

O/0799/25

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. UK00003861032
IN THE NAME OF UNISNACKS EUROPE LIMITED
FOR THE FOLLOWING TRADE MARK:**



IN CLASSES 29, 30, 31, 32 AND 35

**AND IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 440151
BY UNIFOOD IMPORT A/S**

Background and pleadings

1. On 20 December 2022, Unisnacks Europe Limited (“the applicant”) applied to register the trade mark on the cover page of this decision in the UK, under number UK00003861032 (“the contested mark”). The application was published for opposition purposes on 13 January 2023. Registration is sought for the goods and services found in the Annex to this decision.
2. On 12 April 2023, the application was opposed by Unifood Import A/S (“the opponent”) based upon section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opposition is directed against all the goods and services of the application.
3. For the purpose of this opposition, the opponent relies upon the following trade mark to support its claim:



Comparable UK trade mark number: UK00901880293¹

Filing date: 29 September 2000

Registration date: 24 January 2002

Goods relied upon are found within the Annex of this decision, all of which are relied upon for the purpose of this opposition.

(“the opponent’s mark”)

4. Given the respective filing dates, the opponent’s mark is an earlier mark, in accordance with section 6 of the Act. As it had been registered for five years or more

¹ On 1 January 2021, the UK left the EU. Under Article 54 of the Withdrawal Agreement between the UK and the EU, the UKIPO created comparable UK trade marks for all right holders with an existing EUTM. As a result of the opponent’s EUTM number **1880293** being registered as at the end of the Implementation Period, a comparable UK trade mark was automatically created. The comparable UK mark now recorded on the UK trade mark register has the same legal status as if it had been applied for and registered under UK law, and the original EUTM filing date remains.

at the filing date of the contested mark, it is subject to the proof of use requirements specified within section 6A of the Act.

5. The opponent argues that the competing trade marks are similar and, that the competing goods and services are either identical or similar. It is these factors that the opponent contends give rise to a likelihood of confusion.
6. The applicant filed a counterstatement denying the ground of opposition.
7. The opponent is professionally represented by Stevens Hewlett & Perkins; the applicant is professionally represented by National Business Register Group Ltd.
8. The opponent filed evidence. However, neither of the parties asked to be heard on the matter; only the applicant chose to file written submissions in lieu. This decision is taken following careful consideration of all the papers before me.

Relevance of EU law

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

Evidence

10. The opponent filed evidence on 25 March 2024. The opponent's evidence comprises of:
 - The witness statement of Helle Larsen, secretary, accounting, reception (and more) since 1 January 2014, dated 15 March 2024, together with exhibits HL1 to HL3. The purpose of the evidence is to show use of the opponent's mark.

- The witness statement of Mr Jonathan Sutton, a chartered trademark attorney and partner in the firm of Stevens Hewlett & Perkins, (the opponent's representatives), dated 19 March 2024, together with exhibit JS1. The purpose of the evidence is to provide English translations of Danish words.
- The witness statement of Alexander Gantzler Døssing, dated 2 May 2025. Mr Døssing is a partner and attorney at Law of the Intellectual Property consultancy Chas, in Denmark and a native Danish speaker and writer. The purpose of his witness statement is to confirm that he is familiar with the English language and provide official translations of the evidence which is in Danish.

11. Whilst the parties' evidence and/or submissions will not be summarised here, I have taken them all into consideration in reaching my decision and will refer to them below, as and where necessary.

Preliminary issue

12. I observe that the opponent filed evidence without proper translations during the evidence rounds, referring only to a witness statement from its representative introducing google translate evidence. Unfortunately, this was not raised by the Tribunal as an issue at the time. Consequently, the Tribunal wrote to the parties on 9 April 2025, informing them of the requirements for filing statements or evidence filed in a foreign language. It was directed that if the opponent wished to rely on the evidence provided, then official translations that met the Tribunal's guidance would be required. As a result, translated versions of the Exhibits were provided along with a witness statement from Alexander Gantzler Døssing, referred to above. He confirms that he is familiar with the English language, primarily corresponding in Danish and English on a daily basis,² and that the translations had also been considered by two of his colleagues who were also familiar with the English language.³ In particular this included a colleague that

² The witness statement of Alexander Gantzler Døssing, paragraph 3.

³ The witness statement of Alexander Gantzler Døssing, paragraphs 4 and 5.

was previously a professional translator in English and German.⁴ Further, I acknowledge that the applicant has not raised any objections to these translations despite having ample opportunity to do so. Consequently, I am satisfied that the translations provided by Mr Døssing are acceptable and can be relied upon.

DECISION

Legislation

13. Sections 5(2)(b) and 5A of the Act read 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”.

“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.”

Proof of use legislation and case law.

14. The proof of use provisions are set out in section 6A of the Act, the relevant parts of which state:

“(1) This section applies where

⁴ Ibid, paragraph 5

- (a) an application for registration of a trade mark has been published,
- (b) there is an earlier trade mark of a kind falling within section 6(1)(a),
(aa) or (ba) in relation to which the conditions set out in section 5(1),
(2) or (3) obtain, and
- (c) the registration procedure for the earlier trade mark was completed
before the start of the relevant period.

(1A) In this section “the relevant period” means the period of 5 years ending with the date of the application for registration mentioned in subsection (1)(a) or (where applicable) the date of the priority claimed for that application.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.

(3) The use conditions are met if – (a) within the relevant period the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with his consent in relation to the goods or services for which it is registered, or (b) the earlier trade mark has not been so used, but there are proper reasons for non- use.

(4) For these purposes – (a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and (b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(5)-(5A) [Repealed]

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.”

15. As the earlier mark is a comparable mark, paragraph 7 of Part 1, Schedule 2A of the Act is also relevant. It is as follows:

“(1) Section 6A applies where an earlier trade mark is a comparable trade mark (EU), subject to the modifications set out below.

(2) Where the relevant period referred to in section 6A(3)(a) (the ‘five-year period’) has expired before IP completion day-

(a) the references in section 6A(3) and (6) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 6A(3) and (4) to the United Kingdom include the European Union.

(3) Where [IP completion day] falls within the five-year period, in respect of that part of the five-year period which falls before IP completion day-

(a) the references in section 6A(3) and (6) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 6A to the United Kingdom include the European Union.”

16. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable

number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 P *Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bunderversvereinigung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Marken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 P *Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a subcategory of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial raison d'être of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it

appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no de minimis rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

107. The trade mark proprietor bears the burden of proving genuine use of its trade mark: see section 100 of the 1994 Act and *Ferrari* at [73]-[83]. The General Court of the European Union has repeatedly held that genuine use of a trade mark cannot be proved by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence of effective and sufficient use of the trade mark on the market concerned: see e.g. Case T-78/19 *Lidl Stiftung & Co KG v European Union Intellectual Property Office* [EU:C:2020:166] at [25]. It has also repeatedly held that the smaller the commercial volume of the exploitation of the mark, the more necessary it is for the proprietor to produce additional evidence to dispel any doubts as to the genuineness of its use: see e.g. *Lidl* at [33]. In *Awareness Ltd v Plymouth City Council* [2013] RPC 24 Daniel Alexander QC sitting as the Appointed Person said:

‘19. For the tribunal to determine in relation to what goods or services there has been genuine use of a mark during the relevant period, it should be provided with clear, precise, detailed and well-supported evidence as to the nature of that use during the period in question from a person properly qualified to know.

[...]

22. ... it is not strictly necessary to exhibit any particular kind of documentation but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease

with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal ... comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said the public.”

17. For use to be genuine, it must have been real commercial exploitation of the mark, in the course of trade, sufficient to create or maintain a market for the goods at issue in the relevant territory during the relevant five-year period. Proven use of a mark which fails to establish that “the commercial exploitation of the mark is real” because the use would not be “viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods or services protected by the mark” is, therefore, not genuine use.

18. The onus is upon the opponent to prove genuine use of the registered trade mark in the relevant period. The relevant period in which genuine use must be established is the five-year period ending with the date of application of the contested mark. Therefore, the relevant period is 21 December 2017 to 20 December 2022. By virtue of paragraph 7 of Part 1, Schedule 2A of the Act, use within the EU is relevant between 21 December 2017 to 31 December 2020 which falls prior to IP Completion Day (i.e., 1 January 2021). With regard to assessing use within the EU, I also bear in mind that in *Leno Merken BV v Hagelkruis Beheer BV*, Case C-149/11, the Court of Justice of the European Union (“CJEU”) held that while use of a Community trade mark in one Member State could suffice to establish genuine use in the Community, “all facts and circumstances” should be considered: see paragraph 55. These include the characteristics of the market concerned, the nature of the goods or services protected by the mark and the territorial extent and the scale of the use, as well as its frequency and regularity: see also *The London Taxi Corporation Limited v Frazer-Nash Research Limited & Anor* [2016] EWHC 52, paragraphs 228-230, and *TVR Automotive Ltd v OHIM*, Case T-398/13.

Genuine use

19. As referenced above, Helle Larsen, has held positions within the opponent's company such as secretary, accounting, reception and more since 1 January 2014.⁵ The opponent's trade mark was first used in 1987, when the company, Unifood Import A/S, was founded in Denmark. It supplies a wide range of foodstuffs to food companies and wholesalers internationally including customers throughout the EU and in the UK.⁶

20. Provided within the evidence are screenshots from the opponent's website *www.unifood.dk* showing food products listed for sale by the opponent.⁷ I address the fact that the website evidence has a Danish domain and is presented in Dutch, however, this is not problematic to the opponent as I observe that the majority of the relevant period falls prior to the IP completion date, meaning that evidence of use within EU countries can be relied upon prior to that date. Furthermore, as discussed above, translations have been provided.

21. Moreover, I note that the opponent claims that its trade mark 'features on all of the food products advertised on its website and sold by [the opponent]'.⁸ However, having examined this evidence I do not find that to be the case. Whilst the earlier mark appears within the corner of each of the product listings, it does not appear on the actual product packaging that is being sold, as can be seen from the screenshots that I have enlarged and reproduced below:



⁵ Witness statement of Helle Larsen, paragraph 1

⁶ Ibid, paragraph 2

⁷ Exhibit 1

⁸ Witness statement of Helle Larsen, paragraph 3



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22. Whilst I appreciate that not all goods will have a trade mark attached to them, foodstuffs such as those being relied upon, would typically contain the brand on its packaging so that consumers can identify the origin of the goods. Indeed, the different types of packaging and the different shaped logos contained in screenshots of the goods listed for sale (whilst not all that clear) would seem to indicate that the goods themselves are produced by different undertakings but are brought together and retailed online under the earlier mark. As such, it is my view that the earlier mark is being used to denote the trade origin of the retail services rather than foodstuff per se. For ease, in addition to the above screenshots, I have replicated further example pages of the evidence below:



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⁹ These have been enlarged from the last line of products found in the next image below.

¹⁰ Exhibit 1, page 5



Dadler = dates

Figner = figs

Te = tea

11

23. Screenshots of the company website's homepages have also been provided using the wayback machine to show the existence of its webpage since 2012 and throughout the relevant period.¹² The narrative evidence confirmed that the webpage was available for countries of the EU and the UK since at least 2012.¹³ I remind myself that the relevant period in question is the five-year period ending with the date of the application, i.e. 21 December 2017 to 20 December 2022. Therefore, some of this evidence predates or postdates the relevant period. Nevertheless, these shine a light on the length of time that the opponent has been supplying foodstuff products to businesses. In particular, there is a screenshot of the website that confirms the narrative evidence that the company has been trading since 1987.¹⁴ That said there are also several screenshots taken of the opponent's website that are dated within the relevant period. I observe from translations of one of these screenshots that it states:

"Unifood Import A/S is the main supplier of an exotic, exciting and extensive product range..."

Unifood Import A/S imports foods from all over the world and is the main supplier of an exotic, exciting and extensive product range.

Today, Unifood Import supplies catering companies, business customers, departments stores, retailers and speciality stores.

Read more or view our product catalogue here..."¹⁵

¹¹ Ibid, Page 6

¹² Exhibit 2

¹³ Witness statement of Helle Larsen, paragraph 3

¹⁴ Exhibit 2, page 22

¹⁵ Ibid, page 20

In my view, this supports my finding that from the evidence before me, the earlier mark is being used in relation to the wholesale or retail services supplying businesses and companies with a range of products from all over the world that have been produced by others, rather than demonstrating that the earlier mark has been used on the food products themselves.

24. Further, I have no sales figures or advertising figures for the relevant period, however, provided within the evidence are a selection of invoices.¹⁶ Some postdate the relevant period, whereas others, whilst dated within the relevant period, are dated after the IP completion date and relate to EU countries rather than the UK, therefore these will be of less relevance, if any.

25. As the invoices do not appear within date order and in some instances are duplicated, I have provided a list of the relevant invoices below. These are set out according to years, including the country, currency, amount and goods they are for:

2018

- Invoice dated 14 June 2018, invoiced to Germany for the sum of €27.400,00 for walnuts.¹⁷

2019

- Invoice dated 7 January 2019, invoiced to Germany for the sum of €5.387,60 for cashew nuts.¹⁸
- Invoice dated 30 April 2019, invoiced to the Netherlands for the sum of €148.091,00 for dates.¹⁹
- Invoice dated 14 October 2019, invoiced to Belgium for the sum of \$16.244,00 for walnuts.²⁰

¹⁶ Exhibit 3

¹⁷ Exhibit 3, Page 37

¹⁸ Exhibit 3, Page 38

¹⁹ Exhibit 3, Page 26

²⁰ Exhibit 3, Page 32

- Invoice dated 18 November 2019, invoiced to Belgium for the sum of \$1.137,00 for walnuts.²¹

2020

- Invoice dated 21 April 2020, invoiced to Netherlands €92.434,40 for dates.²²
- Invoice dated 10 January 2020, invoiced to Germany €26.400,00 for walnuts²³
- Invoice dated 25 November 2020, invoiced to the UK €15.797.20 for white cheese.²⁴

2021 (after IP completion date)

- Invoice dated 6 January 2021, invoiced to London €15.522,20 for white cheese.²⁵

26. I note that the goods themselves are not described on the invoices as 'UNIFOOD dates', for example, instead the 'UNIFOOD' mark appears at the top corner of the invoices. In my view, when considering the evidence as a whole, this would appear consistent with the narrative evidence and website translations which indicate that the opponent is a supplier of third-party goods to businesses and companies in the food industry, in a manner which is consistent with wholesale and retail services, rather than being responsible for the goods themselves.

Sufficient use

27. For use to be genuine, it must have been real commercial exploitation of the mark in the course of trade, sufficient to create or maintain a market for the goods at issue during the relevant period, (within the EU prior to 1 January 2021, and in the UK following that date). In making my assessment I am required to consider all the relevant factors listed above, i.e. the scale and frequency of the use shown, the nature of the use shown, the goods and services for which use

²¹ Exhibit 3, Page 33

²² Exhibit 3, Page 27

²³ Exhibit 3, Page 28

²⁴ Exhibit 3, Page 44

²⁵ Exhibit 3, Page 45

had been shown, the nature of the goods and services and the markets for them, and the geographical extent of the use shown. I remind myself that an assessment of genuine use is a global assessment, which involves looking at the evidential picture as a whole, not whether each individual piece of evidence shows use by itself.²⁶ I do not discount that there has been some use of the earlier mark, UNIFOOD, however, when viewing the evidence as a whole, this does not appear to be in relation to the goods relied upon. The evidential picture suggests that the mark is used in relation to online wholesale or retail services for foodstuff to food companies and businesses rather than the mark being used to indicate that the goods themselves are produced by UNIFOOD. As aforementioned, this is confirmed in the narrative evidence along with the translation of the website evidence. Whilst some invoices have been provided for foodstuff such as dates, walnuts, cashews and white cheese, I note that the UNIFOOD mark is not used to describe the individual items invoiced, but instead, the earlier mark is found in the top corner of the invoices, which lends to a conclusion (with the totality of the evidence) that the mark is used for the retail or wholesale services rather than the goods themselves. Further, whilst I appreciate that some food and drink companies that produce their own goods may sell large quantities of one type of foodstuff to national retailers, for example, this does not appear to be the case for the opponent. Rather, it would appear that the opponent is providing the goods in the capacity of a wholesaler that is bringing products produced by various entities together for sale, particularly in light of the opponent's website, discussed above, which implies that the opponent sources food from all over the world and then supplies that food to businesses and retailers. There is nothing in the evidence that would suggest otherwise, and instead, point to the opponent producing the food products itself.

28. Even, if I were to accept that the mark was being used for the goods themselves, (which I do not) the number of invoices that I can take into account when assessing whether there has been genuine use, are limited and I have no turnover figures for the goods relied upon. Further, I do not have evidence relating to the size of the EU and UK markets for the goods, therefore it is

²⁶ *New Yorker SHK Jeans GmbH & Co KG v OHIM*, Case T-415/09

impossible to determine the opponent's share of the same. Even without this evidence, it is my impression that the market for foodstuffs shown in the invoices, such as walnuts, cashew nuts, dates and cheese is fairly large, both in the EU and the UK. Overall, and without any evidence to the contrary, I consider the figures provided within the invoices to be modest in the context of potentially substantial markets. Although I accept that the genuine use provisions do not exist in order to assess economic success or large-scale commercial use, in my view, the evidence provided falls short of the sufficiency and solidity needed to meet the standard of proof required.

29. Consequently, I am not satisfied, on the balance of the evidence, that the opponent has demonstrated genuine use of its mark for the goods registered. Accordingly, the earlier mark may not be relied upon to support the opponent's claim under section 5(2)(b) of the Act. Without establishing genuine use in relation to any goods for which the earlier mark is registered, it follows that the opposition must fail.

Conclusion

30. The opposition under section 5(2)(b) of the Act has failed in its entirety. Subject to any successful appeal, the contested mark will proceed to registration in the UK for all the applied-for goods and services.

Costs

31. As the applicant has been successful, it is entitled to a contribution towards its costs based upon the scale published in Annex A of Tribunal Practice Notice 1 of 2023. Applying this guidance, I award the applicant the following as a contribution toward costs:

Considering the opponent's statement	
and preparing a counterstatement	£250

Considering the opponent's evidence ²⁷	£200
Preparing written submissions	£350
Total	£800

28. Accordingly, I hereby order Unifood Import A/S to pay Unisnacks Europe Limited the sum of **£800**. This sum is to be paid within twenty-one days of the expiry of the appeal period, or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 28th day of August 2025

Sarah Wallace

For the Registrar

²⁷ The award for this activity falls below the scale minimum. This section of the scale is for a party considering evidence as well as preparing its own evidence. As the applicant did not file any evidence, and only had to consider evidence that fell far below the permitted maximum amount, I consider this sum to be appropriate in the circumstances.

Annex

The applicant's goods and services under UK registration number **UK00003861032**

Class 29: Potato snacks; Coconut-based snacks; Milk-based snacks; Legume-based snacks; Potato snack foods; Tofu-based snacks; Meat-based snack foods; Snacks of edible seaweed; Potato-based snack foods; Cheese-based snack foods; Soy-based snack foods; Vegetable-based snack foods; Sweet corn-based snack foods; Snack foods based on vegetables; Snack foods based on legumes; Potato crisps In the form of snack foods; crisps; powdered eggs; powdered cream; powdered milk; Meat, fish, poultry and game; meat extracts; preserved, frozen, dried vegetables; jellies, jams, compotes; eggs; milk, cheese, butter, yoghurt and other milk products; oils and fats for food; Crystallised ginger; Pickled ginger; Ginger jam; Crystallized ginger; Ginger, preserved; jams; dehydrated meat, fish, poultry and game; dehydrated vegetables; meat, fish, poultry and game; beans; potato based snack foods; cooking oils and fats; meat based snack foods; fish based snack foods; poultry based snack foods; burgers, potato fritters; vegetables; Coconut butter; Coconut cream; Butter (Coconut -); Coconut milk; Coconut shrimp; Coconut oil; Desiccated coconut: Coconut, desiccated; Coconut powder; Coconut flakes; Shredded coconut; Fat (Coconut -); Coconut fat; Coconut chips; Coconut milk powder; Coconut milk used as a beverage; Processed coconut; Coconut milk-based beverages; Prepared coconut; Seafood; Fish balls; chilli beans: chilli all; processed onions; preserved onions; garlic butter; garlic paste; preserved garlic; kimchi; tinned meats; tinned vegetables; tinned fish.

Class 30: Tortilla snacks; Crispbread snacks; Rice snacks; Rice; Noodles; Vermicelli; Rice sticks; Pasta; Dumplings; Pasta Sheets; Ravioli;

Spring rolls; Wontons; Samosas; Spaghetti; Cereal snacks; Puffed corn snacks; prawn crackers; Rice cake snacks; Cereal based snacks; Cheese curls [snacks]; Cheese balls [snacks]; Fruit cake snacks; Extruded corn snacks; Extruded wheat snacks; Cereal-based savoury snacks; Maize based snack products; Wheat-based snack foods; Rice-based snack foods; Corn-based savoury snacks; Extruded snacks containing maize; Cereal-based snack foods; Grain-based snack foods; Snacks made from muesli; Multigrain-based snack foods; Flour based savoury snacks; Corn -based snack foods; Snack foods consisting principally of confectionery: Cakes; Quiche; Tarts; Pancakes; Pies; Snack foods prepared from potato flour, Snack foods consisting principally of bread; Snack foods consisting principally of pasta; Cereal snack foods flavoured with cheese: Snack food products made from rice flour; Snack food products made from maize flour; Snack food products made from cereal flour; Snack food products made from soya flour; Snack food products made from rusk flour; Snack food products made from cereal starch; Flavourings for snack foods [other than essential oils]; powdered garlic; Snack foods made from corn and in the form of rings; Snack foods made from corn and in the form of puffs; Snack bars containing a mixture of grains, nuts and dried fruit [confectionery]; Ready to eat savoury snack foods made from maize meal formed by extrusion; dumplings; noodles; pasta; confectionery; Chewing gum; Chocolate; Chocolates; Chocolate coatings; Chocolate syrup; Chocolate beverages; Chocolate wafers; Chocolate mousses; chocolate based cakes; Liqueur chocolates; Chocolate biscuits; Imitation chocolate; chocolate confectionery; chocolate pastries; Chocolate waffles; Chocolate toppings; Chocolate sauce; Chocolate extracts; Chocolate pastes; Chocolate creams; Chocolate flavourings: Chocolate spreads; Chocolate truffles: Chocolate fudge; Chocolate sweets; Chocolate fondue; Chocolate marzipan; Chocolate powder; Chocolate chips; Chocolate desserts; Chocolate-coated nuts; Coated nuts; Hot chocolate mixes; Chocolate based products; Chocolate coated

fruits; Chocolate covered pretzels; Marshmallow filled chocolates; Chocolate-coated berries; Chocolate coated cakes; Chocolate teacakes; Ice creams containing chocolate; Prepared desserts [chocolate based]; Chocolate-covered potato chips; Almonds covered in chocolate; Chocolate coated nougat bars; Pralines made of chocolate; Chocolate-coated rice cakes; Chocolate decorations for cakes; Chocolate-based meal replacement bars; Biscuits; Shortbread; spices; salt; pepper, ground ginger; Coffee, tea, cocoa and artificial coffee; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread; ice cream, sorbets and other edible ices; sugar, treacle; yeast, baking-powder; salt, seasonings, spices, preserved herbs; vinegar, sauces and other condiments; food coatings; marinades; dessert sauces; soy sauces; pies; ice; Batter mixes; Panko breadcrumbs; tempura batter mixes; Chilli pepper sauce; chilli powder; chilli paste; minced garlic; garlic bread; garlic powder; garlic granules; garlic flakes; gochujang; curry pastes; egg rolls; edible rice paper; dipping sauces; cooking sauces; garnishing sauces; sushi nori; glutinous flour; corn flour; potato flour; wheat flour; corn starch; tapioca; tapioca starch.

Class 31: Fresh herbs; Fresh ginger; Raw ginger; Unprocessed ginger; Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; vegetables; Chilli's; onions; shallots; garlic.

Class 32: Coconut water; non-alcoholic beverages.

Class 35: Retail services, wholesale services, mail order services and electronic retail services all in connection with the sale of Potato snacks, Coconut-based snacks, Milk-based snacks, Legume-based snacks, Potato snack foods, Tofu-based snacks, Meat-based snack foods, Snacks of edible seaweed, Potato-based

snack foods, Cheese-based snack foods, Soy-based snack foods, Vegetable-based snack foods, Sweet corn -based snack foods, Snack foods based on vegetables, Snack foods based on legumes, Potato crisps In the form of snack foods, crisps, powdered eggs, powdered garlic, powdered cream, powdered milk, Meat, fish, poultry and game, meat extracts, preserved, frozen, dried and cooked vegetables, jellies, jams, compotes, eggs, milk, cheese, butter, yoghurt and other milk products, oils and fats for food, Crystallised ginger, Pickled ginger, Ginger jam, Crystallized ginger, Ginger, preserved, Jams, dehydrated meat, fish, poultry and game, dehydrated vegetables, meat, fish, poultry and game, beans, potato based snack foods, cooking oils and fats, meat based snack foods, fish based snack foods, poultry based snack foods, burgers, potato fritters, vegetables, Coconut butter, Coconut cream, Butter (Coconut -), Coconut milk, Coconut shrimp, Coconut oil, Desiccated coconut, Coconut, desiccated, Coconut powder, Coconut flakes, Shredded coconut, Fat (Coconut -), Coconut fat, Coconut chips, Coconut milk powder, Coconut milk used as a beverage, Processed coconut, Coconut milk-based beverages, Prepared coconut, Seafood, Fish balls, chilli beans, chilli oil, processed onions, preserved onions, garlic butter, garlic paste, preserved garlic, kimchi, tinned meats, tinned vegetables, tinned fish, Tortilla snacks, Crispbread snacks, Rice snacks, Rice, Noodles, Vermicelli, Rice sticks, Pasta, Dumplings, Pasta Sheets, Ravioli, Spring rolls, Wantons, Samosas, Spaghetti, Cereal snacks, Puffed corn snacks, prawn crackers, Rice cake snacks, Cereal based snacks, Cheese curls [snacks], Cheese balls [snacks], Fruit cake snacks, Extruded corn snacks, Extruded wheat snacks, Cereal-based savoury snacks, Maize based snack products, Wheat-based snack foods, Rice-based snack foods, corn -based savoury snacks, Extruded snacks containing maize, Cereal-based snack foods, Grain-based snack foods, Snacks made from muesli, Multigrain-based snack foods, Flour based savoury snacks, corn -based snack foods, Snack foods consisting principally of

confectionery, Cakes, Quiche, Tarts, Pancakes, Pies, Snack foods prepared from potato flour, Snack foods consisting principally of bread, Snack foods consisting principally of pasta, Cereal snack foods flavoured with cheese, Snack food products made from rice flour, Snack food products made from maize flour, Snack food products made from cereal flour, Snack food products made from soya flour, Snack food products made from rusk flour, Snack food products made from cereal starch, Flavourings for snack foods [other than essential oils], Snack foods made from corn and in the form of rings, Snack foods made from corn and in the form of puffs, Snack bars containing a mixture of grains, nuts and dried fruit [confectionery], Ready to eat savoury snack foods made from maize meal formed by extrusion, dumplings, noodles, pasta, confectionery, Chewing gum, Chocolate, Chocolates, Chocolate coatings, Chocolate syrup, Chocolate beverages, Chocolate wafers, Chocolate mousses, chocolate based cakes, Liqueur chocolates, Chocolate biscuits, Imitation chocolate, chocolate confectionery, chocolate pastries, Chocolate waffles, Chocolate toppings, Chocolate sauce, Chocolate extracts, Chocolate pastes, Chocolate creams, Chocolate flavourings, Chocolate spreads, Chocolate truffles, Chocolate fudge, Chocolate sweets, Chocolate fondue, Chocolate marzipan, Chocolate powder, Chocolate chips, Chocolate desserts, Chocolate-coated nuts, Coated nuts, Hot chocolate mixes, Chocolate based products, Chocolate coated fruits, Chocolate covered pretzels, Marshmallow filled chocolates, Chocolate-coated berries, Chocolate coated cakes, Chocolate teacakes, Ice creams containing chocolate, Prepared desserts [chocolate based], Chocolate-covered potato chips, Almonds covered in chocolate, Chocolate coated nougat bars, Pralines made of chocolate, Chocolate-coated rice cakes, Chocolate decorations for cakes, Chocolate-based meal replacement bars, Biscuits, Shortbread, spices, salt, pepper, ground ginger, Coffee, tea, cocoa and artificial coffee, rice, pasta and noodles, tapioca and sago, flour and preparations made from cereals, bread, ice cream,

sorbets and other edible ices, sugar, treacle, yeast, baking-powder, salt, seasonings, spices, preserved herbs, vinegar, sauces and other condiments, food coatings, marinades, dessert sauces, soy sauces, pies, Ice, Batter mixes, Panko breadcrumbs, tempura batter mixes, Chilli pepper sauce, chilli powder, chilli paste, minced garlic, garlic bread, garlic powder, garlic granules, garlic flakes, gochujang, curry pastes, egg rolls, edible rice paper, dipping sauces, cooking sauces, garnishing sauces, sushi nori glutinous flour, corn flour, potato flour, wheat flour, corn starch, tapioca, tapioca starch, Fresh herbs, Fresh ginger, Raw ginger, Unprocessed ginger, Raw and unprocessed agricultural, aquacultural, horticultural and forestry products, raw and unprocessed grains and seeds, fresh vegetables, Chilli's, onions, shallots, garlic, Coconut water, non-alcoholic beverages.