o/0428/24

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF APPLICATIONS UK3459689 & UK3705420
BY SOHO FLORDIS UK LIMITED
TO REGISTER THE TRADE MARKS:

POTTER'S

IN CLASSES 3, 5 & 32

Potter's

IN CLASS 5

AND

AND THE OPPOSITIONS UNDER NOS 420689 & 432591
BY ERNEST JACKSON & CO. LIMITED

Background and pleadings

1. On 20 January 2020, Soho Flordis UK Limited ("the applicant") applied to register trade mark no. UK3459689 ('the word mark') shown on the cover page of this decision. The application was published for opposition purposes on 15 May 2020 in classes 3, 5 and 32. The goods and services applied for are as follows:

> Class 3: Soaps; perfumery, essential oils, cosmetics and non-medicated skin care preparations; cosmetic preparations for body care; fragrances for personal use; essential oils for personal use; body and beauty care cosmetics; cleansing preparations; non-medicated toilet preparations; aromatherapy products; hair lotions, shampoos.
>
> Class 5: Beverages adapted for medical purposes; biological preparations for medical purposes; capsules of herbs for medical use; dermatological preparations (medicated); dietary supplements; dietary fibre; dietetic substances adapted for medical use; energy drinks (dietary supplements); enzymes contained in pharmaceuticals and nutritional supplements; herbal supplements and herbal extracts; herbal beverages; vitamins, vitamin preparations; minerals, mineral preparations; fish oil for medical purposes; herbal infusions and herbal remedies for medicinal purposes; malt extracts for medical and pharmaceutical use; meal replacement preparations in this class, including but not limited to beverages and bars; medicinal herbs extracts, dietetic food and substances adapted for medical use; mineral additives, mineral food supplements, preparations of minerals; nutritional preparations for medical use; nutritional supplements; pharmaceutical preparations; plant extracts (dietary supplements); protein dietary supplements; pharmaceutical tonic preparations; plant extracts for medical and pharmaceutical use; tonics (medicinal) based on plant extracts; stimulants made of vitamins; stimulants made of minerals; vitamins, vitamin supplements and vitamin preparations; none in relation to pastilles for the treatment of catarrh, coughs, and colds.
>
> Class 32: Beverages in this class namely energy drinks, sports drinks, isotonic beverages, fruit drinks and fruit juices, vegetable drinks and vegetable juices,

mineral and aerated waters and other non alcoholic drinks; extracts and other preparations for making beverages, including powdered preparations; syrups and other preparations for making beverages; beverages containing multivitamins and minerals; protein, whey and soya based beverages;.

2. On 30 September 2021 the applicant filed trade mark no UK3705420 ('the stylised mark') also shown on the front page. The application was published for opposition purposes on 4 March 2022 in class 5. The goods applied for are as follows:

> Class 5: Pharmaceutical preparations; sanitary preparations for medical purposes; medicinal herb extracts; dietetic food adapted for medical use; dietetic substances adapted for medical use; dietary supplements for humans; dietary supplements for animals; None in relation to pastilles for the treatment of catarrh, coughs, and colds.

3. The applications were opposed by Ernest Jackson & Co. Limited ("the opponent") on 14 July 2020 and 14 April 2022 respectively. The oppositions are based upon section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). The opposition against the word mark is aimed at the following goods:

> Class 5: Capsules of herbs for medical use; herbal infusions and herbal remedies for medicinal purposes; medicinal herbs extracts; pharmaceutical preparations; pharmaceutical tonics preparations; plant extracts for medical and pharmaceutical use; none in relation to pastilles for the treatment of catarrh, coughs, and colds.

4. The opposition against the stylised mark is aimed at the following goods (as reduced at the hearing):

> Class 5: Pharmaceutical preparations; medicinal herb extracts; none in relation to pastilles for the treatment of catarrh, coughs and colds.

5. The opponent relies on the following trade marks for OP420689:

UK3017684 (‘the first earlier registration’)

Filing date: 10 August 2013
Registration date: 15 November 2013

UK645168 (‘the second earlier registration’)

POTTER’S.

Filing date: 22 February 1946
Registration date: 22 February 1946

Both relying upon all of the goods and services for which they are protected, as follows:

> Class 5: Medicated confectionery for human use for the treatment of catarrh, coughs and colds; pastilles.

UK532822 (‘the third earlier registration’)

POTTER’S

Filing date: 22 June 1932
Registration date: 22 June 1932

Relying upon all of the goods and services for which it is protected, as follows:

Class 5: Medicated preparations in the form of pastilles all for human use in the treatment of catarrh.

6. For OP432591, the opponent relies on the second and third earlier marks only.

7. The opponent claims that the first earlier registration is similar and that the second and third earlier registrations are identical to the applied for marks. They also claim that the goods at issue are similar.

8. The applicant filed counterstatements in which it denies the claims made by the opponent and requested that the opponent provide proof of use for all three of the earlier registrations.

9. The applicant is represented by Joshi-IP.Law and the opponent is represented by Wilson Gunn.

10. Both parties provided evidence. A hearing was held before me on 23 January 2024. The applicant was represented by Tom St Quintin of counsel and the opponent was represented by Charlotte Blythe, also of counsel. I make this decision having taken full account of all the papers and submissons, referring to them below as necessary.

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

Evidence

12. The opponent filed evidence in chief in the form of a witness statement from David Mark Walter dated 4 January 2021. Mr Walter is the Managing Director of the opponent

company. The witness statement of 4 January was accompanied by an earlier witness statement from Mr Walter dated 25 June 2019 and three further exhibits. The main purpose of this evidence was to prove use of the opponent's marks.

13. The applicant filed evidence in the form of a witness statement dated 11 January 2023 from Sara Delpopolo who is the Global Trademarks Manager for the SFI Health Group of companies which includes the applicant. This statement was accompanied by 20 exhibits. The main purpose of the evidence was to show honest concurrent use of the marks.

14.The opponent filed evidence in reply in the form of a further witness statement from David Mark Walter dated 12 June 2023 together with two exhibits.

Decision

Section 5(2)(b)

15. Section 5(2)(b) 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."

16. Section 5A of the Act is as follows:

> "5A Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only."

17. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

> "6(1) In this Act an "earlier trade mark" means –
>
> > (a) a registered trade mark or international trade mark (UK) which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks.
> >
> > …"

18. The opponent's marks qualify as earlier marks, in accordance with the above provision. The earlier registrations are subject to proof of use requirements as they have been registered for five years or more before the application date of the contested mark, as per section 6A of the Act. The applicant has requested that the opponent provides proof of use for the marks. In the hearing the parties clarified that the points on proof of use had been agreed. The parties have agreed that the opponent has provided use for the following:

The first and second earlier registrations:

> Class 5: Medicated confectionery for human use in the treatment of catarrh, coughs and colds.

The third earlier registration:

> Class 5: Medicated preparations in the form of pastilles for human use in the treatment of catarrh.

Case law

19. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG,* Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc,* Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV,* Case C-425/98, *Matratzen Concord GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM),* Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH,* Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM,* Case C-334/05P and *Bimbo SA v OHIM,* Case C-591/12P:

(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 be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

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

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

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

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

(k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of the marks

20. 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 Court of Justice of the European Union ('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."

21. The applicant has admitted that the second earlier registration is identical to the contested marks.

22. The applicant accepted in their skeleton that the first and third earlier marks are similar to the contested marks. The opponent stated, and I agree, that their best case lies in the second earlier registration given that it is a word mark with the widest goods coverage. I will therefore not assess the first and third earlier registrations against the contested marks at this point in the decision and will return to them as necessary.

Comparison of goods and services

23. In the hearing and skeleton arguments, the applicant has admitted that there is a degree of similarity between the goods of the earlier marks and the applicant's goods. However, they believe that the level of similarity is not high and "is at the low end for many". The opponent contends that the goods are highly similar. Therefore, I must undertake a comparison to determine the level of similarity. As explained above, I will continue to focus on the second earlier mark for the comparisons.

24. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 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".

25. 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.

26. In *Boston Scientific Ltd v OHIM*, Case T-325/06, the General Court stated that "complementary" means:

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

27. For the purposes of considering the issue of similarity of goods, it is permissible to consider groups of terms collectively where they are sufficiently comparable to be assessed in essentially the same way and for the same reasons (see *Separode Trade Mark* (BL O/399/10) and *BVBA Management, Training en Consultancy v. Benelux-Merkenbureau* [2007] ETMR 35 at paragraphs 30 to 38).

Earlier goods	Contested goods
The second earlier registration: Medicated confectionery for human use in the treatment of catarrh, coughs and colds.	*The word mark* Capsules of herbs for medical use; herbal infusions and herbal remedies for medicinal purposes; medicinal herbs extracts; pharmaceutical preparations; pharmaceutical tonics preparations; plant extracts for medical and pharmaceutical use; none in relation to pastilles for the treatment of catarrh, coughs, and colds.
	The stylised mark Pharmaceutical preparations; medicinal herb extracts; none in relation to pastilles for the treatment of catarrh, coughs and colds.

Capsules of herbs for medical use; herbal infusions and herbal remedies for medicinal purposes; medicinal herbs extracts; plant extracts for medical and pharmaceutical use; none in relation to pastilles for the treatment of catarrh, coughs, and colds.

28. I consider that there is an overlap in general use, being that the applicant's goods and the opponent's goods are all for use when someone is unwell and they all share the method of use (by mouth). That also means that there is an overlap in user and they could overlap in trade channels also because they are likely to be found in pharmacies and health shops or near to each other in larger shops. The nature of the goods will likely differ as the opponent's goods are confectionary compared to the applicant's capsules, infusions and extracts. The goods could be in competition

because the average consumer might choose between medicated goods and herbal remedies to help with any ailments although again I note the differences in the specifics of the goods due to the limitations. They are not complementary. I therefore find the goods to be similar to at least a medium degree.

Pharmaceutical preparations; pharmaceutical tonics preparations; none in relation to pastilles for the treatment of catarrh, coughs, and colds.

29. Once again, these goods overlap in general user and purpose- being for people with illnesses. The goods are closer in nature and trade channels in that these are medicinal rather than homeopathic remedies however, the more specific nature of their shape and consumption will be different. They could be in competition again as the average consumer chooses alternative methods of taking medication. They are not complementary. I therefore find the goods to be similar to a medium degree.

Average consumer and the purchasing act

30. 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.

31. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited,* [2014] EWHC 439 (Ch), Birss J. (as he then was) described the average consumer in these terms:

> "60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The word "average" denotes that the person is typical. The term "average" does not denote some form of numerical mean, mode or median."

32. The parties were in agreement that the average consumer is a normal adult member of the public and they will exercise a higher degree of attention to detail.

33. The parties did not comment on the purchasing process and, therefore, I will consider this now. I believe it to be a largely visual process, the consumer will handle the goods to check that it is suitable for their symptoms/illness. If the consumer is buying online then I also note they will see the marks on the websites. I do not, however, ignore the potential for the marks to be spoken, for example, by pharmacists, doctors or sales assistants.

Distinctive Character of the Earlier Mark

34. 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 WindsurfingChiemsee 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)."

35. Registered trade marks possess varying degrees of inherent distinctive character, being lower where they are allusive or suggestive of a characteristic of the goods and/or services, ranging up to those with high inherent distinctive character, such as invented words which have no allusive qualities. The opponent claims to have a medium degree of inherent distinctiveness in the earlier marks. The distinctiveness of a mark can be enhanced by virtue of the use made of it, the opponent has not claimed that the distinctiveness has been enhanced by the use made of it. However, as they have provided evidence regarding the use of the marks I can consider this further.

36. The turnover figures provided in the witness statement of Mr Walter are redacted but do show the number of units sold as follows:

Year	Units	Retail Sales Value (£ Sterling)
2013	1,109,796	[redacted]
2014	875,118	[redacted]
2015	904,464	[redacted]
2016	1,288,422	[redacted]
2017	1,124,244	[redacted]
2018	1,243,902	[redacted]

37. The opponent has agreed that the use shown for their goods is medicated confectionary, I believe this to be a fairly large market and assuming the units shown are the number of packets sold then I consider that this is not a large amount of sales for that market. The annual expenditure for advertising is usually between £11,000 and £15,000 (although I note that 2015 was somewhat of an anomaly where by £48,809 was spent) which I do not consider to be large amounts when considered in the context of the market in which they sell. I therefore do not believe that the opponent has shown that their mark has been enhanced by use. I will therefore go on to consider the inherent position.

38. The mark is likely to be understood by consumers to be a surname. It bears no relation to the goods in question nor is it allusive to them. Surnames are a fairly

common way to show ownership of goods and consumers are accustomed to their use as such and I consider that it is a fairly common surname. I therefore find the mark to be inherently distinctive to a medium degree at best.

Likelihood of confusion

39. A finding of likelihood of confusion is a bringing together of all the factors discussed above in accordance with the authorities set out in this decision and looking at their effects on the average consumer.

40. The parties are in agreement that the second earlier registration is identical to the contested marks. They also agree that there is similarity between the goods applied for and the earlier registration. I have found that to be between a medium and at least a medium degree. The parties also agree that the average consumer is an adult member of the general public paying a higher degree of attention. I have found that the purchase of such goods is primarily visual. The earlier mark is inherently distinctive to a medium degree (at best). Given all of the above, there is a likelihood of direct confusion between the second earlier registration and the contested marks.

41. The applicant seeks to rely upon honest concurrent use of the marks. The applicant made many references in the hearing to the case of *Match Group, LLC & Ors v Muzmatch Ltd & Anor* [2023] EWCA Civ 454. I note in particular the following at [115] to [117], where Arnold LJ held that honest concurrent use is not a separate defence in a trade mark case, but a factor which can be taken into account in deciding whether use of the later mark will affect the functions of the earlier mark. A use which was initially infringing could eventually cease to be infringing if the trade mark proprietor took no action, there was substantial parallel trade for a long period, and as a result the trade marks came to be understood by the relevant class of consumers as denoting the goods/services of more than one trader. In that scenario there would no longer be a likelihood of confusion.

42. Arnold LJ said that once the claimant has established a *prima facie* case of infringement, the burden shifts to the defendant to establish that, by virtue of its honest

concurrent use, there is no longer an adverse effect on any of the functions of the earlier trade mark.

43. The *Budweiser*[1] case shows that honest concurrent use may also be relevant in trade mark opposition and cancellation proceedings. Consequently, the above guidance also applies to proceedings of this kind.

44. I will take the points established within the above case in turn. Firstly, is that the use that could be initially infringing could cease to be if the trade mark proprietor took no action. I am also reminded of *Aceites del Sur-Coosur SA v OHIM*, Case C-498/07 P, where the CJEU found that:

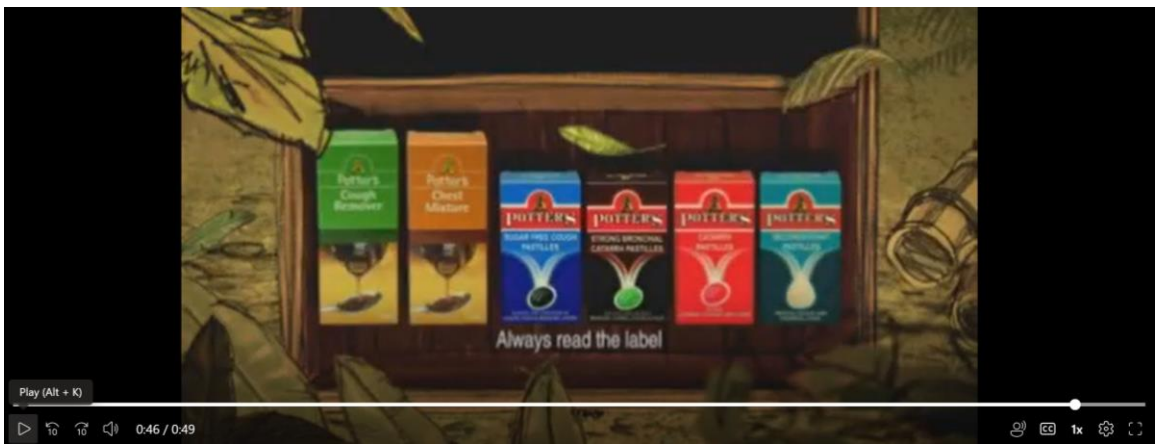
> "82. First, although the possibility cannot be ruled out that the coexistence of two marks on a particular market might, together with other elements, contribute to diminishing the likelihood of confusion between those marks on the part of the relevant public, certain conditions must be met. Thus, as the Advocate General suggests at points 28 and 29 of his Opinion, the absence of a likelihood of confusion may, in particular, be inferred from the 'peaceful' nature of the coexistence of the marks at issue on the market concerned.
>
> 83. It is apparent from the file, however, that in this case the coexistence of the La Española and Carbonell marks has by no means been 'peaceful' and the matter of the similarity of those marks has been at issue between the two undertakings concerned before the national courts for a number of years."

45. I note that these proceedings are not the first between the two parties regarding marks relating to the term 'Potter's' and the parties did reference those previous proceedings in their skeleton arguments. Therefore, it would not appear that the co-existence has been wholly peaceful. I note that the parties had a joint advertising campaign in 2009; however, this was for a short period of time and issues have arisen between the parties since then.

[1] *Budejovicky Budvar NP v Anheuser-Busch Inc,* Case C-482/09, EU:C:2011:605

46. Secondly, there must be substantial parallel trade for a long period. In this instance, Ms Delpopolo has shown within the evidence that the parties are actually of shared origin (Exhibits 1-6). The evidence shows that the Potter's brand has existed in some form since 1812 and has since gone through multiple owners. The opponent purchased the 'Potter's Catarrh Pastilles' brand in 1991. The applicant purchased the Potter's business which is related to the class 5 goods other than catarrh pastilles in 2015. The applicant shows that they have had Traditional Herbal Registrations from the UK Ministry of Health since 1972 (Exhibits SLD 8 & 9). Exhibit SLD11 shows the name Potter's on packaging but I note, as pointed out by the opponent, that this poster states these goods are being distributed in the US and not the UK. Exhibit SLD12 shows a product catalogue which is not dated but has the prices are pre-decimal and SLD13 shows pictures of the Senna tablets being available on a website however, this is also not dated. These exhibits do seem to indicate that 'Potter's Herbals' items have been offered for some time. However, I have not been provided with any sales or turnover figures regarding their goods. I cannot therefore say that any parallel trade has been substantial.

47. I have reviewed the video advertisements submitted at Exhibit SLD16 and do not believe the average consumer would be able to identify from those adverts that the goods came from different undertakings and no such mention is made. I am including a screenshot from the video titled "The Explorer and the Rotter" which comes at the end and shows the products side by side, I note the marks are presented differently but given no guidance, I believe the average consumer will contribute this to the same undertaking using a different presentation of their mark on different products.



48. I note the article explaining the joint advertising campaign at Exhibit SLD17, it appears to be from a website called 'Chemist + Druggist' and therefore, it would seem that it is a website that is aimed at pharmaceutical professionals rather than the public at large. In any case, I have not been provided with any details regarding the reach or readership of this article so cannot say that this would have provided the details of the two undertakings working together to a significant number of consumers.

49. Given I cannot say there has been significant parallel trade by the parties, it also does not follow that consumers have therefore been conditioned to understand that the goods on offer are from two different undertakings. I do not therefore find that the defence of honest concurrent use has been made out.

Conclusion

50. The oppositions succeed in their entirety, subject to any appeal.

Costs

51. The opponent has been successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. I award the opponent the sum of **£2050**, calculated as follows:

Official fees	£200[2]
Preparing the Notices of opposition and considering the counterstatements	£300
Preparing evidence and considering the other side's evidence	£750
Preparing for and attending a hearing	£800

[2] £100 per opposition

Total	**£2050**

52. I therefore order Soho Flordis UK Limited to pay Ernest Jackson & Co. Limited the sum of £2050. This sum should 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 14th day of May 2024

L Nicholas
For the Registrar