

O/0548/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004027189

IN THE NAME OF 30CC LTD

TO REGISTER THE FOLLOWING TRADE MARK:

stanleys

IN CLASS 21

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. OP000448446

BY PACIFIC MARKET INTERNATIONAL, LLC

Background and pleadings

1. On 18 March 2024, 30CC LTD (“the Applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was accepted and published in the Trade Marks Journal on 05 April 2024 in respect of the following goods:

Class 21: Glass mugs; Cup holders; Washing brushes; Bowls; Coffee mugs; Coffee cups; Carpet-cleaning brushes; Dishwashing brushes; Dustbins; Pastry boards; Pet feeding and drinking bowls; Baking utensils; Lockable non-metal household containers for food; Drinking straws; Household containers; Ice cube molds; Pastry molds; Household plastic gloves; chopsticks; kitchen stands and cutlery drainers; rolling pins and pastry boards; chopping boards; toaster bags; table mats; food scrapers; trays; ice cream scoops; cast-iron cookware; oven gloves; fruit squeezers; spice racks; biscuit/tea/coffee jars; kitchen utensil holders; non-disposable cups; non-disposable plates; non-disposable roasting pans; non-disposable grill pans; non-disposable roasting dishes; food-warming stones; bread-warming stones; hand-operated food processors; juice pressers; corkscrews; bottle-openers; jar-openers; teapots; coffee pots; chip baskets; orange and lemon zesters; flour/sugar sprinklers; butter dishes; gloves for household purposes.

2. On 04 July 2024, Pacific Market International, LLC (“the Opponent”) opposed the application under Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”).¹ The opposition is directed against all goods in the application. The Opponent relies upon the following three marks:

STANLEY

UK Registration no. UK00900206763 (“the ‘763 mark”)

¹ At the time of filing the form TM7, the opposition was also based upon Section 5(3) and Section 5(4)(a) of the Act, however, on 14 May 2025 the Opponent requested to remove these grounds of opposition. This change was communicated to the Applicant in the official letter of 03 July 2025.

Filing date: 01 April 1996

Date of registration: 19 January 2000

Relying upon the following goods:

Class 21: Insulating vessels and containers; mugs, cups, flasks and vacuum bottles, all being insulating; insulated coolers.



UK Registration no. UK00801428919 ("the '919 mark")

Filing date: 12 August 2018

Priority date: 13 February 2018 (UNITED STATES OF AMERICA)

Date of registration: 20 March 2019

Relying upon the following goods:

Class 21: Insulated containers for food or beverages; cups and mugs; vacuum bottles; vacuum cups; vacuum mugs; vacuum bowls; non-electric portable coolers; jugs; growlers; flasks; food preserving jars of stainless steel; drinking steins; tumblers for use as drinking glasses; non-electric French presses; coffee pots not of precious metal; canteens; cookware, namely, pots and pans.

STANLEY

UK Registration no. UK00811202123 ("the '123 mark")

Filing date: 04 June 2015

Date of registration: 05 May 2016

Relying upon the following goods:

Class 21: Vacuum bottles, mugs and jars for food or beverages; food jars; flasks; mugs; cups; water bottles; portable household food and/or beverage containers.

3. Under Article 54 of the Withdrawal Agreement between the UK and the EU, the UK IPO created comparable UK trade marks for all right holders with an existing registered EUTM or International Registration designating the EU. As a result, the Opponent's marks were converted into comparable UK trade marks. Comparable UK marks are now recorded in the UK trade mark register, have the same legal status as if they had been applied for and registered under UK law, and the original filing dates remain the same.²
4. By virtue of their earlier filing dates, and in respect of the '919 mark, its priority date, the above registrations all constitute earlier marks within the meaning of section 6 of the Act. As the earlier '763 mark and '123 mark completed their registration process more than five years before the filing date of the application in issue, they are subject to the use provisions contained in section 6A of the Act, and the Opponent made a statement that it has used its marks in relation to the goods relied on.
5. However, the Applicant only requested that the Opponent provide proof of use for 'coffee pots not of precious metal' and 'canteens', being goods that are only present in the specification of the '919 mark. As the '919 mark had not completed its registration process more than five years before the filing date of the application in issue, it is not subject to the use provisions contained in section 6A of the Act. The parties therefore proceeded on the basis that no proof of use was requested.³
6. In view of the above, the Opponent can rely upon all of the goods it has identified without having to demonstrate use.

² See also Tribunal Practice Notice ("TPN") 2/2020 End of Transition Period – impact on tribunal proceedings.

³ Applicant's TM8 and counterstatement, in response to question 7. The official letters of 28 November 2024 and 04 February 2025 directed the Applicant to review/amend the list of goods for which they request proof of use. As no response was received, the official letter of 14 March 2025 confirmed to the parties that the case would proceed on the basis that no proof of use was requested.

7. The Opponent submits that the marks are highly similar and that the goods at issue are identical or highly similar.
8. The Applicant filed a counterstatement within which it denied the claims made and submits that the mark 'differs significantly from the Opponent's trademark in terms of appearance and sound'.⁴
9. Neither party filed evidence during proceedings. Neither party requested a hearing, however, the Opponent filed submissions in lieu of a hearing. This decision is taken following a careful consideration of the papers.
10. The Applicant represents themselves; the Opponent is represented by Barker Brettell LLP.
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.

Preliminary Issues

Prior use of the mark

12. The Applicant has raised points in its counterstatement which I intend to address before going any further into the merits of this opposition. This is because it is necessary to explain why, as a matter of law, these points will have no bearing on the outcome of this opposition.

⁴ Applicant's TM8 and counterstatement, paragraph 2.

13. In its counterstatement, the Applicant submits that the goods associated with its trademark are mostly children's crafts.⁵ This submission does not assist the Applicant. Only differences shown in the specifications are relevant. In any event, the applied for mark does not contain goods or services relating to children's crafts, nor do such goods fall within Class 21.
14. The Applicant also submits that the trade channels differ, as the goods are sold through their own website and social media platforms.⁶ This submission does not assist the Applicant either, as where the parties currently sell their goods in the marketplace is not relevant to my assessment. As parties' marketing strategies are transitional and can change with the passage of time, it would be inappropriate to take such factors into account when approaching the prospective analysis of a likelihood of confusion.⁷
15. In this decision, I am required to make the assessment of the likelihood of confusion notionally and objectively based on the Applicant's goods, as applied for, and the Opponent's goods, as registered, in accordance with the relevant case law. That assessment requires that I must not take into account the actual way that either party has used their marks in the marketplace or the kinds of goods that those marks have been used in relation to thus far. Rather, I must consider all of the circumstances in which the mark applied for might be used if it were registered.⁸

No evidence of confusion

16. The Applicant submits that the marks have coexisted in the market since 18 March 2024 (being the date of the contested trade mark application) without any instances of actual confusion.⁹ I must clarify that the absence of actual confusion will not have any bearing on whether there exists a likelihood of confusion between the Applicant's mark and the Opponent's marks. Whilst evidence of actual confusion may be persuasive where it exists, the absence of confusion in the marketplace,

⁵ Applicant's TM8 and counterstatement, paragraph 1.

⁶ Applicant's TM8 and counterstatement, paragraph 2.

⁷ *Devinlec Développement Innovation Leclerc SA v OHIM*, Case C-171/06P

⁸ *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C- 533/06, [66].

⁹ Applicant's TM8 and counterstatement, paragraph 3.

especially over such a short period (i.e. since the date of application), is rarely significant.¹⁰ This is because the absence of confusion may be attributable to a mark having only been used to a limited extent, in relation to only some of the goods for which it is registered, or in such a way that there has been no possibility of the one being mistaken for the other.¹¹

DECISION

Section 5(2)

17. The opposition is based upon Section 5(2)(b) of the Act, which reads as follows:

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

(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”.

18. 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

¹⁰ *The European Limited v The Economist Newspaper Ltd* [1998] FSR 283.

¹¹ *Roger Maier and Another v ASOS*, [2015] EWCA Civ 220.

make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

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

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

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

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

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

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

Comparison of goods

19. The goods for comparison are as follows:

Opponent's goods	Applicant's goods
STANLEY (The '763 mark)	stanleys
Class 21: Insulating vessels and containers; mugs, cups, flasks and vacuum bottles, all being insulating; insulated coolers.	Class 21: Glass mugs; Cup holders; Washing brushes; Bowls; Coffee mugs; Coffee cups; Carpet-cleaning brushes; Dishwashing brushes; Dustbins; Pastry boards; Pet feeding and drinking bowls; Baking utensils; Lockable non-metal household containers for food; Drinking straws; Household containers; Ice cube molds; Pastry molds; Household plastic gloves; chopsticks; kitchen stands and cutlery drainers; rolling pins and pastry boards; chopping boards; toaster bags; table mats; food scrapers; trays; ice cream scoops; cast-iron cookware; oven gloves; fruit squeezers; spice racks; biscuit/tea/coffee jars; kitchen utensil holders; non-disposable cups; non-disposable plates; non-disposable roasting pans; non-disposable grill pans; non-disposable
 (The '919 mark)	
Class 21: Insulated containers for food or beverages; cups and mugs; vacuum bottles; vacuum cups; vacuum mugs; vacuum bowls; non-electric portable coolers; jugs; growlers; flasks; food preserving jars of stainless steel; drinking steins; tumblers for use as drinking glasses; non-electric French presses; coffee pots not of precious metal; canteens; cookware, namely, pots and pans.	

STANLEY (The ‘123 mark)	roasting dishes; food-warming stones; bread-warming stones; hand-operated food processors; juice pressers; corkscrews; bottle-openers; jar-openers; teapots; coffee pots; chip baskets; orange and lemon zesters; flour/sugar sprinklers; butter dishes; gloves for household purposes.
Class 21: Vacuum bottles, mugs and jars for food or beverages; food jars; flasks; mugs; cups; water bottles; portable household food and/or beverage containers.	

20. In *Gérard Meric v OHIM*, Case T-133/05, the General Court (“GC”) stated that:

“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”.

21. When making the comparison, all relevant factors relating to the goods 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 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.

22. Guidance on this issue has come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

- 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.

23. 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 and services. In *Boston Scientific Ltd v OHIM*, Case T-325/06, the GC stated that “complementary” means:

“82. ...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”.

24. For the purposes of considering the issue of similarity of the goods, it is permissible to consider groups of terms collectively where appropriate: *Separode Trade Mark*, BL O-399-10.

25. While making my comparison, I bear in mind the comments of Floyd J. (as he then was) in *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch):

"12. ... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise. ... Nevertheless the principle should not be taken too far. ... Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

26. The Opponent has provided submissions on how the goods compare. I have taken all of these into account and will refer to them to the extent that is necessary below. From the outset I note that I do not have any submissions (nor indeed any evidence) from the parties which would assist me in interpreting the terms contained in their specifications.

Glass mugs; Coffee mugs, Coffee cups; non-disposable cups.

27. The Opponent submits that these goods are identical to "mugs, cups" within their '763 registration. I agree. Whilst the Opponent's goods are subject to the limitation "all being insulated", they are nevertheless sub-categories of the Applicant's goods and are therefore identical under the *Meric* principle.

Bowls.

28. The Opponent submits that the Applicant's above goods are identical to "vacuum bowls" within its '919 mark. "Vacuum bowls" are a type of insulated bowl. I consider they are encompassed with the Applicant's above broader category of goods. They are therefore identical on the principle outlined in *Meric*.

Pet feeding and drinking bowls.

29. The Applicant's goods would be designed with functional considerations specific for use by animals, which distinguish them from ordinary household bowls for human use. For example, they may be chew resistant; be shaped specifically for ease of use by animals etc. The Opponent submits that the Applicant's goods are

identical to “vacuum bowls” within their ‘919 mark, I agree, as they are not limited to bowls for human use and therefore could encompass vacuum bowls suitable for pets, for example, bowls that insulate pet food for travel purposes. They are therefore identical on the principle outlined in *Meric*.

30. In the alternative, they are highly similar goods. Both are, in essence, bowls for holding food and/or liquids, sharing the same fundamental nature, purpose and method of use. The fact that the former are defined by their insulating properties, while the latter are defined by their intended use for pets, does not alter their core function, and they may be used interchangeably in practice. Accordingly, I find a high degree of similarity between the goods.

Biscuit/tea/coffee jars.

31. The Opponent submits that its “food preserving jars of stainless steel” within its ‘919 mark are identical to the Applicant’s above goods. The Applicant’s goods are jars for storing food or dried drink products, which may or may not be made of stainless steel. In view of this, I consider that the Applicant’s above goods encompass the Opponent’s “food preserving jars of stainless steel”. They are therefore identical on the principle outlined in *Meric*.

32. In the alternative, they are highly similar, this is because the goods overlap in user, method of use and purpose as they are all jars which foodstuffs are placed inside for storage, preservation or transportability. As set out above, the nature of the goods will overlap where the Applicant’s containers are made of stainless steel, however, the Applicant’s goods could be made from a range of materials, including glass, ceramic or metal. I consider that the average consumer would likely expect an undertaking providing jars for biscuits, tea or coffee, to also produce jars with specific food preservation qualities – for example, they may have air-tight seals. The goods will likely be sold within the same retailers of kitchen accessories, or kitchen departments in general retail stores, where they are likely to be placed within close proximity to one another. The goods are in competition, as a consumer may choose to purchase a food preservation jar over a coffee jar, for example, due

to its ability to keep the coffee fresh and enhance its longevity. I do not consider the goods to be complementary in the way set out in caselaw.

Coffee pots.

33. The Opponent submits that its “coffee pots not of precious metal” within its ‘919 mark are identical to the Applicant’s above goods. I consider that the Applicant’s above broad category of coffee pots would encompass those not made of precious metal. They are therefore identical on the principle outlined in *Meric*.

Cast-iron cookware.

34. The Opponent submits that its “cookware, namely, pots and pans” within its ‘919 mark are identical to the Applicant’s above goods. Cookware is a range of pans and pots and pans which are used in cooking. In view of this, I consider that the Applicant’s above goods encompass the Opponent’s “cookware, namely, pots and pans”. They are therefore identical on the principle outlined in *Meric*.

Non-disposable roasting pans; non-disposable grill pans; non-disposable roasting dishes; trays.

35. The Opponent submits that its “cookware, namely, pots and pans” within its ‘919 mark are identical to the Applicant’s above goods. The Applicant’s goods are all types of pans/trays for cooking, which I consider are all encompassed within the Opponent’s broader category “cookware, namely, pots and pans”. They are therefore identical on the principle outlined in *Meric*.

Lockable non-metal household containers for food; Household containers.

36. The Opponent submits that its “portable household food and/or beverage containers” within its ‘123 mark are identical to the Applicant’s above goods. The competing goods are all intended for the storage of food and drinks, with the Opponent’s goods pertaining only to portable containers, while the Applicant’s goods cover a broader range of household containers. In view of this, I consider the

Applicant's above broad categories of goods encompass the Opponent's "portable household food and/or beverage containers". They are therefore identical on the principle outlined in *Meric*.

Butter dishes.

37. Butter dishes are containers specifically intended to hold butter. I consider the Applicant's above goods overlap in user and method of use with the Opponent's "portable household food [...] containers" within its '123 mark, as food is placed inside of them by the general public for storage, or to protect it from contamination. The purpose and nature overlap to the extent that they are both containers to hold food. However, while the Opponent's "portable household food [...] containers" are designed to enable the user to easily transport and store food. This differs to butter dishes which are specifically designed to be a size and shape suitable for holding butter (and protect it from contaminants), usually comprising of a flat base and a domed lid. Butter dishes are generally used on a table, or in a refrigerator, rather than being portable containers. The goods at issue will both likely be sold in the homeware department of general retailers, where they will likely be placed within close proximity to one another. I do not consider that the goods are in competition as an individual seeking a portable food container is unlikely to choose to buy a butter dish, and I do not consider the goods to be complementary in the way set out in caselaw. Overall, I consider the goods to be similar to a medium degree.

Teapots.

38. I consider that the Applicant's 'teapots' overlap in user, purpose and method of use with the Opponent's "*coffee pots not of precious metal*" within its '919 mark. I say this because coffee pots and teapots will both be used by the general public for brewing hot beverages. While the Opponent's goods are specifically for coffee, and the Applicant's are specifically for tea, the nature of the goods overlap, as both goods are vessels designed for brewing hot beverages, usually encompassing a lid and spout to aid pouring. The goods will likely be sold in the homeware department of general retailers and in specialist retailers (specialising in the sale of both tea and coffee), where they will likely be placed within close proximity to one another. I

consider there to be a limited degree of competition to the extent that a consumer purchasing equipment for preparing hot beverages may choose between tea and coffee making items depending on the beverage they intend to prepare. I do not consider the goods to be complementary in the way set out in caselaw. Overall, I consider the goods to be similar to a medium degree.

Pastry molds.

39. I understand pastry molds to be types of molds which pastry is placed into in order to form it in specific shapes while it bakes. The Opponent's "cookware, namely, pots and pans" within its '919 mark, are goods which food is placed inside for the purpose of cooking or baking. In view of this, I consider that the Applicant's above goods overlap in purpose, method of use and user when compared with the Opponent's goods. There is also some overlap in nature, in that the respective goods are all items of cookware. Although pastry molds have a more specific function of shaping pastry, the Opponent's pans are a broad category of goods which encompass pans used to shape food while it bakes, such as cake pans. The goods will likely be sold in the same kitchenware retailers, or within the same department of general retailers, where they will likely be placed within close proximity to one another. I consider that there is a degree of competition as an individual seeking to cook pastry may choose a pan over a specific pastry mold, however, I do not consider the goods to be complementary in the way set out in caselaw. Overall, I consider the goods to be similar to a medium to high degree.

Non- disposable plates.

40. The Applicant's above goods overlap in user, purpose and method of use with the Opponent's "vacuum bowls" as they are all items on or in which food is placed for consumption, and they are both non-disposable items for the serving or consumption of food. Therefore, albeit one has insulating properties, the nature and purpose of the respective goods overlap and they would have the same method of use and share the same user. The goods will likely be sold by the same general retailers, where they are likely to be placed in the same aisles. There is a degree of competition between the goods as a consumer may choose to eat from a vacuum

bowl rather than a non-disposable plate, however, I do not consider the goods to be complementary in the way set out in caselaw. Overall, I consider the goods to be similar to a medium to medium-high degree.

Chopsticks; ice cream scoops; Baking utensils.

41. The Applicant's above goods are all types of hand-held utensils and implements used while eating or preparing food and/or serving food. Whilst the Opponent's specifications for its three earlier marks do not contain utensils and/or eating implements, they nonetheless contain various forms of insulated vessels and containers for food, namely "insulating vessels and containers" (under the '763 mark); "insulated containers for food or beverages; vacuum bowls" (under the '919 mark), and "vacuum bottles, mugs and jars for food or beverages" (under the '123 mark). Whilst these vessels and containers are used to hold food for storage and/or consumption, and therefore differ in nature, purpose and use from the Applicant's contested goods, there is nonetheless an overlap in user. The manufacturer of food containers is likely to also be the same manufacturer of eating implements such as chopsticks and food-related utensils such as ice cream scoops and spatulas (the latter being an example of a baking utensil); they are also likely to be sold by retailers of kitchen/dining accessories, or within kitchen/dining ware departments of general retailers. On this basis, I also consider the respective goods to share the same trade channels. However, I do not consider the goods to be in competition, as the average consumer will not purchase a food container in place of a utensil for eating or preparing food, nor do I consider them to be complementary in the way set out in caselaw. Overall, I consider the goods to be similar to a low to medium degree.

Cup holders.

42. The Applicant's above goods overlap in user with the Opponent's "cups" within its '123 mark, however, they differ in nature, purpose and method of use. Cups are vessels which hold liquids and are designed to be drunk from, whereas a cup holder ensures that a cup remains in an upright position to prevent spills and/or hold the cup in place. I consider that both goods will be sold by retailers of homeware and

would be found in the same aisles and likely on adjacent shelves; and where they are sold by retailers of outdoor or adaptive accessories, they too would be on the same aisles and adjacent shelves. The goods are not in competition, as the average consumer will not purchase a cup holder in place of a cup, however, there is a level of complementarity as a cup holder is unable to perform its core function without a cup. Moreover, when taking into account that a cup holder may be specifically adapted to fit certain types/brands of cups, the average consumer may think that that goods originate from the same undertaking. Overall, I consider the goods to be similar to a low to medium degree.

Drinking straws.

43. The Applicant's above goods overlap in user with the Opponent's "water bottles" and "portable household [...] beverage containers" within its '123 mark, however, they differ in nature, purpose and method of use as portable beverage containers are vessels which hold liquids, usually for transport or storage, while a straw is placed into a drink and sucked on to make drinking out of a drinking vessel or drink container easier. Drinking straws could be provided with water bottles and portable beverage containers to make drinking easier on the go. However, for drinking straws that are sold separately, I consider the average consumer would be unlikely to expect the goods to come from the same undertaking. The goods at issue are likely to both be sold by the same retailers, where they are likely to be sold within close proximity of each other. The goods are not in competition, as the average consumer will not purchase a drinking straw in place of a water bottle or portable beverage container. I consider that there is a level of complementarity as a water bottle and/or portable beverage container are indispensable to the use of a straw. In addition, taking into account that a straw may be specifically adapted to fit certain beverage containers or bottles, the average consumer may think that that goods originate from the same undertaking. Overall, I consider the goods to be similar to a low degree.

Food-warming stones; bread-warming stones.

44. It is my understanding, based on the ordinary meaning of the words, that the Applicant's goods are specific stones which are intended to be heated and placed under food to keep it warm for service. I compare these with the Opponent's "insulating vessels and containers" within the '763 specification.
45. The goods differ in nature, this is because a heating stone is only ever likely to be put on a dining table in order for a dish to be placed on top of it, whereas the Opponent's goods are the vessels themselves. The Opponent's goods, which would encompass food and drink flasks, also have an element of portability, so that the consumer can keep their food warm on the go, and a heating stone is not of that nature.
46. Whilst a stone is not a vessel which can contain food, I do not overlook that the competing goods are both intended to keep food warm, therefore they have an overlap in purpose (albeit the Opponent's goods would also be able to keep them cold too due to their insulating properties), and they would also share the same users. Although the Opponent's goods are likely to be more widely available through general retailers, I do not discount that they may also be sold by cookware and homeware retailers, the latter of which would also sell the heating stones. Therefore it is likely there is an overlap in trade channels.
47. Due to the difference in nature, particularly the element of portability, I do not consider the goods would be in competition and I also do not consider they are complementary either. Overall, I consider the goods to be similar to a low degree.

Food scrapers; fruit squeezers; Chip baskets; hand-operated food processors; juice pressers; corkscrews; bottle-openers; jar-openers; orange and lemon zesters; flour/sugar sprinklers; Ice cube molds; Pastry boards; rolling pins and pastry boards; chopping boards; toaster bags.

48. The Opponent has not provided any submissions of where its best-case lies in relation to these applied-for goods.

49. The Applicant's above goods are all tools or accessories used in the preparation of food or drink. Whilst the Opponent's specifications for its three earlier marks do not contain tools or accessories for the preparation of food/drink, they do contain various forms of insulated vessels and containers which may be used during the preparation of food, I therefore compare the Applicant's goods to the Opponent's following goods: "insulating vessels and containers" (under the '763 mark); "insulated containers for food or beverages; vacuum bowls" (under the '919 mark), and "vacuum bottles, mugs and jars for food or beverages" (under the '123 mark).

50. Whilst the Opponent's vessels and containers may be used alongside the Applicant's goods, they differ in nature, purpose and use from the Applicant's goods as they are specifically used to hold food for storage and/or consumption, rather than being used in their preparation. Although there is an overlap in user however, this is on too general a level and is insufficient on its own to engage a finding of similarity. I do not consider the respective goods would be in competition with each other as the average consumer will not purchase an insulated vessel or container in place of the Applicant's tools/accessories, nor do I consider them to be complementary (in the way set out in caselaw) to the earlier goods. While the goods at issue are likely to both be sold by the same retailers, or the kitchenware departments of general retailers, they are unlikely to be placed within close proximity to one another. Taking all the foregoing into account, I consider the Applicant's above goods to be dissimilar to the earlier goods.

Dustbins.

51. The Opponent has not provided any submissions of where its best-case lies in relation to these applied-for goods. The Applicant's goods are containers for waste disposal, whereas the Opponent's combined earlier specifications can largely be characterised as covering insulated and non-insulated containers and vessels for storing, transporting, and consuming food and beverages (including drinkware, flasks, bottles and portable coolers), as well as certain cookware and coffee preparation items. Taking this into account, I do not consider that any of the Opponent's earlier goods are similar with the Applicant's "dustbins", this is because they differ in nature and purpose; they would not be in competition with each other

as the average consumer will not purchase any of the earlier goods in place of a bin, nor do I consider them to be complementary (in the way set out in caselaw) to the earlier goods. While the goods at issue are likely to both be sold by the same retailers, they are likely to be found in different departments and are unlikely to be placed within close proximity to one another. I consider that there is a degree of overlap in user (as in the user of the earlier goods will also likely be the user of dustbins), however, this on too general a level and is insufficient on its own to engage a finding of similarity. Taking all the foregoing into account, I consider “dustbins” to be dissimilar to the earlier goods.

Kitchen stands and cutlery drainers; spice racks; kitchen utensil holders.

52. I consider there is an overlap in user with the Opponent’s “portable household food and/or beverage containers” within its ‘123 mark, however, the goods differ in nature, purpose and method of use. I say this because the Applicant’s goods are kitchen storage and organisation accessories used to hold/store kitchen items, namely dishes, cutlery, utensils and spice jars, while the Opponent’s goods are used to hold food and drink. Although they are likely to be sold in the kitchen departments of general retailers, I do not consider that they will be placed in close proximity to one another. I do not consider the goods to be in competition, as the average consumer will unlikely purchase a container in place of a kitchen accessory, nor do I consider them to be complementary in the way set out in caselaw. Although there is an overlap in user, this is on too general a level to render the goods similar. Overall, I consider the goods to be dissimilar.

Household plastic gloves; gloves for household purposes; oven gloves.

53. The Applicant’s above goods are types of gloves, which will encompass those used in the preparation and cooking of food. I consider there is an overlap in user with the Opponent’s “portable household food and/or beverage containers” within its ‘123 mark, being members of the general public who are preparing food, however, I consider that this in itself is insufficient to engage a finding of similarity. The goods differ in nature, purpose and method of use, as the Applicant’s gloves are placed on a person’s hands for hygiene or protection, while portable household

food and/or beverage containers are used to contain food/drinks for storage, transport or preservation. I do not consider that the average consumer will expect the goods at issue to come from the same undertaking, and although the goods are likely to be sold in the kitchen departments of general retailers, I do not consider that they would be placed within close proximity to one another. I do not consider the goods to be in competition, as the average consumer will not purchase a container in place of household gloves, nor do I consider them to be complementary in the way set out in caselaw. Overall, I consider the goods to be dissimilar.

Table mats.

54. The Opponent has not provided any submissions of where its best-case lies in relation to these applied-for goods. The Applicant's 'table mats' are tableware accessories. While there is an overlap in user with the Opponent's "mugs", I consider that this in itself is insufficient to engage a finding of similarity. The goods differ in nature, purpose and method of use, as table mats are placed beneath plates while eating to prevent damage to the table or for decoration, while mugs are containers used to hold liquids for drinking. Although the goods are likely to be sold by the same retailers, they are unlikely to be placed on adjacent shelves. I do not consider the goods to be in competition, as the average consumer will not purchase a mug in place of a table mat, nor do I consider them to be complementary in the way set out in caselaw. Overall, I consider the goods to be dissimilar.

Washing brushes; Dishwashing brushes; Carpet-cleaning brushes.

55. The Applicant's goods are a range of different types of brushes for cleaning purposes, whereas the Opponent's combined earlier specifications (as set out in paragraph 51) can largely be characterised as covering insulated and non-insulated containers and vessels for storing, transporting, and consuming food and beverages (including drinkware, flasks, bottles and portable coolers), as well as certain cookware and coffee preparation items. Taking this into account, I do not consider that any of the Opponent's earlier goods are similar with the Applicant's various types of brushes, this is because they differ in nature and purpose; they would not be in competition with each other as the average consumer will not

purchase any of the earlier goods in place of a brush, nor do I consider them to be complementary (in the way set out in caselaw) to the earlier goods. While the goods at issue are likely to both be sold by the same retailers, they are likely to be found in different departments and are unlikely to be placed within close proximity to one another. I consider that there is a degree of overlap in user (as in the user of the earlier goods will also likely be the user of brushes), however, this is on too general a level and is insufficient on its own to engage a finding of similarity. Taking all the foregoing into account, I consider the Applicant's various brushes to be dissimilar to the earlier goods.

56. It is a prerequisite of section 5(2)(b) that the goods be identical or at least similar. As per *eSure*,¹² in relation to the goods which I have found to be dissimilar, as there can be no likelihood of confusion under section 5(2), I will take no further account of such goods, with the opposition failing to that extent. The opposition under section 5(2)(b) therefore fails at this juncture for the following goods:

Class 21: Washing brushes; Carpet-cleaning brushes; Dishwashing brushes; Dustbins; Pastry boards; Ice cube molds; Household plastic gloves; kitchen stands and cutlery drainers; rolling pins and pastry boards; chopping boards; toaster bags; table mats; food scrapers; oven gloves; fruit squeezers; spice racks; kitchen utensil holders; hand-operated food processors; juice pressers; corkscrews; bottle-openers; jar-openers; chip baskets; orange and lemon zesters; flour/sugar sprinklers; gloves for household purposes.

Average consumer and the purchasing act

57. As the case law above indicates, it is necessary to determine who the average consumer is for the goods and services at issue. I must then determine the manner in which the goods and services are likely to be selected by the average consumer.

58. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of

¹² *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

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.

59. 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.

60. I consider the average consumer for the goods at issue to be members of the general public or businesses concerned with the preparation of food/drinks. The goods will be self-selected from retail outlets or their online equivalents. Given the process of selection, the marks' visual impact is likely to play the greater role, though I do not discount the opportunity for aural recommendations made, for example, by salespeople. The cost of the products will vary, from low-cost goods such as drinking straws, to higher cost goods such as cast-iron cookware, but all are generally affordable. The goods will likely be purchased infrequently, however, some goods may be replaced more frequently than others. Various factors are likely to be taken into consideration during the purchasing process, including the cost, aesthetic appearance and durability.

61. Weighing all factors, I consider that, where the average consumer is a member of the general public, they will apply a medium degree of attention to the purchase. Where the average consumer is a business I consider that they will pay a slightly higher degree of attention to the purchase, as the goods are likely to be important to the running and success of their business. However, I bear in mind that the likelihood of confusion must be assessed from the perspective of the former (the general public) since they are the group who will pay the lower degree of attention.¹³

Comparison of the marks

62. The respective trade marks are shown below:

Opponent's trade mark	Applicant's trade mark
STANLEY (The '763 mark)	stanleys

¹³ Case T-356/14, *CareAbout v OHMI - Florido Rodríguez (Kerashot)*, paragraph 25.

 (The '919 mark)	
STANLEY (The '123 mark)	

63. The Applicant's mark consists of the word, 'stanleys', absent of any stylisation or embellishments; its overall impression lies solely in that word.

'763 and '123 marks

64. The Opponent's '763 and '123 marks are identical, and as such I will consider these marks simultaneously. The marks consist of the word, 'STANLEY', absent of any stylisation or embellishments; their overall impression lies solely in that word.

65. Visually, the Applicant's mark shares the same initial seven letter sequence with the word "STANLEY" in the Opponent's '763 and '123 marks. The additional letter 'S' at the end of the Applicant's mark acts as a point of visual difference; although not negligible, it may be overlooked by the average consumer as they would perceive it merely as a pluralisation of the name Stanley. Overall, I consider the '763 and '123 marks and the Applicant's mark to be visually similar to a very high degree.

66. Aurally, the marks all coincide in the word "STANLEY", which will be pronounced in the ordinary way. The additional letter "-S" at the end of the Applicant's mark is the only point of aural difference, however, since it is a soft sounding letter sitting at the end of the word, it does not represent a significant point of difference and does not in any event alter the pronunciation of the letter sequence 'Stanley'. Overall, I consider the '763 and '123 marks and the Applicant's mark are aurally similar to a very high degree.

67. Conceptually, I consider that a significant proportion of UK average consumers will recognise the word “STANLEY” in both marks as a male forename. The additional letter “-S” at the end of the Applicant’s mark will be seen as indicative of the plural version of the name; I do not consider such pluralisation will materially impact the conceptual similarity of the shared forename. Overall, I consider the ‘763 and ‘123 marks and the Applicant’s mark are conceptually identical, if not similar to a very high degree.

‘919 mark

68. The Opponent’s ‘919 mark consists of a figurative element and the words “STANLEY SINCE 1913”. The figurative element, presented in black and white, is a stylised bear with wings, above the bear’s head is a small crown. Below the figurative element is the word “STANLEY” in a stylised (relatively plain) font. Below the word “STANLEY” are the words “SINCE 1913” in a standard black font, which is likely to be understood as the date on which the business behind the mark was established. It is not an uncommon practice throughout a range of industries for businesses to display the year they began trading, and as such I consider that this element, while not negligible, has little distinctiveness within the mark. Owing to its size and positioning at the centre of the mark (and bearing in mind that the eye is naturally drawn to the element of the mark that can be read)¹⁴ I consider that the word “STANLEY” has an independent and distinctive role in the mark. Overall, I consider that the figurative element and word “STANLEY” play the greatest roles in the overall impression of the mark, with the words “SINCE 1913” playing a lesser role.

69. Visually, the Applicant’s mark shares the same initial seven letter sequence with the word “STANLEY” in the ‘919 mark. The additional letter ‘S’ at the end of the Applicant’s mark acts as a point of visual difference, however, this has little distinctiveness within the mark as it is likely to be perceived merely as a pluralisation and may therefore be overlooked by the average consumer. A further point of visual difference is the figurative winged bear and crown elements which have no

¹⁴ *Migros-Genossenschafts-Bund v EUIPO – Luigi Lavazza (CReMESPRESSO)*, Case T-189/16, paragraph 52

counterpart in the Applicant's mark. The 'since 1913' element of the mark is another point of visual difference, however, as set out in paragraph 68, I consider this element has little distinctiveness within the mark and may be overlooked by the average consumer. Overall, I consider that the '919 mark and the Applicant's mark are visually similar to a medium degree.

70. Aurally, the marks coincide in the word "STANLEY", which will be pronounced in the ordinary way. The additional letter "-S" at the end of the Applicant's mark is a point of aural difference, however, as set out in paragraph 66, it does not create much of an aural divergence between the words. The '919 mark introduces a further point of aural difference in the words "since 1913", however, given my assessment of the relative weight that wording plays in the overall impression of the mark I consider that the consumer is unlikely to pronounce it when referencing the mark.¹⁵ I consider it likely that the average consumer would merely articulate the word 'Stanley'. The figurative winged bear and crown elements will not be articulated and therefore have no effect on an aural comparison. Overall, I consider that the '919 mark and the Applicant's mark are aurally similar to a high degree.

71. Conceptually, I consider that a significant proportion of UK average consumers will recognise the word "STANLEY" in both marks as a male forename. The additional letter "-S" at the end of the Applicant's mark will be seen as indicative of the plural version of the name; I do not consider such pluralisation will materially impact the shared concept of a male forename.

72. I consider the words "since 1913" will be seen by the average consumer as the date which the business behind the mark was established. For the reasons set out earlier in my decision, whilst this element acts as a point of conceptual difference between the marks, I do not consider it to be particularly distinctive and will have little relative weight in the conceptual comparison. The figurative element in the '919 mark, evokes the concept of what it is depicting, i.e. a winged bear wearing a crown. This acts as a point of conceptual difference.

¹⁵ *ENRICH LEARNING*, BL O/1141/25, [16] – [18].

73. Overall, I consider the '919 mark and the Applicant's mark to be conceptually similar to a medium degree, owing to the shared common element 'STANLEY', which has an independent distinctive role in the '919 mark.

Distinctive character of the earlier trade mark

74. The distinctive character of a trade mark can be appraised only, first, by reference to the goods in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91. In *Lloyd Schuhfabrik*, 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).”

75. Whilst distinctiveness is assessed by reference to the mark as a whole, simply stating the overall level of distinctiveness of the earlier mark is not sufficient, it is the distinctive character of the component or components that are similar between

the marks that is of particular relevance. In this regard, the Appointed Person in *Kurt Geiger v A-List Corporate Limited*¹⁶ stated:

“39. It is always important to bear in mind what it is about the earlier mark which gives it distinctive character. In particular, if distinctiveness is provided by an aspect of the mark which has no counterpart in the mark alleged to be confusingly similar, then the distinctiveness will not increase the likelihood of confusion at all. If anything it will reduce it.”

76. In other words, it is necessary to determine in what the distinctive character of the earlier mark lies, so that the analysis can focus on those components that are common to, or similar between, the marks at issue. Only after that has been done can a proper assessment of the likelihood of confusion be carried out.
77. Registered trade marks possess varying degrees of inherent distinctive character, being lower where 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 that has been made of it.
78. The Opponent has not filed any evidence to support that the earlier marks’ distinctive characters have been enhanced through use. Consequently, I have only the inherent position to consider.

The ‘763 and ‘123 marks

79. The Opponent’s marks are comprised of the word ‘STANLEY’, which will be recognised by a significant proportion of UK average consumers as a male forename. I do not consider that the name ‘STANLEY’ has any descriptive or allusive meaning in relation to the goods for which the mark is registered. In view of the above, I consider the Opponent’s ‘763 and ‘123 marks to be inherently distinctive to a medium degree.

¹⁶ BL O-075-13, [39] to [40].

The '919 mark

80. The Opponent's mark is comprised of a figurative element and the words "STANLEY SINCE 1913".

81. The word "STANLEY", as set out in paragraph 79, will be recognised by a significant proportion of UK average consumers as a male forename. Whilst the name does not have any descriptive or allusive meaning in relation to the goods for which the mark is registered, it is not especially distinctive and has only a medium degree of inherent distinctive character. The plain stylisation of this word does nothing to enhance its inherent distinctiveness.

82. As set out in paragraph 68, the words "since 1913" will be seen by the average consumer as the date which the business behind the mark was established, which I consider does little to add to the distinctive character of the mark overall.

83. The figurative element in the '919 mark consists of a stylised depiction of a bear with wings, which has a small crown above its head. It has no descriptive or allusive meaning in relation to the goods for which the mark is registered and is, in my view, relatively highly distinctive for the goods. It therefore makes the mark as a whole more distinctive. However, I keep in mind that it is the distinctive character of the element which is common to, or similar between, the marks that is of particular relevance. In this case, that element is "STANLEY", which has an independent distinctive role within the '919 mark and which I have found to be inherently distinctive to a medium degree.

Likelihood of confusion

84. I must now feed all of my earlier findings into the global assessment of the likelihood of confusion, keeping in mind the following factors: i) the interdependency principle, whereby a lesser degree of similarity between the goods or services may be offset by a greater similarity between the marks, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*); ii) the principle

that the more distinctive the earlier mark is, the greater the likelihood of confusion (*Sabel BV v Puma AG*), and; iii) the factor of imperfect recollection i.e. that consumers rarely have the opportunity to compare marks side by side but must rather rely on the imperfect picture that they have kept in their mind (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.*).

85. There are two types of confusion that may occur. Direct confusion is where the average consumer mistakes one mark for the other, while indirect confusion is where the average consumer recognises that the marks are different, but for some reason assumes that the later mark also identifies the goods or services of the owner of the earlier mark, or that the two undertakings are related: see *L.A. Sugar Limited v Back Beat Inc*, BL O/375/10, paragraph 16.

86. The following factors must be considered to determine if a likelihood of confusion can be established:

The '763 and '123 marks

87. The Opponent's '763 and '123 marks are identical, and as such I will consider these marks simultaneously.

- I have found the Applicant's mark and the Opponent's marks to be visually similar to a very high degree.
- I have found the Applicant's mark and the Opponent's marks to be aurally similar to a very high degree.
- I have found the Applicant's mark and the Opponent's marks to be conceptually identical, if not similar to a very high degree.
- I have found the earlier marks to be inherently distinctive to a medium degree.
- I have identified the average consumer to be the general public or professionals concerned with the preparation of food/drinks. I have found that the average consumer will select the goods primarily by visual means, although I do not discount an aural component.

- I have concluded that the average consumer (bearing in mind that the likelihood of confusion must be assessed from the perspective of the group who will pay the lower degree of attention) will pay a medium degree of attention during the purchasing process.
- I have found the parties' goods still in contention to be between identical and similar to a low degree.

88. Taking all of the above into account, given that the average consumer rarely has the opportunity to compare marks side-by-side and will instead encounter them in different settings at different times will, to my mind, lead the average consumer to mistake one mark for the other, even for those who are paying a medium degree of attention during the purchasing process. This is on the basis that the Opponent's mark 'Stanley' is identically replicated in the first seven letters of the Applicant's mark, which, as noted above, the average consumer tends to pay more attention to. I consider that the average consumer would easily overlook or imperfectly recall the "-S" at the end of the Applicant's mark, especially as it will likely be perceived as merely a pluralisation of the name 'Stanley'. In view of the very high visual, aural and conceptual similarity of the marks, I consider that there is a likelihood of direct confusion, even for the goods which I have found to be similar to a low degree, due to the effect of the interdependency principle.

The '919 mark

- I have found the Applicant's mark and the Opponent's mark to be visually similar to a medium degree.
- I have found the Applicant's mark and the Opponent's mark to be aurally similar to a high degree.
- I have found the Applicant's mark and the Opponent's mark to be conceptually similar to a medium degree.
- I have found the 'STANLEY' element within the earlier mark to be inherently distinctive to a medium degree.
- I have identified the average consumer to be the general public or professionals concerned with the preparation of food/drinks. I have found

that the average consumer will select the goods and services primarily by visual means, although I do not discount an aural component.

- I have concluded that the average consumer (bearing in mind that the likelihood of confusion must be assessed from the perspective of the group who will pay the lower degree of attention) will pay a medium degree of attention during the purchasing process.
- I have found the parties' goods to be between identical and similar to a low degree.

89. Taking all of the above into account, given that the average consumer rarely has the opportunity to compare marks side-by-side and will instead encounter them in different settings at different times will, to my mind, lead the average consumer to mistake one mark for the other, even for those who are paying a medium degree of attention during the purchasing process. This is on the basis that the average consumer would pin their recollection of the marks on the shared use of the word "STANLEY" due to it playing an independent distinctive role in the Opponent's mark and being replicated in full at the beginning of the Applicant's mark. I consider this will be the case even where the purchasing process is primarily visual. I consider that the average consumer will easily overlook the words "SINCE 1913" and additional letter "-S" as they have little distinctiveness in the respective marks. Weighing all the factors, I consider that there is a likelihood of direct confusion, even for the goods I have found to be similar only to a low degree, due to the effect of the interdependency principle.

CONCLUSION

90. The opposition based upon 5(2)(b) has been partially successful. Subject to any successful appeal against my decision, trade mark application number 4027189 shall:

(1) be refused registration in respect of the following goods:

Class 21: Glass mugs; Cup holders; Bowls; Coffee mugs; Coffee cups; Pet feeding and drinking bowls; Baking utensils; Lockable non-metal household containers for food; Drinking straws; Household containers; Pastry molds; chopsticks; trays; ice cream scoops; cast-iron cookware; biscuit/tea/coffee jars; non-disposable cups; non- disposable plates; non-disposable roasting pans; non-disposable grill pans; non-disposable roasting dishes; food-warming stones; bread-warming stones; teapots; coffee pots; butter dishes.

(2) proceed to registration for the following goods:

Class 21: Washing brushes; Carpet-cleaning brushes; Dishwashing brushes; Dustbins; Pastry boards; Ice cube molds; Household plastic gloves; kitchen stands and cutlery drainers; rolling pins and pastry boards; chopping boards; toaster bags; table mats; food scrapers; oven gloves; fruit squeezers; spice racks; kitchen utensil holders; hand-operated food processors; juice pressers; corkscrews; bottle-openers; jar-openers; chip baskets; orange and lemon zesters; flour/sugar sprinklers; gloves for household purposes.

COSTS

91. As both parties have achieved what I regard as a roughly equal measure of success, I direct that both parties should bear their own costs.

Dated this 30th day of June 2026

Emma Rees
For the Registrar