

O/0385/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004148230

BY NIGEL MCHUGH

TO REGISTER THE FOLLOWING TRADE MARK:

The McHug or The McHug burger

IN CLASS 43

AND OPPOSITION THERETO UNDER NO. 453790

BY MCDONALD'S INTERNATIONAL PROPERTY COMPANY, LTD.

BACKGROUND AND PLEADINGS

1. On 15 January 2025, Nigel McHugh (“the applicant”) applied to register the trade mark shown on the cover page of this decision, in the UK. The application was published for opposition purposes on 24 January 2025, and protection is sought for the following services:

Class 43 Take away food and drink services; Take away food services; Providing food and drink for guests in restaurants; Serving food and drink for guests in restaurants; Fast food restaurants; Take-away food and drink services; Food and drink catering; Takeaway food and drink services; Take-away fast food services; Restaurant services for the provision of fast food; Providing food and drink; Providing of food and drink; Preparation of food and drink; Take-away food services; Takeaway food services; Take-out restaurant services; Hospitality services [food and drink]; Take-away restaurant services; Fast-food restaurant services; Carry-out restaurants; Restaurant services; Grill restaurants.

2. On 24 April 2025, the application was opposed by McDonald’s International Property Company, Ltd (“the opponent”) based upon sections 5(2)(b), 5(3), 5(4)(a) and 3(6) of the Trade Marks Act 1994 (“the Act”). Under sections 5(2)(b) and 5(3) of the Act, the opponent relies upon the following trade marks:

McDONALD’S

UKTM no. 1208244

Filing date: 30 November 1983

Registration date: 30 November 1983¹

(“the First Earlier Mark”)

¹ The registration date for this mark appears on the online Register as identical to the filing date. However, for the purposes of this decision, nothing will turn on the exact registration date of the trade mark as it is clearly an earlier mark for the purposes of this decision.

McDONALD'S

UKTM no. 1285796

Filing date: 1 October 1986

Registration date: 4 October 1991

("the Second Earlier Mark")

McCHICKEN

UKTM no. 1144587

Filing date: 26 November 1980

Registration date: 26 November 1980

("the Third Earlier Mark")

McNUGGETS

UKTM no. 1245121

Filing date: 29 June 1985

Registration date: 29 June 1985

("the Fourth Earlier Mark")

McMuffin

UKTM no. 3342311

Filing date: 1 October 2018

Registration date: 28 December 2018

("the Fifth Earlier Mark")

McFLURRY

UKTM no. 3288699

Filing date: 8 February 2018

Registration date: 11 May 2018

("the Sixth Earlier Mark")

McCafe

UKTM no. 3341921

Filing date: 28 September 2018

Registration date: 11 January 2019

("the Seventh Earlier Mark")

McDelivery

UKTM no. 3232297

Filing date: 19 May 2017

Registration date: 4 August 2017

("the Eighth Earlier Mark")

(together "the earlier marks")

3. Under both grounds, the opponent relies upon all of the goods and services for which the earlier marks are registered, as set out in Annex 1 to this decision. Under section 5(2)(b) of the Act, the opponent claims that the marks are similar and the goods and services are identical or similar, with the result that there is a likelihood of confusion. Under section 5(3) of the Act, the opponent claims that use of the applicant's mark would, without due cause, take unfair advantage of, and/or be detrimental to, the distinctive character and/or repute of the earlier marks. Under both grounds of opposition, the opponent also relies upon a 'family of marks' argument, namely, that the applicant's mark would be viewed as part of the 'Mc' family of registered marks owned by the opponent.

4. Under section 5(4)(a) of the Act, the opponent relies upon the signs McDONALD's, McMUFFIN, McNUGGETS, McCHICKEN, McFLURRY, McCAFE and McDELIVERY, which it claims to have been using throughout the UK since 1974, 1982, 1984, 1989, 2000, 2012, and 2017, respectively. The opponent claims to have used these signs in relation to the goods/services set out in Annex 2 to this decision. The opponent claims that use of the applicant's mark would be contrary to the law of passing off.

5. Under section 3(6) of the Act, the opponent claims that the application was filed in bad faith because the applicant had knowledge of the opponent's family of marks and

applied for the mark in issue with the intention of using it to secure a collaboration with the opponent.

6. The applicant filed a counterstatement, admitting similarity between the goods and services in the respective registrations, but denying the grounds of opposition. The applicant put the opponent to proof of use of the earlier marks.

7. Both parties filed evidence in chief. The opponent did not file evidence in reply. Neither party requested a hearing, and only the opponent filed written submissions in lieu. This decision is taken following a careful consideration of the papers on file.

REPRESENTATION

8. The applicant was originally represented by Harper James Limited but is now self-represented.

9. The opponent is represented by Bristows LLP.

EVIDENCE AND SUBMISSIONS

10. The opponent filed evidence in the form of:

- a. The witness statement of Thomas O'Neill dated 9 September 2025, which is accompanied by 34 exhibits (TON-1 to TON-34). Mr O'Neill is Head of Menu at the opponent, a position he has held since June 2023, although he has worked for the opponent since April 2009. His evidence goes to the opponent's use of the earlier marks and the signs relied upon.
- b. The witness statement of Shereen Semnani dated 9 September 2025, which is accompanied by 1 exhibit (SS-1). Ms Semnani is an Associate at the opponent's representatives and her evidence relates to the bad faith claim.

11. The applicant filed evidence in the form of his own witness statement dated 7 November 2025. The evidence provides the applicant's response to the bad faith claim.

12. The opponent filed written submissions dated 3 February 2026.

13. I have taken the evidence and submissions into consideration in reaching this decision and will refer to it, as necessary, below.

RELEVANCE OF EU LAW

14. 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.

DECISION

My Approach

15. In my view, the opponent's strongest grounds are under sections 5(3) and 3(6) of the Act. I will, therefore, begin by addressing these grounds, returning to the other two only if it is necessary to do so.

16. In relation to the section 5(3) claim, as the earlier marks had all completed their registration process more than 5 years prior to the filing date of the application in issue, they are subject to the use provisions in section 6A of the Act. However, more is required in order to bring a case under section 5(3): the opponent must show that the earlier marks had a reputation in the UK. For the present purposes, I will proceed on the basis that the earlier marks have been put to genuine use in the UK, returning to the point once I have assessed the evidence in the context of reputation.

Section 5(3)

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

“5(3) A trade mark which -

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

18. Section 5(3A) of the Act states:

“Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier trade mark is protected.”

19. The relevant case law can be found in the following judgments of the Court of Justice of the European Union (“CJEU”): Case C-375/97, *General Motors*, Case C-252/07, *Intel*, Case C-408/01, *Adidas-Salomon*, Case C-487/07, *L’Oreal v Bellure* and Case C-323/09, *Marks and Spencer v Interflora* and Case C-383/12P, *Environmental Manufacturing LLP v OHIM*. The law appears to be as follows:

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

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

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

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

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

(f) the more immediately and strongly the earlier mark is brought to mind by the later mark, the greater the likelihood that use of the latter will take unfair advantage of, or will be detrimental to, the distinctive character or the repute of the earlier mark; *L'Oreal v Bellure NV*, paragraph 44.

(g) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel*, paragraphs 76 and 77 and *Environmental Manufacturing*, paragraph 34.

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

(i) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV*, paragraph 40. The stronger the reputation of the earlier mark, the easier it will be to prove that detriment has been caused to it; *L'Oreal v Bellure NV*, paragraph 44.

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

20. The conditions of section 5(3) are cumulative. Firstly, the opponent must show that the earlier marks and the applicant's mark are similar. Secondly, the opponent must show that the earlier marks had achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must be established that the level of reputation and the similarities between the marks will cause the public to make a link between them in the sense of the earlier marks being called to mind by the later mark. Finally, assuming the first three conditions have been met, section 5(3) requires that one or more of the types of damage will occur. It is unnecessary for the purposes of section 5(3) that the goods and services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks.

Similarity of marks

21. For the reasons given below, I find the marks to be similar.

Reputation

22. In *General Motors*, Case C-375/97, the CJEU held that:

“25. It cannot be inferred from either the letter or the spirit of Article 5(2) of the Directive that the trade mark must be known by a given percentage of the public so defined.

26. The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.

27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.

28. Territorially, the condition is fulfilled when, in the terms of Article 5(2) of the Directive, the trade mark has a reputation 'in the Member State'. In the absence of any definition of the Community provision in this respect, a trade mark cannot be required to have a reputation 'throughout' the territory of the Member State. It is sufficient for it to exist in a substantial part of it.”

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

24. Mr O'Neill gives evidence that the opponent opened its first McDonald's restaurant in the UK in 1974. By 1983, it had opened its 100th restaurant (in Manchester), by 1991 it had opened its 400th restaurant (in Belfast) and by 1997 it had opened its 800th restaurant (in London). The opponent's success continued and, to illustrate the size of the opponent's business in the UK, Mr O'Neill explains that by 2024 it was serving nearly 4million customers every day. Mr O'Neill explains that all products have been and continue to be sold under the McDonald's brand, sometimes in conjunction with sub-brands (discussed further below). The McDonald's brand is used on the opponent's website, on product packaging and restaurants.² The opponent's UK turnover figures are as follows:³

Year	Turnover
2006	£1,098,001,000
2007	£1,069,780,000
2008	£1,075,535,000
2009	£1,129,957,000
2010	£1,184,462,000
2011	£1,248,549,000
2012	£1,317,594,000
2013	£1,497,573,000
2014	£1,432,592,000
2015	£1,535,510,000
2016	£1,574,237,000
2017	£1,593,489,000
2018	£1,514,374,000
2019	£1,402,777,000
2020	£970,266,000
2021	£1,459,442,000
2022	£1,597,442,000
2023	£1,835,618,000
2024	£1,821,827,000

25. The evidence shows that the opponent sells, amongst other things, hamburgers, cheeseburgers, chicken nuggets and fries.

² See paragraph 12 of Mr O'Neill's witness statement, Exhibits TON-4, TON-5 and TON-6.

³ See paragraph 13 of Mr O'Neill's witness statement.

26. The McCafe brand has been used in the UK since 2012.⁴ There is evidence of it being used on product packaging.⁵ An example is as follows:



27. The evidence shows it being used in relation to latte, tea, hot chocolate, cappuccinos, white and black coffee, espressos, smoothies, frappes, doughnuts, lemonade, brownies, muffins and cookies.⁶ In 2020, the opponent was one of the top five biggest coffee outlets in the UK.⁷ For the years 2019 to 2024, the combined unit sales of hot and iced McCafe products (including coffee, tea, hot chocolate, smoothies, frappes and coolers) in the UK were in excess of 100million units.

28. The McNuggets product was introduced to the menu in 1984.⁸ This brand is used in relation to chicken nuggets. The mark has been used on product packaging and on the opponent's website.⁹ An example is as follows:



29. For the years 2019 to 2024, combined unit sales of McNuggets (being a portion, rather than individual nuggets), amounted to over 100million units in the UK.

⁴ See paragraph 18 of Mr O'Neill's witness statement.

⁵ Exhibit TON-8

⁶ Exhibit TON-8

⁷ See paragraph 23 of Mr O'Neill's witness statement.

⁸ Exhibit TON-2

⁹ Exhibit TON-10

30. The McChicken sandwich was introduced to the menu in 1989.¹⁰ It has been used on the opponent's website and product packaging.¹¹ An example is as follows:



31. I understand that the McChicken sandwich is essentially a piece of breaded chicken, served in a sesame bun, with salad and sauce.¹² This appears to be the only product in relation to which this mark is used. Mr O'Neill gives evidence that for the years 2019 to 2024, the opponent sold in excess of 100million units of the McChicken sandwich in the UK.¹³

32. The McMuffin mark is used in respect of a range of sandwiches/muffins offered as part of the opponent's breakfast menu and has been used in the UK since 1982.¹⁴ These include combinations such as sausage and egg, bacon and egg and egg and cheese, and the mark has appeared on the opponent's website.¹⁵ Mr O'Neill gives evidence that for the years 2019 to 2024, unit sales of McMuffin products in the UK were in excess of 100million units.¹⁶

33. The McFlurry ice cream was launched in 2000.¹⁷ This is used on a range of ice-cream based desserts which contain different types of sweets and chocolates. The mark has been used on product packaging and the opponent's website.¹⁸ An example is as follows:

¹⁰ Exhibit TON-2

¹¹ Exhibit TON-9

¹² Exhibit TON-9

¹³ See paragraph 28 of Mr O'Neill's witness statement.

¹⁴ See paragraph 32 of Mr O'Neill's witness statement.

¹⁵ Exhibit TON-11

¹⁶ See paragraph 34 of Mr O'Neill's witness statement.

¹⁷ Exhibit TON-2

¹⁸ Exhibit TON-12



34. Mr O'Neill gives evidence that for the years 2019 to 2024, the unit sales of McFlurry products in the UK were in excess of 100million units.¹⁹

35. The McDelivery service was launched in 2017.²⁰ It has been used on product packaging, an example of which is as follows:²¹



36. McDelivery is a service offered by the opponent which involves home delivery of its restaurant items. It was available during the relevant period via Uber Eats, Just Eat and the opponent's app.²²

37. Examples of advertising, including Christmas television adverts, have been provided.²³ These relate to McDonald's, McCafe and McDelivery. There is unchallenged evidence that advertising campaigns were run which related to all of the earlier marks.²⁴ Mr O'Neill has only provided reach information for some of the campaigns that were run. I note that there are figures for the campaigns run in 2020 which related to McCafe, McDelivery and McMuffin, all of which reached in excess of

¹⁹ See paragraph 38 of Mr O'Neill's witness statement.

²⁰ Exhibit TON-2

²¹ Exhibit TON-13

²² Exhibit TON-13

²³ Exhibit TON-16

²⁴ Exhibit TON-17 and paragraph 47 of Mr O'Neill's witness statement.

50million UK customers. I bear in mind that Mr O'Neill does not specify when in 2020 these campaigns took place. Between 2019 and 2024, the opponent invested over £500million in UK promotions.

38. The opponent has also sponsored a number of high-profile events, such as the FIFA World Cup and ITV's coverage of the FA Cup.²⁵ In 2020, YouGov placed McDonald's as the most famous dining brand in the UK.²⁶

39. The marks have clearly all been used for a long (albeit varying) period of time in the UK. The sales/turnover information relating to all of the earlier marks (with the exception of the Eighth Earlier Mark) is sizeable, and there is clearly significant geographical spread of use. The advertising investment has been significant. I have no evidence regarding the number of deliveries made under the Eighth Earlier Mark. However, there has clearly been significant advertising activities relating to it and it is operational on two well known food delivery apps. Taking all of this into account, I have little doubt in concluding that the opponent had a reputation for, at least, the following goods and services at the relevant date:

The First Earlier Mark

Class 29 Hamburger, cheeseburgers; chicken nuggets (other than for animals);
 French fried potatoes.

The Second Earlier Mark

Class 43 Restaurant services; but not including any such services relating to
 alcoholic beverages.

The Third Earlier Mark

Class 30 Edible sandwiches, all containing chicken.

The Fourth Earlier Mark

Class 29 Chicken nuggets; all for food for human consumption.

²⁵ Paragraphs 57 and 66 of Mr O'Neill's witness statement.

²⁶ Exhibit TON-31

The Fifth Earlier Mark

Class 30 Edible sandwiches.

The Sixth Earlier Mark

Class 30 Dairy based dessert products, namely ice cream.

The Seventh Earlier Mark

Class 30 Tea; coffee; iced coffee; hot chocolate.

Class 32 Smoothies.

The Eighth Earlier Mark

Class 39 Food delivery services.

40. Given the evidence above, which is clearly sufficient to satisfy the requirements of reputation, I am also satisfied that the opponent had genuinely used its marks for the same goods and services during the relevant period. The use in colour/different fonts shown in the evidence would clearly be covered by notional and fair use of the earlier marks, which are word-only marks. Whilst I bear in mind that not all of the evidence filed relates to the relevant period (for example some of the unit sales described above relate to 2019, which pre-dates the relevant period), I am satisfied that the use shown within that period is more than sufficient to satisfy the requirements of genuine use.

Family of marks

41. In my view, the opponent's best case lies in the argument that it benefits from a 'family' of marks. Consequently, I will now consider whether the opponent has proven that the family exists. The leading case is *Il Ponte Finanziaria SpA v OHIM*, Case C-234/06, where the CJEU said:

“64. [...] in order for there to be a likelihood that the public may be mistaken as to whether the trade mark applied for belongs to a 'family' or 'series', the earlier trade marks which are part of that 'family' or 'series' must be present on the market”.

42. As the opponent identified in its submissions, in the earlier decision of the General Court, Case T-194/03, two conditions had been laid down for the establishment of a 'family' of marks, neither of which was interfered with on appeal:

“126. Firstly, the proprietor of a series of earlier registrations must furnish proof of use of all the marks belonging to the series or, at the very least, of a number of marks capable of constituting a series. For there to be a likelihood of the public's being mistaken as to whether the trade mark applied for belongs to the series, the earlier marks forming part of that series must necessarily be present on the market. [...]

127. Secondly, the trade mark applied for must not only be similar to the marks belonging to the series, but also display characteristics capable of associating it with the series. That could not be the case where, for example, the element common to the earlier serial marks is used in the trade mark applied for either in a different position from that in which it usually appears in the marks belonging to the series or with a different semantic content.”

43. For the reasons given above, I am satisfied that each of the earlier marks was, at the relevant date, present on the market for the goods and/or services identified above. All of the marks begin with the prefix “Mc”. The marks differ in their second word, with some being a name (McDonald's), some being a descriptor (McChicken) and some being an unrelated dictionary word (McFlurry). However, given the extent to which the marks have been used, I find that the relevant public will consider the “Mc”-prefixed marks as a family of marks with a common origin.

Link

44. Whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are (i) the degree of similarity between the conflicting marks; (ii) the nature of the goods and services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods and services, and the

relevant section of the public; (iii) the strength of the earlier mark’s reputation; (iv) the degree of the earlier mark’s distinctive character, whether inherent or acquired through use and (v) whether there is a likelihood of confusion.

The degree of similarity between the conflicting marks

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

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

46. It would be wrong, therefore, to dissect the trade marks artificially, 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.

47. The respective trade marks are shown below:

Opponent’s trade marks	Applicant’s trade mark
<p style="text-align: center;">McDONALD’S (the First and Second Earlier Marks)</p> <p style="text-align: center;">McCHICKEN</p>	<p style="text-align: center;">The McHug or The McHug Burger</p>

<p>(the Third Earlier Mark)</p> <p>McNUGGETS</p> <p>(the Fourth Earlier Mark)</p> <p>McMuffin</p> <p>(the Fifth Earlier Mark)</p> <p>McFLURRY</p> <p>(the Sixth Earlier Mark)</p> <p>McCafe</p> <p>(the Seventh Earlier Mark)</p> <p>McDelivery</p> <p>(the Eighth Earlier Mark)</p>	
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48. The First and Second Earlier Marks consist of a possessive version of a name. The overall impression lies in the word as a whole. The Third, Fourth, Fifth, Sixth, Seventh and Eighth Earlier Marks all consist of the prefix, Mc-, followed by a dictionary word. Even where the second word is descriptive or allusive, the combination is unusual. The overall impression lies in the two elements equally. The applicant's mark consists of a series of words – The McHug or The McHug Burger. It gives the appearance of having been intended to be registered as a series of marks. Nonetheless, I must assess it on the basis that it is a single mark. Whilst all elements will contribute, the word McHug is the most distinctive element and will be given the greatest weight.

49. Visually, the only overlap is the common prefix Mc-, which appears in all the marks (twice in the applicant's mark). The length of the marks is clearly different and the other words used across the marks bear no resemblance to each other. In my view, all of the marks are visually similar to a low degree. The same is also true of the aural

comparison, with the only point of aural similarity arising from the pronunciation of the prefix Mc-. Consequently, they are aurally similar to a low degree.

50. Conceptually, the First and Second Earlier Marks consist of the possessive form of a name. Clearly, McDonald's and The McHug or The McHug Burger have different concepts as a whole. However, the common prefix is likely to indicate a Scottish origin to the relevant public, which is shared by both. The same is also true in relation to the Third, Fourth, Fifth, Sixth, Seventh and Eighth Earlier Marks. The dictionary word used in each of those marks is different to the other dictionary words used in the applicant's mark and have different meanings. However, insofar as the Third, Fourth and Fifth Earlier Marks are concerned, there is some overlap arising from the common references to food-types (albeit different ones). Overall, I find there to be between a low and medium degree of conceptual similarity between the applicant's mark and the First, Second, Sixth, Seventh and Eighth Earlier Marks. There is a medium degree of conceptual similarity with the Third, Fourth and Fifth Earlier Marks.

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

51. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

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

52. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

(a) The respective uses of the respective goods or services;

(b) The respective users of the respective goods or services;

(c) The physical nature of the goods or acts of service;

(d) The respective trade channels through which the goods or services reach the market;

(e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;

(f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

53. In *Gérard Meric v Office for Harmonisation in the Internal Market*, 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 für 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.”

54. Another factor in assessing similarity is to consider the extent to which the goods and services at issue may be regarded as “complementary”, which case law describes as meaning that “... 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 the responsibility for those goods lies with the same undertaking.”²⁷ For the purposes of assessing similarity, it is permissible, to group specified terms together where they are sufficiently comparable in essentially the same way for essentially the same reasons.²⁸

55. The competing goods and services are as follows:

Opponent’s goods and services	Applicant’s services
<p><u>The First Earlier Mark</u></p> <p><u>Class 29</u> Hamburger, cheeseburgers; chicken nuggets (other than for animals); French fried potatoes.</p> <p><u>The Second Earlier Mark</u></p> <p><u>Class 43</u> Restaurant services; but not including any such services relating to alcoholic beverages.</p> <p><u>The Third Earlier Mark</u></p> <p><u>Class 30</u> Edible sandwiches, all containing chicken.</p> <p><u>The Fourth Earlier Mark</u></p> <p><u>Class 29</u> Chicken nuggets; all for food for human consumption.</p>	<p><u>Class 43</u> Take away food and drink services; Take away food services; Providing food and drink for guests in restaurants; Serving food and drink for guests in restaurants; Fast food restaurants; Take-away food and drink services; Food and drink catering; Takeaway food and drink services; Take-away fast food services; Restaurant services for the provision of fast food; Providing food and drink; Providing of food and drink; Preparation of food and drink; Take-away food services; Takeaway food services; Take-out restaurant services; Hospitality services [food and drink]; Take-away restaurant services; Fast-food restaurant services; Carry-out restaurants; Restaurant services; Grill restaurants.</p>

²⁷ *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06

²⁸ See *Separode Trade Mark* (BL O/399/10)

<p><u>The Fifth Earlier Mark</u></p> <p><u>Class 30</u> Edible sandwiches.</p> <p><u>The Sixth Earlier Mark</u></p> <p><u>Class 30</u> Dairy based dessert products, namely ice cream.</p> <p><u>The Seventh Earlier Mark</u></p> <p><u>Class 30</u> Tea; coffee; iced coffee; hot chocolate.</p> <p><u>Class 32</u> Smoothies.</p> <p><u>The Eighth Earlier Mark</u></p> <p><u>Class 39</u> Food delivery services.</p>	
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56. All of the services in the applicant's specification are identical on the principle outlined in *Merix* to the restaurant services in the specification of the Second Earlier Mark.

57. The goods in the specifications of the First, Third, Fourth, Fifth, Sixth and Seventh Earlier Marks could all be sold through the applicant's services. They do, therefore coincide in trade channels and user. The method of use, nature and purpose of the goods and services clearly differ. However, given that the goods are important or indispensable for the services, and the average consumer would expect the same undertaking to be responsible for both, they are complementary. I find them to be similar to a medium degree.

58. The services in the specification of the Eighth Earlier Mark are likely to be sold through the same trade channels as the applicant's services, to the same user. The nature and method of use of the services differ, although the purpose overlaps (being to provide the end user with food/drink). There may also be a degree of complementarity. I find the services to be similar to a medium degree.

59. The relevant public for the goods and services will be a member of the general public. They will consider factors such as ingredients, quality and flavour for the goods and location and customer service standards for the services. The goods are unlikely to be particularly expensive and, whilst the services can vary in price, they are unlikely to be at the highest end of the cost scale. In my view, the relevant public will pay a medium degree of attention during the purchasing process.

60. The goods and services are likely to be selected following perusal of signage on physical premises and websites. Consequently, visual considerations will dominate the purchasing process. However, I do not discount an aural component to the purchase given that word-of-mouth recommendations may play a part.

The strength of the earlier mark's reputation

61. The earlier marks, and the family of marks as a whole, had a strong reputation in the UK at the relevant date.

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

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

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other

undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in 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).”

63. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods/services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctive character of a mark can be enhanced by virtue of the use that has been made of it.

64. The First and Second Earlier Marks consist of a name, which is not uncommon. In my view, it is inherently distinctive to between a low and medium degree. The remaining earlier marks consist of the prefix Mc- combined with a dictionary word. Whilst the prefix Mc- is fairly common in names, and some of the dictionary words concerned are descriptive or allusive, the combination of the two is unusual. Consequently, they are all inherently distinctive to at least between a low and medium degree. That is, of course, not the end of the matter. Whilst the tests for reputation and enhanced distinctiveness are different, the factors relevant to both are the same. For the same reasons given above, I find the distinctiveness of the earlier marks had been enhanced through use to a high degree at the relevant date in relation to the goods/services identified at paragraph 39 above.

Whether there is a likelihood of confusion

65. I have no doubt that, where used in respect of goods and services which are similar to a medium degree or higher, the applicant's mark would be taken to be an extension of the opponent's family of marks, resulting in indirect confusion.

Conclusion on link

66. Taking all of the above factors into account, bearing in mind the strength of the opponent's reputation, the distinctiveness of the earlier marks, and the similarity of the goods and services, I find that the earlier marks would be brought to mind by the applicant's mark. In reaching this conclusion, I have borne in mind that the applicant's mark does not follow the same format as the earlier marks because it consists of a series of words, being The McHug or The McHug Burger. However, the focal point of this mark (being the words McHug which I found to be the most distinctive element), does follow the pattern of at least some of the earlier marks (being Mc- prefix, plus dictionary word) and is consistent with the opponent's family of marks. As such, I find that a link would be made by a significant number of the relevant public.

Unfair advantage

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

"80. The arguments in the present case give rise to two questions with regard to taking unfair advantage. The first concerns the relevance of the defendant's intention. It is clear both from the wording of Article 5(2) of the Directive and Article 9(1)(c) of the Regulation and from the case law of the Court of Justice interpreting these provisions that this aspect of the legislation is directed at a particular form of unfair competition. It is also clear from the case law both of the Court of Justice and of the Court of Appeal that the defendant's conduct is most likely to be regarded as unfair where he intends to benefit from the reputation and goodwill of the trade mark. In my judgment, however, there is nothing in the case law to preclude the court from concluding in an appropriate

case that the use of a sign the objective effect of which is to enable the defendant to benefit from the reputation and goodwill of the trade mark amounts to unfair advantage even if it is not proved that the defendant subjectively intended to exploit that reputation and goodwill.”

68. Where the relevant public believe that the services of the applicant are those of the opponent, there will plainly be unfair advantage. Plainly, as shown in the evidence, the opponent has invested significantly in promoting its family of marks and the applicant would unfairly benefit from the familiarity that has resulted from that investment, without having to make any financial contribution himself. This is particularly the case given that the parties are both operating within, or have applied for protection in relation to, the food and drink sector. There is plainly unfair advantage. I am fortified in this finding by the clear intention on the part of the applicant to take unfair advantage (as discussed further below). As the opponent has succeeded under this head of damage, I do not need to consider the remaining ones.

69. The opposition based upon section 5(3) succeeds in its entirety.

Section 3(6)

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

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

71. In *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36, Lord Kitchin summarised the general principles applicable to bad faith at [240] as follows:

“(i) [...]

(ii) The date for assessing whether an application to register [a] trade mark was made in bad faith is the date the application for registration was made (*Lindt*, para 35).

(iii) Bad faith in this context is an autonomous concept of EU law which must be given a uniform interpretation [...], and must be interpreted in the context of Directive 89/104 in the same manner as in the context of Regulation 40/94 ([*Malaysia Dairy Industries Pte Ltd v Ankenaevnet for Patenter og Varemaerker* (C-320/12) EU:C:2013:435 (“*Malaysia Dairy*”)], para 29; [*Sky plc v SkyKick UK Ltd* (C-371/18) EU:C:2020:45 (“*Sky CJEU*”)], para 73).

(iv) While, in accordance with its usual meaning in everyday language, the concept of bad faith presupposes the presence of a dishonest state of mind or intention, the concept must also be understood in the context of trade mark law, which involves the use of marks in the course of trade. Further, it must have regard to the objectives of the [...] law of trade marks, namely the establishment and functioning of [...] a system of undistorted competition in which each undertaking must, in order to attract and retain customers by the quality of its goods or services, be able to have registered as trade marks signs which enable consumers, without any possibility of confusion, to distinguish those goods or services from those which have a different origin (*Lindt*, para 45; [*Koton Mağazacılık Tekstil Sanayi ve Ticaret AS v European Union Intellectual Property Office (EUIPO)* (C-104/18) EU:C:2019:724 (“*Koton*”)], para 45).

(v) Consequently, the objection will be made out where the proprietor made the application for registration, not with the aim of engaging fairly in competition but either (a) with the intention of undermining, in a manner inconsistent with honest practices, the interests of third parties; or (b) with the intention of obtaining, without even targeting a specific third party, an exclusive right for purposes other than those falling within the functions of a trade mark, and in particular the essential function of indicating origin (*Koton*, para 46; *Sky CJEU*, para 75).

(vi) The intention of the applicant is a subjective matter, but it must be capable of being established objectively by the competent administrative or judicial authorities having regard to the objective circumstances of the case ([*Hasbro Inc v EUIPO, Kreativni Dogaaji d.o.o. (intervening)* (Case T-663/19) EU:T:2021:211 (“*Hasbro*”)], paras 39 and 40; *Koton*, para 47).

(vii) The burden of proving that an application for a registered mark was made in bad faith lies on the party making the allegation. But where the circumstances of the case may lead to a rebuttal of the presumption of good faith, it is for the proprietor of the mark to explain and provide a plausible explanation of the objectives and commercial logic pursued by the application for registration (*Hasbro*, paras 42 and 43).

(viii) Whether the applicant was acting in bad faith must be the subject of an overall assessment, taking into account all of the factors relevant to the particular case (*Lindt*, para 37).

(ix) The applicant for a trade mark is not required to indicate or to know precisely when the application is filed or examined, the use that will be made of it (*Sky CJEU*, para 76; [*AS v Deutsches Patent-und Markenamt* (C-541/18) EU:C:2019:725], para 22).

(x) Nevertheless, the registration by an applicant of a mark without any intention to use it in relation to the goods and services covered by the registration may constitute bad faith where there is no rationale for the application in the light of the aims referred to in Regulation 40/94 and Directive 89/104 (*Sky CJEU*, para 77).

(xi) Such bad faith may, however, be established only where there are objective, relevant and consistent indicia tending to show that, when the application was filed, the applicant for registration had the intention either of undermining, in a manner inconsistent with honest practices, the interests of third parties, or of obtaining, without targeting a specific third party, an exclusive right for purposes other than those falling within the functions of a trade mark (*Sky CJEU*, para 77).

(xii) It follows that the bad faith of the applicant cannot be presumed on the basis of a mere finding that, at the time of filing the application, the applicant had no economic activity corresponding to the goods and services referred to in the application (*Sky CJEU*, para 78).

(xiii) When the absence of an intention to use the mark in accordance with the essential functions of a trade mark concerns only certain goods or services referred to in the application for registration, that constitutes making the application in bad faith only in so far as it relates to those goods or services (*Sky CJEU*, para 81).

(xiv) If, at the end of the day, the court concludes that, despite formal observance of the relevant rules and conditions for obtaining registration, the purpose of the rules has not been achieved, and that there was an intention to take advantage of the rules by creating artificially the conditions laid down for obtaining the registration, this may amount to an abuse sufficient to find that the application was made in bad faith (see, for example, *Hasbro*, para 72).

(xv) Directive 89/104 does not preclude a provision of national law under which an applicant for registration must state that the mark is being used in relation to the goods or services in relation to which it is sought to register the mark, or that the applicant has a *bona fide* intention that it should be used, provided that infringement of such an obligation cannot constitute a ground for invalidity. It may, however, constitute evidence for the purposes of establishing possible bad faith on the part of the applicant when the application was filed (*Sky CJEU*, paras 86 and 87).”

72. According to *Alexander Trade Mark*, BL O/036/18, the key questions for determination in a claim of bad faith are:

(a) What, in concrete terms, was the objective that the applicant has been accused of pursuing?

(b) Was that an objective for the purposes of which the contested application could not be properly filed? and

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

73. It is necessary to ascertain what the applicant knew at the relevant date: *Red Bull GmbH v Sun Mark Limited and Sea Air & Land Forwarding Limited* [2012] EWHC 1929 (Ch). Evidence about subsequent events may be relevant, if it casts light backwards on the position at the relevant date: *Hotel Cipriani SRL and others v Cipriani (Grosvenor Street) Limited and others*, [2009] RPC 9 (approved by the Court of Appeal in England and Wales: [2010] RPC 16).

What, in concrete terms, was the objective that the applicant has been accused of pursuing?

74. In its Form TM7, the opponent states as follows:

“38. In this case, it is alleged that the Applicant acted in bad faith at the time of filing the Application, and was well aware of the Opponent’s famous family of “Mc” and “Mac” marks, as particularised under the relative grounds of opposition under Sections 5(2)(b), 5(3) and 5(4)(a). It is the Opponent’s submission that the Application was applied for with the intention to approach the Opponent and suggest a collaboration, and allow them use of the Application Mark for a new brand to add to their menu and that the Applicant deliberately and knowingly created the Application Mark on the same conceptual, visual and phonetic basis as the Opponent’s Registered Marks.”

Was that an objective for the purposes of which the contested application could not be properly filed?

75. Essentially, the opponent’s claim is that the applicant applied for the application with the intention of securing a collaboration with the opponent. I accept that mere knowledge of another party’s business activities in the UK does not establish bad faith; *Lindt, Koton* (paragraph 55). However, by registering a trade mark, the most distinctive element of which follows the same structure as the opponent’s well-known family of marks, the applicant would be securing an advantage in commercial discussions. I am satisfied that this was an objective for the purposes of which the contested application could not be properly filed.

Was it established that the contested application was filed in pursuit of that objective?

76. The opponent's evidence on the bad faith ground comes from Ms Semnani. She has provided a copy of the correspondence that the opponent received from the applicant following the IPO's notification to him that a Notice of Threatened Opposition had been filed by the opponent.²⁹ This read as follows:

“Just for the record, my plan with this trademark application was to eventually approach McDonalds for a collaboration and to possibly work together...”

And:

“As said in my previous email to Shereen the idea [sic] was to approach McDonalds and let them use the name for a new brand to add to their menu. The name McHug is basically my name with the H dropped off at the end. I could trade mark that name but the McHug Burger could be a fantastic new product for the McDonalds menu for their loyal customer base.

I did some research and found that McDonalds does not own the rights to the Mc trademark when they lost a court case to the Irish fast-food chain Supermacs. I'd like to work with The McDonalds corporation rather than anyone else and I too would like to avoid any formal opposition and resolve the matter amicably.”

77. It is plain from this correspondence that the applicant's intention in filing the application in issue was to enter into commercial negotiations with the opponent. It is for this reason that he chose a mark which had a distinctive element following the same structure as the opponent's family (hence dropping the H from the end of his name to create the application). This, in my view, is prima facie evidence of bad faith.

²⁹ Exhibit SS1

78. Once a prima facie case is established, the burden of proof shifts to the applicant to rebut that case. In his evidence, the applicant states as follows:

“8, At no stage did I seek to register the mark with the intention of interfering with McDonalds business operations, taking advantage of their reputation or deriving any benefit from their established brand without any input from themselves as this idea was aimed at them anyway.

9, My Lawyers Harper James withdrew their services in October 2025 saying this was a lose-lose situation for me, I attempted to trademark my ideas so as to protect it. Other-wise if I had approached the corporation before trying to trademark it, they may have ran with it and cut me out of any potential deal I was hoping for as they claim to own the rights to the letters Mc. I didn't want someone to advise me that I should have protected my name/idea to prevent this. That's why I attempted to trademark the name McHug, I had no idea at the time that this would constitute bad faith as Harper James have stated.

10, I don't own a restaurant and potentially the only company that could use this idea is McDonalds, If the decision goes against me then I'm sure McDonalds corporation will use this as the next big idea to appear on their menu. If the decision goes in my favour, then I will reapproach McDonalds with a view to working together to make this idea a brand success.”

79. It is plain from this explanation that the applicant accepts that his intention was to register the application in issue to ensure that the opponent had to work with him if they had an interest in the applied-for mark. He accepts that he has no restaurant of his own, and so was not intending to use this mark in his own business. This is not the purpose of trade mark registrations. The applicant indicated in his correspondence that he had come across a case in which the opponent was found to “not own the rights to the Mc trademark”. No reference is provided, but I understand this to be a reference to a non-use decision concerning the EU jurisdiction.³⁰ The question of non-use is jurisdiction specific and concerns whether the particular mark in question has

³⁰ Case T-58/23

been put to genuine use within a particular 5-year time period. That is a very different question to the matters before me. However, whilst it may be the case that the applicant believed his conduct to be legitimate, it is well established that subjective perceptions cannot justify actions that amount to an improper use of the trade mark system.³¹ Consequently, I find the applicant to have applied for the application in bad faith.

80. The opposition based upon section 3(6) of the Act is successful.

Sections 5(2)(b) and 5(4)(a)

81. I can deal with these grounds relatively swiftly. I would have found in the opponent's favour under section 5(2)(b), based upon its family of marks, for the same reasons set out above. I would also have found in favour of the opponent under section 5(4)(a); it plainly had sufficient goodwill to bring the claim, and misrepresentation and damage would follow for largely the same reasons already discussed above. However, as the opponent has enjoyed what I consider to be very clear success under sections 5(3) and 3(6) of the Act, I will not consider these grounds in any further detail.

CONCLUSION

82. The opposition is successful and, subject to any appeal, the application is refused.

COSTS

83. The opponent has been successful and is, therefore, entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 1/2023. In the circumstances, I award the opponent the sum of **£2,200**, calculated as follows:

Preparing a Notice of opposition and considering the counterstatement	£450
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³¹ See, for example, *Fianna Fail and Fine Gael v Patrick Melly* [2008] ETMR 41

Preparing evidence and considering the applicant's evidence	£1,100
Written submissions in lieu	£450
Official fee	£200
Total	£2,200

84. I therefore order Nigel McHugh to pay McDonald's International Property Company, Ltd the sum of **£2,200**. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 5th day of May 2026

S WILSON

For the Registrar

ANNEX 1

The First Earlier Mark

Class 29

Hamburgers, cheeseburgers; chicken pieces (other than for animals); french fried potatoes; milk shakes being milk beverages; the milk predominating; milk, eggs; hashed brown potatoes; sausages.

The Second Earlier Mark

Class 43

Restaurant services; but not including any such services relating to alcoholic beverages.

The Third Earlier Mark

Class 30

Bread and cakes; biscuits (other than biscuits for animals), edible sandwiches and seasonings, all containing or flavoured with chicken.

The Fourth Earlier Mark

Class 29

Pieces of meat, fish, poultry or game; all for food for human consumption.

The Fifth Earlier Mark

Class 30

Edible sandwiches, meat sandwiches, pork sandwiches, fish sandwiches, chicken sandwiches, biscuits, bread, cakes, cookies, chocolate, coffee, coffee substitutes, tea, mustard, oatmeal, pastries, sauces, sugar.

The Sixth Earlier Mark

Class 30

Frozen confections, dairy based dessert products, namely ice cream and frozen confections.

The Seventh Earlier Mark

Class 29

Meat, fish, poultry and game; Meat extracts; frozen and dried fruits and vegetables; Jellies, jams, compotes; snack foods; fruit snacks; vegetable-based snack foods; prepared meals; cooked chicken; cooked meat dishes; pieces of chicken for use as a filling in sandwiches; dishes of fish; fish cakes; burgers; hamburgers (and other beef products); chicken nuggets; beefburgers; bacon; sausages; omelettes; baked beans; vegetable burgers; french fries, baked potatoes and other potato products; potato fries and potato chips; salads (vegetable -); potato salads; prepared vegetable dishes; whipped milk; cream, being dairy products; milkshakes; milk beverages; cheese; yoghurt desserts; artificial milk based desserts; beverages made from yoghurt; cheese dips; chilled dairy desserts; coffee creamer; dips; milk-based beverages containing coffee; milk-based beverages containing fruit juice; milk-based beverages flavored with chocolate, strawberry or vanilla; candied fruit snacks; cooked fruits; fruit- and nut-based snack bars; fruit desserts; fruit snacks; foods prepared from meat, pork, fish and poultry products, preserved and cooked fruits and vegetables, eggs, cheese, milk, milk preparations, pickles, desserts, yogurt, yogurt based beverages.

Class 30

Cocoa and artificial coffee; Rice; Tapioca and sago; Flour and preparations made from cereals; pastries and confectionery; Edible ices; honey, treacle; Yeast, baking-powder; Salt; Mustard; Vinegar, sauces [condiments]; Spices; Ice [frozen water]; bread; buns; wrap sandwiches; filled rolls; edible sandwiches, meat sandwiches, pork sandwiches, fish sandwiches, chicken sandwiches, biscuits, bread, cakes, cookies, chocolate, coffee, coffee substitutes, tea, mustard, oatmeal, pastries, sauces, sugar; bakery goods; waffles; brioches; cereal bars; cereal-based snack foods; cereal preparations; chocolate-based beverages; chocolate beverages with milk; cocoa-based beverages; cocoa beverages with milk; coffee-based beverages; coffee beverages with milk; frozen yoghurt; tea-based beverages; iced coffee and other coffee drinks; iced tea; nugget sauce; chili sauce; tomato sauce; mayonnaise and ketchup-based spreads; relishes [condiments]; salad dressings; breakfast sandwiches; fruit pies; ice cream; soft-serve ice cream and other frozen desserts; croissants; custards [baked desserts]; dessert mousses [confectionery]; frozen ices; ice beverages with a coffee base; ice

cream desserts; ice cream drinks; sorbets; aerated beverages [with coffee, cocoa or chocolate base].

Class 32

Beers; Mineral and aerated waters and other non-alcoholic beverages; Fruit beverages and fruit juices; Non-alcoholic beverages, syrups and other preparations for making beverages; fruit juices and apple juice; bottled drinking water; smoothies; aperitifs, non-alcoholic; cider, non-alcoholic; cocktails, non-alcoholic; essences for making beverages; fruit nectars, non-alcoholic; ginger beer; isotonic beverages; lemonades; mineral water [beverages]; aerated water; non-alcoholic beverages flavored with coffee; non-alcoholic beverages flavored with tea; non-alcoholic fruit extracts; smoothies; soft drinks; soya-based beverages, other than milk substitutes; syrups for lemonade; tomato juice [beverage]; vegetable juices [beverages]; lemonade and cola drinks; carbonated soft drinks; cordials; fruit squashes; energy drinks; flavored waters; protein-enriched sports beverages; slush drinks; non-alcoholic beer; non-alcohol wines; beverages containing vitamins; whey beverages; energy drinks containing caffeine; honey-based beverages.

Class 43

Services for providing food and drink; temporary accommodation; restaurant services; food and drink preparation services; fast-food restaurant services; takeaway food and drink services; cafe services; coffee shop services; tea room services; bar services; ice cream parlors; juice bar services; snack-bar services; self-services restaurant services; information, advisory and consultancy services relating to all the aforesaid services.

The Eighth Earlier Mark

Class 39

Food delivery services.

Class 43

Restaurant services.

ANNEX 2

McDONALD'S

Foods prepared from meat, pork, fish and poultry products, meat sandwiches, fish sandwiches, pork sandwiches, chicken sandwiches, preserved and cooked fruits and vegetables, eggs, cheese, milk, milk preparations, pickles, desserts. Burgers; beef burgers; chicken burgers; fish burgers; vegetarian burgers; hamburgers; cheeseburgers; sandwiches made from wraps; salads; chicken pieces (other than for animals); French fried potatoes; French fries; potato fries; milk shakes being milk beverages, the milk predominating; milk, eggs; hashed brown potatoes; sausages. Edible sandwiches, meat sandwiches, pork sandwiches, fish sandwiches, chicken sandwiches, biscuits, bread, cakes, cookies, chocolate, coffee, coffee substitutes, tea, hot chocolate, mustard, oatmeal, pastries, sauces, seasonings, sugar. Sandwiches containing fish fillet, chicken or meat; sausage patties; fruit pies, muffins, hot cakes, Danish pastries, coffee, tea; ice cream sundaes; doughnuts; bagels; pancakes; porridge; prepared fruits; prepared vegetables; pieces of chicken, battered and deep fried; muffins containing eggs, bacon, sausage and cheese; ice-cream based desserts; ice-cream based desserts containing chocolate; ice-cream based desserts containing biscuits; ice-cream based desserts containing sweets.

Non-alcoholic beverages, syrups and other preparations for making beverages. Cola; orange squash and root beer, all being non-alcoholic beverages; fruit flavoured milk shakes, the fruit predominating; orange juice for use as beverages.

Services rendered or associated with operating and franchising restaurants and other establishment or facilities engaged in providing food and drink prepared for consumption and for drive- through facilities; preparation and provision of carry-out foods; Restaurant services; drive-through restaurant services.

McMUFFIN

Food prepared from pork products, eggs and cheese. Pork sandwiches, egg sandwiches, muffins. Muffins containing eggs, bacon, sausage and cheese.

McNUGGETS

Food prepared from poultry products. Pieces of poultry all for food for human consumption. Pieces of chicken, battered and deep fried.

McCHICKEN

Chicken sandwiches. Edible sandwiches, all containing or flavoured with chicken. Burgers; chicken burgers.

McFLURRY

Frozen confections, dairy based dessert products, namely ice cream and frozen confections; ice-cream based desserts; ice-cream based desserts containing chocolate; ice-cream based desserts containing biscuits; ice-cream based desserts containing sweets.

McCAFE

Milkshakes; milk beverages; chilled dairy desserts; coffee creamer; milk-based beverages containing coffee; milk-based beverages containing fruit juice; milk-based beverages flavoured with chocolate, strawberry or vanilla; cocoa and artificial coffee; pastries and confectionery; Edible ices; biscuits, bread, cakes, cookies, chocolate, coffee, coffee substitutes, tea, oatmeal, pastries, bakery goods; chocolate-based beverages; chocolate based beverages with milk; cocoa-based beverages; cocoa based beverages with milk; coffee-based beverages; coffee beverages with milk; frozen yoghurt; tea-based beverages; iced coffee and other coffee drinks; iced tea; croissants; frozen ices; ice beverages with a coffee base; ice cream desserts; ice cream drinks; sorbets; aerated beverages [with coffee, cocoa or other chocolate base]; mineral and aerated waters and other non-alcoholic beverages; non-alcoholic beverages, syrups and other preparations for making beverages; smoothies; non-alcoholic beverages flavored with coffee; non-alcoholic beverages flavored with tea; non-alcoholic fruit extracts; soya-based beverages, other than milk substitute; hot chocolate; flat white coffees; lattes; cappuccinos; black coffee; white coffee; espresso; frappé coffee; frozen lemonade; doughnuts; muffins.

Services for providing food and drink; restaurant services; food and drink preparation services; fast-food restaurant services; takeaway food and drink services; café

services; coffee shop services; tea room services; bar services; ice cream parlors; juice bar services; snack-bar services; self-services restaurant services.

McDELIVERY

Food and beverage delivery services; restaurant services; preparation and catering of carry-out foods.