

**BL O/0742/26**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF**

**TRADE MARK APPLICATION NUMBER 3904601**

**BY GUANGDONG LECHUANG ELECTRIC APPLIANCE CO., LTD**

**FOR THE TRADE MARK:**

**lecon chef**

**AND IN THE MATTER OF OPPOSITION THERETO**

**UNDER NUMBER 442516**

**BY DE LONGHI BENELUX S.A.**

## **BACKGROUND AND PLEADINGS**

1. This is an opposition by De Longhi Benelux S.A. (“the opponent”) to an application by Guangdong Lechuang Electric Appliance Co., Ltd (“the applicant”) to register trade mark number 3904601, shown below:

**lecon chef**

2. The date of application for registration is 25 April 2023. The specification for the trade mark concerns a range of goods in classes 7, 8, 11, and 21, shown in full at annexe 1.

3. The opposition is based on ss. 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”). Each of the grounds is directed against all of the goods in the specification.

4. The opponent relies upon its earlier registered trade mark number 3438050 for the word “CHEF”, which has a filing date of 21 October 2019 and was registered on 20 March 2020 in respect of “food mixers; attachments and accessories for food mixers” in class 7. The opponent relies upon all of these goods. As the earlier mark had not been registered for five years by the date upon which the contested trade mark was filed, which is the relevant date for the assessment under ss. 5(2)(b) and 5(3), the opponent is not required to show genuine use pursuant to s. 6A of the Act.

5. The opponent says that the contested trade mark is highly similar to the earlier mark and that the goods are identical or similar. It submits that there is a likelihood of confusion and requests that the contested trade mark be refused under s. 5(2)(b).

6. The opponent also asserts that the earlier mark has a reputation and that the contested mark would gain an unfair advantage, free riding on the opponent’s established good name and benefiting from the opponent’s investment in the earlier mark’s reputation. The opponent claims that the distinctive character of the earlier mark would be reduced and that consumers would be less able to identify the earlier mark as an exclusive indicator of origin. Consequently, the opponent asks that the application be refused under s. 5(3).

7. The opponent further claims that it enjoys a protectable goodwill, of which the sign “CHEF” is distinctive, in relation to the business it has operated since the 1950s in food mixers and accessories and attachments for food mixers. It asserts that use of the contested mark would give rise to a misrepresentation to the public that the applicant’s goods are offered by the opponent and/or that a commercial relationship exists between the applicant and opponent when it does not. It says that this will result in economic and reputational damage, as well as dilution. It asks that the application be refused under s. 5(4)(a) of the Act.

8. The applicant filed a counterstatement denying the claims. I will return to the detail as appropriate but I note that it says that it has used its trade mark for a long time and that it has “already owned great reputation and goodwill in the UK’s and China markets”.

9. Both sides filed evidence in these proceedings. The opponent also filed written submissions during the evidence rounds. Neither party requested a hearing. Only the opponent filed written submissions in lieu of a hearing. This decision is taken following a careful reading of all of the papers.

10. The opponent is represented by Mathys & Squire LLP, the applicant by Axis Professionals Ltd.

### **CASE MANAGEMENT**

11. A case management conference was held by me on 18 April 2024 in relation to a request by the opponent for confidentiality of some of its evidence. I granted that request in part, with my reasons contained in a letter of the same date.

### **EVIDENCE**

12. The opponent’s evidence is provided by Claude Geiben, Director with special powers of the opponent. Mr Geiben’s evidence all goes to the use which has been made of the earlier mark.

13. The applicant’s evidence is provided by Lingtang Wu, director of the applicant, who gives evidence about the applicant and the use which has been made of the contested mark.

14. I have read all of the evidence. I will refer to it, as I consider appropriate, in the course of this decision.

### **THE S. 5(2)(b) GROUNDS**

15. S. 5(2)(b) of the Act is as follows:

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

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark”.

16. S. 5A is relevant to all of the grounds of opposition and reads as follows:

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

17. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Paris Europe Inc & Anor* [2025] UKSC 25:

(a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

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

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

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

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

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

## Average consumer and the nature of the purchasing act

18. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer v Klijsen Handel BV*, C-342/97, EU:C:1999:323.<sup>1</sup>

19. In *Iconix*, 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;

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<sup>1</sup> 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.

(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.

20. The opponent submits that the average consumer will be a member of the public with a reasonably low level of attention, because the goods in question are to be used around the home daily, most with a relatively low price point.

21. I accept that many of the goods are to be used around the home. However, I do not agree that the average consumer is the general public for all of them. Many of the goods in the competing specifications will be purchased by both the general public and professionals. This includes many of the goods in class 7, which may be used in both domestic and professional settings, such as machines for making pasta, as well as goods in other classes, e.g., kitchen knives, food dehydrators and cooking utensils. Some of the contested goods, such as electric blenders for household purposes, are specifically identified as targeting a non-professional audience (i.e., the general public), whilst others, such as food chopping machines for commercial use, are directed at professionals. There are also goods such as packaging machines which are only directed at a professional audience.

22. For goods such as kitchen tools and cutlery, the general public is likely to pay a medium degree of attention, as they will take some care to select goods with satisfactory functional or aesthetic characteristics but the goods are not terribly expensive and a misjudged selection does not carry serious consequences. The professional user may be slightly more demanding in relation to such goods and will pay an above average degree of attention but I do not think that the level of attention will be any higher than this. Other goods, such as gas boilers, will be selected with a fairly high degree of attention by both the general public and professionals, given that they involve more significant outlay and factors such as reliability, efficiency and lifespan are likely to be considered. I will return to this when considering the likelihood of confusion.

23. The goods will be selected by consumers from the shelves of retail or wholesale outlets, or they will be viewed in catalogues and on websites prior to purchase. There may be an oral element to the selection, for example where the merits of particular products are discussed with sales representatives or tradespeople, but the purchasing process is likely to be predominantly visual for all of the goods.

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

24. In *Lloyd Schuhfabrik Meyer* the Court of Justice of the European Union 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).”

25. The word “CHEF” means a cook, usually a professional cook. In relation to food mixers and attachments and accessories for food mixers, it is likely to be understood as an indication that the goods prepare food like a professional cook (i.e., the machine is a metaphorical chef) and/or that the goods are high quality and suitable for professional cooks. It is not permissible to find that a registered trade mark is

descriptive or non-distinctive: *Formula One Licensing BV v OHIM*, Case C-196/11P [EU:C:2012:314]. Accordingly, the trade mark is inherently weakly distinctive.

### The evidence of use

26. The opponent's evidence is that a food mixer was first sold by the opponent's predecessor in title under the name "the Kenwood Electric Food CHEF" in 1950.<sup>2</sup> The 1992 prospectus for the "placing and public offer of shares" in Kenwood Appliances Plc says that "the Kenwood Chef is a well established product which has been developed over a long period and which enjoys wide public recognition" and "Kenwood's principal product is the Chef [...] used for whisking, beating and mixing and can be supplied with a wide range of attachments for other uses such as mincing and blending".<sup>3</sup> Materials produced for the 60<sup>th</sup> anniversary of the "CHEF" kitchen machine in 2010 include marketing material from the 1950s to the 1970s with multiple references to the "KENWOOD CHEF" kitchen machine, which mixes, whisks and kneads as well as offering other functions.<sup>4</sup> There is an image of the KM010 Chef Titanium, launched in 2010. The machine bears the mark "KENWOOD" above the control knob and "CHEF TITANIUM" below.<sup>5</sup> This is a presentation which appears from 2009. On some later machines, "CHEF" is presented on a separate line, e.g., above "TITANIUM" or "ELITE", or on another face of the machine.<sup>6</sup>

27. There are archive prints from kenwoodworld.com dated 2018 and 2019 relating to "the new Chef Sense from Kenwood UK".<sup>7</sup> The product is a stand mixer; a number of attachments are mentioned, including a blender, slicer and pasta rollers/cutters/shapers, and a knife blade is said to be "ideal for chopping meat, fish and vegetables". Further prints from the same website dated 22 April 2020, which has a category heading for "Chef and Chef XL", show several different types of stand mixer, all using "CHEF", e.g. "Titanium Chef KVC73005", "Chef Kitchen Machine White KVC3100W" and "Chef XL Sense Kitchen Machine Yellow & White KVL6100Y".<sup>8</sup> There are also archive prints from kenwoodworld.com (the pages are headed

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<sup>2</sup> Geiben, §9.

<sup>3</sup> Exhibits CG01, CG02.

<sup>4</sup> CG06. See also CG07.

<sup>5</sup> CG06, p. 4.

<sup>6</sup> See, for example, CG03, p. 12, CG07, CG08.

<sup>7</sup> CG03.

<sup>8</sup> *Ibid.*

Kenwood UK) for “Chef and Chef XL Attachments”. These say, “your Chef or Major mixer will perform a range of manual tasks to the highest level so you don’t have to” and they list “Chef and Major Attachments & Accessories”, e.g., “Chef Size Frozen Dessert Maker”, “Chef Size Creaming Beater”. In addition, there are instruction booklets, for “Chef & Major Attachments and Accessories”, namely a “Roto food cutter”, pasta maker, fruit press, pasta roller, grain mill, tagliatelle pasta attachment, grinder, colander & sieve, ice cream maker, food processor attachment, liquidiser, citrus juicer, juice extractor, multi mill, slicer/shredder, a potato peeler and a chipper plate.<sup>9</sup> The booklets are not dated. Mr Geiben’s evidence is that they “are available through retail outlets stocking ‘CHEF’ food mixers and/or provided as part the [sic] welcome pack for buyers of said machines”.<sup>10</sup>

28. Mr Geiben’s evidence is that the “CHEF” family of mixers “are” sold through department stores and specialist kitchen retailers, such as John Lewis and Lakeland. This is presumably the position as at the date of his statement in December 2023. Archive prints from the John Lewis website dated between 2015 and 2021 show a range of models for sale which include the name “Chef”, such as the “Kenwood KMC010 Chef Stand Mixer”, “Kenwood KCV7300S Chef Titanium Stand Mixer” and the “Kenwood Titanium Chef Pâtissier XL KWL90.004SI Food Mixer”. Prints from 2013 show “Kenwood Chef” grinder/mincer and multi-mill attachments for sale. There are also archive prints from lakeland.co.uk dated between 2016 and 2018 which show various machines for sale, including the “KENWOOD CHEF TITANIUM STAND MIXER KVC7300S”, “KENWOOD CHEF SENSE 4.6L STAND MIXER”, “KENWOOD COOKING CHEF MAJOR STAND MIXER & COOKER KM096” and the Kenwood Chef Elite. Attachments including a “Kenwood Chef Multi Mill Attachment and 3 Jars”, “Kenwood Chef Pro Slicer Grater Attachment” and the “Kenwood Chef 1L Ice Cream Attachment” are for sale in prints dated 2018, and a “KENWOOD MULTI MILL ATTACHMENT” is shown in prints from 2013.<sup>11</sup> In addition, the evidence includes prints dated September 2022 showing various stand mixers on sale from retailers such

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<sup>9</sup> CG05.

<sup>10</sup> Geiben, §12.

<sup>11</sup> CG12.

as Argos and Currys, with names such as “Kenwood Chef”, “Kenwood Titanium Chef Baker” and “Kenwood Chef Elite”.<sup>12</sup>

29. There are also sales invoices dated between 2009 and 2021 to UK customers such as Argos, John Lewis and Costco (one to a customer in Ireland I ignore).<sup>13</sup> Some entries include “KENWOOD CHEF” or “CHEF” in the description but it is not entirely clear what all of the products are. Mr Geiben says that “by cross-referencing with other Exhibits attached to this statement, such as Exhibits CG03, CG04 or CG05, and with the online extracts attached with the invoices, it is clear that the highlighted product codes relate to the “CHEF” branded products discussed above”. I can see that some of the product codes in the invoices between 2019 and 2022 correspond to “CHEF” stand mixers shown in exhibit CG03 and in exhibit CG09; these feature on the invoices in quantities of tens or hundreds. However, I cannot find all of the product codes and there do not appear to be any accessory codes in the more recent invoices (2019 onwards) which correspond to those in CG04. It is, for example, unclear whether products such as the “BLP400BK BLENDER” (p. 19) are attachments for “CHEF” mixers or are other types of blender. If the opponent wished to rely on specific product codes it should have made it clear precisely where those products are in the evidence.

30. Sales figures are provided which according to Mr Geiben show “numbers of ‘CHEF’ branded products sold in the UK specifically between 2016 and 2023”.<sup>14</sup> The figures show that in seven consecutive years (it is not clear which year each column relates to), at least 12,000 units were sold; in five of those years, over 20,000 units were sold. The figures appear to relate to food mixers/kitchen machines rather than accessories. Some of the models are identified as “CHEF” products; others only show “MAJOR”. I will return to this point. There is also some evidence of sales in the 1992 prospectus.

31. The opponent has adduced a number of articles from magazines such as *Good Housekeeping*, *Housewares Magazine* and *Woman*, and from national newspapers such as *The Sun*, *MailOnline* and *The Sunday Times* dated between 2002 and 2020. The evidence also includes some advertising features in these publications and two

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<sup>12</sup> CG08.

<sup>13</sup> CG09.

<sup>14</sup> CG08.

competitions from 2015/2016. The pieces discuss product models such as the “Kenwood Titanium Chef” and the “Titanium Chef Patissier”/“Kenwood Titanium Chef Patissier”.<sup>15</sup> Comments include, “The Kenwood Chef is a kitchen classic. Renowned for its design and durability ...” (2002); an assertion that Kenwood is synonymous with “quality, innovation and good design” (2007); a reference to the “much-loved original Kenwood Chef” (2009) and to “The iconic kitchen machine, the Kenwood Chef” (2010); and “... the Kenwood Chef mixer, a coveted domestic buy since 1950” (2020). A 2022 BBC Good Food article says, “There’s a roaring trade in vintage Kenwoods on eBay and looking at the build quality of the Chef XL Titanium, you can understand why these machines have such longevity”.

32. I also note that there are *Which?* reviews of various “Kenwood Chef” machines launched between 2007 and 2017.<sup>16</sup> Some of the reviews make clear that the product was reviewed within a few months of launch, though one product has no release date and was first reviewed in 2020; another review was checked in 2021. Accessories are mentioned in the earlier reviews and there are several references to the sturdy build of the machines. A review from July 2017 of the “Kenwood Chef Titanium KVC7300S”, released in 2016, says “The first Kenwood Chef was launched in 1950 and this iconic stand mixer is familiar to many of us”.

33. I should mention that there is some evidence both of design awards and a stand at a tech show.<sup>17</sup> However, these all appear to be events which took place in continental Europe and it is unclear whether, if at all, they would have come to the attention of the relevant public in the UK. There is no evidence at all of advertising spend.

### Assessment

34. It is well established that use of a non-distinctive mark as part of a distinctive mark can, as a matter of law, permit the non-distinctive mark to acquire the distinctive character it originally lacked.<sup>18</sup> However, where use of the non-distinctive mark is

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<sup>15</sup> CG10, parts A and B, CG18.

<sup>16</sup> CG16.

<sup>17</sup> CG11, CG13, CG14, CG15.

<sup>18</sup> See *Société des produits Nestlé SA v Mars UK Ltd*, C-353/03 [EU:C:2005:432].

always, or nearly always, used as part of a more distinctive sign, it may be more difficult to show that the non-distinctive sign has become distinctive by itself.<sup>19</sup>

35. It is clear that the opponent has produced stand mixers for very many years. The sales units are not trivial over much of the period shown, since kitchen mixers are neither in every home nor frequently replaced and the market is unlikely to be characterised by very high sales volumes. Nonetheless, I am doubtful that the sales are very significant, given that the UK population is around 60 million individuals and the market is likely to run into many millions of pounds per annum. In relation to the sales figures, Mr Geiben says that all of the figures relate to “CHEF” branded products. However, he also says that “‘MAJOR’ is [...] part of the ‘CHEF’ family of food mixers”.<sup>20</sup> As I mentioned above, not all of the products in the sales table are described as “CHEF” products, nor have I been able to identify them all in the other exhibits, though there are some products which are branded “CHEF” even as the corresponding code/description in the sales table does not include “CHEF”. Several of the products in the table are described as “MAJOR”. There is some evidence which supports Mr Geiben’s assertion that the “MAJOR” mixers are part of a broader “CHEF” umbrella. For example, articles from 2007 refer to the “Kenwood Chef Major” and an archive print from Lakeland in 2016 has a product called the “KENWOOD COOKING CHEF MAJOR”.<sup>21</sup> However, I have not been able to identify any evidence after 2016 where “MAJOR” is presented as a sub-brand of the “CHEF” range, as distinct from another sub-brand of the “KENWOOD” range which sits alongside “CHEF”. An article from [service.delonghigroup.com](http://service.delonghigroup.com) entitled “What is the difference between the Chef models?” says, “there are three main types of Chef and Major” and explains that there are three ranges, Classic, Premier and Titanium, which correspond to different power outputs. It then lists the machines, e.g., “Classic Chef or Classic Major”.<sup>22</sup> I appreciate that the title suggests that “MAJOR” machines may be “CHEF” machines but the subsequent characterisation of the machines as either “CHEF” or “MAJOR” is more consistent with the other evidence about how the different machines have been presented to the public more recently. Whilst the “MAJOR” brand does seem originally to have been a sub-brand of “CHEF”, I do not think that the average consumer would

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<sup>19</sup> See, for example, *Audi AG v Volkswagen AG*, T-318/09, [EU:T:2011:330].

<sup>20</sup> Geiben, §12.

<sup>21</sup> CG10; CG12, p. 13. Other examples are CG16, p. 2 and CG18, p. 20.

<sup>22</sup> CG20, p. 2.

have perceived it in that way at the relevant date, as it appears to have been used as a distinct sub-brand since 2016. This does not, however, make a material difference to the overall assessment of enhanced distinctiveness, because the proportion of “MAJOR” machines identified in the sales table is quite small in comparison to that of “CHEF” machines.

36. The “CHEF” mark is used prominently in relation to mixers but nearly always in tandem with the “KENWOOD” brand. The opponent’s website and leaflets about the machines do use “CHEF” independently of “KENWOOD”, albeit “KENWOOD” appears at the top or bottom of the pages. On many of the machines themselves, “KENWOOD” is presented at a remove from “CHEF”, suggesting that “CHEF” is a sub-brand or series of machines. Some of the names of the machines feature additional non-distinctive elements. This is not necessarily decisive, as the addition of words such as “PREMIER”, “ELITE” or “BAKER” may just differentiate between levels/purpose in the professional range. However, the fact that “CHEF” is the element consistently used, admittedly with “KENWOOD”, despite all of the other non-distinctive additions, lends support to its use being intended to indicate origin and its likely perception as such. In contrast, there is no evidence of third parties referring to the goods under the “CHEF” mark independently of “KENWOOD”. Nevertheless, my impression of the evidence is that the average consumer will understand that “KENWOOD” is the house mark and “CHEF” is a sub-brand. I accept that the use is not entirely consistent on third-party retail sites, where “CHEF” may be separated from “KENWOOD” by a product code or by words such as “TITANIUM”. However, in the context of longstanding and consistent use, including the use I have described above for a series of “CHEF” machines according to power output, it seems to me that there will have been some enhancement to the trade mark’s distinctive character.

37. In terms of accessories and attachments, the evidence is more limited. There are no recent sales figures at all and the invoices are inconclusive as to whether the attachments were “CHEF” branded. On the opponent’s website, “Chef and Major Attachments” are another category mentioned on the main “Chef and Chef XL” page.<sup>23</sup> The website also says that “our attachments are compatible with all Chef and Major models”, which suggests that they are sold under the “Kenwood” brand; some of the

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<sup>23</sup> CG03.

attachments are labelled as “Chef sized”.<sup>24</sup> The instruction books for purchasers of CHEF machines include pages about “Chef & Major Accessories” but the pages listing attachments bear only the “KENWOOD” mark and the brochures say “Enhance the versatility of your Chef or Major with Kenwood’s wide range of attachments and accessories” or “Buy Kenwood attachments at [www.kenwoodworld.com/uk](http://www.kenwoodworld.com/uk)”. On the Lakeland website, the multi mill attachment is presented as a “KENWOOD” branded product, though it does say that it is “[adding] another string to the Kenwood Chef’s bow” and mentions compatibility with both the Chef and Major machines. That said, it is clear from the evidence that the “CHEF” food mixers are provided with several attachments included, usually at least a beater, a whisk and a dough hook. The archive prints dated 2021 from the John Lewis website show these attachments with the mixer on the main results page and in thumbnails on the product page in 2016, suggesting that they are important in the overall purchasing decision.<sup>25</sup> There are also various references in articles from at least 2011 to 2022 about the range of attachments available.<sup>26</sup> Attachments are presented on the John Lewis website as “Kenwood Chef” attachments in 2013 and 2018, whilst there are undated photographs which show “Kenwood Chef attachments” on sale next to the mixer in a John Lewis store.

38. There is no evidence at all of advertising spend in relation to any of the goods, nor is there any market share evidence. Taking all of the above into account, I consider that there has been a modest enhancement of the distinctive character of the earlier mark in relation to both food mixers and accessories and attachments for food mixers among a significant proportion of the relevant public. Bearing in mind the low starting point, I find that the earlier mark is factually distinctive to no more than a medium degree.

### **Comparison of marks**

39. It is clear from *Sabel BV v Puma AG*, C-251/95 [EU:C:1997:528], 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

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<sup>24</sup> CG04.

<sup>25</sup> Pp.9 19, 20

<sup>26</sup> See, for example, CG10, part A; CG18, pp. 23-25.

to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The Court of Justice stated at paragraph 34 of its judgment in, *Bimbo SA v OHIM*, C-591/12P [EU:C:2014:305], 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.”

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

41. The respective trade marks are shown below:

| Earlier trade mark | Contested trade mark |
|--------------------|----------------------|
| CHEF               | lecon chef           |

42. The overall impression of the earlier mark is contained in the single word “CHEF” of which it consists.

43. The contested mark comprises the words “lecon” and “chef”, which are presented in lower case in a slightly stylised typeface. Both words make a contribution to the mark but “lecon” is the most distinctive word of the two and is both longer and presented first. As a result, the word “lecon” plays a somewhat greater role in the overall impression than the word “chef”. The stylisation makes only a small contribution.

44. The marks share the word “chef”, though the contested mark has an additional, slightly longer word which is placed in front of the word “chef”. The marks are visually similar to a medium degree.

45. The word “lecon” may be articulated as “lee-con”, “leh-con” or “luh-con”. Whichever pronunciation is settled upon, it will have two syllables. The contested mark therefore has three syllables overall, the final one of which is identical to the single syllable of the earlier mark. There is a lower than average degree of aural similarity.

46. The marks share the identical concept of a chef, which will be understood as a professional cook. The word “lecon” has no meaning but I do not think it would be right to say that the marks as wholes are conceptually identical: the average consumer will notice that there is an unknown word in the contested mark.

### **Comparison of goods**

47. In assessing the similarity of the goods, all of the relevant factors must be taken into account: *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, C-39/97 [EU:C:1998:442] at [23]. The following factors were identified in *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281]:

- (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.

48. In addition, goods may be similar because they are complementary. This means that they are goods which are closely connected in the sense that one is indispensable or important for the use of the other so that consumers may think that the same undertaking is responsible for the production of both goods: *Sergio Rossi SpA v Office for Harmonisation in the Internal Market (Trade Marks and Designs)*, T-169/03 [EU:T:2005:72] at [60]. However, “it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together” (see *Elliott's Trade Mark Application* BL O/255/13, [2014] RPC 13 at [20]).

49. Goods are considered identical when a wider term covers a narrower subset of goods included in the general class: *Gérard Meric v Office for Harmonisation in the Internal Market*, T-133/05, EU:T:2006:247.

50. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch), Floyd J. (as he then was) said that:

“... 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.”

51. The earlier mark is registered for “food mixers; attachments and accessories for food mixers”. In my view, a “food mixer” will be understood by the average consumer as a machine for mixing food. I acknowledge that the opponent’s evidence shows that

a wide range of attachments are available for its stand mixers which cover a number of functions other than mixing, beating and whisking. However, I do not think that the natural meaning of the term “food mixer” will extend as far as, for example, slicing machines, because the main function is different and, whilst some food mixers may also have additional functionality, not all of them do, including hand mixers and the opponent’s products until attachments are purchased separately.

## Class 7

*Food processing and preparation machines and apparatus; electric kitchen tools*

52. I accept the opponent’s submission that the above goods are identical to “food mixers” based on the principle explained in *Meric*.

*Beverage processing and preparation machines and apparatus; Blenders, electric, for household purposes; Electric food grinders; Electric fruit juice extractors; Food chopping machines for commercial use; Juice extracting machines; Machines for making pasta; Power-operated meat grinders; Meat slicing machines; Meat processing machines*

53. I do not accept the opponent’s submission that the above goods are identical to “food mixers”. A blender is defined in the *Collins English Dictionary* as being, in British English, “a kitchen appliance with blades used for puréeing vegetables, blending liquids, etc”.<sup>27</sup> That coincides with my own understanding of the term. A food mixer does not typically include blades. Nor does a food mixer, so far as I can see, include the processing of beverages in its natural meaning. The other goods above all have functions which are not the mixing of food: they extract, chop, roll and grind; “meat processing” would include grinding/mincing meat.

54. That said, it is clear from the evidence that all of these functions may be performed by attachments to a food mixer. Consequently, an electric blender is highly similar in nature to a blender attachment for a food mixer, the only difference being that such an attachment would not include its own power source whereas a standalone electric blender would. The purpose is identical and the goods will be purchased by the same

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<sup>27</sup> <https://www.collinsdictionary.com/dictionary/english/blender> [accessed 21 July 2026].

consumers. All of the goods are likely to be sold in kitchen shops or in the same areas of department stores, though I accept that they may not be on the same shelves, because attachments for food mixers are more likely to be sold alongside mixers than in amongst standalone electric blenders (see, for example, exhibit CG12, where the opponent's mixers and attachments are displayed together in John Lewis stores). There is a competitive relationship, because a blender attachment may be bought instead of a blender. The goods are not complementary, because blenders and blender attachments for mixers are not important or essential for one another's use. Blenders and blender attachments for food mixers are highly similar overall. The same reasoning applies to "beverage processing and preparation machines and apparatus", which includes electric blenders.

55. Essentially the same reasoning applies to the remaining goods listed above, because food mixer attachments include grinder/mincer, multi-mill, juicer, food processor (slicing/grating) and pasta maker attachments.<sup>28</sup> These are all highly similar to the standalone goods.

56. For completeness, these goods are similar to "food mixers" to a medium degree. They are all small electricals for food preparation and have some overlap in nature and purpose, as well as the same users. The goods are likely to be sold in kitchenware shops and in the same sections of larger retailers, though they are likely to be on different shelves. The above goods are not in direct competition with food mixers, though I recognise that a mixer with an attachment may be purchased instead of a standalone product. The goods are not complementary but are commonly made by the same manufacturers.<sup>29</sup>

*Waste management and recycling machines; Paper shredding machines; Packaging machines; Packaging machines for food; Pumps; Air compressors; Sweeping, cleaning, washing and laundering machines; Ironing machines and laundry presses; Dishwashers*

57. The opponent submits that the above goods are similar to the earlier mark's specification because they are types of household equipment and would be sold by

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<sup>28</sup> See, for example, CG02, CG03, CG04 and CG12.

<sup>29</sup> See, for example, CG10, Part A, p. 11, CG11, pp. 16-18.

the same producers in the same types of retail outlet, such as homeware and electrical appliance stores.

58. I accept that “sweeping, cleaning, washing and laundering machines; ironing machines and laundry presses; dishwashers” will be sold through the same electricals retailers as food mixers and attachments. However, they are likely to be in distinct sections of such stores, as the opponent’s goods are for food preparation whilst those in the contested specification are for cleaning, or for pressing clean clothes and linen. The purpose of the goods is therefore different, as is their nature. The users will be the same but this is not a particularly compelling point because the users of these goods are the general public. There is no competition and the goods are not complementary. They are dissimilar.

59. I accept that air compressors and pumps may be for domestic use. However, I cannot see why these goods would have any connection to food preparation and there is no evidence to that effect. They would not be sold through the same retailers as the earlier mark’s goods, and certainly not in close proximity to them. The goods do not have the same purpose or nature, are not in competition and are not complementary. These goods are dissimilar.

60. “Packaging machines, packaging machines for food” are used by professionals, not the general public. To the extent that “food mixers” covers food mixers for commercial use, a food manufacturer will purchase both food mixers and packaging machines (for food). There is no evidence about the trade channels for such machines but it seems to me unlikely that they would be available through the same outlets: it would be more likely that processing equipment and packaging equipment have separate means of reaching the market. Even if this is not the case, the goods are likely to be in distinct parts of any wholesale premises or website. The nature, purpose and method of use of the goods is different. They are neither in competition nor complementary. I do not think that even for commercial food mixers that there is more than a low degree of similarity overall, and I do not think that there is any similarity beyond the food manufacturing sector, particularly where domestic food mixers and their attachments are concerned, as there is no overlap in users of the competing goods and no other point of coincidence.

61. In respect of “waste management and recycling machines, paper shredding machines”, none of these appears to be a product intended for household use. Paper shredding machines in class 7 are not shredders for office use, which are proper to class 16. The machines in the contested specification therefore appear to be shredding machines for industrial or waste management purposes. There is no overlap in nature, purpose, method of use or channels of trade with the earlier mark’s goods. I am doubtful that users coincide because the user of the contested goods is a waste management professional whilst the professional user of the earlier mark’s goods is a chef or cook in a commercial kitchen. There is no similarity.

### Class 8

*Cutting implements for kitchen use; hand-operated slicers; hand-operated choppers; pasta cutters (hand operated); vegetable peelers [hand tools]; hand tools, hand-operated; cutting hand tools*

62. The opponent’s submissions are the same for all of the contested goods in classes 8, 11 and 21. They are:

“The Applicant’s goods [...] are also highly similar to the Opponent’s registration. These classes also include goods for use in the kitchen and for food preparation, having the same purpose as the Opponent’s goods, including kitchen implements and utensils in class 8 and utensils, cookware, tableware and hand-operated food grinders and whisks in class 21. All of the goods in classes 8, 11 and 21 relate to household goods, including household tools and appliances and would be by [sic] the same producers in the same types of retail outlets, such as homeware stores and electrical appliance stores. Or alternatively, in the homeware sections of general retailers.”

63. The above goods are the same in purpose as the “attachments for food mixers” shown in the evidence. There is some similarity in nature but there are also differences, because one is powered and the other manually operated, which is reflected in the physical appearance of the goods. There are differences in method of use. Their users are identical and the goods are in competition. Their trade channels will intersect because both may be sold through kitchenware retailers and in

kitchenware sections of department stores but electrical goods are usually in a section separate from hand-operated implements; electricals retailers do not typically sell hand-operated goods. It is not sufficient that the goods are sold in “homeware stores”, as these cover a wide variety of goods which are not similar to one another, such as mugs and cushions. The knowledge and equipment used to produce electrical goods is quite specialist and it is not, to my knowledge, common for such manufacturers also to produce hand-operated goods. These goods are similar to a fairly high degree.

64. In relation to food mixers, there is an overlap in purpose at a fairly general level (food preparation) but the precise purpose differs and there is limited overlap in nature at best. Users are the same and the same points regarding trade channels and manufacturers apply as with the goods considered above. There is a medium degree of similarity.

*Kitchen knives for kitchen use; kitchen knives*

65. Kitchen knives have the same purpose as slicing attachments for food processors but, aside from the fact that both will have a blade, there are important differences in nature: a knife is a long thin implement which looks very different from a food mixer slicing or chopping attachment. The users are the same and the goods are in competition but they are not complementary and they are unlikely to have the same trade channels or the same manufacturers. They are similar to a medium degree. There is less similarity with food mixers, because of the significant differences in nature and purpose and the absence of competition.

*Tin openers, non-electric*

66. There is some evidence that the opponent produced tin opener attachments for its mixers.<sup>30</sup> However, this dates from the 1970s and from 1997. There is nothing in the more recent evidence to suggest that tin openers are any longer produced as attachments for mixers, either by the opponent or third parties. That being the case, the average consumer is unlikely to think that tin openers are attachments for food mixers, there being no apparent attempt by any company to market such goods in the 25 years before the relevant date. Consequently, apart from a high-level similarity

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<sup>30</sup> CG02, p. 6, CG06, p. 14.

because they are used in the course of food preparation, these goods are different in purpose and nature from both food mixers and accessories and attachments for food mixers. Their users are the same and they may have some overlap in channels of trade, to the same extent as the implements in this class considered above, but they are not in competition, nor are they complementary. They are similar to no more than a low degree.

*Cutlery; canteens of cutlery; table cutlery [knives, forks and spoons]*

67. According to *Collins*, cutlery means “implements used for eating, such as knives, forks, and spoons”.<sup>31</sup> That is also my understanding of the word. The above terms include knives, which like cutting/slicing attachments for food mixers have slicing and cutting as their purpose. However, one is in the context of food preparation and the other in the context of eating. The goods have some similarity in nature, to the extent that knives and cutting attachments will both have a blade, but they are otherwise very different, because cutlery has a handle and the blade is generally blunter than a slicing blade used in food preparation. Their method of use is different. Users are the same but, despite the fact that both may be used for cutting, there is not typically a competitive relationship between cutlery and attachments for food mixers. The goods may share channels of trade to a degree but are unlikely to be sold in close proximity to one another. They are not complementary and they are not likely to be produced by the same businesses. I am doubtful that the goods are similar but if they are it is to no more than a low degree.

*Hand-operated tools and implements for treatment of materials, repair and maintenance; knife sharpeners; hand tools for repair and maintenance; grinding, sharpening and surface treatment hand tools*

68. “Treatment”, “repair” and “maintenance” are very wide terms and could mean the treatment, repair and maintenance of anything, including knives by sharpening the metal blade. The above terms therefore are or include knife sharpeners for kitchen knives. To that extent, they share users with the opponent’s food mixers and attachments and may be available through kitchenware shops though, as with the

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<sup>31</sup> <https://www.collinsdictionary.com/dictionary/english/cutlery> [accessed 24 July 2026]

other manual implements already considered, they are likely to be in separate areas or on different shelves. I have no reason to believe that knife sharpening is a function performed by food mixer attachments, or that knife sharpeners are used to sharpen food mixer attachments. There is no evidence that any sharpening tools are available for use with food mixer attachments. The nature and purpose of these goods is therefore different from food mixer attachments, along with their method of use. There is neither competition nor complementarity. I should add that grinding tools in class 8 do not include kitchen grinders, which are proper to classes 7 and 21. If there is any similarity, it is low.

*Hand-operated tools and implements for construction; trimmers [hand operated tools]; agricultural, gardening and landscaping tools; electrical shavers for removing fuzz from fabric [hand instruments]; nail skin treatment trimmers; garden tools, hand-operated; hand tools for construction; manicure and pedicure tools; drilling hand tools*

69. None of the above goods is for food preparation, nor are they kitchen implements more widely. They differ in all material respects from the earlier mark's goods, other than users. This is not sufficient for the goods to be considered similar overall. They are dissimilar.

#### Class 11

*Cooking, heating and cooling equipment, for food and beverages; Cooking utensils, electric; Cooking apparatus; freezing equipment*

70. The above goods include equipment such as bread makers and ice cream makers. The evidence shows that food mixers may be used with ice cream maker attachments and that mixers may also be used for kneading bread dough. However, whilst one of the opponent's stand mixers has a heating element, there is no evidence that other brands offer similar products and the sales units for the cooking models are not particularly high in comparison with the opponent's other mixers. It therefore appears that a cooking/heating function is not typical of stand mixers, or food mixers in general. That being so, the contested goods all have heating/cooling functions which are not present in food mixers or attachments (there is no evidence that ice cream maker attachments for stand mixers freeze the mixture, as distinct from churning a pre-frozen

base) and whilst there is therefore some overlap in nature, purpose and method of use between food mixers and attachments and the above goods, there are also significant differences. The users are identical and the products will be sold through the same retailers but they are not likely to be particularly close together. There may be a degree of competition, even though mixers and their attachments will not heat or cool/freeze so they are not complete equivalents. The competing goods are relatively small kitchen electricals and may be manufactured by the same businesses. There is no complementarity because the goods are not important or essential for one another's use. They are similar to a medium degree.

*Drying ovens; preservation equipment, for food and beverages; Food dehydrators; Warmers [not for medical use]*

71. None of the above goods is used with food mixers. There is similarity in purpose at a fairly high level because they are all equipment which is used in food preparation or preservation but the specific purpose is different from that of food mixers and attachments. Similarly, they are or may be small kitchen electricals but are otherwise different in nature: none of the above has anything resembling beaters, whisks or hooks for mixing food, or appears likely to resemble typical mixer accessories. The users may be the same and the goods will be sold through the same channels, though probably on separate shelves or in different sections of a website. They are neither in competition nor complementary to food mixers and attachments but manufacturers may be the same. The goods are similar to a fairly low degree at best.

*Cooking installations*

72. "Cooking installations" suggests goods such as built-in hobs and ovens. There is a very superficial overlap in purpose with food mixers and accessories/attachments because both are used for food preparation and the users are the same but they are otherwise different. Even if these goods are sold in the same shops, they will be in entirely distinct areas. Overall, these goods are not similar to food mixers and accessories/attachments.

*Refrigerating equipment; freezer cabinets*

73. Whilst these goods are found in the kitchen, they are large appliances whose purpose is food preservation and storage rather than preparation. They differ in nature, purpose and method of use from food mixers and food mixer accessories/attachments. They may be sold in the same shops as the opponent's goods but this is only really likely in the case of department stores and large electricals retailers, where the goods will be in discrete sections: it is not likely that the contested goods will be sold in kitchenware shops. There is no competition or complementarity. It is unlikely that manufacturers will be the same, given the very different purpose of the goods and the specialist manufacturing processes for refrigeration equipment compared to small electricals. Whilst users will intersect, this is not sufficient for similarity. They are dissimilar.

*Electric laundry dryers for household purposes*

74. These goods will be sold through electrical appliance shops but they will be in entirely different sections from food mixers and attachments. They will have the same users but that is not enough for the goods to be similar. I cannot see any other point of intersection. They are dissimilar.

*Burners, boilers and heaters; Glue-heating appliances; Gas boilers; Electric boilers; Drying installations; Heating, ventilating, and air conditioning and purification equipment (ambient); HVAC systems (heating, ventilation and air conditioning); Domestic heating utensils; Lighting and lighting reflectors; Decorative lighting sets; Personal heating and drying implements*

75. There is no similarity between these goods and the earlier mark's specification. The overlap in users is too superficial to be meaningful and, as with cooking installations and laundry dryers, even if they are sold through the same retailers, they will be in entirely distinct sections of shops/websites. There is no other point of similarity.

## Class 21

*Hand-operated food grinders; Non-electric meat grinders; Baking utensils; Coffee grinders, hand-operated; Cooking utensils, non-electric; Juice squeezers; Kitchen utensils; Whisks, non-electric, for household purposes; Spice grinders (Non-electric-)*

76. The evidence shows that the above goods have corresponding tools which are attachments for food mixers. For example, food mixers appear to be sold with a whisk attachment as standard and grinder/mill attachments are available for separate purchase. The purpose of the goods is identical, as are users, and the nature of the goods is similar, the differences arising because of the different power sources and the fact that hand-operated tools will have a handle. There is some overlap in method of use but there are also differences because of the electrical versus manual nature of the action. The goods are in competition with attachments for mixers but they are not complementary. I have no reason to believe that electricals manufacturers commonly also produce tools for manual operation. The goods are similar to a fairly high degree.

### *Ceramic tableware*

77. These goods include serving bowls and therefore there is some similarity in nature to “accessories for food mixers” because the latter includes bowls for food mixers. There is an overlap in purpose because the competing goods both contain ingredients. However, there are differences, too. The purpose of the former is to assist food preparation by containing ingredients whilst they are being prepared, whereas the latter is for serving prepared food. Mixing bowls are purely functional items whilst tableware is decorative, and the evidence suggests that mixing bowls for food mixers, at least modern ones, tend to be stainless steel rather than ceramic. Users are the same but channels of trade are unlikely to intersect to any significant degree, because tableware and mixing bowls for food processors will be sold in distinct parts even of kitchenware shops and under separate category headings on websites. The goods are not in competition, nor are they complementary. They are also unlikely to be produced by the same businesses. There is a fairly low degree of similarity.

*Cooking pots; egg frying pans; frying pans*

78. These goods differ in nature and method of use from the earlier mark's goods and their only overlap in purpose is at a high level of generality because they are used in food preparation. They are not in competition, nor are they complementary. They will share users but they are unlikely to be sold in close proximity, and they are unlikely to be manufactured by the same undertakings. There is a low degree of similarity at best.

*Glasses, drinking vessels and barware; wine jugs*

79. These goods are different in nature and method of use from the earlier mark's goods. Although connected to food and drink, they are used for drinking rather than preparing food and differ in purpose. They will have the same users but will be sold in different sections of retail shops and websites. They are not in competition, they are not complementary and they will have different manufacturers. They are not similar. If that is wrong, any similarity is at low level.

*Household utensils for cleaning, brushes and brush-making materials; abrasive instruments for kitchen [cleaning] purposes; toilet and bathroom cleaning utensils; racks for cosmetics*

80. None of these goods overlaps in nature, purpose, method of use or trade channels with the earlier mark's goods. They are neither in competition nor complementary and any overlap in user is too general for the goods to be similar on this basis alone. They are dissimilar.

### **Likelihood of confusion**

81. It is a requirement of an objection under s. 5(2)(b) that there be some similarity between the goods. As the ground cannot apply where the goods are not similar, the opposition is dismissed for all of the goods that I have held to be dissimilar.

82. Turning to the similar goods, confusion may be direct or indirect. The two types of confusion were explained by Mr Iain Purvis QC, as the Appointed Person, in *LA Sugar Limited v Back Beat Inc.*, BL O/375/10 as follows:

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

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

- (a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (‘26 RED TESCO’ would no doubt be such a case).
- (b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as ‘LITE’, ‘EXPRESS’, ‘WORLDWIDE’, ‘MINI’ etc.).
- (c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (‘FAT FACE’ to ‘BRAT FACE’ for example).”

83. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ pointed 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.

84. The opponent says that the average consumer may imperfectly recollect the trade marks, specifically that they “may only be able to recall some of the trade mark details, namely the shared word CHEF”. I reject the submission that the average consumer will simply mistake one trade mark for the other and be directly confused. The average consumer is reasonably observant and circumspect. I have found that they will pay at least a medium degree of attention. There is no basis for presuming that they will entirely fail to remember the highly distinctive word “lecon” and recall only the word “chef”, even where the purchase concerns identical goods and even bearing in mind the principle of imperfect recollection.

85. In respect of indirect confusion, the opponent says that the present case falls into category (a) of *LA Sugar*. It also says that “chef” has an independent distinctive role in the contested mark and submits that the contested mark may be seen as an extension of the earlier mark, representing a licence or a brand extension.

86. The notion of an “independent distinctive role” was first discussed by the Court of Justice in *Medion AG v Thomson Multimedia Sales Germany & Austria GmbH*, C-120/04 [EU:C:2005:594]. The sign at issue in that case was “THOMSON LIFE”, the use of which for leisure electronic devices was challenged by Medion on the basis of its trade mark for the word “LIFE”, registered for the same goods. The Court held that:

“30. [...] beyond the usual case where the average consumer perceives a mark as a whole, and notwithstanding that the overall impression may be dominated by one or more components of a composite mark, it is quite possible that in a particular case an earlier mark used by a third party in a composite sign including the name of the company of the third party still has an independent distinctive role in the composite sign, without necessarily constituting the dominant element.

[...]

36. It must therefore be accepted that, in order to establish the likelihood of confusion, it suffices that, because the earlier mark still has an independent

distinctive role, the origin of the goods or services covered by the composite sign is attributed by the public also to the owner of that mark.”

87. This judgment was followed by the judgment in *Bimbo* (cited above). In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J (as he then was) considered the impact of the Court’s judgment in *Bimbo* on the earlier judgment in *Medion*. He said:

“18. The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

19. The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks — visually, aurally and conceptually — as a whole. In *Medion v Thomson* and subsequent case law, the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.

20. The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).

21 The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”

88. The marks have a medium degree of visual similarity, which is particularly significant because the goods will mainly be purchased visually. Where the goods in issue are identical or are similar to a fairly high degree or more (the latter being those goods which are, or include, standalone versions of the opponent’s goods, such as juice extractors, both electrical and hand-operated), I think it is likely that the significant portion of average consumers who are familiar with the opponent’s use of “CHEF” for its mixers and attachments will see the contested mark as a composite of two distinctive marks. To that extent, I accept that “CHEF” plays an independent distinctive role in the later mark. Even though the role of “chef” is rather subordinate to “lecon” in the contested mark as a whole and notwithstanding the stylisation, I also accept the opponent’s submission that in this scenario the average consumer will be misled into believing that the goods sold under the contested mark are the result of an economic association between the users of the marks, where no such association exists. There is a likelihood of indirect confusion where the goods are similar to a fairly high degree or more.

89. However, as I have already said, in relation to goods used for cooking and baking, the word “CHEF” is inherently descriptive. The further removed the contested goods are from those of the earlier mark’s reputation, the less likely it is that the average consumer will perceive “CHEF” in the contested mark as an independent distinctive element. Instead, they will see the combination “lecon chef” as a distinctive brand, “lecon”, with a descriptive addition, “chef”. Thus, the contested mark will be understood as meaning the “chef” goods (i.e., for professional cooks or high quality) produced by the “lecon” brand. In my view, that will be the case for the goods which are similar to a medium degree or less, even among the significant portion of the public for whom the earlier “CHEF” mark has a reputation for food mixers and their accessories/attachments. Given the lower degree of similarity between these goods and the medium level of attention of the average consumer (at least), I do not think

that the consumer will think that the users of the competing marks are connected, despite the enhanced distinctiveness of the earlier mark. If the earlier mark is brought to mind, which I do not consider likely, the consumer will not believe that the common use of “CHEF” is anything more than coincidental.

90. I do not think that there is a likelihood of indirect confusion on any other basis. The “CHEF” trade mark is not, in my view, “strikingly distinctive”; it is very far from being comparable to the example of “TESCO” used by Mr Purvis and, other than for the reasons given at paragraph 88, I see no basis upon which the average consumer would think that the opponent is the only entity using the word “CHEF” in the cooking and baking sector. The opposition under s. 5(2)(b) therefore succeeds for the goods listed below but is otherwise dismissed:

Class 7: Food and beverage processing and preparation machines and apparatus; blenders, electric, for household purposes; electric food grinders; electric fruit juice extractors; electric kitchen tools; food chopping machines for commercial use; juice extracting machines; machines for making pasta; power-operated meat grinders; meat slicing machines; meat processing machines.

Class 8: Cutting implements for kitchen use; hand-operated slicers; hand-operated choppers; pasta cutters (hand operated -); vegetable peelers [hand tools]; hand tools, hand-operated; cutting hand tools.

Class 21: Hand-operated food grinders; non-electric meat grinders; coffee grinders, hand-operated; cooking utensils, non-electric; juice squeezers; kitchen utensils; whisks, non-electric, for household purposes; spice grinders (non-electric -).

### **THE S. 5(3) GROUNDS**

91. S. 5(3) reads as follows:

“5.—(3) A trade mark which is identical with or similar to an earlier trade mark shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom and the use of the later mark without due

cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.”

92. The relevant case law can be found in the following judgments of the Court of Justice: *General Motors Corporation v Yplon SA*, C-375/97 [EU:C:1999:408], [1999] ETMR 950; *Intel Corporation, Inc. v CPM United Kingdom Limited*, C-252/07 [EU:C:2008:655], [2009] ETMR 13; *Adidas-Salomon AG and Adidas Benelux BV v Fitnessworld Trading Ltd.*, C-408/01 [EU:C:2003:582], [2004] ETMR 10; and *L’Oréal & Ors v Bellure & Anor*, C-487/07 [EU:C:2009:378], [2009] ETMR 55; *Interflora & Anor v Marks & Spencer & Anor*, C-323/09 [EU:C:2011:604]; and *Environmental Manufacturing LLP v OHIM*, C-383/12P [EU:C:2013:741]. The law appears to be as follows:

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

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

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

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

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

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

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

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

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

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

*Spencer v Interflora*, paragraph 74 and the court's answer to question 1 in *L'Oréal v Bellure*).

## **Reputation**

93. In *General Motors*, the Court of Justice gave the following guidance for the assessment of a trade mark's reputation:

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

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

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

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

94. For the same reasons as given at paragraphs 26 to 38, above, the earlier mark has a reasonable reputation for food mixers and food mixer accessories and attachments.

## **Link**

95. Whether the relevant public will make the required mental ‘link’ between the marks must take account of all relevant factors. The factors are identified in *Intel* and set out below.

#### The degree of similarity between the conflicting marks

96. I have already carried out this comparison and adopt my findings here. For convenience, the marks are visually similar to a medium degree and aurally similar to a lower than average degree. They share the concept of a “chef”, i.e. professional cook. The word “lecon” will be perceived as invented.

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

97. For the reasons I gave earlier, the average consumer is either a member of the general public or a professional and their level of attention will range from medium to fairly high. I adopt here the findings I made above about the level of similarity between the competing goods. The distance between the dissimilar goods and the earlier mark’s specification is rather variable. Domestic refrigeration equipment, for example, will be sold in electricals retailers and is therefore not entirely unrelated. Gas boilers, in contrast, are at a complete remove from the earlier mark’s goods and their only point of similarity is that users are shared at a superficial level. Goods such as brush-making materials are do not even have this overlap as, even though they will have professional users, the users will not be the same professionals who use the earlier mark’s goods. I will bear this in mind.

#### The strength of the earlier mark’s reputation

98. The earlier mark had a reasonable reputation for food mixers and food mixer accessories and attachments at the relevant date.

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

99. For the reasons already given, the earlier mark is inherently weakly distinctive but at the relevant date was factually distinctive to no more than a medium degree for food mixers and food mixer accessories and attachments.

### Whether there is a likelihood of confusion

100. I have already considered whether there is a likelihood of confusion for the identical or similar goods. For the reasons I have given above, there is a likelihood of confusion for the goods which are similar to at least a fairly high degree but not for the goods which are less similar than this. I do not consider that there is any likelihood that the average consumer would be confused for the dissimilar goods. The distance between the goods is too great and the earlier mark not sufficiently distinctive to cause the consumer to believe that any of the dissimilar goods have the same trade origin as food mixers and accessories/attachments sold under the earlier mark.

### Conclusion on link

101. Taking all of the above into account, I consider that the relevant public will make a link between the competing trade marks where the goods are similar to a fairly high degree or more.

102. The gap between the less similar and dissimilar goods, combined with the only medium degree of distinctiveness of the earlier mark, is unlikely to bring the earlier mark to mind: the word “chef” is likely to be taken as non-distinctive in the contested mark. If the earlier mark is brought to mind at all, it will in my judgement be so fleeting that no damage will flow from it. The claim based on s. 5(3) therefore fails for the goods which are similar to a medium degree or less.

### **Unfair advantage**

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

“80. The arguments in the present case give rise to two questions with regard to taking unfair advantage. The first concerns the relevance of the defendant's intention. It is clear both from the wording of Article 5(2) of the Directive and Article 9(1)(c) of the Regulation and from the case law of the Court of Justice interpreting these provisions that this aspect of the legislation is directed at a particular form of unfair competition. It is also clear from the case law both of the Court of Justice and of the Court of Appeal that the defendant's conduct is

most likely to be regarded as unfair where he intends to benefit from the reputation and goodwill of the trade mark. In my judgment, however, there is nothing in the case law to preclude the court from concluding in an appropriate case that the use of a sign the objective effect of which is to enable the defendant to benefit from the reputation and goodwill of the trade mark amounts to unfair advantage even if it is not proved that the defendant subjectively intended to exploit that reputation and goodwill.”

104. The opponent asserts that, where the earlier mark is brought to mind, the relevant public will think that there is an economic connection between the users of the trade marks. I have found that this will be the case for the goods which are similar to a fairly high degree or more, because the average consumer will be confused. This will lead to sales for the applicant because the average consumer will mistakenly purchase goods believing that there is a connection with the opponent’s reputed products. That is an unfair advantage.

105. The opponent further claims that the contested mark will “free ride on the back of the opponent’s good name, utilising the advantage gained through its own commercial and promotional investment in the ‘CHEF’ mark, without investing the same”. I accept that submission. The contested mark will benefit from the recognition of the reputed mark, piggybacking on the established brand to attract customers without paying commensurate sums in marketing of its own. The unfair advantage claim is made out.

106. In the circumstances, it is unnecessary for me to consider the dilution case in respect of the same goods.

### **THE S. 5(4)(a) GROUNDS**

107. The relevant legislation reads:

“5.—A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented—

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met.

[...]

(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

108. In *Reckitt & Colman Products Limited v Borden Inc. & Ors* [1990] RPC 341 HL, Lord Oliver of Aylmerton described at [406] the “classical trinity” that must be proved in order to reach a finding of passing off:

“First, he must establish a goodwill or reputation attached to the goods or services which he supplies in the mind of the purchasing public by association with the identifying ‘get-up’ (whether it consists simply of a brand name or a trade description, or the individual features of labelling or packaging) under which his particular goods or services are offered to the public, such that the get-up is recognised by the public as distinctive specifically of the plaintiff’s goods or services. Secondly, he must demonstrate a misrepresentation by the defendant to the public (whether or not intentional) leading or likely to lead the public to believe that the goods or services offered by him are the goods or services of the plaintiff. Thirdly, he must demonstrate that he suffers or, in a quia timet action, that he is likely to suffer damage by reason of the erroneous belief engendered by the defendant’s misrepresentation that the source of the defendant’s goods or services is the same as the source of those offered by the plaintiff.”

109. The relevant date for the assessment of passing off is the filing date but if the applicant has used the mark before that date such use must be taken into account.<sup>32</sup>

110. The applicant says that it used the contested mark before the date of application. However, none of the documentary evidence it has filed is dated before the filing date and the narrative evidence is not sufficient to establish that there was any such use. Consequently, the relevant date is the filing date.

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<sup>32</sup> *Advanced Perimeter Systems Limited v Multisys Computers Limited*, BL O/410/11 at [43].

## **Goodwill**

111. In *Inland Revenue Commissioners v Muller & Co's Margarine Ltd* [1901] AC 217, Lord Macnaghten said:

“What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start.”

112. For the reasons I gave at paragraphs 26 to 38, I consider that the opponent had a reasonable goodwill of which the sign “CHEF” was distinctive in relation to its business manufacturing food mixers and accessories and attachments for food mixers.

## **Misrepresentation**

113. In *Neutrogena Corporation and Another v Golden Limited and Another* [1996] RPC 473, Morritt L.J. stated that:

“There is no dispute as to what the correct legal principle is. As stated by Lord Oliver of Aylmerton in *Reckitt & Colman Products Ltd. v. Borden Inc.* [1990] R.P.C. 341 at page 407 the question on the issue of deception or confusion is

‘is it, on a balance of probabilities, likely that, if the appellants are not restrained as they have been, a substantial number of members of the public will be misled into purchasing the defendants' [product] in the belief that it is the respondents' [product]’

The same proposition is stated in Halsbury's Laws of England 4th Edition Vol.48 para 148. The necessity for a substantial number is brought out also in *Saville Perfumery Ltd. v. June Perfect Ltd.* (1941) 58 R.P.C. 147 at page 175 ; and *Re Smith Hayden's Application* (1945) 63 R.P.C. 97 at page 101.”

114. The requirement for a “substantial number” of members of the public to be deceived means a substantial number of the claimant’s actual or potential customers would be likely to be deceived: *Lumos Skincare Limited v Sweet Squared Limited and others* [2013] EWCA Civ 590.

115. I acknowledge that the tests for a likelihood of confusion and misrepresentation are different. However, as recognised by Lewison LJ in *Marks and Spencer PLC v Interflora* [2012] EWCA (Civ) 1501, it is doubtful whether the difference between the legal tests will produce different outcomes. I do not consider that the outcome would be different in this case. There would be a misrepresentation in relation to the goods listed at paragraph 90, above, because these goods are in the same or closely connected fields of activity and the mark and sign have sufficient similarities, as detailed above, to mislead the relevant public.

116. However, the remaining goods are sufficiently removed, some very far removed, from the opponent’s activities, such that the relevant public will not be deceived into believing that the user of the contested mark is, or is associated with, the opponent. For these goods, I do not think that the relevant public will get as far as wondering whether the businesses are connected; if the opponent’s “CHEF” sign is brought to mind at all, the relevant public will simply assume that the use of “CHEF” is a coincidence. The passing off claim for these goods fails.

## **Damage**

117. In *Harrods Limited v Harrodian School Limited* [1996] RPC 697, Millett LJ described the requirements for damage in passing off cases as follows:

“In the classic case of passing off, where the defendant represents his goods or business as the goods or business of the plaintiff, there is an obvious risk of damage to the plaintiff’s business by substitution. Customers and potential customers will be lost to the plaintiff if they transfer their custom to the defendant in the belief that they are dealing with the plaintiff. But this is not the only kind of damage which may be caused to the plaintiff’s goodwill by the deception of the public. Where the parties are not in competition with each other, the plaintiff’s reputation and goodwill may be damaged without any corresponding

gain to the defendant. In the *Lego* case, for example, a customer who was dissatisfied with the defendant's plastic irrigation equipment might be dissuaded from buying one of the plaintiff's plastic toy construction kits for his children if he believed that it was made by the defendant. The danger in such a case is that the plaintiff loses control over his own reputation.”

118. Damage through loss of sales when the relevant public is misled as to the origin of the goods, and loss of control of the signs' reputation, are both reasonably foreseeable. Damage is made out for all of the goods listed at paragraph 90.

### **OVERALL CONCLUSION**

119. Subject to appeal, the grounds under ss. 5(2)(b), 5(3) and 5(4)(a) succeed in respect of the goods set out below, for which the application will be refused:

Class 7: Food and beverage processing and preparation machines and apparatus; blenders, electric, for household purposes; electric food grinders; electric fruit juice extractors; electric kitchen tools; food chopping machines for commercial use; juice extracting machines; machines for making pasta; power-operated meat grinders; meat slicing machines; meat processing machines.

Class 8: Cutting implements for kitchen use; hand-operated slicers; hand-operated choppers; pasta cutters (hand operated -); vegetable peelers [hand tools]; hand tools, hand-operated; cutting hand tools.

Class 21: Hand-operated food grinders; non-electric meat grinders; coffee grinders, hand-operated; cooking utensils, non-electric; juice squeezers; kitchen utensils; whisks, non-electric, for household purposes; spice grinders (non-electric -).

120. The opposition is dismissed for all of the remaining goods, for which the application will proceed to registration.

## **COSTS**

121. The applicant has had marginally more success than the opponent and is entitled to a contribution to its costs. Bearing in mind the partial nature of its success, I award costs to the applicant, calculated as follows:

Considering the statement of case and filing a counterstatement: £200

Considering the opponent's evidence and filing evidence: £300

Total: £500

122. I order De Longhi Benelux S.A. to pay Guangdong Lechuang Electric Appliance Co., Ltd the sum of £500. This sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

**Dated this 14<sup>th</sup> day of August 2026**

**Heather Harrison**

**For the Registrar**

## **ANNEXE 1**

### **UKTM 3904601: specification**

Class 7: Food and beverage processing and preparation machines and apparatus; Blenders, electric, for household purposes; Electric food grinders; Electric fruit juice extractors; Electric kitchen tools; Food chopping machines for commercial use; Juice extracting machines; Machines for making pasta; Power-operated meat grinders; Meat slicing machines; Meat processing machines; Waste management and recycling machines; Paper shredding machines; Packaging machines; Packaging machines for food; Pumps; Air compressors; Sweeping, cleaning, washing and laundering machines; Ironing machines and laundry presses; Dishwashers.

Class 8: Cutlery, kitchen knives, and cutting implements for kitchen use; Canteens of cutlery; Hand-operated slicers; Hand-operated choppers; Pasta cutters (Hand operated -); Kitchen knives; Table cutlery [knives, forks and spoons]; Vegetable peelers [hand tools]; Hand tools, hand-operated; Tin openers, non-electric; Hand-operated tools and implements for treatment of materials, and for construction, repair and maintenance; Trimmers [hand operated tools]; Agricultural, gardening and landscaping tools; Electrical shavers for removing fuzz from fabric [hand instruments]; Nail skin treatment trimmers; Garden tools, hand-operated; Knife sharpeners; Hand tools for construction, repair and maintenance; Manicure and pedicure tools; Cutting, drilling, grinding, sharpening and surface treatment hand tools.

Class 11: Burners, boilers and heaters; Glue-heating appliances; Gas boilers; Electric boilers; Drying installations; Electric laundry dryers for household purposes; Drying ovens; Cooking, heating, cooling and preservation equipment, for food and beverages; Food dehydrators; Cooking utensils, electric; Cooking apparatus and installations; Heating, ventilating, and air conditioning and purification equipment (ambient); HVAC systems (heating, ventilation and air conditioning); Domestic heating utensils; Lighting and lighting reflectors; Decorative lighting sets; Personal heating and drying implements; Warmers [not for medical use]; Refrigerating and freezing equipment; Freezer cabinets.

Class 21: Household utensils for cleaning, brushes and brush-making materials; Abrasive instruments for kitchen [cleaning] purposes; Toilet and bathroom cleaning

utensils ; Racks for cosmetics; Hand-operated food grinders; Non-electric meat grinders; Glasses, drinking vessels and barware; Wine jugs; Baking utensils; Ceramic tableware; Coffee grinders, hand-operated; Cooking pots; Cooking utensils, non-electric; Egg frying pans; Frying pans; Juice squeezers; Kitchen utensils; Whisks, non-electric, for household purposes; Spice grinders (Non-electric -).