

TRADE MARKS ORDINANCE (CAP. 559)

OPPOSITION TO TRADE MARK APPLICATION NO. 301643283

MARK :



CLASSES :

35, 43

APPLICANT :

STAYWELL HOSPITALITY GROUP PTY LTD

OPPONENT :

SHERATON INTERNATIONAL, INC.

STATEMENT OF REASONS FOR DECISION

Background

1. On 18 June 2010 (“Application Date”), STAYWELL HOSPITALITY GROUP PTY LTD (“Applicant”) filed an application (Application No. 301643283)(“subject application”) under the Trade Marks Ordinance (Cap. 559)(“Ordinance”) for registration of the following mark:



Registration of the subject mark is sought in respect of the following services (“subject services”):

Class 35

Advertising; business management of hotels; advisory services for business management; business management; business administration; office functions (“subject Class 35 services”).

Class 43

Accommodation bureaux (hotels, boarding houses); rental of temporary accommodation; temporary accommodation reservations; cafes; hotel

reservations; hotels; motels; restaurants; services for providing food and drink (“subject Class 43 services”).

2. Particulars of the subject application were published on 3 September 2010. SHERATON INTERNATIONAL, INC. (“Opponent”) filed a notice of opposition on 2 December 2010 (“Notice of Opposition”) with a statement of grounds of opposition (“Statement of Grounds”). In response to the Notice of Opposition, the Applicant filed a counter-statement on 24 February 2011 with grounds in support of its application (“Counter-statement”).

3. The Opponent’s evidence consists of:

- (a) a statutory declaration dated 23 April 2012 made by Mary-Jo D’Alessandro, Assistant Secretary of the Opponent (“D’Alessandro’s 1st Declaration”);
- (b) a second statutory declaration of Mary-Jo D’Alessandro made on 1 December 2014 (“D’Alessandro’s 2nd Declaration”);
- (c) a third statutory declaration of Mary-Jo D’Alessandro made on 9 December 2015; and
- (d) a fourth statutory declaration of Mary-Jo D’Alessandro made on 3 August 2016.

4. The Applicant’s evidence consists of:

- (a) a statutory declaration dated 21 October 2013 made by Richard Robert Macfie Doyle, executive director and corporate counsel of the Applicant (“Doyle’s 1st Declaration”);
- (b) a statutory declaration dated 25 September 2013 made by Randall Lui, Executive Director and Founder of Randall Marketing (Hong Kong) Company Limited (“Lui’s Declaration”); and
- (c) a second statutory declaration of Richard Robert Macfie Doyle made on 5 August 2015 (“Doyle’s 2nd Declaration”).

5. The opposition hearing took place before me on 17 May 2017. Mr. Sebastian Hughes, Counsel, instructed by FitzGerald Lawyers appeared for the Applicant, and Mr. Philips B.F. Wong, Counsel, instructed by Eccles & Lee appeared for the Opponent.

Grounds

6. The Opponent relies on the grounds under the following sections of the Ordinance:

- (a) section 12(3);
- (b) section 12(5)(a);
- (c) section 12(4); and
- (d) section 11(5)(b).

Relevant date

7. The relevant date for considering this opposition is the Application Date, i.e. 18 June 2010.

The Opponent

8. According to D'Alessandro's 1st Declaration, the Opponent is a corporation duly organized under the laws of the State of Delaware, USA, and is a subsidiary of Starwood Hotels & Resorts Worldwide, Inc. ("Starwood"). Starwood was incorporated in 1980. It conducts the hotel and leisure business both directly and through subsidiaries and franchisees, such as the Opponent. Starwood's brand names of hotels, resorts and other properties include "ST. REGIS", "SHERATON", "FOUR POINTS BY SHERATON", "W", "W HOTELS", "LE MÉRIDEN", "ALOFT", "THE LUXURY COLLECTION", "WESTIN" and "ELEMENT". According to the Opponent, Starwood has nearly 1,000 properties in approximately 100 countries and territories.¹

9. According to D'Alessandro's 1st Declaration, the "ST. REGIS" brand was first used in 1904 in New York City with the opening of The St. Regis New York on Fifth Avenue and 55th Street where the hotel remains today. St. Regis New York has been named as the finest hotel in America by *The New York Times*, and acclaimed the Number One Hotel in the World by *Institutional Investor* for two years.²

¹ D'Alessandro's 1st Declaration, paras 1, 3-4.

² D'Alessandro's 1st Declaration, para. 5.

10. In 1960, the Opponent acquired The St. Regis New York, and in 1998 Starwood acquired the Opponent and its property portfolios including The St. Regis New York. According to Exhibit 1 to D'Alessandro's 1st Declaration, The St. Regis New York was the only St. Regis hotel in the world until 1999 when "ST. REGIS" was launched as a global brand. The "ST. REGIS" brand has since then expanded to various locations including, *inter alia*, Beijing and Shanghai (China); Bora Bora (French Polynesia), Bali (Indonesia), Osaka (Japan), Mexico City (Mexico), Puerto Rico, Singapore, Aspen (Colorado, USA) and San Francisco (California, USA).³ As at the Application Date, there is no ST.REGIS brand hotel in Hong Kong.

11. Information about "ST. REGIS" brand properties worldwide are available on the St. Regis website at www.stregis.com as well as Starwood's main website starwoodhotels.com, and reservations for hotel stays at ST. REGIS properties can be made by visiting the www.stregis.com website.⁴

12. Set out below is the gross room revenue for "ST. REGIS" brand properties from 2006 to 2010:⁵

Fiscal year	Gross room revenue
2006	> USD \$239 million
2007	> USD \$270 million
2008	> USD \$314 million
2009	> USD \$252 million
2010	> USD \$325 million

13. Set out below is the gross room revenue for St. Regis Shanghai from 2007 to 2009:⁶

Fiscal year	Gross room revenue
2007	> RMB 113,663,000
2008	> RMB 94,040,000
2009	> RMB 50,213,000

³ D'Alessandro's 1st Declaration, paras 6-7.

⁴ D'Alessandro's 1st Declaration, paras 8-10.

⁵ D'Alessandro's 1st Declaration, para. 12.

⁶ D'Alessandro's 1st Declaration, para. 12.

14. Included at Exhibits 4, 5 and 6 to D'Alessandro's 1st Declaration are some advertisements, promotions and press releases for the "ST. REGIS" brand as well as articles and reviews in travel, lifestyle and other publications. Set out at paragraph 13 of D'Alessandro's 1st Declaration are the annual marketing expenditures in respect of ST. REGIS Shanghai from 2007 to 2009. Listed at paragraph 15 of D'Alessandro's 1st Declaration are awards received in respect of ST. REGIS properties from 2007 to 2011.

15. The "ST. REGIS" mark is registered in various jurisdictions including, *inter alia*, Bahrain, Chile, France, Hong Kong, Indonesia, Japan, Jordan, Laos, Malaysia, Mexico, New Zealand, Nigeria, Philippines, Qatar and the Russian Federation.⁷

16. At the time when the Notice of Opposition was filed, the Opponent was the registered owner of the Hong Kong registered trade marks listed in **Annex 1** hereto ("Opponent's HK Registered Marks"). The Opponent has since assigned the Opponent's HK Registered Marks to Sheraton International, LLC which has in turn assigned those marks to Sheraton International IP, LLC ("Sheraton IIP").⁸ Nothing turns on those assignments for the purpose of this opposition. Sheraton IIP is also the registered owner of the Hong Kong registered trade marks with Chinese characters listed in **Annex 2** hereto ("Opponent's Chinese Registered Marks").⁹

17. The Starwood Preferred Guest ("SPG") program is a loyalty program in respect of services provided by Starwood and the Opponent including services under the "ST. REGIS" brand. The number of Hong Kong members of the SPG program from 2000 to 2007 are as follows:¹⁰

Year	Members by Year of Enrolment
2000	15,000
2001	12,700
2002	14,100
2003	13,200
2004	19,900

⁷ D'Alessandro's 1st Declaration, Exhibit 7.

⁸ Doyle's 1st Declaration, para. 20, Exhibit 6.

⁹ Doyle's 1st Declaration, paras 14-15, Exhibits 2-3.

¹⁰ D'Alessandro's 1st Declaration, para. 11.

Year	Members by Year of Enrolment
2005	22,800
2006	26,700
2007	36,700

As of January 2008, more than 69,000 Hong Kong residents have joined the SPG program which provides its members with offers and deals at Starwood’s hotels worldwide, including “ST. REGIS” brand properties.¹¹

18. Reproduced at Annex 3 hereto is a promotional leaflet for an American Express Rewards Program offered to SPG members in Hong Kong, which is stated to be “Valid for checkout through December 31, 2010”.¹² There are references to “St. Regis” and “The St. Regis Shanghai”, and the following mark also appears on the leaflet:



Although both English and Chinese are used in the leaflet, and the Sheraton (喜來登), Westin (威斯汀) and Le Méridien (艾美) hotels are referred to by both their English and Chinese names, “The St. Regis Shanghai” is not referred to by any Chinese name in the leaflet.

19. There are also included in the Applicant’s evidence two promotional leaflets of some popular travel agencies in Hong Kong that refer to the St. Regis hotel in Singapore.¹³ They are (i) a leaflet of Swire Travel in 2013 referring to holiday packages with different hotel options in Singapore including “The St. Regis Singapore”, and (ii) a leaflet of Westminster Travel Ltd. in 2013 referring to, *inter alia*, “St. Regis” in Singapore. Although both Traditional Chinese and English are used in the two leaflets, The St. Regis hotel is not referred to by any Chinese name.

20. The Opponent points out that it is not uncommon for hotel and leisure companies to diversify and expand into different segments and categories of the lodging industry. The Opponent gives the example of Hyatt Hotels Corporation which operates and has diversified its HYATT brand in different categories of the lodging business. In addition to its GRAND HYATT and HYATT REGENCY hotels which are large

¹¹ D’Alessandro’s 1st Declaration, para. 17.

¹² D’Alessandro’s 1st Declaration, Exhibit 8.

¹³ Doyle’s 1st Declaration, para. 46, Exhibit 27.

high-priced hotels, the HYATT brand is also used for its PARK HYATT hotels which are mid-sized hotels.¹⁴

The Applicant

21. According to Doyle's 1st Declaration, the Applicant forms part of the Staywell Hospitality Group ("SWHG") and is the holding company. It conducts the hotel and leisure business directly and through subsidiaries. SWHG manages properties under the "LEISURE INN" and "PARK REGIS" brands in the 3 and 4 star categories respectively.¹⁵

22. Kusido Hospitality & Property Group Pty Limited ("Kusido"), as the Applicant was formerly known, acquired all the rights and goodwill in, *inter alia*, the "PARK REGIS" mark in July 2007. Kusido changed its name to StayWell Hospitality Group Pty Ltd (the Applicant) on 14 March 2008.¹⁶

23. The subject mark consists of (i) the English words "PARK REGIS", (ii) a device, and (iii) the Chinese characters "柏 • 偉詩酒店".

24. According to the Applicant, the word mark "PARK REGIS" was chosen to reflect the fact that the PARK REGIS hotel in Sydney was built on Park Street.¹⁷ Included in Exhibit 17 to Doyle's 1st Declaration is a strata plan approved in 1968 showing the building "PARK REGIS" on Park Street in Sydney.

25. The Applicant claims that the device in the subject mark is a unique and modified version of the traditional fleur-de-lis design, and that Park Regis CTC Pty Limited ("CTC"), the Applicant's predecessor in title in respect of the subject mark, has used this device together with the "PARK REGIS" mark in relation to its hotels since 2004.¹⁸

26. According to the Applicant, the Chinese characters "柏偉詩酒店" in the subject mark were devised by the Applicant internally in or about 2010 as part of its preparations to enter the market in Mainland China, Hong Kong and other places in Asia that have large Chinese-speaking populations such as Indonesia, Malaysia and

¹⁴ D'Alessandro's 2nd Declaration, para. 11, Exhibit 13.

¹⁵ Doyle's 1st Declaration, paras 1, 4-5.

¹⁶ Doyle's 1st Declaration, para. 38.

¹⁷ Doyle's 1st Declaration, para. 34.

¹⁸ Doyle's 1st Declaration, para. 36.

Singapore. According to the Applicant, the Applicant was at the time aware of the marks “瑞吉” and “铂瑞” used in connection with ST. REGIS hotels in Mainland China, and developed its PARK REGIS Chinese language marks so that they would be completely different from the ST. REGIS Chinese language marks.¹⁹

27. The following is a list of SWHG’s PARK REGIS properties at the time of Doyle’s 1st Declaration in October 2013:²⁰

Hotel name	City/Country	Date of opening/ rebranding as PARK REGIS hotel
PARK REGIS City Centre	Sydney/Australia	Opened 1968
PARK REGIS North Quay	Brisbane/Australia	Rebranded 1 July 2007
PARK REGIS City Quays	Cairns/Australia	Rebranded 1 July 2007
PARK REGIS Piermonde Apartments	Cairns/Australia	Rebranded 1 July 2007
PARK REGIS Anchorage	Townsville/Australia	Rebranded 1 July 2007
PARK REGIS Concierge Apartments	Sydney/Australia	Rebranded May 2008
PARK REGIS Griffin Suites	Melbourne/Australia	Rebranded May 2008
PARK REGIS Singapore	Singapore	Opened 1 November 2010
PARK REGIS Kris Kin	Dubai/UAE	Opened 1 November 2010
PARK REGIS Kuta	Bali/Indonesia	Opened May 2013

It is noted that as at the Application Date (i.e. 18 June 2010), there was no PARK REGIS property opened outside Australia.

28. On 1 March 2009, the Applicant established a sales office in Hong Kong to represent SWHG and its PARK REGIS branded hotels in relation to Hong Kong, Guangzhou and Macao.²¹

29. SWHG has a main website staywellgroup.com and has registered a number of domain names which include the element “parkregis” or “parkregishotels”.²² Although according to the Applicant 28,175 visitors from Hong Kong visited SWHG’s staywellgroup.com website between 1 January 2012 and 7 July 2013,²³ there is no

¹⁹ Doyle’s 1st Declaration, para. 39.

²⁰ Doyle’s 1st Declaration, para. 7.

²¹ Doyle’s 1st Declaration, para. 8.

²² Doyle’s 1st Declaration, paras 42 & 44.

²³ Doyle’s 1st Declaration, para. 44.

evidence as to the number of visitors from Hong Kong who have, *before* the Application Date, visited any website where the subject mark (or any part thereof) is used.

30. Included at exhibits 25, 26 and 27 to Doyle's 1st Declaration are promotional leaflets of travel agencies in Hong Kong in respect of holiday packages to (i) Australia, (ii) Bali, Indonesia and (iii) Singapore respectively. Each leaflet includes a Park Regis hotel/property as a lodging option. Although both Traditional Chinese and English are used in these leaflets, the relevant Park Regis hotel/property is referred to only by its English name and not by any Chinese name. Only two leaflets are dated before the Application Date. They were issued in 2009 by Morning Star Travel in respect of holiday packages to Australia. The following two marks appear on those two leaflets respectively:



31. Amongst the promotional leaflets of travel agencies in Hong Kong included in Exhibit 27 to Doyle's 1st Declaration are:

- (a) a promotional leaflet of Swire Travel in 2013 for holiday packages to Singapore in which various hotel options are named, including "Park Regis Singapore" and "The St. Regis Singapore"; and
- (b) a promotional leaflet of Westminster Travel Ltd. in 2013 in which hotels including "Park Regis" and "St. Regis" in Singapore are named.

Although both Traditional Chinese and English are used in both of those two leaflets, neither the "Park Regis" hotel of the Applicant nor the "St. Regis" hotel of the Opponent is referred to by any Chinese name in any of those two leaflets.

32. Included at Exhibit 28 to Doyle's 1st Declaration are printouts from hotel booking websites in Mainland China²⁴ printed in 2013. They refer to the Applicant's hotel in Singapore by both its English name "Park Regis Singapore" and its Chinese name "新加坡柏伟诗酒店" (in Simplified Chinese). Where prices appear, they are in "CNY"/"RMB". These websites do not appear to be targeted at customers in Hong Kong.

²⁴ According to para. 47 of Doyle's 1st Declaration, these are hotel booking websites in Mainland China.

33. Exhibits 29, 46 and 47 to Doyle's 1st Declaration include printouts of websites targeted at Hong Kong customers²⁵ (e.g. Cathay Pacific Holidays, Jetabout Holidays, priceline.com.hk, Qantas Holidays, expedia.com.hk and zuji.com.hk) offering accommodation or holiday packages with accommodation at PARK REGIS hotels. Where a printout bears a date, it indicates that it is printed in 2013. Where prices appear, they are in "HKD". The websites are either (i) in English, or (ii) in both Traditional Chinese and English. In both cases, the name of the relevant PARK REGIS hotel is given in English only. In other words, even where both Traditional Chinese and English appear on a printout, the relevant PARK REGIS hotel is referred to by its name in English only.

34. SWHG operates a loyalty program called StayWell Rewards Program. As of September 2013, memberships stood at 24,399 of which 285 were held by Hong Kong people.²⁶ There is no information as to membership of the Program held by Hong Kong people as at the Application Date.

35. According to the Applicant, 13,978 and 3,659 Hong Kong people stayed at PARK REGIS hotels in 2012 and in the first 5 months of 2013 respectively.²⁷ There is, however, no evidence as to the number of Hong Kong people who have stayed at PARK REGIS hotel(s) *before* the Application Date.

36. Exhibit 32 to Doyle's 1st Declaration includes photographs of sample signage used at PARK REGIS hotels in Australia, Indonesia, Singapore and Dubai. There is, however, no PARK REGIS hotel in Hong Kong as at the Application Date.

37. According to paragraph 55 of Doyle's 1st Declaration, the English brochures for PARK REGIS hotels at Exhibit 33 to that Declaration may be downloaded from corresponding PARK REGIS hotel sites. On the other hand, the information in all of these brochures is stated to be correct as at a date which is after the Application Date. In other words, all of these brochures are dated after the Application Date. The corporate overviews for distribution to clients/potential clients of SWHG at Exhibits 41 and 42 as well as the Chinese version of the SWHG brochure and corporate overview (in Simplified Chinese) at Exhibit 34 to Doyle's 1st Declaration are also dated after the Application Date.

²⁵ According to para. 48 of Doyle's 1st Declaration, these are third party websites specifically targeted at Hong Kong people.

²⁶ Doyle's 1st Declaration, para. 50.

²⁷ Doyle's 1st Declaration, para. 52.

38. Exhibits 35 and 36 to Doyle's 1st Declaration include business cards and email footers used by staff members of SWHG.²⁸ There is no evidence that any of these have been used prior to the Application Date.

39. The annual worldwide advertising expenditure of SWHG on all PARK REGIS hotels for the years 2010/11 to 2012/13 are set out in paragraph 58 of Doyle's 1st Declaration. According thereto, US\$803,553 was spent in the year 2010/11 on advertising all PARK REGIS hotels. There is no information as to the proportion of that expenditure that was spent prior to 18 June 2010 (i.e. the Application Date). There is also no information as to the extent to which such expenditure relates to advertising or promotion of the PARK REGIS hotels *in Hong Kong*. Exhibit 37 includes sample English and Chinese language advertising materials used in 2012-2013. No sample of advertising materials used prior to the Application Date is provided.

40. Exhibits 38 and 39 to Doyle's 1st Declaration include articles about PARK REGIS brand properties and testimonials written by customers of PARK REGIS hotels. None of these bears a date which is earlier than the Application Date.

41. According to the Applicant, it has marketed its "PARK REGIS" brand as 4 star hotels, and more recently the brand has increasingly been marketed in the upscale chain.²⁹ According to printouts from the expedia.com.hk and zuji.com.hk websites at Exhibits 46 and 47 to Doyle's 1st Declaration, PARK REGIS hotels are in the 3 to 4 stars rating bracket, whereas ST. REGIS hotels are rated at 5 stars.³⁰ Room rate search results at Exhibits 49 to 51 to Doyle's 1st Declaration indicate that as at the time of the respective searches in 2013, rates for ST. REGIS hotels are generally high than those for PARK REGIS hotels. According to a room rate search conducted at the official websites of the respective hotels,³¹ the average lowest rates for ST. REGIS and PARK REGIS hotels were USD 479 and USD 165 respectively.

42. The parties have been involved in trade mark opposition proceedings in other jurisdictions. I will refer to some of the judgments in those jurisdictions below.

Opposition under section 12(3) of the Ordinance

43. Section 12(3) of the Ordinance provides that:

²⁸ Doyle's 1st Declaration, para. 56.

²⁹ Doyle's 1st Declaration, paras 62-63.

³⁰ Doyle's 1st Declaration, paras 67-68.

³¹ Doyle's 1st Declaration, para. 71, Exhibit 49.

“(3) A trade mark shall not be registered if-
(a) the trade mark is similar to an earlier trade mark;
(b) the goods or services for which the application for registration is made are identical or similar to those for which the earlier trade mark is protected;
and
(c) the use of the trade mark in relation to those goods or services is likely to cause confusion on the part of the public.”

44. The Opponent claims that:³²

“8. The [subject mark] incorporates the essential element of the Opponent’s “ST. REGIS” mark, namely “REGIS”, and is confusingly and/or deceptively similar to the Opponent’s “ST.REGIS” mark and the [subject services] are also identical to or are similar to those of the Opponent as covered in the [registrations of the Opponent’s HK Registered Marks].

...

10. By reason of all the foregoing:

...

b. The [subject mark] is confusingly similar to the Opponent’s “ST. REGIS” mark in respect of identical or similar services as to be likely to cause confusion on the part of the public so that the [subject mark] should be refused registration pursuant to Section 12(3) of the Trade Marks Ordinance”.

45. The Opponent relies on the Opponent’s HK Registered Marks (namely Mark A, Mark B and Mark C) listed in **Annex 1** hereto.

46. Each of the Opponent’s HK Registered Marks must be considered in turn for the purpose of determining whether it prevents acceptance of the subject application under section 12(3) of the Ordinance.³³

47. Section 12(3) of the Ordinance essentially prohibits the registration of a trade mark which would be likely to cause confusion on the part of the public as a result of its being similar to an earlier trade mark and because it is to be registered in respect of goods or services the same as or similar to those the subject of the earlier trade mark.

³² Statement of Grounds, paras 8, 10.b.

³³ *Torremer Trade Mark* [2003] RPC 4, para. 18.

48. According to section 7(1) of the Ordinance, in determining whether the use of a trade mark is likely to cause confusion on the part of the public, the Registrar may take into account all factors relevant in the circumstances.

49. The following is a useful summary of the approach to be taken in assessing the requirement of likelihood of confusion:³⁴

- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;
- (b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- (d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;
- (e) nevertheless, the overall impression conveyed to the public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components;
- (f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

³⁴ *Tsit Wing (Hong Kong) Co Ltd. v. TWG Tea Co Pte Ltd* [2015] 1 HKLRD 414 at para. 35 (affirmed in *TWG Tea Co Pte Ltd v. Tsit Wing (Hong Kong) Co Ltd* (2016) 19 HKCFAR 20 at para. 47).

- (g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;
- (h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either *per se* or because of the use that has been made of it;
- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; and
- (k) if the association between the marks causes the public to wrongly believe that the respective goods [or services] come from the same or economically-linked undertakings, there is a likelihood of confusion.

Earlier trade mark

50. Section 5(1) of the Ordinance provides, *inter alia*, that:

“In this Ordinance, "earlier trade mark" (在先商標), in relation to another trade mark, means-

- (a) a registered trade mark which has a date of the application for registration earlier than that of the other trade mark, taking into account the priorities claimed in respect of each trade mark, if any;”.*

51. Each of the Opponent’s HK Registered Marks is a registered trade mark which has a date of application for registration earlier than that of the subject mark. According to section 5(1)(a) of the Ordinance, each of the Opponent’s HK Registered Marks is an earlier trade mark in relation to the subject mark.

52. The representation of Mark A is essentially the same as the representation of Mark B. I will consider Mark A and Mark B together first.

Mark A and Mark B

Relevant public

53. The average consumer of the services concerned is deemed to be reasonably well informed and reasonably observant and circumspect. The average consumer's level of attention is likely to vary according to the category of services in question.

54. The services at issue in the present case are directed partly at the public at large and partly at business customers with specific professional knowledge or expertise. The level of attention which the average consumer would pay in the selection of such services would be at least average, given that those services could be relatively expensive and would not usually be selected on a daily basis.

Comparison of marks

55. The average consumer normally perceives a mark as a whole and does not proceed to analyze its various details.

56. The likelihood of confusion or deception is not disproved by placing the two marks side by side and demonstrating how small is the chance of error in any consumer who places his order for goods (or services) with both the marks clearly before him, for orders are not placed, or are not often placed, under such conditions. It is more useful to observe that in most persons the eye is not an accurate recorder of visual detail, and that marks are remembered rather by general impressions or by some significant detail than by any photographic recollection of the whole.³⁵

57. Each of Mark A and Mark B consists of (i) "ST.", which is an abbreviation for "saint"; and (ii) "REGIS".

58. The Applicant submits that according to Wikipedia (a free encyclopedia), the word "Regis" in Latin stands for "*of the king*", and "St. Regis" was a French priest (John Francis Regis) recognized as a saint by the Roman Catholic Church.³⁶

59. On the other hand, the matter has to be judged through the eyes of the average consumer in Hong Kong of the services in question. The word "Regis" cannot be found

³⁵ *De Cordova v. Vick Chemical Co.* (1951) 68 RPC 103 at 106; *TWG Tea Co Pte Ltd v. Tsit Wing (Hong Kong) Co Ltd* (2016) 19 HKCFAR 20, para. 46.

³⁶ Doyle's 1st Declaration, paras 40-41, Exhibit 23.

in English dictionaries. It is unlikely that the average consumer would be aware of the above meaning of the word “Regis” in Latin. He would perceive the word as having no meaning other than as a name. The word “Regis” is inherently distinctive. The average consumer would understand the element “ST.” to be referring to the word “saint” which is usually followed by a name and would be perceived as an attribute of the name. Although the average consumer may not be familiar with the saint John Francis Regis, he would understand the mark “ST. REGIS” to mean *a saint by the name “REGIS”*. Despite the fact that the element “ST.” appears to the left of the element “REGIS”, and one would read Mark A and Mark B from left to right, since “ST.” would be understood as an attribute of the name “REGIS”, “ST.” would carry lesser importance than the name following, namely “REGIS”. The element “REGIS” would be perceived by the average consumer as the dominant and most distinctive element of Mark A and Mark B.

60. The subject mark consists of (i) the English words “PARK REGIS”, (ii) a device, which the Applicant describes as a fleur-de-lis device, and (iii) the Chinese characters “柏 • 偉詩酒店” which is a phonetic transliteration of “PARK REGIS” - 柏 • 偉詩 - together with 酒店, the Chinese characters for “hotel”.³⁷

61. The word “PARK” means a public area of land with grass and trees, and would be perceived as highly evocative or even descriptive especially of the subject Class 43 services to indicate the presence of gardens or recreation grounds. The word “REGIS” has no meaning except as a name, and is inherently distinctive.

62. In assessing the distinctive and dominant components in a composite mark, generally speaking words “speak louder” than devices.³⁸ The average consumer would more readily refer to the source of the goods or services in question by quoting the words in a trade mark than by describing the figurative element of the trade mark. The average consumer would perceive the device in the subject mark mainly as a decorative element which would not divert his attention away from the textual elements of the mark.

63. The Applicant submits that the Chinese characters “柏 • 偉詩” in the subject mark, which have no meaning in Chinese other than as a phonetic transliteration of “PARK REGIS”, serve to distinguish the subject mark from the “ST. REGIS” marks and to eliminate any likelihood of confusion, given the overwhelmingly large number of

³⁷ Doyle’s 1st Declaration, para. 39; Applicant’s Skeleton Argument, para. 20.

³⁸ *Oasis Stores Ltd.’s Trade Mark Application* [1998] RPC 631, at 644; *Tsit Wing (Hong Kong) Co Ltd. v. TWG Tea Co Pte Ltd* [2015] 1 HKLRD 414 at para. 30(a).

Hong Kong residents who read Chinese.³⁹ The Applicant also points out that the Opponent owns the Opponent's Chinese Registered Marks listed in **Annex 2** hereto,⁴⁰ and that as evidenced by certain printouts from websites,⁴¹ the Opponent has used the marks “瑞吉” and “敏瑞” in connection with ST. REGIS hotels in Mainland China. On the other hand, I note that Simplified Chinese (and not Traditional Chinese) is used on those websites, and where a price appears, it is in RMB. There is no evidence that those websites are targeted at customers in Hong Kong.

64. By contrast, in the promotional leaflets targeted at Hong Kong customers referred to in paragraphs 18 and 19 above which are in both Traditional Chinese and English, the relevant St. Regis hotel is referred to only by its English name and not by any Chinese name.

65. Moreover, the global appreciation assessments in relation to the relative grounds for refusal in section 12 of the Ordinance must be made on the basis of fair and notional use of the earlier and later marks.⁴² Fair and notional use of Mark A and Mark B must include use of “ST. REGIS” without any of the Opponent's Chinese Registered Marks. I must therefore compare the subject mark with Mark A and Mark B without regard to the Opponent's Chinese Registered Marks.

66. Although the Chinese characters “柏 • 偉詩” in the subject mark otherwise have no meaning, even a Chinese-speaking person in Hong Kong on seeing the subject mark would recognize that those characters together is a transliteration of the English words “PARK REGIS”. Those Chinese characters would therefore be perceived as subordinate to the corresponding English words “PARK REGIS”.

67. Considering the subject mark as a whole, the element “REGIS” is the most distinctive and dominant of the elements making up the subject mark, without the other elements being rendered negligible.

68. Visually, Mark A and Mark B are similar to the subject mark insofar as they share the same distinctive element “REGIS”. I have not overlooked (i) the element “ST” in Mark A and Mark B, (ii) the device, the word “PARK” and the Chinese characters in the subject mark, as well as the relative importance of these elements in the respective

³⁹ Applicant's Skeleton Argument, para. 34.

⁴⁰ Doyle's 1st Declaration, paras 14-15, Exhibits 2-3.

⁴¹ Doyle's 1st Declaration, paras 77-83, Exhibits 58-60.

⁴² *Kerly's Law of Trade Marks and Trade Names* (15th Edn.), para. 9-030; *Tsit Wing (Hong Kong) Co Ltd. v. TWG Tea Co Pte Ltd* [2015] 1 HKLRD 414 at para. 35.

marks. Taking each of Mark A/Mark B and the subject mark as a whole, in view of the dominance and distinctiveness of the element “REGIS” in each of those marks, I find that the overall visual impression created by the subject mark is similar to that created by Mark A and Mark B.

69. Aurally, the device in the subject mark would unlikely be pronounced, and it is likely that the average consumer would only refer to the subject mark either by the English words “PARK REGIS” or by the Chinese words “柏偉詩酒店” or just “柏偉詩”. The average consumer may not refer to the subject mark by both the English text and the Chinese text which would be quite long. Mark A/Mark B would be pronounced in three syllables: “saint-re-gis”; whereas the subject mark would be pronounced in three syllables as “park-re-gis”, or in Chinese as “柏偉詩” or “柏偉詩酒店”. The pronunciation of the subject mark is similar to that of Mark A/Mark B to the extent that “saint-re-gis” and “park-re-gis” share the same second and third syllables “re-gis” which are similar to the Chinese transliteration of “regis”, namely “偉詩”.

70. Conceptually, there is a certain degree of conceptual similarity between the subject mark and Mark A/Mark B as they have in common the element “REGIS”. The elements “PARK” and “ST.” would be perceived as qualifiers of the element “REGIS” in the respective marks, and the Chinese characters in the subject mark, which consists of a transliteration of the English words “PARK REGIS” and a translation of the indistinctive word “Hotel”, merely serve to reinforce the concept of the English words. Overall, the subject mark is conceptually similar to Mark A and Mark B.

71. Having regard to the visual, aural and conceptual similarities and differences between the subject mark and Mark A/Mark B and the overall impression created by each of them, I find that the subject mark is similar to Mark A and Mark B.

Judgment in Mainland China

72. In Mainland China, the Applicant applied for registration of the mark  (application no. 8393516) which was opposed by the Opponent on the basis of the registered mark “**ST. REGIS**” (registration no.1347302). The Trademark Office dismissed the opposition, and the Opponent applied for a review by the Trade Mark Review and Adjudication Board (“TRAB”) of The State Administration for Industry & Commerce.

73. The Applicant submits that the reasoning of the TRAB in the following passage in its Decision of 23 November 2014⁴³ is equally applicable to the present opposition:⁴⁴

“... the TRAB finds that the inclusion of the distinctive Chinese character “柏 • 伟诗酒店” in the Opposed Mark causes it to be very different from the Cited Mark “ST. REGIS” in terms of composition, pronunciation and visual impression to the relevant public, therefore these two trademarks do not constitute similar marks. Generally, the co-existence of the Opposed Mark and the Cited Mark in the marketplace is unlikely to cause confusion to the consumers.”

74. The Opponent refers, *inter alia*, to the following passage in *CARTOON NETWORK* (unrep., O-110-03, UK Registrar, 17 Apr 2003) at para. 62 and submits that the above judgment is of little, if any, relevance or assistance to the present proceedings:

“... I will mention that the findings in other jurisdictions do not assist me. I do not know the full circumstances in these cases. Korea and Australia do not follow the law of the EU and both Korea and Finland have different linguistic regimes which means that the perception of trade marks will be difficult [sic]. I have to judge the matter on the evidence before me in the context of the United Kingdom.”

75. Apart from the fact that there is no evidence as to the relevant trademark law in Mainland China, the evidence filed by the parties in these proceedings, including the evidence referred to in paragraphs 30 to 33 above, seem to indicate that the way traders in the relevant field use or refer to marks and the way the average consumer perceive those marks in Hong Kong may not necessarily be the same as in Mainland China. I have to judge the matter on the evidence before me in the context of Hong Kong.

76. Judging the matter through the eyes of the average consumer in Hong Kong of the services in question and taking into account all factors relevant in the circumstances, I find that the overall impression created by the subject mark is similar to that created by Mark A/Mark B. I find that the marks are similar.

Comparison of services

77. The well known tests for assessing similarity in goods or services are found in *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.* [1999] RPC 117 and *British*

⁴³ The judgment and an English translation thereof are included in Exhibit 67 to Doyle’s 2nd Declaration.

⁴⁴ Applicant’s Skeleton Argument, para. 39.

Sugar Plc v James Robertson & Sons Ltd. [1996] RPC 281. These require considerations of all relevant factors relating to the goods or services including, *inter alia*, their nature, intended purpose, method of use, whether the goods or services are in competition with each other or are complementary, as well as their users and the channels through which they reach the market.⁴⁵

78. The services in respect of which Mark A is registered (“Mark A Services”) and the services in respect of which Mark B is registered (“Mark B Services”) are set out in **Annex 1** hereto.

79. The services in Class 43 in respect of which Mark A is registered (“Mark A Class 43 services”) and the subject Class 43 services are set out below:

subject Class 43 services	Mark A Class 43 services
Accommodation bureaux (hotels, boarding houses); rental of temporary accommodation; temporary accommodation reservations; cafes; hotel reservations; hotels; motels; restaurants; services for providing food and drink.	hotel, motel, resort, cocktail lounge, restaurant, bar, cafeteria, canteen and food and beverage preparation services and catering services; all included in Class 43.

80. Goods (or services) can be considered as identical when the goods (or services) designated by the earlier mark are included in a more general category designated by the trade mark application or when the goods designated by the trade mark application are included in a more general category designated by the earlier mark.⁴⁶ The subject Class 43 services and the Mark A Class 43 services are virtually identical.

81. In relation to the subject Class 35 services, the Applicant submits that none of the Opponent’s HK Registered Marks has been registered in respect of services in Class 35, and that the subject Class 35 services are markedly different from the Mark A Class 43 services.⁴⁷

82. The Opponent submits that the subject Class 35 services are similar to the various services in respect of which the Opponent’s HK Registered Marks are registered, and refers to the following held by the Court of Appeal in Singapore:⁴⁸

⁴⁵ Applied in *Tsit Wing (Hong Kong) Co Ltd. v. TWG Tea Co Pte Ltd* [2015] 1 HKLRD 414 at para. 96.

⁴⁶ *Gérard Meric v OHIM* (Case T-133/05).

⁴⁷ Applicant’s Skeleton Argument para. 44.

⁴⁸ Opponent’s Skeleton Submissions, para. 21(b).

*“In relation to its Class 35 registration, the Judge accepted the PAR’s finding that Staywell’s advertising, marketing and business management services were adjunct to and inseparable from its primary services under Class 43, and therefore similar to the Opponent’s Class 43 services (GD at [32-33]). We agree with the Judge’s reasoning to the extent that Staywell’s Class 35 services are closely related and indeed inseparable from its Class 43 hotel and restaurant services ...”*⁴⁹

83. In interpreting a specification of goods and services, terms are to be given their ordinary and natural meaning (*Ofrex v Rapesco* [1963] RPC 169). I bear in mind that it was held in *Avnet Incorporated v Isoact Limited* [1998] FSR 16 that:

“... definition of services ... are inherently less precise than specifications of goods. The latter can be, and generally are, rather precise, such as “boots and shoes”.

*In my view, specifications for services should be scrutinized carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the **core** of the possible meanings attributable to the rather general phrase.” (emphasis added)*

84. The subject Class 35 services (namely “*advertising; business management of hotels; advisory services for business management; business management; business administration; office functions*”) includes mainly (i) services rendered by advertising establishments primarily undertaking communications to the public, declarations or announcements by all means of diffusion and concerning all kinds of goods or services, (ii) services rendered by persons or organizations principally with the object of helping in the working or management of a commercial undertaking, or helping in the management of the business affairs or commercial functions of an industrial or commercial enterprise, and (iii) duties related to general office work such as bookkeeping, typing, auditing, keeping records and duties pertaining to the operation of office machines. Whilst these services target, essentially, undertakings looking for support and advice in their working and management and in promotion of their business, the Mark A Class 43 services (set out at paragraph 79 above) are essentially for providing food and drink and temporary accommodation. The nature of the services is different. They are provided by different types of enterprises and are not directed at the same end users. They are not offered through the same distribution channels and are not complementary nor in competition. The subject Class 35 services and the Mark A Class 43 services are dissimilar. The other Mark A Services and Mark B Services in Classes

⁴⁹ [2013] SGCA 65 at para. 43; D’Alessandro’s 2nd Declaration, Exhibit 16.

36, 37 and 41 are also different in nature, intended purpose and distribution channels when compared to the subject Class 35 services, and they are neither complementary nor in competition.

85. I find that the subject Class 35 services are dissimilar to the Mark A Services and the Mark B Services.

Distinctiveness of Mark A and Mark B

86. The distinctive character of the earlier trade mark is a factor to be taken into account in the assessment of the likelihood of confusion. It is well established that there is a greater likelihood of confusion where the earlier mark has a highly distinctive character either because of its inherent qualities or because of the use that has been made of it.⁵⁰

87. In determining the distinctive character of an earlier trade mark, I must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations.⁵¹

88. The word “Regis” has no meaning other than as a name. The average consumer would understand the mark “ST. REGIS” to mean *a saint by the name “REGIS”*. The inherent distinctiveness of Mark A and Mark B in respect of the Mark A Services and Mark B Services respectively is above average.

89. I have considered the Opponent’s evidence. Although the “ST. REGIS” brand was first used in 1904 in New York City with the opening of The St. Regis New York,⁵²

⁵⁰ *Sabel v Puma* [1998] RPC 199; para. 49(h) above.

⁵¹ *Windsurfing Chiemsee v Huber and Attenberger* [1999] ETMR 585; *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel B.V.* [2000] FSR 77.

⁵² Para. 9 above.

there is no ST. REGIS hotel or property in Hong Kong as at the Application Date. Although information on ST. REGIS properties worldwide are available from the www.stregis.com and the starwoodhotels.com websites, reservations for hotel stays at ST. REGIS properties can be made by visiting the www.stregis.com website, and that according to D'Alessandro's 1st Declaration there are millions of hits to the stregis.com website each year and more than 18 million hits in 2009 alone,⁵³ there is no evidence as to what proportion of those hits are attributed to customers in Hong Kong. There is also no evidence as to what proportion of the gross room revenue listed in paragraphs 12 and 13 above is attributed to customers from Hong Kong. Although the annual marketing expenditures in respect of ST. REGIS Shanghai from 2007 to 2009 are given in paragraph 13 of D'Alessandro's 1st Declaration, there is no evidence of the amounts expended in Hong Kong before the Application Date in promoting the "ST. REGIS" mark. It is noted that as of January 2008, more than 69,000 Hong Kong residents have joined the SPG program which provides its members with offers and deals at Starwood's hotels worldwide, including "ST. REGIS" brand properties.⁵⁴ On the other hand, Starwood has nearly 1,000 properties in approximately 100 countries and territories.⁵⁵ It is not entirely clear to what extent Mark A/Mark B has been promoted through the SPG program before the Application Date.

90. Having regard to the Opponent's evidence as a whole, I consider that the distinctiveness of Mark A/Mark B has not been enhanced through use.

91. Overall, I find the distinctiveness of Mark A and Mark B in respect of the Mark A Services and Mark B Services respectively to be above average.

Likelihood of confusion

92. The likelihood of confusion must be appreciated globally, taking account of all relevant factors. The matter must be judged through the eyes of the average consumer of the goods and services in issue who is deemed to be reasonably well-informed and reasonably observant and circumspect. A lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods or services, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* (supra)).

93. The Applicant states that there are various third party hotels in the world that use names similar to St. Regis, including:

⁵³ D'Alessandro's 1st Declaration, paras 8-10.

⁵⁴ Para. 17 above.

⁵⁵ Para. 8 above.

- (a) Hotel Regis, Panajachel, Guatemala;
- (b) Hotel Posada Regis, Guadalajara, Mexico;
- (c) Hôtel San Régis, Paris, France;
- (d) Super 8 St. Regis in Montana, United States,

all of which have no/no apparent relationship or association with the Opponent.⁵⁶ The Applicant considers this to be one of the factors that demonstrate that there is no likelihood of confusion if the subject mark is used in relation to the subject services.⁵⁷

94. On the other hand, there is no evidence as to whether the average consumer in Hong Kong is aware of the above four hotels and whether he would perceive them to be unrelated to the Opponent. There is no evidence that the average consumer would not be confused into thinking that any of those hotels and hotels operated under the Opponent's "ST. REGIS" mark are operated by the same or economically-linked undertakings. The mere fact that there exists in the world those four hotels the names of which include the element "Regis" does not assist the Applicant.

95. The Applicant also points out that according to a Hong Kong company name search conducted on behalf of the Applicant, there are 19 registered company names in Hong Kong with "Regis" as a component, and the searches do not reveal that any of these companies have any connection or association with the Opponent.⁵⁸

96. On the other hand, there is no evidence as to whether any of those companies with "Regis" as a component in their company names are actually in business and involved in the provision of the services covered by the Opponent's HK Registered Marks. The mere fact that such company names exist on the register of companies is not relevant for the purpose of the assessment of likelihood of confusion in question.

97. The Applicant submits that:⁵⁹

- (a) the word "Regis" in Latin stands for "*of the king*";
- (b) the word "Regis" is related to other Latin words well-known in English such as "regina" and "rex" and is visually/aurally/conceptually similar to "Regal", "Regus" and "Royal";

⁵⁶ Doyle's 1st Declaration, para. 73, Exhibit 52.

⁵⁷ Applicant's Skeleton Argument, para. 52(6).

⁵⁸ Doyle's 1st Declaration, para. 74, Exhibits 53-54; Applicant's Skeleton Argument, para. 52(7).

⁵⁹ Doyle's 1st Declaration, paras 40, 75; Applicant's Skeleton Argument, para. 52(8)-(9).

- (c) a search of records of registered trade marks in Hong Kong reveal that there are over 500 trade marks with either “Regal”, “Regina”, “Regis”, “Regus”, “Rex” or “Royal” as a component;
- (d) a number of Hong Kong hotels (apparently unrelated to the Opponent) have registered marks with “Regal” and “Royal” as components in respect of services in Classes 36, 37, 41 and 43;
- (e) the mark “ST. REGIS” is registered in respect of goods in Class 34 in the name of St. Regis Tobacco Corporation Limited, and the mark “REGIS WINE” is registered in respect of goods in Class 33 in the name of Regis Wine Limited.

The Applicant submits that these are factors that demonstrate that there is no likelihood of confusion if the subject mark is used in relation to the subject services.

98. The marks that include elements such as “Regal”, “Regina”, “Regus”, “Rex” or “Royal” but not the element “regis” are irrelevant for the purpose of the assessment of likelihood of confusion in question. The marks incorporating the element “REGIS” referred to in paragraph 97(e) above are registered in respect of goods that are unrelated to the services covered by the Opponent’s HK Registered Marks. In any event, it has long been held that comparison with other marks on the register is in principle irrelevant when considering a particular mark tendered for registration.⁶⁰

99. The Applicant submits that:⁶¹

- (a) the parties operate their hotels under their respective marks in entirely different segments: the “ST. REGIS” brand is recognized in the travel and tourism industry as a 5 star, luxury brand which is owned by one of the world’s largest hotel and leisure companies operating primarily in the luxury and upscale segment of the lodging industry, whereas the “PARK REGIS” brand is a 3 to 4-star, mid-range brand owned by an Australian hospitality company;
- (b) the average lowest rates for the Opponent’s ST. REGIS hotels are triple those of the Applicant’s PARK REGIS hotels – US\$479 compared with US\$165;

⁶⁰ *British Sugar Plc v James Robertson & Sons Ltd* [1996] R.P.C. 281 at 305.

⁶¹ Applicant’s Skeleton Argument, paras 47, 52(2)-(5).

- (c) according to the evidence of Mr. Randall Lui, a gentleman with over 42 years⁶² of experience in the travel industry, end users have no difficulty in identifying the two different companies; Mr. Lui has never witnessed any issues in the travel arena between the “PARK REGIS” and “ST. REGIS” brands;⁶³
- (d) the Opponent has not submitted any evidence of actual confusion; although it is trite that the Registrar is entitled to make his own finding of fact regarding likelihood of confusion even absent evidence of actual confusion, the absence of any such evidence is strongly supportive of the overwhelming conclusion that there is no likelihood of confusion.

100. It is stated in para. 9-030 of *Kerly's Law of Trade Marks and Trade Names* (15th Edn.) as follows:

“The global appreciation assessments in relation to the relative grounds in s.5⁶⁴ must be made on the basis of fair and notional use of the earlier and later marks, rather than by taking into account the actual use in the marketplace as required in the equivalent assessments in relation to infringement (under s.10)⁶⁵. This may have the consequence that, for example, a tribunal finds that on the basis of notional and fair use there was a likelihood of confusion between the earlier and later mark under s.5(2)⁶⁶ and therefore the later mark was refused registration; but another tribunal later finds no infringement of the later mark under s.10(2)⁶⁷ by reason of the circumstances of actual use of the registered mark and the defendant's mark that the original tribunal refused to register.”

101. The absence of evidence of actual confusion between the Opponent’s HK Registered Marks and the subject mark may be due to various reasons. As at the Application Date, neither the Opponent nor the Applicant had any hotel in Hong Kong.⁶⁸ In other places, the parties may have been operating at different segments of the lodging industry. On the other hand, in opposition proceedings,⁶⁹ the global

⁶² According to para. 4 of Lui’s Declaration, at the time of the declaration in September 2013, Mr. Lui had had “extensive experience in the hotel and travel industry for about 38 years”.

⁶³ Lui’s Declaration, paras 8-9.

⁶⁴ Similar to section 12 of the Ordinance.

⁶⁵ Similar to section 18 of the Ordinance.

⁶⁶ Similar to section 12(2)-(3) of the Ordinance.

⁶⁷ Similar to sections 18(2)-(3) of the Ordinance.

⁶⁸ As at the Application Date, there were no PARK REGIS property of the Applicant opened outside Australia. See para. 27 above.

⁶⁹ *Tsit Wing (Hong Kong) Co Ltd. v. TWG Tea Co Pte Ltd* [2015] 1 HKLRD 414 at para. 35.

assessment under section 12(3) of the Ordinance must be made on the basis of notional and fair use of the subject mark and the earlier mark. Although at the Application Date the Applicant's PARK REGIS hotels may be in the 3 to 4 star segment of the lodging industry in some jurisdictions, if the subject mark were registered in Hong Kong in respect of the subject services as applied for, the Applicant would not be restricted by the registration from operating hotels in Hong Kong in the luxury and upscale segment under the subject mark. Likewise, there is nothing in the registration of Mark A that would restrict the owner of Mark A from using Mark A in relation to, for example, hotels in the 3 to 4 star segment. I must make the comparison between notional and fair use of the relevant earlier mark and the mark as applied for.

102. Moreover, I accept the Opponent's submission that it is common for large hotel chains to operate differently branded hotels carrying different logos, united only by the use of a common denominator in their names; this signals to the public that the various hotels, though pitched at different segments of the market, are economically linked.⁷⁰ For example, according to the Opponent's evidence referred to in paragraph 20 above, in addition to its GRAND HYATT and HYATT REGENCY hotels which are large high-priced hotels, the Hyatt Hotels Corporation has also used the HYATT brand for its PARK HYATT hotels which are mid-sized hotels.⁷¹

103. In the present case, the level of attention which the average consumer would pay in the selection of the services at issue would be at least average. The subject mark is similar to Mark A and Mark B. The distinctiveness of Mark A and Mark B in respect of Mark A Services and Mark B Services respectively is above average.

104. I have found that the subject Class 43 services and the Mark A Class 43 services are virtually identical (para. 80 above).

105. Taking into account the combined effect of all of the above considerations, I consider that when the subject mark is used in relation to the subject Class 43 services, the average consumer would be confused into thinking that those services offered under the subject mark and Mark A Class 43 services offered under Mark A come from the same or economically-linked undertakings.

106. The ground of opposition under section 12(3) of the Ordinance is made out in relation to the application for registration of the subject mark in respect of the subject Class 43 services.

⁷⁰ Opponent's Skeleton Submissions, para. 22(e).

⁷¹ D'Alessandro's 2nd Declaration, para. 11, Exhibit 13.

107. I have found that the subject Class 35 services are dissimilar to the Mark A Services and the Mark B Services (para. 85 above).

108. Taking into account the combined effect of the above relevant considerations, I consider that when the subject mark is used in relation to the subject Class 35 services, the average consumer would not be confused into thinking that those services offered under the subject mark and Mark A Services or Mark B Services offered under Mark A/ Mark B come from the same or economically-linked undertakings.

109. The ground of opposition under section 12(3) of the Ordinance based on Mark A and Mark B is not made out in relation to the application for registration of the subject mark in respect of the subject Class 35 services.

110. As I have found that the opposition under section 12(3) of the Ordinance based on Mark A succeeds in relation to the subject Class 43 services, I only need to consider below whether the opposition under section 12(3) of the Ordinance based on Mark C is made out in relation to the subject Class 35 services.

Mark C

111. Mark C consists of a device “” (“Shield Device”) and the words “**ST REGIS**”. If one looks closely at the Shield Device, one may see “St.” and “R” in the device. To most people, the Shield Device is more decorative than distinctive. For the element “**ST**”, although a dot appears *under* the letter “T” rather than to its right, the element “**ST**” would be understood as “ST.” meaning “saint”. As “ST.” would be understood as an attribute of the name “REGIS”,⁷² and as generally speaking words “speak louder” than devices, the element “REGIS” would be perceived by the average consumer as the dominant and most distinctive element of Mark C.

112. Due to the presence of the Shield Device, the overall degree of visual, aural and conceptual similarity between the subject mark and Mark C is lower than that between the subject mark and Mark A.

113. The services in respect of which Mark C is registered (“Mark C Services”), which are in Class 43, are set out in **Annex 1** hereto. Although users of some of the subject Class 35 services (such as business management and business administration services) may at times seek some of the Mark C Services (such as hotel facilities for

⁷² Para. 59 above.

meeting, functions and conferences), the nature of those services are not the same, and they are likely to be provided by different types of enterprises. They are not offered through the same distribution channels and are not complementary nor in competition. I find that the degree of similarity between the subject Class 35 services and the Mark C Services is low.

114. Taking into account the combined effect of the above considerations, I consider that when the subject mark is used in relation to the subject Class 35 services, the average consumer would not be confused into thinking that those services offered under the subject mark and Mark C Services offered under Mark C come from the same or economically-linked undertakings.

115. The ground of opposition under section 12(3) of the Ordinance based on Mark C is not made out in relation to the application for registration of the subject mark in respect of the subject Class 35 services.

116. As I have found that the opposition under section 12(3) of the Ordinance succeeds in relation to the subject Class 43 services, I only need to consider below whether any of the other grounds relied on by the Opponent is made out in relation to the subject Class 35 services.

Opposition under section 12(5)(a) of the Ordinance

117. Section 12(5)(a) of the Ordinance provides, *inter alia*, as follows:

“(5) ... a trade mark shall not be registered if, or to the extent that, its use in Hong Kong is liable to be prevented –

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

and a person thus entitled to prevent the use of a trade mark is referred to in this Ordinance as the owner of an “earlier right” in relation to the trade mark.”

118. The Opponent claims that:⁷³

⁷³ Statement of Grounds, paras 8, 10.d.

“8. The [subject mark] incorporates the essential element of the Opponent’s “ST. REGIS” mark, namely “REGIS”, and is confusingly and/or deceptively similar to the Opponent’s “ST.REGIS” mark and the [subject services] are also identical to or are similar to those of the Opponent as covered in the [registrations for the Opponent’s HK Registered Marks].

...

10. By reason of all the foregoing:

...

d. The [subject mark] should be refused registration pursuant to Section 12(5)(a) of the Trade Marks Ordinance as the use of the [subject mark] in relation to the [subject services] is liable to be prevented by virtue of the law of passing off.”

119. The issue for determination is whether at the Application Date, use of the subject mark by the Applicant was liable to be prevented by virtue of the law of passing off.

120. The elements of the tort of passing off as formulated by Lord Oliver in the *JIF* case⁷⁴ have been repeatedly relied upon.⁷⁵ Adapted to the facts of the present case, the Opponent has to establish that:

- (a) the Opponent has sufficient **goodwill** attached to the Opponent’s services in the mind of the purchasing public by association with the Opponent’s HK Registered Marks;
- (b) the Applicant has made a **misrepresentation** leading or likely to lead the public to believe that the subject Class 35 services offered by the Applicant are the services of the Opponent; and
- (c) the Opponent suffers, or is likely to suffer, **damage** by reason of the erroneous belief engendered by the Applicant’s misrepresentation that the source of the Applicant’s subject Class 35 services is the same as the source of the services offered by the Opponent.

121. The relevant date for determining the criteria under section 12(5)(a) of the Ordinance is the date of the application for registration of the mark in suit or the date of commencement of the conduct complained of, whichever is earlier.⁷⁶

⁷⁴ *Reckitt & Colman Products Limited v. Borden* [1990] RPC 341.

⁷⁵ Applied in e.g. *Ping An Securities Ltd v 中國平安保險 (集團) 股份有限公司* (2009) 12 HKCFAR 808 (FACV 26/2008).

⁷⁶ *Cadbury-Schweppes Pty Ltd v The Pub Squash Co Ltd* [1981] RPC 429; *Inter Lotto (UK) Ltd v*

122. According to the Applicant's evidence, the Chinese characters “柏偉詩酒店” in the subject mark were devised by the Applicant internally in or about 2010.⁷⁷ There is no evidence of use of the subject mark by the Applicant in Hong Kong before the Application Date. The relevant date is, therefore, the Application Date, i.e. 18 June 2010.

Goodwill

123. It is not disputed that as at the Application Date, the Opponent has some goodwill attached to the Opponent's hotel services in the mind of the purchasing public in Hong Kong by association with the Opponent's HK Registered Marks. I have considered the Opponent's evidence.⁷⁸ I find that the goodwill in Hong Kong associated with the Opponent's HK Registered Marks as at the Application Date was not very substantial.

Misrepresentation

124. I have considered the nature and extent of the reputation enjoyed by the Opponent, the closeness of the respective fields of activity in which the Applicant (by reference to the subject Class 35 services) and the Opponent carry on business, the degree of similarity between the subject mark and the Opponent's HK Registered Marks and the way they would likely be used in relation to the subject Class 35 services and the Opponent's hotel services respectively. Although the subject mark is similar to the Opponent's HK Registered Marks, the Opponent does not enjoy any goodwill in Hong Kong in respect of the subject Class 35 services. I consider that when the subject mark is used in relation to the subject Class 35 services, the public would unlikely be confused into believing that those services offered under the subject mark by the Applicant are services of the Opponent, or in some way connected with or guaranteed by the Opponent. The element of misrepresentation is therefore not made out.

Damage

125. It follows that regarding use of the subject mark in relation to the subject Class 35 services, there is nothing from which it could be inferred that the Opponent is likely to suffer damage by reason of any erroneous belief engendered by the Applicant's misrepresentation.

Camelot Group Plc [2004] RPC 9.

⁷⁷ Para. 26 above.

⁷⁸ See para. 89 above.

126. Accordingly, in relation to the application for registration of the subject mark in respect of the subject Class 35 services, the ground of opposition under section 12(5)(a) of the Ordinance is not made out.

Opposition under section 12(4) of the Ordinance

127. Section 12(4) of the Ordinance provides, *inter alia*, as follows:

“... a trade mark which is –

- (a) identical or similar to an earlier trade mark; and
- (b) proposed to be registered for goods or services which are not identical or similar to those for which the earlier trade mark is protected,

shall not be registered if, or to the extent that, the earlier trade mark is entitled to protection under the Paris Convention as a well-known trade mark and the use of the later trade mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.”

128. The Opponent claims that:⁷⁹

“Registration of the [subject mark] is contrary to Section 12(4) of the Trade Marks Ordinance as the [subject mark] is similar to the Opponent’s “ST. REGIS” mark and its derivative forms which are entitled to protection under the Paris Convention as well-known trade marks and the use of the [subject mark] would take unfair advantage of, or be detrimental to, the distinctive character or repute of the Opponent’s “ST. REGIS” mark and its various derivative forms”.

129. To succeed under section 12(4) of the Ordinance, the Opponent has to establish, *inter alia*, that the Opponent’s “ST. REGIS” mark is an earlier trade mark which is entitled to protection under the Paris Convention as a well-known trade mark.

130. Section 4 of the Ordinance provides, *inter alia*, as follows:

“(1) References in this Ordinance to a trade mark which is entitled to protection under the Paris Convention as a well-known trade mark shall be construed as references to a trade mark which is well known in Hong Kong and which is the trade mark of a person who-

⁷⁹ Statement of Grounds, para. 10.c.

(a) *is a national of, or is domiciled or ordinarily resident in, a Paris Convention country or WTO member;*
(b) *has a right of abode in Hong Kong; or*
(c) *has a real and effective industrial or commercial establishment in a Paris Convention country, a WTO member or Hong Kong,*
whether or not that person carries on business in Hong Kong or owns any goodwill in a business in Hong Kong.

(2) *In determining for the purposes of subsection (1) whether a trade mark is well known in Hong Kong, the Registrar or the court shall have regard to Schedule 2.”*

131. Section 5(1) of the Ordinance provides, *inter alia*, as follows:

“In this Ordinance, "earlier trade mark" (在先商標), in relation to another trade mark, means-

...

(b) *a trade mark which, at the date of the application for registration of the other trade mark or, where appropriate, at the date of the priority claimed in respect of that application for registration, was entitled to protection under the Paris Convention as a well-known trade mark.”*

132. Pursuant to sections 4(1) and 5(1)(b) of the Ordinance, the relevant question is whether the Opponent’s “ST. REGIS” mark is well known in Hong Kong at the Application Date.

133. In determining whether a mark is well known in Hong Kong, I have to take into account any factors from which it may be inferred that the mark is well known in Hong Kong (section 1(1) of Schedule 2 to the Ordinance). I shall consider any information submitted in this regard, including, but not limited to, any information concerning the degree of knowledge or recognition of the trade mark in the relevant sectors of the public; the duration, extent and geographical area of any use of the trade mark; the duration, extent and the geographical area of any promotion of the trade mark and of any registrations or applications for registration of the trade mark, to the extent that they reflect use or recognition of the trade mark; any record of successful enforcement of rights in the trade mark and the value associated with it (section 1(2), Schedule 2 to the Ordinance).

134. I repeat my observations in paragraph 89 above regarding the Opponent's evidence of use of its "ST. REGIS" mark. In addition, I note that although the "ST. REGIS" brand was first used in 1904 in New York City with the opening of The St. Regis New York, that hotel in New York was the only St. Regis hotel in the world until 1999 when "ST. REGIS" was launched as a global brand. As at the Application Date, there is no "ST. REGIS" brand hotel in Hong Kong. Although the annual marketing expenditures in respect of ST. REGIS Shanghai from 2007 to 2009 are given in paragraph 13 of D'Alessandro's 1st Declaration, there is no evidence of the amounts expended in Hong Kong before the Application Date in promoting the "ST. REGIS" mark. I note the registrations of the "ST. REGIS" mark in Hong Kong and elsewhere.⁸⁰ They do not necessarily reflect use or recognition of the "ST. REGIS" mark in those jurisdictions.

135. Having regard to the totality of the Opponent's evidence filed in these proceedings and all relevant factors for consideration in accordance with section 1, Schedule 2 to the Ordinance, I find that the Opponent has failed to establish that the Opponent's "ST. REGIS" mark or any variant thereof is well known in Hong Kong as at the Application Date.

136. Accordingly, in relation to the application to register the subject mark in respect of the subject Class 35 services, the ground of opposition under section 12(4) of the Ordinance is not made out.

Honest concurrent use

137. Although the Applicant claims in paragraph 5 of Counter-statement that there has been honest concurrent use for the purpose of section 13 of the Ordinance, the point was not pressed at the hearing.

138. For completeness, I would state that even if the point had been specifically pursued at the hearing, I would have found, on the evidence filed in these proceedings, that there has not been an honest concurrent use of the subject mark and any of the Opponent's HK Registered Marks for the purpose of section 13 of the Ordinance.

Opposition under section 11(5)(b) of the Ordinance

139. Section 11(5)(b) of the Ordinance provides that:

⁸⁰ Para. 15 above.

“(5) A trade mark shall not be registered if, or to the extent that –
... (b) the application for registration of the trade mark is made in bad faith.”

140. The Opponent claims that:⁸¹

“The application of the [subject mark] should be refused registration pursuant to Section 11(5)(b) of the Trade Marks Ordinance as being an application for the registration of a trademark made in bad faith”.

141. The term “bad faith” is not defined in the Ordinance. In *Gromax Plasticulture Ltd v Don & Low Nonwovens Ltd* [1999] RPC 367 at 379, Lindsay J. said in relation to section 3(6) of the UK Trade Marks Act 1994 (equivalent to section 11(5)(b) of the Ordinance):

“I shall not attempt to define bad faith in this context. Plainly it includes dishonesty and, as I would hold, includes also some dealings which fall short of the standards of acceptable commercial behaviour observed by reasonable and experienced men in the particular area being examined. Parliament has wisely not attempted to explain in detail what is or is not bad faith in this context: how far a dealing must so fall-short in order to amount to bad faith is a matter best left to be adjudged not by some paraphrase by the courts (which leads to the danger of the courts then construing not the Act but the paraphrase) but by reference to the words of the Act and upon a regard to all material surrounding circumstances.”

142. In *Harrison v Teton Valley Trading Co (CHINAWHITE)* [2005] FSR 10, the English Court of Appeal held that (at para. 26):

“The words “bad faith” suggest a mental state. Clearly when considering the question of whether an application to register is made in bad faith all the circumstances will be relevant. However the court must decide whether the knowledge of the applicant was such that his decision to apply for registration would be regarded as in bad faith by persons adopting proper standards.”

143. Further, in *Ajit Weekly Trade Mark* [2006] RPC 25, the Appointed Person stated as follows:⁸²

⁸¹ Statement of Grounds, para. 10.a.

⁸² Applied in *深圳市德力康電子科技有限公司 v Joo-Sik-Hoi-Sa LG (LG Corporation)* (uncrep.)

“The subjective element of the test means that the tribunal must ascertain what the defendant knew about the transaction or other matters in question. It must then be decided whether in the light of that knowledge, the defendant’s conduct is dishonest judged by ordinary standards of honest people, the defendant’s own standards of honesty being irrelevant to the determination of the objective element.”

144. Mr. Wong for the Opponent submits that:⁸³

- (a) case law shows that a case of bad faith is not always established by way of direct evidence; where circumstances are such that a conclusion that there has been copying is warranted, a bad faith claim may well succeed; if the marks under comparison are very similar to each other, the Registrar can be forgiven to conclude that one is derived from the other unless there is acceptable evidence to the contrary;⁸⁴
- (b) in civil proceedings, if a *prima facie* case is made out, and if there is evidence available to the party against whom the case is established which could displace the *prima facie* case, and he omits to call such evidence, an inference could be drawn; if an inference is to be drawn, it would be an inference that such available evidence, even if adduced, would not displace the *prima facie* case;⁸⁵
- (c) in the present case, both the subject mark and the Opponent’s HK Registered Marks share the common and dominant element “REGIS”; despite the filing of three statutory declarations and volumes of exhibits, the Applicant has not explained why it had chosen the word “REGIS” in the subject mark;
- (d) the Applicant has not denied that it was aware of the Opponent’s “ST. REGIS” hotel in New York, which was opened in 1904, when it first came up with the mark “PARK REGIS”;
- (e) in the absence of any explanation, based on the authorities, the Registrar can be forgiven to conclude that the word “REGIS” was copied from the

HCMP 881/2013, 26 March 2014, paras 25-27.

⁸³ Opponent’s Skeleton Submissions, paras 40-44.

⁸⁴ 深圳市德力康電子科技有限公司 v Joo-Sik-Hoi-Sa LG (LG Corporation) (uncrep.) HCMP 881/2013, 26 March 2014, paras 31-32.

⁸⁵ 深圳市德力康電子科技有限公司 (supra), paras 33-34.

name of the Opponent's famous hotel. Such conduct clearly falls short of standards of acceptable commercial behaviour observed by reasonable and experienced men in the trade.

145. An allegation that a trade mark has been applied for in bad faith is a serious allegation. It should not be made unless it can be fully and properly pleaded and should not be upheld unless it is distinctly proved (*ROYAL ENFIELD Trade Marks* [2002] RPC 24 at para. 31). The standard of proof is on the balance of probabilities but cogent evidence is required due to the seriousness of the allegation. It is not enough to prove facts which are also consistent with good faith (*Brutt Trade Marks* [2007] RPC 19 at para. 29).

146. Although the "ST. REGIS" brand was first used in 1904 in New York City with the opening of The St. Regis New York, that hotel in New York was the only St. Regis hotel in the world until 1999 when ST. REGIS was launched as a global brand. The "ST. REGIS" mark was not registered in Australia until 1995.⁸⁶

147. On the other hand, a strata plan approved in 1968 already showed "PARK REGIS" on Park Street in Sydney.⁸⁷ The hotel PARK REGIS City Centre in Sydney was opened in 1968.⁸⁸ There is no evidence that the Applicant's predecessor in title knew about the Opponent's ST. REGIS mark when it chose the mark "PARK REGIS" back in the late 1960's. The Applicant only acquired the "PARK REGIS" mark in 2007,⁸⁹ decades after it was first used in Sydney in the late 1960's. I consider that I cannot draw the conclusion Mr. Wong invites me to draw (see paragraph 144(e) above) simply because the Applicant is not able to give an explanation on oath as to why its predecessor-in-title chose the word "REGIS" as part of the mark "PARK REGIS" decades before the Applicant acquired the mark.

148. The Opponent has mainly been involved in the provision of the Class 43 services covered by Mark A. Its field of activity is different from that covered by the subject Class 35 services. I have found that when the subject mark is used in relation to the subject Class 35 services, the public would unlikely be confused into believing that those services offered under the subject mark by the Applicant are services of the Opponent, or in some way connected with or guaranteed by the Opponent.

⁸⁶ D'Alessandro's 1st Declaration, Exhibit 7.

⁸⁷ Para. 24 above.

⁸⁸ Para. 27 above.

⁸⁹ Para. 22 above.

149. Taking into account all material surrounding circumstances in this case and having regard to the knowledge of the Applicant at the Application Date, I do not consider that the Applicant's decision to apply for registration of the subject mark in respect of the subject Class 35 services would be regarded as in bad faith by persons adopting proper standards.

150. Accordingly, in relation to the application to register the subject mark in respect of the subject Class 35 services, the ground of opposition under section 11(5)(b) of the Ordinance is not made out.

Conclusion and costs

151. For the reasons stated above:

- (a) the opposition succeeds in relation to the application to register the subject mark in respect of the subject Class 43 services, namely:

“Accommodation bureaux (hotels, boarding houses); rental of temporary accommodation; temporary accommodation reservations; cafes; hotel reservations; hotels; motels; restaurants; services for providing food and drink.”

- (b) the opposition fails in relation the application to register the subject mark in respect of the subject Class 35 services, namely:

“Advertising; business management of hotels; advisory services for business management; business management; business administration; office functions.”

152. As the Opponent and the Applicant each has achieved a measure of success in these proceedings, I order that each party bears its own costs.

(Finnie Quek)
for Registrar of Trade Marks
19 October 2017

Opponent's HK Registered Marks

Trade Mark	Trade Mark No.	Registration Date	Class No.	Services
ST. REGIS ("Mark A")	199913411 AA ⁹⁰	19 Jun 1998	41	provision of facilities for musical entertainment and singing; casino and gaming services; all included in Class 41.
			43	hotel, motel, resort, cocktail lounge, restaurant, bar, cafeteria, canteen and food and beverage preparation services and catering services; all included in Class 43.
ST. REGIS ("Mark B")	300704899	21 Aug 2006	36	Insurance; financial affairs; monetary affairs; real estate affairs; real estate brokerage, real estate and land acquisition, real estate equity sharing, namely, managing and arranging for ownership of real estate, condominiums, apartments; real estate investment, real estate management, real estate time sharing and leasing of real estate and real property, including condominiums and apartments.
			37	Real estate development services.
 ST REGIS ("Mark C")	301143558	19 Jun 2008	43	Temporary accommodation; hotel services, motel services, motor inn services, resort services; providing meeting and event facilities; restaurant, bar, lounge, cocktail lounge, cafe and cocktail services; services for providing food and drink; hotel concierge services; providing facilities for meetings and functions; providing facilities for conferences and exhibitions; the operation of hotels and resorts, restaurants and bars.

⁹⁰ Trade Mark Nos. 19913411 and 19913412 were merged to become Trade Mark No. 199913411AA on 13 February 2015.

Opponent's Chinese Registered Marks

Trade Mark	Trade Mark No.	Registration Date	Class No.	Services
瑞吉	200201808 AA ⁹¹	4 Nov 2000	41	entertainment services relating to rental of motion picture and video, rental of radio and television receiving sets, production of shows; casino and gaming services; all included in Class 41.
			42	hotel services; motel accommodation services; resort hotel services; restaurant services; bar services; cocktail lounge services; provision of food and beverage services; all included in Class 42.
RE JI 瑞吉	301873503	29 Mar 2011	36	Insurance; financial affairs; monetary affairs; real estate affairs; real estate services, namely, real estate brokerage, real estate and land acquisition, real estate equity sharing, namely, managing and arranging for ownership of real estate, condominiums, apartments; real estate investment, real estate management, real estate time sharing and leasing of real estate and real property, including condominiums and apartments.
			39	Transport; packaging and storage of goods; travel arrangement; travel reservation services; transportation of passengers and goods; agency services for arranging travel; arranging of excursions for tourists and arranging of tours; providing information on travel.
			41	Entertainment; providing entertainment facilities; organization of events; organising entertainment, cultural, artistic and educational events; club services (including entertainment, recreation, health, sport and education); providing karaoke services; discotheque services; providing amusement arcade services; night club and athletic club services.
			43	Temporary accommodation; hotel services, motel services, motor inn services, resort services; providing meeting and event facilities; restaurant, bar, lounge, cocktail lounge, cafe and cocktail services; services for providing food and drink; hotel concierge services; providing facilities for meetings and functions; providing facilities for conferences and exhibitions; the operation of hotels and resorts, restaurants and bars.

⁹¹ Trade Mark Nos. 200201808 and 200203733 were merged to become Trade Mark No. 200201808AA on 16 May 2007.

Trade Mark	Trade Mark No.	Registration Date	Class No.	Services
瑞吉	302519622	7 Feb 2013	36	Insurance; financial affairs; monetary affairs; real estate affairs; real estate services, namely, real estate brokerage, real estate and land acquisition, real estate equity sharing, namely, managing and arranging for ownership of real estate, condominiums, apartments; real estate investment, real estate management, real estate time sharing and leasing of real estate and real property, including condominiums and apartments.
銀瑞 銀瑞	301712394	10 Sep 2010	43	Temporary accommodation; hotel services, motel services, motor inn services, resort services; providing meeting and event facilities; restaurant, bar, lounge, cocktail lounge, cafe and cocktail services; services for providing food and drink; hotel concierge services; providing facilities for meetings and functions; providing facilities for conferences and exhibitions; the operation of hotels and resorts, restaurants and bars.
			44	Medical services; veterinary services; hygienic and beauty care for human beings; hygienic and beauty care for animals; agriculture, horticulture and forestry services; spas and spa services, beauty salons, hair salons, facial, skin and nail care services, massage therapy services.

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	Four Points by Sheraton Guangzhou, Dongpu	100,000 = HK\$400		9210 3161	
	Four Points by Sheraton Shanghai, Daning	100,000 = HK\$400		9210 3162	
	Four Points by Sheraton Shanghai, Pudong	100,000 = HK\$400		9210 3163	
	Le Méridien She Shan Shanghai	100,000 = HK\$400		9210 3164	
	Sheraton Changsha Hotel	100,000 = HK\$500		9210 3165	
	Sheraton Damelha Resort, Shenzhen	100,000 = HK\$500		9210 3166	
	Sheraton Sanya Resort	100,000 = HK\$900		9210 3167	
	Sheraton Shanghai Hotel and Residences, Pudong	100,000 = HK\$500		9210 3168	
	The St. Regis Shanghai	100,000 = HK\$700		9210 3169	
	The Westin Beijing, Financial Street	100,000 = HK\$500		9210 3170	
Hong Kong	Le Méridien Cyberport	100,000 = HK\$500		9210 3171	
	Sheraton Hong Kong Hotel & Towers	100,000 = HK\$1,000		9210 3172	
India	Le Royal Méridien Mumbai	100,000 = HK\$900		9210 3173	
Indonesia	Le Méridien Nirwana Golf & Spa Resort, Bali	100,000 = HK\$400		9210 3174	
	The Laguna, a Luxury Collection Resort & Spa, Nusa Dua, Bali	100,000 = HK\$700		9210 3175	
Macau	The Westin Resort Macau	100,000 = HK\$500		9210 3176	
Malaysia	Le Méridien Kuala Lumpur	100,000 = HK\$400		9210 3177	
	Sheraton Langkawi Beach Resort	100,000 = HK\$400		9210 3178	
Maldives	Sheraton Maldives Full Moon Resort & Spa	150,000 = HK\$1,000		9210 3179	
Singapore	Sheraton Towers Singapore	100,000 = HK\$700		9210 3180	
South Korea	Sheraton Incheon Hotel	100,000 = HK\$600		9210 3181	
Thailand	Sheraton Talpet Hotel	100,000 = HK\$600		9210 3182	
	Le Méridien Bangkok	100,000 = HK\$700		9210 3183	
	Le Méridien Chiang Mai	100,000 = HK\$500		9210 3184	
	Le Méridien Phuket Beach Resort	100,000 = HK\$600		9210 3185	
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