

O/0697/23

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. UK00003798404
BY HSBRANDS LIMITED TO REGISTER THE FOLLOWING TRADE MARK:**

HSBrands

IN CLASS 35

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 600002555 BY TITEL MEDIA GmbH**

Background and Pleadings

1. On 13 June 2022, HSBrands Limited ('the Applicant'), filed an application to register the following trade mark:

HSBrands

2. The application was published for opposition purposes in the Trade Marks Journal on 22 July 2022. Registration is sought in respect of a lengthy list of services, the following of which are opposed:¹

Class 35:	<i>Retail services relating to jewelry; Retail services relating to furs; Retail services relating to clothing; Retail services in relation to jewellery; Retail services in relation to headgear; Retail services in relation to bags; Retail services relating to home textiles; Retail services in relation to luggage; Retail services in relation to tableware; Retail services relating to sporting goods; Mail order retail services for clothing; Online retail services relating to jewelry; Online retail services relating to handbags; Retail services in relation to clothing; Retail services in relation to smartphones; Retail services relating to fake furs; Retail services relating to audiovisual equipment; Retail services in relation to footwear; Online retail services relating to luggage; Online retail services relating to clothing; Retail services in relation to smartwatches; Retail services in relation to recorded content; Retail services in relation to sporting equipment; Retail services in relation to printed matter; Retail services in relation to art materials; Retail services in relation to sporting articles; Retail services in relation to wearable computers; Retail services in relation to mobile phones; Online retail services for downloadable digital music; Online retail services for downloadable ring tones; Retail services in relation to time</i>
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¹ A full list of the services applied for is included at Annex 1 to this decision.

	<i>instruments; Retail services in relation to stationery supplies; Online retail store services relating to clothing; Retail services in relation to fashion accessories; Mail order retail services for clothing accessories</i>
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3. On 15 September 2022, the application was opposed by Titel Media GmbH ('the Opponent') based on section 5(2)(b) of the Trade Marks Act 1994 ('the Act'). The Opponent relies on the following earlier registration:

UK00801486872

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Filing date: 05 April 2019

Date of entry in register: 14 February 2020

The mark is registered for goods and services in classes 9, 16, 25, 35, 38 and 41. The Opponent relies on the following goods and services in classes 16, 25 and 35 only:

Class 16:	<i>Printed matter; photographs; stationery; paper; posters; albums; cards; books; newspapers; magazines; periodicals; booklets; calendars; writing instruments; works of art [engravings or lithographs]; patterns for making clothes; graphic prints; paper stationery; bags (envelopes, pouches) of paper or plastics, for packaging; shields [paper seals]; stickers [stationery]; postcards.</i>
Class 25:	<i>Footwear; headgear; clothing.</i>
Class 35:	<i>Provision of information and advisory services relating to e-commerce; providing information to consumers on goods and services; providing consumer product information; retail services via the internet in the field of watches, bags, clothing footwear,</i>

headgear, fashion accessories, decorations, printed matter, works of art, audio, visual and photographic equipment, data storage devices, recorded media, sporting goods and equipment; retail services in the field of watches, bags, clothing, footwear, headgear, fashion accessories, decorations, printed matter, works of art, audio, visual and photographic equipment, data storage devices, recorded media, sporting goods and equipment; online or catalogue mail order services in the field of watches, bags, clothing, footwear, headgear, fashion accessories, decorations, printed matter, works of art, audio, visual and photographic equipment, data storage devices, recorded media, sporting goods and equipment; dissemination of advertisements; dissemination of advertising material [leaflets, prospectuses, printed matter, samples]; demonstration of goods; radio advertising; television advertising; dissemination of advertising, for others, via digital communications networks; presentation of goods in communication media, for the retail trade; providing information and advice to consumers in commercial and business matters [consumer advice]; organization of exhibitions for commercial or advertising purposes; computerized file management; compilation of information into computer databases; business information; rental of advertising space; publicity material rental; advertising and marketing of online websites; rental of advertising time on communication media; marketing; sponsorship search; production of advertising films; drafting and publication of publicity texts; banner advertising; updating of advertising material; organization of fashion shows for promotional purposes; news clipping services; arranging newspaper subscriptions [for others]; arranging subscriptions to telecommunication services for others; public relations services; auctioneering services; compilation and systemization of data in computer-aided databases; presentation of companies on the internet and other media; arranging and concluding commercial transactions for others, also by means of e-commerce; provision of

	<p><i>an on-line marketplace for buyers and sellers of goods and services; arranging commercial transactions, for others, via online shops; advertising, marketing and promotional services; product demonstrations and product display services; demonstration of goods and services by electronic means, also for the benefit of the so-called teleshopping and homeshopping services; brand strategy services.</i></p>
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4. The Opponent claims that:

- the parties' marks are visually, conceptually and phonetically very similar;
- the Applicant's opposed services in class 35 are identical and similar to the Opponent's services in class 35 and similar to the Opponent's goods in classes 16 and 25;
- that the Opponent's mark is highly distinctive;
and
- that there is likelihood of confusion between the parties' marks.

5. The Applicant filed a Defence and Counterstatement in which it denies the claim against it in its entirety.

6. Rule 6 of the Trade Marks (Fast Track Opposition) (Amendment) Rules 2013, S.I. 2013 No. 2235, disapplies paragraphs 1-3 of Rule 20 of the Trade Marks Rules 2008, but provides that Rule 20(4) shall continue to apply. Rule 20(4) states that:

“(4) The registrar may, at any time, give leave to either party to file evidence upon such terms as the registrar thinks fit.”

7. The net effect of these changes is to require parties to seek leave in order to file evidence in fast track oppositions. No leave was sought in respect of these proceedings.

8. Rule 62(5) (as amended) states that arguments in fast track proceedings shall be heard orally only if (i) the Office requests it or (ii) either party to the proceedings

requests it and the registrar considers that oral proceedings are necessary to deal with the case justly and at proportionate cost; otherwise, written arguments will be taken. A hearing was neither requested nor considered necessary. Only the Opponent has filed written submissions in lieu of a hearing.

9. The Opponent is represented by Foot Anstey LLP; the Applicant represents itself. I will not summarise the Opponent's written submissions, but I confirm that I have read them and will refer to them in my decision where appropriate. The following decision has been made after careful consideration of the papers before me.

Decision

Section 5(2)(b) of the Act and related case law

10. Section 5(2)(b) of the Act states:

“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.”

11. In accordance with section 6 of the Act, the Opponent's mark is an earlier mark by virtue of its filing date (5 April 2019) which fell before the filing date of the Applicant's mark (13 June 2022).

12. Section 6A of the Act provides that where the date on which the registration procedure of the earlier mark was completed more than 5 years prior to the application date (or priority date) of the applied-for mark, the Opponent may be required to prove use of the earlier mark. In the instant case, section 6A is not engaged because the Opponent's mark had been registered for less than 5 years

on the date on which the Applicant filed its Application for the registration of its mark. The Opponent is therefore entitled to rely upon all of the goods and services that it seeks to rely upon.

13. The following principles are derived from the decisions of the Court of Justice of the European Union² (“CJEU”) 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 OHIM*, Case C-3/03; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C120/04; *Shake 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

² Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Trade Marks Act relied on in these proceedings are derived from an EU Directive. This is why this decision continues to make reference to the trade mark case-law of EU courts.

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 and services

14. Section 60A of the Act provides:

(1) For the purpose of this Act goods and services-

(a) are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification.

(b) are not to be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

(2) In subsection (1), the 'Nice Classification' means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, which was last amended on 28 September 1975.

15. The CJEU in *Canon*, Case C-39/97, stipulates that all relevant factors relating to the parties' goods and services must be taken into account:

"[23] "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".

16. Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281³, identified the following factors for assessing similarity of the respective goods and services:

(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;

³ *British Sugar Plc v James Robertson & Sons Ltd* [1996] R. P. C. 281, pp 296-297.

(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.

17. Goods (or services) may be grouped together for the purposes of assessment, as Geoffrey Hobbs QC (as he then was), sitting as the Appointed Person, said in *Separode Trade Mark* BL O-399-10:

“The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision.”

18. In making an assessment between the competing services, I bear in mind the decision of the General Court in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05:

“29. ... 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”.

19. In construing the terms used in the parties' specifications, I will follow the guidance of Floyd J. (as he then was) in *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch):

"... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR) [2012] ETMR 42 at [47]-[49].

Nevertheless, the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of 'dessert sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each involved a straining of the relevant language, which is incorrect. 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."

20.

21. The Opponent set out in its written submissions where it considers the identity and/or similarity of the parties' respective services and goods lies.⁴ I set out in the following table which services I find to be identical, either by virtue of identically or synonymously-worded terms, or according to the principle in 'Meric':

Opponent's services:	Applicant's services:
<p>Class 35: <i>retail services via the internet in the field of clothing;</i> <i>online or catalogue mail order services in the field of clothing;</i> <i>retail services in the field of clothing;</i></p>	<p>Class 35: <i>Retail services relating to clothing; Mail order retail services for clothing; Retail services in relation to clothing; Online retail services relating to clothing; Online retail store services relating to clothing;</i></p>

⁴ Opponent's written submissions, paragraphs [18] to [21].

<p><i>retail services via the internet in the field of bags;</i></p> <p><i>retail services in the field of bags;</i></p> <p><i>online or catalogue mail order services in the field of bags;</i></p>	<p><i>Retail services in relation to bags;</i></p> <p><i>Retail services in relation to luggage;</i></p> <p><i>Online retail services relating to handbags; Online retail services relating to luggage;</i></p>
<p><i>retail services via the internet in the field of headgear;</i></p> <p><i>retail services in the field of headgear;</i></p> <p><i>online or catalogue mail order services in the field of headgear;</i></p>	<p><i>Retail services in relation to headgear;</i></p>
<p><i>retail services via the internet in the field of watches;</i></p> <p><i>retail services in the field of watches;</i></p> <p><i>online or catalogue mail order services in the field of watches;</i></p>	<p><i>Retail services in relation to time instruments;</i></p>
<p><i>retail services via the internet in the field of sporting goods and equipment;</i></p> <p><i>retail services in the field of sporting goods and equipment;</i></p> <p><i>online or catalogue mail order services in the field of sporting goods and equipment;</i></p>	<p><i>Retail services relating to sporting goods; Retail services in relation to sporting equipment; Retail services in relation to sporting articles;</i></p>

<p><i>retail services via the internet in the field of footwear;</i></p> <p><i>retail services in the field of footwear;</i></p> <p><i>online or catalogue mail order services in the field of footwear;</i></p>	<p><i>Retail services in relation to footwear;</i></p>
<p><i>retail services via the internet in the field of audio, visual equipment;</i></p> <p><i>retail services in the field of audio, visual equipment;</i></p> <p><i>online or catalogue mail order services in the field of audio, visual equipment;</i></p>	<p><i>Retail services relating to audiovisual equipment;</i></p>
<p><i>retail services via the internet in the field of fashion accessories;</i></p>	<p><i>Retail services in relation to fashion accessories; Mail order retail services for clothing accessories</i></p>
<p><i>retail services via the internet in the field of recorded media;</i></p> <p><i>retail services in the field of recorded media;</i></p> <p><i>online or catalogue mail order services in the field of recorded media;</i></p>	<p><i>Retail services in relation to recorded content; Online retail services for downloadable digital music; Online retail services for downloadable ring tones</i></p>

<p><i>retail services via the internet in the field of printed matter;</i></p>	<p><i>Retail services in relation to printed matter;</i></p>
<p><i>retail services in the field of printed matter;</i></p>	
<p><i>online or catalogue mail order services in the field of printed matter;</i></p>	

22. I disagree with the Opponent's submission that the Applicant's *Retail services in relation to smartwatches* are 'Meric' identical to the Opponent's services. Although the Opponent's specification contains the retail of watches, I do not consider 'watches' to be synonymous with 'smartwatches'. The essential function of a watch is, to my mind, to tell the time. Although a smartwatch also has this function, it is, essentially, an electronic device designed to be worn on the wrist. My view is reinforced by the fact that the Nice classification system places 'watches' class 14 and 'smartwatches' in class 9. I address the Applicant's *Retail services in relation to smartwatches* below at [32].

23. The following paragraphs consider the extent to which any of the Applicant's other contested services are similar to the Opponent's goods and services.

Applicant's services: *Retail services relating to jewelry; Retail services in relation to jewellery; Online retail services relating to jewelry*

24. The Opponent has compared these applied-for services to the Opponent's 'retail services via the internet/retail services/online or catalogue mail order services in the field of watches [and] fashion accessories', arguing that the services are similar because 'fashion accessories' can include 'jewellery', and 'jewelry' can include watches. It is submitted that 'it is common for watches to have a more fashionable

than functionable [sic] purpose.⁵ The Opponent submits that retail services relating to jewellery are similar to retail services relating to watches and fashion accessories 'as there is an overlap in their nature, end users and methods of use'.⁶

25. I first compare the Applicant's services to the Opponent's *retail services in the field of fashion accessories*. The purpose of retail services is the bringing together of goods making them available for purchase. The parties' services will differ in purpose in terms of the respective goods to which their retail services relate, namely, jewellery (Applicant) versus fashion accessories (Opponent). Users of both parties' services will be the general public. Users will overlap somewhat because both jewellery and fashion accessories are often sought as items to adorn the body, in many cases complementing an outfit. The overlap will not be total, however; I recognise that 'fashion accessories' would likely include items like clutch bags, which are carried rather than used to adorn the body. I also acknowledge that not all purchases of jewellery are made in order to 'accessorise' an outfit, e.g. engagement/wedding/eternity rings. Trade channel overlap is, to my mind, possible, although not inevitable. An average consumer might occasionally presume the same undertaking to offer retail services related to jewellery as well as those related to fashion accessories such as gloves and clutch-bags etc. The parties' acts of service will be similar, albeit the goods to which they relate will differ. Methods of use of the retail services will be identical; i.e. entering the retail premises and inspecting goods, or visiting a website and reading product descriptions. I find the respective services to be in competition in some instances; a consumer seeking an item of jewellery might visit a retailer of fashion accessories. I do not find complementarity; neither party's retail service is necessary or important for each other, even if the average consumer did presume both services to originate from the same undertaking. I find the parties' services to be similar to a medium degree.

26. I disagree with the Opponent's submission that watches are deemed items of jewellery. I accept that many watches contain precious metals and that they are often valued for their decorative properties. However, I am of the view that watches

⁵ Opponent's written submissions in lieu of a hearing, paragraph [20].

⁶ As above.

are primarily sought for their function as timepieces (although a consumer will likely seek a watch that is also visually appealing). That said, I find that retail services for watches and retail services for jewellery often share trade channels; shops often sell both jewellery and watches. Users will also often overlap. The services will be similar in nature and methods of use. I do not find competition between the services; retail services for jewellery are not substitutable for retail services for watches, despite both services often being available from the same outlet. For the same reason provided above at [25], I do not find complementarity, either. I find the parties' services to be similar to a medium degree.

Applicant's services: Retail services in relation to smartphones; Retail services in relation to mobile phones

27. The Opponent has submitted that these applied-for services are identical or 'Meric' identical to the Opponent's *retail services via the internet/retail services/online or catalogue mail order services in the field of watches, audio, visual and photographic equipment, data storage devices, recorded media*.⁷ The Opponent argues that 'smartphones and mobile phones are audio, visual and photographic equipment and/or data storage devices' and submits that if they are not identical, they are highly similar by virtue of overlapping end users, methods of use, competition and complementarity between the parties' respective services.⁸

28. Whilst the Opponent's submission is noted, I do not consider smartphones and mobile phones to be one and the same as, or encompassed by, 'audio, visual and photographic equipment' or 'data storage devices'. Although smartphones and mobile phones have audio, visual and photographic functions and need to be able to store data, these functions are ancillary to their primary purpose which is to facilitate communication. I will therefore proceed with the usual comparison applying the 'Treat' factors.

29. I first compare the Applicant's smartphone/mobile phone retail services to the Opponent's retail services for 'data storage devices'. It is my understanding that

⁷ Opponent's written submissions in lieu of a hearing, at [19].

⁸ As above.

data storage devices are items of hardware, internal or external to electronic devices, which store data. Examples include, *inter alia*, computer hard drives, MP3 players and flash drives/memory sticks. User overlap is possible to the broad extent that users of smartphones (the public at large) might also be consumers of, for example, USB sticks or MP3 players, but this is not a significant factor in this case. Trade channels may overlap somewhat; some stores might sell both smartphones as well as MP3 players, for example. The natures and methods of use of the respective retail services will be similar. I do not find the services to be competitive; neither service being substitutable for the other. I do not find complementarity, either; although both parties' services might be offered by the same undertaking, neither retail service is necessary or important for the other. I find the parties' services to be similar to a medium degree. I do not consider that comparison of the Applicant's services with the Opponent's retail services in the fields of *watches, audio, visual and photographic equipment, or recorded media* would strengthen the Opponent's case.

Applicant's services: *Retail services relating to furs; Retail services relating to fake furs*

30. The Opponent has submitted that these applied-for services are 'Merici' identical to the Opponent's term *retail services via the internet/retail services/online or catalogue mail order services in the field of bags, clothing, footwear, headgear, fashion accessories* because, for example, a coat, as an item of clothing, can be made from either fur or fake fur.⁹ I accept that when referring to a fur coat or a fake fur coat, it is possible that a consumer may, informally, use the shorter expression of 'a fur' or 'a fake fur', but I do not accept that it is appropriate to conflate the material from which goods may be made (here, fur or fake fur) with the goods themselves. 'Furs' and 'fake furs' may be used in relation to goods that are not set out in the Applicant's specification, such as rugs or seat covers. Having in mind the need to construe services narrowly, I am loath to equate retail services for furs/fake furs, which are materials, with retail services for bags, clothing and fashion accessories simply because the latter goods may be made from fur or fake fur. The nature of the respective parties' acts of service will be similar, albeit the goods to

⁹ Opponent's written submissions in lieu of a hearing, at [19].

which they relate will differ. I do not find the parties' services to be complementary; neither party's retail service is necessary for the other. I find the parties' services to have a low level of similarity at best.

Applicant's services: *Retail services relating to home textiles; Retail services in relation to tableware*

31. The Opponent has submitted that the Applicant's services are of at least a medium level of similarity to the Opponent's class 35 terms: *Provision of information and advisory services relating to e-commerce; providing information to consumers on goods and services; providing consumer product information*. The Opponent argues that the Applicant's retail services will typically be supplemented with the provision of information on those goods or services, e.g. by way of product descriptions, whether online or in a retail premises.¹⁰ I first compare the Applicant's services to the Opponent's term *providing consumer product information*. The Applicant's services entail the bringing together and making available for purchase home textiles and tableware. The Opponent's services entail the provision of information about products. The purposes of the parties' services will therefore differ. Users will, to my mind, necessarily overlap; consumers of retail services will, in many instances, read or ask for information about the product that they are considering purchasing. Trade channels will also coincide; I find that information about the products to which the Applicant's retail services relate will, in the case of online goods, be found in product descriptions, and, in physical retail premises, staff will be available to provide information about the goods for sale. I do not find the respective services to be competitive, neither service being substitutable for the other. I do, however, find complementarity; the provision of consumer product information will be important to the retail of home textiles and tableware; many consumers will require information on the composition of, and how to care for, the goods, for example. I find the respective services to have a medium level of similarity.¹¹

¹⁰ Opponent's written submissions in lieu of a hearing, at [21].

¹¹ The Applicant's services will also have at least a medium level of similarity with the Opponent's *Provision of information and advisory services relating to e-commerce; providing information to consumers on goods and services*, for the same reasons given.

Applicant's services: *Retail services in relation to smartwatches; Retail services in relation to wearable computers;*

32. The Opponent has submitted that the Applicant's *retail services in relation to wearable computers* are similar to the Opponent's *retail services via the internet/retail services in the field of/online or mail order services in the field of watches, fashion accessories, storage devices*.¹² The Opponent argues that the respective services are similar 'because wearable computers can comprise a type of watch, fashion accessory and/or device that stores data' and that, therefore, the respective services are 'Meric' identical.¹³ I disagree that 'wearable computers' are 'Meric' identical to watches, fashion accessories and storage devices. In my view, the primary purpose for which 'wearable computers' are purchased is as an electronic device, albeit one that can be worn on the body, typically on the wrist. The fact that a wearable computer might also tell the time or be seen by some as a fashion accessory is, to my mind, secondary to its foremost purpose, i.e. that of being an electronic device.

33. I will therefore proceed with the usual comparison applying the 'Treat' factors. I first compare the Applicant's services to the Opponent's retail services for 'data storage devices'. As noted above at [29], I consider that data storage devices are items of hardware, internal or external to electronic devices, which store data (examples include, *inter alia*, computer hard drives, MP3 players and flash drives/memory sticks). User overlap is possible to the broad extent that users of smartwatches or wearable computers might also be consumers of USB sticks or MP3 players, for example, but this is not a significant factor in this case. Trade channels may overlap somewhat; some stores might sell both smartwatches/wearable computers as well as MP3 players, for example. The natures and methods of use of the respective retail services will be similar. I do not find the services to be competitive; neither retail service being substitutable for the other. I do not find complementarity, either; although both parties' services might be offered by the same undertaking, neither

¹² I have addressed the Opponent's submission regarding the Applicant's *retail services in relation to smartwatches* above at paragraph [22].

¹³ Opponent's written submissions in lieu of a hearing, at [19].

retail service is necessary or important for the other retail service. I find the parties' services to be similar to a lower than medium degree.

Applicant's services: *Retail services in relation to art materials; Retail services in relation to stationery supplies*

34. The Opponent has submitted that the Applicant's services are similar to the following of the Opponent's goods and services:

- *retail services via the internet in the field of/retail services in the field of/online or catalogue mail order services in the field of decorations, works of art. (class 35)*
and
- *printed matter; stationery; works of art [engravings or lithographs]; graphic prints; paper stationery; bags (envelopes, pouches) of paper or plastic, for packaging; stickers [stationery]. (class 16).*

35. The Opponent argues that the Applicant's services are similar to its class 35 services because decorations, printed matter and works of art are all made from or with art materials and stationery supplies and that there is a strong overlap in nature, end users and methods of use.¹⁴ It is also submitted that there is complementarity between the retail services. The Opponent also argues that the Applicant's services are complementary to the Opponent's class 16 goods and that users and trade channels will overlap.

36. I first compare the Applicant's *retail services in relation to stationery supplies* to the Opponent's class 16 goods *paper stationery*. When comparing goods against the retailing of goods, I bear in mind *Oakley, Inc v OHIM*, Case T-116/06, at paragraphs 46-57, in which the General Court held that although retail services are different in nature, purpose and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree.

¹⁴ Opponent's written submissions in lieu of a hearing, at [20].

37. I also note that on the basis of the European courts' judgments in *Sanco SA v OHIM*,¹⁵ and *Assembled Investments (Proprietary) Ltd v. OHIM*,¹⁶ upheld on appeal in *Waterford Wedgwood Plc v. Assembled Investments (Proprietary) Ltd*,¹⁷ Geoffrey Hobbs QC (as he then was) sitting as the Appointed Person in the MissBoo case,¹⁸ concluded that:

- i) Goods and services are not similar on the basis that they are complementary if the complementarity between them is insufficiently pronounced that, from the consumer's point of view, they are unlikely to be offered by one and the same undertaking;
- ii) In making a comparison involving a mark registered for goods and a mark proposed to be registered for retail services (or vice versa), it is necessary to envisage the retail services normally associated with the opponent's goods and then to compare the opponent's goods with the retail services covered by the applicant's trade mark;
- iii) It is not permissible to treat a mark registered for 'retail services for goods X' as though the mark was registered for goods X;
- iv) The General Court's findings in *Oakley* did not mean that goods could only be regarded as similar to retail services where the retail services related to exactly the same goods as those for which the other party's trade mark was registered (or proposed to be registered).

38. The Applicant's *retail services in relation to stationery supplies* entail the bringing together, and making available for purchase, stationery supplies. The goods to which the Applicant's retail services relate will encompass the Opponent's class 16 goods *stationery*. The Opponent's goods are typically used for or in relation to

¹⁵ Case C-411/13P

¹⁶ Case T-105/05, at paragraphs [30] to [35] of the judgment

¹⁷ Case C-398/07P

¹⁸ *Tony Van Gulck v Wasabi Frog Ltd*, Case BL O/391/14; see paragraph 9 of that ruling.

paperwork. The respective goods and services will therefore differ in purpose and methods of use. There will be user overlap; purchasers of the Opponent's goods will, in many cases, necessarily also be consumers of the Applicant's retail services. The goods and services are different in nature; the Applicant's goods being tangible items as compared to the Opponent's acts of service. Trade channels are shared; both the Opponent's retail services and the goods to which they relate will be accessed/purchased from the same stores/websites. In my view, although the Applicant's goods are necessary in order to deliver the retail services in respect of those goods, I consider it unlikely that the average consumer would presume that the provider of the retail services in respect of those goods also produces those goods. I find the parties' goods and services to have a low level of similarity. I do not consider that comparison of the Applicant's services *retail services in the field of decorations, works of art* would improve the Opponent's case. For instance, although both parties specify retail services, they are in respect of different goods - *decorations, works of art*, as contrasted with stationery. Despite the shared nature of the underlying services (retail), the relevant goods are different in nature and purpose, are not in competition with one another or complementary, and it is not self-evident that they share channels of trade.

39. I now compare the Applicant's *Retail services in relation to art materials* to the Opponent's *retail services in the field of works of art*. The parties' services will coincide in purpose to the broad extent that both entail the bringing together, and making available for sale, goods, albeit the services relate to different goods (art materials versus works of art). I consider user overlap to be unlikely; a purchaser seeking a work of art would unlikely be seeking art materials. Trade channel overlap is, in my view, unlikely (but not impossible). The average consumer would not, to my mind, presume the same undertaking to provide retail services in relation to both art materials and works of art. I find that an average consumer would typically expect works of art to be sold by galleries. The nature of the acts of service will be similar, albeit the goods to which the services relate will be different. I do not find the parties' services to compete, neither retail service being substitutable for the other. I do not find complementarity, either; I consider it unlikely that an average consumer would expect the undertaking to provide retail services in

respect of both artworks and art materials. I find the parties' services to be dissimilar. Bearing in mind the purposes, uses, methods of use, users, trade channels, and whether the parties' services and goods are competitive or complementary, I do not find the Applicant's *Retail services in relation to art materials* to be similar to any of the Opponent's goods or services.

Average consumer and the purchasing act

40. The average consumer is deemed to be reasonably well-informed and reasonably observant and circumspect. The word "average" denotes that the person is typical. 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*.

41. The average consumer of the goods and services at issue in this opposition will be the general public. The purchasing act will be primarily visual. The services will be accessed by entering the physical retail premises or visiting a retailer's website. Typically, the goods will be picked up or examined in physical shops, or, in the case of online purchases, product information will be read, before making a purchase. There may also be an aural aspect to the purchasing process, for instance, where a purchaser has accessed the services having first been alerted to the retailer by 'word of mouth'. In my view, the average consumer would pay no more than a medium level of attention when accessing the services or selecting the goods, taking into account factors such as, *inter alia*: the range of goods available for sale.

Comparison of the marks

Opponent's mark:	Applicant's mark:
<p>H S <u> </u></p>	<p>HSBrands</p>

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

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

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

Overall impression of the marks

44. The Opponent’s mark comprises the letters ‘H’ and ‘S’, emboldened and rendered in a plain typeface, separated by a large space. The space appears to be two characters’ width, relative to the ‘H’ and ‘S’. A bold continuous line appears underneath the letters and extends beyond the ‘S’. I am of the view that the overall impression resides in the mark in its entirety, with the letters (including their spacing) and underline both playing a visual role. I disagree with the Opponent’s submission that the underline will play a very minor role.¹⁹ My view is that the

¹⁹ Opponent’s written submissions in lieu of a hearing, at [10].

presence of the line brings unity to the ‘H’ and ‘S’, and that its boldness and length accord a measure of visual impact that is notable rather than minor.

45. The Applicant’s mark is a word mark²⁰ in a plain typeface consisting of the initials ‘HS’ conjoined to the word element ‘Brands’. Although the ‘Brands’ element of the mark is somewhat descriptive, the overall impression resides in the mark as a whole owing to the conjoining of ‘HS’ to ‘Brands’ to form one string. I disagree with the Opponent’s argument that the ‘Brands’ element plays a negligible role in the overall impression of the mark.²¹ I consider that the relative size of the element ‘Brands’, together with the fact that it is conjoined to the ‘HS’ element, mean that its presence will be registered visually, irrespective of the fact that it is somewhat descriptive.

Visual comparison

46. Both parties’ marks include the initials ‘HS’, which appear at the beginning of the Applicant’s mark. Both marks are rendered in a plain typeface. Both marks are relatively short marks, and it is my view that the greater number of characters present in the Applicant’s mark – seven versus the Opponent’s two - will be registered visually. The following points of difference will, in my view, also be discerned by the average consumer:

- the presence of the large space between the ‘H’ and ‘S’ in the Opponent’s mark, which is absent from the Applicant’s mark;
- the bold underline in the Opponent’s mark, which is absent from the Applicant’s mark;

²⁰ In *LA Superquimica v EUIPO*, Case T-24/17, at paragraph [39] it was held that:

‘[...] it should be noted that a word mark is a mark consisting entirely of letters, words or groups of words, without any specific figurative element. The protection which results from registration of a word mark thus relates to the word mentioned in the application for registration and not the specific figurative or stylistic aspects which that mark might have. As a result, the font in which the word sign might be presented must not be taken into account. It follows that a word mark may be used in any form, in any colour or font type (see judgment of 28 June 2017, *Josel v EUIPO — Nationale-Nederlanden Nederland (NN)*, T-333/15, not published, EU:T:2017:444, paragraphs 37 and 38 and the case-law cited).’

²¹ Opponent’s written submissions in lieu of a hearing, at [11].

- the presence of the ‘Brands’ element in the Applicant’s mark, which is absent from the Opponent’s mark.

47. Taking all of this into account, I find the marks to have a fairly low – lower than medium level of visual similarity.

Aural comparison

48. The Opponent’s mark will be articulated as ‘AITCH-ESS’. The Applicant’s mark will likely be articulated as ‘AITCH-ESS BRANDS’. The ‘HS’ elements of the marks are aurally identical. The aural difference between the marks is the presence of ‘BRANDS’ in the Applicant’s mark, which is absent from the Opponent’s mark. I find the marks to have a fairly high level of aural similarity.

Conceptual comparison

49. The ‘HS’ element will, in my view, be perceived as the initials of an unknown name or word, for both marks. There is, therefore, no clear conceptual hook to which the mind of the average consumer may attach. The word ‘Brands’ in the Applicant’s mark will be understood simply as a reference to the brands/’makes’ of goods or services sold under the mark. Although both marks feature the element ‘HS’ which has no clear concept, the additional element ‘Brands’ in the applied-for mark does have a concept. However, I am of the view that this is not an especially distinctive word in the context of retail services. While there is some overlap in use of the same pair of letters, and a conceptual difference introduced by ‘Brands’, given the weak distinctiveness of ‘Brands’, the conceptual position is more or less neutral.

Distinctive character of the earlier mark

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

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an

overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

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

51. Registered trade marks possess varying degrees of inherent distinctive character: perhaps lower where a mark may be suggestive or allusive of a characteristic of the goods, ranging up to those with high inherent distinctive character, such as invented words which have no allusive qualities.
52. The Opponent has submitted that: the earlier mark will be perceived as an acronym to which no meaning will attach; that it has neither an allusive nor ‘suggestive character in relation to the goods or services’ and that, therefore, the mark is highly distinctive.
53. I accept that the earlier mark neither describes nor alludes to the goods and services that come into play in this opposition. However, I consider that the average consumer will be accustomed to seeing the marks in the form of initials. I bear in mind *Kunze Folien GmbH v Kartell UK Limited*, BL O/084/14, in which Mr Iain Purvis QC, (as he then was) sitting as the Appointed Person, referred with approval

to a decision of the fourth Board of Appeal of OHIM (now the EUIPO), *Alfa-Beta Vissilopoulos AE v Agro de Bazan*, Case R 82/2011-4.²² The Board of Appeal considered the letters AB in a stylised form against AB in a different stylised form, saying at paragraph 16:

“As to the distinctive character of the letter combination ‘AB’ in the earlier marks and of the contested mark, either perceived as the letter ‘B’ or as a possible letter combination such as ‘PB’ or ‘AB’, it should be noted that letters or letter combinations of two or three letters are inherently weak, given the limited number of letters in the alphabet, the great number of meanings that acronyms and abbreviations may have and the fact that consumers frequently encounter abbreviations and letter combinations of all kinds in every day life and business as generic abbreviations but not as marks. In view of this, the graphical design in which the letter combinations appear strongly influences the consumer’s perception. The distinctive character of the conflicting marks to a large extent rests in their specific graphic elements.”

54. I also bear in mind that the Opponent’s mark is not merely an ‘initials’ mark, and that it has some stylisation by way of the large space between the two characters and the continuous bold underline. It is my view that the wide spacing of the letters ‘H’ and ‘S’, together with the continuous bold underline is an arrangement that would not be often be encountered in a trade mark. All things considered, I find that the earlier mark has a level of inherent distinctive character that remains fairly low, certainly no more than medium.

55. The Opponent has not adduced any evidence in these proceedings. I am therefore unable to make an assessment as to whether the earlier mark enjoys an enhanced level of distinctive character.

Likelihood of confusion

56. Confusion can be direct or indirect. Mr Iain Purvis QC, (as he then was) as the Appointed Person, explained the difference in the decision of *L.A. Sugar Limited v*

²² European Intellectual Property Office.

*Back Beat Inc*²³. Direct confusion occurs when one mark is mistaken for another. In *Lloyd Schuhfabrik*²⁴, the CJEU recognised that the average consumer rarely encounters the two marks side by side but must rely on the imperfect picture of them that they have kept in mind. Direct confusion can therefore occur by imperfect recollection when the average consumer sees the later mark but mistakenly matches it to the imperfect image of the earlier mark in their ‘mind’s eye’. Indirect confusion occurs when the average consumer recognises that the competing marks are not the same in some respect, but the similarities between them, combined with the goods at issue, leads them to conclude that the goods are the responsibility of the same or an economically linked undertaking.

57. I must keep in mind that a global assessment is required taking into account all of the relevant factors, including the principles a) – k) set out above at [13]. When considering all relevant factors ‘in the round’, I must bear in mind that a greater degree of similarity between goods *may* be offset by a lesser degree of similarity between the marks, and vice versa.

58. With the exception of the Applicant’s term *Retail services in relation to art materials*, I have found the opposed services to bear levels of similarity to the Opponent’s goods and services ranging from low to identical. However, I am of the view that the net effect of the visual and aural differences between the parties’ marks is sufficient to prevent the average consumer from mistaking one party’s mark for the other. I have found the marks to be visually similar to a fairly low – lower than medium degree. Despite both parties’ marks containing the element ‘HS’, I consider that the differences that I have identified between the marks will be noticed by the average consumer. Both parties’ marks are fairly short, making their difference in length particularly apparent visually and aurally. I find that there is no likelihood of direct confusion. I find this to be the case even where a medium level of attention is paid during the purchasing act.

²³ Case BL O/375/10 at [16].

²⁴ *Lloyd Schuhfabrik Meyer and Co GmbH v Klijsen Handel BV* (C-34297) at [26].

59. I now consider whether there is a likelihood of indirect confusion. I note that in the recent case of *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that “a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion”. Arnold LJ agreed, pointing out that there must be a “proper basis” for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.

60. I have borne in mind *Whyte and Mackay*²⁵ in which it was held that where an average consumer perceives that a composite mark consists of two or more elements, one of which has a distinctive significance independent of the mark as a whole, confusion may occur as a result of the similarity/identity of that element to the earlier mark. I note that the shared element ‘HS’ appears at the beginning of the Applicant’s mark conjoined to which is the word element ‘Brands’, which is somewhat descriptive of the services in respect of which registration is sought. I have found only a fairly low to no more than medium level of visual similarity between the marks. The marks are more or less conceptually neutral; although the ‘Brands’ element of the Applicant’s mark does have a concept, the word is not particularly distinctive in the context of retail services and there is no clear unifying concept between the marks. I have found the earlier mark to have a level of inherent distinctive character that is fairly low. My view is that the distinctiveness of the Opponent’s mark derives not merely from the initials ‘HS’, but from the mark as a whole. I find that the wide spacing between the characters ‘H’ and ‘S’, together with the bold continuous underline, is an unusual arrangement to see in a trade mark and something to which the average consumer will not often be exposed. Given this stylisation of the Opponent’s mark, the Opponent will only have protection afforded to the mark as it is presented on the register. I am of the view that the ‘HS’ element of the Applicant’s mark has a low level of inherent distinctive character following *Kunze Folien GmbH v Kartell UK Limited*, given the plain typeface and absence of stylisation. The inherent distinctive character of the ‘HS’

²⁵ *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271.

element of the Applicant's mark, in my view, derives merely from the fact that 'HS' neither describes nor alludes to the Applicant's services. Although the 'HS' element is the distinctive element of the Applicant's mark, its distinctiveness arises in a different way to that of the Opponent's mark. I find that the fact that the inherent distinctive character derives from the Opponent's mark as a whole points away from a finding of a likelihood of indirect confusion. The Opponent has, in my view, given no cogent rationale for a finding that the average consumer would presume both parties' marks to originate from the same or economically-related undertakings. I find that there is no likelihood of indirect confusion.

61. The Opposition has failed in its entirety. Subject to a successful appeal, the Application may proceed in respect of all of the services for which protection is sought.

COSTS

62. The Applicant is the successful party and is entitled to a contribution of £200 to its costs based upon the scale published in Tribunal Practice Notice 2/2016, calculated as follows:

Consideration of Opposition and preparation of Defence and Counterstatement	£200
Total:	£200

63. I therefore order Titel Media GmbH to pay to HSBrands Limited the sum of £200. This sum is to be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 20th day of July 2023

N. R. Morris

**For the Registrar,
the Comptroller-General**

Annex 1

The Applicant has applied for registration of its mark in respect of the following services:

Class 35:	<i>Retail services relating to jewelry; Retail services relating to furniture; Retail services relating to flowers; Retail services relating to furs; Retail services relating to candy; Retail services relating to clothing; Retail services relating to food; Retail services connected with stationery; Retail services relating to fruit; Business management of retail outlets; Retail services in relation to jewellery; Retail services in relation to headgear; Retail services in relation to meats; Retail services in relation to bags; Retail services in relation to furnishings; Retail services in relation to yarns; Retail services in relation to seafood; Retail services in relation to cocoa; Retail services relating to delicatessen products; Retail services in relation to paints; Retail services relating to alcoholic beverages; Retail services relating to home textiles; Shop retail services connected with carpets; Retail services in relation to toiletries; Retail services in relation to umbrellas; Retail services in relation to luggage; Retail services in relation to furniture; Retail services in relation to tableware; Retail services in relation to toys; Retail services in relation to desserts; Retail services in relation to coffee; Retail services in relation to beer; Retail services relating to sporting goods; Mail order retail services for clothing; Online retail services relating to jewelry; Online retail services relating to handbags; Online retail services relating to cosmetics; Retail services in relation to safes; Retail services relating to kitchen knives; Retail services relating to fragrancings preparations; Retail services relating to live animals; Retail services in relation to bicycles; Retail services in relation to clothing; Retail services in relation to weapons; Retail services in relation to cookware; Retail services in relation to threads; Retail services in relation to games; Retail services in relation to sorbets; Online retail services relating to toys; Mail order retail services for cosmetics; Retail services in relation to</i>
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smartphones; Retail services relating to fake furs; Retail services relating to bakery products; Retail services relating to horticultural equipment; Retail services relating to audiovisual equipment; Retail shop window display arrangement services; Retail services in relation to fabrics; Retail services in relation to footwear; Retail services in relation to cutlery; Retail services in relation to saddlery; Retail services in relation to confectionery; Retail services in relation to chocolate; Retail services in relation to teas; Retail services in relation to foodstuffs; Retail services in relation to tobacco; Online retail services relating to luggage; Online retail services relating to clothing; Retail services in relation to smartwatches; Retail services in relation to pushchairs; Retail services relating to horticultural products; Retail services in relation to recorded content; Retail services in relation to diving equipment; Retail services in relation to dietetic preparations; Retail services in relation to sanitation equipment; Retail services in relation to refrigerating equipment; Retail services in relation to freezing equipment; Retail services in relation to educational supplies; Retail services in relation to sporting equipment; Retail services in relation to horticulture equipment; Retail services in relation to hair products; Retail services in relation to kitchen appliances; Retail services in relation to printed matter; Retail services in relation to gardening articles; Retail services in relation to medical apparatus; Retail services in relation to medical instruments; Retail services in relation to veterinary instruments; Retail services in relation to sanitary installations; Retail services in relation to art materials; Retail services in relation to wall coverings; Retail services in relation to sporting articles; Retail services in relation to dairy products; Retail services in relation to wearable computers; Retail services via catalogues related to foodstuffs; Mail order retail services related to beer; Retail services in relation to mobile phones; Retail services in relation to pet products; Retail services in relation to gardening products; Online retail services for downloadable digital music;

Online retail services for downloadable ring tones; Retail services in relation to kitchen knives; Unmanned retail store services relating to drink; Retail services in relation to time instruments; Retail services in relation to cleaning articles; Retail services in relation to dietary supplements; Retail services in relation to veterinary preparations; Retail services in relation to veterinary articles; Retail services in relation to stationery supplies; Retail services in relation to sewing articles; Retail services in relation to baked goods; Retail services in relation to frozen yogurts; Retail services in relation to horticulture products; Business management of wholesale and retail outlets; Online retail store services relating to clothing; Retail services via catalogues related to beer; Mail order retail services related to foodstuffs; Retail services in relation to fashion accessories; Retail services in relation to bicycle accessories; Retail services in relation to fragrancings preparations; Retail services relating to food preparation implements; Mail order retail services for clothing accessories; Management of a retail enterprise for others; Retail services in relation to pharmaceutical preparations; Retail services in relation to sex aids; Retail services in relation to musical instruments.