

Federal Court



Cour fédérale

**Date: 20180306**

**Docket: T-1911-16**

**Citation: 2018 FC 258**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, March 6, 2018**

**PRESENT: The Honourable Mr. Justice LeBlanc**

**BETWEEN:**

**HOLDING BENJAMIN ET  
EDMOND DE ROTHSCHILD, PREGNY  
ANONYME**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

I. Introduction

[1] The applicant, a Swiss limited liability company, is seeking to register the trademark “EDMOND DE ROTHSCHILD” based on proposed use in Canada in association with the provision of financial services [proposed trademark]. The Registrar of Trademarks [Registrar]

objects to this, finding that this trademark is not registrable under paragraph 12(1)(d) of the *Trademarks Act*, RSC, 1985, c T-13 [the Act], since it is likely to create confusion with the registered trademark “ROTHSCHILD” [registered trademark].

[2] The applicant is appealing the Registrar’s decision under section 56 of the Act. It is asking the Court to conduct a *de novo* examination of the case based on the evidence filed in support of its appeal, namely, an affidavit signed by two of its representatives to which is attached an agreement made in the form of a [TRANSLATION] “Letter of Consent” between it and the holder of the registered trademark, Rothschild Continuation Holdings AG, regarding the use of the proposed trademark in Canada.

[3] For the reasons that follow, the appeal is dismissed.

## II. Background

[4] The applicant filed its application to register the proposed trademark on June 15, 2010. During the first review of that application in October 2010, the Registrar informed the applicant of his objection to the registration of the proposed trademark. He cited the likelihood of confusion with the registered trademark, as well as with the registered trademark “NM ROTHSCCHILD & SONS LIMITED”. Nevertheless, the latter part of the objection ended up being withdrawn, as the Registrar was ultimately satisfied that the visual differences between the proposed trademark and that registered trademark, namely because of the drawing that formed part of the trademark, considerably reduced the likelihood of confusion.

[5] In its response to the first review report, the applicant stated that the registered trademark had limited protection, mainly because no fewer than 23 trademarks appearing in the Canadian Trademarks Register [Register] contained the name “ROTHSCHILD”, the phonetic and semantic differences between the registered trademark (ROTHSCHILD) and the proposed trademark (EDMOND DE ROTHSCHILD) were enough to distinguish them, and the registered trademark holder could not claim a monopoly on the name “ROTHSCHILD”.

[6] In a second review report dated September 13, 2011, the Registrar maintained his objection to the registration of the proposed trademark, finding that a consumer possessing an imperfect recollection of the registered trademark would be likely to conclude that the services associated with the proposed trademark are offered by the same individual as those associated with the registered trademark, given the degree of resemblance between the two trademarks and the similarity of the associated services.

[7] On September 12, 2012, the applicant requested that the Registrar reconsider his decision, which he nonetheless refused to do on the grounds that the applicant did not submit any new argument to support its position.

[8] On September 9, 2016, the Registrar confirmed his refusal of the application to register the proposed trademark, reiterating that it is not registrable under paragraph 12(1)(d) of the Act. The Registrar’s decision can be summarized as follows:

- a) To determine whether there is a likelihood of confusion between two trademarks, it is important to take into consideration all the surrounding circumstances, including those

specified in subsection 6(5) of the Act, and to [TRANSLATION] “put oneself in the place of someone who would be familiar with the registered trademark and who would then see the applicant’s trademark but, as a result of imperfect recollection, would end up mistaking one trademark for the other” or believe that “the services of the respective trademarks might come from the same source”.

- b) In so doing, it is also important to consider the trademarks at issue [TRANSLATION] “in their entirety and not by separating each element to focus on those that may be different”.
- c) The proposed trademark and the registered trademark both consist only of words and have no visual elements serving to distinguish them; despite the differences between the words that they contain, the applicant appropriated the registered trademark in its entirety; based on some of his own decisions, this type of appropriation often has the effect of creating confusion, despite adding words or additional graphic elements.
- d) The presence of more than 20 registered trademarks containing the name “ROTHSCHILD” in the Register is not conclusive, since those trademarks contain additional elements, such as first names and drawings, and co-exist in areas of activity that differ from those in which the applicant operates, that is, real estate, banking and finance. Furthermore, there is no evidence showing the co-existence of trademarks in Canada that contain the name “ROTHSCHILD” in the real estate, banking and finance sector.
- e) Even if one acknowledges that the registered trademark holder cannot claim a monopoly on the name “ROTHSCHILD”, the Registrar nonetheless has the duty to protect the rights of the registered trademark by applying the appropriate test dictated by

paragraph 12(1)(d) of the Act; as the proposed trademark has only three elements, the last of which is identical to the entire registered trademark, an individual who has an imperfect recollection of the registered trademark would therefore be likely to conclude that the goods and services associated with the proposed trademark are offered by the same person [TRANSLATION] “given that the services and the nature of the business are similar and that there is a high degree of resemblance between the trademarks.”

[9] As previously mentioned, the applicant is arguing that, with the fresh evidence at hand, the Registrar would not have arrived at the same finding because this evidence shows that (i) the registered trademark holder consents to said trademark co-existing with the proposed trademark in the Canadian market; (ii) said trademarks already co-exist in other markets, including in Europe, in areas related to financial services without there having been any cases of confusion; and (iii) the name “ROTHSCHILD” is used by various independent corporations in Canada in the wine sector, and the trademarks containing this name co-exist.

[10] Consequently, it submits that the Court must conduct its own assessment of the likelihood of confusion within the meaning of subsection 6(5) of the Act and draw its own conclusions from that assessment without any deference for those of the Registrar.

[11] The Attorney General alleges to have no specific interest in the outcome of the dispute. However, the Attorney General submits that, following an assessment of the relevance of the fresh evidence, the applicable standard of review and the appropriate legal test for analyzing the

likelihood of confusion, it is open to the Court to find that the Registrar's decision is a possible, acceptable outcome in respect of the facts and law.

### III. Issues

[12] In my opinion, this appeal raises the following two issues:

- a) In light of the evidence produced by the applicant to support this appeal, what is the standard of review that applies to the Registrar's decision?
- b) In light of the applicable standard of review, does the Registrar's decision warrant the Court's intervention?

### IV. Analysis

#### A. *Standard of review*

[13] As a general rule, where the Registrar must decide on questions of mixed fact of law that are within his expertise, as in the present matter, the standard of review applicable to his decision is that of reasonableness (*Cyprus (Commerce and Industry) v Producteurs laitiers du Canada*), 2010 FC 719 at paragraph 28, 393 FTR 1 [*Producteurs laitiers du Canada*]; *Spirits International B.V. v BCF S.E.N.C.R.L.*, 2012 FCA 131 at paragraph 10; *Molson Breweries v John Labatt Ltd*, [2000] 3 FC 145 (FCA) at paragraph 51, 180 FTR 99 [*John Labatt Ltd*]; *Restaurants La Pizzaiolle Inc v Pizzaiolo Restaurants Inc*, 2015 FC 240 at paragraph 41).

[14] In accordance with this standard, the Court will intervene only if the Registrar's decision was "clearly wrong" (*Mattel, Inc v 3894207 Canada Inc*, 2006 SCC 22 at paragraph 40, [2006] 1 SCR 772 [*Mattel*]; *Playboy Enterprises Inc v Germain* (1979), 43 CPR (2d) 271 at page 274 (FCA); *Producteurs laitiers du Canada* at paragraph 28). From the perspective of *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 [*Dunsmuir*], this means that the Court must show deference to the Registrar's findings and will therefore intervene only if those findings lack justification, transparency or intelligibility or fall outside a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir* at paragraph 47; see also *Hawke & Company Outfitters LLC v Retail Royalty Company*, 2012 FC 1539 at paragraph 47 [*Hawke & Company Outfitters*]).

[15] However, pursuant to subsection 56(5) of the Act, when additional evidence is filed in an appeal of a decision by the Registrar, the Court may exercise any discretion vested in the Registrar. In that case, the Court may draw its own conclusions and apply the standard of correctness to the Registrar's decision (*Producteurs laitiers du Canada* at paragraph 28).

[16] But in order to exercise its powers under subsection 56(5) of the Act, the Court must be satisfied that the fresh evidence submitted by the parties is substantive and adds to that adduced before the Registrar. In other words, the Court must be satisfied that this new evidence could have led the Registrar to make different findings had he had the opportunity to consider it. Fresh evidence that is repetitive and does not enhance the probative value of the evidence already adduced is insufficient to preclude application of the deferential standard of reasonableness to the Registrar's findings (*Producteurs laitiers du Canada* at paragraph 28; *John Labatt Ltd* at

paragraph 51). Thus, when additional evidence is filed, the test is “one of quality, not quantity” (*Canadian Council of Professional Engineers v Apa - The Engineered Wood Assn*, [2000] FCJ No. 1027 (QL), 7 CPR (4th) 239 (FC) at paragraph 36; *Wrangler Apparel Corp. v Timberland Co*, 2005 FC 722 at paragraph 7; *Hawke & Company Outfitters* at paragraph 31).

[17] Is that the case here?

[18] The applicant argues that the fresh evidence largely responds to the Registrar’s concerns. For one, it argues that the registered trademark holder’s consent to the use of the proposed trademark in Canada responds to the Registrar’s concern that he has the duty to protect the rights of the registered trademark in Canada. Furthermore, it asserts that the evidence of the two trademarks’ co-existence in the field of financial services in other markets, including Europe, without there having been any cases of confusion, responds to the Registrar’s concerns that the trademarks that co-exist in the Register and that contain the name “ROTHSCHILD” do not consist solely of the name “ROTHSCHILD” and co-exist in different areas of activity than that of the applicant.

[19] I am not persuaded by this argument.

[20] First, the registered trademark holder’s consent to the use of the proposed trademark in Canada is of limited value, at best. This consent is based on the conviction of the signatories to the Letter of Consent that there is [TRANSLATION] “no likelihood of confusion between the



trademarks in the minds of the public, given that ‘Edmond De’ is the dominant element of the trademark ‘EDMOND DE ROTHSCHILD’ held by Edmond de Rothschild.”

[21] That general statement, with a mixed connotation of fact and law, is in no way binding on the Registrar, whose mission, as the Attorney General rightly points out, is not only to protect the commercial advantage of trademark holders, but also, just as importantly, to protect the consumer public.

[22] In fact, Canada’s trademark regime has two major objectives that are beneficial to both consumers and to businesses. Firstly, it is beneficial to trademark holders because it helps maintain a balance between free competition and fair competition by focusing on the principles of fairness in commercial activities, thereby allowing merchants to distinguish their goods and services from those of their competitors. Secondly, it is also beneficial to consumers because it provides them with a reliable indication of the source of the goods and services they consume. Therefore, this regime provides a guarantee of origin—an assurance of quality—that the consumer comes to associate with a specific trademark (*Masterpiece Inc v Alavida Lifestyles Inc*, 2011 SCC 27 at paragraph 1, [2011] 2 SCR 387 [*Masterpiece*]; *Mattel* at paragraph 21). As the Supreme Court of Canada emphasized in *Mattel*, trademarks legislation “is, in that sense, consumer protection legislation” (*Mattel* at paragraph 2).

[23] In short, the view, which is expressed in the most general of terms, of the applicant and the registered trademark holder regarding the likelihood of confusion between the two trademarks in question in the Canadian market could not reasonably be considered as reflecting

the point of view of the average consumer. And yet, it is from the average consumer's point of view that the likelihood of confusion here in Canada must be assessed, and it is precisely up to the Registrar, as the officer in charge of reviewing trademark registration applications, to make this judgment first (*Masterpiece* at paragraph 40; *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée*, 2006 SCC 23 [*Veuve Clicquot*] at paragraph 20, [2006] 1 SCR 824; *Miss Universe, Inc v Bohna*, [1995] 1 FC 614 (QL) [*Miss Universe*] at paragraph 9).

[24] The two decisions cited by the applicant to support its position concerning the impact that the Letter of Consent should have on the standard of review to be applied in this case are of no help to it in the present circumstances. For one, the order in *Dell Computer Corp v Latitude Communications Inc*, 2003 FCT 629 [*Dell Computer*] is very succinct and was issued in the context of an unopposed appeal of the Registrar's decision regarding a third party's objection to the registration of the trademark at issue. I agree with the Attorney General that, with respect to the concerns I have just outlined, it cannot be inferred from that order that a registered trademark holder's consent to the registration of a competing proposed trademark is determinative in the decision that the Registrar must make at the stage of reviewing the registration application.

[25] Regarding the judgment in *Micro Focus (IP) Limited v Information Builders Inc*, 2014 FC 632 [*Micro Focus*], I note that, contrary to the case at hand, the fresh evidence showed that the parties operated their businesses in different areas, that the trademark of which the registration was at issue had acquired a distinctiveness and a reputation in Canada, as it had been frequently and continuously used in Canada since the late 1980s, and that there had been no real

confusion between the trademarks in question (“MICRO FOCUS” and “FOCUS”) during the time they co-existed.

[26] The co-existence agreement signed by the parties in *Micro Focus*—obviously prior to the disputed registration application—therefore simply reflected a state of affairs. That is not the case here, where the Letter of Consent was signed strictly for the purposes of the appeal and where there is no evidence that the proposed trademark was used in Canada prior to the application to register said trademark. Furthermore, as was the case in *Dell Computer*, the appeal of the Registrar’s decision was not contested, either in writing or orally, by the FOCUS trademark holder.

[27] I therefore find that, if it had been presented to the Registrar, the co-existence agreement between the two trademarks at issue in this case, as it appears in the Letter of Consent, would not have had a determinative effect on his decision.

[28] I arrive at the same finding regarding the evidence, as it still appears in the Letter of Consent, that the trademarks at issue co-exist in other markets, such as Europe, without there having been any cases of confusion. In my view, this evidence suffers from the same deficiencies as that presented in *Interstate Brands Company - Licensing Co v Becker Milk Co*, 81 CPR (3d) 270 [*Interstate FC*] (upheld on appeal: *Interstate Brands Co - Licensing Co v Becker Milk Co*, 5 CPR (4th) 573 [*Interstate FCA*]), in that it is incomplete and, therefore, too vague and unspecific.

[29] As the Federal Court of Appeal reiterated in *Interstate FCA*, a lack of confusion between two given trademarks outside Canada does not necessarily mean that there is no likelihood of confusion between those trademarks here in Canada (*Interstate FCA* at paragraph 10; see also *Fournier Pharma Inc v Warner Lambert Canada Inc*, 82 CPR (3d) 493 at paragraph 9; 153 FTR 277 [*Fournier*]). As the Attorney General points out, the market conditions, the trade channels used by the trademark holders in question, the type of services offered and the applicable legal test to establish the likelihood of confusion can all vary from country to country. The Letter of Consent is silent on this point.

[30] Evidence on how trademarks are used in other jurisdictions may be relevant for determining whether there is a likelihood of confusion (*Fournier* at paragraph 10). However, that is not the type of evidence submitted by the applicant, which, I reiterate, was content with a general statement regarding the lack of confusion [TRANSLATION] “in other markets, such as Europe” in the financial services sector. The type of evidence filed by the applicant is normally used to confirm an analysis of the likelihood of confusion that indicates that there is a lack of likelihood of confusion (*Weetabix of Canada Ltd v Kellogg Canada Inc*, 2002 FCT 724 at paragraphs 52–53). Conversely, if that analysis indicates a likelihood of confusion here in Canada, evidence of a lack of confusion overseas will be insufficient to overturn that finding.

[31] It is also possible that the trademark holders were not informed of the existence of cases of confusion. In *Interstate FCA*, the Court found that the evidence of a lack of confusion filed in that case at the appeal stage was insufficient to allow for inferences to be drawn regarding the likelihood of confusion here in Canada, since the evidence did not show the presence of any

mechanism, in the affiant's offices, that could facilitate the reporting of cases of confusion (*Interstate FCA* at paragraph 10; *Interstate FC* at paragraph 34).

[32] Lastly, the evidence relating to the presence in the Register of trademarks used in the wine sector that contain the name "ROTHSCHILD" is not fresh evidence, since the applicant submitted excerpts from the Register supporting the presence of trademarks containing the name "ROTHSCHILD" to the Registrar in April 2011 in response to his objection to the registration of the proposed trademark. In the vast majority of cases, those trademarks are related to the wine sector. As noted above, this evidence and the associated arguments were considered by the Registrar.

[33] In short, the applicant has failed to convince me that the evidence it filed in support of this appeal justifies applying the correctness standard to the Registrar's decision. Thus, it must now be determined whether the Registrar's decision satisfies the reasonableness standard.

B. *Is the Registrar's decision reasonable?*

[34] According to the reasonableness standard of review, the Court must show a certain deference to the Registrar's findings of fact and findings of mixed fact and law, since he has a certain expertise regarding the issues under his jurisdiction (*Mattel* at paragraphs 36–37; *Producteurs laitiers du Canada* at paragraph 28).

[35] I reiterate that, according to that standard, the Court will intervene only if the Registrar's decision is "clearly wrong" or, from the perspective of *Dunsmuir*, if it lacks justification,

transparency or intelligibility or does not fall within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

[36] Paragraph 12(1)(d) of the Act prohibits the registration of a trademark if it is “confusing with a registered trademark”. When dealing with an application to register a trademark, the Registrar must refuse it if he is convinced that the trademark is not registrable under paragraph 37(1)(b) of the Act.

[37] Subsection 6(2) of the Act stipulates that the use of a trademark causes confusion with another trademark:

[...] if the use of both trade-marks in the same area would be likely to lead to the inference that the goods or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class.

[...] lorsque l’emploi des deux marques de commerce dans la même région serait susceptible de faire conclure que les produits liés à ces marques de commerce sont fabriqués, vendus, donnés à bail ou loués, ou que les services liés à ces marques sont loués ou exécutés, par la même personne, que ces produits ou ces services soient ou non de la même catégorie générale.

[38] As I already had the opportunity to mention, the concept of likelihood of confusion is assessed on the basis of average consumers and their first impression of the trademarks at issue. Thus, to determine whether there is a likelihood of confusion in this case, the Registrar had to question whether the first impression in the mind of an average, somewhat hurried consumer, who sees the proposed trademark is likely to be that the goods or services associated with those

trademarks are manufactured, sold or provided, as applicable, by the same person, at a time when the consumer has only a vague recollection of the registered trademark and does not pause to give the matter any detailed consideration or scrutiny, nor to examine closely the similarities and differences between the two trademarks (*Veuve Clicquot* at paragraph 20; *Masterpiece* at paragraph 40; *Miss Universe* at paragraph 9).

[39] This first impression test requires an overall examination of the trademarks at issue, and not close scrutiny or a side-by-side comparison (*Veuve Clicquot* at paragraph 20; *Masterpiece* at paragraph 40; *Miss Universe* at paragraph 10).

[40] Subsection 6(5) of the Act stipulates that, in determining whether a trademark causes confusion with another, the Registrar “shall have regard to all the surrounding circumstances” including:

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|--|--|
| (a) the inherent distinctiveness of the trade-marks or trade-names and the extent to which they have become known; | a) le caractère distinctif inhérent des marques de commerce ou noms commerciaux, et la mesure dans laquelle ils sont devenus connus; |
| (b) the length of time the trade-marks or trade-names have been in use;  | b) la période pendant laquelle les marques de commerce ou noms commerciaux ont été en usage;   |
| (c) the nature of the goods, services or business;   | c) le genre de produits, services ou entreprises;  |
| (d) the nature of the trade; and   | d) la nature du commerce;  |
| (e) the degree of resemblance between the trade-marks or trade-names in appearance or                              | e) le degré de ressemblance entre les marques de commerce ou les noms commerciaux dans la  |

sound or in the ideas  
suggested by them.

présentation ou le son, ou  
dans les idées qu'ils  
suggèrent.

[41] The applicant does not allege—and rightly so, in my opinion—that the Registrar poorly outlined the analytical framework for the concept of likelihood of confusion. If we disregard the circumstances other than those listed in subsection 6(5) of the Act, which are related to the fresh evidence that I have already set aside because it would not have had a determinative effect on the Registrar's decision and that, as a result, has not been taken into account in the review of the reasonableness of said decision, the applicant is essentially criticizing the Registrar for having applied two factors erroneously: that of the inherent distinctiveness of the trademarks at issue and that of their degree of resemblance. In this regard, it is essentially repeating what it argued before the Registrar. I also note that it does not discuss the other factors listed in that subsection, namely, the extent to which the trademarks at issue have become known; the length of time they have been in use; the nature of the goods, services or business associated with the trademarks and the nature of the trade.

[42] Regarding the first factor, it argues that since the name "ROTHSCHILD", which is the sole similarity between the trademarks at issue, has limited inherent distinctiveness and, consequently, receives only a minimal degree of protection, the presence of minor distinctions between the trademarks, such as a first name, in this case, "EDMOND DE", is enough to avoid a likelihood of confusion.

[43] As for the factor associated with the degree of resemblance, the applicant submits that, despite the fact that both trademarks use the name "ROTHSCHILD", they present notable visual,



phonetic and semantic differences, specifically when considering the first part of the proposed trademark (EDMOND DE), which is not found in the registered trademark. Once again, as a result of the minimal degree of protection of the name “ROTHSCHILD”, it argues that the presence of these differences reinforces the distinctions between the trademarks and thus reduces the likelihood of confusion.

[44] The Registrar considered these arguments, but did not accept them. When considering his decision as a whole, what seems to have been determinative in the eyes of the Registrar is the fact that the trademarks at issue both consist solely of words without any visual element to distinguish them when they are destined to co-exist in the same market and will be the only ones to do so with the name “ROTHSCHILD” in common, which, moreover, constitutes the entirety of the registered trademark.

[45] The Registrar also considered the applicant’s argument based on the presence of more than 20 registered trademarks containing the name “ROTHSCHILD” in the Register. As we have seen, he did not consider this to be conclusive because those trademarks co-exist, in most cases, in different areas of business than that in which the applicant and the registered trademark holder operate.

[46] The Registrar therefore stated that he was satisfied that an average consumer who has an imperfect recollection of the registered trademark would be likely to think that the goods and services associated with the proposed trademark are offered by the same person [TRANSLATION]

“given that the services and the nature of the business are similar and that there is a high degree of resemblance between the trademarks.”

[47] My role here is not to determine whether I would have arrived at a different conclusion than that reached by the Registrar. It is rather to decide whether the Registrar’s conclusion falls within a range of possible, acceptable outcomes which are defensible in respect of the facts before him and the law. I consider the Registrar’s analysis of the likelihood of confusion to be complete and the resulting findings to be reasonable. I therefore do not see cause to intervene.

[48] I would add that the presence of a common element between two trademarks can indeed have a significant impact on the issue of likelihood of confusion, specifically when the trademarks are used in the same market, as is the case here (*Eclectic Edge Inc v Victoria’s Secret Stores Brand Management, Inc*, 2015 FC 453 at paragraph 81; *Kellogg Salada Canada Inc v Canada (Registrar of Trade Marks)*, [1992] FCJ No. 562 at page 358). This impact will be mitigated when the common element of the trademarks at issue is suggestive of the associated goods or services, which is not the case here, as the name “ROTHSCHILD” is in no way suggestive of the field of financial services. In such circumstances, which do not apply here, even minor differences between competing trademarks will serve to distinguish them (*Assurant, Inc v Assurancia, Inc*, 2018 FC 121 at paragraph 47; *Kellogg Salada Canada Inc v Maximum Nutrition Ltd* (1992), 43 CPR (3d) 349 (FCA) at paragraph 12; *Ultravite Laboratories Ltd v Whitehall Laboratories Ltd*, [1965] SCR 734 at page 737, citing *Sealy Sleep Products Ltd v Simpson’s-Sears Ltd* (1960), 33 CPR 129 at page 136).

[49] My conclusion would be the same if I had conducted a *de novo* analysis of the likelihood of confusion between the trademarks at issue in light of the evidence filed in support of this appeal, evidence of which the quality and probative value appeared very limited to me, as I have already noted. I do not find that the mere presence of a first name before the name common to both trademarks, “ROTHSCHILD”, which is a last name, when said trademarks will compete in the same market and will be the only ones to share this common name, is sufficient to lead the average consumer who has an imperfect recollection of the registered trademark to think that the goods and services associated with both trademarks come from two distinct sources.

[50] The applicant’s appeal will therefore be dismissed, with costs.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the appeal is dismissed, with costs against the applicant.

“René LeBlanc”

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Juge

Certified true translation  
This 8th day of January 2020

Lionbridge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1911-16

**STYLE OF CAUSE:** HOLDING BENJAMIN ET  
EDMOND DE ROTHSCHILD, PREGNY ANONYME  
v ATTORNEY GENERAL OF CANADA

**PLACE OF HEARING:** MONTREAL, QUEBEC

**DATE OF HEARING:** OCTOBER 24, 2017

**JUDGMENT AND REASONS:** LEBLANC J.

**DATED:** MARCH 6, 2018

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