

TAB 7



INDIGENOUS LAW ISSUES

Indigenous Intellectual Property: Misappropriation, Rectification, and Protection of Trade-Marks

Ryan Smith

Feltmate Delibato Heagle LLP

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INDIGENOUS LAW ISSUES

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INDIGENOUS INTELLECTUAL PROPERTY: MISAPPROPRIATION, RECTIFICATION, AND PROTECTION OF TRADE-MARKS

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ARTICLE 1 – MISAPPROPRIATION

- 1.1 **Cultural Misappropriation**
- 1.2 Cultural misappropriation is said to occur when one culture commits an act of unauthorized taking of some aspects of another culture.
- 1.3 As regards indigenous Canadian culture, this unauthorized taking may include oral histories, visual representations, symbols, artistic styling, headdresses, sacred words, and sacred ceremonies.
- 1.4 In broad Canadian culture, we might consider military medals as cultural items that only those to whom they have been awarded should wear them.

- 1.5 This paper will be restricted to those aspects of Indigenous culture that may be the subject matter of trade-mark protection under the *Trade-marks Act*¹.
- 1.6 Trade-mark Protection for Cultural Misappropriation
- 1.7 Unauthorized taking of indigenous culture may unfortunately be granted legal protection through the Canadian Trade-mark regime (discussed thoroughly in Article 2).
- 1.8 The current Trade-mark regime has permitted individuals, corporations, institutions, and other entities, to misappropriate indigenous culture. The harm of the taking is compounded when it gains legal protection under the *Trade-marks Act*.
- 1.9 In addition to protecting the unauthorized taking, the trade-mark regime also extends protection to subject matter that may be adopted as trade-marks which is blatantly offensive to indigenous groups.
- 1.10 Examples in Canada of Trade-marks Using Indigenous Culture²
- 1.11 Pro-football, Inc. of Ashburn, Virginia, registered four (4) trade-marks in the early 1980s in Canada of dubious value, namely:

¹ R.S.C. 1985, c. T-13.

² See Schedule 1 for the trade-mark particulars.

- a. WASHINGTON REDKINS, TMA 251,755
 - b. REDSKINS (stylized), TMA 256,881
 - c. INDIAN'S HEAD ON HELMET DESIGN, TMA256,879
 - d. INDIAN'S HEAD DESIGN, TMA256,880
- 1.12 The Walkers Axe Company Limited of Hull Quebec in 1948 registered a picture supposedly depicting an Indigenous Chief described as “Walters Ottawa Chief, Man's Head Indian & Design”, NFLD 3086.
- 1.13 Angus Fire Armour Ltd. registered REDSKIN in 1964, TMA 137,290, and RED CHIEF in 1974, TMA 199,002, to brand “fire hoses”.
- 1.14 The University of Illinois has an official mark for a drawing they call an INDIAN HEADRESS DESIGN, Application No. 0,901,906. This symbol represents the former mascot of the university called “Chief Illiniwek”. The NCAA banned the mascot and his image in 2005. The university stopped using the mascot in 2007. It is uncertain why the university has not abandoned the Canadian official mark.
- 1.15 Steak Ranches International BV of the Netherlands is the applicant for a trade-mark featuring a drawing of the head of an indigenous man wearing a headdress with the word SPUR, Application No. 1,401,767. It was filed in 2008 in association with restaurants, steak-houses, fast food outlets, cafes, and similar services.

- 1.16 Rogers Communications Partnership owns a registered trade-mark incorporating the words INUKSHUK and the design of an Inukshuk, TMA 620,323, used in association with promotional items such as sun glasses, ski glasses, wallets, key chains, among other things.
- 1.17 The Damage Caused by Cultural Misappropriation and Derogatory Trade-marks in Trade-mark Law.
- 1.18 There are many reasons why the cultural misappropriation is wrong in trade-mark law. I will address two (2) reasons.
- 1.19 The first reason is socio-political. First, it is wrong to take the culture of another cultural group without the authority of the creators of such cultural property. Further, it is wrong to adopt representations of indigenous people or indigenous culture that demean, dehumanize, or are derogatory.
- 1.20 The second reason is the exclusivity granted under trade-mark law. When a party misappropriates the culture property of another, trade-mark law grants the improper taker exclusivity over the subject matter of the trade-mark even to the exclusion of creator and true owner of the cultural property.
- 1.21 Even if an indigenous person wanted to sell goods or services with a trade-mark that includes aspects of indigenous culture, such person's trade-mark application

as well as its use of the trade-mark may be prevented because of the existence of a registered trade-mark that incorporates misappropriated culture.

1.22 In Article 2 we discuss what can be done to rectify this current situation.

ARTICLE 2 – RECTIFICATION

2.1 The Canadian Trade-mark Regime

2.2 The *Trade-marks Act* is very much a law designed to protect the first user of a trade-mark. So long as one is diligent in protecting his rights to a trade-mark, the Act has the mechanisms to protect that first user.

2.3 This has the effect that regardless of whether an applicant for a trade-mark has applied to protect as a trade-mark indigenous words, visual representations of indigenous people or symbols, or sacred sounds or songs, the trade-mark regime does not currently prevent a non-indigenous group from registering trade-marks that misappropriate indigenous culture or that are derogatory to indigenous groups as a trade-mark.

2.4 Aside from changing trade-mark law in Canada, what actions can be taken to prevent or invalidate trade-marks which constitute cultural misappropriation or offensive trade-marks?

2.5 The Story of the WASHINGTON REDSKINS Trade-mark in the U.S.

2.6 Earlier this year, the United States Patent and Trade-mark Office ordered the cancellation of six (6) trade-mark registrations containing the word REDSKINS.³

³ *Blackhorse v. Pro Football, Inc.*, Cancellation No. 92046185 (T.T.A.B. June 18, 2014).

- 2.7 A group of Native American petitioners brought a cancellation proceeding against the trade-marks to the Trade-mark Trial and Appeal Board. In a 2-1 decision, the Board found based on the evidence before them that the registrations must be cancelled because they were disparaging to Native Americans at the respective times they were registered. The Board stated that U.S. trade-mark law prohibits registration of trade-marks that may disparage persons or bring them into contempt.
- 2.8 The Board used a two-part inquiry in order to determine whether a trade-mark is disparaging. First, they looked at the likely meaning of the mark as it is used. Second, if that meaning refers to an identifiable group, would a “substantial composite” of the group have found the meaning disparaging at the time of registration.
- 2.9 In the first part of the inquiry, the Board concluded that the Offensive Term as used by the football team is meant to refer to Native Americans. The football franchise had argued that the term had a secondary meaning, namely a football team. The Board ruled that even if the Offensive Term had a secondary meaning, such fact had not stripped the Offensive Term of its ethnic meaning.
- 2.10 In the second part of the inquiry, the Board ruled that a “substantial composite” of Native Americans would have found the Offensive Term disparaging at the time the marks were registered. The Board relied primarily on a resolution that the

National Congress of American Indians passed where they stated that the term has always been and continues to be a disparaging and racist designation. The Board also cited other evidence the petitioners submitted such as the labelling of the term as offensive in dictionaries, its decline in usage as a term to refer to Native Americans, and Native American objections to the term.

2.11 The lone dissenter on the Board took that position because he believed that insufficient evidence had been filed to show that the Offensive Term was disparaging at the time the marks were registered. He did not suggest that the term was not disparaging.

2.12 The Prevention and Invalidation of Undesirable Trade-marks in Canada

2.13 An unregistered trade-mark will gain further legal protections if the owner files a trade-mark application for it and the trade-mark becomes registered.

2.14 A trade-mark application may be stopped permanently if it is successfully opposed after advertisement.

2.15 A trade-mark registration may be expunged from the register if an action for expungement is successful in Federal Court. The Federal Court has exclusive original jurisdiction to strike out or to amend any entry on the Trade-mark Register.⁴

⁴ *Trade-marks Act*, *supra*, note 1 at s. 57(1).

- 2.16 The *Lanham Act*, which is the U.S. equivalent of the Act, contains a statutory cause of action that permits⁵ a cause of any action to be brought at any time to cancel a trade-mark registration that may disparage.
- 2.17 The Act does not have an equivalent provision to the *Lanham Act* that provides ground to invalidate a trade-mark registration because it may disparage. Rather the closest provision the Act has is a right to stop a trade-mark application or bring an action to expunge a trade-mark registration because the trade-mark consists of, or so nearly resembles as to be likely mistaken for, any scandalous, obscene or immoral word or device⁶; opposing a trade-mark application or seeking to invalidate a trade-mark registration on this basis would be grounded in the argument that the trade-mark was not “registrable” under section 12(1)(e) of the Act.
- 2.18 We may also be able to challenge registered trade-marks that misappropriate indigenous culture on the grounds that they are deceptively misdescriptive of the character or quality of the wares or services branded with the trade-mark or of the conditions of or the persons employed in their production or of their place of

⁵ 2 § (15 U.S. Code § 1052) of the *Lanham Act* states: No trade-mark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration on the principal register on account of its nature unless it: (a) Consists of or comprises immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.

⁶ *Trade-marks Act*, *supra*, note 1 at s. 9(1)(j).

origin.⁷ We could challenge such a trade-mark on the basis that it would communicate to consumers some connection with indigenous groups when none actually existed.⁸

2.19 Outside of the Act, in the furtherance of the public interest, the court has inherent jurisdiction and a duty to expunge a trade-mark registration in a proper case.⁹

2.20 When opposing trade-mark applications that engage in cultural misappropriation of indigenous culture on the ground that the trade-mark is not registrable pursuant to section 12(1)(e), the pertinent date for assessing the facts will be the date of the decision of the Opposition Board.¹⁰

2.21 When attempting to expunge a trade-mark registration on the ground that it was not registrable, the determination will be made with an analysis of the facts as of the date of the registration.¹¹

2.22 There are other grounds on which a trade-mark application may be opposed or a trade-mark registration expunged. The above merely sets out grounds that may be used against a trade-mark that engages in cultural misappropriation or that is demeaning to indigenous groups.

⁷ *Trade-marks Act*, *supra*, note 1 at s. 12(1)(b).

⁸ See *First Nations Summit v. Skoolegiate Inc.*, 1999 T.M.O.B. No. 83, where a party's application for FIRST NATIONS was refused.

⁹ Kelly Gill, *Fox on Canadian Law of Trade-marks and Unfair Competition*, 4th ed, looseleaf (Toronto: Thomson Reuters Canada Limited, 2002-2013) at 11-35.

¹⁰ *Anheuser-Busch Inc. v. John Labatt Ltd./John Labatt Ltée*, 2001 T.M.O.B. 14 C.P.R. (4th) 548 at 563.

¹¹ *Trade-marks Act*, *supra*, note 1 at 18(1)(a).

2.23 Contesting a trade-mark application or trade-mark registration on the basis that it is not registrable will ultimately mean proving that the trade-mark “consists of, or so nearly resembles as to be likely mistaken for, any scandalous, obscene or immoral word or device”.¹²

2.24 In summary, persons or groups opposed to trade-mark applications and trade-mark registrations, that attempt to misappropriate indigenous culture, may attempt to oppose or expunge such trade-marks on the following grounds:

- a. the trade-mark “consists of, or so nearly resembles as to be likely mistaken for, any scandalous, obscene or immoral word or device” contrary to section 12(1)(e) of the Act and therefore is not registrable; and
- b. the trade-mark is deceptively misdescriptive of the character or quality of the wares or services branded with the trade-mark or of the conditions of or the persons employed in their production or of their place of origin contrary to section 12(1)(h) of the Act; and
- c. it is not in the public interest to maintain such trade-mark registrations on the Trade-mark Register.

¹² *Trade-marks Act*, *supra*, note 1 at s. 9(1)(j).

- 2.25 There will be some challenges in succeeding with the arguments above. To my knowledge, there are no cases where an applicant has successfully expunged a registered trade-mark on the grounds of being “scandalous, obscene or immoral.”
- 2.26 The difficulty exists because you would have to argue that as a result of the presence of misappropriated indigenous culture in the trade-mark that such fact alone makes the trade-mark “scandalous, obscene or immoral”.
- 2.27 The wording of the Act prohibits a trade-mark that itself “consists of, or so nearly resembles as to be likely mistaken for, any scandalous, obscene or immoral word or device” (*emphasis added*). Therefore, simply having a trade-mark that contains misappropriated indigenous culture may not be contrary to the Act. Rather, it may be that the taking is what is “scandalous, obscene or immoral” while the trade-mark, from some perspectives, may be innocuous.
- 2.28 For that reason, an amendment to the Act to add a prohibition on trade-mark applications that disparage or contain misappropriated culture may be the most successful way to prevent the undesired trade-marks.

ARTICLE 3 – PROTECTION

3.1 Article 2 – Rectification discussed a reactive way to address those trade-mark applications and registrations that have already misappropriated culture. In this Article 3 – Protection we will address how we may actively protect our culture from misappropriation and use as trade-mark.

3.2 Official Marks

3.3 An official mark is a trade-mark that a public authority has adopted and used in Canada to brand wares or services.¹³

3.4 An official mark has all the benefits of a registered trade-mark in addition to privileges not available to registered trade-marks. I will focus below on six (6) of the additional privileges official marks have.

3.5 First, an official mark avoids the application process all together. A mark adopted and used as an official mark is not examined by the Trade-marks Office to ensure it complies with the Act and is not subject to opposition by other parties. Rather, once the public authority adopts and uses the mark and notifies the Trade-marks Office of such fact, the Trade-marks Office simply advertises the official mark to put everyone else on notice of such adoption and use.

¹³ *Trade-marks Act*, *supra*, note 1 at s. 9(1)(n).

- 3.6 Second, an official mark does not have to be distinctive at any time to be valid and enforceable.
- 3.7 Third, an official mark will never expire and is not subject to renewal fees.
- 3.8 Fourth, an official mark is considered adopted and used with all goods and services.
- 3.9 Five, any later filed trade-mark application that is found confusing with the official mark, and the scope of the official mark is enormous because its considered registered with all goods and services, will be stopped in the application process because of the prior adopted official mark.
- 3.10 Six, official marks may only be invalidated on very limited grounds.
- 3.11 Eligibility for an Official Mark
- 3.12 In order to be eligible for an official mark, the requesting party must be a “public authority.” A “public authority” is an entity that:
- a. is subject to a significant degree of governmental control; and

- b. must be required to dedicate any profit earned for the benefit of the public and not for private benefit.¹⁴

3.13 The “governmental control” test entails “power that enables the government, directly or through its nominees, to exercise a degree of ongoing influence in the body’s governance and decision-making”.¹⁵

3.14 Further, as concerns the public benefit branch of the “public authority” test, the courts have said that mixing public and private benefits is not fatal to being characterized as benefiting the public.¹⁶ The entity requesting the official mark must not have a “public duty”, rather it must have a duty to do something of benefit to the public.¹⁷

3.15 There is evidence that First Nations have successfully argued their cases to the Trade-marks Office that they are entitled to official marks. For example, the Madawaska Maliseet First Nation of New Brunswick is the owner of an official mark that is a design depicting a dream catcher.¹⁸

¹⁴ *Canada (Registrar of Trade Marks) v. Canadian Olympic Assn*, 1982 F.C.A. 67 C.P.R. (2d) 59.

¹⁵ *Ontario Assn. of Architects v. Assn. of Architectural Technologists of Ontario*, 2002 F.C.A., 19 C.P.R. (4th) 417 at para. 62, leave to appeal dismissed [2002] S.C.C.A. No. 316.

¹⁶ Kelly Gill, *supra*, note 9 at 5-60.

¹⁷ *Ibid* at 5-61.

¹⁸ Madawaska Maliseet First Nation Crest Design, Application No. 0,922,055. See Official Mark at Schedule “C”.

- 3.16 Indigenous groups that are entitled to official marks could actively prevent the cultural misappropriation of indigenous culture and the registration of offensive trade-marks by filing official marks themselves for the subject matter.¹⁹

Thereafter, every later filed trade-mark application that would be confusing with the official mark, regardless of any other factors that may alleviate confusion in other situations, would be blocked by the official mark.

3.17 Certification Marks

- 3.18 Certification marks are a special sort of trade-mark that instead of acting to distinguish yours goods and services from those of others, they communicate that the goods or services they mark have been certified in respect of origin, material, mode of manufacture, quality, accuracy, delivery standard, or other characteristic.

- 3.19 A certification mark could certify that goods were made on a First Nation or that the goods were made by members of that First Nation.

- 3.20 A certification mark may assist an indigenous group to communicate to others what are authentic goods from its members. The certification mark would also assist consumers, eager to purchase authentic First Nations products, that they were purchasing legitimate First Nations articles.

¹⁹ *First Nations Summit, supra*, note 8.

3.21 Even where another party has misappropriated indigenous culture and incorporated it into its trade-marks, that party's lack of a certification mark may assist in countering the deception of consumers initially and perhaps deceitfully attracted to their goods.

3.22 Registered Trade-mark

3.23 A registered trade-mark will give you exclusive use of the trade-mark across Canada in association with the goods and services listed in the application.

3.24 A registered trade-mark will also act to prevent later filed confusing applications from proceeding to registration.

3.25 Mississaugas of the New Credit First Nation have registered a logo mark incorporating their name around an eagle.²⁰ Wahnapiatae First Nation registered a logo mark incorporating its name and a drawing.²¹

3.26 One problem with obtaining a registered trade-mark for something that incorporates indigenous culture is that your application cannot generally be confusing with any trade-mark filed or registered before your application. As much cultural misappropriation has already taken place, it stands to reason that there will be more than a few registered trade-marks that misuse indigenous

²⁰ TMA 815,118 and set out in Schedule "C".

²¹ TMA 738,598 and set out in Schedule "C".

culture which could also block a legitimate trade-mark application that incorporates indigenous culture.

- 3.27 In the case that a trade-mark application is blocked because of a trade-mark that includes misappropriated indigenous culture, there is always the option at that time to try and invalidate the trade-mark registration as stated above in Article 2 - Rectification in order that your application may proceed.

ARTICLE 4 – CONCLUSION

- 4.1 The current *Trade-marks Act* may provide some mechanism to challenge those trade-marks that misappropriate indigenous culture or are derogatory towards indigenous groups.
- 4.2 Trade-mark applications and registrations may be subject to successful challenge on that basis that they are scandalous, obscene, or immoral, or on the basis that they are deceptively misdescriptive of the character or quality of the wares or services branded with the trade-mark or of the conditions of or of the persons employed in their production or of their place of origin. Further, such trade-mark applications may also be challenged on the basis that it is in the public interest that trade-mark protection should not be extended to such trade-marks.

- 4.3 Regardless of the current mechanisms, an amendment to the *Trade-marks Act* is necessary in order to prevent anyone from gaining further legal protection in a trademark that misappropriates indigenous culture or disparages indigenous groups.



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APPLICATION NUMBER:

0363319

REGISTRATION NUMBER:

TMA251755

STATUS:

REGISTERED

FILED:

1973-04-09

REGISTERED:

1980-10-24

REGISTRANT:

PRO-FOOTBALL, INC.,
21300 Redskin Park Drive
Ashburn, VA 20147
UNITED STATES OF AMERICA

REPRESENTATIVE FOR SERVICE:

BLAKE, CASSELS & GRAYDON LLP
INTELLECTUAL PROPERTY GROUP
SUITE 4000, COMMERCE COURT WEST
199 BAY STREET
TORONTO
ONTARIO M5L 1A9

TRADE-MARK (Word):

WASHINGTON REDSKINS

DISCLAIMER TEXT:

The right to the exclusive use of the word WASHINGTON is disclaimed apart from the trade-mark.

INDEX HEADINGS:

WASHINGTON REDSKINS

WARES:

- (1) Men's, women's and children's clothing namely T-shirts, sweatshirts, sweaters, pants, pyjamas; folding seats; display materials namely pennants; stationery and school supplies namely pencils.
- (2) Men's, women's and children's clothing namely mittens; athletic equipment namely shoes.
- (3) Men's, women's and children's clothing namely caps.
- (4) Household furnishings namely wastebaskets; watches and clocks; luggage namely sport bags; men's, women's and children's clothing namely hats; display materials namely bumper stickers.
- (5) Men's, women's and children's clothing namely sweatpants and shirts.



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APPLICATION NUMBER:

0363318

REGISTRATION NUMBER:

TMA256881

STATUS:

REGISTERED

FILED:

1973-04-09

REGISTERED:

1981-03-13

REGISTRANT:

PRO-FOOTBALL, INC.,
21300 Redskin Park Drive
Ashburn, VA 20147
UNITED STATES OF AMERICA

REPRESENTATIVE FOR SERVICE:
BLAKE, CASSELS & GRAYDON LLP
INTELLECTUAL PROPERTY GROUP
SUITE 4000, COMMERCE COURT WEST
199 BAY STREET
TORONTO
ONTARIO M5L 1A9

TRADE-MARK (Design):

REDSKINS

MARK DESCRIPTIVE REFERENCE:

REDSKINS DESIGN

INDEX HEADINGS:

REDSKINS

RED SKINS

WARES:

- (1) Men's, women's and children's clothing, namely, mittens.
- (2) Men's, women's and children's clothing, namely, caps.
- (3) Men's, women's and children's clothing, namely: T-shirts, sweatshirts, sweaters, pants, pyjamas; folding seats; athletic equipment namely: footballs and shoes; display materials namely: pennants; stationery and school supplies namely pencils.



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APPLICATION NUMBER:

0363316

REGISTRATION NUMBER:

TMA256879

STATUS:

REGISTERED

FILED:

1973-04-09

REGISTERED:

1981-03-13

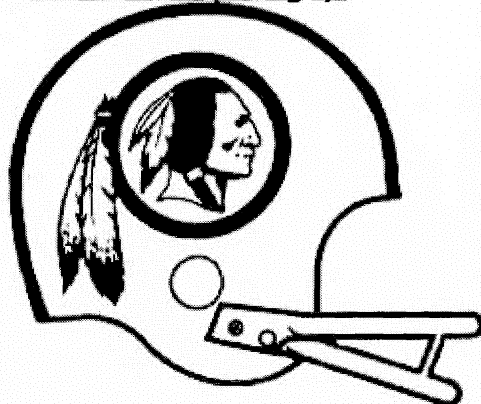
REGISTRANT:

PRO-FOOTBALL, INC.,
21300 Redskin Park Drive
Ashburn, VA 20147
UNITED STATES OF AMERICA

REPRESENTATIVE FOR SERVICE:

BLAKE, CASSELS & GRAYDON LLP
INTELLECTUAL PROPERTY GROUP
SUITE 4000, COMMERCE COURT WEST
199 BAY STREET
TORONTO
ONTARIO M5L 1A9

TRADE-MARK (Design):



MARK DESCRIPTIVE REFERENCE:

INDIAN'S HEAD ON HELMET DESIGN

DISCLAIMER TEXT:

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APPLICATION NUMBER:

0363317

STATUS:**FILED:****REGISTERED:****REGISTRATION NUMBER:**

TMA256880

REGISTERED

1973-04-09

1981-03-13

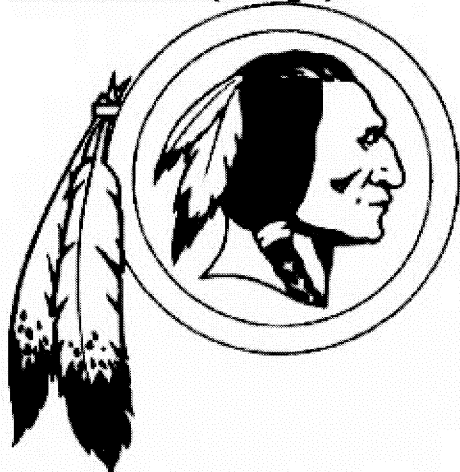
REGISTRANT:

PRO-FOOTBALL, INC.,
21300 Redskin Park Drive
Ashburn, VA 20147
UNITED STATES OF AMERICA

REPRESENTATIVE FOR SERVICE:

BLAKE, CASSELS & GRAYDON LLP
INTELLECTUAL PROPERTY GROUP
SUITE 4000, COMMERCE COURT WEST
199 BAY STREET
TORONTO
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TRADE-MARK (Design):**MARK DESCRIPTIVE REFERENCE:**

INDIAN'S HEAD DESIGN



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APPLICATION NUMBER:

0993086

STATUS:

REGISTERED:

REGISTRANT:

WALTERS AXE COMPANY LIMITED
Hull
QUEBEC

REGISTRATION NUMBER:

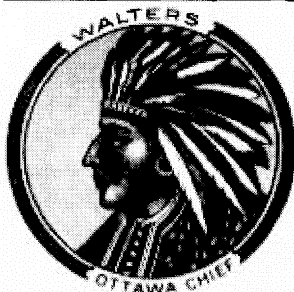
NFLD3086

REGISTERED

1948-05-08

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TRADE-MARK (Design):



MARK DESCRIPTIVE REFERENCE:

WALTERS OTTAWA CHIEF, MAN'S HEAD INDIAN & DESIGN

TRADE-MARK DESCRIPTION:

A Circular design representing the head of an Indian chief wearing a feathered head-dress and having the word WALTERS printed above and the words OTTAWA CHIEF below the representation.

INDEX HEADINGS:

WALTERS OTTAWA CHIEF

VIENNA INFORMATION:

VIENNA INFORMATION

Code Description

- 2.1.1 Heads, busts
- 2.1.4 Men wearing folk or historical costume
- 2.1.53 Native(s), Aboriginal(s), Indian our Inuit rep. of the Canadian people



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APPLICATION NUMBER:

0281056

REGISTRATION NUMBER:

TMA137290

STATUS:

REGISTERED

FILED:

1964-03-13

REGISTERED:

1964-09-11

REGISTRANT:

ANGUS FIRE ARMOUR LTD.
(A COMPANY ORGANIZED UNDER THE LAWS OF ONTARIO)
1261 SHAWSON DRIVE,
MISSISSAUGA,
L4W 1C4
ONTARIO

CURRENT OWNER:

Kidde Canada Inc.
340 Four Valley Drive
Vaughan, Ontario
L4K 5Z1
ONTARIO

REPRESENTATIVE FOR SERVICE:

BORDEN LADNER GERVAIS LLP
SCOTIA PLAZA
40 KING STREET WEST
TORONTO
ONTARIO M5H 3Y4

INTERESTED PARTIES:

OLD OWNER
ANGUS FIRE LIMITED,
1261 SHAWSON DRIVE,
MISSISSAUGA,
ONTARIO L4W 1C4

TRADE-MARK (Word):

REDSKIN

INDEX HEADINGS:

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APPLICATION NUMBER:

0352450

REGISTRATION NUMBER:

TMA199002

STATUS:

REGISTERED

FILED:

1972-04-20

REGISTERED:

1974-05-10

REGISTRANT:

ANGUS FIRE ARMOUR LTD
(A COMPANY ORGANIZED UNDER THE LAWS OF ONTARIO)
11 Curity Avenue
Toronto
ONTARIO

CURRENT OWNER:

Kidde - Fenwal, Inc.
400 Main Street
Ashland, MA 01721
UNITED STATES OF AMERICA

REPRESENTATIVE FOR SERVICE:

FETHERSTONHAUGH & CO.
438 UNIVERSITY AVENUE
SUITE 1500, BOX 111
TORONTO
ONTARIO M5G 2K8

INTERESTED PARTIES:**OLD OWNER**

ANGUS FIRE LIMITED,
1261 SHAWSON DRIVE,
MISSISSAUGA,
ONTARIO L4W 1C4

OLD OWNER

Pyrene Corporation
130 Esna Park Drive,
Markham,
ONTARIO L3R 1E3

OLD OWNER

Kidde Fire Fighting Inc.
(a Pennsylvania corporation)
150 Gordon Drive

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P.O. Box 695
 Exton, Pennsylvania, 19341-0695
 UNITED STATES OF AMERICA

TRADE-MARK (Word):**RED CHIEF****INDEX HEADINGS:**

RED CHIEF

WARES:

(1) Fire hose.

CLAIMS:

Declaration of Use filed May 07, 1974.

Action Information

<u>ACTION</u>	<u>DATE</u>	<u>BF</u>	<u>COMMENTS</u>
Filed	1972-04-20		
Registered	1974-05-10		
Renewed	1989-05-10		
Change in Title Registered	2000-03-16		Amalgamation
Rep for Service Changed	2003-10-21		From: 29 To: 6237 / Voir Preuve au dossier/See evidence on File No. 597495
Renewed	2004-05-10		DP:2004/05/10 RD:2004/05/07 RR: (29) FETHERSTONHAUGH & CO.
Rep for Service Changed	2004-05-18		From: 6237 To: 29 / Voir Preuve au dossier/See evidence on File No. 256892
Change in Title Registered	2005-10-26		Assignment / Voir Preuve au dossier/See evidence on File No. 256892
Amendment to Registration	2013-09-11		Merger and address / Voir Preuve au dossier/See evidence on File No. 182305

FOOTNOTES:**CHANGE IN TITLE/CHANGEMENT EN TITRE:**

TYPE OF CHANGE/GENRE DE CHANGEMENT: Name/Nom
 DATE REGISTERED/DATE DE L'ENREGISTREMENT: 05 avr/Apr 1979
 DATE OF CHANGE/DATE DE CHANGEMENT: 27 juin/Jun 1977
 COMMENTS/COMMENTAIRES: ANGUS FIRE ARMOUR LTD.
 SEE EVIDENCE ON FILE/VOIR PREUVE SUR LE DOSSIER 209357

CHANGE IN TITLE/CHANGEMENT EN TITRE:

TYPE OF CHANGE/GENRE DE CHANGEMENT: Name and Address/Nom et adresse
 DATE REGISTERED/DATE DE L'ENREGISTREMENT: 05 avr/Apr 1979
 DATE OF CHANGE/DATE DE CHANGEMENT: 23 déc/Dec 1977
 COMMENTS/COMMENTAIRES: ANGUS FIRE ARMOUR LTD. (A COMPANY ORGANIZED UNDER THE LAWS OF ONTARIO)
 SEE EVIDENCE ON FILE/VOIR PREUVE SUR LE DOSSIER 209357



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The database was last updated on: 2014-11-04

APPLICATION NUMBER:

0901906

Subparagraph 9(1)(n)(ii)

STATUS:

ADVERTISED

FILED:

1985-01-04

ADVERTISED:

1985-05-22

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APPLICANT:

UNIVERSITY OF ILLINOIS

Champaign, Illinois 61820

UNITED STATES OF AMERICA

REPRESENTATIVE FOR SERVICE:

MCCARTHY TETRAULT LLP

SUITE 5300

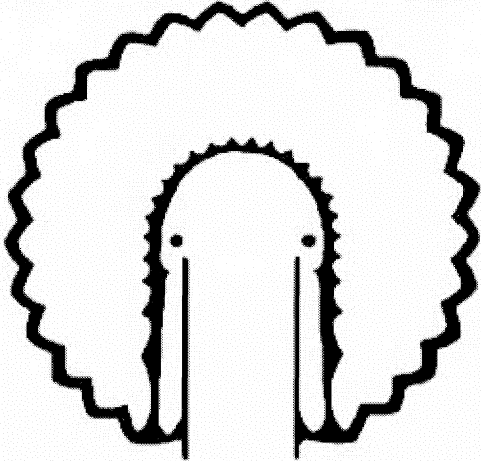
TORONTO DOMINION BANK TOWER

TORONTO-DOMINION CENTRE

TORONTO

ONTARIO M5K 1E6

PROHIBITED MARK: ARMS, CREST OR FLAG (Design):



MARK DESCRIPTIVE REFERENCE:

INDIAN HEADDRESS DESIGN



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The database was last updated on: 2014-10-28

APPLICATION NUMBER:

1401767

STATUS:**FILED:****FORMALIZED:****ADVERTISED:****REGISTRATION NUMBER:**

not registered

ALLOWED

2008-07-02

2008-07-04

2009-11-04

APPLICANT:

Steak Ranches International BV
Science Park 400, 1098 XH
Amsterdam
NETHERLANDS

AGENT:

GOWLING LAFLEUR HENDERSON LLP
SUITE 1600
1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO
ONTARIO M5X 1G5

REPRESENTATIVE FOR SERVICE:

GOWLING LAFLEUR HENDERSON LLP
SUITE 1600
1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO
ONTARIO M5X 1G5

INTERESTED PARTIES:**OLD OWNER**

Vantini Spur Limited
Suite 3f Eurolife Building
1 Corral Road
GIBRALTAR

TRADE-MARK (Design):

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MARK DESCRIPTIVE REFERENCE:

SPUR & Indian Head Design

TRADE-MARK DESCRIPTION:

As confirmed by the applicant, the portrait is a completely arbitrary and fictitious drawing of an Indian.

INDEX HEADINGS:

SPUR

VIENNA INFORMATION:

VIENNA INFORMATION

Code Description

2.1.1 Heads, busts

2.1.4 Men wearing folk or historical costume

9.7.1 Headwear

2.1.53 Native(s), Aboriginal(s), Indian our Inuit rep. of the Canadian people

9.7.25 Other headwear

3.7.19 Heads of birds, parts of birds, feathers, footprints, skeletons of birds

27.5.1 Letters presenting a special form of writing

27.5.8 Letters linked to a figurative element -- Note: Letters representing a human being or a part of the human body, an animal or a part of an animal's body, a plant, a heavenly body, a natural phenomenon or an object are classified in division 27.3.

SERVICES:

(1) Restaurants, steak-houses, fast food outlets, cafes, cafeterias, canteens, snack-bars, coffee bars and roadhouses; catering services..

CLAIMS:

Proposed Use in CANADA.

ASSOCIATED MARKS:

1,401,770

Action Information

<u>ACTION</u>	<u>DATE</u>	<u>BF</u>	<u>COMMENTS</u>
Filed	2008-07-02		
Created	2008-07-03		



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The database was last updated on: 2014-11-04

APPLICATION NUMBER:

1071917

REGISTRATION NUMBER:

TMA620323

STATUS:

REGISTERED

FILED:

2000-08-18

FORMALIZED:

2000-09-07

ADVERTISED:

2004-02-25

REGISTERED:

2004-09-22

REGISTRANT:

INUKSHUK INTERNET INC.,
1250 René-Lévesque West,
Suite 400, Montreal,
H3B 4W8
QUEBEC

REPRESENTATIVE FOR SERVICE:

GOUDREAU GAGE DUBUC S.E.N.C.R.L./LLP
2000 AVENUE MCGILL COLLEGE
SUITE 2200
MONTREAL
QUÉBEC H3A 3H3

CURRENT OWNER:

Rogers Communications Partnership
333 Bloor Street East, 10th Floor
Toronto
M4W 1G9
ONTARIO

REPRESENTATIVE FOR SERVICE:

CATHERINE DOUGLAS
9th FLOOR, 333 BLOOR STREET EAST
TORONTO
ONTARIO M4W 1G9

INTERESTED PARTIES:**OLD OWNER**

Microcell Solutions Inc.
1250 René-Lévesque West,

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Suite 400, Montreal,
QUEBEC H3B 4W8
OLD OWNER
FIDO SOLUTIONS INC.
800, rue de La Gauchetière West
Bureau 4000
Montréal
QUEBEC H5A 1K3
OLD OWNER
FIDO SOLUTIONS INC.
800, rue de La Gauchetière West
Bureau 4000
Montréal
QUEBEC H5A 1K3

TRADE-MARK (Design):



MARK DESCRIPTIVE REFERENCE:
INUKSHUK & design

INDEX HEADINGS:
INUKSHUK

VIENNA INFORMATION:
VIENNA INFORMATION

Code Description

- 7.5.25 Other monuments
- 7.5.51 Inukshuk
- 2.1.30 Other men
- 22.5.10 Sculptures representing human beings
- 22.5.13 Sculptures representing a man
- 22.5.50 Native crafts (ex. dream catcher, etc.)
- 1.7.6 Crescent moon, half-moon
- 1.7.7 Crescent or half-moon with human beings or parts of the human body
- 29.1.4 Blue
- 29.1.2 Yellow, gold

COLOUR CLAIM:

The colors are claimed as a feature of the trade-mark: the representation of the statue is blue, the moon and the line under the word inukshuk are yellow.

WARES:

- (1) Promotional items namely posters, glasses namely sun glasses, sports glasses, ski glasses,



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The database was last updated on: 2014-10-28

APPLICATION NUMBER:

0744908

STATUS:

FILED:

FORMALIZED:

ADVERTISED:

INACTIVATED:

REGISTRATION NUMBER:

not registered

REFUSED - SECTION 38(8)

1994-02-02

1994-02-07

1994-06-22

1999-10-04

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APPLICANT:

SKOOLEGIATE INC.,
642 NOTRE DAME AVENUE,
WINNIPEG,
R3C 1S9
MANITOBA

AGENT:

VAUGHAN L. BAIRD
BOX 93
SAINTE-AGATHE
MANITOBA R0G 1Y0

REPRESENTATIVE FOR SERVICE:

VAUGHAN L. BAIRD
BOX 93
SAINTE-AGATHE
MANITOBA R0G 1Y0

INTERESTED PARTIES:

OPPONENT (CASE CLOSED)

FIRST NATIONS SUMMIT
BRITISH COLUMBIA

AGENT:

FERGUSON GIFFORD
SUITE 500 - PARK PLACE
666 BURNARD STREET
VANCOUVER
BRITISH COLUMBIA V6C 3H3

REPRESENTATIVE FOR SERVICE:

FERGUSON GIFFORD
SUITE 500 - PARK PLACE

666 BARRARD STREET
VANCOUVER
BRITISH COLUMBIA V6C 3H3

TRADE-MARK (Word):**FIRST NATIONS****INDEX HEADINGS:**

FIRST NATION

WARES:

- (1) T-shirts; sweatshirt.
- (2) Jackets.
- (3) Hats; caps.
- (4) Crests.
- (5) Vests; parkas; coats; blankets.

CLAIMS:

- Used in CANADA since January 1989 on wares (1).
- Used in CANADA since December 18, 1986 on wares (2).
- Used in CANADA since May 21, 1991 on wares (3).
- Used in CANADA since December 18, 1986 on wares (4).
- Proposed Use in CANADA on wares (5).

Action Information

<u>ACTION</u>	<u>DATE</u>	<u>BF</u>	<u>COMMENTS</u>
Filed	1994-02-02		
Created	1994-02-04		
Formalized	1994-02-07		
Search Recorded	1994-03-01		
Examiner's First Report	1994-03-10		
Correspondence Created	1994-03-15		
Approved	1994-04-26		
Advertised	1994-06-22		Vol.41 Issue 2069
Opposed	1994-07-21		
Correspondence Created	1997-05-21		OFFICER GRANTED ONE MONTH TO FILE REPLY EVIDENCE.
Correspondence Created	1997-07-14	1997-08-14	W/A Both parties_filed
Correspondence Created	1997-07-14	1997-08-14	W/A Both parties_filed
Refused - Section 38(8)	1999-10-04		Decision rendered in Opposition

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Last updated: 2014-10-28



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The database was last updated on: 2014-10-28

APPLICATION NUMBER:

0922055

Subparagraph 9(1)(n)(iii)

STATUS:

FILED:

FORMALIZED:

ADVERTISED:

ADVERTISED

2013-01-09

2013-01-17

2013-11-13

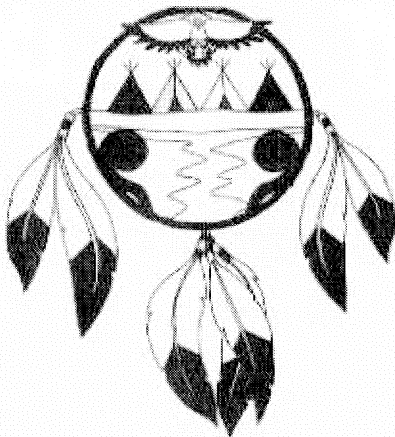
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APPLICANT:

MADAWASKA MALISEET FIRST NATION
1771 Principale St.
Madawaska Maliseet First Nation
E7C 1W9
NEW BRUNSWICK

REPRESENTATIVE FOR SERVICE:
BUSINESS DEVELOPMENT CENTRE
701-1120 Finch Ave. W.
Toronto
ONTARIO M3J 3H7

PROHIBITED MARK; OFFICIAL MARK (Design):



MARK DESCRIPTIVE REFERENCE:



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The database was last updated on: 2014-10-28

APPLICATION NUMBER:

1482003

STATUS:

FILED:

FORMALIZED:

ADVERTISED:

REGISTERED:

REGISTRATION NUMBER:

TMA815118

REGISTERED

2010-05-20

2010-05-26

2011-08-24

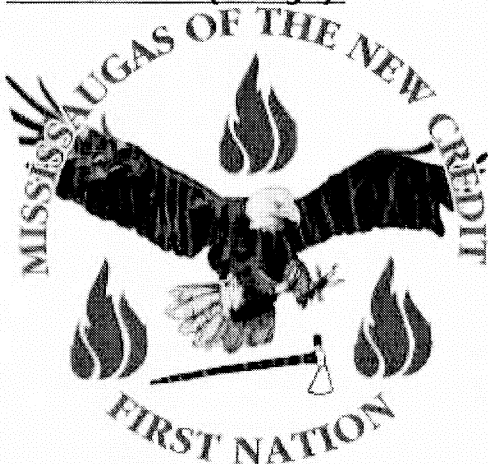
2012-01-09

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REGISTRANT:

MISSISSAUGAS OF THE NEW CREDIT FIRST NATION
2789 MISSISSAUGA RD., RR#6
HAGERSVILLE
N0A 1H0
ONTARIO

TRADE-MARK (Design):



MARK DESCRIPTIVE REFERENCE:

MISSISSAUGAS OF THE NEW CREDIT FIRST NATION LOGO WITH EAGLE, FLAMES & PIPE

INDEX HEADINGS:

MISSISSAUGAS OF THE NEW CREDIT FIRST NATION



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The database was last updated on: 2014-10-28

APPLICATION NUMBER:

1286492

STATUS:**FILED:****FORMALIZED:****ADVERTISED:****REGISTERED:****REGISTRATION NUMBER:**

TMA738598

REGISTERED

2006-01-18

2006-01-19

2008-09-10

2009-04-22

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REGISTRANT:

Wahnapiatae First Nation
36 Loon Way Rd.
Capreol
P0M 1H0
ONTARIO

REPRESENTATIVE FOR SERVICE:

RIDOUT & MAYBEE LLP
11 Holland Avenue
Suite 601
Ottawa
ONTARIO K1Y 4S1

TRADE-MARK (Design):**MARK DESCRIPTIVE REFERENCE:**

WAHNAPIATAE FIRST NATION & Design