

**IN THE HEARINGS AND MEDIATION DEPARTMENT OF
THE INTELLECTUAL PROPERTY OFFICE OF SINGAPORE
REPUBLIC OF SINGAPORE**

Trade Mark No. 40201719905R
23 June 2020

IN THE MATTER OF A TRADE MARK APPLICATION BY

MATSUDA & CO

AND

OPPOSITION THERETO BY

VALENTINO S.P.A

Hearing Officer: David Llewelyn
IP Adjudicator

Representation:

Mr Chua Shang Li (Donaldson & Burkinshaw LLP) for the Applicant

Mr Suhaimi Bin Lazim and Mr Khoo Lih-Han (Mirandah Asia (Singapore) Pte Ltd) for the
Opponent

1 Where a business chooses as its trade mark (or one of its trade marks) a name, whether a given name, a surname or a combination of the two, that choice comes with a risk: that others may be able to use it (or them) in good faith without impinging upon the trade mark owner's rights, including the right to successfully oppose subsequent third party applications to register another combination as a trade mark. The more common the name, the more likely this is: for example, WANG would be extremely difficult, if not impossible, to protect as a trade mark for fashion articles except in combination with a given name such as ALEXANDER or VERA; as would CHOO without JIMMY or LIM without PHILLIP. Likewise, to take some examples

from further afield: SMITH without PAUL; RALPH without LAUREN; KLEIN without CALVIN or ANN; LOUIS without VUITTON.

2 This case is a dispute between two businesses who have both chosen such trade marks.

3 Matsuda & Co (the “**Applicant**”), applied to register the trade mark



Valentino Rudy

(the “**Application Mark**”) in Singapore on 12 October 2017 under Trade Mark No. 40201719905R in Classes 18 and 25. The specifications of goods relevant to this opposition are set out below:

Class 18

Attache cases; Attache cases made of leather; Attache cases made of imitation leather; Beach bags; Briefcases; Briefcases made of leather; Briefcases made of imitation leather; Handbags; Handbags made of leather; Handbags made of imitation leather; Key cases; Key cases made of leather; Key cases made of imitation leather; Purses; Purses made of leather; Purses made of imitation leather; Shopping bags; Shopping bags made of leather; Shopping bags made of imitation leather; Suitcases; Suitcases made of leather; Suitcases made of imitation leather; Travelling bags; Travelling bags made of leather; Travelling bags made of imitation leather; Travelling trunks; Travelling trunks made of leather; Travelling trunks made of imitation leather; Vanity cases; Vanity cases made of leather; Vanity cases made of imitation leather; Umbrellas; Wallets.

Class 25

Clothing, Footwear, Headgear.

4 The application was accepted and published on 24 November 2017 for opposition. VALENTINO S.p.A. (the “**Opponent**”) filed its Notice of Opposition to oppose the registration of the Application Mark on 24 January 2018. The Applicant filed its Counter-Statement on 14 March 2018.

5 The Opponent filed its evidence in support of the opposition on 19 November 2018. Further to that, the Opponent filed supplementary evidence in support of the opposition on 26 March 2019. The Applicant filed its evidence in support of the application on 17 September 2019. The Opponent filed its evidence in reply on 15 November 2019. Following the close of evidence, the Pre-Hearing Review was held on 11 December 2019. At the Pre-Hearing Review, the Grounds of Opposition and parties’ evidence were discussed. The Opponent wished to rely on one of its earlier trade marks which was found only in its evidence in reply and the Opponent was directed to amend the Grounds of Opposition. The Opponent filed amended Grounds of Opposition on 26 December 2019. The Applicant filed its supplementary evidence on 26 December 2019. After a two-month postponement due to the Covid-19 Circuit Breaker measures, the opposition was heard at IPOS on 23 June 2020.

Grounds of Opposition

6 The Opponent relies on Section 8(2)(b), all three limbs of Section 8(4), and Section 8(7)(a) of the Trade Marks Act (Cap 332, 2005 Rev Ed) (the “Act”) in this opposition.

Opponent’s Evidence

7 The Opponent’s evidence comprises the following:

- (i) a Statutory Declaration made by Antonella Andrioli, Head of Legal and Corporate Affairs of the Opponent, on 7 November 2018 in Milan, Italy (“**Opponent’s SD**”);
- (ii) a supplementary Statutory Declaration made by the same Antonella Andrioli on 21 March 2019 in Milan, Italy; and
- (iii) a Statutory Declaration in Reply made by Giacomo Leo, General Counsel of the Opponent, on 14 November 2019 in Milan, Italy (“**Opponent’s SDR**”).

Applicant’s Evidence

8 The Applicant’s evidence comprises the following:

- (i) a Statutory Declaration made by Eri Matsumura, President of the Applicant, on 9 September 2019 in Kyoto, Japan (“**Applicant’s SD**”); and
- (ii) a supplementary Statutory Declaration made by the same Eri Matsumura on 24 December 2019 in Kyoto, Japan (“**Applicant’s SSD**”).


Applicable Law and Burden of Proof

9 As the applicable law is the Act, there is no overall onus on the Applicant either before the Registrar during examination or in opposition proceedings. The undisputed burden of proof in the present case falls on the Opponent.




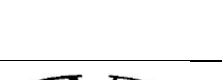


Background






10 The Opponent is an Italian company that owns and operates the well-known fashion business that was founded by Mr Valentino Garavani in Rome in 1959 and today sells its goods worldwide. In Singapore it operates through its local subsidiary Valentino Singapore Pte. Ltd. boutiques at The Shoppes at Marina Bay Sands and at ION Orchard, and its online store may be accessed from here.


11 In this opposition the Opponent relies on 33 earlier trade marks of which it is the registered proprietor. These are reproduced in the table below (taken from Opponent’s SD at [9] and Exhibit 1 of Opponent’s SDR), although it is important to emphasise at this juncture that the focus of the Opponent’s Written Submissions was on Nos. 25, 30, 32 and No. 33 in the table and at the hearing counsel for the Opponent relied on No. 32 (in Class 18) and No. 33 (in Class 25) as its best case.

S/No.	Trade Mark No.	Mark	Class & Goods/Services
1	T0608174J	VALENTINO	08: Hand tools and instruments; cutlery, forks and spoons; side arms, other than firearms.
2	T0608175I	VALENTINO	21: Small portable household and kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paintbrushes); brush-making materials; instruments and material for cleaning purposes; steel wool; unworked or semi-worked glass (except glass for use in construction), glassware, porcelain and earthenware not included in other classes.
3	T7564126A	VALENTINO	34: Smokers' articles.
4	T9202442I	valentino	14: Precious metals and their alloys and goods in precious metals or coated therewith, jewellery, precious stones; horological and chronometric instruments.
5	T9705675B	VERY VALENTINO	03: Perfume, body sprays, body lotions and deodorant sprays.
6	T0603339H		21: Household or kitchen utensils and containers (neither of precious metals, nor coated therewith); combs and sponges; brushes (except paintbrushes); brush-making materials, cleaning equipment; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.
7	T0818144J	VALENTINO	03: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices. 09: Scientific, nautical, surveying, electric not included in other classes, photographic, cinematographic, optical, weighing, measuring, signaling, monitoring (supervision), emergency (life-saving) and teaching apparatus and instruments; apparatus for recording, transmitting and reproducing sound or images; magnetic recording media, sound recording disks; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines; data processing and computer equipment; fire extinguishers.



			<p>14: Precious metals and their alloys and goods made of these materials or coated therewith not included in other classes; jewelry, precious stones; timepieces and chronometric instruments.</p> <p>16: Paper, cardboard and goods made thereof, not included in other classes; printing products; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' supplies; paintbrushes; typewriters and office requisites (except furniture); instructional or teaching material (excluding apparatus); plastic materials for packaging (not included in other classes); playing cards; printing type; printing blocks.</p> <p>18: Umbrellas.</p> <p>19: Nonmetallic building materials; nonmetallic rigid pipes for building; asphalt, pitch and bitumen; nonmetallic transportable buildings; nonmetallic monuments.</p> <p>20: Furniture, mirrors, picture frames; products, not included in other classes, of wood, cork, reed, rush, wicker, horn, bone, ivory, whalebone, amber, mother-of-pearl, meerschaum, substitutes for all these materials or of plastic materials, not included in other classes.</p> <p>25: Clothing (excluding footwear), headgear.</p> <p>27: Carpets, rugs, mats and matting, linoleum and other floor coverings; non-textile wall hangings.</p> <p>35: Advertising; business management; business administration; office functions; business middleman services provided in connection with the sale of the goods listed above; grouping for others of the above-mentioned goods (excluding their transport) enabling consumers to see and purchase the above goods at their convenience; consulting services regarding the grouping for others of the above-mentioned goods.</p>
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8	T0021725Z		09: Spectacles, glasses, sunglasses, eyeglasses, spectacle frames, chains and cases for the above identified goods.
9	T0021726H		18: Umbrellas.
10	T0021727F		03: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.
11	T0021728D		09: Spectacles, glasses, sunglasses, eyeglasses, spectacle frames, chains and cases for the above identified goods.
12	T0021730F		18: Umbrellas.
13	T0021732B		35: Retail sales services relating to bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, automatic vending machines and mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment and computers, fire-extinguishing apparatus, precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes, jewellery, precious stones, horological and chronometric instruments, umbrellas, articles of clothing and headwear, excluding gloves and footwear.
14	T0315815G	R.E.D. VALENTINO	03: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.
15	T0315816E	R.E.D. VALENTINO	09: Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sounds or images; magnetic data carriers, recording discs;

			automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus; recorded computer operating programs.
16	T0315817C	R.E.D. VALENTINO	14: Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.
17	T0315818A	R.E.D. VALENTINO	25: Clothing, headgear, excluding footwear, gloves and belts.
18	T0408759H		23: Yarns and thread, for textile use.
19	T0408760A		24: Textiles and textiles goods, not included in other classes; bed and table covers.
20	T0408771G	VALENTINO	23: Yarns and thread, for textile use.
21	T0610834G		08: Hand-operated hand tools and implements; cutlery, forks and spoons; side arms; razors.
22	T0717972H		35: Advertising; business management; business administration; office functions; dissemination of advertisements; dissemination of advertising matter; rental of advertising spaces; commercial or industrial business management consultancy and assistance; professional business consultancy; modeling for advertising or business promotion; business advisory services relating to franchising. 36: Insurance; financial affairs; monetary affairs; real estate affairs; in particular management of business investments in companies in the field of clothing.
23	T0813512J		18: Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery. 25: Clothing, footwear, headgear.
24	T0814660B	VALENTINO	11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, excluding fryers, pasta cookers and plate warmers.

			<p>36: Insurance; financial affairs; monetary affairs; real estate affairs; in particular management of business investments in companies in the field of clothing.</p> <p>43: Services for providing food and drink; temporary accommodation.</p>
25	T0815000F		<p>03: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.</p> <p>08: Hand tools and implements (hand-operated); cutlery; side arms; razors.</p> <p>09: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus, computer operating recorded programs.</p> <p>11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.</p> <p>14: Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.</p> <p>16: Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not</p>

			<p>included in other classes); printers' type; printing blocks.</p> <p>18: Umbrellas.</p> <p>19: Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.</p> <p>20: Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.</p> <p>21: Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.</p> <p>23: Yarns and threads, for textile use.</p> <p>24: Textiles and textile goods, not included in other classes; bed and table covers.</p> <p>25: Clothing, headgear, excluding gloves and belts.</p> <p>27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).</p> <p>35: Advertising; business management; business administration; office functions; dissemination of advertisement; dissemination of advertising matter; rental of advertising spaces; commercial or industrial business management consultancy and assistance; professional business consultancy; modelling for advertising or business promotion; franchising, namely services provided by a franchisor in helping, managing and</p>
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			<p>developing commercial enterprises (services for third parties).</p> <p>36: Insurance; financial affairs; monetary affairs; real estate affairs, in particular management of business investments in companies in the field of clothing.</p> <p>43: Services for providing food and drink; temporary accommodation.</p>
26	T1117988E		<p>18: Leather and imitations of leather, and goods made of these materials and not included in other classes; purses, school bags, school satchels, card cases, travelling trunks, backpacks, rucksacks, wallets, shopping bags, attache cases, beach bags, bags, travelling bags, handbag frames, pouches, briefcases, cases of leather, vanity cases not fitted, leather key cases, suitcases, bags for sports, hat boxes of leather, garment bags for travel, leather shoulder belts, leather straps, fur, raw skins, dog collars, clothing for pets, umbrellas, walking sticks; whips, saddlery, harness fittings.</p> <p>25: Clothing, overalls, underwear, sweaters, shirts, jumpers, suits, ready-made clothing, trousers, outer clothing, knitwear, coats, skirts, petticoats, pullovers, overcoats, jackets, stuff jackets, ski jackets, ski pants, parkas, clothing of leather, T-shirts, blouses, pants, dressing gowns, formal dresses, vests, jerseys, pajamas, bathrobes, brassieres, camisoles, corselets, slippers, children's clothing, layettes, bathing caps, bathing suits, clothing for gymnastics, waterproof clothing, raincoats, masquerade costumes; footwear, slippers, bath slippers, boots, sport boots, horse-riding boots, galoshes, shoes, beach shoes, sandals, sport shoes, gymnastic shoes, overshoes; headgear, hats, caps, cap peaks; socks, sock suspenders, stockings, garters, gloves, mittens, muffs, shawls, ties, neckties, scarves and foulards (clothing article), veils, bandanas, fur stoles, belts; wedding dresses.</p>
27	T1204582C		<p>35: Advertising; business management; business administration; office functions; dissemination of advertisements, dissemination of advertising matter, rental of advertising spaces; commercial</p>

			or industrial business management consultancy and assistance, professional business consultancy, modeling for advertising or business promotion, provision of assistance (business) in the establishment of franchises, retail services in the field of clothing and accessories thereto.
28	T1204746Z	VALENTINO	09: Entertainment software, namely, software that is used for providing multiplayer access to an on-line game environment; computer game software; interactive virtual reality game software; computer graphics software. 38: Communication services in the nature of text messaging and electronic mail services used in playing on-line computer games. 41: Entertainment services, namely, providing on-line computer games by means of communications networks; entertainment services in the nature of providing on-line multiplayer electronic computer games.
29	T1213231I	RED 	14: Precious metals and their alloys and goods in precious metals or coated therewith, precious stones and their imitations, jewelry cases, boxes of precious metal, jewelry and imitation of jewelry, earrings, bracelets, trinkets, brooches, tie clips, pins, necklaces, rings, cuff links, key rings, shoe ornaments of precious metal, clocks and watches, chronometers, alarm clocks, wrist watches, table clocks, pocket watches, cases for watches, watch chains, watch bands and straps.
30	T1315374C	VALENTINO	03: Bleaching preparations, cleaning and polishing preparations; perfumery products, perfumes, eau de toilette, essential oils for personal use, deodorants for personal use; soaps and liquid soaps to be used on human body, shaving soaps, after-shave lotions and gels, body toilet milks and cosmetic milks, make-up removing preparations, cleansing milk for toilet purposes, talcum powder, cosmetic creams, skin lotions, cosmetic sunscreen creams, cosmetic suntan creams, body cosmetic powders, toilet oils and cosmetic oils for body, bubble bath preparations, cosmetic bath and

			<p>shower preparations, bath salts, not for medical purposes; cosmetics, lipstick, eye shadow, eyeliner, mascara, eyebrow pencils, foundation, blush, nail care preparations, nail polish; shampoos, hair oils, colour rinses, hair creams, hair dyes, hair sprays, hair lotions; incenses and fragrances used as cosmetics; sachets for perfuming linen, dentifrices.</p> <p>09: Optical apparatus and instruments, optical lenses, magnifying glasses, monocles, binoculars, opera glasses, goggles for sports, goggles for skiing, contact lenses, cases for contact lenses, spectacles, sunglasses, pince-nez; pince-nez mountings, cases for spectacles and sunglasses, cases for pince-nez, chains for spectacles and for sunglasses, frames for spectacles and sunglasses, eyeglass cords; telephone receivers, telephone apparatus, video telephones, mobile phones, antennas for mobile phones, batteries for mobile phones, chargers for mobile phones, cases for mobile phones, mobile phone straps, microphones for mobile phones, loudspeakers for mobile phones, earphones for mobile phones, hands-free kits for mobile phones; apparatus and instruments for recording, transmission or reproduction of sounds or images, magnetic data carriers, recording discs, sound recording discs, sound recording carriers, radios, television apparatus, recorded video discs, recorded video tapes, video recorders, compact discs, compact disc players, compact disc portable music players, cases for portable music players; video cassettes, DVD players, DVD recorders; photographic and cinematographic apparatus and instruments, television cameras, digital cameras, video cameras; apparatus for recording, data processing and computer equipment, recorded computer software, downloadable computer programs, computers, floppy disks, computer keyboards, computer peripheral devices, magnetic cards, monitors, optical discs, notebook computers, mouse pads, computer game programs; chronographs, electronic agendas; protective helmets.</p> <p>14: Articles of precious metals and their alloys of precious metals with or without</p>
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			<p>precious stones, namely, rings, necklaces, bracelets, brooches, earrings, tie-clips, cuff-links, diamonds, jewellery boxes, watches, wall clocks, chronometers, watch boxes, costume jewellery, key-rings; parts and accessories for the aforementioned goods.</p> <p>18: Leather and imitation of leather, and goods made of these materials and not included in other classes; purses, school bags, school satchels, card cases, travelling trunks, backpacks, rucksacks, wallets, shopping bags, attache cases, beach bags, bags, handbags, travelling bags, handbag frames, pouches, briefcases, cases of leather, vanity cases not fitted, leather key cases, suitcases, bags for sports, hat boxes of leather, garment bags for travel, leather shoulder belts, leather straps, fur, raw skins, dog collars, clothing for pets, umbrellas, walking sticks; whips, saddlery, harness fittings.</p> <p>25: Clothing, overalls, underwear, sweaters, shirts, jumpers, suits, ready-made clothing, trousers, outerclothing, knitwear, coats, skirts, petticoats, pullovers, overcoats, jackets, stuff jackets, ski jackets, ski pants, parkas, clothing of leather, T-shirts, blouses, pants, dressing gowns, formal dresses, vests, jerseys, pajamas, bathrobes, brassieres, camisoles, corselets, slips, children's clothing, layettes, bathing caps, bathing suits, clothing for gymnastic, waterproof clothing, raincoats, masquerade costumes; footwear, slippers, bath slippers, boots, sport boots, horse-riding boots, galoshes, shoes, beach shoes, sandals, sport shoes, gymnastic shoes, overshoes; headgear, hats, caps, cap peaks; socks, sock suspenders, stockings, garters, gloves, mittens, muffs, shawls, ties, neckties, scarves and foulards (clothing articles), veils, bandanas, fur stoles, furs (clothing), belts; wedding dresses.</p> <p>35: Advertising; business management; business administration; office functions; dissemination of advertisements, dissemination of advertising matter, rental of advertising spaces; commercial</p>
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			or industrial business management consultancy and assistance, professional business consultancy, modelling for advertising or business promotion, franchising, namely services provided by a franchisor in helping, managing and developing commercial enterprises (services for third parties); retail services in the field of clothing and accessories thereto; wholesale services in the field of clothing and accessories thereto.
31	40201401848T	VALENTINO	04: Illuminants, lamp oils, candles, scented candles; wax for making candles; wicks.
32	T8907702I	 valentino garavani	18: Goods made of leather and imitation leather and not comprised in other classes, namely bags , briefcases , handbags , pocket wallets ; trunks and travelling bags; umbrellas , parasols and sticks.
33	T8907704E	 valentino garavani	25: Clothing, namely bathing suits, beachwear, coats, dresses, dressing gowns, hosiery, jackets, knitwear, overcoats, pants, pyjamas, scarves, shirts, blouses, suits, sweaters, trousers, skirts, underwear, headgear.

12 The Opponent and Applicant have previously crossed swords at IPOS: as reported at [2012] SGIPOS 2 the Opponent failed in its opposition to the Applicant's application to register in Class 3 (cosmetics) a trade mark (reproduced below) comprised of the same elements as the Application Mark.



The Hearing Officer found, at [91], that the above mark was visually, aurally and conceptually dissimilar to the two earlier marks set out below (which are 2 of the 33 of its trade marks relied on by the Opponent in this case (No. 10 and No. 14 in the table above).

Trade Mark No.	Mark
T0021727F	
T0315815G	R.E.D. VALENTINO

MAIN DECISION

Ground of Opposition under Section 8(2)(b)

13 Section 8(2)(b) of the Act reads:

(2) A trade mark shall not be registered if because —

...

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public.

Decision on Section 8(2)(b)

The three-step approach

14 The leading case on the interpretation and application of Section 8(2)(b) is the Court of Appeal’s decision in *Staywell Hospitality Group Pty Ltd v Starwood Hotels & Resorts Worldwide, Inc* [2014] 1 SLR 911 (“*Staywell*”). This decision sets out the step-by-step approach that should be taken to the application of this ground of refusal, at [15]: the first step being a determination as to whether the Applicant’s and Opponent’s marks are similar; if not, the enquiry ends there but if so, the second step is to determine if the goods and/or services are identical or similar; if not, again the enquiry ends there but if so, the third step is to determine whether as a result of the similarity found in relation to the first two steps there “exists a likelihood of confusion on the part of the public”.

15 When following the step-by-step approach it is important to bear in mind that the average (or normal) consumer of the relevant goods/services is unlikely to have the opportunity to compare side-by-side the Applicant’s and Opponent’s marks, and therefore his/her recollection of either or both may be imperfect. Also, it is through the eyes and ears of the average consumer of the particular goods in respect of which registration is being sought by the Applicant, and the Opponent has registered the earlier mark(s) relied upon, that the three-step approach must be taken: it is not on the eyes and ears of an unusually observant or dilatory member of the public.


16 At the hearing it was argued by counsel for the Opponent that the average consumer of the goods that are the principal focus in this case (bags and cases of various sorts, umbrellas and wallets in Class 18; and ‘clothing; headgear; footwear’ in Class 25) would not pay a high degree of attention when selecting those goods. Instead, the Opponent’s counsel contended that the average consumer would accord to his/her choice a medium degree of attention. On the other hand, counsel for the Applicant considered that the average consumer would be sophisticated and pay a higher degree of attention than normal when choosing the goods. On balance, I am of the view that the average consumer of the relevant goods (bags; clothing; headgear; footwear) is reasonably brand aware and would tend to exercise a medium degree of care and attention to his/her choice of product. (At the third *Staywell* step, of deciding whether there is a likelihood of confusion, if that step is reached, evidence of use of its earlier trade mark(s) by the opponent that may have led to heightened distinctiveness by the relevant date - as opposed to the inherent/acquired distinctiveness that it had at the time it was

registered - may be taken into account in that evaluation, but not in the first two steps on similarity of marks and of goods/services).

17 In opposition proceedings, it is necessary to consider ‘notional and fair use’ of the respective marks in relation to the full range of goods covered by the specifications of both the applicant’s and the opponent’s marks. It would therefore not be correct to focus on prior use by the Opponent of its earlier marks, or any of them, on expensive products only in order to suggest that the average consumer must be taken to be ‘brand-savvy’ and therefore unusually observant, as it is open to the Opponent if it so wishes to start using its registered trade mark(s) on or in relation to inexpensive clothing, headwear, footwear or bags in the future, even though it may not have done so to date.

Similarity of Marks: the First Step

18 Although the Opponent relied on the 33 different “earlier trade marks” registered in Singapore at the application date for the Application Mark set out in [11] above, it focused in its Written Submissions (at [4.07]) on a comparison between its three registered marks set out below and the Application Mark. Counsel for the Opponent accepted at the hearing that these three earlier marks are its best case, although at the hearing he focused his attention primarily on the third of these: what I shall describe as ‘valentino garavani plus ‘V’ device’ or “**Opponent’s Composite Mark**”, to distinguish it from the two other trade marks, ‘V’ in an elliptical (or rugby-ball shaped) device and ‘VALENTINO’, in the comparison table below.

	
	<p>VALENTINO</p>
	 <p>valentino garavani</p>

19 In this decision I concentrate on comparing the Application Mark with the Opponent’s Composite Mark and deal relatively briefly with the two other earlier trade marks above: the ‘V’ in an elliptical device and ‘VALENTINO’. In his submissions on similarity at the hearing, counsel for the Opponent occasionally seemed to come close to relying on an element of one of the Opponent’s earlier trade marks together with an element of another, but readily accepted when challenged on this approach that it was not the correct way of proceeding in an opposition, where the comparison is between the Application Mark and an earlier mark (a mark-for-mark comparison): it is not permissible to ‘pick and mix’ from a number of earlier marks (a mark-

for-marks comparison). Where a number of different marks are relied on by the opponent, each must be compared separately with the application mark (see *Rovio Entertainment Ltd v Kimanis Food Industries Sdn Bhd* [2015] 5 SLR 618 at [70]).

20 In this first step, my task is to decide whether the Application Mark and the Opponent's Composite Mark are 'similar', taking into account the presence or absence of visual, aural and conceptual similarities. This is an overall evaluation of the marks as applied for (by the Applicant) and registered (by the Opponent), without consideration of any other material or matter.¹ Obviously, 'similarity' can lie anywhere on a spectrum that ranges from identical (or 100% similarity) to no similarity (or 100% dissimilarity), with various degrees of low and high in between. The Court of Appeal in *Staywell* cautioned against a "checkbox exercise" rather than a "sensible appraisal of the marks as a whole" when deciding "whether the marks, when observed in their totality, are similar rather than dissimilar", all at [17].

21 Each of the two marks must be considered as a whole and not broken down into its component parts, for that is the way the average consumer of the relevant goods/services would consider them, although (as I have already stated) the possible impact of imperfect recollection must be borne in mind.

22 The Application Mark is a composite trade mark comprised of (a) two words rendered in a signature style, above which is positioned (b) a device of a square with an asymmetric 'V' logo entirely inside it. By comparison, the Opponent's Composite Mark is likewise comprised of (a) two words, all in lower-case letters, above which is positioned (b) a device of a lozenge shape with the two sides of the letter V breaking the lozenge at the top and the V's base touching the bottom (as is often the case the device is not easy to describe comprehensively in words but is distinctive visually). Both the Application Mark and the Opponent's Composite Mark has a significant degree of technical distinctiveness. (For the avoidance of doubt, I should make clear again that I do not take into account at this stage any enhanced distinctiveness as a result of use that may have been acquired *after registration* by the Opponent's Composite Mark: as the Court of Appeal in *Staywell* made clear, at [25], the level of distinctiveness of the earlier mark in relation to the goods for which it is registered is an issue reserved for the likelihood of confusion enquiry, if it is reached.)

¹ I note that in the *IWATCH* decision, [2019] SGIPOS 1, referred to in the Applicant's Written Submissions (at [20]), the Hearing Officer cited the statement by the IP Adjudicator in *NBA Properties* [2018] SGIPOS 16 at [46] that "the parties should be permitted to adduce evidence of surrounding circumstances that are relevant towards establishing the general knowledge possessed by the average consumer" and stated that she was "inclined to agree", at [35]. With the greatest of respect to both the IP Adjudicator and the Hearing Officer, I do not consider that adopting such a position in opposition proceedings is consistent with the wording of the Court of Appeal's decision in *Staywell*, especially at [20], and opens the door to parties adducing much irrelevant evidence (with attendant cost consequences for both adducer and the party having to respond to it). Contextual evidence may be adduced by the Opponent only in relation to the third, likelihood of confusion, step where the greater protection accorded by the statutory regime to an earlier registered mark that has acquired (or, more accurately, heightened) its distinctiveness through use is an important factor. Conversely, the first and second steps, on evaluating similarity, are made by taking the application mark and the goods for which registration is sought and simply comparing with the opponent's earlier mark as appears on the Register and the goods for which it is registered. Whether the opponent's earlier registered trade mark has or has not acquired (additional) distinctiveness through use *after registration* is not relevant at that stage (after all, unless it has at least *some* inherent distinctiveness - or had acquired distinctiveness under s.7(2) TMA at the time of application - it would not have been registered): all that is required in the first two steps is a common-sense overall comparison of mark-for-mark.

23 I now move to apply the principles set out in [20] and [21] above to the comparison of the Application Mark and the Opponent's Composite Mark from a visual, aural and conceptual perspective; in other words, looking at them, listening to them if and to the extent they can be spoken and considering their meaning if they have any. That being said, I would observe that when considering composite marks comprised of a word element and a device element there is an inevitable fuzziness at the edges of these perspectives and a particular aspect can be relevant to both visual and conceptual similarity (see, for example, the Court of Appeal judgment in *Ceramiche Caesar SpA v Caesarstone Sdot-Yam Ltd* [2017] SGCA 30 in its treatment of the device element of the application mark in that case, at [38] and [52]). The comparison should not be done in hermetically-sealed and mutually-exclusive 'silos': instead what is required is to decide whether "when observed in their totality" the marks are similar rather than dissimilar, *Staywell* at [17].

Visual similarity

24 When considered visually, the Opponent's Composite Mark comprises the two words 'valentino garavani' with, centred above them, a device of a lozenge shape with the two sides of the letter V breaking the lozenge at the top and the V's base touching the bottom. On the other hand, the Application Mark is comprised of the two words 'Valentino Rudy', written in a signature-style, with centred above them a square box containing an asymmetrical 'V' which touches neither roof nor floor of the box. (At first sight I assumed wrongly that the asymmetrical 'V' logo inside the box in the Application Mark was a stylised lower case 'V' and 'R', being the initials of the words 'Valentino Rudy', but was assured at the hearing that this is not the intention, although counsel for the Applicant did try somewhat half-heartedly to adopt such a position after I asked him whether it was the case. In coming to my decision, therefore, I have viewed the device element in the Application Mark as an asymmetrical 'V' logo in a square box).

25 The two marks thus share as their first word the nine letter name 'VALENTINO', characterized by the Court of Appeal in *Valentino Globe BC v Pacific Rim Industries* [2010] SGCA 14 at [49] as a "common" name, as well as the central positioning of a device element above the word elements of the composite marks. The Applicant's 'Valentino' is written in stylized form and the Opponent's written entirely in lower case letters. Counsel for the Opponent contended strongly that the word 'valentino' is the dominant element of the Opponent's Composite Mark but I cannot accept that where an Italian four syllable name 'VALENTINO' is written continuously in lower case letters with another four syllable Italian word, either word can properly be viewed as the dominant element. Also, where a composite mark is comprised of words and a device, unless one or the other is clearly larger, it is difficult to conclude that there is a dominant visual element at all: the trade mark should instead be viewed as a whole without reference to a particular dominant element. I have decided that is the case here: the word 'VALENTINO' is not visually the dominant element in either the Application Mark or the Opponent's Composite Mark. In coming to this conclusion, I have considered also that where, due to the signature-style in which the words are rendered, the average consumer (who is reasonably observant) would view a trade mark as (or including) a person's given and family name, i.e. 'Valentino Rudy', it is unrealistic to view either as being visually dominant on its own, especially the first name, without evidence of acquired distinctiveness *after registration*, which as I have noted already it is not open to me to consider at this stage. By way of examples only, from the fashion world I would cite ALEXANDER MCQUEEN, GUCCIO GUCCI, JEAN-PAUL GAULTIER, KARL LAGERFELD, CHRISTIAN LOUBOUTIN as trade marks in which the visually dominant element is self-evidently not the first word.

26 Therefore, the average consumer would view the dominant element of the Application Mark as ‘Valentino Rudy’ written in cursive script; in the Opponent’s Composite Mark the dominant element would be viewed to be ‘valentino garavani’ written in lower case letters. However, both the Application Mark and the Opponent’s Composite Mark also incorporate a device that, whilst not dominant, does contribute significantly to the overall impression of each and cannot be ignored in deciding whether the average consumer would view the two as more similar than dissimilar. Whilst both devices feature the letter ‘V’, they are clearly very different. Although in its Written Submissions the Opponent argued that the square box in which the ‘V’ is contained in the Application Mark does not add to the distinctiveness of the Application Mark (at [4.09]) and counsel for the Opponent contended at the hearing that the average consumer would not notice it, I am unable to accept either of these contentions: in both the Application Mark and the Opponent’s Composite Mark the device element contributes to the overall visual impression to a material degree.

27 The Opponent states also (Opponent’s SD at [37]) that “the specific placement of the ‘v device’ in the Application Mark is reminiscent of the placement of the ‘v device’ in the Opponent’s trade marks”. Although many of the earlier trade marks relied on by the Opponent do not contain the ‘v device’ referred to by Ms Andrioli in her SD, the Opponent’s Composite Mark does and I assume she was referring to that earlier mark when making this statement. However, being reminiscent of another’s earlier mark does not connote similarity in trade mark law: as I have already decided, the devices are clearly very different and the positioning of the device in the Application Mark centred above the words ‘Valentino Rudy’ (as opposed to alongside as in its already registered mark referred to at [12] above) is commonplace.

28 Looking at the two marks in their totality, I consider that from a visual perspective the Application Mark and the Opponent’s Composite Mark are more dissimilar than similar.

Aural similarity

29 It is not straightforward to comply with the requirement to consider aural similarity when the trade marks in question are composite trade marks comprising words and a device (logo), each of which plays a significant role in the overall impression of the mark (as in this case). The device element of a composite trade mark can be neither heard nor spoken. Thus, when considered from an aural perspective, all that can be considered in the Application Mark and the Opponent’s Composite Mark are the word elements ‘VALENTINO RUDY’ (four syllables and two syllables long, respectively) and ‘VALENTINO GARAVANI’ (both four syllables long), respectively. On the one hand, it must be noted that the Application Mark takes no element of the word ‘GARAVANI’, which I have decided is of equal significance in the Opponent’s Composite Mark to the word ‘VALENTINO’, but, on the other hand, to the extent that pronunciation of the Application Mark by an average consumer may be less than perfect, there may be a tendency to emphasise the first word ‘VALENTINO’, which it shares with the Opponent’s Composite Mark. Taking all these factors into account and whilst recognizing the possible injustice of ignoring completely the device element of the Application Mark, I find the fact that the four-syllable word ‘VALENTINO’ is present in both Application Mark and the Opponent’s earlier Composite Mark means that the word element of the six-syllable Application Mark is neither similar nor dissimilar to the eight-syllable Opponent’s Component Mark. Were it legitimate to evaluate this issue on a strict “quantitative or mechanistic” basis (as the Court of Appeal warned against in *Staywell*, at [17]), it could be argued that the later mark (the Application Mark) contains exactly half of the aural content of the earlier mark (the Opponent’s Composite Mark) and therefore cannot be more similar than it is dissimilar. However, it is the

overall impression that matters, not algorithmic precision. Thus, my appraisal of this aspect of the overall evaluation of similarity is that it is neutral and favours neither Applicant nor Opponent.

Conceptual similarity

30 Looked at conceptually, the Application Mark comprises two words ‘Valentino’ and ‘Rudy’ written in a signature style (each with an initial capital letter), the first considerably shorter than the other but both of which would be considered by the average consumer to be a personal name, with positioned centrally above them a device comprising a square box with an asymmetrical letter ‘V’ within it. On the other hand, the Opponent’s Composite Mark is made up of two words ‘valentino’ and ‘garavani’, with positioned centrally above them a device of a lozenge shape with the two sides of the letter V breaking the lozenge at the top and the V’s base touching the bottom. The words are both in lower case letters, with each word of the same length; the first would be considered by the average consumer to be either a given or a family name and the second as an Italian word of indeterminate meaning but conceivably a person’s name. In this context, I note that in the High Court in *Valentino Globe BV v Pacific Rim Industries Inc* [2009] SGHC 150 Chan Seng Onn J found, at [28], that “[s]imply because the word ‘valentino’ is embedded within the marks does not make “Emilio Valentino” and “valentino garavani” similar to each other.”

31 The Opponent’s Written Submissions contend that “[t]he permutation of the device and the text below the device in the Applicant’s Trade Mark is highly similar to the Opponent’s Trade Marks” (at [4.10], Opponent’s Written Submissions) and at the hearing the Opponent’s counsel argued that there was “high conceptual similarity”. However, this contention is unsustainable upon any sort of analysis: it amounts in effect to a claim that any ‘V’ device above text that includes the relatively common Italian name ‘VALENTINO’ should be considered as highly similar to the Opponent’s Composite Mark. To the contrary, the Application Mark is conceptually more dissimilar than it is similar to the Opponent’s Composite Mark: its dominant element is the signature-style rendition of the name ‘Valentino Rudy’, which is combined with a distinctive square box device (or logo) that bears no resemblance to the Opponent’s lozenge-shaped device beyond sharing the letter ‘V’, albeit in a form that is patently different to that in the Opponent’s Composite Mark.

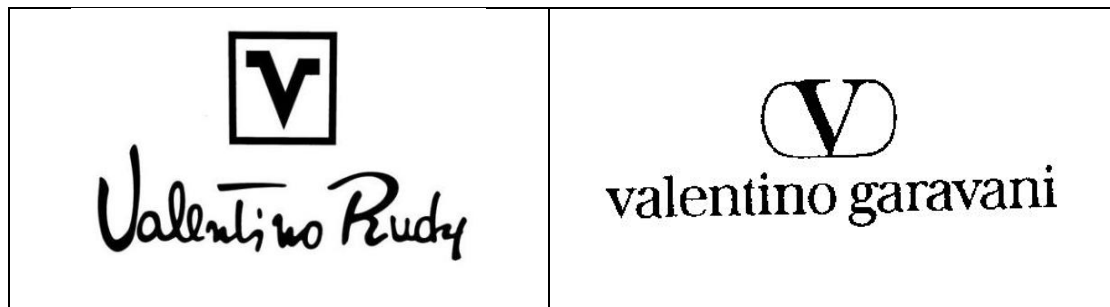
32 In addition, I repeat the analysis at [25] above as to the dominant element of the Application Mark and the Opponent’s Composite Mark because, as I have noted above at [23], when considering a composite mark there is some overlap in the evaluation of visual similarity/dissimilarity (which must include a degree of appreciation of the mark’s semantic content by the average consumer) and of conceptual similarity/dissimilarity.

33 Overall, I consider that the Application Mark and Opponent’s Composite Mark are conceptually more dissimilar than they are similar.

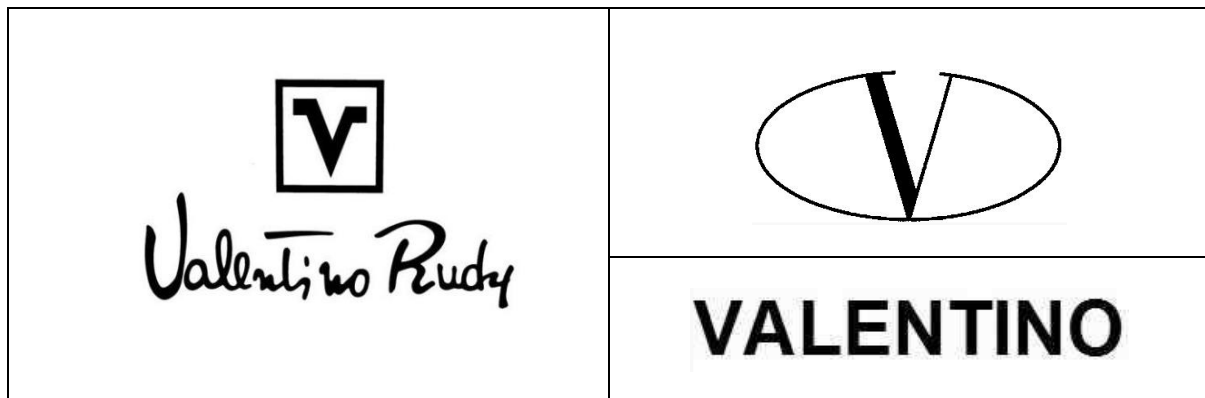
Overall similarity/dissimilarity

34 Viewed holistically taking into account the three perspectives of similarity/dissimilarity, visual, aural and conceptual, and bearing in mind both imperfect recollection by the average consumer and that there should not be a “formulaic consideration” of these perspectives but rather they are “signposts” on the road to deciding whether the marks are similar (*Staywell* at [18]), I

find that the Application Mark is more dissimilar than similar to the Opponent's Composite Mark. For convenience, both are reproduced again below:



35 In relation to the other two earlier marks (reproduced for convenience below) relied on by the Opponent in its Written Submissions (see [18] above), (i) the 'V' in an elliptical device and (ii) the word 'VALENTINO', the Application Mark is even more dissimilar than is the Opponent's Composite Mark and therefore I find without a need to consider the matter further that neither is more similar than it is dissimilar to the Application Mark. (Although I consider the Application Mark self-evidently more dissimilar than similar to the 'VALENTINO' word mark, I note in this connection the decision of the High Court in *Valentino Globe* where it was found that there was no visual, aural or conceptual similarity between "Emilio Valentino & V Device" and the "Valentino" marks relied on in that case (upheld by the Court of Appeal, [2010] SGCA 14 at [17]) and that no-one had a monopoly over the word 'Valentino', at [36].)



36 The same applies to the other 30 earlier marks belonging to the Opponent that are relied on in this opposition (set out at [11] above), all of which comprise or contain the word 'VALENTINO' and/or the 'V' in an elliptical device. I find that none of these is more similar than it is dissimilar to the Application Mark.

37 Somewhat unusually, the Opponent also relies on two further registered marks for the word 'VALENTINO' belonging to a company unrelated to the Opponent, Mario Valentino SpA, with whom the Opponent has had a co-existence agreement since 1979 (Opponent's SD at [12]). Although each of these registered trade marks is an "earlier trade mark" within section 2(1) of the Act, neither is similar to the Application Mark for the reasons already explained. However, they do help to highlight the relative lack of distinctiveness of the word 'VALENTINO'.

Conclusion on Section 8(2)(b)

38 The ground of opposition under Section 8(2)(b) therefore fails at the first hurdle. There is nothing served by my moving on to consider the similarity of the goods for which registration of the Application Mark is sought and the goods for which each of the Opponent's marks is registered or whether as a result of the similarity of both trade marks and goods there is or is not a likelihood of confusion. If the Opponent decides to appeal this decision, such an appeal would be considered *de novo* and my views on the subject would be of no account.

Ground of Opposition under Section 8(4)

39 Section 8(4) of the Act reads:

(4) Subject to subsection (5), where an application for registration of a trade mark is made on or after 1st July 2004, if the whole or an essential part of the trade mark is identical with or similar to an earlier trade mark, the later trade mark shall not be registered if –

(a) the earlier trade mark is well known in Singapore; and

(b) use of the later trade mark in relation to the goods or services for which the later trade mark is sought to be registered –

(i) would indicate a connection between those goods or services and the proprietor of the earlier trade mark, and is likely to damage the interests of the proprietor of the earlier trade mark; or

(ii) if the earlier trade mark is well known to the public at large in Singapore —

(A) would cause dilution in an unfair manner of the distinctive character of the earlier trade mark; or

(B) would take unfair advantage of the distinctive character of the earlier trade mark.

Decision on Section 8(4)

40 The comparison that section 8(4) requires to be carried out at the outset, before deciding whether one or more of the Opponent's earlier trade mark is well-known, is that between the "whole or an essential part" of the Application Mark and each of the earlier trade marks relied on by the Opponent.

41 The Opponent contends in its Written Submissions that "the prominence of the word "Valentino" in the Applicant's Trade Mark renders this word to be the dominant element of the Applicant's Trade Mark" (at 6.03). This suggests that the word "essential part" in section 8(4) should be interpreted in the same way as "dominant element" has been interpreted in the context of section 8(2)(b). However, I do not consider this is correct and, even if it were, I have already found that each element in the Application Mark contributes to its distinctive character. The word "essential" in the context of section 8(4) must be interpreted to mean that descriptive, 'non-distinctive' elements should be ignored when making the comparison with the relevant earlier trade mark. The Application Mark is comprised of two essential features, a 'V' logo (or device) and a stylised "Valentino Rudy": there is therefore no non-essential part

of the Application Mark that can be ignored in the comparison between it and each of the Opponent's earlier trade marks. Thus, that comparison is the same as under section 8(2)(b) and I find that the Application Mark is not "identical with or similar to" any of the Opponent's earlier marks for the reasons already given for that finding in relation to section 8(2)(b). It is unnecessary to consider the other elements of the grounds of opposition contained in section 8(4)(b)(i), 8(4)(b)(ii)(A) and/or (B).

Conclusion on Section 8(4)

42 The ground of opposition under Section 8(4) therefore fails.

Ground of Opposition under Section 8(7)(a)

43 Section 8(7)(a) of the Act reads:

(7) A trade mark shall not be registered if, or to the extent that, its use in Singapore is liable to be prevented —

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade...

Decision on Section 8(7)(a)

44 This ground of opposition requires me to undertake a hypothetical exercise to determine whether on the balance of probabilities an earlier trade mark relied on by the Opponent would succeed in a passing off action brought in respect of use of the Application Mark in relation to the goods/services for which registration is being sought. This abstract determination is to be made by considering only the mark as applied for and the earlier mark relied on by the Opponent (which must be proved to have been used and thereby have generated goodwill). On the other hand, an actual passing off action takes into account the marketplace use by both plaintiff and defendant together with all other surrounding circumstances, so that for example a plaintiff may succeed due to similarities in the colour combinations used by it and the defendant or fail due to the use by the defendant of distinguishing material outside the defendant's mark of which complaint is being made. The passing off action is highly fact-sensitive and dependant on what the actual position is in the marketplace (except of course where there is a *quia timet* application for relief).

45 To succeed in a passing off action a plaintiff must prove three elements: (a) ownership of goodwill, (b) a misrepresentation by the defendant leading to deception, and (c) damage (*The Audience Motivation Company Asia Pte Ltd v AMC Live Group China* [2016] SGCA 25 at [80]).

46 There is no doubt that the Opponent owns goodwill in Singapore generated through sales, advertising and promotion under and by reference to its trade marks: as mentioned above, the Opponent (or its local subsidiary Valentino Pte. Ltd.) operates two boutiques in ION Orchard Mall and The Shoppes at Marina Bay Sands, as well as a website that may be accessed in Singapore (Opponent's SD, Exhibit 4 comprises screenshots from the valentino.com website showing the range of products available to purchasers in Singapore, starting with a Lacquer Rockstud Card Case under the heading VALENTINO GARAVANI on p.95 and ending with the words VALENTINO GARAVANI MUSEUM on p.283; and Exhibit 8 comprises further

screenshots of the website.) In addition, the Opponent's products have been advertised and promoted extensively in Singapore (Exhibit 10 includes copies of advertising and promotion in many magazines and other print media around the world, including *Harper's Bazaar Singapore*, *The Peak Singapore*, *Cleo Singapore*, *The Straits Times* and *AsiaOne*).

47 However, notwithstanding the fact that the Opponent owns goodwill in its business in Singapore, use of the Application Mark does not constitute a misrepresentation as it is not similar to any one of the Opponent's Marks and therefore would not harm the Opponent's relationship with its customers (see *Singsung Pte Ltd v LG 26 Electronics Pte Ltd* [2016 4 SLR 86 at [37]). Thus, use of the Application Mark is not liable to be prevented by the law of passing off contrary to section 8(7)(a) of the Act. In this context, I note that in its unsuccessful opposition to the registration of 'GIANNI VALENTINO' and 'GIANNI VALENTINO' plus 'V' Device, Valentino Globe BV, the then-owner of the Valentino portfolio of marks relied on by the Opponent in this case, conceded that if it did not succeed under section 8(2) it could not succeed under section 8(7)(a): *Valentino Globe BV v Young Sangyo Co. Ltd.* [2007] SGIPOS 8 at [70]. Such a concession was not made by the Opponent in this case and I make no criticism of that as the earlier case was prior to the *Staywell* judgment of the Court of Appeal that clarified a number of aspects of trade mark law. However, the result is the same as if the concession had been made.

Conclusion on Section 8(7)(a)

48 The ground of opposition under Section 8(7)(a) therefore fails.

Overall Conclusion

49 Having considered all the pleadings and evidence filed and the submissions made in writing and orally, I find that the opposition fails on all grounds. The application may proceed to registration. The Applicant is also entitled to costs to be taxed, if not agreed.

Date of Issue: 30 July 2020