

BL O/0942/23

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003783244

BY LI XINGHE

TO REGISTER THE TRADE MARK:

The logo for 'TIKBOX' is displayed in white, bold, sans-serif capital letters on a solid maroon rectangular background. The letter 'i' in 'TIK' has a small green dot above it, and the letter 'O' in 'BOX' has a small green dot inside it.

IN CLASSES 3, 21, 24, 25 AND 28

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 435100

BY TIKTOK INFORMATION TECHNOLOGIES UK LIMITED

BACKGROUND AND PLEADINGS

1. On 30 April 2022, LI XINGHE (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was published for opposition purposes on 20 May 2022. The applicant seeks registration for the following goods:

Class 3 Skincare cosmetics; Skincare preparations; Shampoos; Pet shampoos; Essences (Ethereal -); Cosmetics; Cosmetics and cosmetic preparations; Makeup.

Class 21 Tableware; Cosmetic bags [fitted]; Containers for cosmetics; Household containers; Household utensils; Cookware; Combs; Toothbrush cases; Toothbrushes; Toilet utensils; Cosmetic utensils; Cooking utensils; Baking utensils; Household utensils for cleaning, brushes and brush-making materials; Toilet and bathroom cleaning utensils ; Kitchen utensils, not of precious metal.

Class 24 Towels; handkerchief; bedclothes; Household Textiles; blankets; wall hangings; decorative fabric.

Class 25 Insoles; Caps; Hats; Shoes; Clothes; Socks; Belts [clothing]; Stockings; Gloves.

Class 28 Toys; decorations for Christmas trees; gym equipment.

2. The application was opposed by TikTok Information Technologies UK Limited on 20 July 2022. The opposition is based upon sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”).

3. Under both section 5(2)(b) and 5(3), the opponent relies upon the following trade marks:

TikTok

Tik Tok

(Series of 2)

UK registration no. UK00003469536

Filing date 24 February 2020; Registration date 9 August 2020.

(“the First Earlier Mark”)

TIK TOK

UK registration no. UK00917913208

Filing date 6 June 2018; Registration date 20 October 2018.

(“the Second Earlier Mark”)

TikTok

Tik Tok

(Series of 2)

UK registration no. UK00003469520

Filing date 24 February 2020; Registration date 9 August 2020.

(“the Third Earlier Mark”)

TIKTOK

TikTok

(Series of 2)

UK registration no. UK00003368647

Filing date 21 January 2021; Registration date 26 July 2019.

(“the Fourth Earlier Mark”)

4. On 1 January 2021, the UK left the EU. Under Article 54 of the Withdrawal Agreement between the UK and the EU, the UK IPO created comparable UK trade marks for all right holders with an existing EUTM. As a result, the opponent's Second Earlier Mark was automatically converted into a comparable UK trade mark. Comparable UK marks are now recorded on the UK trade mark register, have the same legal status as if they had been applied for and registered under UK law, and the original filing dates remain the same.

5. The goods and services for which the earlier marks are registered are set out in the Annex to this decision.

6. Under section 5(2)(b), the opponent relies upon the goods and services underlined in the Annex to this decision. The opponent claims that there is a likelihood of confusion because the marks are similar and the goods are identical or similar to a high degree.

7. Under section 5(3), the opponent claims to have acquired a "significant reputation" for all of its marks and their goods and services for which it relies upon. The opponent claims that use of the applicant's mark would, without due cause, take unfair advantage of the earlier marks by free riding on their distinctiveness (which has been enhanced) and reputation. The opponent also claims that use of the applicant's mark would cause detriment to the reputation of the earlier marks if the goods are of inferior quality, which is likely to have a negative impact on the image, prestige and huge reputation of its marks, and their power of attraction will be reduced. Lastly, the use of the applicant's mark will cause detriment to the reputation of the earlier marks because it will dilute their distinctiveness.

8. The applicant filed a counterstatement denying the claims made.

9. The opponent is represented by Taylor Wessing LLP and the applicant is represented by ALLIAN IP LTD. A hearing was neither requested nor considered necessary, however, the opponent filed submissions and evidence in chief as well as submissions in lieu of a hearing. I make this decision having taken full account of all the papers, referring to them below as necessary.

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

EVIDENCE

11. The opponent's evidence consists of the witness statement of Alison Cole dated 9 January 2023. Ms Cole is a Trade Mark Attorney at Taylor Wessing LLP, who are the opponent's representatives. Ms Cole's statement was accompanied by 16 exhibits (Exhibit A-Exhibit P).

12. Whilst I do not propose to summarise them here, I have taken all of the evidence and the parties' submissions into consideration in reaching my decision and will refer to them where necessary below.

DECISION

Section 5(2)(b)

13. Section 5(2)(b) reads as follows:

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

(a)...

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

14. The earlier marks had not completed their registration process more than five years before the relevant date (the filing date of the mark in issue). Accordingly, the use provisions at s.6A of the Act do not apply. The opponent may rely on all of the goods and services it has identified without demonstrating that it has used the marks.

Section 5(2)(b) case law

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

- (a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;
- (b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- (d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

- (e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;
- (f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;
- (g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;
- (h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;
- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;
- (k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods and services

16. The applicant's goods are listed in paragraph 1, and the opponent's goods and services are underlined in the Annex to this decision.

17. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the Court of Justice of the European Union ("CJEU") in Canon, Case C-39/97, the court stated at paragraph 23 that:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary.”

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

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and, in particular, whether they are or are likely to be found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance, whether market research companies, who of course act for industry, put the goods or services in the same or different sectors

19. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court (“GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 Institut for Lernsysteme

v OHIM – Educational Services (ELS) [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark.”

20. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v OHIM*, Case T-325/06, the GC stated that “complementary” means:

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

Class 3

Cosmetics.

21. “Cosmetics” appears identically in the First Earlier Mark’s and applicant’s specifications.

Cosmetics and cosmetic preparations.

22. The applicant’s above goods are self-evidently identical to “cosmetics” in the First Earlier Mark’s specification.

Skincare cosmetics; Makeup.

23. The applicant’s above goods falls within the broader category of “cosmetics” in the First Earlier Mark’s specification. They are identical on the principle outlined in *Meric*.

Skincare preparations; Essences (Ethereal -);

24. I consider that cosmetics is a broad category which would encompass goods which can be applied to the body with the intention of beautification. As the applicant’s

skincare goods are used and applied to the users face/body, in order to improve its appearance I consider that these goods fall within the broader category of “cosmetics” in the First Earlier Mark’s specification. They are identical on the principle outlined in *Merix*. However, if I am wrong in this finding, I consider that there would be an overlap in trade channels, nature, method of use and purpose, and therefore the goods would be similar to a high degree.

Pet shampoos.

25. I consider that the applicant’s above goods fall within the broader category of “cosmetics for pets” in the First Earlier Mark’s specification. They are identical on the principle outlined in *Merix*. However, if I am wrong in this finding, I consider that there would be an overlap in trade channels, nature, method of use and purpose, and therefore the goods would be similar to a high degree.

Shampoos.

26. I note that in paragraph 25 above, I found “pet shampoos” to be identical to “cosmetics for pets” in the First Earlier Mark’s specification. This is on the basis that, firstly, make-up for animals such as lipsticks, blush and foundations do not exist. However, the term cosmetics also covers skincare cosmetics and other items which improve the user’s appearance for beautification purposes. I therefore consider that shampoos, conditioners and glossy coat sprays, for example, are all types of pet cosmetics because they are applied to the entirety of the pet, as their whole body is typically covered in fur, in order to improve their appearance.

27. In the case of humans, cosmetics typically covers make-up and other goods such as nail varnish and skincare cosmetics, which are all applied to the user’s face and body to improve their appearance. It does not cover goods that would be applied to the users hair because these are considered as hair care products. Consequently, I do not consider that the applicant’s goods are identical to “cosmetics” in the First Earlier Mark’s specification. However, I consider that the goods would be similar. The goods will overlap in purpose, as they are all used to beautify and improve the appearance of the user, albeit the applicant’s goods are also used to clean hair. The

goods may also overlap in nature, both appearing in a foaming liquid form. The goods will overlap in distribution channels, being sold by the same beauty retail outlets, albeit in different aisles. I therefore consider that the goods are similar to a medium degree.

Class 21

Tableware; Toothbrushes

28. The above terms appear identically in the Fourth Earlier Mark's and applicant's specifications.

Cosmetic utensils.

29. The above term appears identically in the Third Earlier Mark's and applicant's specifications.

Cooking utensils.

30. The above term appears identically in the Third Earlier Mark's and applicant's specifications.

Combs.

31. The applicant's above goods fall within the broader category of "combs and sponges" in the Fourth Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Kitchen utensils, not of precious metal; Baking utensils; Household utensils for cleaning, brushes and brush-making materials; Toilet utensils; Toilet and bathroom cleaning utensils; Household containers; Household utensils.

32. The applicant's above goods fall within the broader category of "household or kitchen utensils and containers" in the Fourth Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Cookware.

33. The Fourth Earlier Mark's "food trays" and "dishes" could include baking trays and oven-proof dishes used for cooking. Consequently they fall within the applicant's above broader category. They are identical on the principle outlined in *Meric*.

Cosmetic bags [fitted], containers for cosmetics.

34. I consider that the applicant's above goods are self-identical to "cosmetic cases", "cosmetic bags" and "make up bags" in the Fourth Earlier Mark's specification.

Toothbrush cases.

35. I consider that the applicant's above goods are similar to the Fourth Earlier Mark's "toothbrushes". I consider that the goods will overlap in distribution channels, with the same undertaking producing both toothbrushes and cases for them. I also consider that they will be distributed in the same aisle of a beauty retail outlet or pharmacy. The goods will also overlap in user, and are complementary. However, they clearly do not overlap in method of use and purpose. The goods are similar to a medium degree.

Class 24

Towels.

36. The applicant's above goods fall within the broader category of "towels, face towels, flannels" in the Fourth Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Wall hangings; decorative fabric.

37. The applicant's above goods fall within the broader category of "traced cloth for embroidery, tapestry (wall hangings) of textile, curtains of textile or plastic", "textiles" and/or "textile articles" in the Fourth Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Household Textiles.

38. The applicant's above goods fall within the broader category of "textiles" in the Fourth Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Blankets; Handkerchief.

39. The applicant's above goods fall within the broader category of "textile articles" in the Fourth Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Bedclothes.

40. The applicants above goods are self-evidently identical to "bed clothes" in the Third Earlier Mark's specification.

Class 25

Clothes.

41. The applicant's above goods are self-evidently identical to "clothing" in the Second Earlier Mark's specification.

Hats; Socks; Gloves.

42. The above terms appear identically in the applicant's and Second Earlier Mark's specifications.

Caps.

43. The applicant's above goods are self-evidently identical to "headgear, namely [...] caps" and "caps being headwear" in the Third Earlier Mark's specification. I also consider that the above goods fall within the broader category of "hats" in the Second Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Shoes.

44. I consider that the applicant's above term falls within the broader category of "footwear [other than special footwear for the sports]" in the Second Earlier Mark's specification. They are identical on the principle outlined in *Meric*.

Belts [clothing].

45. The applicant's above goods are self-evidently identical to "belts" in the Third Earlier Mark's specification.

Stockings.

46. I consider that the applicant's above term falls within the broader category of "clothing" in the Second Earlier Marks specification. They are identical on the principle outlined in *Meric*.

Insoles.

47. I consider that the applicant's above term has limited similarity with "footwear [other than special footwear for the sports]" in the Second Earlier Marks specification. I consider that the goods will overlap in distribution channels, especially in shoe stores, where you can buy both footwear and insoles to put in them. I also consider that general retail stores will sell these goods in close proximity. The goods will also overlap in user, and I consider that the goods will be complementary. I therefore consider that the goods are similar to between a low and medium degree.

Class 28

Toys.

48. The above term appears identically in the Third and Fourth Earlier Mark's and applicant's specifications.

Decorations for Christmas trees.

49. The above term appears identically in the Fourth Earlier Mark's and applicant's specifications.

Gym equipment.

50. I consider that the Third Earlier Mark's "body-building apparatus" and "physical exercise machines" fall within the broader category of "gym equipment" in the applicant's specification. They are identical on the principle outlined in *Meric*.

The average consumer and the nature of the purchasing act

51. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods. I must then determine the manner in which the goods are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J (as he then was) described the average consumer in these terms:

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

52. The average consumer for gym equipment will be members of the general public, and professionals such as gym owners. I consider that these are more expensive and less-frequent purchases. Various factors are going to be taken into consideration during the purchasing process, such as the cost, durability and safety of the goods. I therefore consider that higher than a medium degree of attention will be paid during

the purchasing process. However, the average consumer for the remaining goods will be members of the general public. The cost of purchase and the frequency of purchase is likely to vary, however, on balance the goods (cosmetics, clothing, blankets and toys etc.) are low costing more frequent purchases. Regardless, various factors are still likely to be taken into consideration during the purchasing process, such as the cost, materials and aesthetic of the goods. Taking the above into account, I consider that a medium degree of attention will be paid during the purchasing process.

53. The majority of the goods are likely to be obtained by self-selection from a general retail outlet, home stores, beauty retail outlets, supermarkets or their online equivalent. However, the gym equipment goods will most likely be purchased from specialist retailers. Alternatively, all of the goods may be purchased following perusal of advertisements or inspection of a catalogue. Visual considerations are, therefore, likely to dominate the selection process. However, I do not discount that there may also be an aural component to the purchase through advice sought from a sales assistant or word-of-mouth recommendations.


Comparison of the trade marks

54. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components. The CJEU stated, at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

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

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

56. The respective trade marks are shown below:

Opponent's trade marks	Applicant's trade mark
<p style="text-align: center;">TikTok</p> <p style="text-align: center;">Tik Tok</p> <p style="text-align: center;">("the First and Third Earlier Marks")</p>	
<p style="text-align: center;">TIK TOK</p> <p style="text-align: center;">("the Second Earlier Mark")</p>	
<p style="text-align: center;">TIKTOK</p> <p style="text-align: center;">TikTok</p> <p style="text-align: center;">("the Fourth Earlier Marks")</p>	

Overall Impression

57. Firstly, I note that all of the opponent's marks are word marks, and that registration of these covers use in any standard typeface, including presenting the marks in upper

and lower-case. Further, I do not consider that the conjoining of the words (or not) will have any material impact upon my comparison. On this basis, I will not be referring to the opponent's marks separately.

58. The opponent's earlier marks all consist of the words "Tik" and "Tok" presented either in all upper-case, or in title case. I also note that some of the marks are presented as one word; "TikTok", whereas others are presented with a space between the words "Tik" and "Tok". Regardless, the overall impression of the mark lies in the combination of these elements.

59. The applicant's mark consists of the word "TiKBOX" written in a white typeface. I note that the title of the "i" is presented in green, and a green dot is placed in the centre of the letter "O". This is all presented on a bright pink rectangular background. I consider that the word "TiKBOX" plays the greater role in the overall impression of the mark, with the dots, stylisation and background playing a lesser role.

60. Visually, the marks overlap in the presence of the letters T, I and K at the beginning of the marks. This acts as a visual point of similarity, especially as the average consumer tends to pay more attention to the beginning of the marks.¹ They also overlap in the presence of the letter O which is the fifth letter of both marks. However, the fourth letter of the opponents mark is "B" and its sixth letter is "X", whereas the applicant's fourth letter is "T" and its sixth letter is "K". I note that the letter X and K has some visual similarities, which as highlighted by the opponent, "include diagonals to the top and bottom right of the letter".

61. I appreciate that the applicant's mark is also presented in a white typeface, with 2 green dots, one above the "i" and the other in the centre of the "O", all presented on a pink background, which act as visual points of difference. However, taking all of the above into account, I consider that the marks are visually similar to a medium degree.

62. Aurally, the opponent's marks will be pronounced as they are presented; TIK-TOK. The applicant's mark will be pronounced as TIK-BOX. Therefore, as the marks overlap

¹ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02

in their beginning syllables, and in the “O” element of the second syllables, I consider that they are aurally similar to a medium degree.

63. Conceptually, I consider that the average consumer will recognise the opponent’s TIKTOK marks and assign them the conceptual meaning of the noise that a clock makes. I note that this is normally spelt as “ticktock”, however, I consider that phonetically “ticktock” is also pronounced as TIK-TOK, hence a parallel between the two would be drawn. I also consider that the consumer will recognise the words TIKBOX in the applicant’s mark as the misspelling of the words “tick box”, on the basis that again phonetically “tick box” is also pronounced as TIK-BOX. A tick box will be recognised by the average consumer as a box in which a tick is entered (most likely on a form). I therefore consider that the marks are conceptually dissimilar.

Distinctive character of the earlier trade marks

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

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, 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 promotion of 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).”

65. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it.

66. I will begin by assessing the inherent distinctive character of the opponent’s marks. The opponent argues that its marks are inherently distinctive to a high degree. Albeit the earlier marks are neither allusive nor descriptive of the opponent’s goods, the marks do have a recognisable dictionary concept; the noise that a clock makes. However, I note that it is presented in an unusual spelling (without the letter c’s). Consequently, I consider that the earlier marks are all inherently distinctive to between a medium and high degree.

67. I note that the opponent has not pleaded that its earlier marks have acquired enhanced distinctiveness. The opponent has, nonetheless, filed evidence of use. However, I note that this evidence is only in relation to class 9 goods and class 42 services. This evidence, therefore, cannot be used to establish enhanced distinctiveness in relation to its class 3, 21, 24, 25 and 28 goods.

Likelihood of confusion

68. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater

degree of similarity between the respective goods and vice versa. It is necessary for me to keep in mind the distinctive character of the earlier marks, the average consumer for the goods and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

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

- I have found all of the marks to be visually similar to a medium degree.
- I have found all of the marks to be aurally similar to a medium degree.
- I have found all of the marks to be conceptually dissimilar.
- I have found the opponent's marks to be inherently distinctive to between a medium and high degree.
- I have identified the average consumer to be members of the general public, and professionals such as gym owners, who will select the goods primarily by visual means, although I do not discount an aural component.
- I have concluded that higher than a medium degree of attention will be paid during the purchasing process for the gym equipment goods.
- I have concluded that a medium degree of attention will be paid during the purchasing process for the parties remaining goods.
- The parties' goods range from being identical to similar to a low degree.

70. Taking all of the factors listed in paragraph 69 into account, and even bearing in mind the principle of imperfect recollection, I am satisfied that the marks are unlikely to be mistakenly recalled or misremembered as each other. It is well established that where the meaning of at least one of the two supposedly conflicting marks at issue is so clear and specific that it can be grasped immediately by the relevant public, the conceptual differences observed between those signs may counteract the visual and phonetic similarities between them.² In this instance, all of the marks have clear and specific concepts. The opponent's marks evoke the meaning of a sound a clock makes

² *The Picasso Estate v OHIM*, Case C-361/04P, CJEU

(tick tock) and the applicant's mark evokes the meaning of a box in which a tick is entered (tick box). Consequently, I do not consider that the average consumer would overlook the letters B/T in the middle of the marks, and the letters X/K at the end of the marks, especially as the effect is to provide a significant and distinct conceptual hook to assist in differentiating between the marks. Taking all of the above factors into account, I do not consider there to be a likelihood of direct confusion.

71. It now falls to me to consider the likelihood of indirect confusion. Indirect confusion was described in the following terms by Iain Purvis Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL-O/375/10:

“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)".

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

73. As highlighted above, Mr Purvis Q.C. in *L.A Sugar Limited* sets out that there are three main categories of indirect confusion, and that indirect confusion 'tends' to fall in one of them. I note that the opponent hasn't stated specifically what category this case would fall within or suggested any alternative way in which indirect confusion might arise. However, for the sake of completeness, I will go through each category.

74. Firstly, indirect confusion might arise where the common element is so strikingly distinctive that the average consumer would assume that no-one else, but the brand owner, would be using it. In this instance, the common element between the marks are the letters TIK. However, I do not consider that these letters are so strikingly distinctive that you would think that only one undertaking would use them, particularly when they are combined with a different word to create a different overall meaning. The average consumer will most likely see them as a three letter combination, with an average level of distinctiveness. Instead, I consider that the distinctiveness of the opponent's mark lies in the combination of the words TIKTOK, which firstly qualifies each other to create a new meaning, and secondly is a deliberate misspelling which

evokes the concept of a sound a clock makes. I therefore do not consider that this category is satisfied.

75. This leads to the second category from *L.A Sugar*, where the later mark simply adds a non-distinctive element to the earlier mark. For this category to be satisfied, the opponent's marks as a whole (TIKTOK/TIK TOK) would need to be reproduced, with an addition of a non-distinctive element. It is not. However, for the sake of completeness, the addition of the word BOX at the end of TIK cannot be said to be non-distinctive as it changes the meaning of the word TIK, and creates a new unitary meaning: a box to which a tick will be entered. On this basis, this category is also not satisfied.

76. Lastly, where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension. In this case, both marks start with the letters "TIK". Therefore it has to be determined whether changing the ending from "TOK" to "BOX" is a logical brand extension. In this instance, I do not consider that it is. This on the basis that the word "TOK" on its own is an invented word with no particular meaning, and the word "BOX" is an ordinary dictionary word which would be recognised by the average consumer. I therefore do not consider that a logical brand extension would go from using an invented word to a known dictionary word. Furthermore, and as highlighted above, the second words of all the marks changes the meaning of the words to create a new unitary meaning. On this basis also, I do not consider that the average consumer would think the opponent's goods originate from the applicant or vice versa because of the clear and distinct conceptual difference separating the marks as a whole (the sound a clock makes vs a box which a tick is entered). These are clearly not natural variants or brand extensions of each other. Therefore, I do not consider that this category can be satisfied.

77. I bear in mind that the examples above set out by Mr Purvis Q.C. are not exhaustive. However, I do not consider that there are any other logical examples of how the applicant's mark could be indirectly confused with the opponent's and the opponent has not suggested any. I consider that having noticed that the trade marks are different, I see no reason why the average consumer would assume that they

come from the same or economically linked undertakings. As highlighted above, the marks are not natural variants or brand extensions of each other. Consequently, I consider there is no likelihood of indirect confusion.

78. The opposition based upon section 5(2)(b) is dismissed.

Section 5(3)

79. Section 5(3) of the Act states:

“5(3) A trade mark which –

(a) 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 (or, in the case of a European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.”

80. As noted above, the opponent’s marks qualify as earlier marks pursuant to section 6 of the Act. I also note that the opponent relies upon all of its goods and services for section 5(3), as contained in the Annex to this decision.

81. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, *General Motors*, Case 252/07, *Intel*, Case C-408/01, *Adidas-Salomon*, Case C-487/07, *L’Oreal v Bellure* and Case C-323/09, *Marks and Spencer v Interflora* and Case C383/12P, *Environmental Manufacturing LLP v OHIM*. 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) 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*.

(g) 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*.

(h) 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'Oreal v Bellure NV*, paragraph 40.

(i) 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'Oreal v Bellure*).

82. The conditions of section 5(3) are cumulative. Firstly, the opponent's and applicant's marks must be identical or similar. Secondly, the opponent must show that the earlier marks have achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must have established that the level of reputation and the similarities between the marks will cause the public to make a link between them, in the sense of the earlier marks being brought to mind by the later mark. Fourthly, assuming that the first, second and third conditions have been met, section 5(3) requires that one or more types of damage claimed will occur. It is unnecessary for the purposes of section 5(3) that the goods and services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks. The relevant date for the assessment under section 5(3) is the date of application i.e. 30 April 2022.

Reputation

83. In *General Motors*, Case C-375/97, the CJEU held that:

“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.”

84. In determining whether the opponent has demonstrated a reputation for the goods and services in issue, it is necessary for me to consider whether its mark will be known by a significant part of the public concerned with the goods and services. In reaching this decision, I must take all of the evidence into account including “the market share held by the trade mark, the intensity, geographical extent and duration of use, and the size of the investment made by the undertakings in promoting it.”

85. As the First, Third and Fourth Earlier Marks are UKTMs, they must have a reputation amongst a significant part of the UK public.

86. I note that the Second Earlier Mark is a comparable UK trade mark (EU). Therefore, I can consider the evidence that both pertains to the EU until IP Completion Day (31 December 2020), and the UK, in order to determine its reputation in both territories.

87. I note the following from the opponent's evidence:

- a) Ms Cole states that TikTok, the app, was launched in China in September 2016, and released globally in 2017 on iOS and Android devices.
- b) **Exhibit B**, an article from www.businessofapps.com dated 6 July 2021, highlights that TikTok was the most downloaded app globally in 2020, with 850 million global downloads. 22 million of those downloaded were from the UK.
- c) **Exhibit C**, an article from www.reuters.com dated 29 July 2020, values the app at \$50 billion, which is "50 times its projected 2020 revenue of about \$1 billion". The article also states that "its management team expects to achieve \$6 billion in revenue in 2021".
- d) **Exhibit D**, an article from www.businessofapps.com dated 4 August 2021, explains that TikTok is an app which "allows users to create 15 second videos, soundtracked by music clips" and is largely used to "create, share, and video content based around lip syncing, dancing, comedy skits and other physical activities. Clearly, this is something that appeals to young people (and quite a few older ones) around the world, with the app snowballing in popularity over 2018 and 2019". The article also includes the following statistics:
 - a. There are 100 million TikTok monthly users in Europe, with 17 million monthly users in the UK over the age of 18.
 - b. The proportion of UK TikTok users aged under 18 is only 18%.
 - c. The TikTok user growth over 2020 in the UK was 75.2%.
 - d. The daily TikTok usage in children aged 4-14 in the UK in May 2019 was 35 minutes and in February 2020 69 minutes, which is an increase of 97%.
 - e. Four in ten adult European TikTok users are aged 18 to 24.
 - f. Average daily time on TikTok is estimated at 45 minutes.
- e) **Exhibit D** also contains the following charts:

Predicted UK TikTok users and penetration (internet users)

Year	Users, millions	Penetration
2019	4.9	12.4%
2020	8.5	21.1%
2021	10.9	26.4%
2022	11.7	27.8%
2023	12.1	28.3%
2024	12.5	28.5%

Source: [eMarketer](#)

Key TikTok Revenue Statistics

TikTok revenue by month*

Month	TikTok revenue, USD millions
Apr-19	7.8
May-19	9.0
Jun-19	10.9
Jul-19	11.9
Aug-19	14.0
Sep-19	16.5
Oct-19	18.5
Nov-19	33.2
Dec-19	43.0
Apr-20**	78
May-20	95.7
Jun-20	90.7
Jul-20	102.5
Aug-20	88.1
Sep-20	130.5
Oct-20	115
Nov-20	123
Dec-20	142

- f) **Exhibit E** contains a screenshot from www.appannie.com dated 9 August 2021 listing TikTok as the seventh most downloaded app in the world between 2010 and 2019.

- g) **Exhibit E** also contains a screenshot from www.socialfilms.co.uk dated “11/07/2022”. Under the heading, “how many downloads does TikTok have in the UK?” it states that “in total, App Store and Google Play customers around the world downloaded TikTok almost 115 million times in March 2020- the most the app has ever achieved to date in one month. Over 745,000 of these March 2020 downloads were from the UK. The number of UK TikTok users is expected to reach 10 million by 2021”.
- h) **Exhibit G** contains an article about a LINQIA survey where TikTok has become the second most popular media platform of choice for influencer marketing, dated 20 April 2021. This highlights that 68% of brand marketers indicated they were planning on using the app to market their products.
- i) **Exhibits I to L** contains screenshots of the opponent’s social media pages. I note the following:
- a. As of 9 August 2021, its Facebook page had 23.1 million likes, and 24.9 million people follow this page.
 - b. A screenshot dated 11 August 2021 shows its Instagram page had 27.2 million followers.
 - c. A screenshot dated 11 August 2021 shows its Twitter page had 1.7 million followers. I also note that the opponent has a UK TikTok Twitter page, which has 122.8K followers, however, this screenshot is dated 12 July 2022.
 - d. A screenshot dated 11 August 2021 shows its YouTube page had 219,000 subscribers.
- j) **Exhibit N** contains an article called “TikTok inks deal to sponsor Euro 2020” from www.campaignlive.co.uk dated 11 February 2021. It states that:
- a. It is the “first time a digital entertainment platform has sponsored a major football tournament and is a marketing first for TikTok, which has

aggressively expanded in Europe since launching a continental hub in London in 2018. It had only launched its first TV ad in the UK last year”.

- b. “The deal value was not disclosed but it is thought to be worth tens of millions of pounds”.
- c. “The short-form video platform now boasts one of the most downloaded apps in the world. Its UK user base is set to grow to reach the tens of millions this year”.

- k) The above is supported by **exhibit O** which contains an article from The Guardian and Variety, both dated 12 July 2021. They highlight that the Euro 2020 final attracted a UK audience of over 30 million. The England vs Denmark game also drew 27.6 million views at its peak, making it the most watched soccer match ever shown on one network in the UK.

88. The evidence provided by the opponent is not without its limitations. Firstly, the opponent relies upon all of its earlier marks’ goods and services, which it claims to have a reputation for. However, the majority of the evidence above is in relation to class 9 apps, none of which the opponent’s earlier marks are registered for. However, the evidence also pertains to some of the Second Earlier Marks class 42 and 45 services. I will therefore be proceeding with this mark only.

89. I note that there is no evidence regarding the opponent’s advertising expenditure in promoting TikTok. The opponent has provided revenue figures above, but this is not broken down by territory and therefore I am unable to determine the revenue figures which only pertain to the EU and UK. However, taking the evidence as a whole into account, in particular a) the very substantial userbase in the UK prior to the relevant date, b) the high ranking of downloads of the app on both iOs and Android within the EU and UK and c) the scale of coverage of TikTok in the UK media alone for the 2020 Euro final, that this alongside the opponent’s wider evidence such as its revenue statistics, its value of \$50 billion, and its high social media following, means that I am satisfied that the opponent has demonstrated a strong reputation in the EU and UK in relation to the Second Earlier Mark’s following services:

Class 42 Hosting on-line web facilities for others for sharing on-line content; Hosting digital content on the Internet; Hosting of multimedia and interactive applications.

Class 45 On-line social networking services.

Link

90. As I noted above, my assessment of whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are:

The degree of similarity between the conflicting marks

The Second Earlier Mark and the applicant's marks are visually and aurally similar to a medium degree, and conceptually dissimilar.

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 and services, and the relevant section of the public

The services upon which the opponent has shown a reputation are its hosting on-line web facilities for others for sharing on-line content, hosting digital content on the Internet, and hosting of multimedia and interactive applications services in class 42 and its online social networking services in class 45.

I consider that these services are clearly dissimilar to all of the applicant's class 3, 21, 24, 25 and 28 goods. They do not overlap in nature, method of use, trade channels or purpose. They are neither in competition nor complementary. Having said that, the parties' goods and services will be selected by the same section of the relevant public, being members of the general public at large.

The strength of the earlier mark's reputation

The opponent enjoys a strong reputation in respect of the above class 42 and 45 services.

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

The opponent's Second Earlier Mark is inherently distinctive to between a medium and high degree. In terms of enhanced distinctiveness, I consider that based on the evidence above, and for the same reasons as set out in paragraph 89 above, I do not hesitate to conclude that the distinctiveness of the Second Earlier Mark has been enhanced, through use, in relation to hosting on-line web facilities for others for sharing on-line content, hosting digital content on the Internet, and hosting of multimedia and interactive applications services in class 42 and its online social networking services in class 45, to a high degree.

Whether there is a likelihood of confusion

Given the distance between the goods and services, I do not consider there to be a likelihood of confusion (direct or indirect).

91. I am now required to determine whether, in this particular case, the relevant public would bring the opponent's mark to mind when confronted with the applicant's mark. That is, to make a link between them.

92. I do not consider that the above evidence is strong, nor specific enough, to establish that a link could be made between the applicant's class 3, 21, 24, 25 and 28 goods, which are entirely different in nature, purpose, method of use and trade channels to the opponent's hosting on-line web facilities for others for sharing on-line content, hosting digital content on the Internet, and hosting of multimedia and interactive applications services in class 42 and its online social networking services in class 45. Notwithstanding the fact that the goods and services will overlap in user, the applicant's goods and the opponent's services are completely removed from one another and therefore the opponent's reputation is not strong enough to bridge the gap between them. I consider that the distance between the goods and services is

sufficient to offset the similarity of the marks and, therefore, I do not consider that the requisite link will be made in respect of the goods and services applied for.

93. As I have found there to be no link, the opposition based upon section 5(3) is dismissed.

CONCLUSION

94. The opposition is unsuccessful, and the application may proceed to registration.

COSTS

95. The applicant has been successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the applicant the sum of **£900** as a contribution towards the costs of the proceedings. The sum is calculated as follows:

Considering the Notice of opposition and preparing a Counterstatement	£400
Considering the opponent's evidence	£500
Total	£900

96. I therefore order TikTok Information Technologies UK Limited to pay LI XINGHE the sum of £900. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 4th day of October 2023

L FAYTER

For the Registrar

ANNEX

The First Earlier Mark

Class 3

Cosmetics; soap; cleaning preparations; polishing preparations; abrasives; perfume; dentifrices; cosmetics for pets; air fragrancing preparations; incense.

Class 8

Sharpening instruments; garden tools, hand-operated; nail clippers, electric or non-electric; hand tools, hand-operated; graving tools [hand tools]; cutters; table cutlery [knives, forks and spoons].

Class 10

Feeding bottles.

Class 27

Carpets; door mats; floor coverings; yoga mats; textile wallpaper.

Class 29

Meat; weed extracts for food; seaweed extracts for food; fish, not live; fruits, tinned; fruits, canned; fruit, preserved; vegetables, preserved; eggs; soymilk (milk substitute); milk; edible fats; vegetable salads; gelatine; nuts, prepared; dried edible mushrooms; yogurt.

Class 30

Coffee; tea; tea-based beverages; honey; pasties; starch for food; noodles; cereal-based snack food; soya flour; cooking salt; ice, natural or artificial; buns; chips [cereal products]; corn flakes; dressings for salad; essences for foodstuffs, except etheric essences and essential oils; gluten prepared as foodstuff; preparations for stiffening whipped cream; high-protein cereal bars (non-sweet).

Class 31

Trees; animal foodstuffs; aromatic sand [litter] for pets; beans, fresh; coconut shells; flowers, dried, for decoration; nuts, unprocessed; peanuts, fresh; vegetables, fresh; yeast for animal consumption.

Class 32

Non-alcoholic drinks; beers; syrups for beverages.

Class 33

Spirits and liquors; wine.

Class 39

Transportation services; reservation services; travel agency services; packaging of goods; boat rental; mail delivery and courier services; arranging of tours.

Class 43

Accommodation bureaux [hotels, boarding houses]; providing campground facilities; day-nurseries [crèches]; boarding for animals; self-service restaurant services; restaurant services; tourist home services; food and drink catering; rental of chairs, tables, table linen, glassware.

The Second Earlier Mark

Class 9

Covers for smartphones and mobile phones; Cases for smartphones and mobile phones; Protective cases for smartphones; selfie sticks used as smartphone accessories; holders adapted for smartphones, mobile phones; straps for smartphones, mobile phones; batteries; battery chargers; USB charges (battery chargers); USB cables; earphones; headphones; headsets; protective films adapted for smartphones, mobile phones; Other accessories designed for smartphones or mobile phones.

Class 25

Clothing; Hats; Socks; Scarfs; Gloves; Footwear [other than special footwear for the sports].

Class 35

Advertising and advertisement services; advertising agencies; on-line advertising on computer networks; pay per click advertising; preparing advertisements for others; dissemination of advertising matter; advertising through all public communication means; sales promotion for others; advice in the field of business management and marketing; search engine optimization for sales promotion; providing and rental of advertising space on the internet; business advice and information; assistance in management of business activities; commercial information agency services; providing business information via a website; personnel management consultancy; updating and maintenance of data in computer databases.

Class 42

Provision of software applications through a website; Hosting on-line web facilities for others for sharing on-line content; Hosting platforms on the Internet; Computer programming; Computer software design; Electronic data storage; Software as a service (SAAS) services; Cloud computing; Hosting a website for the electronic storage of digital photographs and videos; Hosting digital content on the Internet; Hosting multimedia entertainment content; Hosting of multimedia and interactive applications; Web site hosting services.

Class 45

On-line social networking services.

The Third Earlier Mark

Class 6

Baskets of metal; bells for animals; split rings of common metal for keys; boxes of common metal; clothes hooks of metal; door bells of metal, non-electric; keys of metal.

Class 11

Coffee machines; coffee percolators; cooking apparatus and installations; electric fans for personal use; hot water bottles; luminous house numbers; electric lamps; light bulbs; nail lamps; refrigerating apparatus and machines; water heaters; wine cellars, electric; USB-powered cup heaters; USB-powered hand warmers; safety lamps; hair driers; sanitary apparatus and installations; disinfectant apparatus; radiators; lighters.

Class 14

Alarm clocks; badges of precious metal; boxes of precious metal; bracelets; earrings; jewellery; ornamental pins; shoe jewellery; tie clips; necklaces; watches; split rings of precious metal for keys; key rings; key chains.

Class 16

Bookmarks; printed matter; composing frames; drawing materials; desk mats; document holders; marking pens; school supplies; stationery; writing paper; table napkins of paper; paper; pencils; pictures; stands for pens and pencils; ink; teaching materials.

Class 18

Bags; bags for sports; boxes of leather or leatherboard; card cases; chain mesh purses; clothing for pets; handbags; net bags for shopping; suitcases; umbrellas; walking sticks; leather goods unworked or semi-worked namely, leather purses, leather cloths, leather bags, leather wallets, leather coin purses and leather briefcases.

Class 20

Air mattresses; baby changing mats; bamboo curtains; bedding; boxes of wood or plastic; camping mattresses; clips of plastic for sealing bags; decorations of plastic for foodstuffs; furniture; furniture fittings, not of metal; hand-held flagpoles, not of metal; identification bracelets, not of metal; keyboards for hanging keys; letter boxes, not of metal or masonry.

Class 21

Kitchen utensils; glass ware; cooking utensils; ceramics for household purposes; combs; mugs; tea sets; toilet utensils; toothbrushes; cosmetic utensils; cages for household pets; brushes; works of art, of porcelain, terracotta or glass.

Class 24

Textiles; bed clothes; wall hangings of textile; loose covers for furniture; curtains of textile or plastic; banners; non-woven textile fabrics; felts.

Class 25

Clothing, namely, shirts, t-shirts, jackets, sweaters, sweatshirts, vests, shorts, pants, bodysuits, cloth bibs, jerseys, pullovers, socks; headgear, namely, hats, caps, beanies, visors; beach shoes; belts; caps being headwear; bandanas [neckerchiefs]; gloves.

Class 26

Edgings for clothing; fastenings for clothing; false hair; artificial flowers; heat adhesive patches for repairing textile articles; numerals or letters for marking linen; shoulder pads for clothing; needles.

Class 28

Games; toys; board games; balls for games; body-building apparatus; archery implements; physical exercise machines; whistles; inflatable swimming pools; plastic racetracks; ice skates; Christmas tree ornaments, except illumination articles and confectionery; fishing tackle; twirling batons; camouflage screens [sports articles]; scratch cards for playing lottery games.

The Fourth Earlier Mark

Class 6

Badges; clasps; buckles; chains; chain links; keys; key rings, metal; hooks; pins; spurs; plaques.

Class 8

Table cutlery made from precious metals.

Class 9

Glasses; spectacle glasses; sunglasses; protective glasses and cases therefor; parts and fittings for all the aforesaid goods.

Class 14

Jewellery; imitation jewellery and precious stones; precious metals; badges; cufflinks; figurines; buckles; key rings; pins made from precious metals; pendants; finger rings; necklaces; bracelets; chains made from precious metals; clocks; watches and

horological instruments; pendants; bracelets; key chains; parts and fittings for all the aforesaid goods.

Class 16

Printed matter; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks; printed publications; periodical publications; books, brochures; newspapers; magazines; journals; comics, stationery; labels; stickers; decalcomanias; posters; ring binders; calendars; address books; diaries; annuals; notebooks; autograph albums; photo albums; cards; greeting cards; catalogues; programmes; writing paper; folders; envelopes; pads; notepads; stamps and stamp pads; writing implements; letter paper; drawing materials; napkins of paper; rubber erasers; pens; pencils; erasers; rulers; pencil sharpeners; staplers; paper hole punches; highlighter pens; felt-tip pens; glue sticks for stationery purposes; mats [coasters] of card; tablecloths of paper; wrapping paper; napkins; bags of paper or plastic material; pins; parts and fittings for all the aforesaid goods.

Class 18

Trunks and travelling bags; articles of luggage being bags; bags; baggage; travel baggage; travel bags; weekend bags; work bags; toiletry cases sold empty; tool bags [empty]; sports bags; shopping bags; bags for clothes; bags made of leather; bags made of imitation leather; bags made of plastic; money bags; school bags; shoe bags; suitcases; rucksacks; back packs; purses; wallets; cosmetic cases; make up bags; cosmetic bags; handbags; school satchels.

Class 20

Furniture; mirrors; picture frames; bedding (except linen); cushions; bolsters; bins of wood or plastic; magazine racks; beds; bunk beds; wardrobes; desks; chests of drawers; pillows; chairs; chest for toys; coat hangers; figurines and statuettes of wood, wax, plaster or plastic; nameplates; statues of wood, wax, plaster or plastic; parts and fittings for all the aforesaid goods.

Class 21

Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes; hair brushes; drinking glasses; mugs; drinking cups; brushes; egg cups; food trays; coasters (tableware); drink coasters [other than of paper or table linen]; plastic coasters; dishes; bowls; plates; drinking vessels; lunch boxes; soap dispensers; coasters; toothbrushes; water bottles; plastic water bottles; tableware; moneyboxes; thermos flasks; bottle openers; horse brushes; paper drinking cups and plates; drinking straws; parts and fittings for all the aforesaid goods.

Class 24

Textiles; textile articles; textile piece goods, bed and table covers; bath linen; linen; cloth; bed linen; household linen; table linen; table cloths; pillow cases; sheets; eiderdowns; duvets; covers for eiderdowns and duvets; napery, napkins; serviettes; towels, face towels, flannels; traced cloth for embroidery, tapestry (wall hangings) of textile, curtains of textile or plastic; sleeping bags.

Class 26

Arm bands.

Class 28

Games and playthings; gymnastic and sporting articles; free-standing video games apparatus; decorations for Christmas trees; toys; balls for games; balls for play; balloons; dolls; board games; card games; ordinary playing cards; electronic games not included in other classes; play figures; action figures; automatic amusement apparatus; automatic gaming machines; clothing for toy figures; clothing for dolls; dolls accessories; computer games apparatus; construction games; construction toys; costume masks; pet toys; rocking horses; cuddly toys; surfboards; sail boards; surfboards; skateboards; inline skates; parts and fittings for all the aforesaid goods.