

O/143/19

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003242272 BY
EGATEWAY GLOBAL LIMITED
TO REGISTER THE FOLLOWING MARK:



IN CLASS 35

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 411105 BY
NEXT RETAIL LIMITED

BACKGROUND AND PLEADINGS

1. On 7 July 2017, EGATEWAY GLOBAL LIMITED (“the applicant”) applied to register the mark shown on the cover page of this decision in the UK. The application was published for opposition purposes on 22 September 2017 and is for the following services:

Class 35 On-line retail services relating to gifts, namely mobile accessories, clothing, jewellery, and lights ; Retail services provided by on-line department stores in the fields of mobile accessories, clothing, jewellery, and lights; On-line retail services relating to jewellery; On-line retail store services featuring lighting; On-line retail store services in the field of clothing; On-line retail store services featuring cosmetic and beauty products, clothing and accessories for clothing; On-line wholesale and retail store services featuring mobile accessories, clothing, jewellery, and lights; Import and export agencies; Advertising, including on-line advertising on a computer network; On-line trading services in which users post requests for products and negotiate transactions via the Internet; Sales promotion; Commercial administration of the licensing of the goods and services of others; Online advertising and marketing services in the field of mobile accessories, clothing, jewellery, and lights via wireless networks for display on mobile devices; Promotional and marketing services and consulting related thereto.

2. The application was opposed by Next Retail Limited (“the opponent”). The opposition is based upon sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”).

3. The opponent relies on seven earlier marks for its opposition under section 5(2)(b):



(series of two)

UK registration no. 2453621

Filing date of 25 April 2007; registration date of 24 October 2008

Classes 3, 4, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 27, 28, 29 and 35.

Relying on class 35 services only.

("the First Earlier Mark")

NEXT

UK registration no. 2371317

Filing date of 23 August 2004; registration date of 4 February 2005

Classes 2, 3, 4, 8, 16, 21, 30, 33 and 35.

Relying on class 35 services only.

("the Second Earlier Mark")

NEXT DIRECTORY

EUTM registration no. 5848131

Filing date of 20 April 2007; registration date of 28 August 2008

Classes 9, 14, 18, 24, 25 and 35

Relying on class 35 services only.

("the Third Earlier Mark")

NEXT

EUTM registration no. 1620434

Filing date of 19 April 2000; registration date of 2 July 2003

Classes 35 and 42

Relying on class 35 services only.

("the Fourth Earlier Mark")

NEXT

EUTM registration no. 11570959

Filing date of 13 February 2013; registration date of 8 July 2013

Classes 21, 35 and 43

Relying on all goods and services for which the mark is registered.

("the Fifth Earlier Mark")



EUTM registration no. 17607474

Filing date of 22 June 2016; registration date of 4 January 2018

Classes 3, 4, 5, 6, 7, 8, 12, 14, 16, 18, 24, 25, 26, 27, 28, 35, 36, 39, 42, 43 and 45

Relying on all goods and services for which the mark is registered.

("the Sixth Earlier Mark")

NEXTPAY

EUTM registration no. 16139792

Filing date of 6 December 2016; registration date of 26 June 2017

Classes 35 and 36

Relying on all services for which the mark is registered.

("the Seventh Earlier Mark")

4. The opponent claims that there is a likelihood of confusion because the respective goods and services are identical or similar and the marks are similar.

5. The opponent relies on the First, Second, Fourth and Sixth Earlier Marks for its opposition based upon section 5(3) of the Act. The opponent claims a reputation in respect of only those services in class 35 for which the First Earlier Mark, Second Earlier Mark and Fourth Earlier Mark are registered. The opponent claims a reputation in respect of those goods and services in classes 18, 25 and 35 for which the Sixth

Earlier Mark is registered. The opponent claims that the use of the applicant's mark would, without due cause, take unfair advantage of, or be detrimental to, the distinctive character and/or reputation of those earlier marks.

6. The applicant has filed a counterstatement denying the grounds of opposition and putting the opponent to proof of use of the First, Second, Third and the Fourth Earlier Marks.

7. The opponent is represented by Marks & Clerk LLP and the applicant is represented by Trademarkit LLP. The opponent's filed evidence in the form of the witness statement of Sarah Louise Waterland dated 7 August 2018. The applicant filed evidence in the form of the witness statement of Fong Ka Kit dated 20 October 2018. The opponent filed evidence in reply in the form of the second witness statement of Sarah Louise Waterland dated 20 December 2018. Neither party requested a hearing and only the opponent filed written submissions in lieu. This decision is taken following a careful perusal of the papers.

EVIDENCE

Opponent's Evidence in Chief

8. As noted above, the opponent's evidence in chief consists of the witness statement of Sarah Louise Waterland dated 7 August 2018, with 34 exhibits. Following an application made by the opponent and a Case Management Conference which was held on 3 July 2018, it was decided that Exhibits SLW13 and SLW15 should remain confidential from the public "on the grounds that unpublished information relating to the degree of success [of the] opponent's overseas franchising operation may give competitors an unfair advantage". A confidentiality order was subsequently issued on 31 August 2018.

9. Ms Waterland is the Deputy General Counsel for the opponent; a position she has occupied since 2016. Prior to that, she was the opponent's company solicitor. Ms Waterland confirms that NEXT was first adopted and used as a trade mark in the UK in 1982. In 1988, the opponent launched a mail order catalogue under the mark NEXT

DIRECTORY and in 1999 an on-line website was launched at www.next.co.uk. There are now over 4million active customers of the opponent's directory service. By 2009, the opponent had extended its home shopping services to over 30 other countries worldwide. The UK website had 25,667,076 hits in April 2013, 26,148,827 hits in April 2014, 28,111,075 hits in April 2015 and 24,379,354 hits in April 2016¹.

10. Ms Waterland explains that by 2013, the opponent traded in more than 70 countries worldwide. In the UK, the opponent operates over 500 stores, all of which sell NEXT branded goods. Ms Waterland states that the opponent offers business advice and consultancy for those stores which operate as franchises.

11. Ms Waterland states that the opponent uses its trade marks on a wide variety of goods including clothing, footwear, headgear, fashion accessories, jewellery, watches, cosmetics and toiletries, gifts, home and gardenware and lighting goods and related retail, advertising, promotional and business services. She confirms that the NEXT mark is applied to such goods on the packaging and labels and appears in the stores, on mail order catalogues and on the website.

12. Ms Waterland has provided extracts from the Next Directory catalogue which are dated 2012, 2013, 2014, 2015 and 2016 and print outs from the opponent's website². In the 2015 catalogue, the word only mark NEXT appears in relation to watches. It also appears combined with various other wording in relation to perfumes, cosmetics, toiletries, gift sets, speakers and docks for telephones and tablets and polo shirts. The catalogue also advertises for sale goods under various different brands including suits, tops, shoes, jewellery, dresses, jackets, jeans, toiletry and perfume gift sets, jumpers, shirts, speakers and docks for tablets and mobile telephones, alarm clocks, laptops, tablets, e-readers, head phones and toys. In the 2013 catalogue, the Sixth Earlier Mark appears in relation to jewellery, jumpers, tops, jeans and shoes. The word only mark appears in combination with various other wording in relation to toiletry gifts and perfume. The catalogue also advertises for sale goods under various different brands and goods which have no brand listed (and which are presumably the opponent's own

¹ Exhibit SLW 2

² Exhibit SLW 6

brand goods) including dresses, colognes, perfume gift sets, t-shirts, jackets, coats, jumpers, shirts, gloves, hats, styluses for tablets, toys and games, novelty gifts, jewellery, watches and lighting. In the 2014 catalogue, the word only mark appears in combination with additional wording in relation to fragrance gift sets and the Sixth Earlier Mark appears in combination with various additional wording in relation to coats, tops, trousers, shoes and jewellery. The catalogue also advertises for sale goods under various brands and goods which have no brand listed (and which are presumably the opponent's own brand goods) including jackets, leggings, jumpers, gloves, headbands, tops, coats, gilets, fragrance gift sets, headphones, speakers, belts and lighting. The 2015 catalogue shows the word only mark (both on its own and used in combination with additional wording) in relation to fragrance and toiletries, nail varnish, gifts, home fragrance and shirts. It also advertises goods under various brands and goods which have no brand listed (and which are presumably the opponent's own brand goods) including jewellery, cosmetics, fragrance, speakers, headphones, coats, jeans, shoes, jumpers, t-shirts, tops and lighting. The 2016 catalogue shows the word only mark (both on its own and in combination with additional wording) in relation to leggings, tops, jewellery, gift sets, fragrance, cosmetics, shirts, binoculars, mugs and thermos flasks, cocktail shakers, money boxes, grooming kits, tool kits, pens, hip flasks, travel scales and handkerchiefs. It also advertises goods under various brands and goods which have no brand listed (and which are presumably the opponent's own brand goods) including fragrance, jumpers, polo shirts, joggers, toys and games, gifts, umbrellas and braces.

13. The First Earlier Mark and the Sixth Earlier Mark appear on the cover of some of the catalogues. One of the catalogues also display the following mark:



14. Examples of the opponent's marks used in combination with additional wording are as follows:



DEFINE
NEXT



next
SIGNATURE

next
GENUINE
SHEEPSKIN



15. The print outs of the opponent's website (www.next.co.uk) are dated between 25 January 2013 and 22 December 2016. In addition to the word only mark, the print outs display the following:



16. They advertise for sale homeware and furniture, home accessories, clothing, lighting, jewellery, headphones, suitcases, sunglasses, watches, night and loungewear, socks, underwear, shoes, hats, gloves, scarves, fragrance, gifts, swimwear, bags, wallets, belts, kitchenware, home fragrance, art, bulbs, lingerie, toys, gifts, fitness wristbands, chocolate, food gifts and flowers.

17. Ms Waterland has provided figures for the number customers who were sent NEXT DIRECTORY catalogues, mini brochures, parcel inserts or extracts. The number of customers was 2,888,831 in 2009, 2,909,453 in 2010, 2,802,520 in 2011, 2,904,605 in 2012, 3,217,695 in 2013 and 2,120,050 (up to 27 March 2014)³. It is not clear whether this relates to customers in the UK only or customers worldwide.

18. Ms Waterland has provided examples of the First, Second and Sixth Earlier Marks displayed on labels, plastic packaging, tags and boxes for bags, wallets and an umbrella. The First Earlier Mark is also shown engraved on the handle of an umbrella⁴.

³ First witness Statement of Sarah Louise Waterland, para. 16

⁴ Exhibit SLW 7

The First Earlier Mark and/or the Sixth Earlier Mark also appear on and throughout the opponent's stores⁵. Examples of this include:



19. Ms Waterland explains that the opponent has over 180 stores in various countries around the world (including Bulgaria, Cyprus, Czech Republic, Gibraltar, Georgia, Greece, Ireland, Malta, Romania, Slovakia and Sweden), most of which operate as franchises. Ms Waterland states that as a result of this, the mark NEXT has been used in relation to various business services including business management consultancy. Ms Waterland explains that franchise packs have been sent to prospective and new franchise partners of the opponent since March 2011. An example of such a pack, dated November 2012, is provided⁶. This states that in 2010, group revenue was £3.4billion and in 2011, group revenue was £3.5billion. The pack provides information about the process of establishing a franchise, including support offered by the opponent such as marketing. I have reviewed the turnover figures (which are confidential) for franchise stores located in Malta, Cyprus, Greece, Romania, Bulgaria, Lithuania, Latvia, Estonia, Croatia and Poland between 2009 and 2016 and they are significant⁷.

20. The annual turnover of Next Plc, of which the opponent is a subsidiary, is shown in the table below⁸:

⁵ Exhibit SLW 9

⁶ Exhibit SLW 10

⁷ Confidential Exhibit SLW 13

⁸ First witness statement of Sarah Louise Waterland, para. 24

Year	Pounds Sterling (£billion)
2000	1.4
2001	1.5
2002	1.8
2003	2.2
2004	2.5
2005	2.9
2006	3.1
2007	3.3
2008	3.3
2009	3.3
2010	3.4
2011	3.4
2012	3.5
2013	3.5
2014	3.8
2015	4.0
2016	4.1
2017	4.1

21. Ms Waterland has provided a breakdown of the sales made in the UK (which are also confidential) between 2009 and 2013, which are significant, as well as figures which relate to other countries⁹. Ms Waterland confirms that an approximate breakdown of these sales is that 45.6% relates to womenswear, 24% relates to menswear, 18.5% relates to childrenswear and 11% relates to other goods, including household goods¹⁰. Ms Waterland has provided sales figures for individual items sold through the NEXT DIRECTORY between 2010 and 2016 in the UK¹¹. These include computers, cameras, fragrance, bags, umbrellas, household furnishings, clothing, shoes, gift sets, candles, wrapping paper, Christmas decorations, lighting, wallets, sunglasses, gift cards, notebooks, furniture, paint, crockery, flowers, watches, personal organizers, spices, holdalls, belts, ties, swimwear, wallpaper and hats. Ms Waterland has also provided figures for items sold in the rest of the EU. All of the cover pages of the catalogues provided display one or more of the opponent's marks.

22. Ms Waterland confirms that instead of invoices, the opponent issues despatch notes for goods purchased through the NEXT DIRECTORY and online. Ms Waterland

⁹ Confidential Exhibit SLW 15

¹⁰ First witness statement of Sarah Louise Waterland, para. 26

¹¹ Exhibit SLW 16

has provided a selection of these dated between 3 October 2012 and 19 December 2013¹². They relate to a range of goods including telephones, docks for tablets, wine glasses, mugs, weighing scales, kettles, sandwich makers, cushions, rugs, bread bins, halogen bulbs, clothing and slippers. In some instances, the word only mark NEXT appears in the description of the goods. The invoices are addressed primarily to customers in the UK, although some other European countries are also included, and they all display the Sixth Earlier Mark.

23. Ms Waterland notes that the opponent has been referred to in various press articles and has provided the annual cost incurred by the opponent in respect of advertising and promotional activities between 2000 and 2016¹³. I have reproduced the figures for the last 10 years only by way of example:

Year	Pounds Sterling (£)
2006	25,945,184
2007	46,763,351
2008	42,183,000
2009	46,292,000
2010	46,908,000
2011	46,950,000
2012	53,368,000
2013	71,106,000
2014	77,007,000
2015	77,490,000
2016	77,748,000

24. Ms Waterland states that she has provided market share figures for the opponent for 2017, but it is not clear from the evidence what figures she is referring to and no further explanation is given¹⁴.

¹² Exhibit SLW 17

¹³ First witness statement of Sarah Louise Waterland, para. 29

¹⁴ Exhibit SLW 20

25. Ms Waterland confirms that the opponent has a strong social media presence, with over 2.1million 'likes' on Facebook, 270,000 followers on Twitter and over 2 million views on YouTube¹⁵. The opponent also operates a blog and uses Instagram, Tumblr and Pinterest. Both the word only mark NEXT and the Sixth Earlier Mark appear across the opponent's social media pages¹⁶.

26. Ms Waterland states that the opponent has been one of the top 500 most valuable brands worldwide between 2007 and 2016. She also states that in 2013, the opponent had a market share of 6.9% in respect of the total market for clothing, footwear and accessories in the UK¹⁷. For 2013, the opponent had a 5.5%, 6.1% and 13.9% share in the womenswear, menswear and childrenswear markets respectively¹⁸. The opponent had a market share of 3.4%, 3.8%, 4%, 4.1%, 4.2% and 4.4% in 2009, 2010, 2011, 2012, 2013 and 2014 respectively for homeware in the UK¹⁹. The opponent had a market share of 1.7%, 1.9%, 2.1%, 2.3%, 2.4% and 2.5% in 2009, 2010, 2011, 2012, 2013 and 2014 respectively for furniture in the UK²⁰.

Applicant's Evidence

27. As noted above, the applicant filed evidence in the form of the witness statement of Fong Ka Kit dated 20 October 2018. Fong Ka Kit is the Chief Executive of the applicant; a position held since 2016. Fong Ka Kit confirms that the applied for mark has been used by the applicant since November 2015 and, in the UK, since May 2017.

28. Fong Ka Kit states that the applicant uses Twitter, YouTube, Pinterest, Facebook and Instagram to promote its business and now has over 1.2million followers on Facebook. Photographs of these pages are included within the witness statement, although are of poor quality and, therefore, mostly illegible²¹. Notwithstanding this, the applied for mark is visible on the photograph of the applicant's Twitter, Facebook and

¹⁵ First witness statement of Sarah Louise Waterland, paras. 34-38

¹⁶ Exhibits SLW 23 – SLW 26

¹⁷ First witness statement of Sarah Louise Waterland, para. 47

¹⁸ Exhibit SLW 33

¹⁹ Exhibit SLW 34

²⁰ Exhibit SLW 34

²¹ Witness statement of Fong Ka Kit, para. 3

Pinterest pages (although they are undated). In the UK, the applicant operates from the website www.nextdealshop.co.uk²². Fong Ka Kit states that the applicant also ships to European countries from its United States website www.nextdealshop.co.uk and its European website eu.nextdealshop.com.

29. Fong Ka Kit makes reference to the fact that the applicant's mark is already registered in the USA, Australia and New Zealand and that it co-exists on the register with the opponent's marks in New Zealand and the USA. Fong Ka Kit confirms that the applicant is not aware of any cases of confusion arising between the applicant's mark and the opponent's marks. Fong Ka Kit states that the co-existence of the marks in various countries supports the conclusion that no confusion will arise in the UK²³.

30. The rest of Fong Ka Kit's statement consists of submissions which, whilst I will not summarise here, I have taken into account and will refer to below as appropriate.

Opponent's Evidence in Reply

31. As noted above, the opponent's evidence in reply consists of the second witness statement of Sarah Louise Waterland dated 20 December 2018, with 10 exhibits. Ms Waterland notes that although the applicant claims to have used the applied for mark since November 2015 and in the UK since May 2017, no evidence of use has been provided. Ms Waterland also states that the opponent contests whether the applicant is making use of its social media accounts as claimed, as it found the applicant's Pinterest account to be inaccessible. A print out of the applicant's Pinterest account displaying the error message "this site can't be reached" is provided by Ms Waterland, which is dated 6 December 2018²⁴.

32. Ms Waterland has provided a print out of the applicant's YouTube page, dated 21 November 2018, which shows 505 subscribers²⁵. Ms Waterland notes that the applicant has provided no information about how many of these subscribers are

²² Witness statement of Fong Ka Kit, para. 4

²³ Witness statement of Fong Ka Kit, para. 7

²⁴ Exhibit SLW 42

²⁵ Exhibit SLW 43

located in the UK. Similarly, Ms Waterland has provided a print out of the applicant's Twitter account, also dated 21 November 2018, which shows 137 followers²⁶.

33. Ms Waterland notes that despite the applicant's claim to have over 1.2million Facebook followers, the applicant's UK Facebook page has only 149 followers²⁷. This print out is undated, save for a copyright date of 2018.

34. Ms Waterland states that whilst the applicant has claimed goodwill and reputation in the UK, the internet screenshots provided are illegible and there is no evidence of the applicant's mark in use in the course of trade in the UK. Ms Waterland notes that no "sales figures, marketing expenditure, invoices, or any other market share or brand ranking figures²⁸" are provided to support the applicant's claim.

35. Ms Waterland notes that whilst the applicant claims to have made use of its mark through the website www.nextdealshop.co.uk, no visitor numbers have been provided by the applicant and a print out of a WHOIS search shows that the domain name was not registered until 11 April 2018²⁹. Ms Waterland has provided a web print out which relates to the amount of web traffic going to the applicant's European website³⁰. Ms Waterland states that the lack of data on this page shows that the website is receiving insufficient traffic for it to receive a global ranking amongst domain names currently registered around the world, although this is not clear from the information provided on the page itself. Ms Waterland has also provided a print out from the applicant's US website, which does not list any European countries as options for delivery³¹. Ms Waterland also notes that goods are priced in dollars. Ms Waterland has provided data for the applicant's US website which shows the traffic accessing the website listed by country (dated 21 November 2018)³². The top 5 countries listed are the US, Vietnam, Australia, Canada and Hong Kong. The second page shows a map of the world, with

²⁶ Exhibit SLW 44

²⁷ Exhibit SLW 45

²⁸ Second witness statement of Sarah Louise Waterland, para. 11

²⁹ Exhibit SLW 46

³⁰ Exhibit SLW 47

³¹ Exhibit SLW 48

³² Exhibit SLW 49

countries shaded if the website has received traffic from individuals within those countries. There does not appear to have been any traffic from the UK.

36. Ms Waterland has provided examples of complaints about the applicant's goods taken from the applicant's US website³³ and the applicant's Twitter page³⁴. Ms Waterland states:

“... If the Applicant increased its offering in the UK, I am concerned that there would be a corresponding risk of negative customer experiences in the UK. I believe that such use would take unfair advantage of and be detrimental to the highly regarded reputation that has been developed by the Opponent over several decades in trade marks consisting of or containing NEXT.³⁵”

37. The opponent also filed written submissions in lieu of a hearing. Whilst I do not propose to summarise those submissions here, I have taken them into consideration in reaching my decision and will refer to them below as appropriate.

PRELIMINARY ISSUES

38. The applicant made various references in its evidence to both parties' marks having been available on the market and the absence of any evidence of confusion. However, this line of argument does not assist the applicant. In *Roger Maier and Another v ASOS*, [2015] EWCA Civ 220, Kitchen L.J. stated that:

“80. ...the likelihood of confusion must be assessed globally taking into account all relevant factors and having regard to the matters set out in *Specsavers* at paragraph [52] and repeated above. If the mark and the sign have both been used and there has been actual confusion between them, this may be powerful evidence that their similarity is such that there exists a likelihood of confusion. But conversely, the absence of actual confusion despite side by side use may be powerful evidence that they are not sufficiently similar to give rise to a

³³ Exhibit SLW 50

³⁴ Exhibit SLW 51

³⁵ Second witness statement of Sarah Louise Waterland, para. 19

likelihood of confusion. This may not always be so, however, as the reason for the absence of confusion may be that the mark has only been used to a limited extent or in relation to only some of the goods or services for which it is registered, or in such a way that there has been no possibility of one being taken for the other. So there may, in truth, have been limited opportunity for real confusion to occur.”

39. In *The European Limited v The Economist Newspaper Ltd* [1998] FSR 283, Millet LJ stated:

“Absence of evidence of actual confusion is rarely significant, especially in a trade mark case where it may be due to differences extraneous to the plaintiff’s registered trade mark.”

40. The absence of evidence of confusion having arisen is not sufficient to prevent a finding of likelihood of confusion under section 5(2)(b) as there may be any number of reasons for the lack of evidence of such confusion. The overseas markets identified by the applicant do not replicate the conditions in the UK where the opponent’s marks are used on a substantial scale and are, therefore, highly distinctive. In any event, a consumer who is confused about trade origin of goods or services as a result of similar marks may never know that they have been confused at all.

41. The applicant has also made reference to its use of its mark prior to its application for registration. It states that the mark was used in the UK from May 2017 onwards. However, the evidence of use in the UK has not been fully established and this could, therefore, be use on a limited scale as referred to in the case law above. In any event, this date post-dates the application date of all of the opponent’s earlier marks. In this connection, I note that the applicant has not sought to invalidate any of the opponent’s marks on the basis of an earlier unregistered right and, consequently, this use of its mark prior to the application for registration does not assist the applicant.

DECISION

42. Section 5(2)(b) of the Act reads as follows:

“5(2) A trade mark shall not be registered if because –

(a)...

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

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

43. Section 5(3) of the Act states:

“5(3) A trade mark which -

(a) is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.”

44. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“6(1) In this Act an “earlier trade mark” means –

(a) a registered trade mark, an international trade mark (UK) or Community trade mark or international trade mark (EC) which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks

(2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b) subject to its being so registered.”

Proof of Use

45. As noted above, the First, Second, Third and Fourth Earlier Marks are subject to proof of use. However, the opponent stated in its written submissions in lieu that it considers the Sixth Earlier Mark to represent its best case due to its broad specification. The Sixth Earlier Mark is not subject to proof of use and the opponent is, therefore, entitled to rely upon all goods and services for which it is registered. I will, therefore, proceed to consider the opposition on the basis of this mark and will return to the issue of proof of use of the opponent’s other marks only if it becomes necessary.

Section 5(2)(b)

46. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

The principles:

(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 be dominated by one or more of its components;

(f) however, it is also 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;

(g) a lesser degree of similarity between the goods or services may be offset by a great 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 to mind the earlier mark, 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;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of services

47. The opponent is relying upon all goods and services for which the Sixth Earlier Mark is registered. However, I have reproduced only those services which I consider represent the opponent's best case in the table below (the full specification for the Sixth Earlier Mark is in the Annex attached):

Sixth Earlier Mark's Services	Applicant's Services
<p><u>Class 35</u></p> <p>Retail services, wholesale and franchise services, including those services offered via a general merchandising department store and clothing store, mail order catalogue, online, via television channel, via mobile phone and by direct marketing, presentation of goods on communication media, for retail purposes, provision of an on-line marketplace for buyers and sellers of goods and services, all connected with the sale of the following: [...] cosmetics, [...] body cleaning and beauty care preparations, [...] lighting and lighting reflectors, [...] jewellery, [...] accessories for clothing and fashion, [...] Clothing, [...] hands free kits for telephones, [...]; Advertising; [...]business administration; office functions; outsourcing services (business assistance); provision of outsourced [...] promotional marketing; [...] sales promotion; [...] advisory services relating to sales promotion; [...] services relating to advertising, marketing and public relations (including the organization of exhibitions and fairs for trade purposes); [...] import-export agency services; [...]</p>	<p><u>Class 35</u></p> <p>On-line retail services relating to gifts, namely mobile accessories, clothing, jewellery, and lights; Retail services provided by on-line department stores in the fields of mobile accessories, clothing, jewellery, and lights; On-line retail services relating to jewellery; On-line retail store services featuring lighting; On-line retail store services in the field of clothing; On-line retail store services featuring cosmetic and beauty products, clothing and accessories for clothing; On-line wholesale and retail store services featuring mobile accessories, clothing, jewellery, and lights; Import and export agencies; Advertising, including on-line advertising on a computer network; On-line trading services in which users post requests for products and negotiate transactions via the Internet; Sales promotion; Commercial administration of the licensing of the goods and services of others; Online advertising and marketing services in the field of mobile accessories, clothing, jewellery, and lights via wireless networks for display on</p>

	mobile devices; Promotional and marketing services and consulting related thereto.
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48. When making the comparison, all relevant factors relating to the goods in the specifications should be taken into account. In the judgment of the Court of Justice of the European Union (“CJEU”) in *Canon*, C-39/97, the court stated at paragraph 23 of its judgment that:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary.”

49. Guidance on this issue has also come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and, in particular, whether they are or are likely to be found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance,

whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

50. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court (“GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut for Lernsysteme v OHIM – Educational Services* (ELS) [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark.”

51. In *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

“... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of ‘dessert sauce’ did not include jam, or because the ordinary and natural description of jam was not ‘a dessert sauce’. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”

52. In *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another*, [2000] F.S.R. 267 (HC), Neuberger J. (as then was) stated that:

“I should add that I see no reason to give the word “cosmetics” and “toilet preparations”... anything other than their natural meaning, subject, of course,

to the normal and necessary principle that the words must be construed by reference to their context.”

53. In *Avnet Incorporated v Isoact Limited*, [1998] F.S.R. 16, Jacob J. (as he then was) stated that:

“In my view, specifications for services should be scrutinised 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.”

54. “Sales promotion” appears identically in both the opponent’s specification and the applicant’s specification. These services are self-evidently identical.

55. “On-line retail services relating to gifts, namely...clothing”, “retail services provided by on-line department stores in the field of...clothing”, “on-line retail store services in the field of clothing” and “on-line retail store services featuring... clothing” in the applicant’s specification are plainly identical to “retail services... including those services online... all connected with the sale of the following: ...clothing” in the opponent’s specification. “On-line retail services relating to gifts, namely...jewellery”, “retail services provided by on-line department stores in the field of... jewellery” and “on-line retail services relating to jewellery” in the applicant’s specification are plainly identical to “retail services...including those services offered online...all connected with the sale of the following: ...jewellery” in the opponent’s specification. “On-line retail services relating to gifts, namely...lights”, “retail services provided by on-line department stores in the field of... lights” and “on-line retail store services featuring lighting” in the applicant’s specification are plainly identical to “retail services...including those services offered online...all connected with the sale of the following: ...lighting and lighting reflectors” in the opponent’s specification. “On-line retail store services featuring cosmetic and beauty products...” in the applicant’s specification is plainly identical to “Retail services... including those services offered online... all connected with the sale of the following: ...cosmetics, ...body cleaning and beauty care preparations” in the opponent’s specification. “On-line retail store services featuring... accessories for clothing” in the applicant’s specification is plainly

identical to “retail services... including those services offered online... all connected with the sale of the following: ... accessories for clothing and fashion” in the opponent’s specification. “Import and export agencies” in the applicant’s specification is plainly identical to “import-export agency services” in the opponent’s specification.

56. “Retail services...including those services offered online... all connected with the sale of the following: ...hands free kits for telephones” in the opponent’s specification falls within the broader categories of “On-line retail services relating to gifts, namely mobile accessories...” and “retail services provided by on-line department stores in the field of mobile accessories” in the applicant’s specification. “On-line wholesale and retail store services featuring... clothing” in the applicant’s specification falls within the broader category of “retail services, wholesale and franchise services... including those services offered online... all connected with the sale of the following: ...clothing” in the opponent’s specification. “On-line wholesale and retail store services featuring... jewellery” in the applicant’s specification falls within the broader category of “retail services, wholesale and franchise services... including those services offered online... all connected with the sale of the following... jewellery” in the opponent’s specification. “On-line wholesale and retail store services featuring... lights” in the applicant’s specification falls within the broader category of “retail services, wholesale and franchise services... including those services offered online... all connected with the sale of the following... lighting and lighting reflectors” in the opponent’s specification. The retail and wholesale aspects of “retail services, wholesale and franchise services... including those services offered online... all connected with the sale of the following: ...hands free kits for telephones” in the opponent’s specification will fall within the broader category of “on-line wholesale and retail store services featuring mobile accessories” in the applicant’s specification. These services can, therefore, be considered identical on the principle outlined in *Meric*.

57. “Advertising, including on-line advertising on a computer network” in the applicant’s specification is plainly identical to “advertising” in the opponent’s specification. “Online advertising and marketing services in the field of mobile accessories, clothing, jewellery, and lights via wireless networks for display on mobile devices” in the applicant’s specification falls within the broader categories of “advertising” and “services relating to advertising, marketing and public relations (including the

organization of exhibitions and fairs for trade purposes)” in the opponent’s specification. “Promotional marketing” and “advisory services relating to sale promotion” in the opponent’s specification fall within the broader category of “promotional and marketing services and consultancy related thereto” in the applicant’s specification. These services can, therefore, be considered identical on the principle outlined in *Meric*.

58. “Commercial administration of the licensing of the goods and services of others” in the applicant’s specification falls within the broader category of “business administration” in the opponent’s specification. These services can, therefore, be considered identical on the principle outlined in *Meric*. If I am wrong in this finding, then there will be significant overlap between the users, uses, method of use and trade channels for the services and they will be highly similar.

59. “On-line trading services in which users post requests for products and negotiate transactions via the internet” in the applicant’s specification falls within the broader category of “provision of an on-line marketplace for buyers and sellers of goods and services”, connected with a wide variety of goods listed in the opponent’s specification. These services can, therefore, be considered identical on the principle outlined in *Meric*. If I am wrong in this finding, then there will be significant overlap in the users, uses, method of use and trade channels for the services and they will be highly similar.

The average consumer and the nature of the purchasing act

60. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties’ services. I must then determine the manner in which these services are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the

relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

61. I have no submissions from the applicant on the nature of the average consumer and the purchasing process for the services in issue. In its written submissions in lieu, the opponent states:

“51. The level of attention paid by the relevant consumer, namely the general public and business customers is likely to be average”.

62. I consider that the average consumer for the services will be either a member of the general public or a business user, depending on the specific services being selected. The costs of the services are likely to vary. For example, retail services in relation to clothes may be of relatively low cost whereas import and export agency services may be of higher cost. Similarly, the frequency of purchase is likely to vary with some services being purchased more frequently (such as retail services in relation to clothes) and others being purchased less frequently (such as advertising services). Generally, I consider that the level of attention paid during the purchasing process will be average. However, there may be some services covered by the specifications which are more niche and will attract a higher level of attention during the purchasing process. For example, “Import and export agencies” and “Commercial administration of the licensing of the goods and services of others” are likely to involve long-standing business relationships and involve specialist service providers, leading to a higher level of attention being paid by the consumer.

63. Generally, the services are likely to be purchased from retail or specialist shops (or their online or catalogue equivalents). For the more niche services, these may be purchased via specialist websites or intermediaries. Generally, the purchasing process is likely to be dominated by visual considerations as the average consumer is likely to select the services following inspection of the premises’ frontage on the high street, on websites and in advertisements (such as flyers, posters or online adverts). However, given that word-of-mouth recommendations may also play a part, I do not

discount that there will be an aural component to the selection of the services. In addition, for those niche services where a specialist intermediary may be involved, aural considerations may play a greater role in the purchasing process.


Comparison of trade marks

64. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“... it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

65. It would be wrong, therefore, to artificially dissect the trade marks, although it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

66. The respective marks are shown below:

Opponent's trade mark	Applicant's trade mark
<p style="text-align: center;">next</p>	

67. I have lengthy submissions from both parties on the similarity of the marks and, whilst I do not propose to reproduce those here, I have taken them all into consideration in reaching my decision.

68. The applicant's mark consists of the words NEXT DEAL SHOP positioned one above the other, with each word getting progressively larger, followed by a full stop. The wording is superimposed over the top of an arrow device which, due to the thin outline appears to be in the background. There are three short lines positioned above the arrow device. The wording plays a greater role in the overall impression of the mark with the arrow device playing a lesser role. The opponent's mark consists of the word NEXT presented in lower case, in a slightly stylised font. The stylisation of the word is minimal and the overall impression is dominated by the word itself.

69. Visually, the marks coincide in the common word NEXT. This is the sole element of the opponent's mark and is one of the three words present in the applicant's mark. The additional two words in the applicant's mark and the arrow device create a clear point of visual difference between the marks. In my view, the marks are visually similar to a low degree.

70. Aurally, the marks coincide in the common word NEXT which will be given its ordinary English pronunciation in both marks. The additional words DEAL SHOP in the applicant's mark will serve as a point of aural difference between the marks. In my view, the marks are aurally similar to a medium degree.

71. Conceptually, the word NEXT will be given its ordinary dictionary meaning in both marks, that is, referring to something that is coming immediately after something else. In the opponent's mark, exactly what it is that is coming next is not clear, but in the case of the applicant's mark, this meaning is explained by the addition of the words DEAL SHOP which creates the impression of the shop in which to source the next bargain or discount. This is further enhanced by the presence of the arrow device which is pointing forward. In my view, the marks are conceptually similar to a low degree.

Distinctive character of the earlier mark

72. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court 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 (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, paragraph 49).

23. 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 promotion of 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 (see *Windsurfing Chiemsee*, paragraph 51).”

73. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities.

74. I have no submissions from the applicant on the distinctive character of the earlier mark. In its written submissions in lieu, the opponent states:

“53. The Opponent’s Earlier Marks have a normal level of distinctiveness *per se*. NEXT and NEXT DIRECTORY are not terms which have any direct meaning in respect of the Opposing Goods and Services. These factors combined increase the likelihood that a similar mark which covers identical/similar services, such as the Contested Mark, will be confused with the Earlier Marks.

[...]

55. [...] In the present case, it is submitted that the normal level of distinctiveness *per se* of the Earlier Marks has been enhanced in respect of EU Registration No. 01760747, EU Registration No. 001620434 and UK Registration No. UK00002453621 as illustrated in the evidence to the witness statement of Sarah Louise Waterland. This should be taken into consideration in the global assessment of the likelihood of confusion between the marks.”

75. I must first consider the inherent distinctiveness of the Sixth Earlier Mark as a whole. It consists of the word NEXT in a slightly stylised, lowercase font. The stylisation has little if any impact on the distinctiveness of the Sixth Earlier Mark as it is so minimal. The word NEXT is an ordinary dictionary word with no particular meaning in relation to the services. I consider that the Sixth Earlier Mark has a medium degree of inherent distinctive character.

76. The likelihood of confusion must be assessed by reference to the territory in which the applicant seeks to register its mark, i.e. the UK market. Therefore, the relevant market for assessing enhanced distinctiveness is the UK market. As outlined above,

the Sixth Earlier Mark (or acceptable variants of it) have been used extensively throughout the UK in relation to retail services for a broad range of goods including clothing and accessories, toiletries, cosmetics, homeware, toys and games, jewellery, watches, lighting and electronic goods. In my view, the distinctiveness of the Sixth Earlier Mark has been enhanced to a high degree in respect of all of these services. I also consider that as part of the retail services offered by the opponent, they are responsible for advertising and promoting the goods of others. There are various examples throughout the opponent's evidence of sales of third party goods and the advertising of these on their website and in their catalogue. I, therefore, consider that the distinctive character of the Sixth Earlier Mark has also been enhanced in relation to advertising and promotional services.

Likelihood of confusion

77. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods and services down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's trade marks, the average consumer for the goods and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

78. I have found the marks to be visually similar to a low degree, aurally similar to a medium degree, and conceptually similar to a low degree. I have found the Sixth Earlier Mark to have a medium degree of inherent distinctive character, which has been enhanced to a high degree through use in respect of retail services for a broad

range of goods including clothing and accessories, toiletries, cosmetics, homeware, toys and games, jewellery, watches, lighting and electronic goods, as well as advertising and promotional services. I have found the average consumer to be a member of the general public or a business user who will select the services primarily by visual means, although I do not discount an aural component. Indeed, aural considerations may play a greater role for those services which may involve a purchase through a specialist intermediary. Generally, I have concluded that an average degree of attention will be paid during the purchasing process, although I have noted that the level of attention paid may be higher for some of the services. I have found the parties' services to be identical or, if I am wrong, highly similar.

79. Taking all of these factors into account, I consider that there are sufficient visual, aural and conceptual differences between the marks to ensure that they will not be misremembered or mistakenly recalled as each other. I am satisfied that there is no likelihood of direct confusion.

80. It now falls to me to consider the likelihood of indirect confusion. Indirect confusion was described in the following terms by Iain Purvis Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL-O/375/10:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.”

81. Clearly, there will be some average consumers who, when they come into contact with the contested mark, will view the use of the word NEXT as ordinary dictionary use of the word as part of a longer phrase (NEXT DEAL SHOP). That is, they will understand the mark to mean the shop in which the next bargain or discount can be found. To these consumers, the word NEXT qualifies the word DEAL and SHOP identifies the type of retail outlet where the 'NEXT DEAL' can be found. In these circumstances, the combination of NEXT and DEAL takes on a meaning that is more descriptive (and therefore less distinctive) than the word NEXT alone. This is sufficient to avoid any likelihood that this group of consumers will regard the word NEXT in NEXT DEAL SHOP as signalling that the users of the marks are likely to be economically connected. However, the distinctive character of the Sixth Earlier Mark has been enhanced to such a high degree through use in relation to retail services for a broad range of goods, and in relation to advertising and promotional services, that it will still stand out to, and draw the attention of, a significant proportion of average consumers. To these consumers, the meaning of the word NEXT will not be wholly subsumed within the phrase NEXT DEAL SHOP. Rather, this group of consumers is likely to view (and hear) the contested mark as the opponent's mark followed by DEAL SHOP (with an arrow in the background). In my view, there will be a significant number of consumers who will view the use of the word NEXT in the applicant's mark, in the context of the services for which distinctiveness has been enhanced through use, as a reference to the opponent. That is, a discount or outlet shop offering the opponent's goods and services.

82. In *Interflora v Marks and Spencer*³⁶ the Court of Appeal held that it was appropriate to give due weight to the likely reactions of different sections of the public, provided that these represent the range of likely reactions of persons with the attributes of an average consumer. Kitchen L.J. stated that:

"129.... In deciding a question of infringement of a trade mark, and determining whether a sign has affected or is liable to affect one of the functions of the mark in a claim under Article 5(1)(a) of the Directive (or Article 9(1)(a) of the Regulation), whether there is a likelihood of confusion or association under

³⁶ [2014] EWCA 1403 (Civ)

Article 5(1)(b) (or Article 9(1)(b)), or whether there is a link between the mark and the sign under Article 5(2) (or Article 9(1)(c)), the national court is required to make a qualitative assessment. It follows that it must make that assessment from the perspective of the average consumer and in accordance with the guidance given by the Court of Justice. Of course the court must ultimately give a binary answer to the question before it, that is to say, in the case of Article 5(1)(b) of the Directive, whether or not, as a result of the accused use, there exists a likelihood of confusion on the part of the public. But in light of the foregoing discussion we do not accept that a finding of infringement is precluded by a finding that many consumers, of whom the average consumer is representative, would not be confused. To the contrary, if, having regard to the perceptions and expectations of the average consumer, the court concludes that a significant proportion of the relevant public is likely to be confused such as to warrant the intervention of the court then we believe it may properly find infringement.

130. In the circumstances of this case we are, of course, concerned with a claim under Article 5(1)(a) (and Article 9(1)(a)) in the context of internet advertising and the question to be answered was whether the advertisements in issue did not enable reasonably well-informed and observant internet users, or enable them only with difficulty, to ascertain whether the goods and services so advertised originated from Interflora or an undertaking economically linked to Interflora or, on the contrary, originated from M & S, a third party. In answering this question we consider the judge was entitled to have regard to the effect of the advertisements upon a significant section of the relevant class of consumers, and he was not barred from finding infringement by a determination that the majority of consumers were not confused.”

83. In my view, the enhanced distinctiveness of the Sixth Earlier Mark is such that a significant proportion of average consumers would take the latter approach when viewing (or hearing) the mark and conclude that it was an outlet store operated by the opponent. In these circumstances, the existence of a significant proportion of average consumers who view (or hear) the Sixth Earlier Mark as meaning just a shop to go to for your ‘next deal’, does not prevent me from finding a likelihood of confusion. I

therefore find that there is a likelihood of indirect confusion in respect of those services for which the opponent has established the Sixth Earlier Mark has enhanced distinctive character. In respect of those services for which it does not have enhanced distinctive character, I consider that average consumers will just see the applicant's mark as referring to the shop in which the next discount or bargain can be found and will not make any connection with the opponent.

84. The opposition under section 5(2)(b), therefore succeeds in relation to the following services:

Class 35 On-line retail services relating to gifts, namely mobile accessories, clothing, jewellery, and lights; Retail services provided by on-line department stores in the fields of mobile accessories, clothing, jewellery, and lights; On-line retail services relating to jewellery; On-line retail store services featuring lighting; On-line retail store services in the field of clothing; On-line retail store services featuring cosmetic and beauty products, clothing and accessories for clothing; On-line wholesale and retail store services featuring mobile accessories, clothing, jewellery, and lights; Advertising, including on-line advertising on a computer network; Sales promotion; Online advertising and marketing services in the field of mobile accessories, clothing, jewellery, and lights via wireless networks for display on mobile devices; Promotional and marketing services and consulting related thereto.

85. For the avoidance of doubt, I do not consider that the opponent has shown that any of its other marks have acquired enhanced distinctiveness in relation to services which would be similar to the applicant's remaining services, i.e. "Import and export agencies", "on-line trading services in which users post requests for products and negotiate transactions via the Internet" and "commercial administration of the licensing of the goods and services of others". The opponent's position would not, therefore, have been improved if I had considered its remaining six marks under this ground of opposition.

Section 5(3)

86. I will go on to consider the opponent's opposition under section 5(3). Again, as the opponent considers that the Sixth Earlier Mark represents its best case, I will focus on this mark for the purposes of my assessment. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, *General Motors*, Case 252/07, *Intel*, Case C-408/01, *Addidas-Salomon*, Case C-487/07, *L'Oreal v Bellure* and Case C-323/09, *Marks and Spencer v Interflora*. The law appears to be as follows:

(a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors*, paragraph 24.

(b) The trade mark for which protection is sought must be known by a significant part of that relevant public; *General Motors*, paragraph 26.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Saloman*, paragraph 29 and *Intel*, paragraph 63.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel*, paragraph 42

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph 68; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

(f) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a

change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel, paragraphs 76 and 77*.

(g) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel, paragraph 74*.

(h) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV, paragraph 40*.

(i) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora, paragraph 74 and the court's answer to question 1 in L'Oreal v Bellure*).

87. The conditions of section 5(3) are cumulative. Firstly, the opponent must show that the Sixth Earlier Mark has achieved a level of knowledge/reputation amongst a significant part of the public. Secondly, it must be established that the level of reputation and the similarities between the marks will cause the public to make a link between them, in the sense of the earlier mark being brought to mind by the later mark. Thirdly, assuming that the first and second conditions have been met, section 5(3) requires that one or more of the types of damage claimed will occur and/or that the

contested mark will, without due cause, take unfair advantage of the reputation and/or distinctive character of the reputed earlier mark. This will clearly be the case if the relevant public believes that the parties' marks are used by the same undertakings, or that there is an economic connection between the users of those marks. It is unnecessary for the purposes of section 5(3) that the goods or services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks. The relevant date for the assessment under section 5(3) is the date of the application – 7 July 2017.

Reputation

88. In determining whether the opponent has demonstrated a reputation for the services in issue, it is necessary for me to consider whether its mark will be known by a significant part of the public concerned with the services. In reaching this decision, I must take all of the evidence into account including “the market share held by the trade mark, the intensity, geographical extent and duration of use, and the size of the investment made by the undertakings in promoting it.”³⁷

89. Ms Waterland states that use of the mark NEXT was first adopted in the UK in 1982, with the NEXT DIRECTORY catalogue being launched in 1999. The opponent's website receives tens of millions of hits per month, it operates over 500 stores in the UK and trades in more than 70 countries worldwide (including various countries in the EU). Millions of NEXT DIRECTORY catalogues have been distributed each year and the opponent has affixed its marks (or acceptable variants of them) to its products and their packaging. Similarly, the marks have been used in the opponent's catalogues, on its website and on invoices. I have reviewed the turnover figures for franchise stores operating in the EU between 2009 and 2016 and they are significant. Similarly, the sales figures for the UK operation are also significant. The opponent has also spent a significant amount of money on promotion and advertising of its marks each year. The opponent clearly has a strong social media following and examples have been

³⁷ *General Motors*, Case C-375/97

provided of its marks in use on these platforms. The opponent has demonstrated that it has a significant market share across a number of different retail sectors.

90. It seems clear to me that the opponent has done more than enough to demonstrate that it has a reputation in relation to retail services for a broad range of goods including clothing and accessories, toiletries, cosmetics, homeware, toys and games, jewellery, watches, lighting and electronic goods. In my view, the Sixth Earlier Mark has acquired a strong reputation in respect of all of these services. For the reasons set out above, I also consider that the opponent has a reputation in relation to advertising and promotional services.

Link

91. As I noted above, my assessment of whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are:

The degree of similarity between the conflicting marks

For the reasons set out earlier, I consider that there is a low degree of visual and conceptual similarity and a medium degree of aural similarity between the marks.

The nature of the goods or services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public

The majority of the applicant's services will be identical to the services for which the opponent has demonstrated a reputation (or, if not identical, they will be highly similar). The exceptions to this are the applicant's "Import and export agencies", "on-line trading services in which users post requests for products and negotiate transactions via the Internet" and "commercial administration of the licensing of the goods and services of others". These are services which

are clearly quite distinct from the retail, advertising and promotional services for which I have found the opponent to have a reputation. Clearly, there will be some overlap in that all the services may be used by members of the public or business users, but they will have different trade channels, methods of use and intended purposes.

The strength of the earlier mark's reputation

The Sixth Earlier Mark has a strong reputation in the UK.

The degree of the earlier mark's distinctive character, whether inherent or acquired through use

I have found the Sixth Earlier Mark to have a medium degree of inherent distinctive character that has been enhanced to a high degree through use in respect of retail services for a broad range of goods including clothing and accessories, toiletries, cosmetics, homewear, toys and games, jewellery, watches, lighting and electronic goods and advertising and promotional services.

Whether there is a likelihood of confusion

I have found there to be a likelihood of confusion in respect of all services except "Import and export agencies", "On-line trading services in which users post requests for products and negotiate transactions via the Internet" and "Commercial administration of the licensing of the goods and services of others" in the applicant's specification.

92. In my view, the majority of the applicant's specification will fall within the scope of those services for which the opponent has a strong reputation and the closeness between these services, combined with the strength of the opponent's reputation, means that it is likely that the public will make a link between the marks. There is a likelihood that a significant proportion of the relevant public will view the use of the word NEXT in the applicant's mark as a reference to the opponent, if NEXT DEAL

SHOP is used in relation to the services for which the Sixth Earlier Mark has a reputation. However, the disparity between the services for which the opponent has a reputation and “Import and export agencies”, “On-line trading services in which users post requests for products and negotiate transactions via the Internet” and “Commercial administration of the licensing of the goods and services of others” in the applicant’s specification is clear. In this context I consider that the word NEXT will be wholly subsumed within NEXT DEAL SHOP. Therefore, the public are likely to view the word NEXT as just normal use of an ordinary dictionary word. Consequently, they will not make any link with the opponent. If a link is made, then it will be fleeting.

Damage

93. To the extent that consumers are confused and believe that the applied for mark is connected to the opponent and its earlier mark, this is bound to give the applied for mark an unfair advantage. In respect of those services for which I have already upheld the section 5(2)(b) ground of opposition, this takes the opponent’s case no further forward, but clearly the opposition must also succeed to the same extent under section 5(3).

94. In the event that I am wrong in my finding that there is no link in respect of “Import and export agencies”, “On-line trading services in which users post requests for products and negotiate transactions via the Internet” and “Commercial administration of the licensing of the goods and services of others” in the applicant’s specification, I will go on to consider the heads of damage claimed by the opponent.

Unfair Advantage

95. In *Jack Wills Limited v House of Fraser (Stores) Limited* [2014] EWHC 110 (Ch) Arnold J. considered the earlier case law and concluded that:

“80. The arguments in the present case give rise to two questions with regard to taking unfair advantage. The first concerns the relevance of the defendant’s intention. It is clear both from the wording of Article 5(2) of the Directive and Article 9(1)(c) of the Regulation and from the case law of the Court of Justice

interpreting these provisions that this aspect of the legislation is directed at a particular form of unfair competition. It is also clear from the case law both of the Court of Justice and of the Court of Appeal that the defendant's conduct is most likely to be regarded as unfair where he intends to benefit from the reputation and goodwill of the trade mark. In my judgment, however, there is nothing in the case law to preclude the court from concluding in an appropriate case that the use of a sign the objective effect of which is to enable the defendant to benefit from the reputation and goodwill of the trade mark amounts to unfair advantage even if it is not proved that the defendant subjectively intended to exploit that reputation and goodwill.”

96. I am not persuaded by the opponent's claim that the applicant would benefit from the “substantial and highly regarded reputation” of the opponent in respect of “Import and export agencies”, “On-line trading services in which users post requests for products and negotiate transactions via the Internet” and “Commercial administration of the licensing of the goods and services of others” in the applicant's specification. The opponent has not filed any evidence, nor has it made any persuasive submissions, which would enable me to identify how the transfer of any image in either advertising or retail services would be of benefit to the applicant for these services. The degree of similarity between the marks is too low that, when combined with the gap between the respective services, there is no real risk of confusion or an image transfer that would unfairly benefit the contested mark. I see no obvious other way in which there would be an unfair advantage. This head of damage is, consequently, rejected.

Tarnishment

97. This head of damage was helpfully summarised in *Champagne Louis Roederer v J. Garcia Carrion S.A. et al* [2015] EWHC 2760 (Ch) as follows:

“89. Detriment to the repute of the mark, also referred to as “tarnishment” or ‘degradation’, is caused when the goods or services for which the offending sign is used may be perceived by the public in such a way that the trade mark's power of attraction is reduced. The concept was described by Arnold J in *Red*

Bull v Sun Mark [2012] EWHC 1929 (Ch) at [93] where he quoted the relevant passage from Kerly's Law of Trade Marks and Trade Names (15th ed) at para 9-131. Detrimental effect occurs where the later mark is used for goods or services which provoke a reaction of annoyance or displeasure whether through their intrinsic nature or because of the unpleasant mental association with the goods for which the earlier mark is reputed. It may also occur when the trade mark applied for is used in an unpleasant, obscene or degrading context, or in a context which is not inherently unpleasant but which process to be incompatible with the earlier mark's image. This leads to tarnishment whereby "the reputed mark ceases to convey desirable messages to the public: hence the detriment to its distinctive character".

98. I am also not persuaded by the opponent's claim that there will be damage by way of tarnishment. Damage by way of tarnishment is not simply about the quality of the services, but rather there must be something about the later mark and/or the services for which the mark is applied for, which spoils the image of the earlier mark or creates negative associations in the mind of the earlier mark's consumers. I note the examples of complaints taken from the applicant's website as set out in the opponent's evidence. However, in the absence of any likelihood of confusion as to the source of the applicant's services, I consider that this falls short of demonstrating sufficient grounds for tarnishment. Consequently, this head of injury is rejected.

Detriment to Distinctive Character

99. In *Environmental Manufacturing LLP v OHIM*, Case C-383/12P, the CJEU stated that:

"34. According to the Court's case-law, proof that the use of the later mark is, or would be, detrimental to the distinctive character of the earlier mark requires evidence of a change in the economic behaviour of the average consumer of the goods or services for which the earlier mark was registered, consequent on the use of the later mark, or a serious likelihood that such a change will occur in the future (*Intel Corporation*, paragraphs 77 and 81, and also paragraph 6 of the operative part of the judgment).

It went on:

42. Admittedly, Regulation No 207/2009 and the Court's case-law do not require evidence to be adduced of actual detriment, but also admit the serious risk of such detriment, allowing the use of logical deductions.

43. None the less, such deductions must not be the result of mere suppositions but, as the General Court itself noted at paragraph 52 of the judgment under appeal, in citing an earlier judgment of the General Court, must be founded on 'an analysis of the probabilities and by taking account of the normal practice in the relevant commercial sector as well as all the other circumstances of the case'."

100. The opponent has provided no evidence of a change in the economic behaviour of the opponent's customers or that there is a serious likelihood of such change. Given the weakness of the link (if indeed there is a link made at all) and the gap between the services in issue, I do not consider it likely that the use of the applied for mark will have any negative effect on the earlier marks. I do not consider it a logical inference that there would be any change in consumer behaviour. This head of damage is, consequently, rejected.

CONCLUSION

101. The opposition under section 5(2)(b) and section 5(3) succeeds in respect of the following services:

Class 35 On-line retail services relating to gifts, namely mobile accessories, clothing, jewellery, and lights; Retail services provided by on-line department stores in the fields of mobile accessories, clothing, jewellery, and lights; On-line retail services relating to jewellery; On-line retail store services featuring lighting; On-line retail store services in the field of clothing; On-line retail store services featuring cosmetic and beauty products, clothing and accessories for clothing; On-line wholesale and

retail store services featuring mobile accessories, clothing, jewellery, and lights; Advertising, including on-line advertising on a computer network; Sales promotion; Online advertising and marketing services in the field of mobile accessories, clothing, jewellery, and lights via wireless networks for display on mobile devices; Promotional and marketing services and consulting related thereto.

102. The application is, therefore, refused in respect of these services.

103. The application can proceed to registration in respect of the following services only:

Class 35 Import and export agencies; On-line trading services in which users post requests for products and negotiate transactions via the Internet; Commercial administration of the licensing of the goods and services of others.

COSTS

104. As the opponent has been mostly successful, it is entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the opponent the sum of **£2,250** as a contribution towards the costs of the proceedings. The sum is calculated as follows:

Preparing notice of opposition and considering the applicant's statement	£250
Preparing evidence, considering the applicant's evidence and preparing evidence in reply	£1,500
Preparing written submissions in lieu	£300
Opposition fee	£200

Total

£2,250

105. I therefore order EGATEWAY GLOBAL LIMITED to pay Next Retail Limited the sum of £2,250. This sum should be paid within 14 days of the expiry of the appeal period or, if there is an appeal, within 14 days of the conclusion of the appeal proceedings.

19th March 2019

S WILSON

For the Registrar

ANNEX

Sixth Earlier Mark's Services

Class 3

Bleaching preparations and other substances for laundry use; cleaning, polishing, degreasing, scouring and abrasive preparations; soaps and gels; perfumery, essential oils and aromatic extracts, cosmetics, toiletries, hair lotions; dentifrices; perfumes; eau de toilette; shower gels; bubble baths; bath preparations, not for medical purposes; talc; deodorants; antiperspirants; aftershave; shaving preparations; shaving gel, shampoos, conditioners, hair gel, hair spray, body wash, shaving balms, moisturisers; beauty masks; foam bath; shimmer powder; body spray; tooth-powder, cream and pastes; cotton wool for cosmetic purposes; dry shampoos; nail polish, nail care preparations, nail art stickers, false nails; make-up preparations, make-up removing preparations; baby care products (non-medicated); non-medicated toilet preparations; preparations and treatments for the hair; hair removal preparations; preparations for the skin; preparations for use in the bath or shower; lotions for the care of the hands and body; non-medicated creams, for the care of the skin; non-medicated lotions for suntanning; body cleaning and beauty care preparations; oral hygiene preparations; cosmetic preparations for eyelashes; adhesives for cosmetic purposes; air fragrancing preparations; aromatic potpourris; leather and shoe cleaning and polishing preparations; wallpaper cleaning preparations; vehicle cleaning preparations.

Class 4

lubricants; grease for footwear, belts and leather; candles and wicks for lighting; illuminants; beeswax; Christmas tree candles; coal briquettes; firelighters; firewood; fuel (including motor spirit); dust absorbing, wetting and binding compositions.

Class 5

Babies' diapers of textile.

Class 6

Fasteners, clips, hinges, connectors, drawer runners, screws, nuts, bolts and handles, all being items of metal hardware and all being parts and fittings for furniture; chains for dogs; dog tags; identification tags of metal for pets; metal building materials and metal furniture fittings; containers, and transportation and packaging articles, of metal; non-electric cables and wires of common metal; ironmongery, metal hardware; pipes and tubes of metal; safes; money boxes of metal; greenhouses of metal; sheds (buildings) of metal; hooks; arbours (metal structures); articles of metal for use in the garden; doors, gates, windows and window coverings of metal; statues and works of art of common metal; bird baths [structures] of metal; door stops, handles, panels, bolts, frames and casings of metal; ladders and scaffolding of metal; locks of metal, other than electric; nails; tool boxes of metal, empty; parts and fittings for all the aforesaid goods.

Class 7

Machines for mixing, kneading, pulping, grinding, mincing, chopping, blending, shredding, peeling, pressing and frothing foodstuffs and beverages; dishwashing machines, washing machines, drying machines, machines for airing clothes; sweeping, cleaning, washing and laundering machines; ironing machines and laundry presses; liquidisers; food processors; electric kitchen tools and knives; electric machines for preparing and processing food and drink; food waste disposal machines; agricultural implements other than hand-operated; textile and leather sewing equipment; sewing machines; bobbins for sewing machines; 3D printers; air brushes; beverage making machines; blow torches; vacuum cleaners, vacuum cleaner bags; construction equipment; gardening machines and tools (electric); hand-held tools, mechanically operated; hand-held power-operated tools; automatic vending machines; parts and fittings for all the aforesaid goods.

Class 8

Hand tools and implements (hand-operated); gardening and landscaping tools; hand-operated tools and implements for treatment of materials and for construction, repair and maintenance; irons; cutlery; razors; hair cutting and removal implements; hair styling appliances; crimping irons; curling tongs; straightening irons; hygienic and beauty implements for humans and animals; tweezers, trimmers, scissors; clippers for personal use; manicure and pedicure tools; food and drink preparation implements; zesters; slicers; barbecue forks and tongs; kitchen knives; penknives; parts and fittings for all the aforesaid goods.

Class 12

Bike bags.

Class 14

Precious metals and their alloys; jewellery; imitation jewellery; tiaras; necklaces; bracelets; earrings; rings; jewellery cases, jewellery display stands; precious stones; semi-precious stones; clocks, watches and chronometric instruments; watch straps; watch bracelets; badges of precious metal; clock cases; cuff links; statues and figurines, made of or coated with precious or semi-precious metals or stones, or imitations thereof; jewellery boxes; key rings [trinkets or fobs] and key chains; ornamental pins; stopwatches; sundials; tie clips; tie pins; jewellery cases [caskets], not of precious metal; pouches for jewellery; parts and fittings for all the aforesaid goods.

Class 16

Paper, cardboard; goods made of paper and cardboard not included in other classes, namely, decorations made from paper and/or cardboard; printed matter; bookbinding materials; photographs; stationery; adhesives for stationery or household purposes; artist materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); pens; pencils; swing tags and labels; till receipts; carrier bags; accessories for home and house, namely, wall stickers, framed

and unframed art pictures, framed and unframed art prints and framed and unframed art reproductions, chalk boards and memorandum boards, greetings cards, paper gift wrap; paper bags, cardboard boxes and containers; cardboard gift boxes; paper and cardboard gift tags; paper and cardboard tableware, paper and cardboard place mats, paper and cardboard table mats, paper and cardboard coasters; paper napkins and serviettes, paper table linens, paper tablecloths; wallpaper stencils, wallpaper sample books, wallpaper pattern books, paper for use in the manufacture of wallpaper; letter racks; photographs; framed pictures; wall art; photographic prints; pictures; paper picture mounts; gift vouchers; catalogues; mail order catalogues; brochures; books; diaries; magazines; calendars; newsletters, printed manuals; pamphlets; writing paper; wrapping paper and gift tags; paper or cardboard gift bags for bottles; table napkins of paper; cardboard tubes; cardboard household storage boxes; paper party bags; paper pouches for packaging, plastic bags for packaging, plastic bubble packs for wrapping or packaging; labels, namely, printed paper labels, printed shipping labels; labels and return address labels, not of textile; paper signs, advertising signs made of cardboard; paper labels; plastic bags for general use; paper and cardboard tableware, paper and cardboard cake decorations; drawer liners made of scented or unscented paper; paper handtowels, paper towels; paper garlands, paper bunting, paper banners, paper flags; hat boxes made of cardboard; figurines made of card; wallpaper stencils, wallpaper sample books, wallpaper pattern books, paper for use in the manufacture of wallpaper; pencil sharpeners; pencil cases; chalk; erasers; rubber erasers, chalk erasers, blackboard erasers; posters; notebooks; memo pads; scribble pads; writing paper; notepaper; envelopes; date books; address books; agenda books; rubber stamps; stamp pads; folders; paper picture mounts; photo albums; postcards; greeting cards; trading cards; colouring books; children's activity books; picture books; book covers; paper book markers; bookplates; stencils for tracing designs onto paper; decals; stickers; notebook holders; document cases of paper and cardboard; document holders; chequebook holders; printed publications, print advertising; adhesives [glues] for stationery or household purposes; albums; scrapbooks; bookends; desk mats; drawing materials; drawing instruments; geographical maps; glue for stationery or household purposes, pastes for household purposes; letter trays; passport holders; pen cases, boxes for pens; transfers [decalcomanias]; writing materials.

Class 18

Leather and imitations of leather; leather, un-worked or semi-worked; processed or unprocessed leather and hides, artificial leather, cowhide, lining leather; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; shooting sticks; whips, harness and saddlery; bags; handbags; shoulder bags; cases; suitcases; briefcases; rucksacks; belts; bags; purses; travelling cases; backpacks; duffel bags; bags for campers; shopping bags; carrier bags; furniture covering of leather; leather straps (not for clothing); pocket wallets; toilet bags; accessories for clothing and fashion, namely, purses, handbags, wallets, clutch bags, tote bags; key cases; pocket wallet holders (in the nature of wallets) for credit cards or visiting cards, toilet bags (not fitted), travelling bags; leather bags, bags of synthetic materials; wallets; attaché cases; music cases; satchels; diaper bags; beach bags; bumbags; sports bags; casual bags; beauty cases; carriers for suits, for shirts and for

dresses; tie cases; notecases; credit card cases and holders; tool bags; messenger bags; document bags; business card cases; collars for animals; hat boxes of leather; luggage tags; sling bags for carrying infants; vanity cases; leather placemats.

Class 24

Textiles and textile goods, not included in other classes; bed and table covers; plastic material as a substitute for fabric; bed linen; table linen; household linen; wall hangings; blankets; quilts; duvets and duvet covers; sheets; pillow cases; bed valances; bed-covers; table cloths; table mats; napkins; linen fabrics; curtains; curtain tie-backs; cushion covers; pelmets; covers for chairs and sofas; towels and face cloths; accessories for home and house, namely, wall hangings of textile, curtains of textile, shower curtains; tea towels, textile place mats, cork placemats, synthetic placemats; upholstery fabrics; furniture coverings of textile; curtain holders of textile material; curtain linings; picnic blankets; travel rugs; woven fabrics for sofas (upholstery); banners; bath linen, except clothing; bath mitts; bed blankets; blankets for household pets; bunting; coasters [table linen]; covers [loose] for furniture; diaper changing cloths for babies; eiderdowns [down coverlets]; face towels of textile; felt; flags, not of paper; furniture coverings of plastic; handkerchiefs of textile; mattress covers; mosquito nets; place mats, not of paper; sleeping bag liners; table runners; fitted toilet lid covers of fabric; duvets; parts and fittings for all the aforesaid goods.

Class 25

Clothing, footwear, headgear; sports clothing; socks; maternity wear; clothing for men, women and children, namely, coats, rain coats, anoraks, parkas, blazers, jackets, cardigans, boleros, sport coats, wind resistant jackets, suits, tuxedos; vests, dresses, evening gowns, jumpers, jerseys, skirts, pants, slacks, trousers, jeans, jean shirts, jump suits, coveralls, flight suits, gym suits, jogging jerseys, blouses, tunics, sweatshirts, t-shirts, tops, halter tops, tank tops, body suits, camisoles, chemises, undershirts, slips, foundation garments, body shapers, bustiers, briefs, boxer shorts, underpants, panties, laundry, lounge wear, night gowns, night shirts, negligees, robes, pyjamas, hosiery, tights, leggings, socks; ties, neckties, bow ties, scarves, shoals, neckerchiefs, gloves, mittens, belts, swimwear, bathing suits, beachwear, beach cover-ups, sarongs; ski wear, ski suits, ski pants, ski gloves, thermal socks, infant wear, play suits; footwear, namely, shoes, boots, sandals, flip flops, thongs, pool sliders and slippers; headgear namely, hats, caps, headbands, ear warmers; ready-made clothing; clothing of leather or suede; overalls; pullovers; shirts; swimming suits; training suits; jogging suits; mufflers; ear muffs; shawls; lingerie; bras; bodies; sleep sets; waterproof clothing; dancing clothing; shorts; clothing, footwear and headgear for children and babies; clothing, footwear and headgear all for sports and leisurewear; knitwear in the nature of sweaters; footwear in the nature of trainers; joggers, namely jogging suits; hoodies; polo shirts; sweat tops; track suits; leotards; trunks; waistcoats; bridesmaid dresses; ponchos; raincoats; dressing gowns; knickers; basques; stoles; wraps; cravats; kaftans; rompers; fleeces; fleece shirts; windbreakers; aprons; clothing for babies; babies' bibs, not of paper; dinner jackets; braces; babies' sleepsuits; garters; sock suspenders; bandanas [neckerchiefs]; special sporting and gymnastic wear; special sporting and

gymnastic footwear; ankle boots; babies' pants [underwear]; bath sandals; bath slippers; bath robes; bathing caps; bathing trunks; swimsuits; beach clothes; beach shoes; berets; boas [necklets]; bodices [lingerie]; boot uppers; boots for sports; breeches for wear; cap peaks; caps [headwear]; clothing for gymnastics; clothing of imitations of leather; collars [clothing]; combinations [clothing]; corselets; corsets [underclothing]; cuffs/wristbands [clothing]; cyclists' clothing; detachable collars; dress shields; fishing vests; fittings of metal for footwear; football shoes/football boots; footmuffs, not electrically heated; footwear uppers; fur stoles; furs [clothing]; gabardines [clothing]; galoshes; gymnastics shoes; half-boots; hat frames [skeletons]; heelpieces for stockings; heelpieces for footwear; heels; hoods [clothing]; jumper dresses; pinafore dresses; lace boots; layettes [clothing]; leg warmers; masquerade costumes; money belts [clothing]; motorists' clothing; neckties; non-slipping devices for footwear; outerclothing; overcoats, topcoats; paper clothing; paper hats [clothing]; petticoats; pockets for clothing; ready-made linings [parts of clothing]; saris; sashes for wear; shirt fronts; shirt yokes; short sleeve shirts; shower caps; ski boots; skorts; skull caps; sleep masks; slippers; inner soles; soles for footwear; spats; gaiters; sports jerseys; sports shoes; sports singlets; stocking suspenders; stockings; studs for football boots; stuff jackets [clothing]; sweat-absorbent stockings; sweat-absorbent underwear and underclothing; sweat-absorbent socks; teddies [undergarments]; tips for footwear; togas; top hats; trouser straps/gaiter straps; turbans; underwear/underclothing; uniforms; valenki [felted boots]; veils [clothing]; visors [headwear]; welts for footwear; wet suits for water-skiing; wooden shoes; girdles; bra strap extenders; snoods.

Class 26

Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers; hair clips; appliqués [haberdashery]; artificial flowers; artificial fruit; artificial garlands; artificial Christmas garlands; artificial Christmas wreaths; artificial flower arrangements in containers; artificial flower wreaths; artificial plants; artificial trees; badges for wear, not of precious metal; hair bands; decorative articles for the hair; bows for gift wrapping; brooches [clothing accessories]; hair curlers, other than hand implements; hair accessories; reinforcing tape for clothing; silk flowers; silk knots; silk ribbons; shoe laces; velvet ribbons; needle cushions; tassels [haberdashery]; trouser clips for cyclists; artificial flowers.

Class 27

Carpets; rugs; rug grippers; floor runners; mats and matting; door mats; yoga mats; floor coverings; mats; non-textile wall coverings; wall papers; wall paper borders; decorative wall hangings, not of textile; textile wallpaper; bath mats; linoleum and other materials for covering existing floors; carpet underlay; non-slip mats; vinyl floor coverings; fabric wall coverings; parts and fittings for all the aforesaid goods.

Class 28

Toys, games, playthings and novelties; gymnastic and sporting articles not included in other classes; bags specially adapted for sports equipment; balls for playing games and sports; decorations for

Christmas trees; Christmas trees of synthetic materials; artificial snow for Christmas trees; Christmas crackers; confetti; craft model kits; board games; dominoes; card games; electronic games; video game apparatus; puzzles; articles of clothing for toys and dolls; baby play things; inflatable toys; toy masks; novelties for parties; floats for bathing and swimming; swimming floats; parts and fittings for all the aforesaid goods.

Class 35

Retail services, wholesale and franchise services, including those services offered via a general merchandising department store and clothing store, mail order catalogue, online, via television channel, via mobile phone and by direct marketing, presentation of goods on communication media, for retail purposes, provision of an on-line marketplace for buyers and sellers of goods and services, all connected with the sale of the following: Bleaching preparations and other substances for laundry use, cleaning, polishing, degreasing, scouring and abrasive preparations, soaps and gels, perfumery, essential oils and aromatic extracts, cosmetics, toiletries, hair lotions, dentifrices, perfumes, eau de toilette, shower gels, bubble baths, bath preparations, not for medical purposes, talc, deodorants, antiperspirants, aftershave, shaving preparations, shaving gel, shampoos, conditioners, hair gel, hair spray, body wash, shaving balms, moisturisers, beauty masks, foam bath, shimmer powder, body spray, tooth-powder, cream and pastes, cotton wool for cosmetic purposes, dry shampoos, nail polish, nail care preparations, nail art stickers, false nails, make-up preparations, make-up removing preparations, baby care products (non-medicated), non-medicated toilet preparations, preparations and treatments for the hair, hair removal preparations, preparations for the skin, preparations for use in the bath or shower, lotions for the care of the hands and body, non-medicated creams, for the care of the skin, non-medicated lotions for suntanning, body cleaning and beauty care preparations, oral hygiene preparations, cosmetic preparations for eyelashes, adhesives for cosmetic purposes, air fragrancing preparations, aromatic potpourris, leather and shoe cleaning and polishing preparations, wallpaper cleaning preparations, vehicle cleaning preparations, lubricants, grease for footwear, belts and leather, candles and wicks for lighting, illuminants, beeswax, Christmas tree candles, coal briquettes, firelighters, firewood, fuel (including motor spirit), dust absorbing, wetting and binding compositions, Fasteners, clips, hinges, connectors, drawer runners, screws, nuts, bolts and handles, all being items of metal hardware and all being parts and fittings for furniture, chains for dogs, dog tags, identification tags of metal for pets, metal building materials and metal furniture fittings, containers, and transportation and packaging articles, of metal, non-electric cables and wires of common metal, ironmongery, metal hardware, pipes and tubes of metal, safes, money boxes of metal, greenhouses of metal, sheds (buildings) of metal, hooks, arbours (metal structures), articles of metal for use in the garden, doors, gates, windows and window coverings of metal, statues and works of art of common metal, bird baths [structures] of metal, door stops, handles, panels, bolts, frames and casings of metal, ladders and scaffolding of metal, locks of metal, other than electric, nails, tool boxes of metal, empty, parts and fittings for all the aforesaid goods, Machines and machine tools, machines for mixing, kneading, pulping, grinding, mincing, chopping, blending shredding, peeling, pressing and frothing foodstuffs and beverages, dishwashing machines, washing machines,

drying machines, machines for airing clothes, sweeping, cleaning, washing and laundering machines, ironing machines and laundry presses, liquidisers, food processors, electric kitchen tools and knives, electric machines for preparing and processing food and drink, food waste disposal machines, agricultural implements other than hand-operated, textile and leather sewing equipment, sewing machines, bobbins for sewing machines, 3D printers, air brushes, beverage making machines, blow torches, vacuum cleaners, vacuum cleaner bags, construction equipment, gardening machines and tools (electric), hand-held tools, mechanically operated, hand-held power-operated tools, parts and fittings for all the aforesaid goods, Hand tools and implements (hand-operated), gardening and landscaping tools, hand-operated tools and implements for treatment of materials and for construction, repair and maintenance, irons, cutlery, razors, wine pourers, hair cutting and removal implements, hair styling appliances, crimping irons, curling tongs, straightening irons, hygienic and beauty implements for humans and animals, tweezers, trimmers, scissors, clippers for personal use, manicure and pedicure tools, food and drink preparation implements, zesters, slicers, barbecue forks and tongs, kitchen knives, penknives, parts and fittings for all the aforesaid goods, Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), lifesaving and teaching apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, automatic vending machines and mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment and computers, fire-extinguishing apparatus, parts and fittings for all the aforesaid goods, sunglasses, spectacles, spectacle frames, cases for spectacles and sunglasses, lenses, contact lenses, cords and chains for sunglasses, eyeglasses, eyewear, 3D spectacles, binoculars, goggles, calculators, electronic organisers, cameras, battery chargers, camcorders, time recording devices, cassette players, compact disc players, DVD players, MP3 players excluding MP3 docking stations, televisions, amplifiers, printers, computers, computer games, computer peripheral devices excluding standalone speakers, bags adapted for laptops, radios, telephones, answering machines, baby monitors, satellite navigational apparatus, navigation, guidance, tracking, targeting and map making devices, weighing machines, magnetic encoded cards, floats for bathing and swimming, protective clothing, protective helmets, buoyancy aids, swimming floats, reflective clothing for the prevention of traffic accidents, batteries for lighting, battery chargers, buzzers, cabinets for loudspeakers, cases for photographic apparatus and instruments, cases for smartphones, cell phone straps, decorative magnets, digital photo frames, digital signs, directional compasses, divers' masks, diving suits, dog whistles, electric door bells, downloadable music and image files, egg timers, electronic publications, downloadable, magnetic encoded identification bracelets, hands free kits for telephones, head guards for sports, life-saving apparatus and equipment, magic lanterns, measuring spoons, microscopes, money counting and sorting machines, pedometers, smartglasses, smartphones, smartwatches, solar batteries, walkie-talkies, wearable activity trackers, weights, parts and fittings for all the aforesaid goods, none of the aforesaid goods including speaker docks or standalone speakers, Apparatus and installations for lighting, heating, steam generation, cooking, refrigerating, drying, ventilation, water supply and sanitary purposes,

sanitary installations, water supply and sanitation equipment, toilet seats, installations for lighting, lamps, parts and fittings for the aforesaid goods, lighting and lighting reflectors, lamp bases, lampshades, light bulbs, fairy lights, decorative fountains, sprinkler and irrigations systems, bathroom apparatus and installations, burners, boilers and heaters, fireplaces, heating, ventilating, and air conditioning and purification equipment (ambient), installations and apparatus for freezing and air conditioning, hot water bottles, food and beverage cooking, heating, cooling and treatment equipment, bread-making machines, chip pans, coffee machines, barbecue apparatus, electric cooking utensils, toasters, kettles, filters for household use, personal heating and drying implements, drying installations, parts and fittings for all the aforesaid goods, Precious metals and their alloys and goods made thereof or coated therewith, jewellery, imitation jewellery, tiaras, necklaces, bracelets, earrings, rings, jewellery cases, jewellery display stands, precious stones, semi-precious stones, clocks, watches and chronometric instruments, watch straps, watch bracelets, badges of precious metal, clock cases, cuff links, statues and figurines, made of or coated with precious or semi-precious metals or stones, or imitations thereof, jewellery boxes, key rings [trinkets or fobs] and key chains, ornamental pins, stopwatches, sundials, tie clips, tie pins, parts and fittings for all the aforesaid goods, Paper, cardboard and goods made of these materials, printed matter, bookbinding materials, photographs, stationery, adhesives for stationery or household purposes, artist materials, paint brushes, typewriters and office requisites (except furniture), instructional and teaching material (except apparatus), plastic materials for packaging, pens, pencils, swing tags and labels, till receipts, carrier bags, accessories for home and house, namely, wall stickers, framed and unframed art pictures, framed and unframed art prints and framed and unframed art reproductions, chalk boards and memorandum boards, greetings cards, paper gift wrap, paper bags, cardboard boxes and containers, cardboard gift boxes, paper and cardboard gift tags, paper and cardboard tableware, paper and cardboard place mats, paper and cardboard table mats, paper and cardboard coasters, paper napkins and serviettes, paper table linens, paper tablecloths, wallpaper stencils, wallpaper sample books, wallpaper pattern books, paper for use in the manufacture of wallpaper, letter racks, photographs, framed pictures, wall art, photographic prints, pictures, paper picture mounts, gift vouchers, catalogues, mail order catalogues, brochures, books, diaries, magazines, calendars, newsletters, printed manuals, pamphlets, writing paper, wrapping paper and gift tags, paper or cardboard gift bags for bottles, table napkins of paper, cardboard tubes, cardboard household storage boxes, paper party bags, paper pouches for packaging, plastic bags for packaging, plastic bubble packs for wrapping or packaging, labels, namely, printed paper labels, printed shipping labels, labels and return address labels, not of textile, paper signs, advertising signs made of cardboard, paper labels, plastic bags for general use, paper and cardboard tableware, paper and cardboard cake decorations, drawer liners made of scented or unscented paper, paper handtowels, paper towels, paper garlands, paper bunting, paper banners, paper flags, hat boxes made of cardboard, figurines made of card, wallpaper stencils, wallpaper sample books, wallpaper pattern books, paper for use in the manufacture of wallpaper, pencil sharpeners, pencil cases, chalk, erasers, rubber erasers, chalk erasers, blackboard erasers, posters, notebooks, memo pads, scribble pads, writing paper, notepaper, envelopes, date books, address books, agenda books, rubber stamps, stamp

pads, folders, paper picture mounts, photo albums, postcards, greeting cards, trading cards, colouring books, children's activity books, picture books, book covers, paper book markers, bookplates, stencils for tracing designs onto paper, decals, stickers, notebook holders, document cases and holders, chequebook holders, printed publications, print advertising, adhesives [glues] for stationery or household purposes, albums, scrapbooks, bookends, desk mats, drawing materials, drawing instruments, geographical maps, glue for stationery or household purposes, pastes for household purposes, letter trays, passport holders, pen cases, boxes for pens, transfers [decalcomanias], writing materials, Leather and imitations of leather, and goods made of these materials, leather, un-worked or semi-worked, processed or unprocessed leather and hides, artificial leather, cowhide, lining leather, animal skins, hides, trunks and travelling bags, umbrellas, parasols and walking sticks, shooting sticks, whips, harness and saddlery, bags, handbags, shoulder bags, cases, suitcases, briefcases, rucksacks, belts and girdles, bags, purses, travelling cases, backpacks, duffel bags, bags for campers, shopping bags, carrier bags, furniture covering of leather, leather straps (not for clothing), pocket wallets, toilet bags, accessories for clothing and fashion, namely, purses, handbags, wallets, clutch bags, tote bags, key cases, pocket wallet holders (in the nature of wallets) for credit cards or visiting cards, toilet bags (not fitted), travelling bags, leather bags, bags of synthetic materials, wallets, attaché cases, music cases, satchels, bike bags, diaper bags, beach bags, bumbags, sports bags, casual bags, beauty cases, carriers for suits, for shirts and for dresses, tie cases, notecases, credit card cases and holders, tool bags, messenger bags, document bags, business card cases, collars for animals, hat boxes of leather, luggage tags, sling bags for carrying infants, vanity cases, Furniture, mirrors (looking glasses), picture frames, beds, bed heads, cots, sofas, sofa beds, chairs, armchairs, tables, bedside tables, bookcases, sideboards, desks, bureaux, shelves, mirrors, picture frames, chests of drawers, wardrobes, cabinets, chests, beanbags, pillows, duvets, cushions, mattresses, bedding, fireguards, baskets, curtains and blinds, footstools, upholstered footstools, tables, accessories for home and house, namely, drawer units, towel racks, decorative wall plaques made of plastics or wood, bins of wood or plastic, boards (display-), bottle racks, chests for toys, chopping blocks (table), closures (bottle-) not of metal, clothes hooks, not of metal, covers for clothing (wardrobe), cupboards, curtain hooks, curtain rails, curtain poles, curtain rings, curtain rods, curtain rollers, curtain tie-backs, deck chairs, desk (furniture), dispensers (towel-), not of metal, fixed, door fittings, not of metal, easy chairs, flower pot pedestals, flower stands (furniture), footstools, garment covers (storage), glass (slivered-) [mirrors], high chairs for babies, infant walkers, jewellery cases [caskets], not of precious metal, keyboards for hanging keys, magazine racks, medicine cabinets, mobiles (decoration), playpens for babies, settees, showcases (furniture), sideboards, shelves for storage, stools, slatted indoor blinds, wickerwork, door stops, trophies, mortician or festival goods, wall mounted mirror, vanity mirror, hooks (clothes-) of non-metallic materials, kitchen furniture, bathroom furniture, covers for furniture, garden furniture of metal, goods of wood, namely, furniture, garden furniture, beds, bedframes, bed heads, sideboards, bunk beds, cots, futons, sofa beds, bedside tables, chests of drawers, wardrobes, dressing tables, curtain poles, blinds, sofas, chairs, arm chairs, footstools, upholstered footstools, tables, desks, bureaux, cabinets, chests, units, bookcases, boxes, storage racks, storage furniture, baskets, shelves,

ornaments, picture frames, mirror frames, doors, consoles, goods of cork, namely, memo boards, notice boards, pin boards, goods of reed, namely, blinds, caskets, divans, diffusers, goods of cane, namely, caskets, containers, divans, bedroom, living room, dining room and bathroom furniture, garden furniture, goods of wicker, namely, bedroom, living room, dining room and bathroom furniture, garden furniture, chests of drawers, units, laundry bins, ornaments, goods of amber, namely, figurines, sculptures, caskets, panels, fasteners, clips, hinges, connectors, drawer runners, screws, nuts, bolts and handles, none made of metal and all being parts and fittings for furniture, baby changing mats, bed fittings, not of metal, bed bases, beds for household pets, work benches, coat hangers, clothes hangers, containers, not of metal, hampers [baskets], hand-held mirrors, hat stands, inflatable furniture, jewellery organiser displays, ladders or wood or plastics, letter boxes, not of metal or masonry, mats, removable, for sinks, removable mats or covers for sinks, mats for infant playpens, mirror tiles, nesting boxes, office furniture, plugs, not of metal, racks [furniture], screens for fireplaces [furniture], shells, shelving units, sleeping pads, sleeping mats, statues of wood, wax, plaster or plastic, step stools, not of metal, table tops, tent pegs, not of metal, trays, not of metal, umbrella stands, wind chimes [decoration], winding spools, not of metal, non-mechanical, for flexible hoses, works of art of wood, wax, plaster or plastic, parts and fittings for all the aforesaid goods, Household or kitchen utensils and containers, combs and sponges, brushes (except paint brushes), brushmaking materials, make-up brushes and sponges, articles for cleaning purposes, steel wool, unworked or semi-worked glass (except glass used in building), plant pots and candlesticks, accessories for home and house, namely, chopping boards for kitchen use, dish drying racks, pasta bowls, household containers for foods, saucepans, cake stands, bowls, bottles sold empty, waste and refuse bins for household use, laundry bins, toothbrush holders, pet feeding and drinking bowls, bird feeders, planters for domestic gardening, laundry hampers, accessories for the home and house, namely, ornaments of china, decorative wall plaques of china, porcelain or glass, ornaments and figurines [statuettes] of porcelain, ceramic, earthenware or glass, personal outfittings, buttons, bags, pouches, jewels and their imitations, artificial flowers, toilet sets, brushes for washing dishes, scrapers for cleaning windows, clothes pegs, baskets for washing, buckets, waste paper and rubbish bins, cake moulds, photo frames, abrasive pads for kitchen purposes, abrasive sponges for scrubbing the skin, aerosol dispensers, not for medical purposes, animal bristles [brushware], apparatus for waxpolishing, non-electric, aquarium hoods, autoclaves [pressure cookers], non-electric, baby baths, portable, baking mats, basins [bowls], basins [receptacles], baskets for domestic use, basting spoons, for kitchen use, beaters, non-electric, beer mugs, bird baths, birdcages, blenders, non-electric, for household purposes, boot jacks, boot trees [stretchers], bottle gourds, bottle openers, bottles, boxes for dispensing paper towels, boxes of glass, bread baskets, domestic, bread bins, bread boards, brooms, brush goods, Brushes for cleaning tanks and containers, brushes for footwear, buckets made of woven fabrics, buckskin for cleaning, busts of porcelain, ceramic, earthenware or glass, butter-dish covers, butter dishes, buttonhooks, cages for household pets, cake moulds, candle extinguishers, candle rings, candlesticks, candy boxes, carpet beaters, not being machines, carpet sweepers, cauldrons, ceramics for household purposes, chamber pots, cheese-dish covers, china ornaments, chopsticks, cleaning instruments, hand-operated, closures for pot lids,

cloths for washing floors, clothes-pegs, clothes racks, for drying, clothing stretchers, coasters, not of paper and other than table linen, cocktail stirrers, coffee filters, non-electric, coffee grinders, hand-operated, coffee percolators, non-electric, coffee services [tableware], coffeepots, non-electric, comb cases, combs, combs for animals, confectioners' decorating bags [pastry bags], containers for household or kitchen use, cookery mould, cookie [biscuit] cutters, cookie jars, cooking pins of metal, cooking pot sets, cooking pots, cooking utensils, non-electric, corkscrews, cosmetic utensils, cotton waste for cleaning, crockery, cruet sets for oil and vinegar, cruets, crumb trays, crystal [glassware], cups, cups of paper or plastic, currycombs, cutting boards for the kitchen, decanters, deep fryers, non-electric, deodorising apparatus for personal use, dish covers, dishes, dishwashing brushes, disposable table plates, drinking glasses, drinking horns, drinking straws, drinking troughs, drinking vessels, drying racks for washing, dustbins, dusting apparatus, non-electric, dusting cloths, earthenware saucepans, egg cups, electric brushes, except parts of machines, electric combs, electric devices for attracting and killing insects, enamelled glass, eyebrow brushes, feather-dusters, feeding troughs, fitted picnic baskets, including dishes, flasks, flat-iron stands, floss for dental purposes, flower-pot covers, not of paper, flower pots, fly swatters, fly traps, food cooling devices, containing heat exchange fluids, for household purposes, fruit cups, fruit presses, non-electric, for household purposes, frying pans, funnels, furniture dusters, gardening gloves, garlic presses [kitchen utensils], glass bowls, glass bulbs [receptacles], glass caps, glass flasks [containers], glass jars [carboys], glass [receptacles], glass wool other than for insulation, glove stretchers, gloves for household purposes, glue-pots, graters [household utensils], grill supports, grills [cooking utensils], hair for brushes, heat-insulated containers, heat insulated containers for beverages, heaters for feeding bottles, non-electric, holders for flowers and plants [flower arranging], horse brushes, hot pots, not electrically heated, ice cube moulds, ice pails, indoor aquaria, indoor terrariums [plant cultivation], indoor terrariums [vivariums], insect traps, ironing board covers, shaped, ironing boards, isothermic bags, jugs, kettles, non-electric, kitchen containers, kitchen mixers, non-electric, kitchen utensils, knife rests for the table, largetoothed combs for the hair, lazy susans, liqueur sets, litter trays for pets, lunch boxes, majolica, makeup removing appliances, mangers for animals, material for brush-making, menu card holders, mills for domestic purposes, hand-operated, mixing spoons [kitchen utensils], moulds [kitchen utensils], mop wringers, mops, mosaics of glass, not for building, mouse traps, mugs, nail brushes, napkin holders, napkin rings, non-electric portable coldboxes, noodle machines, hand-operated, nozzles for sprinkler hoses, opal glass, opaline glass, pails, painted glassware, paper plates, pastry cutters, pepper mills, hand-operated, pepper pots, perfume burners, perfume sprayers, pie servers, piggy banks, plates to prevent milk boiling over, plungers for clearing blocked drains, polishing apparatus and machines, for household purposes, non-electric, polishing gloves, polishing leather, porcelain ware, pot lids, pots, pottery, powder compacts, powder puffs, powdered glass for decoration, rags for cleaning, rat traps, refrigerating bottles, rings for birds, rolling pins, domestic, roses for watering cans, salad bowls, salt cellars, saucepan scourers of metal, saucers, scoops [tableware], scouring pads, scrubbing brushes, services [dishes], shakers, shaving brush stands, shaving brushes, shoe horns, shoe trees [stretchers], sieves [household utensils], sifters [household utensils], signboards of porcelain or glass, siphons for carbonated water, smoke

absorbers for household purposes, soap boxes, soap dispensers, soap holders, soup bowls, spatulas [kitchen utensils], spice sets, sponge holders, sponges for household purposes, spouts, sprinklers, statues of porcelain, ceramic, earthenware or glass, statuettes of porcelain, ceramic, earthenware or glass, steel wool for cleaning, stew-pans, strainers, strainers for household purposes, sugar bowls, syringes for watering flowers and plants, table plates, tableware, other than knives, forks and spoons, tankards, tea infusers, tea balls, tea caddies, tea cosies, tea services [tableware], tea strainers, teapots, thermally insulated containers for food, tie presses, toilet brushes, toilet cases, toilet paper dispensers, toilet paper holders, toilet sponges, toilet utensils, toothbrushes, toothbrushes, electric, toothpick holders, toothpicks, towel rails and rings, trays for domestic purposes, trays for domestic purposes, of paper, trivets [table utensils], trouser presses, urns, utensils for household purposes, vacuum bottles, vases, vegetable dishes, vessels of metal for making ices and iced drinks, waffle irons, non-electric, washing boards, washtubs, waste paper baskets, water apparatus for cleaning teeth and gums, watering cans, watering devices, wax-polishing appliances, non-electric, for shoes, whisks, non-electric, for household purposes, window-boxes, wine tasters [siphons], wool waste for cleaning, works of art of porcelain, ceramic, earthenware or glass, candelabras, candle jars [holders], car washing mitts, chamois leather for cleaning, cocktail shakers, basting brushes, bulb basters, cosmetic spatulas, crushers for kitchen use, non-electric, demijohns, drinking bottles for sports, dripping pans, earthenware/crockery, food steamers, non-electric, hip flasks, insulating flasks/vacuum bottles, kitchen grinders, non-electric, barbecue mitts, kitchen mitts, pipettes, pot holders, tortilla presses, non-electric [kitchen utensils], parts and fittings for all the aforesaid goods, Textiles and textile goods, bed and table covers, plastic material as a substitute for fabric, bed linen, table linen, household linen, wall hangings, blankets, quilts, duvets and duvet covers, sheets, pillow cases, bed valances, bed-covers, table cloths, table mats, napkins, linen fabrics, fabric wall coverings, curtains, curtain tie-backs, cushion covers, pelmets, blinds, covers for chairs and sofas, towels and face cloths, accessories for home and house, namely, wall hangings of textile, curtains of textile, shower curtains, tea towels, textile place mats, cork placemats, leather placemats, synthetic placemats, upholstery fabrics, furniture coverings of textile, curtain holders of textile material, curtain linings, picnic blankets, travel rugs, woven fabrics for sofas (upholstery), banners, bath linen, except clothing, bath mitts, bed blankets, blankets for household pets, bunting, coasters [table linen], covers [loose] for furniture, diaper changing cloths for babies, eiderdowns [down coverlets], face towels of textile, felt, flags, not of paper, furniture coverings of plastic, handkerchiefs of textile, mattress covers, mosquito nets, place mats, not of paper, sleeping bag liners, table runners, fitted toilet lid covers of fabric, parts and fittings for all the aforesaid goods, Clothing, footwear, headgear, sports clothing, socks, maternity wear, clothing for men, women and children, namely, coats, rain coats, anoraks, parkas, blazers, jackets, cardigans, boleros, sport coats, wind resistant jackets, suits, tuxedos, vests, dresses, evening gowns, jumpers, jerseys, skirts, pants, slacks, trousers, jeans, jean shirts, jump suits, coveralls, flight suits, gym suits, jogging jerseys, blouses, tunics, sweatshirts, t-shirts, tops, halter tops, tank tops, body suits, camisoles, chemises, undershirts, slips, foundation garments, body shapers, bustiers, briefs, boxer shorts, underpants, panties, laundry, lounge wear, night gowns, night shirts, negligees, robes, pyjamas, hosiery, tights, leggings, socks, ties, neckties, bow ties, scarves,

shoals, neckerchiefs, gloves, mittens, belts, swimwear, bathing suits, beachwear, beach cover-ups, sarongs, ski wear, ski suits, ski pants, ski gloves, thermal socks, infant wear, play suits, footwear, namely, shoes, boots, sandals, flip flops, thongs, pool sliders and slippers, headgear namely, hats, caps, headbands, ear warmers, ready-made clothing, clothing of leather or suede, overalls, pullovers, shirts, swimming suits, training suits, jogging suits, mufflers, ear muffs, shawls, lingerie, bras, bodies, sleep sets, waterproof clothing, dancing clothing, shorts, clothing, footwear and headgear for children and babies, clothing, footwear and headgear all for sports and leisurewear, knitwear in the nature of sweaters, footwear in the nature of trainers, joggers, namely jogging suits, hoodies, polo shirts, sweat tops, track suits, leotards, trunks, waistcoats, bridesmaid dresses, ponchos, raincoats, dressing gowns, knickers, basques, stoles, wraps, cravats, kaftans, rompers, fleeces, fleece shirts, windbreakers, aprons, clothing for babies, babies' bibs, not of paper, babies' diapers of textile, dinner jackets, braces, babies' sleepsuits, garters, sock suspenders, bandanas [neckerchiefs], special sporting and gymnastic wear, special sporting and gymnastic footwear, ankle boots, babies' pants [underwear], bath sandals, bath slippers, bath robes, bathing caps, bathing trunks, swimsuits, beach clothes, beach shoes, berets, boas [necklets], bodices [lingerie], boot uppers, boots for sports, breeches for wear, cap peaks, caps [headwear], clothing for gymnastics, clothing of imitations of leather, collars [clothing], combinations [clothing], corselets, corsets [underclothing], cuffs/wristbands [clothing], cyclists' clothing, detachable collars, dress shields, fishing vests, fittings of metal for footwear, football shoes/football boots, footmuffs, not electrically heated, footwear uppers, fur stoles, furs [clothing], gabardines [clothing], galoshes, gymnastics shoes, half-boots, hat frames [skeletons], heelpieces for stockings, heelpieces for footwear, heels, hoods [clothing], jumper dresses, pinafore dresses, lace boots, layettes [clothing], leg warmers, masquerade costumes, money belts [clothing], motorists' clothing, neckties, non-slipping devices for footwear, outerclothing, overcoats, topcoats, paper clothing, paper hats [clothing], petticoats, pockets for clothing, ready-made linings [parts of clothing], saris, sashes for wear, shirt fronts, shirt yokes, short sleeve shirts, shower caps, ski boots, skorts, skull caps, sleep masks, slippers, inner soles, soles for footwear, spats, gaiters, sports jerseys, sports shoes, sports singlets, stocking suspenders, stockings, studs for football boots, stuff jackets [clothing], sweat-absorbent stockings, sweat-absorbent underwear and underclothing, sweatabsorbent socks, teddies [undergarments], tips for footwear, togas, top hats, trouser straps/gaiter straps, turbans, underwear/underclothing, uniforms, valenki [felted boots], veils [clothing], visors [headwear], welts for footwear, wet suits for water-skiing, wooden shoes, Lace and embroidery, ribbons and braid, buttons, hooks and eyes, pins and needles, artificial flowers, hair clips, appliqués [haberdashery], artificial flowers, artificial fruit, artificial garlands, artificial Christmas garlands, artificial Christmas wreaths, artificial flower arrangements in containers, artificial flower wreaths, artificial plants, artificial trees, badges for wear, not of precious metal, hair bands, decorative articles for the hair, bows for gift wrapping, brooches [clothing accessories], bra strap extenders, hair curlers, other than hand implements, hair accessories, reinforcing tape for clothing, silk flowers, silk knots, silk ribbons, shoe laces, snoods, velvet ribbons, needle cushions, tassels [haberdashery], trouser clips for cyclists, Carpets, rugs, rug grippers, floor runners, mats and matting, door mats, yoga mats, floor coverings, mats, non-textile wall coverings, wall papers, wall paper borders,

decorative wall hangings, not of textile, textile wallpaper, bath mats, linoleum and other materials for covering existing floors, carpet underlay, non-slip mats, vinyl floor coverings, parts and fittings for all the aforesaid goods, Toys, games, playthings and novelties, gymnastic and sporting articles, bags specially adapted for sports equipment, balls for playing games and sports, decorations for Christmas trees, Christmas trees of synthetic materials, artificial snow for Christmas trees, Christmas crackers, confetti, craft model kits, board games, dominoes, card games, electronic games, video game apparatus, puzzles, articles of clothing for toys and dolls, baby play things, inflatable toys, toy masks, novelties for parties, parts and fittings for all the aforesaid goods, Preserved, frozen, dried and cooked fruits and vegetables, jellies, jams, fruit and vegetable spreads, compotes, edible oils and fats, olive oil, extra virgin olive oil, sunflower oil, flavoured sunflower oil, flavoured olive oil, preserved olives, preserved chillies, marmalade, fruit conserves, dried orange peel, cranberry sauce, dried garlic, apple sauce, olive pastes, nuts, prepared, flavoured nuts, nut-based snack foods, Coffee, tea, cocoa and artificial coffee, coffee, tea and cocoa-based beverages, rice, tapioca, sago, flour and preparations made from cereals, bread, pastry and confectionery, edible ices, sugar, honey, treacle, yeast, baking-powder, baking soda, salt, mustard, vinegar, sauces (condiments), condiments, seasonings, dressings for salad, spices, ice, balsamic vinegar, white wine vinegar, dried herbs and spices, breadcrumbs, marinades, rock salt, chutneys, dried coffee, tea bags, drinking chocolate, biscuits/ cookies, gingerbread, crackers, pancakes, waffles, chocolate, chocolate-based beverages, chocolate coated nuts, sweets, marshmallows, edible decorative cake toppings, cake icing, cereal snack bars, spices for making mulled wine, cinnamon sticks, sugar, dried garlic, apple sauce, horseradish sauce, dried meat rubs, pre-prepared baking mixes for cookies and cakes, popcorn, Fresh flowers, dried flowers, plants, seeds, horticultural products, agricultural, horticultural and forestry products and grains, live animals, fresh fruits and vegetables, seeds, natural plants and flowers, foodstuffs for animals, malt, Beers, mineral and aerated waters and other non-alcoholic drinks, fruit beverages and fruit juices, vegetable juice, syrups and other preparations for making beverages, flavoured drink mixes, smoothies, wine, champagne, spirits, domestic electrical products namely: apparatus for lighting, heating, steam generation, cooking, refrigerating, drying, ventilation, water supply and sanitary purposes, installations for lighting, lamps, parts and fittings for the aforesaid goods, installations and apparatus all for cooking, heating, burners, boilers and heaters, fireplaces, heating, ventilating, and air conditioning and purification equipment (ambient), installations and apparatus, all for refrigeration, freezing and air conditioning, food and beverage cooking, heating, cooling and treatment apparatus and equipment, electric cooking utensils, toasters, kettles, personal heating and drying implements, drying installations, household electric heating appliances, scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus for recording, transmission or reproduction of sound or images, automatic vending machines and mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment and computers, parts and fittings for all the aforesaid goods, electronic organisers, cameras, battery chargers, camcorders, time recording devices, cassette

players, compact disc players, dvd players, mp3 players excluding mp3 docking stations, televisions, amplifiers, printers, computers, computer games, computer peripheral devices excluding standalone speakers, radios, telephones, answering machines, baby monitors, satellite navigational apparatus, weighing machines, batteries for lighting, battery chargers, buzzers, hands free kits for telephones, life-saving apparatus and equipment, magic lanterns, measuring spoons, microscopes, money counting and sorting machines, pedometers, smartglasses, smartphones, smartwatches, solar batteries, walkie-talkies, wearable activity trackers, parts and accessories for all the aforesaid goods, none of the aforesaid goods including speaker docks or standalone speakers, machines and machine tools, machines for mixing, kneading, pulping, grinding, mincing, chopping, blending, shredding, peeling, pressing and frothing foodstuffs and beverages, dishwashing machines, washing machines, drying machines, machines for airing clothes, sweeping, cleaning, washing and laundering machines, ironing machines and laundry presses, liquidisers, food processors, electric kitchen tools and knives, electric machines for preparing and processing food and drink, food waste disposal machines, machine coupling and transmission components (except for land vehicles), agricultural implements other than hand-operated, incubators for eggs, textile and leather sewing equipment, sewing machines, 3D printers, beverage making machines, vacuum cleaners, vacuum cleaner bags, construction equipment, gardening machines and tools (electric), hand held tools, mechanically operated, gardening and landscaping tools, hair cutting and removal implements, hair styling appliances, crimping irons, curling tongs, straightening irons, hygienic and beauty implements for humans and animals, clippers for personal use, food and drink preparation implements; Advertising; business management; business administration; office functions; outsourcing services (business assistance); provision of outsourced administration services to business; business consultancy services; customer enquiry, comments and complaint services; telephone marketing services; consultancy, information and advisory services relating to all the aforesaid services; business management consultancy including giving assistance and advice in the establishment of retail stores in the field of the aforesaid goods; customer loyalty services for commercial, promotional and/or advertising purposes; organization and management of customer loyalty programs; organization, operation and supervision of customer loyalty schemes; organisation of fashion shows for commercial and promotional purposes; product marketing; product merchandising; promotional marketing; providing commercial information to consumers; providing consumer product information via the internet; providing information and advice to consumers regarding the selection of products and items to be purchased; wholesale ordering services; sales promotion; sales management services; provision of sales staff; consulting in sales techniques and sales programmes; advisory services relating to sales promotion; retail shop window display arrangement services; clerical services for the taking of sales orders; business administration services for processing sales made on the internet; arranging business introductions relating to the buying and selling of products; organization, operation and supervision of sales and promotional incentive schemes; electronic commerce services, namely, providing information about products via telecommunication networks for advertising and sales purposes; demonstration of goods and services by electronic means, also for teleshopping and homeshopping services; sales promotion for others provided through the

distribution and the administration of privileged user cards; services relating to advertising, marketing and public relations (including the organization of exhibitions and fairs for trade purposes); office services; business administration, management and consultancy services related with these matters (including the accounting services); import-export agency services; services of an expert for trade and industrial products; organization and arrangement of public auctions; consultancy, information and advisory services relating to all the aforesaid services; all the aforesaid services excluding modelling agency services.

Class 36

Insurance; financial affairs; monetary affairs; real estate affairs; all of the aforesaid services relating to retail services or franchise services relating to the retail of consumer goods; arranging and providing credit, debit and charge card services; provision and arranging of payment protection insurance; instalment loans, providing and financing personal loans relating to retail services or franchise services relating to the retail of consumer goods; hire purchase financing; arranging and providing hire purchase agreements relating to retail services or franchise services relating to the retail of consumer goods; debt collection relating to retail services or franchise services relating to the retail of consumer goods; management of customer accounts and mail order accounts relating to retail services or franchise services relating to the retail of consumer goods; providing extended warranties; providing warranties for domestic appliances; providing warranties for electrical appliances; retail banking; payment processing services; provision and retrieval of financial information and account details; financial and credit services, all of the aforesaid relating to retail services or franchise services relating to the retail of consumer goods; consultancy, information and advisory services relating to all the aforesaid services; none of the aforesaid services being in the field of a cross border stock exchange, integrated electronic trading and clearing operation on regulated and unregulated markets for cash and derivative products; and distribution and sale of market data on all the instruments traded on cash and derivative markets of a stock exchange.

Class 39

Transport; packaging, storage and delivery of goods; rental of storage containers; travel arrangement; transportation information and logistics; delivery of goods by mail order; Information services relating to packaging, storage and transport of goods; transportation and delivery of flowers, furniture, gifts, letters, parcels and packages; parcelling and packaging services for flowers, furniture gifts, letters, parcels and packages; railway transport, car transport, ship/boat transport, air transport, warehousing; gift wrapping, wrapping of goods; consultancy, information and advisory services relating to all the aforesaid services.

Class 42

Scientific and technological services and research and design relating thereto relating exclusively to the retail, wholesale and franchise sectors; industrial analysis and research services relating exclusively to the retail, wholesale and franchise sectors; design and development of computer

hardware and software relating exclusively to the retail, wholesale and franchise sectors; consultancy, information and advisory services relating to all the aforesaid services; design of interior decor; the suggestion and selection of goods for others, all being part of interior design services; advice and consultancy services relating to interior design; information services relating to interior design; bathroom and kitchen design; dress designing; textile testing; technical consultancy and advising in the establishment of retail stores; electronic storage of financial information and account details.

Class 43

Services for providing food and drink; catering, restaurant and café services; coffee shop services; coffee bar services; bars; public houses; wine bars; take away services; provision of food and/or drink for consumption on and/or off premises; self-service restaurant services; snack bar services; booking and reservation services for restaurants; rental of meeting rooms; rental of chairs, tables, table linen, glassware; consultancy, information and advisory services relating to all the aforesaid services.

Class 45

Maintaining lists of wedding presents for selection by others; preparation of wedding present lists; maintaining list of gifts for selection by others; preparation of gift lists; legal services; information and advisory services on legal issues; information and advisory services on health and safety; legal information and advisory services in relation to legal compliance, employee rights, remuneration and benefits, and ethical business practices; clothing rental; personal wardrobe styling consultancy; consultancy, information and advisory services relating to all the aforesaid services.