

O/0415/26

TRADE MARKS ACT 1994

IN THE MATTER OF  
THE UK DESIGNATION OF INTERNATIONAL REGISTRATION NO.  
WO0100001610234  
BY GUANGDONG RONGSHENG ELECTRIC HOLDING CO., LTD.  
FOR PROTECTION OF THE FOLLOWING TRADE MARK:

**minca**

IN CLASSES 7, 9, 11 AND 21

AND

IN THE MATTER OF THE OPPOSITION THERETO  
UNDER NO. 450110  
BY VALE MILL (ROCHDALE) LIMITED

## BACKGROUND AND PLEADINGS

1. Guangdong Rongsheng Electric Holding Co., Ltd. (“the holder”) designated the international registration (“the IR”) shown on the front cover of this decision for protection in the UK on 19 March 2024. The international registration date for this mark is 05 March 2021. Protection is sought for the following goods:<sup>1</sup>

**Class 7:** ~~Hair cutting machines for animals;~~ **mills [machines]; food preparation machines, electromechanical; juice extractors, electric; beverage preparation machines, electromechanical; food processors, electric; dishwashers; blenders, electric, for household purposes; kitchen machines, electric; crushers for kitchen use, electric; kitchen grinders, electric; coffee grinders, other than hand-operated; mixing machines.**

**Class 9:** ~~Locks, electric; biometrics fingerprint door locks; mobile power (rechargeable battery).~~

**Class 11:** **Germicidal lamps for purifying air; cooking utensils, electric; electric cooker; household fuel oil range; deep fryers, electric; air fryers; household electric oven; roasters; convection ovens; food steamers, electric; kettles, electric; induction cookers; microwave ovens [cooking apparatus]; soya milk making machines, electric; electric cookers; electric cooking pots; humidifiers; autoclaves [electric pressure cookers]; electric coffee machine; cookers; electric sandwich maker; ice machines and apparatus; freezers; refrigerators; refrigerating display cabinets; cool boxes, electric; refrigerating apparatus and machines; air purifying apparatus and machines; air conditioning apparatus; extractor hoods for kitchens; electric fans; air purifiers; garment steamer; hair driers [dryers]; air conditioners; air-conditioning fan; heating apparatus, electric; hot water heating installations; watering installations, automatic;**

---

<sup>1</sup> The applied-for specification was limited subsequently to the opposition being filed, however, the opponent confirmed that the amendment did not allow the opposition to be withdrawn.

*heaters for baths; wash water heater (gas or electric heating); sun energy water heaters; bath heaters; sanitary apparatus and installations; disinfectant apparatus; sterilized cupboards; household electric water purifier; water dispensers; radiators, electric; heating apparatus for defrosting vehicle windows; integrated stoves; electric rinse pans; air cleaning facility, namely fresh air ventilator.*

*Class 21: Containers for household or kitchen use; cooking pot sets; stew-pans; cooking utensils, non-electric; kettles, non-electric; kitchen utensils; autoclaves [pressure cookers], non-electric; daily use glassware (including cups, plates, pots, crocks); ceramics for household purposes; ~~china ornaments~~; tea services [tableware]; trash cans; clothes drying racks; battery-driven floss pick; thermally insulated containers for food; cleaning instruments, hand-operated; lint removers, electric or non-electric; carpet sweepers; drinking troughs; feeding vessels for pets; pet automatic feeder; plug-in diffusers for mosquito repellents.*

2. On 10 October 2024, the IR was partially opposed by Vale Mill (Rochdale) Limited (“the opponent”) based upon Sections 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opposition is directed against the goods highlighted in bold in the table above, with the goods in strikethrough not being opposed.

3. Under Sections 5(2)(b) the opponent relies upon one single trade mark and some of the goods covered by the same, as shown below:

UK00003532416

MINKY

Minky

(series of two)

Filing date: 11 September 2020

Registration date: 19 February 2021

**Class 7:** *Sweeping, cleaning, washing and laundering machines; ironing machines and laundry presses; pressing machines; clothes pressing machines; steam cleaning machines steam cleaners; steam mops; steam cleaners for household purposes; electric cleaning tools; electric window cleaning tools; dishwashing tools; vacuum cleaners; robotic vacuum cleaners; vacuum cleaner bags; vacuum filters; electric garden tools; lawn mowers; robotic lawnmowers; gardening machines and apparatus; power saws; electric power tools; electric kitchen tools; parts and fittings for all the aforesaid goods.*

**Class 9:** *Software; games software; application software; computer games; media content; podcasts; downloadable podcasts; electronic publications; downloadable publications; calculators; protective and safety equipment; eye protection; visors; anti-glare visors; masks; protective masks; anti-pollution masks for respiratory protection; filters for respiratory masks; dust masks; face protection shields; face protection shields; masks for swimming; electrical and electronic components; electric cables and wires; reels for electric cables; peripherals adapted for use with computers and other smart devices; downloadable software applications; mouse mats; mobile phone covers; mobile phone cases; stands adapted for mobile phone; stands adapted for electronic tablets; flip covers for use with tablet computers; wrist and arm rests for use with computers; measuring devices; weight measuring instruments; scales; kitchen scales; luggage scales; portable digital electronic scales; optical enhancers and correctors; binoculars; glasses, sunglasses and contact lenses; cases for eye glasses and sunglasses; glasses and sunglasses holders; glasses and sunglasses cords; image capturing and developing devices; cameras; digital cameras; distance and dimension measuring instruments; smart watches; pedometers; compasses; parts and fittings for all the aforesaid goods.*

**Class 11:** *Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes; cooking, heating, cooling and preservations equipment for food and beverages; electric kettles; toaster; electric toasters; electric sandwich toasters; fitted fabric covers for electric toasters; microwave ovens for domestic use; bread makers; electric yoghurt makers; electric ice cream makers; electric vegetable steamers;*

*steam cookers; cooking installations and apparatus; electric appliances for preparing and cooking sauces, jams and chocolate; dish-warmers; food-grills; deep frying appliances; electric cooking appliances for steaming; hot plates; food warmers; barbecues; barbecue grills; barbecue cooking apparatus; personal heating and drying implements; hair dryers; holders adapted for hair dryers; sterilization, disinfection and decontamination equipment; portable steam sterilizers; heating, ventilating, and air conditioning and purification equipment; electric clothes dryers; heated drying rails; heated towel drying rails; air cleaning apparatus; filters for cleaning air; household air cleaners; room fans; electric cooling fans; portable electric fans; fan heaters; air conditioning fans; dehumidifiers; air dehumidifier; torches; fire pits; parts and fittings for all the aforesaid goods.*

**Class 21:** *Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; nut crackers; combs and sponges; brushes, except paintbrushes; articles for cleaning purposes; glassware, porcelain and earthenware; Household utensils; kitchen utensils; pot holders; cleaning utensils; window cleaning utensils; floor cleaning utensils; dishwashing utensils; telescopic handles for cleaning utensils; sponges; abrasive sponges; brushes; articles for cleaning purposes; laundry drying devices; laundry baskets; laundry stands; ironing boards; ironing board covers; buckets; mops; dustpans; squeegees for cleaning; clothes pegs; clothes pins; wipes for cleaning; wipes for polishing; scourers; dish cloths for cleaning; floor cloths; window cloths for cleaning; articles for the care of clothing and footwear; drying racks for laundry; laundry sorters for household use; laundry bins; wall mounted drying racks for laundry; ceiling mounted drying racks for laundry; laundry balls for use as household utensils; bins; recycling bins; food waste bins; compost bins; kitchen roll holders; dish drainers; tubs; wash tubs; rinsing tubs; spray bottles; sprayers; trays; dish drainer trays; cutlery trays; serving trays; stacking trays; pot lid racks; washing up brushes; utensil jars; barbecue forks; serving forks; cosmetic and toilet utensils; bowls; chopping boards; oven gloves; laundry stands with baskets; pet feeding bowls; automatic pet feeder; pet treat jars; pet drinking bowls; brushes for pets; pet grooming gloves; cages for pets; litter trays for pets; scoops for the disposal of pet waste; eyebrow brushes; bathroom organisers; plastic bath racks; soap dispensers; racks; soap racks; shower gel racks; shampoo racks;*

*toothbrushes; electric toothbrushes; toothbrush containers; toothpicks; toothbrush caddies; holders for toothbrush; stands for toothbrushes; toothbrushes for pets; toilet brushes; vacuum flasks; drinks bottles; lunch boxes; cool boxes; utensil containers; caddies for holding hair accessories and apparatus for household and domestic use; heat resistant mats and protectors; jewellery dishes; rotary clothes airers primarily of metal; outdoor clothes airers primarily of metal; indoor clothes airers primarily of metal; rotary clothes airers primarily non-metallic; outdoor clothes airers primarily non-metallic; indoor clothes airers primarily non-metallic; covers for rotary airers; parts and fittings for all of the aforesaid goods.*

4. By virtue of its earlier filing date, the trade mark relied upon by the opponent is an “earlier mark” in accordance with Section 6 of the Act. The earlier mark has not been registered for more than five years at the filing date of the IR (being 19 March 2024)<sup>2</sup> and, as such, is not subject to the use conditions under Section 6A of the Act. This means that the opponent can rely upon the goods it has identified without having to prove genuine use.

5. Under Section 5(2)(b), the opponent claims there is a likelihood of confusion because the goods are identical or similar, and the marks are highly similar.

6. The holder filed a defence and counterstatement, denying the opponent’s claims.

7. The opponent is represented by Roome Associates Limited, and the holder is represented by Trademarkit LLP. Neither party filed evidence, but they both filed written submissions during the evidence rounds. Neither party requested a hearing, but the holder filed submissions in lieu of a hearing. I make this decision having taken full account of all the papers, referring to them as necessary.

## **Relevance of EU Law**

---

<sup>2</sup> Paragraph 2 of Schedule 2 of the Trade Marks (International Registration) Order 2008 gives the filing date for IR designations as the date the request for extension was recorded in the International Register

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.

## **DECISION**

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

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

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

(a) ...

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

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

10. 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*, [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**

11. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the Court of Justice of the European Union (“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.”

12. 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.

13. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU 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 OHIM*, Case T-325/06, the General Court (“GC”) 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.”

14. In *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as ‘complementary’ and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different. The purpose of examining whether there is a complementary relationship between goods and services is to assess whether the relevant public are liable to believe that responsibility for the goods and services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander QC noted as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited*, BL O/255/13:

“It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense – but it does not follow that wine and glassware are similar goods for trade mark purposes.”

15. Whilst on the other hand:

“[...] it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together.”

16. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the GC stated that:

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

17. In its submissions in lieu, the holder denies that the goods are identical or similar and argues that *“it is fundamentally unfair for the Opponent to claim to such broad and vague terms as “Apparatus and installations for lighting, heating, cooling, steaming, generating, cooking, drying, ventilating, water supply and sanitary purposes” referring to “the decision of the Supreme Court in SkyKick UK Ltd et al. v. Sky Ltd et al. ([2024] UKSC 36) where Lord Kitchen stated “It would in my view be anomalous for traders who use broad terminology to describe the goods and services for which they seek protection to find themselves in a more favourable position than those who use appropriate sub-categories to describe the same goods and services.”*

18. The above passage must be read in the context of the question of whether an application for a trade mark seeking protection for broad terms is made in bad faith. Here the opponent’s mark is a valid trade mark and as far as I am aware there is no challenge against it based on bad faith under Section 3(6) of the Act. Consequently, the opponent’s mark not being subject to proof of use, the opponent can rely on all the goods it has identified across their full width.

19. The opposed goods are as follows:

**Class 7: mills [machines]; food preparation machines, electromechanical; juice extractors, electric; beverage preparation machines, electromechanical; food processors, electric; dishwashers; blenders, electric, for household purposes; kitchen machines, electric; crushers for kitchen use, electric; kitchen grinders, electric; coffee grinders, other than hand-operated; mixing machines.**

20. I agree with the opponent that the earlier *Sweeping, cleaning, washing and laundering machines* in class 7 cover the contested *dishwashers* and that the earlier *electric power tools; electric kitchen tools* in class 7 cover all the remaining goods. These goods are identical (Meric).

**Class 11: Germicidal lamps for purifying air; cooking utensils, electric; electric cooker; household fuel oil range; deep fryers, electric; air fryers; household electric oven; roasters; convection ovens; food steamers, electric; kettles, electric; induction cookers; microwave ovens [cooking apparatus]; soya milk making machines, electric; electric cookers; electric cooking pots; humidifiers; autoclaves [electric pressure cookers]; electric coffee machine; cookers; electric sandwich maker; ice machines and apparatus; freezers; refrigerators; refrigerating display cabinets; cool boxes, electric; refrigerating apparatus and machines; air purifying apparatus and machines; air conditioning apparatus; extractor hoods for kitchens; electric fans; air purifiers; garment steamer; hair driers [dryers]; air conditioners; air-conditioning fan; heating apparatus, electric; hot water heating installations; watering installations, automatic; heaters for baths; wash water heater (gas or electric heating); sun energy water heaters; bath heaters; sanitary apparatus and installations; disinfectant apparatus; sterilized cupboards; household electric water purifier; water dispensers; radiators, electric; heating apparatus for defrosting vehicle windows; integrated stoves; electric rinse pans; air cleaning facility, namely fresh air ventilator.**

21. I agree with the opponent that all of the above goods fall within the opponent's broad term *Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes* in class 11. These goods are identical (Meric).

**Class 21: Containers for household or kitchen use; cooking pot sets; stew-pans; cooking utensils, non-electric; kettles, non-electric; kitchen utensils; autoclaves [pressure cookers], non-electric; daily use glassware (including cups, plates, pots, crocks); ceramics for household purposes; tea services [tableware]; trash cans; clothes drying racks; battery-driven floss pick; thermally insulated**

**containers for food; cleaning instruments, hand-operated; lint removers, electric or non-electric; carpet sweepers; drinking troughs; feeding vessels for pets; pet automatic feeder; plug-in diffusers for mosquito repellents.**

22. I agree with the opponent that all of the above goods either fall within the opponent's broad terms or are similar to them.

23. The contested *containers for household or kitchen use; cooking pot sets; stew-pans; cooking utensils, non-electric; kettles, non-electric; kitchen utensils; autoclaves [pressure cookers], non-electric; daily use glassware (including cups, plates, pots, crocks); ceramics for household purposes; tea services [tableware]; thermally insulated containers for food* fall within the earlier *household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; glassware, porcelain and earthenware*. The contested *cleaning instruments, hand-operated; lint removers, electric or non-electric; carpet sweepers* fall within the earlier *cleaning utensils*. The contested *drinking troughs; feeding vessels for pets; pet automatic feeder* fall within the earlier *pet feeding bowls; automatic pet feeder*. These goods are identical (Meric).

24. The contested *plug-in diffusers for mosquito repellents* although not identical to the earlier *articles for cleaning purposes*, have a similar nature, insofar as they are household items with a sanitary purpose. Further the goods are likely to be sold in close proximity through the same trade channels and target the same consumers, although they are neither complementary nor in competition. These goods are similar to a low degree.

25. The contested term *trash cans* is identical to the earlier *bins*.

26. The contested term *clothes drying racks* is identically contained in both specifications.

27. Lastly, the contested term *battery-driven floss pick* is either identical or highly similar to the earlier *electric toothbrushes*.

## **Conclusion on the similarity of the goods**

28. With the exception of the term *plug-in diffusers for mosquito* (which I found to be similar to a low degree) all of the contested goods are identical or highly similar to the opponent's goods.

## **Average consumer**

29. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer*, Case C-342/97.

30. In *Iconix Luxembourg Holdings SARL v Dream Paris Europe Inc & Anor*, [2025] UKSC 25, the Supreme Court approved the comments of Arnold LJ in *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor (Rev1)* [2024] EWCA Civ 262, where he pointed out that:

- (a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;
- (b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;
- (c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule and if, having regard to the perceptions and expectations of the average consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;
- (d) Assessment from the perspective of the average consumer is intended to facilitate adjudication of trade mark disputes by providing an objective criterion,

by promoting consistency of assessment and by enabling courts and tribunals to determine such issues so far as possible without the need for evidence;

(e) The average consumer's level of attention varies according to the category of goods or services in question; and

(f) the average consumer rarely has the opportunity to make direct comparisons between trade marks (or between trade marks and signs) and must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

31. The average consumer of the parties' goods in classes 7, 11 and 21 is a member of the general public.

32. As the holder noted in its submissions in lieu, the goods at issue include various categories of goods, including the following: electric household and kitchen appliances such as dishwashers, electric food processors, electric juice extractors, and mixing machines (class 7), major heating and cooking apparatus such as induction cookers, microwave ovens, electric cookers, as well as freezers, refrigerators, and air conditioning apparatus (class 11) and domestic containers and non-electric cooking pot sets (class 21).

33. In its submissions in lieu, the holder states that goods such as dishwashers, freezers, refrigerators, and electric cookers are high-value appliances, typically involving careful selection, feature comparison, and significant financial investment and consumers purchasing such items will exercise a high degree of care and attention. The opponent states that the degree of attention may vary from average to high, depending on the specialised nature of the goods, the frequency of purchase and their price.

34. I agree that whilst most of the goods at issue are household goods which will not attract a more than medium degree of attention, other goods in class 11 such as, for example, air conditioning apparatus; heating apparatus, and watering installations, will require a significant investment and a high degree of attention. The goods will be


selected from retail outlets, as well as from catalogues, websites and marketing material. Consequently, visual considerations are more important, although I do not discount aural considerations in the form of, for example, word of mouth recommendations or discussions with sale assistants.

### Comparison of marks

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

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

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

The IR	The opponent's earlier marks
	MINKY Minky

## **Overall impression**

37. The opponent's series of two marks consists of the invented word 'MINKY' presented in capital letters and title case, respectively. As there is no other element to contribute to the overall impression, it lies in the word itself.

38. The holder's mark consists of the invented word 'minca' presented in lower-case letters in a slightly stylised typeface. The dominant and distinctive element of this mark is the word 'minca'; whilst there is a degree of stylisation, it is minimal and will contribute very little to the overall impression.

## **Visual similarity**

39. Visually, the marks coincide in the first three letters 'MIN-' which are positioned at the beginning of the marks, the beginning of marks being where consumers' attention tends to focus.<sup>3</sup> In addition, both marks are five-letters long. However, the marks differ in the last two letters, which are the letters 'KY' in the opponent's marks and 'CA' in the holder's mark. Whilst the word 'MINCA' in the holder's mark is slightly stylised, the stylisation is minimal and being the earlier mark a word-only mark it can be presented in bold letters and in lower case (like the applied-for mark) further reducing the differences between the marks. Overall, I consider that the marks are visually similar to a medium to high degree.

## **Aural similarity**

40. Aurally, the letters 'MINK-' in the opponent's marks and 'minc-' in the holder's mark will be pronounced identically. The only difference between these marks is therefore in the last letter, which is a 'Y' in the opponent's marks and a 'a' in the holder's mark. Overall, I consider the marks to be similar to a high degree.

## **Conceptual similarity**

---

<sup>3</sup> El Corte Inglés, SA v OHIM, Cases T-183/02 and T-184/02

41. Conceptually, both marks are invented words with no meaning. Accordingly, a conceptual comparison between the marks is not possible and the conceptual position is neutral.

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

42. 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-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

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

44. The earlier mark 'MINKY' is an invented word, which does not evoke any dictionary word. Hence, it is distinctive to a high degree.

### **Likelihood of confusion**

45. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind, including that a lesser degree of similarity between the respective marks may be offset by a greater degree of similarity between the respective goods and vice versa. I must keep in mind the distinctive character of the earlier mark, the average consumer for the goods and the nature of the purchasing process. I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

46. Confusion can be direct or indirect. In *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

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

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

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

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

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

47. Earlier in this decision I found that:

- The IR and the opponent's earlier marks are visually similar to a medium to high degree and aurally similar to a high degree, whereas the conceptual position is neutral.
- Most of the goods at issue are identical or highly similar; however, some goods are similar to a low degree.
- The average consumer will select the goods mainly visually, with a medium or high degree of attention, although aural considerations cannot be discounted.
- The earlier marks are inherently distinctive to a high degree.

48. The opponent's case is based on the likelihood of direct confusion. I agree that this is the opponent's best case. I also agree that the closeness between the marks and the inherently high degree of distinctiveness of the earlier mark are such that,

when imperfect recollection is factored in, it is likely that consumers will confuse the marks by misremembering and mis-recollecting the opponent's mark and confusing it for the holder's marks. This conclusion applies to all of the goods at issue, including those for which I have found to be a low degree of similarity which are goods that will attract a medium degree of attention. In this connection, whilst I bear in mind that for some of the goods involved the consumer will deploy a high degree of attention, they are goods in relation to which I found identity, and bearing in mind the similarity of the marks and the identity of the goods, such degree of attention will not suffice to prevent the effect of imperfect recollection and the subsequent confusion.

49. There is a likelihood of direct confusion in relation to the goods which have been opposed.

## CONCLUSIONS

50. Accordingly, the opposition is successful in relation to the following goods which will be refused registration:

**Class 7:** *mills [machines]; food preparation machines, electromechanical; juice extractors, electric; beverage preparation machines, electromechanical; food processors, electric; dishwashers; blenders, electric, for household purposes; kitchen machines, electric; crushers for kitchen use, electric; kitchen grinders, electric; coffee grinders, other than hand-operated; mixing machines.*

**Class 11:** *Germicidal lamps for purifying air; cooking utensils, electric; electric cooker; household fuel oil range; deep fryers, electric; air fryers; household electric oven; roasters; convection ovens; food steamers, electric; kettles, electric; induction cookers; microwave ovens [cooking apparatus]; soya milk making machines, electric; electric cookers; electric cooking pots; humidifiers; autoclaves [electric pressure cookers]; electric coffee machine; cookers; electric sandwich maker; ice machines and apparatus; freezers; refrigerators; refrigerating display cabinets; cool boxes, electric; refrigerating apparatus and machines; air purifying apparatus and machines; air conditioning apparatus; extractor hoods for kitchens; electric fans; air purifiers; garment steamer; hair*

*driers [dryers]; air conditioners; air-conditioning fan; heating apparatus, electric; hot water heating installations; watering installations, automatic; heaters for baths; wash water heater (gas or electric heating); sun energy water heaters; bath heaters; sanitary apparatus and installations; disinfectant apparatus; sterilized cupboards; household electric water purifier; water dispensers; radiators, electric; heating apparatus for defrosting vehicle windows; integrated stoves; electric rinse pans; air cleaning facility, namely fresh air ventilator.*

**Class 21:** *Containers for household or kitchen use; cooking pot sets; stew-pans; cooking utensils, non-electric; kettles, non-electric; kitchen utensils; autoclaves [pressure cookers], non-electric; daily use glassware (including cups, plates, pots, crocks); ceramics for household purposes; tea services [tableware]; trash cans; clothes drying racks; battery-driven floss pick; thermally insulated containers for food; cleaning instruments, hand-operated; lint removers, electric or non-electric; carpet sweepers; drinking troughs; feeding vessels for pets; pet automatic feeder; plug-in diffusers for mosquito repellents.*

51. However, the holder's mark will proceed to registration for the following unopposed goods:

**Class 7:** *Hair cutting machines for animals.*

**Class 9:** *Locks, electric; biometrics fingerprint door locks; mobile power (rechargeable battery).*

**Class 21:** *china ornaments.*

## **COSTS**

52. 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 £900 as a contribution towards the costs of proceedings. The sum is calculated as follows:

Filing a notice of opposition and considering the counterstatement: £400

Filing submissions: £300

Official Fees: £200

Total: £900

53. I therefore order Guangdong Rongsheng Electric Holding Co., Ltd. to pay Vale Mill (Rochdale) Limited the sum of £900. 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 14<sup>th</sup> day of May 2026

TERESA PINTO

For the Registrar