

O/0173/26

TRADE MARKS ACT 1994

**IN THE MATTER OF REGISTRATION NO. 4074176
IN THE NAME OF MTN LOGISTICS LTD
FOR THE TRADE MARK:**

CCINEE

IN CLASS 20

AND

**AN APPLICATION FOR A DECLARATION OF INVALIDITY
UNDER NO. 508344
BY YIWU YUEJIN E-COMMERCE CO., LTD.**

Background and pleadings

1. MTN Logistics Ltd (“the proprietor”) is the registered proprietor of the trade mark “CCINEE”, under registration number 4074176 (“the contested mark”). The contested mark was filed on 10 July 2024 and registered on 11 October 2024. It stands registered in respect of the following goods in class 20:

Pins [pegs], not of metal; Pegs [pins], not of metal; Pegs, not of metal (Tent -); Hooks, not of metal, for clothes rails; Clothes hooks; Non-metallic pegs [pins]; Coat pegs [wall mounted hooks] non-metallic; Coat pegs [stands] non-metallic; Connecting pegs, not of metal; Hooks for clothes rails; Clothes hangers and clothes hooks; Clothes hangers, clothes stands [furniture] and clothes hooks; Plugs [dowels], not of metal; Wooden racks [furniture]; Plastic racks for tools; Clip clamps, not of metal; Non-metal cable clips; Clips, not of metal, for cables and pipes; Clips (Cable and pipe -) of plastics; Hangers for clothes; Hangers (Clothes -); Clothes hangers; Non-metallic clothes hangers; Clothes hangers [coathangers], not of metal; Hooks for clothing; Non-metal clothes hooks; Clothes hooks, not of metal; Shoe pegs, not of metal; Holders for photographs [frames]; Picture holders [frames]; Tent pegs, not of metal; Non-metal fastening anchors for securing pictures to walls; Non-metal picture hangers; Wooden picture mouldings; Plastic fittings [clips] for attachment to tubing.

2. On 20 January 2025, Yiwu Yuejin E-commerce Co., Ltd. (“the applicant”) made an application for a declaration of invalidity in respect of the contested mark, and all goods for which it is registered, pursuant to section 47 of the Trade Marks Act 1994 (“the Act”). The application is based upon sections 5(2)(a) and 5(4)(a) of the Act.

3. For the purpose of its claim under section 5(2)(a), the applicant relies upon the following trade mark and all goods for which it is registered, as laid out below:

UK Trade Mark (“UKTM”) 3262285

CCINEE

Toy balloons; Novelties for parties; Toy masks; Confetti; Parlour games; Paper party

hats; Stuffed toys; Toy fireworks; Jokes (Practical -) [novelties]; Practical jokes [novelties]. (class 28)

Filing date: 9 October 2017

Registration date: 5 January 2018

4. In its statement of grounds, in respect of its claim under section 5(2)(a), the applicant contends that the identity between the marks and the similarity between the parties' respective goods will give rise to a likelihood of confusion. The applicant also completed a statement of use in respect of all goods relied upon.

5. Turning to section 5(4)(a), the applicant claims that it has a protectable goodwill in its sign **CCINEE** which it claims to have used in respect of *pins and pegs and the retailing of the same* throughout the UK since 28 November 2015. The applicant claims that use of the proprietor's mark would be contrary to the law of passing off.

6. The proprietor filed a counterstatement, denying the grounds of invalidation. It "strongly" denies the claims made by the applicant in its statement of grounds, specifically that "someone else" has goodwill in its trade mark and that it is misleading the public. It also acknowledges that the parties' goods are proper to different classes.

7. The applicant is represented by IBE Avocat - Isabelle Bertaux, whilst the proprietor is not represented. Only the applicant filed evidence during the course of the proceedings. Neither party requested a hearing, nor did either party file written submissions in lieu. This decision is taken following careful consideration of all the papers before me.

Relevance of EU law

8. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of

the EU courts which predate the UK's withdrawal from the EU.

Evidence

9. The applicant's evidence comprises a witness statement from its president, Mr Haiong Chen, dated 28 July 2025, and two accompanying exhibits (Exhibits 1¹ and 2). Whilst I do not propose to summarise Mr Chen's statement nor the exhibited documents here, I can confirm that I have reviewed the evidence in its entirety and will refer to it later in my decision, to the extent I consider it necessary.

Legislation

10. Sections 5(2)(a) and 5(4)(a) have application in invalidation proceedings because of the provisions of section 47 of the Act, the relevant parts of which read as follows:

"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) that there is an earlier right in relation to which the condition set out in section 5(4) is satisfied,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.

...

(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.

¹ Exhibit 1, comprising a copy of the applicant's business license, was accompanied by a translation.

...

(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.”

Section 5(2)(a)

11. Section 5(2)(a) of the Act reads as follows:

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

(b) it is identical with an earlier trade mark and is to be registered for goods or services 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.”

12. By virtue of its earlier filing date, the trade mark relied upon by the applicant clearly constitutes an earlier mark pursuant to section 6 of the Act. Whilst the earlier mark relied upon was over five years old at the date of the application for invalidity, the proprietor has not requested that the applicant provide proof of use of the mark relied upon². Consequently, the applicant may rely upon its mark and all goods it has identified without providing evidence of use.

Case law

13. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Paris Europe Inc & Anor*:³

² See Question 7 of the counterstatement

³ [2025] UKSC 25:

(a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; and

(k) if the association between the marks 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

14. The goods to be compared are laid out at paragraphs 1 and 3 to this decision.

15. In my comparison of the parties' goods, I will consider factors including their nature, intended purpose, method of use, trade channels and whether they are in competition or are complementary.⁴

16. In *Kurt Hesse v OHIM*,⁵ the Court of Justice of the European Union stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*⁶, the General Court stated that "complementary" means:

"...there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking".

17. In its statement of grounds, the applicant submits:

"The products of both the Applicant for cancellation and the Registered Proprietor can then be sold, or offered, to the same end consumers via the same channels of trade and advertising means. Both parties' products are, or can be, sold via physical retail stores and online. A consumer searching for the Applicants products may well come across the Registered Proprietor's products during its

⁴ *Canon*, Case C-39/97; *Treat*, [1996] R.P.C. 281

⁵ Case C-50/15 P

⁶ Case T-325/06

search and, on seeing an identical trademark on the goods, their packaging and/or on advertising material, be confused into believing they originate from the Applicant for cancellation.”

18. I have nothing from the proprietor beyond its acknowledgement that the respective goods are proper to different classes which, for the avoidance of doubt, does not necessarily preclude a finding of similarity.⁷

19. For the purpose of a comparison it is permissible to group services together, where appropriate.⁸

20. Having considered all of the terms for which registration is sought against the goods relied upon by the applicant, I can see no meaningful degree of similarity. Whilst I accept that the parties’ goods are likely to be selected by the same users insofar as each will be purchased by members of the general public, and there may be some similarity in the nature of the respective purchasing processes, this is not sufficient for a finding of similarity. Further, whilst there may be circumstances whereby the goods are sold from the same retail outlet, they are unlikely to be positioned in any real proximity to one another.⁹ The goods’ uses are not the same and their physical nature is distinct. I have nothing to indicate that the goods typically reach the market via the same trade channels and I do not consider the goods to be complementary nor competitive. Having due regard to the relevant factors, I find no similarity.

21. Given that some degree of similarity between the parties’ terms is essential to a finding of a likelihood of confusion,¹⁰ the applicant’s pleading under section 5(2)(a) can go no further.

Conclusion

⁷ See Section 60A of the Act

⁸ *Separode Trade Mark* BL O-399-10 (AP)

⁹ See also, for example, *2nine Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)* Case T-363/08: “40. It must, moreover, be pointed out that the fact that the goods in question may be sold in the same commercial establishments, such as department stores or supermarkets, is not particularly significant, since very different kinds of goods may be found in such shops, without consumers automatically believing that they have the same origin (*PiraÑAM diseño original Juan Bolaños*, paragraph 30 above, paragraph 44; see also, to that effect, Case T-8/03 *El Corte Inglés v OHIM – Pucci (EMILIO PUCCI)* [2004] ECR II-4297, paragraph 43).”

¹⁰ *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

22. The applicant's claim under section 5(2)(a) has failed.

Section 5(4)(a)

The law

23. Section 5(4)(a) states:

“(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented-

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

(aa) [...]

(b) [...]

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.”

24. Subsection (4A) of section 5 states:

“(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

25. In *Discount Outlet v Feel Good UK*,¹¹ Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

¹¹ [2017] EWHC 1400 IPEC

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the Jif Lemon case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56. In relation to deception, the court must assess whether “a substantial number” of the Claimants’ customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21).”

26. Halsbury’s Laws of England Vol. 97A (2021 reissue) provides further guidance with regard to establishing the likelihood of deception. In paragraph 636 it is noted (with footnotes omitted) that:

“Establishing a likelihood of deception generally requires the presence of two factual elements:

(1) that a name, mark or other distinctive indicium used by the claimant has acquired a reputation among a relevant class of persons; and

(2) that members of that class will mistakenly infer from the defendant’s use of a name, mark or other indicium which is the same or sufficiently similar that the defendant’s goods or business are from the same source or are connected.

While it is helpful to think of these two factual elements as two successive hurdles which the claimant must surmount, consideration of these two aspects cannot be completely separated from each other.

The question whether deception is likely is one for the court, which will have regard to:

(a) the nature and extent of the reputation relied upon,

(b) the closeness or otherwise of the respective fields of activity in which the claimant and the defendant carry on business;

(c) the similarity of the mark, name etc used by the defendant to that of the claimant;

(d) the manner in which the defendant makes use of the name, mark etc complained of and collateral factors; and

(e) the manner in which the particular trade is carried on, the class of persons who it is alleged is likely to be deceived and all other surrounding circumstances.

In assessing whether deception is likely, the court attaches importance to the question whether the defendant can be shown to have acted with a fraudulent intent, although a fraudulent intent is not a necessary part of the cause of action”.

27. There has been no claim by the proprietor that the contested mark had been used prior to the earliest claimed use of the applicant’s alleged earlier sign or the filing date of the registration at issue. Further, no evidence to that effect has been filed. Therefore, the relevant date for assessing the applicant’s claim under section 5(4)(a) is the filing date of the contested mark, that being 10 July 2024.¹²

Goodwill

28. The first hurdle the applicant must overcome is showing that it had the necessary goodwill resulting from the trading activity relied upon under the sign at the relevant date. Goodwill was described in *Inland Revenue Commissioners v Muller & Co’s*

¹² *Advanced Perimeter Systems Limited v Multisys Computers Limited*, BL O-410-11

Margarine Ltd,¹³ in the following terms:

“What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start.”

29. Much of Mr Chen’s witness statement goes to the intention or knowledge of the proprietor ahead of filing its application. He alleges, for example, that the proprietor filed its trade mark “with unfair behaviour” and “lacks a genuine intention to use the mark”. Such submissions do not assist the applicant in demonstrating any protectable goodwill in its business. I take the following from Mr Chen’s statement and accompanying exhibits:

- The applicant’s company was incorporated in 2017, with its ‘devices’ available in the UK since 2015 via its Amazon platform. The Amazon listings enclosed with his evidence¹⁴ show goods for sale such as *wooden peg clips*, *wooden star decorations*¹⁵ and *cable clips*¹⁶, under the brand name CCINEE.¹⁷ Copies of the listings appear to have been retrieved after the relevant date. A number of customer reviews feature in the respective screenshots.

- Subsequent Amazon screenshots set out details of three UK orders of the applicant’s *cable tidy clips* from June 2023. Each order shows 1 quantity purchased, with a unit price of £3.99. There is no reference within these images to the CCINEE brand, though I note that the product’s ASIN reference is the same as the reference in the listing enclosed at Exhibit 2.

¹³ [1901] AC 217 (HOL)

¹⁴ See Exhibit 2

¹⁵ On the date the webpage was accessed (28 July 2025), the product “CCINEE 100 Pieces Mixed Natural Wooden Stars Wooden Crafts for Christmas Tree Hanging Decoration” is showing as *Currently unavailable*.

¹⁶ On the date the webpage was accessed (28 July 2025), the product “9 Pack Cable Tidy Clips, Cable Tacs, Cable Management System, Desktop Cord Holder Charging Cable Drop Organizer for Home Office” states: *This item cannot be dispatched to your selected delivery location. Please choose a different delivery location*.

¹⁷ These appear to have been retrieved after the relevant date.

- Order summaries¹⁸ from the applicant's Amazon account, set out in a page headed "Manage Orders", indicate that sales of the applicant's *100 Pieces Mini Wooden Pegs Clips Photo Pins Coloured Craft, Natural* are as follows:

1 August 2022 to 31 December 2023: 2,086 orders

1 January 2024 to 11 June 2025: 421 orders

In both periods, the majority of orders show a total quantity of 1, with only a small number of cancelled orders.

- A report concerning the applicant's inventory¹⁹ shows that the status of the above item is "Inactive". The report appears to suggest that the listing was active between 24 April 2018 and 24 February 2025 and attracted 1,937 page views. A further inventory report shows that the applicant's *cable tidy clips* are out of stock, with no data concerning page views or sales between 13 August 2018 and 4 June 2023.

- Under the heading "Campaigns – Amazon Advertising", a graph with a date range of September 2018 to beyond April 2023 shows a total spend of £6,227.63, sales of £33,438.09 and "Impressions" totalling 3,382,102. There does not appear to be any activity logged between February 2019 and (at least) May 2020.

30. The applicant attests that it has used its CCINEE sign in respect of *pins and pegs and the retailing of the same*. I begin my assessment by acknowledging that it is possible for a small business which has more than a trivial goodwill to protect signs which are distinctive of that business under the law of passing off,²⁰ even where its goodwill and reputation may be small. Goodwill arises from trading activities. Whilst the applicant has claimed to have used the sign from as early as 2015, and the Amazon listings indicate that the respective goods were *first available* in 2015, the active periods noted in the goods' inventory reports fall some years later, with the earliest record of any sales being August 2022.

¹⁸ This summary is produced in duplicate

¹⁹ Print retrieved 11 June 2025

²⁰ See, for example, *Lumos Skincare Limited v Sweet Squared Limited and others* [2013] EWCA Civ 590

31. To my interpretation, the evidence before me shows that the applicant has achieved only a small number of sales of its *cable tidy clips* (with only three orders exhibited in evidence²¹) and, in respect of its *wooden peg clips*, combining the figures displayed in its order summaries leads me to conclude that it received 2,107 orders of these goods between August 2022 and June 2025, with a significant majority of the orders being for a single quantity only. To my mind, given that this represents nearly a 3-year period, the number of sales is not particularly compelling, and is likely to signify engagement from only a small proportion of the purchasing public. Whilst I do keep in mind what I have said above regarding small businesses, I have no context within which to assess the significance of the number of sales achieved (market share, for example) and there is little elsewhere in the evidence to strengthen the overall picture it creates. Of the customer reviews featured in the screenshots of the applicant's Amazon listings, whilst the overall ratings are positive, the nature of the visible reviews from UK customers is variable and I am unable to determine the proportion of the goods' *global ratings* attributable to UK consumers, with only eight UK-specific reviews displayed for each listing over a limited period.²² I have no evidence to support a finding of repeat purchases and, outside of the orders placed, I have little to show any tangible consumer exposure or engagement (examples of promotional material available to the general public, for example). I acknowledge that the graph presented in the applicant's *Amazon Advertising* page shows a total spend of £6,227.63 between September 2018 and beyond April 2023. However, even if I were to presume that the 'end date' of this data falls before the relevant date, the applicant has not made clear the nature of the advertising itself so it is difficult, without any corroborating information, to interpret the *reach* such an investment will have made in terms of establishing goodwill in the applicant's business. It is also impossible to ascertain precisely which goods were promoted as part of this spend, and to what extent.

32. Whilst it seems clear that the applicant made some use of the CCINEE sign prior

²¹ In the Amazon listing, eight UK reviews are displayed with dates ranging from 15 January 2019 to 13 December 2020 (the total number of global ratings is 150). Even if I were to accept that this indicates that the applicant received more than the three orders of *cable clips* it has elected to document, and these were made prior to the relevant date, I cannot be sure of the total number of sales, and my findings here concerning the evidence at large still stand.

²² The applicant's *wooden peg clips* received 1811 global ratings; eight UK reviews are displayed with dates between 16 October 2024 and 7 June 2025 (after the relevant date); its *wooden stars* received 286 global ratings; eight UK reviews are displayed with dates between 30 November 2019 and 13 December 2022. I have no indication of sales pertaining to the *wooden stars*, nor does the applicant allege to own any goodwill in respect of these goods.

to the relevant date, on reflection of the evidence as a whole I am not satisfied that it shows a level of activity undertaken by the applicant's business that would sufficiently distinguish it from a business just starting out (and yet to establish goodwill). I therefore take the view that the applicant has not demonstrated a level of actionable goodwill in its business as distinguished by the earlier sign in this instance. Consequently, the opposition based on section 5(4)(a) of the Act must fail.

Conclusion

33. The application for invalidation has failed in respect of both grounds.

Costs

34. As the proprietor has been successful it is, in theory, entitled to a contribution towards its costs. However, given that the proprietor is unrepresented, at the end of evidence rounds it was invited to file a costs pro-forma should it intend to request an award of costs. I reproduce the pertinent paragraphs of the official letters of 10 October 2025 below:

“What to do if you intend to request costs

If you intend to make a request for an award of costs you must complete and return the attached pro-forma and send a copy to the other party. Please send these by e-mail to tribunalhearings@ipo.gov.uk.

If there is to be a “decision from the papers” this should be provided by 07 November 2025.

...

If the pro-forma is not completed and returned, costs, other than official fees arising from the action (excluding extensions of time), may not be awarded.”

35. Given that the proprietor did not return the pro-forma, I decline to make an award

of costs.

Dated this 27th day of February 2026

**Laura Stephens
For the Registrar**