according to the uncontradicted evidence submitted to the Court by the plaintiffs in this proceeding, the

subject defendants have possessed for the purpose of sale or distribution, advertised, distributed and sold a range of counterfeit Chanel merchandise bearing the Chanel Trade-marks, including but not limited to wallets, earrings, cellular phone covers, fake nails, and other assorted jewelry. In particular, the Court is satisfied that on October 23, 2011, December 9, 2011, April 26, 2012 and June 2, 2013 [the infringement dates], the subject defendants advertised, offered for sale or sold counterfeit Chanel merchandise.

[19] Considering the uncontradicted evidence filed by the plaintiffs and having considered the representations made by the individual defendants, the Court is satisfied that the activities of the subject defendants are contrary to the Settlement, to the Orders, and to sections 19 and 20, Section 22 and paragraphs 7(b), 7(c) and 7(d) of the *Trade-marks Act*. Given the fact that the infringing activities of the subject defendants were ongoing after the prior Actions, until at least June 2, 2013, and in the case of A. Lam and LCK Company those activities were in defiance of the Orders, and given the nature of the activities involved, pursuant to section 53.2 of the *Trade-marks Act*, the Court will grant:

- (a) declaratory relief confirming the validity and ownership of the Chanel Trade-marks;
- (b) injunctive relief precluding the subject defendants from continuing their infringing activities; and
- (c) injunctive relief requiring the delivery up and destruction of any remaining infringing goods within twenty-one (21) days of the present judgment.

[20] By virtue of the subject defendants' activities, the Court is also satisfied that Chanel has suffered damage and that the defendants have made a profit. With respect to damages, the precise extent of the subject defendants' activities are not known to the plaintiffs, but the activities were conducted from at least October 2011 to June 2013, and the plaintiffs have evidence of the following specific instances relating to counterfeit Chanel merchandise:

- (a) offering for sale 20-25 counterfeit Chanel cellular phone cases, at least one (1) small wallet, and a few plastic bracelets and hair clips on or about October 23, 2011;
- (b) offering for sale five (5) counterfeit Chanel wallets on or about December 9, 2011;
- (c) offering for sale six (6) pairs of counterfeit Chanel earrings, and three (3) counterfeit Chanel cellular phone cases, and the purchase of counterfeit Chanel earrings on April 26, 2012; and
- (d) offering for sale 100 counterfeit Chanel items including cellular phone covers, necklaces, hair clips and fake nail stickers on or about June 2, 2013 and the purchase of an iPhone cover, a necklace, and a set of fake nail stickers.

[21] In 1997, this Honourable Court determined that, in the circumstances before the Court at that time and in relation to an Anton Piller order seizure, damages of \$6,000 per plaintiff for trade-mark infringement should be applied as nominal damages against retail establishments selling counterfeit goods, where it would be difficult to prove actual damages or profits based on

a lack of documentation regarding sales. Such precedent has been followed by this Court on numerous occasions. Both the Federal Court and the British Columbia Supreme Court have subsequently adjusted this figure for inflation, and applied such damages using a multiplication of the nominal damages figure, in instances where the Court has before it evidence of ongoing activities that represent more than a single instance of infringement. Depending on the evidence before the Court, such multiplication has been based on both a "per instance of infringement" and a "per turn-over of inventory". It is submitted by the Plaintiffs that in the present circumstances, the proper base amount of nominal damages is \$8,000, as adjusted for inflation from 1997 to each of the three relevant years, per instance of infringement.

[22] The Court is satisfied that the evidence conclusively establishes, on a balance of probabilities, that the subject defendants have offered for sale or sold counterfeit Chanel merchandise in at least in four (4) instances (i.e. October 23, 2011, December 9, 2011, April 26, 2012 and June 2, 2013). Accordingly, nominal damages are appropriately assessed as \$8,000 multiplied by four (4) instances, equaling \$32,000. Furthermore, the activities of the subject defendants have infringed the rights of both Chanel Inc., which holds the license to use the Chanel Trade-marks in Canada, and Chanel Limited, which owns the rights to the Chanel Trade-marks. In accordance with the established jurisprudence, each of these plaintiffs is entitled to an award of damages for the four (4) instances of infringement, for a total of \$32,000 per plaintiff, or \$64,000 in total, and which amount is payable jointly and severally by the subject defendants.

[23] Additionally, it is submitted by the plaintiffs that punitive and exemplary damages, in the amount of \$250,000, are appropriate in these circumstances. The prior Actions were only settled

when Madam Lam and LCK Company agreed in the Settlement to consent to the Order, and additionally the Second Order, both of which unambiguously required, inter alia, that Madam Lam and LCK Company cease sales of all counterfeit Chanel merchandise. In breach of both the Settlement and the Orders, and in further breach of the plaintiffs' rights, the subject defendants nevertheless continued their unlawful activity.

[24] The Court is satisfied that such blatant disregard for the rights of the plaintiffs, as well as the blatant disregard for the process and Orders of this Court, are clearly circumstances under which the subject defendants should be ordered to pay significant punitive and exemplary damages. Given the egregious nature of the subject defendants' activities, the amount of nominal damages awarded above is simply not sufficient to denounce and deter the subject defendants' activities. Having considered the awards of punitive and exemplary damages granted in the past, the Court is satisfied that an additional award of \$250,000 in punitive and exemplary damages, payable jointly and severally, is appropriate and warranted in the circumstances.

[25] The plaintiffs also seek an order for post-judgment interest at the rate of 2.00% and future rates determined in accordance with the Ontario *Courts of Justice Act*, RSO, c C-43 and Ontario *Publication of Postjudgment and Prejudgment Interest Rates*, O Reg 339/07, and judgment will be rendered accordingly.

[26] Finally, the plaintiffs also submit that given the deliberate and knowing infringement of the Chanel Trade-marks and the obstructive conduct of the defendants in deliberately delaying this proceeding, along with the substantial additional fees incurred by the plaintiffs as a result of

such actions, they should be awarded their solicitor and client costs in a lump sum to be determined by this Court (approximately \$110,000). In the alternative, it is submitted that the plaintiffs ought to be awarded the tariffed costs of this proceeding, the total amount of \$13,007.57 reflecting tariffed fees in the amount of \$8,190 plus disbursements of \$4,817.57.

[27] The Court is satisfied that the plaintiffs have incurred higher legal fees and disbursements partly as a result of the unresponsiveness of the individual defendants who ignored repeated requests for documents, resulting in their counsel being removed from the record as well as further delays. On the other hand, in awarding \$250,000 as punitive damages, the Court has already taken into account the deliberate and knowing infringement of the Chanel Trade-marks. Thus, the Court will reduce by a factor of 40% the amount calculated by the plaintiffs on a solicitor-client basis. The Court will award to the plaintiffs the sum of \$66,000 in lieu of assessed costs, which shall be payable forthwith by the subject defendants in view of their reprehensible conduct in the proceeding.

JUDGMENT

THIS COURT ADJUGES AND ORDERS:

1. The Court allows in part the motion for summary trial presented by the plaintiffs, Chanel S. de R.L., Chanel Limited [Chanel] and Chanel Inc. [collectively the plaintiffs].
2. The Court renders judgment against the defendant, Annie Pui Kwan Lam [A. Lam or Madam Lam] and dismisses the action against the defendant Siu-Hung Lam [S. Lam].
3. The Court also allows that part of the plaintiffs' motion for default judgment against the defendants Lam Chan Kee Company Ltd. [LCK Company] and 2133694 Ontario Inc. ['694 Inc] and renders judgment accordingly.
4. Chanel is the owner in Canada of the trade-marks and trade-mark registrations listed in Schedule "A" hereto [Chanel Trade-marks]; said registrations are valid; and the Chanel Trade-marks have been infringed by the LCK Company, '694 Inc and A. Lam [the subject defendants], contrary to sections 19 and 20 of the *Trade-marks Act*.
5. The subject defendants, and each of them, have used the Chanel Trade-marks in a manner likely to have the effect of depreciating the value of the goodwill attaching thereto, contrary to section 22 of the *Trade-marks Act*.
6. The subject defendants, and each of them, have directed public attention to their goods in such a way as to cause or to be likely to cause confusion in Canada

between the subject defendants' goods and the goods and business of the plaintiffs, contrary to section 7(b) of the *Trade-marks Act*.

7. The subject defendants, and each of them, have passed off their goods as and for those of the plaintiffs, contrary to section 7(c) of the *Trade-marks Act*.
8. The subject defendants, and each of them, have used, in association with fashion accessories, a description which is false in a material respect and which is of such a nature as to mislead the public with regard to the character, quality and/or composition of such goods, contrary to section 7(d) of the *Trade-marks Act*.
9. The subject defendants, and each of them, by themselves and their servants, workmen, agents and employees, are permanently restrained and enjoined from, directly or indirectly:
 - (a) further infringing the Chanel Trade-marks;
 - (b) using the Chanel Trade-marks, any words, or combination of words, or any other design, likely to be confusing with the Chanel Trade-marks, as or in a trade-mark or trade-name, or for any other purpose;
 - (c) depreciating the value of the goodwill attaching to the Chanel Trade-marks;
 - (d) directing public attention to any of their goods in such a way as to cause or to be likely to cause confusion between their goods and the goods and business of the plaintiffs;
 - (e) passing off their goods as and for those of the plaintiffs; or



- (f) using in association with fashion accessories a description which is false in a material respect and which is of such a nature as to mislead the public with regard to the character, quality and/or composition of such goods.
10. Within twenty-one (21) days of the Judgment, the subject defendants shall deliver up to the plaintiffs, at their own expense, all articles in their possession, custody or power which offend in any way against any order which is made herein.
11. The subject defendants are condemned to pay to the plaintiffs the amount of \$64,000, as damages, payable jointly and severally.
12. The subject defendants are condemned to pay to the plaintiffs the amount of \$250,000, as punitive and exemplary damages, payable jointly and severally.
13. The subject defendants shall pay to the plaintiffs post-judgment interest on the amounts awarded above as damages and punitive and exemplary damages, calculated from the date of this Judgment at the current rate of 2.00% and at future rates determined according to the *Courts of Justice Act*, RSO 1990, c C.43 and the *Publication of Postjudgment and Prejudgment Interest Rates*, O Reg 339/07.
14. The subject defendants shall pay forthwith to the plaintiffs the sum of \$66,000 in lieu of assessed costs.




"Luc Martineau"

Judge

SCHEDULE A

[BLANK]	Trade-mark	Registration/ Application No.	Date of first use:	Registration Date:	Wares/Services
CHANEL	CHANEL	TMA 194,870	(1) February 4, 1972	October 19, 1973	(1) Watches
CHANEL	CHANEL	TMA 143,648	(1) 1925	January 28, 1966	WARES (1) Wearing apparel for women, namely ensembles, tailor-made suits, dresses, jackets, blouses and neckwear, namely, silk neckerchiefs, silk squares and scarves.
(2) 1925	(2) Buttons, pins and artificial jewellery.				
(3) 1925	(3) Jewellery.				
(4) April 6, 1972	(4) Shoes and leather goods, namely wallets, pocketbooks, purses and belts.				
(5) March 22, 1985	(5) Neckties, belts made of metal, fabric, synthetic materials or combinations of these with leather.				
(6) September 4, 1986	(6) Hair accessories, namely, pins, bows, hair bands, clips; artificial flowers.				
(7) February 18, 1972	(7) Lighters.				
(1) February 18, 1987	SERVICES (1) Operation of boutiques selling clothing, perfumery, and accessories.				

[BLANK]	Trade-mark	Registration/ Application No.	Date of first use:	Registration Date:	Wares/Services
CHANEL	CHANEL	UCA 18468	(1) 1920	August 12, 1943	(1) Toilet preparations, namely perfume, eau de cologne, eau de toilette, bath powder, bath oil, after bath oil, body crème, bathing gel, soap, eau de parfum, after shave, after shave moisturizer, shave cream, after shave balm, cologne, deodorant stick, moisture balm, protective skin conditioner.
			(2) December 28, 1984		(2) Cosmetic products, namely, skin creams, beauty masks, body lotion, moisturizers, blush, liquid and crème makeup, toner, freshner, lip makeup, nail enamel, nail enamel remover, nail and cuticle treatment, powder, eye makeup, skin cleansers, makeup remover, makeup brushes.
CHANEL	CHANEL	TMA569,181	(1) June, 1992	October 21 2002	(1) Eyeglasses, sunglasses, frames and cases therefor.
	CC Design	TMA534,356	(1) June, 1992	October 11, 2000	(1) Eyeglasses, sunglasses, frames and cases therefor.
	CC Design	TMA345,284	(1) April 11, 1988	September 23, 1988	(1) Wearing apparel, namely skirts, blouses, pants, jackets, sweaters, cardigans and strapless bras; costume jewellery; leather goods, namely handbags, belts, leather purses, pouches; accessories, namely barrettes, gloves, ties, shawls, scarves, cloth and chain belts.

[BLANK]	Trade-mark	Registration/ Application No.	Date of first use:	Registration Date:	Wares/Services
	CC Design	TMA687,122	(1) March 1, 2001	May 8, 2007	(1) Towels, blankets, decorative pillows.
	CC Design	TMA649,677	(1) March 15, 2004	October 5, 2005	(1) Handbags.
	CC Design	UCA18537	(1) 1920	August 12, 1943	(1) Toilet preparations, namely perfume, eau de cologne, eau de toilette, bath powder, bath oil, after bath oil spray, body lotion, body crème, milk bath crème, bathing gel, soap, after shave balm, cologne, deodorant stick.
(2) August 8, 1986	(2) Costume jewelry				
(3) September 4, 1986	(3) Hair accessories, namely, pins, bows, hair bands, clips; artificial flowers.				
(4) January 25, 1988	(4) Men's and woman's clothing, namely neckties, hats, shawls, belts, suits, jackets, skirts, dresses, pants, blouses, tunics, sweaters, cardigans, T- shirts, coats, hairbows; shoes.				

[BLANK]	Trade-mark	Registration/ Application No.	Date of first use:	Registration Date:	Wares/Services
			(5) January 25, 1988		(5) Cosmetic products, namely skin creams, beauty masks, body lotion, moisturizers, blush, liquid and crème makeup, toner, freshner, lip makeup, nail enamel, nail enamel remover, nail and cuticle treatment, powder, eye makeup, skin cleansers, makeup remover; makeup brushes.
	CC Design	TMA339,904	(1) February 11, 1988	May 6, 1988	(1) Operation of boutiques selling clothing, perfumery, and accessories.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-653-13

STYLE OF CAUSE: CHANEL S. DE R.L., CHANEL LIMITED AND,
CHANEL INC. v LAM CHAN KEE COMPANY LTD.,
ANNIE PUI KWAN LAM AND SIU-HUNG LAM,
COLLECTIVELY DOING BUSINESS AS LAM CHAN
KEE; AND 2133694 ONTARIO INC.

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: AUGUST 12, 2015

JUDGMENT AND REASONS: MARTINEAU J.

DATED: SEPTEMBER 18, 2015

APPEARANCES:

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