

O-578-20

TRADE MARKS ACT 1994

**IN THE MATTER OF REGISTRATION NO. 3341513
IN THE NAME OF EFD UK LTD
IN RESPECT OF THE TRADE MARK**



IN CLASSES 29 AND 30

AND

**IN THE MATTER OF AN APPLICATION FOR INVALIDATION THERETO
UNDER NO. 502619
BY M/S. PRAVIN MASALEWALE**

Background and pleadings

1. The contested registration 3341513, in respect of the mark shown on the front page of this decision, stands in the name of EFD UK Ltd (“the proprietor”). It was applied for on 27 September 2018 and registered on 22 February 2019. It is registered in respect of a long list of goods in classes 29 and 30. The full list of these goods is provided in Annex 1 to this decision.

2. On 22 May 2019, M/s Pravin Masalewale (“the applicant”) applied to invalidate the registration on the basis of section 47, section 5(2)(b), section 5(6) and section 3(6) of the Trade Marks Act 1994 (“the Act”). In respect of the grounds based upon section 5(2)(b), the applicant relies upon the following earlier mark:

EU Trade Mark (EUTM) 5582606

SUHANA

Filing date: 22 December 2006

Date of entry on the register: 10 December 2007

Class 30: *Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; spice blends; ice.*

3. The applicant asserts that the proprietor’s mark is similar to a very high degree to its mark and that the respective goods, because they are all in the nature of food products and accompaniments, are identical. It concludes that because of this, there exists a likelihood of confusion and the registration should be declared invalid pursuant to section 47(2)(a) and section 5(2)(b) of the Act.

4. In respect of the ground based upon section 5(6) the applicant claims that there are clear family ties between the proprietor and other companies, one of which, Ethnic Foods Direct Ltd (Company no. 09773300), dissolved on 2 April 2019, had

previously acted as the applicant's UK agent arranging import and distribution of the applicant's products in the UK. A contractual distribution agreement had been entered into on 1 April 2016 for a fixed term of 5 years. It asserts that it follows that the proprietor's application to register its mark is without justification or authorisation from the applicant and it should be declared invalid pursuant to section 47(2ZA) and section 5(6) of the Act.

5. It is claimed that the proprietor's registration is an obvious imitation of the applicant's long-established mark SUHANA and is in respect of foodstuffs, spices and accompaniments which are the same commercial field in which its mark is used and recognised. Given that SOHANA carries no relevant meaning to any characteristics of the goods, the applicant asserts that there is no plausible explanation for the proprietor to have selected the name SOHANA other than to hijack the applicant's mark for its own benefit. It claims that this clearly falls short of the standards of acceptable commercial behaviour and constitutes bad faith and the registration should be declared invalid pursuant to section 47(1) and section 3(6) of the Act.

6. The proprietor filed a counterstatement denying all of the applicant's claims and requests that it provides proof of use of its earlier trade mark. It states that the choice of the word SOHANA was largely because of the proprietor's familial links to the village of Sohana in the Punjab region and, therefore, denies that the application was made in bad faith. It also denies that the proprietor is a person who is an agent or representative of a person who is the proprietor of the mark in a convention country.

7. The applicant filed evidence and written submissions in these proceedings. The evidence will be summarised to the extent that it is considered necessary and I will keep the submissions in mind. The proprietor indicated that it did not intend to file evidence or submissions.

8. On 25 March 2020, the proprietor surrendered its registration. The applicant was made aware of this but indicated that it will continue with the invalidation proceedings. It also made a claim for costs.

9. Neither side requested to be heard and I make this decision after careful consideration of the papers.

10. The applicant was represented in these proceedings by Tierney IP and the proprietor by Shakespeare Martineau LLP.

11. Since the proprietor surrendered its registration, neither side has engaged with the proceeding beyond the applicant's indication that it was continuing with proceedings and that it is requesting costs. The proprietor was given an opportunity to withdraw its defence but declined to do so because the parties failed to agree on costs. Therefore, because the contested registration remains valid before the date it was surrendered, namely, 25 March 2020, in the absence of the proprietor withdrawing its defence, I make my decision following careful consideration of the papers.

Evidence

12. The applicant's evidence consists of the witness statement of Vishal Chordia, Partner of the applicant, a position he has held since 2004. Mr Chordia states that the applicant was established in 1962 to provide spices and condiments to Indian buyers. It has used the SUHANA mark since 2001.

13. Mr Chordia provides information regarding the family ties between the proprietor and a company that had previously acted as the applicant's UK agent and the activities of family members in respect of the applicant's mark.

14. Mr Chordia also provides information regarding the proprietor's activities in the UK.

15. I will refer to the relevant evidence at the appropriate part of my decision.

DECISION

Proof of use

16. The relevant part of section 47 states:

“47. (1) ...

(2) Subject to subsections (2A) and (2G), the registration of a trade mark may be declared invalid on the ground-

(a) that there is an earlier trade mark in relation to which the conditions set out in section 5(1), (2) or (3) obtain, or

(b) ...

(2A) The registration of a trade mark may not be declared invalid on the ground that there is an earlier trade mark unless –

(a) the registration procedure for the earlier trade mark was completed within the period of five years ending with the date of the application for the declaration,

(b) the registration procedure for the earlier trade mark was not completed before that date, or

(c) the use conditions are met.

(2B) The use conditions are met if –

(a) the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with their consent in relation to the goods or services for which it is registered-

(i) within the period of 5 years ending with the date of application for the declaration, and

(ii) within the period of 5 years ending with the date of filing of the application for registration of the later trade mark or (where applicable) the date of the priority claimed in respect of that application where, at that date, the five year period within which the earlier trade mark should have been put to genuine use as provided in section 46(1)(a) has expired, or

(b) it has not been so used, but there are proper reasons for non-use.

(2C) For these purposes –

(a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and

(b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(2D) In relation to a European Union trade mark or international trade mark (EC), any reference in subsection (2B) or (2C) to the United Kingdom shall be construed as a reference to the European Community.

(2DA) ...

(2E) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.

...

(5) Where the grounds of invalidity exist in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

(5A) ...

(6) Where the registration of a trade mark is declared invalid to any extent, the registration shall to that extent be deemed never to have been made: Provided that this shall not affect transactions past and closed.”

17. In *Walton International Ltd & Anor v Verweij Fashion BV* [2018] EWHC 1608 (Ch) Arnold J summarised the law relating to genuine use as follows:

“114.....The CJEU has considered what amounts to “genuine use” of a trade mark in a series of cases: Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, *La Mer* (cited above), Case C-416/04 P *Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bunderversammlung Kameradschaft ‘Feldmarschall Radetsky’* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], [2013] ETMR 16, Case C-609/11 P *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], [2014] ETMR, Case C-141/13 P *Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089] and Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434], [2017] Bus LR 1795.

115. The principles established by these cases may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Leno* at [29]; *Centrotherm* at [71]; *Reber* at [29].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Leno* at [29]; *Centrotherm* at [71]. Accordingly, affixing of a trade mark on goods as a label of quality is not genuine use unless it guarantees, additionally and simultaneously, to consumers that those goods come from a single undertaking under the control of which the goods are manufactured and which is responsible for their quality: *Gözze* at [43]-[51].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14] and [22]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark:

Ansul at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71]; *Reber* at [29].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Leno* at [29]-[30], [56]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72] and [76]-[77]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

18. Section 100 of the Act is also relevant and states:

“100. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

19. The applicant’s evidence of use can be summarised as follows:

- Mr Chordia and his brother visited the UK in 2011 to explore the market for SUHANA products¹. As part of this visit the applicant participated in competitions held by the GUILD of FINE FOODS and received several awards²;
- The applicant settled upon Indian Curry Spice Blends Ltd (“ICSB”) as its distributor in the UK³ and marketing initiatives included participation in the IFE London exhibition in 2015⁴. It is stated that at this exhibition, contact was established with the retailers B&M and Tesco⁵ but there is no additional evidence to suggest that any sales were or have been made through these outlets. In the same year, further awards were received from the Guild of Fine Foods⁶;
- In November 2016, the mark was promoted by way of advertisements on the TV channel STAR PLUS that is popular with the Indian community in the UK⁷. The campaign ran for about a month. A list of times and dates that an advert was shown has been provided illustrating that it was shown three times a day between 3 November 2016 and 29 November 2016. The brand is identified as SUHANA;
- The applicant’s distributor, ICSB, was dissolved and a new entity called Ethnic Foods Direct Ltd (“EFDL”) took over as UK distributor with an agreement running from 1 April 2016 to 31 March 2021⁸.
- During the period of 2016-17, a wide range of SUHANA products were exported from India for distribution in the UK. Four consignments amounting

¹ Mr Chordia’s witness statement, para 9

² Ditto, para 10 and Exhibit VC6

³ Ditto, para 12 and Exhibit VC7

⁴ Ditto, para 14 and Exhibit VC9

⁵ Ditto, para 14

⁶ Ditto, para 15 and Exhibit VC10

⁷ Ditto, para 16 and Exhibit VC11

⁸ Ditto, para 17 and Exhibit VC12

to approximately US \$90,000 were shipped by the applicant to EFDL⁹. The following four bills of lading are provided together with what appears to be a list of goods that each bill relates to¹⁰:

- Under the description of goods, the first bill of lading, dated 31 January 2016, states “Spices under brand name Suhana, Pravin pickles, Suhana instant mixes & chilli garlic paste”. The accompanying list of 21 goods includes 6 different Suhana mixes totalling 672kg in weight;
- The goods of the second bill of lading, dated 11 July 2016, are described as “Spices under the brand name Suhana, pickle, Suhana instant mix, chutney & red chilli garlic paste”. The accompanying list of 25 goods includes 576kg of Suhana Poha Mix/Suhana Upma Mix;
- The third bill of lading is dated 10 August 2016 with the same description of goods. The attached list of 22 goods includes 6 different mixes all identified by the “Suhana” name and totalling 849kg;
- The fourth bill of lading is dated 19 October 2016 and contains the goods description “Spices under brand name Suhana, pickle & Suhana instant mix”. The accompanying list of 24 goods includes 7 items with the word Suhana appearing before the individual descriptions. These seven goods total 817kg;
- One of the family members (Nimisha Chotai) of the individual behind EFDL was promoting the applicant’s SUHANA products in the UK on various social networking platforms during 2016 -17¹¹. Print outs of their Facebook page show photographs in a post of 27 August 2016. These photographs clearly show the mark SUHANA appearing on packaging of food products and also on a display rack holding packages of what appears to be food products. The post states “Come and see us at the Milton Keynes mela today...”. It is not possible to see precisely what many of the food products are but Rawa Dosa, Khaman Dhokla and Pav Bhaji can be readily identified. The screen shot shows that Ms Chotai had 167 “followers”. The commercial value of such promotion is therefore limited. This evidence is relevant to the issue of proof of use even though it has been

⁹ Ditto, para 18

¹⁰ Exhibit VC13

¹¹ Ditto, para 20 and Exhibit VC15

provided by way of a criticism of EFDL's activities or individuals connected with it. I will discuss this later in my decision.

20. The relevant periods where use has to be demonstrated are:

- the five years ending with the date of application for the declaration, namely, 23 May 2014 to 22 May 2019, and;
- the five years ending on the date of application of the contested mark, namely, 28 September 2013 to 27 September 2018.

21. EFDL became distributor on 1 April 2016 and was dissolved on 2 April 2019. The earlier mark is an EUTM and, therefore, proof of use must be considered in the context of the EU and not just the UK.

22. This evidence illustrates that nearly 2900kg of products (amounting to approximately US \$90,000) identified as being branded as SUHANA in 2016 were imported into the UK from the applicant to EFDL. However, there are no invoices or turnover figures relating to the sale of such goods. The exhibited distribution agreement relates to the territories of the UK and Ireland but, in the absence of further corroboratory evidence, it is not possible to establish that the bills of lading relate to goods sold in the UK. The only evidence of goods bearing the SUHANA trade mark is in the form of the exhibited Facebook posts that informs the reader that they will be on sale at the Milton Keynes "mela". Further, as I have already noted, these posts had a potential audience of only 167, being the number of Ms Chotoi's Facebook followers. There is no explanation of what type or size of location or event is being referred to and there is no information provided regarding the level of sales.

23. There is also evidence that advertisements appeared, for about a month in November 2016, on the TV channel STAR PLUS that is popular with the Indian community in the UK. However, it is not clear what products were promoted under the SUHANA mark, nor to what extent this led to sales. There is no information regarding viewing figures.

24. In evaluating this evidence, I keep in mind the comments of Mr Daniel Alexander Q.C. sitting as the Appointed Person in *Awareness Limited v Plymouth City Council*, Case BL O/236/13 where he stated:

“22. The burden lies on the registered proprietor to prove use..... However, it is not strictly necessary to exhibit any particular kind of documentation, but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal (which in many cases will be the Hearing Officer in the first instance) comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said, the public.”

25. With this in mind, the evidence before me is inconclusive. The absence of evidence relating to actual sales raises doubt regarding the impact of the promotional activities identified. Further, the absence of any information regarding the scale and frequency of use, the nature of the use and the absence of information regarding the geographical scope of use compounds the problem with the evidence. This is all information that would have been readily available to the applicant and if it was not, it has not provided any reason or explanation for this.

26. Taking all of the above into account, I conclude that the applicant has failed to demonstrate use that is sufficient for me to conclude that there has been a real commercial exploitation of its EUTM sufficient to create or maintain a market for the goods at issue in either of the relevant five year periods.

27. If I am wrong and I should have concluded that the evidence is sufficient to demonstrate use of the mark, I still cannot conclude that the use was such as to

show genuine use. In reaching this conclusion, I keep in mind a further decision of Mr Alexander QC, sitting as the Appointed Person, in *Jumpman* BL O/222/16, where he upheld the registrar's decision to reject the sale of 55k pairs of training shoes through one shop in Bulgaria over 16 months as insufficient to show genuine use of the EU trade mark in the European Union within the relevant 5 year period. Proven use of a mark which fails to establish that "*the commercial exploitation of the mark is real*" because the use would not be "*viewed as warranted in the economic sector concerned to maintain or create a share in the [European Union] market for the goods or services protected by the mark*" is therefore not genuine use.

28. In conclusion, I find that the applicant has failed to demonstrate that it has genuinely used its mark. As a consequence, the ground based upon section 5(2)(b) must fail on the basis that it is unable to rely upon its earlier mark.

Section 5(6)

29. Section 5(6) of the Act states:

"(6) Where an agent or representative ("R") of the proprietor of a trade mark applies, without the proprietor's consent, for the registration of the trade mark in R's own name, the application is to be refused unless R justifies that action."

30. Section 5(6) can apply in invalidation proceedings by virtue of section 47(2ZA) that states:

"(2ZA) The registration of a trade mark may be declared invalid on the ground that the trade mark was registered in breach of section 5(6)."

31. The applicant claims that there are clear family ties between the proprietor and EFDL, dissolved on 2 April 2019, that at the relevant date was acting as the applicant's UK agent arranging import and distribution in the UK of its products. The evidence supporting this claim can be summarised as follows:

- During a visit to the UK in 2011, Mr Chordia was approached by Suresh Kotecha who indicated that he and his family had an interest in distributing the applicant’s SUHANA products in the UK¹²;
- Mr Kotecha’s family include:
 - Umesh Kotecha (his son);
 - Nimisha Chotai (his daughter);
 - Ronnie Chotai (his son-in-law), and;
 - Dhiren Thakrar (his brother-in-law)¹³;
- The applicant subsequently decided to do business with Mr Kotecha¹⁴ and “finalised” that a partnership firm of Mr Kotecha and Mr Thakrar, ICSB, would be the applicant’s distributor¹⁵. Email exchanges relating to the making of these arrangements are provided¹⁶;
- Mr Kotecha’s daughter (Ms Chotai), son (Umesh Kotechi) and brother-in-law (Mr Thakrar) all attended to visitors to the SUHANA stall at the IFE London exhibition in 2015¹⁷;
- A dispute between the partners of ICSB led to the partnership being dissolved and EFDL was incorporated by Mr Kotecha and his family and a formal distribution agreement was signed for a period of 5 years with effect from 1 April 2016¹⁸;
- EFDL failed to pay export bills (amounting to US \$32,000) relating to four consignments of products sent to EFDL and are still outstanding¹⁹;
- In March 2017, the wife of Mr Chotai and daughter of Mr Kotecha, Nimisha Chotai, attended the IFE exhibition to run the applicant’s stall. Ms Chotai insisted that the stall should say “Ethnic Foods Direct Limited” and not the applicant’s name²⁰;

¹² Mr Chordia’s witness statement, para 9

¹³ Ditto and Exhibit VC5

¹⁴ Ditto, para 11

¹⁵ Ditto, para 12

¹⁶ at Exhibit VC7

¹⁷ Mr Chordia’s witness statement, para 14

¹⁸ Ditto, para 17 and the agreement is at Exhibit VC12

¹⁹ Ditto, para 19

²⁰ Ditto, para 21 and an email exchange shown at Exhibit VC16 illustrates that Ms Chotai contacted the conference organiser direct to make the change

- Without the applicant's knowledge, Nimisha Chotai applied for the contested registration in the name of the proprietor²¹.

32. The applicant relies upon the following comments of the General Court ("the GC") in *Safariland LLC v OHIM*, Case T-262/09, paragraphs 60 and 61:

It should next be noted that, under Article 8(3) of Regulation No 207/2009, a trade mark must not be registered where an agent or representative of the proprietor of the trade mark applies for registration thereof in his own name without the proprietor's consent, unless the agent or representative justifies his action.

It is apparent from the wording of that provision that, for an opposition to succeed on that basis, it is necessary, first, for the opposing party to be the proprietor of the earlier mark; secondly, for the applicant for the mark to be or to have been the agent or representative of the proprietor of the mark; thirdly, for the application to have been filed in the name of the agent or representative without the proprietor's consent and without there being legitimate reasons to justify the agent's or representative's action; and, fourthly, for the application to relate in essence to identical or similar signs and goods. Those conditions are cumulative.

33. The GC identifies four criteria for the applicant to prove:

- (i) They are the owner of the earlier mark. The existence of the applicant's EU mark is evidence of this. It is not contested by the proprietor.
- (ii) The proprietor was an agent of the applicant. I discuss this in detail below.
- (iii) The mark has been filed without the applicant's consent; This is not contested. The implication of the proprietor filing a defence is that it is of the view that consent is not required.
- (iv) The contested mark relates to identical or similar signs and goods. Many of the proprietor's goods are replicated, covered by broader terms or are broad terms that cover specific goods present in the applicant's specification (see Annex 2 to this decision). The word element of the proprietor's mark is its dominant and distinctive element. It differs only in its second letter and the marks of both parties present as an invented word to the UK average consumer. Consequently, the difference of a single letter has little impact. I conclude that the respective marks are highly similar.

²¹ Ditto, para 22

34) Considering the issues of whether the proprietor was an agent of the applicant, the applicant submits that the proprietor is a company that Ms Chotai has an active controlling interest in and that she also has an active controlling interest in another company with Mr Kotecha, who in turn had a controlling interest in EFDL. There is no evidence filed to support the contention that Ms Chotai and Mr Kotecha share a controlling interest in another company and I must therefore dismiss this fact as not being presented in evidential form. However, I do not consider this fatal to the applicant's case. There is other evidence from the applicant to explain the family relationships, namely:

- that EFDL was incorporated by Mr Kotecha and his family. This is not disputed by the proprietor;
- that the proprietor was established by a member of the same family group as EFDL. This is not disputed by the proprietor;

Consequently, I find that the EFDL and the proprietor share at least one controlling mind.

35. Ms Chotai was part of the family running the EFDL business and, as the extract from her Facebook page shows, she was actively promoting the applicant's goods in the UK. If this is incorrect, it would have been easy for the proprietor to provide evidence to illustrate this but it has remained silent. Therefore, I conclude that Ms Chotai is the controlling mind of the proprietor and that she was involved (as part of the family operating EFDL) in fulfilling the requirements of the distributor arrangement for EFDL.

36. The applicant also submits Clause 1.7.5 of the distributorship agreement states:

“The Distributor shall not directly or indirectly and either by itself or by its agents use the trademarks, brand names & logos otherwise than in accordance with the Agreement”

37. It submits that the application of the contested registration by the proprietor constitutes such indirect use. This agreement does not list specific trade marks that are included. Rather, it identifies a list of the applicant's products covered by the agreement. If the SUHANA branded goods were not part of the agreement, it would have been easy for the proprietor to provide evidence to show this. Again, its silence is relevant and, accordingly, I agree with the applicant. Ms Chotai clearly had a role in EFDL, as exemplified by her promotion of the applicant's goods on her Facebook page and, therefore, she can be characterised as being an agent of the distributor EFDL. The application of the contested registration is an act that is not in accordance with the distribution agreement that Ms Chotai would have had knowledge of and helped to fulfil.

38. The proprietor has provided no justification for its actions beyond the unsubstantiated claim of a familial link with a village named Sohana in the Punjab region. Taking all of this into account, whilst the proprietor is not the same legal entity as the applicant's distributor it, nevertheless, is controlled by an individual who was party of the family business acting as the applicant's distributor. These circumstances are sufficient to find that the requirement in section 5(6) that the application of the registration complained of must have been applied for by the "agent or representative of the [applicant] without the [applicant's] consent" has been met. It would be incorrect to interpret the provision in such a way that an agent or representative could circumvent it by merely creating a new legal entity to undertake the complained of action.

39. The proprietor has chosen not to file any evidence or submissions in support of its claim that it is not a person who is an agent or representative of a person who is the proprietor of the mark in a convention country, nor has it explained why it believes this is the position.

40. In summary, in light of all of the above, I find that the grounds based upon section 47(2ZA) and section 5(6) of the Act are successful.

41. In case I am wrong in this finding, I will also consider the case based upon section 47(1) and section 3(6) of the Act.

Section 3(6)

42. Section 3(6) of the Act states:

“(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith.”

43. Section 3 is relevant in invalidation proceedings because of section 47(1) that states:

“47. (1) The registration of a trade mark may be declared invalid on the ground that the trade mark was registered in breach of section 3 or any of the provisions referred to in that section (absolute grounds for refusal of registration).”

44. The relevant case-law covering trade mark applications made in bad faith can be found in the following cases: *Chocoladefabriken Lindt & Sprüngli*, CJEU, Case C-529/07, *Malaysia Dairy Industries*, CJEU, Case C-320/12, *Koton*, CJEU, Case C-104/18P, *Sky v Skykick*, CJEU, Case C-371/18, *Hotel Cipriani SRL and others v Cipriani (Grosvenor Street) Limited and others*, [2009] RPC 9 (approved by the Court of Appeal in England and Wales: [2010] RPC 16), *Trump International Limited v DDTM Operations LLC*, [2019] EWHC 769 (Ch), *Copernicus-Trademarks v EUIPO*, General Court of the EU, Case T-82/14, *Daawat Trade Mark*, The Appointed Person, [2003] RPC 11, *Saxon Trade Mark*, [2003] EWHC 295 (Ch), *Mouldpro ApS v EUIPO*, General Court of the EU, Case T-796/17, *Alexander Trade Mark*, The Appointed Person, BL O/036/18, *Red Bull GmbH v Sun Mark Limited and Sea Air & Land Forwarding Limited* [2012] EWHC 1929 (Ch) and *Sky v Skykick* [2020] EWHC, 990 (Ch).

45. The law relevant to this case appears to be as follows:

- (a) While in everyday language the concept of ‘bad faith’ involves a dishonest state of mind or intention, the concept of bad faith in trade mark law must be understood in the context of trade: *Sky* CJEU.

- (b) Although it may be a relevant factor, the mere fact that the applicant knew that another party was using the trade mark in another territory does not establish bad faith: *Malaysia Dairy Industries*.
- (c) Similarly, the mere fact that the applicant knew that another party used the trade mark in the UK does not establish bad faith: *Lindt, Koton* (paragraph 55). The applicant may have reasonably believed that it was entitled to apply to register the mark, e.g. where there had been honest concurrent use of the marks: *Hotel Cipriani*.
- (d) However, an application to register a mark is likely to have been filed in bad faith where the applicant knew that a third party used the mark in the UK, or had reason to believe that it may wish to do so in future, and intended to use the trade mark registration to extract payment/consideration from the third party, e.g. to lever a UK licence from an overseas trader: *Daawat*, or to gain an unfair advantage by exploiting the reputation of a well-known name: *Trump International Limited*.
- (e) An application may also have been filed in bad faith where the applicant acted in breach of a general duty of trust as regards the interests of another party, including his or her own (ex) company or (ex) partners, or a party with whom there is, or had recently been, a contractual or pre-contractual relationship, such as a licensor, prospective licensor or overseas principal: *Saxon, Mouldpro*; or where a legal agreement prohibits such a filing.

46. The correct approach to the assessment of bad faith claims is as follows. According to *Alexander Trade Mark*, the key questions for determination in such a case are:

- (a) What, in concrete terms, was the objective that the applicant has been accused of pursuing?
- (b) Was that an objective for the purposes of which the contested application/registration could not be properly filed? and

(c) Was it established that the contested application/registration was filed in pursuit of that objective?

47. The applicant's intention (i.e. objective) is a subjective factor which must be determined objectively by the competent authority. An overall assessment is required, which must take account of all the factual circumstances relevant to the particular case: *Lindt*.

48. The matter must be judged at the relevant date, which is the date of the application for registration: *Lindt*.

49. It is necessary to ascertain what the applicant knew at the relevant date: *Red Bull*. Evidence about subsequent events may be relevant, if it casts light backwards on the position at the relevant date: *Hotel Cipriani*.

50. An allegation of bad faith is a serious allegation which must be distinctly proved, but in deciding whether it has been proved, the usual civil evidence standard applies (i.e. balance of probability). This means that it is not enough to establish facts which are as consistent with good faith as bad faith: *Red Bull*.

51. In addition to the evidence set out in paragraph 30, above, the following is also relevant to this ground of invalidation:

- The applicant points out that the contested mark differs in only one letter and is phonetically identical²². The applicant points to the similarity between the way the proprietor is using its mark with that of how the applicant uses its mark²³. Examples of packaging of the applicant's SUHANA goods and the proprietor's SOHANA products are provided²⁴ and these are shown below:

²² Ditto

²³ Ditto, para 24

²⁴ At Exhibit VC17

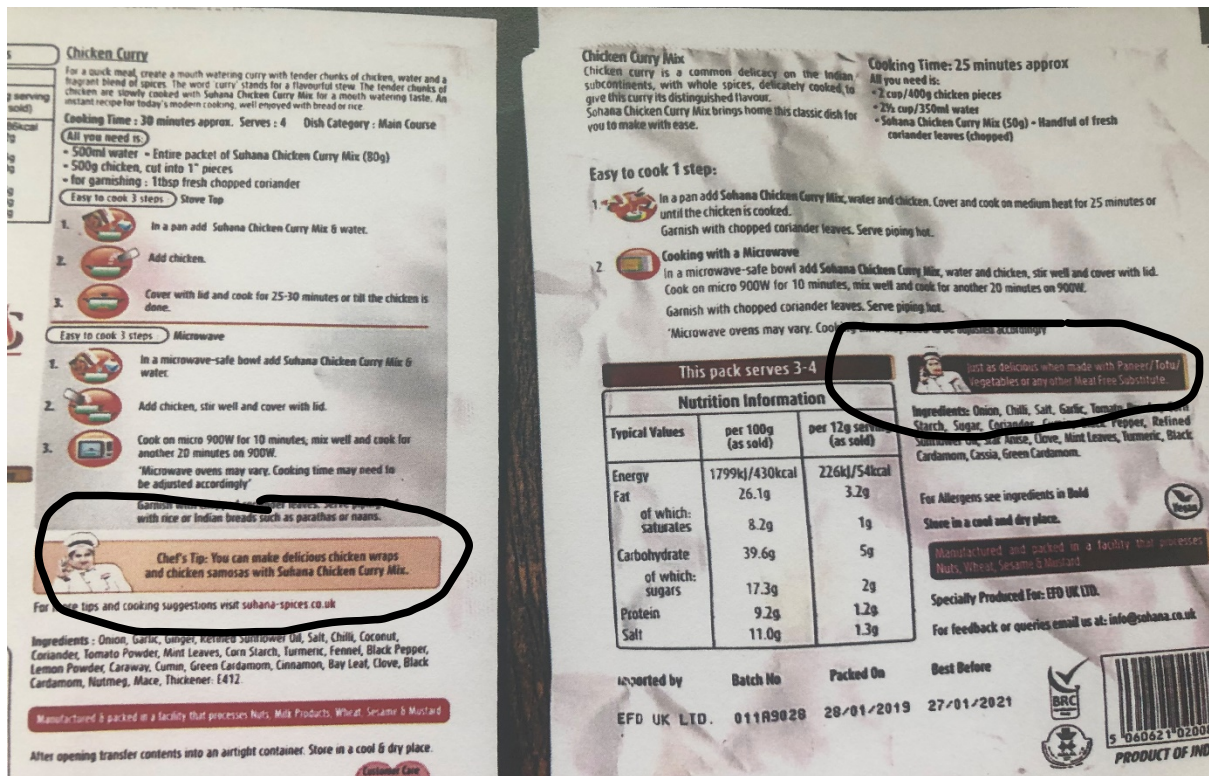


- A second example of very similar packaging is provided²⁵ and the applicant points out that the proprietor has copied all packaging including “inadvertently” an image of a chef on the reverse side that, it is stated, is a caricature of the brother of Mr Chordia that was commissioned by the applicant²⁶. The respective fronts of the packaging are shown below together with the respective images of the chef that appears on the reverse side of the packaging:



²⁵ At Exhibit VC18

²⁶ Mr Chordia’s witness statement, para 25



52. The applicant claims that the contested registration is an obvious imitation of the applicant's SUHANA mark that is in respect of goods in the same commercial field as the applicant. It asserts that there is no plausible explanation for the proprietor to have selected the name SOHANA other than to hijack the applicant's mark for its own benefit. It claims that this clearly falls short of the standards of acceptable commercial behaviour and constitutes bad faith. Taking the similarity between the marks into account, the fact that the proprietor was established by individuals who were familiar with the applicant's trade mark and its use in the UK and the way in which the mark has been used on packaging, I consider there to be a prima facie case of bad faith.

53. The proprietor claims that the choice of the word SOHANA was largely because of the proprietor's familial links to the village of Sohana in the Punjab region and, therefore, denies that the application was made in bad faith. I dismiss this defence. When considering Ms Chotai's knowledge of the applicant and its distribution agreement with EFDL it is inconceivable that the mark was chosen for any reason other than in an attempt to benefit in some way from the applicant's mark. My view is reinforced when taking account of the way the contested mark is being used and the

choice of packaging that quite clearly is intended to create the impression that it is the same as that used by the applicant and, as the applicant points out, even includes the same caricature of a chef that appears on its own packaging.

54. Taking all of this into account, it is clear that the contested registration was filed with the purpose of creating a mark that is visually and aurally highly similar and that can and has been used with packaging that has been, at least in part, copied from the applicant's packaging.

55. Therefore, at the relevant date (the filing date of the contested mark), when Ms Chotai knew of, and was party to the distribution agreement in place with the company EFDL, her application for the contested mark was clearly an attempt to take benefit from the applicant's mark in a way that is contrary to the existence of a distribution agreement. The applicant submits that the making of the application was in breach of Clause 1.7.6 of the Distribution Agreement prohibits the distributor from:

“seeking trademark protection in its own name or in the name of other person(s) ...”

56. As the applicant points out, there is a clear business relationship between itself and individuals who have a controlling interest in both the proprietor and EFDL. The packaging exhibited by the applicant lends further supports to the improper motives of Ms Chotai as the controlling mind behind the proprietor. The applicant submits that the primary purpose of the contested registration was to prevent the applicant from selling its own goods in the UK. I agree. The application for the registration was an act of bad faith.

57. I conclude that, when applying for the contested mark, the proprietor acted in bad faith and the ground based upon section 47(1) and section 3(6) of the Act succeeds in its entirety.

Summary

58. The invalidation action based upon section 5(2)(b) fails for want of proof of use but succeeds based upon section 5(6) and section 3(6) of the Act. The contested registration is invalidated.

COSTS

59. The applicant has been successful and would normally be entitled to a contribution towards its costs in accordance with the scale of costs published in Tribunal Practice Notice 2/2016.

60. In the current case, the proprietor surrendered its mark but chose not to withdraw its defence. In the circumstances, costs in respect of the proceedings (that have progressed to a substantive decision), require determination. Submissions to this effect were received from the applicant in its letter of 6 April 2020.

61. In the circumstances I award the applicant the following costs as a contribution towards the cost of the proceedings:

Official Fee	£200
Preparing statement and considering other side's statement	£400
Preparing evidence	£800
Preparing written submissions	£400
TOTAL	£1800

62. I therefore order EFD UK LTD to pay M/s. Pravin Masalewale the sum of £1800. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 18th day of November 2020

**Mark Bryant
For the Registrar**

ANNEX 1

List of goods of the contested registration

Class 29: *Abalones [not live]; Abalones, not live; Abura-age [pieces of fried tofu]; Acidophilus milk; Agar-agar for culinary purposes; Air-dried sausages; Ajvar [preserved peppers]; Albumen for culinary purposes; Albumin milk; Algae prepared for human foods; Alginates for culinary purposes; Almond butter; Almond jelly; Almond milk; Almond milk for culinary purposes; Almond milk-based beverages; Almonds, ground; Almonds (Prepared -); Aloe vera prepared for human consumption; Anchovy; Anchovy fillets; Anchovy, not live; Anchovy paste; Animal fats for food; Animal kidneys [offal]; Animal marrow for food; Animal oils for food; Antipasto salads; Apple butter; Apple chips; Apple flakes; Apple puree; Apple purée; Apple sauce (compote); Ark shells, not live; Ark-shells [not live]; Ark-shells, not live; Aromatized fruit; Arrangements of cut fruit; Arrangements of processed fruit; Artichoke paste; Artichokes, preserved; Artificial cream; Artificial cream (dairy product substitutes); Artificial fish roes; Artificial milk based desserts; Artificial sausage skins; Aspic; Aubergine paste; Bacon; Bacon bits; Bacon rinds; Baked beans; Banana chips; Bean curd; Bean dip; Beancurd sticks; Beans; Beans cooked in soy sauce (Kongjaban); Beans, preserved; Beef; Beef bouillon; Beef fat; Beef jerky; Beef slices; Beef steaks; Beef stew; Beef tallow [for food]; Beefburgers; Berries, preserved; Beverages consisting primarily of milk; Beverages consisting principally of milk; Beverages having a milk base; Beverages made from milk; Beverages made from or containing milk; Beverages made from yoghurt; Beverages made from yogurt; Beverages made with yoghurt; Beverages made with yogurt; Birds eggs and egg products; Bisques; Black currants, processed; Black pudding; Black pudding [blood sausage]; Blackberry jam; Blackcurrants, processed; Blanched nuts; Blended butter; Blended cheese; Blended oil [for food]; Blended oil for food; Blended vegetable oils for culinary purposes; Blocks of boiled, smoked and then dried bonitos (katsuo-bushi); Blood sausage; Blue cheese; Blue mussels [not live]; Blue mussels, not live; Boiled and dried fish; Boiled potatoes; Bologna; Blackberry jam; Blackcurrants, processed; Bombay mix; Candied fruit; Candied fruit snacks; Candied fruits; Cassava chips; Compote; Compotes; Pickled hot peppers; Pickled jalapenos; Pickles; Mixed pickles; Preserves, pickles; Relishes [pickles]; Spicy pickles.*

Class 30: *Acanthopanax tea (Ogapicha); Achar pachranga (fruit pickle); Acid drops [confectionery]; Adlay flour for food; Aerated beverages [with coffee, cocoa or chocolate base]; Aerated chocolate; Aerated drinks [with coffee, cocoa or chocolate base]; Agave syrup for use as a natural sweetener; Agave syrup [natural sweetener]; Aioli; Alimentary pasta; Alimentary paste [dough]; Alimentary seasonings; Allspice; Almond cake; Almond confectionery; Almond cookies; Almond flavorings, other than essential oils; Almond paste; Almond pastries; Almonds covered in chocolate; Angelica; Aniseed; Aniseeds for use as a seasoning; Aperitif biscuits; Apple flavoured tea [other than for medicinal use]; Apple fritters; Apple pies; Apple sauce [condiment]; Apple tarts; Aromatic preparations for cakes; Aromatic preparations for candies; Aromatic preparations for food; Aromatic preparations for ice-creams; Aromatic preparations for making non-medicated infusions; Aromatic preparations for making non-medicated tisanes; Aromatic preparations for pastries; Aromatic teas [other than for medicinal*

use]; Artichoke sauce; Artificial coffee; Artificial coffee; Artificial coffee and tea; Artificial rice [uncooked]; Artificial tea; Artificial tea [other than for medicinal use]; Asian apricot tea (maesilcha); Asian noodles; Bacon buns; Bagels; Baguettes; Bakery goods; Baking powder; Baking powders; Baking soda; Baking soda [bicarbonate of soda for baking purposes]; Baking soda [bicarbonate of soda for cooking purposes]; Baking spices; Baking-powder; Baklava; Banana fritters; Baozi [stuffed buns]; Baps; Barbecue sauce; Barley (Crushed -); Barley flakes; Barley flour [for food]; Barley flour for food; Barley for use as a coffee substitute; Barley (Husked -); Barley meal; Barley prepared for human consumption; Barley tea; Barley-leaf tea; Barm cakes; Bars based on wheat; Bars of sweet jellied bean paste (Yohkan); Bases for making milk shakes [flavourings]; Basil, dried; Batter for making crepes; Batter for making pancakes; Batter mixes; Batter mixes for Japanese–style pancakes (Okonomiyaki); Batter mixes for okonomiyaki [Japanese savory pancakes]; Batter mixes for okonomiyaki [Japanese savoury pancakes]; Bavarian creams; Bean jam buns; Bean meal; Bean paste; Bean-jam filled wafers (monaka); Bean-starch noodles (harusame, uncooked); Bee glue; Beer vinegar; Beverages based on chocolate; Beverages based on coffee; Beverages based on coffee substitutes; Beverages based on tea; Beverages (Chocolate-based -); Beverages (Cocoa-based -); Beverages (Coffee-based -); Beverages consisting principally of chocolate; Beverages consisting principally of cocoa; Beverages consisting principally of coffee; Beverages containing chocolate; Beverages (Flavorings [flavourings], other than essential oils, for -); Beverages (flavorings [flavourings], other than essential oils, for -); Beverages made from chocolate; Beverages made from cocoa; Beverages made from coffee; Beverages made of coffee; Beverages made of tea; Beverages made with chocolate; Beverages (Tea-based -); Beverages with a chocolate base; Beverages with a cocoa base; Beverages with a coffee base; Beverages with a tea base; Beverages with coffee base; Beverages with tea base; Bibimbap [Korean dish consisting primarily of cooked rice with added vegetables and beef]; Bibimbap [rice mixed with vegetables and beef]; Bicarbonate of soda for cooking purposes; Bicarbonate of soda for cooking purposes [baking soda]; Binding agents for edible ices; Binding agents for ice cream; Binding agents for ice cream [edible ices]; Binding preparations for ice cream [edible ices]; Biological honey for human consumption; Biscotti; Biscotti dough; Biscuit mixes; Biscuit rusk; Biscuits; Biscuits containing chocolate flavoured ingredients; Biscuits containing fruit; Biscuits flavoured with fruit; Biscuits for cheese; Biscuits for human consumption made from cereals; Biscuits for human consumption made from malt; Biscuits having a chocolate coating; Biscuits having a chocolate flavoured coating; Biscuits [sweet or savoury]; Biscuits with an iced topping; Black tea; Black tea [English tea]; Black treacle; Blends of seasonings; Blueberry pies; Boiled confectionery; Boiled sugar; Boiled sugar confectionery; Boiled sugar sweetmeats; Boiled sweets; Bonbons; Bonbons made of sugar; Boxed lunches consisting of rice, with added meat, fish or vegetables; Bran preparations for human consumption; Bread; Bread and buns; Bread biscuits; Bread buns; Bread casings filled with fruit; Bread concentrates; Bread crumbs; Bread doughs; Bread flavored with spices; Bread flavoured with spices; Bread (Ginger -); Bread improvers being cereal based preparations; Bread made with soya beans; Bread mixes; Bread pudding; Bread rolls; Bread sticks; Bread with soy bean; Bread with sweet red bean; Bread-based stuffing mixes; Breadcrumbs; Breads; Breadsticks; Breakfast cake; Breakfast cereals; Breakfast cereals containing a mixture of fruit

and fibre; Breakfast cereals containing fibre; Breakfast cereals containing fruit; Breakfast cereals containing honey; Breakfast cereals flavoured with honey; Breakfast cereals made of rice; Breakfast cereals, porridge and grits; Breath mints for use as a breath freshener; Breath-freshening chewing gum; Brine for cooking; Brine for pickling; Brine for use in cocktails; Brioches; Brittle; Brown rice; Brown sauce; Brown sugar; Brownie dough; Brownie mixes; Brownies; Bubble gum; Bubble gum [confectionery]; Buckwheat flour; Buckwheat flour [for food]; Buckwheat flour for food; Buckwheat jelly (Memilmuk); Buckwheat noodles; Buckwheat, processed; Bulgur; Bun mix; Buns; Burdock root tea (Wooungcha); Burgers contained in bread rolls; Burritos; Butter biscuits; Butterscotch chips; Cachou [confectionery], other than for pharmaceutical purposes; Caffeine-free coffee; Cake bars; Cake batter; Cake decorations made of candy; Cake dough; Cake doughs; Cake flour; Cake frosting; Cake frosting [icing]; Cake icing; Cake mixes; Cake mixtures; Cake Pops; Cake powder; Cake preparations; Cakes; Cakes (Flavorings [flavourings], other than essential oils, for -); Cakes of sugar-bounded millet or popped rice (okoshi); Cakes (Rice -); Calzones; Canapes; Candied cakes of popped rice; Candies; Candies (Non-medicated -); Candies (Non-medicated -) with alcohol; Candies (Non-medicated -) with honey; Candies (Non-medicated -) with mint; Candies [sweets]; Candy; Candy bars; Candy cake; Candy cake decorations; Candy canes; Candy coated apples; Candy coated confections; Candy coated popcorn; Candy decorations for cakes; Candy mints; Candy (Non-medicated -); Candy, other than for medical purposes; Candy [sugar]; Candy with caramel; Candy with cocoa; Candy-coated apples; Candy-coated popcorn; Canned pasta foods; Canned sauces; Canned spaghetti in tomato sauce; Cannelloni; Capers; Cappuccino; Caramel; Caramel coated popcorn; Caramel coated popcorn with candied nuts; Caramel popcorn; Caramel-coated popcorn; Caramelised sugar; Caramels; Caramels [candy]; Caraway seeds for use as a seasoning; Carbohydrate preparations for food; Carbonated and non-carbonated tea based beverages; Castor sugar; Catchup; Catsup; Celery salt; Cereal bars; Cereal bars and energy bars; Cereal based energy bars; Cereal based food bars; Cereal based foodstuffs for human consumption; Cereal based prepared snack foods; Cereal based snack foods; Cereal based snacks; Cereal breakfast foods; Cereal cakes for human consumption; Cereal flour; Cereal powders; Cereal preparations; Cereal preparations coated with sugar and honey; Cereal preparations consisting of bran; Cereal preparations consisting of oatbran; Dairy chocolate; Dairy confectionery; Dairy ice cream; Dairy-free chocolate; Danish bread; Danish bread rolls; Danish butter cookies; Danish pastries; Darjeeling tea; Dashi-tsuyu; Decaffeinated coffee; Decorations [edible] for christmas trees; Deep chocolate cake made with chocolate sponge; Deep frozen pasta; Deep-fried dough sticks (Youtiao); Dental health gum [other than medicated]; Deproteinised flour for use in the production of beer; Dessert mousses [confectionery]; Dessert puddings; Dessert souffles; Dough; Dough flour; Dough for cakes; Dough mix; Doughnut mixes; Doughnuts; Doughs, batters, and mixes therefor; Dragees [non-medicated confectionery]; Dressings for food; Dressings for salad; Dried and fresh pastas, noodles and dumplings; Dried basil; Dried chili peppers seasoning; Dried chives; Dried cilantro; Dried cooked-rice; Dried coriander; Dried coriander for use as seasoning; Dried coriander seeds for use as seasoning; Dried cumin seeds; Dried fig-based condiment; Dried herbs; Dried herbs for culinary purposes; Dried mint; Dried noodles; Dried pasta; Dried pasta foods; Dried pieces of wheat gluten (fu, uncooked);

Dried sauce in powder form; Dried seaweed rolls [gimbap]; Dried sugared cakes of rice flour (rakugan); Dried tortellini; Dried wheat gluten; Drinking chocolate; Drinking cocoa paste; Drinks based on chocolate; Drinks based on cocoa; Drinks containing chocolate; Drinks containing cocoa; Drinks flavoured with chocolate; Drinks in powder form containing cocoa; Drinks prepared from chocolate; Drinks prepared from cocoa; Drip bag coffee; Dry and liquid ready-to-serve meals, mainly consisting of pasta; Dry and liquid ready-to-serve meals, mainly consisting of rice; Dry condiments; Dry seasoning mixes for stews; Dry seasonings; Dulce de leche; Dumpling skins; Dumplings; Dutch gingerbread (taai taai); Dutch rusk; Fajitas; Farina; Farina [meal]; Farinaceous food pastes; Farinaceous food pastes for human consumption; Farinaceous foods; Fermented hot pepper paste (gochujang); Fermenting malted rice (Koji); Ferments for pastes; Filled baguettes; Filled bread rolls; Filled buns; Filled caramels; Filled chocolate; Filled chocolate bars; Filled chocolates; Filled pasta; Filled rolls; Filled sandwiches; Filled sweetmeats; Filled yeast dough with fillings consisting of fruits; Filled yeast dough with fillings consisting of meat; Filled yeast dough with fillings consisting of vegetables; Filo dough; Filo doughs; Filo pastry; Filters in the form of paper bags filled with coffee; Fish dumplings; Fish sandwiches; Fish sauce; Flaked corn; Flaked wheat; Flakes (Corn -); Flakes (Maize -); Flakes (Oat -); Flaky pastry containing ham; Flan base wafers; Flans; Flapjacks; Flapjacks [griddle cakes]; Flat bread; Flavored ices; Flavoring syrup; Flavorings and seasonings; Flavorings [flavourings], other than essential oils, for beverages; Flavorings [flavourings], other than essential oils, for cakes; Flavorings for beverages; Flavorings for beverages, other than essential oils; Flavorings for cakes; Flavorings, other than essential oils, for beverages; Flavorings, other than essential oils, for cakes; Flavour enhancers for food [other than essential oils]; Flavoured coffee; Flavoured popcorn; Flavoured rices; Flavoured sugar confectionery; Flavoured vinegar; Flavouring syrups; Flavourings and seasonings; Flavourings for beverages; Flavourings for butter; Flavourings for cakes; Flavourings for cakes other than essential oils; Flavourings for cheeses; Flavourings for foods; Flavourings for snack foods [other than essential oils]; Flavourings for soups; Flavourings for soups [other than essential oils]; Flavourings in the form of concentrated sauces; Flavourings in the form of dehydrated sauces; Flavourings made from fish; Flavourings made from fruits; Flavourings made from fruits [other than essential oils]; Flavourings made from lobsters; Flavourings made from meat; Flavourings made from pickles; Flavourings made from poultry; Flavourings made from shrimps; Flavourings made from snails; Flavourings made from vegetables [other than essential oils]; Flavourings [not essential oils]; Flavourings of almond; Flavourings of almond for food or beverages; Flavourings of almond, other than essential oils, for food or beverages; Flavourings of lemons; Flavourings of lemons for food or beverages; Flavourings of lemons, other than essential oils, for food or beverages; Flavourings of tea; Flavourings of tea for food or beverages; Flavourings, other than essential oils, for beverages; Flavourings, other than essential oils, for butter; Flavourings, other than essential oils, for cakes; Flavourings, other than essential oils, for cheeses; Flavourings, other than essential oils, for foods; Flavourings, other than essential oils, for soups; Flaxseed for culinary purposes [seasoning]; Floating islands; Flour; Flour based chips; Flour based savory snacks; Garden herbs, preserved [seasonings]; Garlic bread; Garlic juice; Garlic powder; Garlic puree; Gâteaux; Gateaux; Gelatin-based chewy candies; German ravioli [Maultaschen]; Gimbap [Korean dish]

consisting of cooked rice wrapped in dried seaweed]; Gimbap [Korean rice dish]; Ginger bread; Ginger [powdered spice]; Ginger puree; Ginger [spice]; Ginger tea; Gingerbread; Gingerbread nuts; Gingersnaps; Ginseng confectionery; Ginseng tea; Ginseng tea [insamcha]; Glazed popcorn; Glucose for culinary purposes; Glucose for food; Glucose powder for food; Glucose preparations for food; Glucose syrup for use as a fermenting aid for food; Glucose syrup for use as a gelling agent for food; Glucose syrup for use as a preservative for food; Glucose syrup for use as a sweetener for food; Glucose syrup for use as a texture improver for food; Glucose syrup for use in the manufacture of foods; Glucose syrups for food; Glutamate for food; Gluten additives for culinary purposes; Gluten prepared as foodstuff; Gluten-free bread; Glutinous pounded rice cake coated with bean powder (injeolmi); Glutinous rice; Glutinous rice flour; Glutinous rice wrapped in bamboo leaves (Zongzi); Glutinous starch syrup (mizu-ame); Gnocchi; Golden syrup; Graham crackers; Grain-based chips; Grain-based snack foods; Granola; Granola bars; Granola-based snack bars; Granola-based snack foods; Granulated sugar; Grape sugar; Gravies; Gravies (Meat -); Gravy; Gravy mixes; Gravy mixes in granular form; Green onion pancake [pajeon]; Green onion pancake (pajeon); Green tea; Grist; Grits; Groats; Groats for human food; Ground barley; Ground coffee; Ground coffee beans; Ground coriander; Ground pepper; Gruel, with a milk base, for food; Guar gum; Gukhwacha; Gum sweets; Gum sweets (Non-medicated -); Gummy candies; Half covered chocolate biscuits; Half-moon-shaped cake of rice containing sweet or semi-sweet fillings (songpyeon); Half-moon-shaped rice cake [songpyeon]; Halvah; Ham glaze; Hamburger sandwiches; Hamburgers being cooked and contained in a bread roll; Hamburgers contained in bread buns; Hamburgers contained in bread rolls; Hamburgers in buns; Hand made candies; Hard candy; Hard caramels [candies]; Hardtack [biscuits]; Helichrysum [flavour]; Helichrysum (flavour); Helichrysum honey; Helichrysum [spices]; Helichrysum (spices); Herb sauces; Herb tea [infusions]; Herb teas, other than for medicinal purposes; Herb teas, other than for medicinal use; Herbal flavourings for making beverages; Herbal flavourings, other than essential oils, for making beverages; Herbal honey; Herbal honey lozenges [confectionery]; Herbal infusions; Herbal infusions [other than for medicinal use]; Herbal preparations for making beverages; Herbal tea; Herbal tea [other than for medicinal use]; Herbal teas; Herbal teas [infusions]; Herbal teas, other than for medicinal use; High-protein cereal bars; Hominy; Hominy grits; Honey; Honey [for food]; Honey glazes for ham; Honey substitutes; Honeycomb toffee; Honeys; Hon-mirin-type flavouring sauce; Horseradish [relishes]; Horseradish sauce; Horseradish sauces; Hot breakfast cereals; Hot chili bean paste; Hot chocolate; Hot dog sandwiches; Hot pepper powder [spice]; Hot sauce; Hot sausage and ketchup in cut open bread rolls; Hushpuppies [breads]; Husked barley; Husked oats; Husked rice; Ice; Ice beverages with a chocolate base; Ice beverages with a cocoa base; Ice beverages with a coffee base; Ice blocks; Ice candies; Ice candy; Ice confectionery; Ice confectionery in the form of lollipops; Ice confections; Ice cream; Ice cream bars; Ice cream (Binding agents for -); Ice cream cakes; Ice cream cone mixes; Ice cream cones; Ice cream confectionery; Ice cream confections; Ice cream desserts; Ice cream drinks; Ice cream gateaux; Ice cream mixes; Ice cream powder; Ice cream powders; Ice cream sandwiches; Ice cream stick bars; Ice cream substitute; Ice cream with fruit; Ice creams; Ice creams containing chocolate; Ice creams flavoured with chocolate; Ice cubes; Ice for refreshment; Ice [frozen water]; Ice, ice creams, frozen yogurts and sorbets; Ice in

block form; Ice lollies; Ice lollies being milk flavoured; Ice lollies containing milk; Ice milk bars; Ice milk [ice cream]; Ice, natural or artificial; Ice pops; Ice-cream; Ice-cream cakes; Iced cakes; Iced coffee; Iced confectionery (Non-medicated -); Iced fruit cakes; Iced lollies; Iced sponge cakes; Iced tea; Iced tea mix powders; Iced tea (Non-medicated -); Iced teas; Ices; Ices and ice; Ices (Binding agents for edible -); Ices (Edible -); Ices (Powder for edible -); Ices (Powders for edible -); Icing; Icing for cakes; Icing mixes; Icing sugar; Icings; Imitation chocolate; Imitation custard; Imitation ice cream; Imitation mayonnaise; Infusions, not medicinal ;Injeolmi [glutinous rice cakes coated with powdered beans]; Instant chinese noodles; Instant cocoa powder; Instant coffee; Instant cooking noodles; Instant dessert puddings; Instant doughnut mixes; Instant ice cream mixes; Instant noodles; Instant pancake mixes; Instant porridge; Instant powder for making tea [other than for medical use]; Instant pudding mixes; Instant rice; Instant soba noodles; Instant tea; Instant tea [other than for medicinal purposes]; Instant udon noodles; Instant yeast; Invert sugar; Invert sugar cream [artificial honey]; Sachima; Saffron; Saffron for use as a seasoning; Saffron salt for seasoning food; Saffron [seasoning]; Sage [seasoning]; Sage tea; Sago; Sago palm starch [for food]; Sal ammoniac liquorice sweets (Non-medicated -); Salad cream; Salad dressing; Salad dressings; Salad dressings containing cream; Salad (Dressings for -); Salad sauces; Saleratus for culinary purposes; Salsa; Salsa sauces; Salsas; Salt; Salt (Cooking -); Salt crackers; Salt for cooking; Salt for flavouring food; Salt for popcorn; Salt for preserving fish; Salt for preserving food; Salt for preserving foodstuffs; Salt pellets for preserving fish; Salt pellets for preserving food; Salt pellets for preserving foodstuffs; Salted biscuits; Salted butter caramel; Salted butter fudge; Salted tarts; Salted wafer biscuits; Salts, seasonings, flavourings and condiments; Salty biscuits; Sambal oelek (ground red pepper sauce); Sambal oeleks being condiments; Sambal sauce (ground red pepper sauce); Sambals; Samosas; Sandwich spread made from chocolate and nuts; Sandwich wraps [bread]; Sandwiches; Sandwiches containing chicken; Sandwiches containing fish; Sandwiches containing fish fillet; Sandwiches containing hamburgers; Sandwiches containing meat; Sandwiches containing minced beef; Sandwiches containing salad; Sansho powder [Japanese pepper seasoning]; Satay sauces; Sauce [edible]; Sauce mixes; Sauce powder; Sauce powders; Sauce (Tomato -); Sauces; Sauces [condiments]; Sauces containing nuts; Sauces flavoured with nuts; Sauces for barbecued meat; Sauces for chicken; Sauces for food; Sauces for frozen fish; Sauces for ice cream; Sauces for pasta; Sauces for pizzas; Sauces for rice; Sauces for use with pasta; Sausage binding materials; Sausage rolls; Savarins; Savory biscuits; Savory food flavourings for animal foods [other than essential oils]; Savory food flavourings for food [other than essential oils]; Savory pastries; Savory sauces; Savory sauces, chutneys and pastes; Savory sauces used as condiments; Savoury biscuits; Savoury sauces; Scones; Sea salt for cooking; Sea salt for preserving foodstuffs; Sea water for cooking; Seasoned bean paste; Seasoned breading mix for deep frying; Seasoned coating for meat, fish, poultry; Seasoned popcorn; Seasoned salt; Seasoned salt for cooking; Seasoned soy sauce (Chiyou); Seasoning marinade; Seasoning mixes; Seasoning mixes for stews; Ramen; Ramen [Japanese noodle-based dish]; Ravioli; Ravioli [prepared]; Raw honeycombs; Raw sugar; Ready to eat savory snack foods made from maize meal formed by extrusion; Ready-made baking mixtures; Ready-made sauces; Ready-to-bake dough products; Ready-to-eat cereal-derived food bars; Ready-to-eat cereals; Ready-to-eat puddings; Red

bean porridge (patjuk); Red ginseng candy; Red ginseng tea; Red pepper powder (Gochutgaru); Relish [condiment]; Relish [condiments]; Relishes; Relishes [condiments]; Remoulade sauce; Ribbon vermicelli; Rice; Rice based dishes; Rice biscuits; Rice cake snacks; Rice cakes; Rice chips; Rice crackers; Rice crackers [senbei]; Rice crisps; Rice crusts; Rice dumplings; Rice dumplings dressed with sweet bean jam (ankoro); Rice flour; Rice flour porridge; Rice glue balls; Rice mixed with vegetables and beef [bibimbap]; Rice mixes; Rice noodles; Rice porridge; Rice pudding; Rice puddings; Rice puddings containing sultanas and nutmeg; Rice pulp for culinary purposes; Rice salad; Rice snacks; Rice starch flour; Rice sticks; Rice tapioca; Rice vermicelli; Rice-based prepared meals; Rice-based pudding dessert; Rice-based snack food; Rice-based snack foods; Risotto; Roasted and ground sesame seeds for use as a seasoning; Roasted barley and malt for use as substitute for coffee; Roasted barley tea; Roasted barley tea [mugicha]; Roasted brown rice tea; Roasted coffee beans; Roasted corn; Roasted maize; Rock [confectionery]; Rolled oats; Rolled oats and wheat; Rolled wafers [biscuits]; Rolls [bread]; Rolls (Bread -); Rooibos tea; Rose hip tea; Rosemary tea; Royal jelly; Rusks; Rye bread; Rye flour; Rye full grain grist; Sambal sauce (ground red pepper sauce); Sambals; Samosas; Sandwich wraps [bread]; Sauce [edible]; Sauce mixes; Sauce powder; Sauce powders; Sauce (Tomato -); Sauces; Sauces [condiments]; Sauces containing nuts; Sauces flavoured with nuts; Sauces for barbecued meat; Sauces for chicken; Sauces for food; Sauces for frozen fish; Sauces for ice cream; Sauces for pasta; Sauces for pizzas; Sauces for rice; Sauces for use with pasta; Sausage binding materials; Sausage rolls; Savarins; Savory biscuits; Savory food flavourings for animal foods [other than essential oils]; Savory food flavourings for food [other than essential oils]; Savory pastries; Savory sauces; Savory sauces, chutneys and pastes; Savory sauces used as condiments; Savoury sauces; Seasoned breading mix for deep frying; Seasoned coating for meat, fish, poultry; Seasoned soy sauce (Chiyou); Seasoning marinade; Seasoning mixes; Seasoning mixes for stews; Seasonings; Seasonings for instant-boiled mutton; Seaweed [condiment]; Seaweed flavoured corn chips; Seaweed for use as a condiment; Semi-baked bread; Semolina; Semolina pudding; Senbei [rice crackers]; Sesame confectionery; Sesame paste; Sesame seeds [seasonings]; Shao mai; Shaved ice with sweetened red beans; Shaved ices with sweetened red beans; Sherbet [confectionery]; Sherbet mixes; Sherbets [confectionery]; Sherbets [confectionery ices]; Sherbets [ices]; Sherbets [sorbets]; Sherbets [water ices]; Shortbread; Shortbread biscuits; Shortbread part coated with a chocolate flavoured coating; Shortbread part coated with chocolate; Shortbread with a chocolate coating; Shortbread with a chocolate flavoured coating; Shortbreads; Shortcake; Shortcrust pastry; Shrimp chips; Shrimp dumplings; Shrimp noodles; Shrimp sauce; Sichuan pepper powder; Sichuan peppers being condiments; Skin for spring rolls; Skin [pastry] for spring rolls; Sloppy joe seasoning mix; Smoke distillates from wood for flavouring foodstuffs; Snack bars containing a mixture of grains, nuts and dried fruit [confectionery]; Snack food (Cereal-based -); Snack food products consisting of cereal products; Snack food products made from cereal flour; Snack food products made from cereal starch; Snack food products made from cereals; Snack food products made from maize flour; Snack food products made from potato flour; Snack food products made from rice; Snack food products made from rice flour; Snack food products made from rusk flour; Snack food products made from soya flour; Snack food (Rice-based -); Snack foods

consisting principally of bread; Snack foods consisting principally of confectionery; Snack foods consisting principally of extruded cereals; Snack foods consisting principally of grain; Snack foods consisting principally of pasta; Snack foods consisting principally of rice; Snack foods made from cereals; Snack foods made from corn; Snack foods made from corn and in the form of puffs; Snack foods made from corn and in the form of rings; Snack foods made from wheat; Snack foods made of wheat; Snack foods made of whole wheat; Snack foods prepared from maize; Snack foods prepared from potato flour; Snack products made of cereals; Snacks made from muesli; Snacks manufactured from cereals; Snacks manufactured from muesli; Soba noodles; Soba noodles [japanese noodles of buckwheat, uncooked]; Soda bread; Sodium chloride for preserving foodstuffs; Soft caramels; Soft ices; Soft pin-rolled cakes of pounded rice (gyuhi); Soft pretzels; Soft rolls [bread]; Somen noodles; Somen noodles [very thin wheat noodle, uncooked]; Songpyeon [half-moon-shaped rice cakes with sweet or semi-sweet fillings]; Sopapilla; Sopapillas [fried bread]; Sopapillas [fried pastries]; Sorbet; Sorbet mixes [ices]; Sorbets; Sorbets [ices]; Sorbets [water ices]; Sour dough; Soy sauce; Soy sauce [soya sauce]; Soya based ice cream products; Soya bean paste [condiment]; Soya flour; Soya flour for food; Soya sauce; Soya sauces; Soya-based ice cream substitutes; Soy-based ice cream substitute; Soybean paste condiment [doenjang]; Spaghetti; Spaghetti and meatballs; Spaghetti sauce; Spaghetti [uncooked]; Spaghetti with meatballs; Speciality gateaux; Spice extracts; Spice mixes; Spice preparations; Spice rubs; Spiced salt; Spices; Spices in the form of powders; Spicy sauces; Sponge cake; Sponge cakes; Sponge fingers [cakes]; Spray crystallized maltose for food; Spring roll skin [pastry]; Spring rolls; Sriracha hot chili sauce; Star aniseed; Starch derivatives for food human consumption; Starch for food; Starch noodles; Starch products for food; Starch syrup for culinary purposes; Starch syrup [for food]; Starch vermicelli; Starch-based candies; Starch-based candies (ame); Steamed bread; Steamed buns stuffed with minced meat (niku-manjuh); Steamed buns stuffed with red bean paste; Steamed buns stuffed with red beans; Steamed rice; Steamed sponge cakes (fagao); Steel cut oats; Stew seasoning mixes; Stick liquorice [confectionery]; Sticky rice cakes (Chapsalttock); Stiffening whipped cream (Preparations for -); Stir fried rice cake [topokki]; Stir-fried noodles with vegetables (Japchae); Stir-fried rice; Strawberry gateaux; Stuffed bread; Stuffed pasta; Stuffing mixes containing bread; Stuffing mixes [foodstuffs]; Substances for binding ice cream; Substances imparting flavour for addition to drink [other than essential oils]; Substances imparting flavour for addition to food [other than essential oils]; Substances imparting savour for addition to drink [other than essential oils]; Substances imparting savour for addition to food [other than essential oils]; Substances imparting smell for addition to drink [other than essential oils]; Substances imparting smell for addition to food [other than essential oils]; Substances imparting taste for addition to drink [other than essential oils]; Substances imparting taste for addition to food [other than essential oils]; Substitutes (Chocolate -); Substitutes (Coffee -); Sugar; Sugar almonds; Sugar candies (Non-medicated -); Sugar candy [for food]; Sugar coated pine nuts; Sugar confectionery; Sugar confectionery (Non-medicated -); Sugar for making conserves of fruit; Sugar for making jams; Sugar for making jellies; Sugar, honey, treacle; Sugar [other than for medical purposes]; Sugar, other than for medical use; Sugar substitutes; Sugar-coated coffee beans; Sugar-coated hard caramels; Sugared almonds; Sugared beans (ama-natto); Sugarfree chewing gum; Sugar-free chewing gum;

Sugar-free mint candies; Sugarfree sweets; Sugar-free sweets; Sugarless candies; Sugarless chewing gum; Sugarless sweets; Sugars; Sugars, natural sweeteners, sweet coatings and fillings, bee products; Sugars [other than for medical purposes]; Sumac for use as a seasoning; Sushi; Sweet and sour sauce; Sweet bean jam coated with sugared-bean based soft shell [nerikiri]; Sweet biscuits for human consumption; Sweet dumplings (dango); Sweet glazes and fillings; Sweet pickle [condiment]; Sweet potato starch; Sweet potato starch for food; Sweet pounded rice cakes (mochi-gashi); Sweet rice with nuts and jujubes (yaksik); Sweet spreads [honey]; Sweeteners consisting of fruit concentrates; Sweeteners (Natural -); Sweeteners (Natural -) in granular form; Sweetmeat made of sesame oil; Sweetmeats; Sweetmeats [candy]; Sweetmeats [candy] being flavoured with fruit; Sweetmeats [candy] containing fruit; Sweetmeats made of sesame oil; Sweets [candy]; Sweets (candy), candy bars and chewing gum; Sweets (Non-medicated -); Sweets (Non-medicated -) being acidulated; Sweets (Non-medicated -) being acidulated caramel sweets; Sweets (Non-medicated -) being alcohol based; Sweets (Non-medicated -) being honey based; Sweets (Non-medicated -) containing herbal flavourings; Sweets (Non-medicated -) in compressed form; Sweets (Non-medicated -) in the nature of caramels; Sweets (Non-medicated -) in the nature of chocolate eclairs; Sweets (Non-medicated -) in the nature of fudge; Sweets (Non-medicated -) in the nature of nougat; Sweets (Non-medicated -) in the nature of sugar confectionery; Sweets (Non-medicated -) in the nature of toffees; Sweets (Peppermint -); Synthetic thickeners for foodstuffs; Syrup for food; Syrup of molasses for food; Syrups and treacles; Vegetable concentrates used for seasoning; Vegetable flavoured corn chips; Vegetable flour; Vegetable pastes [sauces]; Vegetable pulps [sauces - food]; Vegetable purees [sauces]; Vegetable thickeners; Vegetable-based seasonings for pasta; Uncooked pizzas; Unfermented bread; Unleavened bread; Unleavened bread in thin sheets; Taco chips; Taco seasoning; Taco seasonings; Taco shells; Tapioca flour; Tapioca flour for food; Tapioca flour [for food]; Tempura batter mix; Teriyaki sauce; Tomato based sauces; Tomato ketchup; Tomato sauce; Turmeric; Turmeric for food; Turmeric for use as a condiment; Turmeric powders for use as a condiment; Sachima; Saffron; Saffron for use as a seasoning; Saffron salt for seasoning food; Saffron [seasoning]; Sage [seasoning]; Sage tea; Sago; Sago palm starch [for food]; Sal ammoniac liquorice sweets (Non-medicated -); Salad cream; Salad dressing; Salad dressings; Salad dressings containing cream; Salad (Dressings for -); Salad sauces; Saleratus for culinary purposes; Salsa; Salsa sauces; Salsas; Salt; Salt (Cooking -); Salt crackers; Salt for cooking; Salt for flavouring food; Salt for popcorn; Salt for preserving fish; Salt for preserving food; Salt for preserving foodstuffs; Salt pellets for preserving fish; Salt pellets for preserving food; Salt pellets for preserving foodstuffs; Salted biscuits; Salted butter caramel; Salted butter fudge; Salted tarts; Salted wafer biscuits; Salts, seasonings, flavourings and condiments; Salty biscuits; Sambal oelek (ground red pepper sauce); Sambal oeleks being condiments; Sambal sauce (ground red pepper sauce); Sambals; Samosas; Sandwich spread made from chocolate and nuts; Sandwich wraps [bread]; Sandwiches; Sandwiches containing chicken; Sandwiches containing fish; Sandwiches containing fish fillet; Sandwiches containing hamburgers; Sandwiches containing meat; Sandwiches containing minced beef; Sandwiches containing salad; Sansho powder [Japanese pepper seasoning]; Satay sauces; Sauce [edible]; Sauce mixes; Sauce powder; Sauce powders; Sauce (Tomato -); Sauces; Sauces [condiments]; Sauces

containing nuts; Sauces flavoured with nuts; Sauces for barbecued meat; Sauces for chicken; Sauces for food; Sauces for frozen fish; Sauces for ice cream; Sauces for pasta; Sauces for pizzas; Sauces for rice; Sauces for use with pasta; Sausage binding materials; Sausage rolls; Savarins; Savory biscuits; Savory food flavourings for animal foods [other than essential oils]; Savory food flavourings for food [other than essential oils]; Savory pastries; Savory sauces; Savory sauces, chutneys and pastes; Savory sauces used as condiments; Savoury biscuits; Savoury sauces; Scones; Sea salt for cooking; Sea salt for preserving foodstuffs; Sea water for cooking; Seasoned bean paste; Seasoned breading mix for deep frying; Seasoned coating for meat, fish, poultry; Seasoned popcorn; Seasoned salt; Seasoned salt for cooking; Seasoned soy sauce (Chiyou); Seasoning marinade; Seasoning mixes; Seasoning mixes for stews; Seasonings; Seasonings for instant-boiled mutton; Seaweed [condiment]; Seaweed flavoured corn chips; Seaweed for use as a condiment; Semi-baked bread; Semolina; Semolina pudding; Senbei [rice crackers]; Sesame confectionery; Sesame paste; Sesame seeds [seasonings]; Shao mai; Shaved ice with sweetened red beans; Shaved ices with sweetened red beans; Sherbet [confectionery]; Sherbet mixes; Sherbets [confectionery]; Sherbets [confectionery ices]; Sherbets [ices]; Sherbets [sorbets]; Sherbets [water ices]; Shortbread; Shortbread biscuit; Shortbread part coated with a chocolate flavoured coating; Shortbread part coated with chocolate; Shortbread with a chocolate coating; Shortbread with a chocolate flavoured coating; Shortbreads; Shortcake; Shortcrust pastry; Shrimp chips; Shrimp dumplings; Shrimp noodles; Shrimp sauce; Sichuan pepper powder; Sichuan peppers being condiments; Skin for spring rolls; Skin [pastry] for spring rolls; Sloppy joe seasoning mix; Smoke distillates from wood for flavouring foodstuffs; Snack bars containing a mixture of grains, nuts and dried fruit [confectionery]; Snack food (Cereal-based -); Snack food products consisting of cereal products; Snack food products made from cereal flour; Snack food products made from cereal starch; Snack food products made from cereals; Snack food products made from maize flour; Snack food products made from potato flour; Snack food products made from rice; Snack food products made from rice flour; Snack food products made from rusk flour; Snack food products made from soya flour; Snack food (Rice-based -); Snack foods consisting principally of bread; Snack foods consisting principally of confectionery; Snack foods consisting principally of extruded cereals; Snack foods consisting principally of grain; Snack foods consisting principally of pasta; Snack foods consisting principally of rice; Snack foods made from cereals; Snack foods made from corn; Snack foods made from corn and in the form of puffs; Snack foods made from corn and in the form of rings; Snack foods made from wheat; Snack foods made of wheat; Snack foods made of whole wheat; Snack foods prepared from maize; Snack foods prepared from potato flour; Snack products made of cereals; Snacks made from muesli; Snacks manufactured from cereals; Snacks manufactured from muesli; Soba noodles; Soba noodles [japanese noodles of buckwheat, uncooked]; Soda bread; Sodium chloride for preserving foodstuffs; Soft caramels; Soft ices; Soft pin-rolled cakes of pounded rice (gyuhi); Soft pretzels; Soft rolls [bread]; Somen noodles; Somen noodles [very thin wheat noodle, uncooked]; Songpyeon [half-moon-shaped rice cakes with sweet or semi-sweet fillings]; Sopapilla; Sopapillas [fried bread]; Sopapillas [fried pastries]; Sorbet; Sorbet mixes [ices]; Sorbets; Sorbets [ices]; Sorbets [water ices]; Sour dough; Soy sauce; Soy sauce [soya sauce]; Soya based ice cream products; Soya bean paste [condiment]; Soya flour; Soya flour

for food; Soya sauce; Soya sauces; Soya-based ice cream substitutes; Soy-based ice cream substitute; Soybean paste condiment [doenjang]; Spaghetti; Spaghetti and meatballs; Spaghetti sauce; Spaghetti [uncooked]; Spaghetti with meatballs; Speciality gateaux; Spice extracts; Spice mixes; Spice preparations; Spice rubs; Spiced salt; Spices; Spices in the form of powders; Spicy sauces; Sponge cake; Sponge cakes; Sponge fingers [cakes]; Spray crystallized maltose for food; Spring roll skin [pastry]; Spring rolls; Sriracha hot chili sauce; Star aniseed; Starch derivatives for food human consumption; Starch for food; Starch noodles; Starch products for food ;Starch syrup for culinary purposes; Starch syrup [for food]; Starch vermicelli; Starch-based candies; Starch-based candies (ame); Steamed bread; Steamed buns stuffed with minced meat (niku-manjuh); Steamed buns stuffed with red bean paste; Steamed buns stuffed with red beans; Steamed rice; Steamed sponge cakes (fagao); Steel cut oats; Stew seasoning mixes; Stick liquorice [confectionery]; Sticky rice cakes (Chapsalttock); Stiffening whipped cream (Preparations for -); Stir fried rice cake [topokki]; Stir-fried noodles with vegetables (Japchae); Stir-fried rice; Strawberry gateaux; Stuffed bread; Stuffed pasta; Stuffing mixes containing bread; Stuffing mixes [foodstuffs]; Substances for binding ice cream; Substances imparting flavour for addition to drink [other than essential oils]; Substances imparting flavour for addition to food [other than essential oils]; Substances imparting savour for addition to drink [other than essential oils]; Substances imparting savour for addition to food [other than essential oils]; Substances imparting smell for addition to drink [other than essential oils]; Substances imparting smell for addition to food [other than essential oils]; Substances imparting taste for addition to drink [other than essential oils]; Substances imparting taste for addition to food [other than essential oils]; Substitutes (Chocolate -); Substitutes (Coffee -); Sugar; Sugar almonds; Sugar candies (Non-medicated -); Sugar candy [for food]; Sugar coated pine nuts; Sugar confectionery; Sugar confectionery (Non-medicated -); Sugar for making conserves of fruit; Sugar for making jams; Sugar for making jellies; Sugar, honey, treacle; Sugar [other than for medical purposes]; Sugar, other than for medical use; Sugar substitutes; Sugar-coated coffee beans; Sugar-coated hard caramels; Sugared almonds; Sugared beans (ama-natto); Sugarfree chewing gum; Sugar-free chewing gum; Sugar-free mint candies; Sugarfree sweets; Sugar-free sweets; Sugarless candies; Sugarless chewing gum; Sugarless sweets; Sugars; Sugars, natural sweeteners, sweet coatings and fillings, bee products; Sugars [other than for medical purposes]; Sumac for use as a seasoning; Sushi; Sweet and sour sauce; Sweet bean jam coated with sugared-bean based soft shell [nerikiri]; Sweet biscuits for human consumption; Sweet dumplings (dango); Sweet glazes and fillings; Sweet pickle [condiment]; Sweet potato starch; Sweet potato starch for food; Sweet pounded rice cakes (mochi-gashi); Sweet rice with nuts and jujubes (yaksik); Sweet spreads [honey]; Sweeteners consisting of fruit concentrates; Sweeteners (Natural -); Sweeteners (Natural -) in granular form; Sweetmeat made of sesame oil; Sweetmeats; Sweetmeats [candy]; Sweetmeats [candy] being flavoured with fruit; Sweetmeats [candy] containing fruit; Sweetmeats made of sesame oil; Sweets [candy]; Sweets (candy), candy bars and chewing gum; Sweets (Non-medicated -); Sweets (Non-medicated -) being acidulated; Sweets (Non-medicated -) being acidulated caramel sweets; Sweets (Non-medicated -) being alcohol based; Sweets (Non-medicated -) being honey based; Sweets (Non-medicated -) containing herbal flavourings; Sweets (Non-medicated -) in compressed form; Sweets (Non-

medicated -) in the nature of caramels; Sweets (Non-medicated -) in the nature of chocolate eclairs; Sweets (Non-medicated -) in the nature of fudge; Sweets (Non-medicated -) in the nature of nougat; Sweets (Non-medicated -) in the nature of sugar confectionery; Sweets (Non-medicated -) in the nature of toffees; Sweets (Peppermint -); Synthetic thickeners for foodstuffs; Syrup for food; Syrup of molasses for food; Syrups and treacles; Ramen; Ramen [Japanese noodle-based dish]; Ravioli; Ravioli [prepared]; Raw honeycombs; Raw sugar; Ready to eat savory snack foods made from maize meal formed by extrusion; Ready-made baking mixtures; Ready-made sauces; Ready-to-bake dough products; Ready-to-eat cereal-derived food bars; Ready-to-eat cereals; Ready-to-eat puddings; Red bean porridge (patjuk); Red ginseng candy; Red ginseng tea; Red pepper powder (Gochutgaru); Relish [condiment]; Relish [condiments]; Relishes; Relishes [condiments]; Remoulade sauce; Ribbon vermicelli; Rice; Rice based dishes; Rice biscuits; Rice cake snacks; Rice cakes; Rice chips; Rice crackers; Rice crackers [senbei]; Rice crisps; Rice crusts; Rice dumplings; Rice dumplings dressed with sweet bean jam (ankoro); Rice flour; Rice flour porridge; Rice glue balls; Rice mixed with vegetables and beef [bibimbap]; Rice mixes; Rice noodles; Rice porridge; Rice pudding; Rice puddings; Rice puddings containing sultanas and nutmeg; Rice pulp for culinary purposes; Rice salad; Rice snacks; Rice starch flour; Rice sticks; Rice tapioca; Rice vermicelli; Rice-based prepared meals; Rice-based pudding dessert; Rice-based snack food; Rice-based snack foods; Risotto; Roasted and ground sesame seeds for use as a seasoning; Roasted barley and malt for use as substitute for coffee; Roasted barley tea; Roasted barley tea [mugicha]; Roasted brown rice tea; Roasted coffee beans; Roasted corn; Roasted maize; Rock [confectionery]; Rolled oats; Rolled oats and wheat; Rolled wafers [biscuits]; Rolls [bread]; Rolls (Bread -); Rooibos tea; Rose hip tea; Rosemary tea; Royal jelly; Rusks; Rye bread; Rye flour; Rye full grain grist; Curry [seasoning]; Curry [spice]; Curry mixes; Curry paste; Curry pastes; Curry powder; Curry powder [spice]; Curry powders; Curry sauces; Curry spice mixes; Curry spices; Kasha [meal]; Kebab sauce; Ketchup; Ketchup [sauce]; Ketchups; Kheer mix (rice pudding); Marinades; Marinades containing herbs; Marinades containing seasonings; Marinades containing spices; Meal; Meals consisting primarily of pasta; Meals consisting primarily of rice; Meat gravies; Minced garlic; Minced garlic [condiment]; Mint, dried; Mixed flour for food; Mixed spice powder; Mixes for making bakery products; Mixes for making cakes; Mixes for making puddings; Mixes for preparing sauces; Mixes for the preparation of bread; Muffin mixes; Muffins; Multigrain bread; Multigrain-based snack foods; Naan bread; Nan bread; Noodle-based prepared meals; Noodles; Pancake mixes; Pancakes; Panned sweets (Non-medicated -); Papads; Papadums; Paprika; Pasta dishes; Pasta sauce; Pasta sauces; Pasta-based prepared meals; Pastry dough; Pastry mixes; Pepper powder [spice]; Pepper sauces; Pepper spice; Picante sauce; Pickled ginger [condiment]; Pizza sauce; Pizza sauces; Pizza spices; Popadoms; Poppadoms; Poppadums; Powdered garlic; Preparations for making gravy; Preparations for making sauces; Preparations for making up into sauces; Prepared baking mixes; Prepared foodstuffs in the form of sauces; Prepared meals consisting primarily of rice; Preserved garden herbs as seasonings; Preserved ginger; Preserved ginger [condiment]; Processed garlic for use as seasoning; Processed ginseng used as a herb, spice or flavoring; Processed herbs; Processed seeds for use as a seasoning; Chutney;

Chutneys; Chutneys [condiment]; Chutneys [condiments]; Savory sauces, chutneys and pastes;
Pickled ginger [condiment]; Achar pachranga (fruit pickle); Sweet pickle [condiment]; Sauce [edible].

ANNEX 2

List of the parties' identical or highly similar goods

Applicant's goods	Non-exhaustive list of the contested registration's goods that are identical or highly similar to the applicant's goods
Coffee	<i>Beverages (Coffee-based -); Beverages consisting principally of coffee; Beverages made of coffee</i>
tea	<i>Aromatic teas [other than for medicinal use]; Beverages made of tea; Black tea; Black tea [English tea]</i>
cocoa	<i>Beverages (Chocolate-based -); Beverages consisting principally of cocoa</i>
sugar	<i>Castor sugar; Granulated sugar</i>
rice	<i>Husked rice; Instant rice; rice</i>
tapioca, sago	<i>Rice tapioca; sago</i>
artificial coffee	<i>Artificial coffee</i>
flour	<i>Buckwheat flour; Buckwheat flour [for food]; Buckwheat flour for food; Deproteinised flour for use in the production of beer</i>
preparations made from cereals, bread, pastry	<i>Bread; Bread and buns; Bread biscuits; Bread buns; Bread casings filled with fruit; Bread concentrates; Bread crumbs; Bread doughs; Bread flavored with spices; Bread flavoured with spices; Bread (Ginger -); Bread improvers being cereal based preparations; Bread made with soya beans; Bread mixes; Bread pudding; Bread rolls; Bread sticks; Bread with soy bean; Bread with sweet red bean; Bread-based stuffing mixes; Breadcrumbs; Breads; Breadsticks; Breakfast cake; Breakfast cereals; filo pastry; flaky pastry</i>
confectionery	<i>Boiled sugar confectionery; Boiled sweets; Bonbons; Bonbons made of sugar</i>
ices	<i>Ices (Edible -); Ice pops; Ice-cream</i>

<i>honey</i>	<i>Biological honey for human consumption</i>
<i>treacle</i>	<i>Black treacle</i>
<i>yeast, baking-powder</i>	<i>Instant yeast; Baking powder; Baking powders</i>
<i>salt</i>	<i>Salt for cooking; Salt for flavouring food</i>
<i>mustard</i>	<i>condiments</i>
<i>vinegar</i>	<i>Flavoured vinegar</i>
<i>sauces (condiments)</i>	<i>Salad sauces; Salsa; Salsa sauces; Salsas</i>
<i>spices; spice blends</i>	<i>Blends of seasonings</i>
<i>ice</i>	<i>ice</i>