

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB

NOV 16, 98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Best Jewelry Manufacturing Co., Inc.**

Serial No. 75/119,935

Robert B. Kennedy of **Kennedy & Kennedy** for **Best Jewelry Manufacturing Co., Inc.**

Andrew Roppel, Trademark Examining Attorney, Law Office 108
(**David Shallant**, Managing Attorney).

Before **Hairston**, **Chapman** and **Bucher**, Administrative
Trademark Judges.

Opinion by **Hairston**, Administrative Trademark Judge:

An application has been filed by Best Jewelry
Manufacturing Co., Inc. to register the mark shown below



The logo features a stylized mountain range icon above the word "Vendôm" in a serif font. The letter 'o' in "Vendôm" has a small triangle above it, mirroring the mountain icon.

for watches.¹

The Trademark Examining Attorney has refused registration under Section 2(d) of the Trademark Act on the ground that applicant's mark, if applied to the identified goods, would so resemble the following registered marks, all owned by the same entity, as to be likely to cause confusion:

Vendôme

for charm bracelets, charms, necklaces, bracelets, earrings, jewelry clips, brooches, locketts, pearl bracelets, pearl necklaces, pearl earrings, pearl brooches, pearl locketts, pearl jewelry clips, pearl charms and the following goods made in whole or in part of precious metals or plated with the same: beads, pins, and jewelry initials;² VENDOME for jewelry;³ and PLACE VENDOME for jewelry.⁴

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

¹ Application Serial No. 75/119,935 filed June 17, 1996; alleging a bona fide intention to use the mark in commerce.

² Registration No. 659,311 issued March 11, 1958; second renewal.

³ Registration No. 961,483 issued June 19, 1973; renewed.

Turning first to the goods, applicant contends that watches and jewelry are not related goods because "there is a public perception that watches originate from mass production manufacturers and not from jewelers who often craft jewelry as individual artistic pieces." Applicant, however, offered no evidence to support this contention. The Examining Attorney, on the other hand, made of record a number of third-party registrations which indicate that entities have registered a single mark for watches on the one hand, and jewelry on the other. Such registrations serve to suggest that goods of the type involved in this appeal may emanate from a single source under the same mark. In re Mucky Duck Co., Inc., 6 USPQ2d 1467 (TTAB 1988). Also, watches and jewelry travel in the same channels of trade, i.e., jewelry stores and department stores, and are purchased by the same class of purchasers, i.e., ordinary consumers. We note that the Examining Attorney has pointed to several cases wherein the Board has found that watches and jewelry are related goods. See e.g., In re Leonard S.A., 2 USPQ2d 1800 (TTAB 1987); and Monocraft, Inc. v. Leading Jewelers Guild, 173 USPQ 506 (TTAB 1972). We find, therefore, that the respective goods are sufficiently related that, if sold under the same or

⁴ Registration No. 1,801,518 issued October 26, 1993.

similar marks, confusion as to the source or sponsorship thereof would be likely to occur.

Turning then to a consideration of the marks, we find that there is a strong similarity between the respective marks. The dominant portion of applicant's mark, VENDÔM, is substantially similar in sound, appearance and commercial impression to the registered marks VENDOME, VENDÔME and design, and PLACE VENDOME. The overlapping triangles design in applicant's mark is relatively insignificant and insufficient to distinguish its mark from the registered marks. Similarly, we view the presence of the word PLACE in one of the registered marks as insufficient to distinguish this mark from applicant's mark when applied to related goods. Although applicant argues that the marks have different connotations, i.e., the registered marks connote Place Vendome in Paris, France, applicant has presented no evidence showing that Place Vendome would be known beyond a small segment of the American public. To most Americans, the registered marks, as well as applicant's mark, would be viewed as arbitrary. With respect to applicant's contention that the VENDOM(E) portion of the marks would be pronounced differently, it has been repeatedly stated that there is no correct pronunciation of a trademark. Yamaha International Corp.

v. Stevenson, 196 USPQ 701 (TTAB 1977) and cases cited therein. Further, contrary to applicant's argument, its mark and registrant's VENDÔME and design mark are likely to be pronounced in a similar manner inasmuch as the same diacritical mark is used over the letter "ô" in the marks. In finding that the marks herein are similar, we have kept in mind the normal fallibility of human memory over time and the fact that the average consumer retains a general rather than a specific impression of trademarks encountered in the marketplace.

In sum, we conclude that consumers familiar with registrant's jewelry sold under the marks VENDOME, VENDÔME and design, and PLACE VENDOME would be likely to believe, upon encountering applicant's mark VENDOM and design for watches, that the goods originated with or were somehow associated with or sponsored by the same entity.

Decision: The refusal to register under Section 2(d) of the Trademark Act is affirmed.

P. T. Hairston

B. A. Chapman

D. E. Bucher
Administrative Trademark
Judges, Trademark Trial
and Appeal Board

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