

O/596/21

**TRADE MARKS ACT 1994**

**IN THE MATTER OF:  
TRADE MARK APPLICATION NO. 3481419  
BY JAMES ROBBIE DEAR TO REGISTER**



**IN CLASS 25**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 421179  
BY PEEK & CLOPPENBURG KG**

## BACKGROUND AND PLEADINGS

1. James Robbie Dear ('the applicant') applied to register trade mark No. 3481419 for:



in the United Kingdom ('UK') (the 'contested mark') on 14 April 2020. It was accepted and published in the Trade Marks Journal on 14 May 2020 in respect of a long list of goods in class 25 detailed in the Annex to this decision.

2. On 13 August 2020, Peek & Cloppenburg KG ('the opponent') initially opposed the trade mark on the basis of section 5(2)(b) and section 5(3) of the Trade Marks Act 1994 ('the Act'). However, as the opponent's reliance on section 5(3) of the Act was later withdrawn, the opposition proceeds based on section 5(2)(b) only. This is on the basis of its earlier trade mark listed in the table below and the opposition is directed against all goods in the application. Given the date of its filing, this mark qualifies as an 'earlier mark' in accordance with section 6 of the Act.

<b>Earlier Trade Mark</b>	European Union Trade Mark ("EUTM") no. 14557631 <sup>1</sup> for Mc Neal
<b>Goods and services relied upon</b>	<b>Class 3:</b> <i>Bleaching preparations and other substances for laundry use; Cleaning, polishing and abrasive preparations; Soaps; Perfumery, essential oils, cosmetics, hair lotions; Dentifrices.</i>  <b>Class 25:</b> <i>Clothing, footwear, headgear.</i>

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<sup>1</sup> Although the UK has left the European Union ('EU') and the transition period has now expired, EUTMs, and International Marks which have designated the EU for protection, are still relevant in these proceedings given the impact of the transitional provisions of The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 – please see Tribunal Practice Notice 2/200 for further information.

	<p><b>Class 35:</b> <i>Advertising; Business management; Business administration; Office functions; Retailing, including via websites and teleshopping, in relation to clothing, footwear, headgear, bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, sunglasses, precious metals and their alloys, jewellery, precious stones, horological and chronometric instruments, luggage, trunks and travelling bags, bags, handbags, pocket wallets, purses, key cases, backpacks, pouches, shoulder belts and bandoliers, leather and imitations of leather, fur and pelts, and goods made therefrom, namely luggage, trunks and travelling bags, bags, handbags, pocket wallets, purses, key cases, backpacks, pouches, shoulder belts and bandoliers, leather thongs, leather laces, bandoliers, sheets of imitation leather for further processing; Arranging and conducting of advertising events and customer loyalty programmes.</i></p>
<p><b>Relevant dates</b></p>	<p><b>Filing date:</b> 15 September 2015  <b>Date of entry in register:</b> 13 January 2016</p>

3. The opponent contends that the contested mark and the goods covered under that mark are highly similar to their earlier mark and the goods and services it protects. They submit that there is a likelihood of confusion and association on the part of the average consumer. They request that the contested mark is refused in its entirety and they are awarded costs.
  
4. The applicant filed a counterstatement denying the opponent's claims. They made a range of statements, including that the earlier mark and opposition are filed in dealings that "*fall short of acceptable commercial behaviour, or may even be considered by some as dishonest*".
  
5. Only the opponent filed submissions during these proceedings. These will not be summarised fully but will be referred to as and where appropriate during this decision.

6. As no hearing was requested, this decision is taken following a careful perusal of the papers to which I refer, as necessary, below.
7. Whilst the opponent is professionally represented by Bird & Bird LLP, the applicant represents themselves.
8. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Trade Marks Act relied on in these proceedings are derived from an EU Directive. This is why this decision continues to make reference to the trade mark case law of EU courts.

## **PRELIMINARY ISSUES**

### *Evidence*

9. Prior to the filing of the applicant's counterstatement, I am aware that the applicant sent various letters with attachments to the Tribunal. I provide an excerpt of a letter (dated 7 October 2020) sent from the Tribunal to the applicant below:

#### **Exhibits**

I refer to the approximately 20 letters, uninvited, that you have sent by e-mail to the registry between 14 September 2020 and 7 October 2020.

It is noted that you have also attached exhibits to many of your e-mails, a number of which documents are in a format incompatible with the registry's systems.

This correspondence will be disregarded.

Should you wish to file evidence to be considered by the registry, then any such evidence should be filed at the appropriate time and in the correct evidential format. The exhibits will not form part of these proceedings.

10. In their counterstatement, the applicant also referred to filing various evidence:

It is quite difficult to know where to start with my defence of my trademark application as the trademark of P&C and its opposition are so ridiculous they would be humorous but it has taken me weeks in accruing my evidence as well as 4.5 x 500 sheets Reams of paper.

So I do not find it funny that a combined \$2 Billion of Corporate power in Bird & Bird LLP and Peek & Coppenburg think it is acceptable to treat trademarks as some sort of game. I understand everyone and anyone has the right to raise an opposition but it should be done responsibly and with some merit.

I have asked for proof of use as the registered trademark of Peek & Coppenburg Mc(space)Neal is never used by the company anywhere and I believe the registration and the opposition to have both been filed in where it is dealings which fall short of the standard of acceptable commercial behaviour, or may even be considered by some as dishonest.

I do not use the above phrase lightly, I would also ask the IPO as I begin to submit my evidence within the time period allowed to not allow Bird & Bird LLP and Peek & Coppenburg to withdraw their opposition as I would not only like a decision on my trademark application but on the behaviours of Bird & Bird LLP and Peek & Coppenburg.

I am a layman to trademark laws, rules, regulations and processes, some of my evidence is so blindingly obvious that experts such as Bird & Bird LLP, (I will be submitting evidence as to their expertise), should have known these facts before filing their opposition. Just as one example which I will detail later in evidence within the UKIPO's Common Practice rules CP3. Distinctiveness – Figurative marks containing descriptive/non-distinctive words Frequently Asked Questions (FAQ).

Question 13. A figurative trademark containing descriptive/non-descriptive words was applied and passed the absolute grounds examination. Does the applicant obtain exclusive rights in these words?

Answer: No. The distinctive character lies in the sign as a whole and therefore the scope of protection is limited to the overall composition of the mark, and not to the descriptive/non-descriptive word element on its own. Therefore the applicant will NOT obtain exclusive rights to the descriptive/non-descriptive words on their own right.

I would also ask the IPO to begin to swat up on their English as there is word play at work within the Peek & Coppenburg registration and opposition. Bird & Bird LLP even refer in their opposition to the Prefix in their client's trademark. There is no such thing. The etymology of Prefix derives from Latin 1640s praefixum, "fix in front, fasten on before" prae – before", "fixum to fasten, fix". Having a joint Corporate power of unannual income of \$2 Billion may buy you some power and influence over certain matters, but it doesn't allow you to change the construction and formation or words in the English language. Mc(space)Neal is not a Prefix and by definition cannot sound the same as MCNEILL. Mc(space)Neal is one abbreviation and or symbol and one Proper Noun. I will go on to prove this is a deliberate attempt to mislead the IPO teams. The bulk of income for Peek & Coppenburg from the Mc(space)Neal is derived from MCNEAL Clothing company which both Bird & Bird LLP and Peek & Coppenburg know because it is registered in the USA registration number 85679065 which also includes an MCN symbol, also partly used in Europe.

I will also be defending on the basis of the limited target market of my MCNeill application, 2 Common Practice rules, 1 precedents in black & white involving a Peek &

Coppenburg trademark before we even get to colour and distinctiveness.

I have files upon files showing every Scottish clan named McAnybody all formed as McAnybody and or MacAnbody. McNeill is of Scottish origin there are no Mc(space)Neals listed anywhere or any Mc(space)Anybodies or Mac(space)Anybodies in the clans. I can also prove the same thing across the online BT phonebook from every major town and city in the UK, there are no Mc(space)Neal listed. In the UK Mc(space)Neal is not a known name. This is fine for B&B and P&C to register Mc(space)Neal to create something unique part of the benefits of the trademark system.

But they have to use it as registered, there is some leeway use of capitals, lower case letters and typeface. The opposition cannot claim to be a Prefix when it flies in the face of the rules of the English language, Mc(space)Neal are 2 separate entities. Mc is a symbol for Moscovium or and an abbreviation for megacycle and millicurie. And therefore cannot claim the same aural sound.

Precedent 1: EU001260041 Jake's and EU003587326 Jake\*s, EU003587326 filed by none other than Bird & Bird LLP and after EU001260041 was registered based I'm guessing that both may sound the same but are distinctively different even though both in black and white. And please note that neither Jake's or Jake\*s do not have a space with s in both words adjoined by ' and \* respectively.

Please do not worry, I will not file all the evidence I have accrued as I understand just how busy the IPO are and will try not to over burden you with too much work. I will provide samples with the rest on hand should the IPO require the full evidence.

For the avoidance of doubt, I have not had sight of any of the aforementioned 'exhibits'/attachments. No evidence was filed nor, therefore, admitted in these proceedings.

### *Common Practice Rules*

11. During the course of the proceedings the applicant requested that "*The Common Practice Rules*" are taken into account. I confirm that the UK IPO implemented the Common Practice and I am therefore guided by the rules, where they are relevant.

12. In particular, the applicant submits that:

*"Just as one example which I will detail later in evidence within the UKIPO's Common Practice rules CP3. Distinctiveness - Figurative marks containing descriptive/non-distinctive words Frequently Asked Questions (FAQ).*

*Question 13. A figurative trademark containing descriptive/non-descriptive words was applied and passed the absolute grounds examination. Does the applicant obtain exclusive rights in these words?*

*Answer: No. The distinctive character lies in the sign as a whole and therefore the scope of protection is limited to the overall composition of the mark, and not to the descriptive/non- descriptive word element on it's own.[sic] ...”*

And

*“I will also be defending on the basis of the limited target market of my MCNeill application, 2 Common Practice rules, 1 precedents in black & white involving a Peek & Coppenburg trademark before we even get to colour and distinctiveness. [sic]”*

And

*“...Common Practice Rules covering Black and White trademarks Vs colour figurative trademarks it clearly states that:*

*A black and white trademark cannot be considered similar to a colour figurative trademark unless the differences are so insignificant that the average observer would not notice the differences. [sic]”*

13. With regards to “CP3”, this common practice is in relation to “*the Common Practice of Distinctiveness – Figurative Marks containing descriptive/non-distinctive words*”. This rule specifically relates to composite marks with non-distinctive/descriptive components. Neither the earlier mark nor contested mark contain descriptive/non-distinctive words; thus, this common practice rule is not applicable. In any event, it is worth highlighting that whilst the protection of each mark is as a whole, that does not stop the mark being similar (and confusable) to something else which might comprise part of a composite mark.

14. Where the applicant refers to “*B&W marks*”, I understand they are referring to “*CP4. Scope of protection of B&W marks*”. This rule largely relates to the circumstances where a black and white mark is considered identical to the same mark in colour and whether use of a mark in colour (or black and white) is considered use of the same mark registered in black and white (or colour), and vice versa. The current opposition is on the basis of section 5(2)(b), within which, *inter alia*, requires that a contested mark is *similar* to an earlier mark. As we are considering the similarity, not identity, between the marks, CP4 is not relevant to the matter before me.

*Proof of use*

15. In the applicant’s counterstatement, they requested that the opponent provided proof of use of the earlier mark. The applicant furthered that “*The bulk of income for Peek & Coppenburg from the Mc(space)Neal is derived from MCNEAL Clothing company which both Bird & Bird LLP and Peek & Coppenburg know because it is registered in the USA registration number 85679065 which also includes an MCN symbol, also partly used in Europe [sic]*”.

16. The Tribunal clarified that since the earlier mark had not been registered for more than 5 years at the date the application for registration was filed, the opponent was not required to prove that their mark had been used. This is in accordance with the proof of use provisions in section 6A of the Act. The applicant contested this point several times during the proceedings. Whilst the earlier mark is older than 5 years at the point of writing this decision, the requirement to provide proof of use is calculated from the date the registration was completed to the date that the application is filed. For the avoidance of doubt, I confirm the Tribunal’s earlier indication was correct and, thus, the opponent was and is not required to provide use of their earlier mark relied upon.



## *Opponent's behaviour*

17. The applicant also stated that they “*believe the registration and the opposition to have both been filed in where it is dealings which fall short of the standard of acceptable commercial behaviour, or may even be considered by some as dishonest [sic]*”. The opponent denied this, and the applicant provided no further information on their submission. In any event, nothing would turn on this point unless the applicant sought to invalidate the earlier mark. Nothing has been brought to the Tribunal’s attention to show that any invalidation action has been filed in respect of the earlier mark. I, therefore, do not delve into this any further – the earlier mark may be relied upon notwithstanding the applicant’s comments.

## **DECISION**

### **Section 5(2)(b)**

18. The opposition is based upon section 5(2)(b) of the Act which reads as follows:

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

*...*

*(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”.*

19. 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 Office for Harmonization in the Internal Market (Trade Marks and Designs) ('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, 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 the earlier mark to mind, is not sufficient;
- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;
- (k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

### **Comparison of goods and services**

20. The opponent contends that the contested mark covers identical goods to the opponent's goods in class 25. Additionally, they state that their class 3 goods are similar to the applicant's goods, and that their class 35 services are of a high similarity.

21. The applicant submitted a counterstatement denying the grounds of the opposition, though they do not make any comparison of the goods and services.

22. In *Gérard Meric v OHIM*, Case T- 133/05, the General Court 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 fur 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”.*

23. The earlier mark broadly covers “*Clothing, footwear, headgear*” in class 25. The applicant’s specification covers a vast amount of clothing (for instance “*Aloha shirts*” and “*Athletic uniforms*”), footwear (such as “*Ankle boots*” and “*Snowboard suits*”) and headgear (such as “*Sports headgear [other than helmets]*” and “*Fishing headwear*”). As the applicant’s goods all fall within the more general category of goods covered by the opponent’s “*Clothing, footwear, headgear*”, there is identity between the respective goods on the principle outlined in *Meric* above.

24. Nevertheless, I acknowledge that some of the goods may be considered parts of clothing (for instance, “*Ready-made linings [parts of clothing]*”) or footwear rather than clothing or footwear *per se*. If this is the case and the goods are not considered identical, my finding is that these goods are otherwise highly similar to goods where the parts are relevant.

25. The opponent also relies upon its class 35 services, including “*Retailing, including via websites and teleshopping, in relation to clothing, footwear, headgear ...*”. I am reminded of *Oakley, Inc v OHIM, Case T-116/06*, at paragraphs [46-57], where the General Court held that although retail services are different in nature, purpose and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree. Whilst the opponent’s retail services are self-evidently different in nature and purpose to the applicant’s class 25 goods, there is an overlap in terms of trade channels and it is common place for clothing and footwear brands to also sell through their own retail outlets or online equivalents. I consider that the applicant’s goods share a medium level of similarity to the opponent’s retail services.

26. I find the opponent's remaining goods under class 3 to be dissimilar to the applicant's goods. I do not believe that the uses or physical nature of the goods in those classes would be similar to the contested goods, of which comprise types of clothing, footwear and headgear. The channels of trade would also be different and I neither find any level of competition or complementarity between them.

### **Average consumer and the purchasing act**

27. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods and services (those I have held to be in conflict). I must then decide the manner in which these goods are likely to be selected by the average consumer in the course of trade.

28. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods in question<sup>2</sup>. 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. (as he then was) 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.”*

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<sup>2</sup> See *Lloyd Schuhfabrik Meyer & Co. GmbH*

29. The goods at issue are various types of clothing, footwear and headgear and, potentially, parts of such goods. The average consumer will predominantly be the general public. However, since some of the goods are fairly specific and used by professionals (such as “*Army boots*”, “*Clothing for cyclists*” and “*Clothing for fishermen*”), some average consumers may also be the professional public buying for themselves or on behalf of others. Where the goods may be considered parts of clothing and footwear etc, the average consumer may also be a professional consumer looking to purchase the parts to put together to sell finished articles to the public. The selection of such goods is largely a visual process. The average consumer (general public) will wish to physically view the goods to ensure the correct size and colour has been selected, whilst simultaneously appraising the overall aesthetic impact. A professional consumer will likely take more care over the visual and technical appraisal of these goods as they will often be buying for a specific purpose and, potentially, in larger quantities. They will likely assess the goods’ features, quality, sizing and construction etc to a slightly higher degree.

30. While the purchase of the contested goods will be primarily a visual experience, I nevertheless bear in mind that the marks are spoken. For example, they may be recommended by sales assistants in a retail establishment or when making a purchase from a catalogue over the telephone. However, in such circumstances, the consumer will have had an opportunity to view the goods, perhaps electronically via an app, website or online catalogue, or on paper in the traditional sense of catalogue shopping. The average consumer will therefore pay a medium or slightly higher than medium degree of attention during their purchase of the applicant’s goods. Where a higher attention is paid, it is merely higher than the norm, rather than being of the highest level.

31. Regarding the opponent’s class 35 retailing services, I also consider the average consumer to be the general public, of whom uses the services on a relatively frequent basis. The average consumer will take various factors into consideration during their selection/use of the service, including their ease of use/access, their type (including online websites and teleshopping) and the suitability of those services to the consumer’s needs. The level of attention paid

during the purchasing process will be medium. The selection of such services is also most likely to be a visual process (such as online), with the possibility of aural conversations with salespersons and word of mouth recommendations.


### **Comparison of marks**

32. It is clear from *Sabel BV v Puma AG* (particularly paragraph [23]) that the average consumer normally perceives a 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 marks must be assessed by reference to the overall impressions created by the 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.”*

33. 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.

34. The respective trade marks are shown below:

Opponent's earlier trade mark	Contested trade mark
Mc Neal	

35. The opponent submits that neither marks have a “*single dominant or distinctive element ... and therefore should be assessed as a whole*”. They state that the two marks are highly similar visually, since they share 5 letters, including “*McNe*” at the beginning (of which the public pay the most attention<sup>3</sup>) and “*L*” at the end. They further that the marks are phonetically and conceptually identical, with the latter being in reference to Scottish surnames and “*Both having the same Gaelic meaning or origin*”.

36. The applicant states that “*Mc(space)Neal is not a Prefix and by definition cannot sound the same as MCNEILL. Mc(space)Neal is one abbreviation and or symbol and one Proper Noun. I will go on to prove this is a deliberate attempt to mislead the IPO teams*”. They also state, *inter alia*, that “*McNeill is of Scottish origin there are no Mc(space)Neals listed anywhere or any Mc(space)Anybodies or Mac(space)Anybodies in the clans. I can also prove the same thing across the online BT phonebook from every major town and city in the UK, there are no Mc(space)Neal listed. In the UK Mc(space)Neal is not a known name*”. For the avoidance of doubt, I confirm I am not in receipt of any evidence from the applicant. They further that “*Mc(space)Neal are 2 separate entities. Mc is a symbol for Moscovium or and an abbreviation for megacycle and millicurie. And therefore cannot claim the same aural sound [sic]*”.

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<sup>3</sup> In support of this point they state that “*justified on the basis that the average consumer in the UK reads from left to right and is supported by established case law - T-146/06 SANOFI-AVENTIS/OHIM-GD SEARLE, § 49*”



## Overall impression

### *The applicant's contested mark*

37. The applied for mark is a figurative mark in a green edged shield-like shape with a curved bottom. Inside the shape is the word "McNEILL" in green bold text and beneath is a semi-circular shape in green, of which half is striped white. In the middle of the shield is a black silhouette of what appears to be a man in a wide stance, with his arms above his head holding an unrecognised item. I consider that the word element "McNEILL" and the shield/silhouette figurative elements play a roughly equal role in the overall impression, with the stylisation of the words and colourway playing a slightly less important role.

### *The opponent's earlier mark*

38. The opponent's mark is a word mark that solely consists of the letters/words "Mc Neal" in a normal font. The overall impression lies in the words themselves, with neither word visually nor aurally dominating the other.

## Visual comparison

39. Both marks contain the letters 'McNE'/'Mc Ne' at the beginning of the word element(s), then 'L'/'l' as the final letter. The fifth and sixth letters of the word elements differ. The contested mark also contains other elements, such as the shield device and male silhouette; thus, creating additional points of difference. I consider there is a medium degree of visual similarity between the marks.

## Aural comparison

40. I note the applicant's submission that "*Mc(space)Neal is not a Prefix and by definition cannot sound the same as MCNEILL*". Whilst I recognise that there is a space between the two elements in the earlier mark, I still consider that their articulation will be the same as the contested mark – i.e. 'muck-ne-el' or 'mac-ne-el'. This is due to the placement and capitalisation of the 'Mc' and the word

that follows ('Neal'/'NEILL'), of which sounds the same notwithstanding that the letters differ slightly. The marks are aurally identical.

### Conceptual comparison

41. I understand 'Mc' is an abbreviation of the original Gaelic word 'Mac' that is common in Scottish and Irish surnames. Whilst I acknowledge the applicant's submission that 'Mc' is "a symbol for *Moscovium* or and an abbreviation for *megacycle and millicurie* [sic]" and 'Mc Neal' isn't a known name, I consider that its presentation in the earlier mark (capitalised and at the forefront of the name 'Neal'), and notwithstanding the space between 'Mc' and 'Neal', will invite the average consumer to nonetheless perceive it as a surname. This is irrespective of whether 'Mc Neal/McNeal' is a real or invented surname. I find the capitalisation of the 'Mc' besides 'NEILL' in the contested mark also alludes to the word element in it being a surname. However, I do not have any evidence before me indicating the prevalence or ancestry of the names themselves. The male silhouette in the contested mark also appears to be in an athletic position, potentially holding some form of sports equipment and, thus, that element may also evoke a related concept for some average consumers. Overall, I consider there is a medium degree of conceptual similarity based on the inclusion of a similar surname.

### **Distinctive character of the earlier trade mark**

42. The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark, the greater the likelihood of confusion (see *Sabel*). In *Lloyd Schuhfabrik Meyer & Co. GmbH* 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-0000, 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 promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see Windsurfing Chiemsee, paragraph 51)."*

43. Registered trade marks can possess various degrees of inherent distinctive character, ranging from low, because they are highly suggestive or allusive of a characteristic of the goods, to those with high inherent distinctive character, such as invented words. The distinctiveness of a mark can be enhanced by virtue of the use made of it. The opponent submitted that the opponent *"has used their Mc Neal Earlier Mark extensively in the UK and EU in relation to wide range of clothing, footwear, and headgear products, and to that extent has acquired enhanced distinctiveness through use"*. However, since I do not have any evidence that the earlier mark has an enhanced distinctive character, I only have the inherent characteristics of the mark to consider.

44. The opponent's earlier mark consists of the word element(s) *"Mc Neal"*. Due to the capitalisation and use of the 'Mc' element in surnames, I find the earlier mark will be perceived as a surname. However, I am not aware that the name is common, and I acknowledge that such surnames usually do not have a space between the two word elements ('Mc' and 'Neal'). Either way, the mark is not descriptive or allusive of the goods it is registered for. I consider that the mark has a medium level of inherent distinctiveness.

## Conclusions on Likelihood of Confusion

45. 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. I point particularly to the principles I referred above in paragraph 19. One of these 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 vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier trade mark, 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 they have retained in their mind.
46. There are two types of possible confusion: direct (where the average consumer mistakes one mark for the other) or indirect (where the average consumer realises the marks are not the same but puts the similarity that exists between the marks/goods down to the responsible undertakings being the same or related). The distinction between these was explained by Mr 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.*

*17. Instances where one may expect the average consumer to reach such a*

*conclusion tend to fall into one or more of three categories:*

*(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).*

*(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as “LITE”, “EXPRESS”, “WORLDWIDE”, “MINI” etc.)*

*(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (“FAT FACE” to “BRAT FACE” for example).”*

I also find it useful to highlight that the three categories of indirect confusion identified by Mr Purvis QC above are just illustrative – he stated that indirect confusion “tends” to fall in one of them.

47. I also find it important to mention the case of *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch). Here, Arnold J. (as he then was) considered the impact of the CJEU’s judgment in *Bimbo*, Case C-591/12P, on the court’s earlier judgment in *Medion v Thomson*. The judge said:

*“18 The judgment in Bimbo confirms that the principle established in Medion v Thomson is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.*

*19 The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks — visually, aurally and conceptually — as a whole. In Medion v Thomson and subsequent case law, the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.*

*20 The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).*

*21 The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”*

48. I will first analyse whether there is a likelihood of direct confusion. The applicant's goods are identical, or else highly similar, to the opponent's class 25 goods and they are of a medium similarity to the applicant's services in class 35. Although the competing trade marks contain differences, they are nonetheless articulated identically and share a medium degree of visual and conceptual similarities. Nevertheless, notwithstanding the similarities and the principle of imperfect recollection, the difference on account of the device components will likely be recalled by the average confusion. It follows that I do not find that there is a likelihood of direct confusion.

49. I now consider indirect confusion. In my view, even if the average consumer is able to recognise and recall that the two marks have differences, I still find a likelihood of indirect confusion. This is because imperfect recollection still has a role to play; in that the average consumer, who rarely has the opportunity to make direct comparisons between trade marks, whilst recalling that one mark is a word only and the other contains a shield/silhouette figurative elements, they nevertheless overlook the difference in spelling between the words in those marks. As the word 'Neal'/'Neill' is just two of many spellings for the name articulated as 'ne-el'; I find its spelling will easily be misremembered, even by the average consumer paying a higher than medium level of attention. Thus, in relying upon their imperfect picture of the two marks, I find that the average consumer is likely to be indirectly confused. For instance, they note the identity and/or similarity of the goods concerned and they consider that the addition of the figurative elements to the misremembered word(s) 'McNeill' and/or 'Mc Neal' simply evince another mark for the same brand or a rebrand. Thus, they incorrectly conclude that the two brands are linked in coming from the same or economically linked undertaking.

## **CONCLUSION**

50. The opposition under section 5(2)(b) of the Act has succeeded in full. Subject to any successful appeal against my decision, the application will be refused for the full range of goods applied for.

## COSTS

51. The opponent has been successful and is entitled to a contribution towards its costs.

52. The opponent requested that I make an award of costs above the normal scale in their favour due to the applicant's conduct. They stated that the applicant sent a "*large volume of evidence*"<sup>4</sup> and a "*very large volume of emails*" to the office and the opponent's representatives. Whilst I bear their request in mind, in light of the information and material before me, I do not consider that the applicant's conduct amounted to being unreasonable, nor would have had such an impact on the opponent to have materially increased their costs, to the point where an above scale costs order should be made.

53. Awards of costs in proceedings commenced after 1 July 2016 are governed by Annex A of Tribunal Practice Notice ("TPN") 2 of 2016. Using that TPN as a guide and bearing the aforementioned in mind, I award the opponent the sum of £700 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Official fee	£100 <sup>5</sup>
Preparing a statement and considering the other side's statement:	£300
Preparing written submissions:	£300

54. I therefore order James Robbie Dear to pay Peek & Cloppenburg KG the sum of £700. The above sum should be paid within twenty-one days of the expiry of

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<sup>4</sup> For the avoidance of doubt, no evidence was admitted in these proceedings.

<sup>5</sup> Whilst the opponent paid £200 in official fees, I note that this was due to the section 5(3) ground that was later withdrawn. I have, therefore, reduced the award to take into account that the opposition proceeded on the basis of section 5(2)(b) only.



the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

**Dated this 11th day of August 2021**

**B Wheeler-Fowler**

**For the Registrar**

## Annex

*The applicant's goods:*

**Class 25:** *Adhesive bras;Adhesive brassieres;After ski boots;Aikido suits;Aikido uniforms;Albs;Aloha shirts;American football bibs;American football pants;American football shirts;American football shorts;American football socks;Anglers' shoes;Ankle boots;Ankle socks;Anklets [socks];Anoraks;Anoraks [parkas];Anti-perspirant socks;Anti-sweat underclothing;Anti-sweat underwear;Après-ski boots;Apres-ski shoes;Aprons;Aprons [clothing];Aqua shoes;Arm warmers [clothing];Army boots;Articles of clothing;Articles of clothing for theatrical use;Articles of clothing made of hides;Articles of clothing made of leather;Articles of outer clothing;Articles of sports clothing;Articles of underclothing;Ascots;Ascots (ties);Athletic clothing;Athletic footwear;Athletic shoes;Athletic tights;Athletic uniforms;Athletics footwear;Athletics hose;Athletics shoes;Athletics vests;Babies' clothing;Babies' outerclothing;Babies' pants [clothing];Babies' pants [underwear];Babies' undergarments;Babushkas;Baby bibs [not of paper];Baby bodysuits;Baby boots;Baby bottoms;Baby clothes;Baby doll pyjamas;Baby layettes for clothing;Baby pants;Baby sandals;Baby tops;Balaclavas;Ball gowns;Ballet shoes;Ballet slippers;Ballet suits;Ballroom dancing shoes;Bandanas;Bandanas [neckerchiefs];Bandannas;Bandeaux [clothing];Barber smocks;Baseball caps;Baseball caps and hats;Baseball hats;Baseball shoes;Baseball uniforms;Baselayer bottoms;Baselayer tops;Basic upper garment of Korean traditional clothes [Jeogori];Basketball shoes;Basketball sneakers;Bath robes;Bath sandals;Bath slippers;Bathing caps;Bathing costumes;Bathing costumes for women;Bathing drawers;Bathing suit cover-ups;Bathing suits;Bathing suits for men;Bathing trunks;Bathrobes;Beach clothes;Beach clothing;Beach cover-ups;Beach footwear;Beach hats;Beach robes;Beach shoes;Beach wraps;Beachwear;Beanie hats;Beanies;Bed jackets;Bed socks;Belts [clothing];Belts for clothing;Belts made from imitation leather;Belts made of leather;Belts made out of cloth;Belts (Money -) [clothing];Belts of textile;Berets;Bermuda shorts;Bib overalls for hunting;Bib shorts;Bib*

tights;Bibs, not of paper;Bibs, sleeved, not of paper;Bikinis;Blazers;Bloomers;Blouses;Blouson jackets;Blousons;Blue jeans;Board shorts;Boardshorts;Boas;Boas [clothing];Boas [necklets];Boaters;Bobble hats;Bodices;Bodices [lingerie];Bodies [clothing];Bodies [underclothing];Body linen [garments];Body stockings;Body suits;Body warmers;Bodysuits;Boiler suits;Boleros;Bolo ties;Bolo ties with precious metal tips;Bomber jackets;Bonnets;Bonnets [headwear];Boot cuffs;Boot uppers;Bootees (woollen baby shoes);Booties;Boots;Boots for motorcycling;Boots for sport;Boots for sports;Boots (Ski -);Bottoms [clothing];Bow ties;Bowling shoes;Bowties;Boxer briefs;Boxer shorts;Boxing shoes;Boxing shorts;Boy shorts [underwear];Boys' clothing;Bra straps;Bra straps [parts of clothing];Braces as suspenders;Braces for clothing;Braces for clothing [suspenders];Braces [suspenders];Bralettes;Bras;Brassieres;Breeches;Breeches for wear;Bridal garters;Bridal gowns;Bridesmaid dresses;Bridesmaids wear;Briefs;Briefs [underwear];Bucket caps;Bucket hats;Burkas;Burnouses;Bushjackets;Bustiers;Bustle holder bands for obi (obiage);Bustles for obi-knots (obiage-shin);Button down shirts;Button-front aloha shirts;Caftans;Cagoules;Camiknickers;Camisoles;Camouflage gloves;Camouflage jackets;Camouflage pants;Camouflage shirts;Camouflage vests;Canvas shoes;Cap peaks;Cap visors;Capelets;Capes;Capes (clothing);Capri pants;Caps;Caps being headwear;Caps [headwear];Caps (Shower -);Caps with visors;Car coats;Cardigans;Cargo pants;Cashmere clothing;Cashmere scarves;Cassocks;Casual clothing;Casual footwear;Casual jackets;Casual shirts;Casual trousers;Casual wear;Casualwear;Chadors;Chaps;Chaps (clothing);Chasubles;Chefs' hats;Chefs' whites;Chemise tops;Chemises;Chemisettes;Cheongsams (Chinese gowns);Children's clothing;Childrens' clothing;Children's footwear;Children's headwear;Children's outerclothing;Children's wear;Chino pants;Choir robes;Christening gowns;Christening robes;Cleats for attachment to sports shoes;Climbing boots;Climbing boots [mountaineering boots];Climbing footwear;Cloaks;Cloche hats;Clogs;Cloth bibs;Cloth bibs for adult diners;Clothes;Clothes for sport;Clothes for sports;Clothing;Clothing containing slimming substances;Clothing for babies;Clothing for

children;Clothing for cycling;Clothing for cyclists;Clothing for fishermen;Clothing for gymnastics;Clothing for horse-riding [other than riding hats];Clothing for infants;Clothing for leisure wear;Clothing for martial arts;Clothing for men, women and children;Clothing for skiing;Clothing for sports;Clothing for wear in judo practices;Clothing for wear in wrestling games;Clothing incorporating LEDs;Clothing layettes;Clothing made of fur;Clothing made of imitation leather;Clothing made of leather;Clothing of imitations of leather;Clothing of leather;Coats;Coats for men;Coats for women;Coats made of cotton;Coats of denim;Coats (Top -);Cocktail dresses;Collar guards for protecting clothing collars;Collar liners for protecting clothing collars;Collar protectors;Collared shirts;Collars;Collars [clothing];Collars for dresses;Combative sports uniforms;Combinations [clothing];Corduroy pants;Corduroy shirts;Corduroy trousers;Corselets;Corsets;Corsets [clothing, foundation garments];Corsets [foundation clothing];Corsets [underclothing];Costumes;Costumes for use in children's dress up play;Costumes for use in role-playing games;Costumes (Masquerade -);Cotton coats;Coveralls;Coverups;Cover-ups;Cowls [clothing];Cravates;Cravats;Crew neck sweaters;Crinolines;Crop tops;Cuffs;Culotte skirts;Culottes;Cummerbunds;Cycling caps;Cycling Gloves;Cycling pants;Cycling shoes;Cycling shorts;Cycling tops;Cyclists' clothing;Dance clothing;Dance costumes;Dance shoes;Dance slippers;Deck shoes;Deck-shoes;Denim coats;Denim jackets;Denim jeans;Denim pants;Denims [clothing];Desert boots;Detachable collars;Detachable neckpieces for kimonos (haneri);Dinner jackets;Dinner suits;Disposable slippers;Disposable underwear;Donkey jackets;Down jackets;Down vests;Drawers as clothing;Drawers [clothing];Dress pants;Dress shields;Dress shirts;Dress shoes;Dress suits;Dresses;Dresses for evening wear;Dresses for infants and toddlers;Dresses made from skins;Dressing gowns;Driving gloves;Driving shoes;Duffel coats;Duffle coats;Dungarees;Dust coats;Ear muffs;Ear muffs [clothing];Ear warmers;Ear warmers being clothes;Earbands;Earmuffs;Embossed heels of rubber or of plastic materials;Embossed soles of rubber or of plastic materials;Embroidered clothing;Espadrilles;Esparto shoes or sandals;Esparto shoes or sandals;Evening coats;Evening dresses;Evening gowns;Evening suits;Evening

wear;Exercise wear;Eye masks;Fabric belts;Fabric belts [clothing];Fake fur hats;Fancy dress costumes;Fascinator hats;Fashion hats;Fedoras;Fezzes;Figure skating clothing;Fingerless gloves;Fingerless gloves as clothing;Fishermen's jackets;Fishing boots;Fishing clothing;Fishing footwear;Fishing headwear;Fishing jackets;Fishing shirts;Fishing smocks;Fishing vests;Fishing waders;Fitted swimming costumes with bra cups;Fittings of metal for boots and shoes;Fittings of metal for footwear;Flat caps;Flat shoes;Fleece jackets;Fleece pullovers;Fleece shorts;Fleece tops;Fleece vests;Fleeces;Flip-flops;Flip-flops for use as footwear;Flying suits;Foam pedicure slippers;Folk costumes;Foot volleyball shoes;Football boots;Football boots (Studs for -);Football jerseys;Football shirts;Football shoes;Footless socks;Footless tights;Footmuffs, not electrically heated;Footwear;Footwear [excluding orthopedic footwear];Footwear (Fittings of metal for -);Footwear for men;Footwear for men and women;Footwear for snowboarding;Footwear for sport;Footwear for sports;Footwear for track and field athletics;Footwear for use in sport;Footwear for women;Footwear made of vinyl;Footwear made of wood;Footwear (Non-slipping devices for -);Footwear not for sports;Footwear soles;Footwear (Tips for -);Footwear uppers;Footwear (Welts for -);Formal evening wear;Formal wear;Formalwear;Foulards [clothing articles];Foundation garments;Frames (Hat -) [skeletons];Frock coats;Full-length kimonos (nagagi);Functional underwear;Fur cloaks;Fur coats;Fur coats and jackets;Fur hats;Fur jackets;Fur muffs;Fur stoles;Furs [clothing];Gabardines;Gabardines [clothing];Gaiter straps;Gaiters;Galoshes;Garments for protecting clothing;Garrison caps;Garter belts;Garters;Gauchos;Gilets;Girdles;Girdles [corsets];Girls' clothing;Gloves;Gloves as clothing;Gloves [clothing];Gloves for apparel;Gloves for cyclists;Gloves including those made of skin, hide or fur;Gloves with conductive fingertips that may be worn while using handheld electronic touch screen devices;Golf caps;Golf clothing, other than gloves;Golf footwear;Golf shirts;Golf shoes;Golf shorts;Golf skirts;Golf trousers;Goloshes;Gowns;Greatcoats;G-strings;Guernseys;Gussets for bathing suits [parts of clothing];Gussets for footlets [parts of clothing];Gussets for leotards [parts of clothing];Gussets for stockings [parts of clothing];Gussets for tights [parts of clothing];Gussets for underwear [parts of clothing];Gussets

[parts of clothing];Gym boots;Gym shorts;Gym suits;Gymnastic shoes;Gymshoes;Gymwear;Hairdressing capes;Half-boots;Halloween costumes;Halter tops;Handball shoes;Handwarmers [clothing];Haneri [detachable neckpieces for kimonos];Hat frames [skeletons];Hats;Hats (Paper -) [clothing];Head bands;Head scarves;Head sweatbands;Head wear;Headbands;Headbands against sweating;Headbands [clothing];Headbands for clothing;Headdresses [veils];Headgear;Headgear for wear;Headscarfs;Headscarves;Headshawls;Headsquares;Headwear;Heavy coats;Heavy jackets;Heel inserts;Heel pieces for shoes;Heel pieces for stockings;Heel protectors for shoes;Heelpieces for footwear;Heelpieces for stockings;Heels;Hidden heel shoes;High rain clogs (ashida);High-heeled shoes;Hijabs;Hiking boots;Hiking shoes;Hockey shoes;Hooded pullovers;Hooded sweat shirts;Hooded sweatshirts;Hooded tops;Hoodies;Hoods;Hoods [clothing];Horse-riding boots;Horse-riding pants;Hosiery;House coats;Housecoats;Hunting boot bags;Hunting boots;Hunting jackets;Hunting pants;Hunting shirts;Hunting vests;Imitation leather dresses;Infant clothing;Infant wear;Infants' boots;Infants' clothing;Infants' footwear;Infants' shoes;Infants' trousers;Infantwear;Inner socks for footwear;Inner soles;Innersocks;Insoles;Insoles for footwear;Insoles for shoes and boots;Insoles [for shoes and boots];Intermediate soles;Jacket liners;Jackets;Jackets being sports clothing;Jackets [clothing];Jackets (Stuff -) [clothing];Japanese footwear of rice straw (waraji);Japanese kimonos;Japanese sleeping robes (nemaki);Japanese sleeping robes [nemaki];Japanese split-toed work footwear (jikatami);Japanese style clogs and sandals;Japanese style sandals of felt;Japanese style sandals of leather;Japanese style sandals (zori);Japanese style socks (tabi);Japanese style socks (tabi covers);Japanese style wooden clogs (geta);Japanese toe-strap sandals (asaura-zori);Japanese traditional clothing;Jeans;Jerkins;Jerseys;Jerseys [clothing];Jockstraps [underwear];Jodhpurs;Jogging bottoms;Jogging bottoms [clothing];Jogging outfits;Jogging pants;Jogging sets [clothing];Jogging shoes;Jogging suits;Jogging tops;Judo suits;Judo uniforms;Jump Suits;Jumper dresses;Jumper suits;Jumpers;Jumpers [pullovers];Jumpers [sweaters];Jumpsuits;Kaftans;Karate suits;Karate uniforms;Kendo

outfits; Kerchiefs; Kerchiefs [clothing]; Khakis; Khimars; Kilts; Kimonos; Knee  
highs; Knee warmers [clothing]; Knee-high  
stockings; Knickerbockers; Knickers; Knit jackets; Knit shirts; Knit tops; Knitted  
baby shoes; Knitted caps; Knitted clothing; Knitted gloves; Knitted tops; Knitted  
underwear; Knitwear; Knitwear [clothing]; Knot caps; Korean outer jackets worn  
over basic garment [Magoja]; Korean topcoats [Durumagi]; Korean traditional  
women's waistcoats [Baeja]; Laboratory coats; Lace boots; Ladies' boots; Ladies'  
clothing; Ladies' dresses; Ladies' footwear; Ladies' outerclothing; Ladies'  
sandals; Ladies' suits; Ladies' underwear; Ladies wear; Latex  
clothing; Layettes; Layettes [clothing]; Leather belts [clothing]; Leather  
clothing; Leather (Clothing of -); Leather (Clothing of imitations of -); Leather  
coats; Leather dresses; Leather garments; Leather headwear; Leather  
jackets; Leather pants; Leather shoes; Leather slippers; Leather suits; Leather  
waistcoats; Leg warmers; Leggings [leg warmers]; Leggings  
[trousers]; Legwarmers; Leg-warmers; Leisure clothing; Leisure footwear; Leisure  
shoes; Leisure suits; Leisure wear; Leisurewear; Leotards; Light-reflecting  
coats; Light-reflecting jackets; Linen (Body -) [garments]; Linen  
clothing; Lingerie; Linings (Ready-made -) [parts of clothing]; Liveries; Long  
jackets; Long johns; Long sleeve pullovers; Long sleeved vests; Long  
underwear; Long-sleeved shirts; Lounge pants; Loungewear; Lounging  
robes; Low wooden clogs (hiyori-geta); Low wooden clogs (koma-geta); Low  
wooden clogs [koma-geta]; Lumberjackets; Mackintoshes; Maillots; Maillots  
[hosiery]; Maniples; Mankinis; Mantillas; Mantles; Martial arts uniforms; Masks  
(Sleep -); Masquerade and halloween costumes; Masquerade  
costumes; Maternity bands; Maternity clothing; Maternity dresses; Maternity  
leggings; Maternity lingerie; Maternity pants; Maternity shirts; Maternity  
shorts; Maternity sleepwear; Maternity smocks; Maternity tops; Maternity  
underwear; Maternity wear; Men's and women's jackets, coats, trousers,  
vests; Men's clothing; Men's dress socks; Men's sandals; Men's socks; Men's  
suits; Men's underwear; Menswear; Metal fittings for Japanese style wooden  
clogs; Military boots; Millinery; Miniskirts; Miters [hats]; Mitres [hats]; Mittens; Mitts  
[clothing]; Moccasins; Mock turtleneck shirts; Mock turtleneck sweaters; Mock  
turtlenecks; Moisture-wicking sports bras; Moisture-wicking sports  
pants; Moisture-wicking sports shirts; Money belts [clothing]; Monokinis; Morning

coats;Motorcycle gloves;Motorcycle jackets;Motorcycle rain suits;Motorcycle riding suits;Motorcyclist boots;Motorcyclists' clothing;Motorcyclists' clothing of leather;Motorists' clothing;Mountaineering boots;Mountaineering shoes;Mufflers;Mufflers as neck scarves;Mufflers [clothing];Mufflers [neck scarves];Muffs;Muffs [clothing];Mukluks;Mules;Muumuus;Nappy pants [clothing];Neck gaiters;Neck scarfs [mufflers];Neck scarves;Neck scarves [mufflers];Neck tube scarves;Neck tubes;Neck warmers;Neckbands;Neckerchiefs;Neckerchieves;Neckties;Neckwear;Negligees;Night gowns;Night shirts;Nightcaps;Nightdresses;Nightgowns;Nighties;Nightshirts;Nightwear;Nipple pasties;Niqabs;Non-slip socks;Non-slipping devices for boots;Non-slipping devices for footwear;Nurse dresses;Nurse overalls;Nurse pants;Nurses' uniforms;Nursing bras;Nursing shoes;Oilskins [clothing];One-piece clothing for infants and toddlers;One-piece playsuits;One-piece suits;Open-necked shirts;Outer clothing;Outer soles;Outerclimbing;Outerclimbing for boys;Outerclimbing for girls;Outerclimbing for men;Outerwear;Overalls;Overalls for infants and toddlers;Overcoats;Overshirts;Overshoes;Overtrousers;Overtrousers;Padded jackets;Padded pants for athletic use;Padded shirts for athletic use;Padded shorts for athletic use;Pajama bottoms;Pajamas;Pajamas (Am.);Pantaloon;Pantie-girdles;Panties;Pants;Pants (Am.);Pantsuits;Panty hose;Pantyhose;Paper aprons;Paper clothing;Paper hats [clothing];Paper hats for use as clothing items;Paper hats for wear by chefs;Paper hats for wear by nurses;Pareos;Pareus;Parkas;Parts of clothing, footwear and headgear;Party hats [clothing];Pea coats;Peaked caps;Peaked headwear;Peaks (Cap -);Pedal pushers;Pedicure sandals;Pedicure slippers;Peignoirs;Pelerines;Pelisses;Petticoats;Petti-pants;Pinafore dresses;Pinafores;Pique shirts;Pirate pants;Plastic aprons;Plastic baby bibs;Plastic slippers;Platform shoes;Play suits;Playsuits [clothing];Pleated skirts;Pleated skirts for formal kimonos (hakama);Plimsolls;Plus fours;Plush clothing;Pocket kerchiefs;Pocket squares;Pocket squares [clothing];Pockets for clothing;Polar fleece jackets;Polo boots;Polo knit tops;Polo neck jumpers;Polo shirts;Polo sweaters;Ponchos;Pop socks;Pram suits;Printed t-shirts;Protective metal members for shoes and boots;Pullovers;Pullstraps for shoes and boots;Pumps [footwear];Puttees;Puttees;Pyjamas;Pyjamas [from



*tricot only]; Quilted jackets [clothing]; Quilted vests; Rain boots; Rain coats; Rain hats; Rain jackets; Rain ponchos; Rain shoes; Rain slickers; Rain suits; Rain trousers; Rain wear; Raincoats; Rainproof clothing; Rainproof jackets; Rainshoes; Rainwear; Ramie shirts; Rash guards; Ready-made clothing; Ready-made linings [parts of clothing]; Ready-to-wear clothing; Referees uniforms; Religious garments; Removable collars; Replica football kits; Reversible jackets; Riding boots; Riding gloves; Riding Gloves; Riding jackets; Riding shoes; Riding trousers; Robes; Robes (Bath -); Roll necks [clothing]; Roller shoes; Romper suits; Rompers; Ruanas; Rubber fishing boots; Rubber shoes; Rubber soles for jikatabi; Rubbers [footwear]; Rugby boots; Rugby jerseys; Rugby shirts; Rugby shoes; Rugby shorts; Rugby tops; Running shoes; Running Suits; Running vests; Russian felted boots (Valenki); Sabots; Safari jackets; Sailing wet weather clothing; Sailor suits; Salopettes; Sandal-clogs; Sandals; Sandals and beach shoes; Sarees; Saris; Sarongs; Sash bands for kimono (obi); Sashes for wear; Scarfs; Scarves; School uniforms; Scrimmage vests; Sedge hats (suge-gasa); Serapes; Shampoo capes; Shapewear; Shawls; Shawls and headscarves; Shawls and stoles; Shawls [from tricot only]; Sheepskin coats; Sheepskin jackets; Shell jackets; Shell suits; Shields (Dress -); Shift dresses; Shirt fronts; Shirt yokes; Shirt-jacs; Shirts; Shirts and slips; Shirts for suits; Shoe covers, other than for medical purposes; Shoe inserts for non-orthopedic purposes; Shoe soles; Shoe soles for repair; Shoe straps; Shoe uppers; Shoes; Shoes for casual wear; Shoes for foot volleyball; Shoes for infants; Shoes for leisurewear; Shoes soles for repair; Shoes with hook and pile fastening tapes; Short overcoat for kimono (haori); Short petticoats; Short sets [clothing]; Short trousers; Shortalls; Shorts; Shorts [clothing]; Short-sleeve shirts; Short-sleeved shirts; Short-sleeved T-shirts; Shoulder scarves; Shoulder straps for clothing; Shoulder wraps; Shoulder wraps [clothing]; Shoulder wraps for clothing; Shower caps; Shrugs; Silk clothing; Silk scarves; Silk ties; Singlets; Skating outfits; Ski and snowboard shoes and parts thereof; Ski balaclavas; Ski boot bags; Ski boots; Ski gloves; Ski hats; Ski jackets; Ski pants; Ski suits; Ski suits for competition; Ski trousers; Ski wear; Skiing shoes; Skirt suits; Skirts; Skorts; Skull caps; Slacks; Sleep masks; Sleep pants; Sleep shirts; Sleeping garments; Sleepsuits; Sleepwear; Sleeved*

*jackets; Sleeveless jackets; Sleeveless jerseys; Sleeveless pullovers; Sliding shorts; Slip-on shoes; Slipovers; Slipovers [clothing]; Slipper socks; Slipper soles; Slippers; Slippers made of leather; Slips; Slips [clothing]; Slips [underclothing]; Slips [undergarments]; Small hats; Smocks; Smoking jackets; Snap crotch shirts for infants and toddlers; Sneakers; Sneakers [footwear]; Snoods [scarves]; Snow boarding suits; Snow boots; Snow pants; Snow suits; Snowboard boots; Snowboard gloves; Snowboard jackets; Snowboard mittens; Snowboard shoes; Snowboard trousers; Snowsuits; Soccer bibs; Soccer boots; Soccer shirts; Soccer shoes; Sock suspenders; Socks; Socks and stockings; Socks for infants and toddlers; Socks for men; Soles for footwear; Soles for japanese style sandals; Soles [Inner]; Spats; Spiked running shoes; Sport coats; Sport shirts; Sport shoes; Sport stockings; Sports bibs; Sports [Boots for -]; Sports bras; Sports caps; Sports caps and hats; Sports clothing; Sports clothing [other than golf gloves]; Sports footwear; Sports garments; Sports headgear [other than helmets]; Sports jackets; Sports jerseys; Sports jerseys and breeches for sports; Sports over uniforms; Sports overuniforms; Sports pants; Sports shirts; Sports shirts with short sleeves; Sports shoes; Sports singlets; Sports socks; Sports vests; Sports wear; Sportswear; Stiffeners for boots; Stiffeners for shoes; Stocking suspenders; Stockings; Stockings (Heel pieces for -); Stockings [sweat-absorbent]; Stockings (Sweat-absorbent -); Stoles; Stoles (Fur -); Strapless bras; Strapless brassieres; Straps (Gaiter -); Stretch pants; String fasteners for haori (haori-himo); Studs for football boots; Stuff jackets; Stuff jackets [clothing]; Suede jackets; Suit coats; Suits; Suits (Bathing -); Suits made of leather; Suits of leather; Sun hats; Sun visors; Sun visors [headwear]; Sundresses; Sunsuits; Surf wear; Surfwear; Suspender belts; Suspender belts for men; Suspender belts for women; Suspenders; Suspenders [braces]; Swaddling clothes; Sweat bands; Sweat bands for the head; Sweat bands for the wrist; Sweat bottoms; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweat-absorbent socks; Sweat-absorbent stockings; Sweat-absorbent underclothing; Sweat-absorbent underclothing [underwear]; Sweat-absorbent underwear; Sweatbands; Sweaters; Sweatjackets; Sweatpants; Sweatshirts; Sweatshorts; Sweatsuits; Swim briefs; Swim caps; Swim shorts; Swim suits; Swim*

trunks;Swim wear for children;Swim wear for gentlemen and ladies;Swimming caps;Swimming caps [bathing caps];Swimming costumes;Swimming suits;Swimming trunks;Swimsuits;Swimwear;Synthetic fur stoles;Tabards;Taekwondo suits;Taekwondo uniforms;Tail coats;Tailleurs;Tam o'shanter;Tams;Tank tops;Tankinis;Tank-tops;Tap pants;Tap shoes;Tartan kilts;Teddies;Teddies [underclothing];Teddies [undergarments];Tee-shirts;Tennis dresses;Tennis pullovers;Tennis shirts;Tennis shoes;Tennis shorts;Tennis skirts;Tennis socks;Tennis sweatbands;Tennis wear;Theatrical costumes;Thermal clothing;Thermal headgear;Thermal socks;Thermal underwear;Thermally insulated clothing;Thobes;Thong sandals;Thongs;Three piece suits [clothing];Ties;Ties [clothing];Tightening-up strings for kimonos (datejime);Tights;Tips for footwear;Toe boxes;Toe socks;Toe straps for Japanese style sandals [zori];Toe straps for Japanese style wooden clogs;Toe straps for zori [Japanese style sandals];Togas;Tongues for shoes and boots;Top coats;Top hats;Topcoats;Tops;Tops [clothing];Toques [hats];Track and field shoes;Track jackets;Track pants;Track suits;Tracksuit bottoms;Tracksuit tops;Tracksuits;Traction attachments for footwear;Trainers;Trainers [footwear];Training shoes;Training suits;Trekking boots;Trench coats;Trenchcoats;Trews;Triathlon clothing;Trousers socks;Trousers straps;Trousers;Trousers for children;Trousers for sweating;Trousers of leather;Trousers shorts;Trunks;Trunks (Bathing -);Trunks being clothing;Trunks [underwear];T-shirts;Tube tops;Tunics;Turbans;Turtleneck pullovers;Turtleneck shirts;Turtleneck sweaters;Turtleneck tops;Turtlenecks;Tutus;Tuxedo belts;Tuxedos;Twin sets;Umpires uniforms;Under garments;Under shirts;Underarm gussets [parts of clothing];Underclothes;Underclothing;Underclothing (Anti-sweat -);Underclothing for women;Undergarments;Underpants;Underpants for babies;Undershirts;Undershirts for kimonos (juban);Undershirts for kimonos (koshimaki);Undershirts for kimonos [koshimaki];Underskirts;Underwear;Underwear (Anti-sweat -);Underwear for women;Uniforms;Uniforms for commercial use;Uniforms for nurses;Union suits;Unitards;Uppers (Footwear -);Uppers for Japanese style sandals;Uppers of woven rattan for Japanese style sandals;Ushankas [fur hats];Valenki [felted boots];Veils;Veils [clothing];Vest tops;Vests;Vests (Fishing -);Vests for use in

barber shops and salons;Visors;Visors being headwear;Visors [clothing];Visors [hatmaking];Visors [headwear];V-neck sweaters;Volleyball jerseys;Volleyball shoes;Waders;Waist belts;Waist cinchers;Waist strings for kimonos (koshihimo);Waistbands;Waistcoats;Waistcoats [vests];Walking boots;Walking breeches;Walking shoes;Walking shorts;Warm up suits;Warm-up jackets;Warm-up pants;Warm-up suits;Warm-up tops;Water socks;Waterpolo caps;Waterproof boots;Waterproof boots for fishing;Waterproof capes;Waterproof clothing;Waterproof jackets;Waterproof outerclothing;Waterproof pants;Waterproof shoes;Waterproof suits for motorcyclists;Waterproof trousers;Water-resistant clothing;Waterskiing suits;Weather resistant outer clothing;Weatherproof clothing;Weatherproof jackets;Weatherproof pants;Wedding dresses;Wedding gowns;Wedge sneakers;Wellington boots;Wellingtons;Welts for footwear;Wet suits;Wet suits for surfing;Wet suits for water-skiing;Wet suits for water-skiing and sub-aqua;Wet suits for windsurfing;Wetsuit gloves;Wetsuits;Wetsuits for surface watersports;Wetsuits for surfing;Wetsuits for water-skiing;White coats for hospital use;Wimples;Wind coats;Wind jackets;Wind pants;Wind resistant jackets;Wind suits;Wind vests;Windcheaters;Wind-jackets;Windproof clothing;Windproof jackets;Wind-resistant jackets;Wind-resistant vests;Windshirts;Winter boots;Winter coats;Winter gloves;Women's ceremonial dresses;Women's clothing;Women's foldable slippers;Womens' outerclothing;Women's shoes;Women's suits;Womens' underclothing;Womens' undergarments;Women's underwear;Wooden bodies for Japanese style clogs;Wooden main bodies of Japanese style wooden clogs;Wooden shoes;Wooden shoes [footwear];Wooden supports of Japanese style wooden clogs;Woolen clothing;Woollen socks;Woollen tights;Woolly hats;Work boots;Work clothes;Work overalls;Work shoes;Working overalls;Woven clothing;Woven shirts;Wrap belts for kimonos (datemaki);Wraps [clothing];Wrist bands;Wrist warmers;Wristbands;Wristbands [clothing];Yashmaghs;Yashmaks;Yoga bottoms;Yoga pants;Yoga shirts;Yoga shoes;Yoga socks;Yoga tops;Yokes (Shirt -);Zoot suits;Zori.