

O/1144/23

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003799618

BY VIVE SKINCARE LIMITED

TO REGISTER THE TRADE MARK:

VIVE

IN CLASSES 3 AND 5

AND IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 436692

BY HENKEL AG & CO. KGAA

BACKGROUND AND PLEADINGS

1. On 16 June 2022, Vive Skincare Limited (“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 8 July 2022 and registration is sought for the goods shown in the Annex to this decision.

2. On 6 October 2022, the application was partially opposed by Henkel AG & Co. KGaA (“the opponent”) on the basis of sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”). The opposition is directed at those goods underlined in the Annex to this decision. Under sections 5(2)(b) and 5(3), the opponent relies upon the following trade marks:

LIVE

UKTM no. 3204627

Filing date 3 January 2017; registration date 7 April 2017

Relying on all goods for which the mark is registered, namely:

Class 3 Preparations for treating, dyeing, colouring, bleaching, styling hair.

(“the First Earlier Mark”)

LIVE

UKTM no. 900984245

Filing date 13 November 1998; registration date 10 April 2000

Priority date: 5 August 1998

Relying on all goods for which the mark is registered, namely:

Class 3 Preparations for treating, dyeing, colouring, bleaching and styling hair.

(“the Second Earlier Mark”)

3. Under section 5(2)(b) of the Act, the opponent claims that the marks are similar and the goods are identical or similar, with the result that there is a likelihood of confusion.

4. Under section 5(3) of the Act, the opponent claims to have a reputation for all goods for which the earlier marks are registered. The opponent claims that use of the applicant's mark would, without due cause, take unfair advantage of, and/or be detrimental to, the distinctive character and/or repute of the earlier marks.

5. Under section 5(4)(a) of the Act, the opponent relies upon the sign LIVE which it claims to have used throughout the UK since 2000 in relation to "preparations for treating, dyeing, colouring, bleaching and styling hair".

6. The applicant filed a counterstatement denying the claims made and putting the opponent to proof of use of the earlier marks.

7. The applicant is represented by Withers & Rogers LLP and the opponent is represented by D Young & Co LLP.

8. Only the opponent filed evidence. Neither party requested a hearing, but both filed written submissions in lieu. This decision is taken following a careful perusal of the papers.

EVIDENCE AND SUBMISSIONS

9. The opponent filed evidence in the form of the witness statement of Joachim Renner dated 3 February 2023, which is accompanied by 19 exhibits. Mr Renner is Corporate Trade Mark Counsel for the opponent, a position he has held since 2002.

10. Both parties filed written submissions in lieu dated 2 June 2022.

11. I have taken the evidence and submissions into account in reaching this decision and will refer to them below where necessary.

RELEVANCE OF EU LAW

12. 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 upon 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.

DECISION

Section 5(2)(b)

13. Section 5(2)(b) of the Act 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. Section 5A of the Act is as follows:

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

15. The trade marks upon which the opponent relies qualify as earlier trade marks pursuant to section 6 of the Act. As the earlier marks had completed their registration process more than 5 years before the application date of the mark in issue, they are subject to the use provisions in section 6A of the Act. However, for reasons that will become clear later on in this decision, I do not consider that the issue of proof of use

is determinative. Consequently, I will proceed on the basis that the opponent can rely upon all of the goods identified.

16. 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 greater degree of similarity between the marks, and vice versa;

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

(i) mere association, in the strict sense that the later mark brings to mind the earlier mark, 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 will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods

17. The applicant's specification includes the term "colouring lotions for the hair". This is plainly identical to "preparations for [...] colouring [...] hair" in the specifications of the earlier marks. For the purposes of my assessment, I will proceed on the basis that all of the goods in the parties' specifications are identical.

The average consumer and the nature of the purchasing act

18. As the above case law 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 words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

19. The average consumer for the goods will be a member of the general public. I also bear in mind that for some of the applicant’s medicated goods, the average consumer may include medical professionals. The cost of the goods is likely to be relatively low and they are likely to be reasonably frequent purchases. However, factors will be taken into consideration such as suitability for particular conditions, suitability for skin type and scent. Consequently, I consider that a medium degree of attention will be paid during the purchasing process. However, a slightly higher degree of attention may be paid in relation to the medicated goods.

20. The goods are likely to be self-selected from the shelves of a retail outlet or online equivalents. Consequently, visual considerations are likely to dominate the selection process. However, I do not discount that advice may be sought from retail assistants or medical professionals and so aural considerations will also play a part.

Comparison of trade marks

21. It is clear from *Sabel* 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 marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European

Union (“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.”

22. 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.

23. The respective trade marks are shown below:

Opponent’s trade marks	Applicant’s trade mark
LIVE	VIVE

24. The parties marks both consist of one word, in which the overall impression resides.

25. Visually, the marks overlap in the last three letters – IVE. They differ in the first letter which is L in the earlier marks and V in the applicant’s mark. I bear in mind that the beginnings of marks tend to make more of an impact than the ends.¹ I also bear in mind that differences in short marks tend to make more of an impact.² I consider the marks to be visually similar to a medium degree.

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

² O/013/21

26. Aurally, the earlier marks will be attributed their ordinary English pronunciation (either LIVE as in HIVE or LIVE as in GIVE). The applicant's mark may be pronounced VIVE (as in HIVE) or VEEV (as in LEAVE). The former will result in a medium degree of aural similarity between the marks, the latter will result in a very low degree of aural similarity.

27. Conceptually, the earlier marks will be attributed their ordinary dictionary meaning. My primary finding is that the applicant's mark will be perceived either as an invented word or a foreign language word. I am not convinced that the average consumer in the UK would be familiar with the meaning of the French word VIVE. In my view, it will be attributed no meaning and the marks will be conceptually dissimilar. However, I bear in mind the following submission of the opponent:

"The verb "LIVE" means "*(to continue) to be alive or have life*". A printout from Cambridge Dictionary is at Annex 2. The word "vive", derives from the French verb "vivre" which means, "*to live*". Also at Annex 2 is a printout from the Collins Dictionary showing the definition of the French word "VIVE" as "*long live*". Accordingly, the Marks are clearly conceptually similar given that they both relate to the concept of "*being alive*".

28. If I am wrong in that finding and there is a significant proportion of average consumers who recognise the French meaning of the mark as being "to live", I accept the opponent's submission that the marks are conceptually similar. They would share a high degree of conceptual similarity.

Distinctive character of the earlier marks

29. 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 C-108/97 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 promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

30. 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 distinctive character of a mark can be enhanced by virtue of the use that has been made of it.

31. The earlier marks consist of the dictionary word LIVE. There is no obvious connection with the goods relied upon and, in my view, the earlier marks will be attributed an average (or medium) degree of inherent distinctive character.

32. I will now consider whether the distinctiveness of the mark has been enhanced through use. The relevant market for assessing enhanced distinctiveness is the UK market. I note the following from the opponent’s evidence:

- a) LIVE has been used continuously in the UK since 2000.
- b) The opponent’s goods are available from retailers such as Tesco, Boots and Sainsbury’s. Invoices have been provided which show sales to a range of

retailers (including the aforementioned) between 2016 and 2021.³ Although the LIVE mark does not appear on the invoices, Mr Renner confirms that these invoices relate to sales of goods bearing the LIVE mark.

- c) The opponent has promoted its mark in *Look* magazine in the UK in 2015, 2016 and 2017.⁴ The opponent's hair colourants and shampoo have also been referenced in publications such as *Mail Online* (2019), *Glamour* (2019), *Cosmopolitan* (2020), *Good Housekeeping UK* online (2019), *Marie Clare* online (2018) and *Evening Standard* online (2018).⁵
- d) Sales of LIVE products in the UK have amounted to between €20million and €35million per year between 2015 and 2021.
- e) Marketing expenditure in the UK has been between €7million and €12million per year.
- f) The opponent was in the top 10 brands in the UK hair colourant market for 2019/2020 and 2020/2021.

33. There is evidence of use in relation to shampoos. However, it is not clear to me whether these goods would be covered by the opponent's specifications; there is nothing in the specification which covers preparations for cleaning hair. In any event, nothing will turn on this. Plainly, the distinctiveness of the earlier marks has been enhanced through use to a high degree for hair colourants.

Likelihood of confusion

34. 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 them and the goods down to the responsible undertakings being the

³ Exhibit JR9

⁴ Exhibit JR7

⁵ Exhibits JR14 and JR18

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 goods and vice versa. As I mentioned above, 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 act. In doing so, I must be alive to the fact that the average consumer rarely has an 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.

35. I have found as follows:

- a) I will proceed on the basis that the goods are identical.
- b) The average consumer will be both members of the general public and medical professionals who will pay either a medium or slightly higher than medium degree of attention during the purchasing act.
- c) The purchasing process will be predominantly visual, although I do not discount an aural component.
- d) The marks are visually similar to a medium degree. They are aurally similar to a medium degree or very low degree, depending on the pronunciation. The marks will be either conceptually dissimilar or conceptually similar to a high degree.
- e) The earlier marks are inherently distinctive to a medium degree which has been enhanced through use to a high degree in relation to hair colourants.

36. Bearing in mind that the purchasing process is predominantly visual, I do not consider it likely that the marks will be mistakenly recalled or misremembered as each other. For those consumers who see VIVE as an invented or foreign language word with no meaning, the conceptual dissimilarity between the marks, combined with the

visual and aural differences will prevent them from being directly confused. For those consumers who recognise the conceptual similarities, the visual and aural differences will still be sufficient to distinguish between them. This is particularly the case given that the difference appears at the beginning of the marks and they are both only four letters (meaning differences will be more pronounced). Further, there will be an awareness and recognition that the marks are presented in different languages. The opponent suggests that I should take account of situations in which only part of the branding will be visible to the consumer, and the first letter is covered in some way. Plainly, that is not part of the assessment I must undertake which does not involve dissecting the trade marks, but considering them as a whole. I do not consider there to be a likelihood of direct confusion.

37. Having recognised the differences between the marks, I can see no reason for there to be indirect confusion. Even for those consumers who recognise conceptual similarity, the translation of the word LIVE into a different language would not be a logical brand extension or variant for use in the UK market. In my view, there is no likelihood of indirect confusion.

38. The opposition based upon section 5(2)(b) of the Act fails in its entirety.

Section 5(3)

39. 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 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.”

40. Section 5(3A) of the Act states:

“Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier trade mark is protected.”

41. 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*).

42. The conditions of section 5(3) are cumulative. Firstly, the opponent must show that the earlier marks and the applicant's mark are 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 be 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. Finally, assuming the first three conditions have been met, section 5(3) requires that one or more of the types of damage will occur. It is unnecessary for the purposes of section 5(3) that the goods 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.

Reputation

43. 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.”

44. In determining whether the opponent has demonstrated a reputation for the goods relied upon, it is necessary for me to consider whether its marks will be known by a

significant part of the public concerned with those goods. 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 undertaking in promoting it”.

45. I have already summarised the opponent’s evidence of use above. For the same reasons, I consider that the opponent has a strong reputation for hair colourants in the UK.

Link

46. 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

I have found the marks to be visually similar to a medium degree. They are aurally similar to a very low degree or a medium degree, depending on the pronunciation. They are conceptually dissimilar or similar to a high degree.

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

I will proceed on the basis that the goods are identical.

The average consumer will be either a member of the general public or a medical professional who will pay either a medium or a slightly higher than medium degree of attention during the purchasing process. The purchasing process is predominantly visual, although I do not discount an aural component.

The strength of the earlier mark's reputation

The earlier marks have a strong reputation for hair colourants.

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

The earlier marks are inherently distinctive to a medium degree, which has been enhanced through use to a high degree.

Whether there is a likelihood of confusion

I have found there to be no likelihood of direct or indirect confusion.

47. Notwithstanding the strength of the opponent's reputation, I consider the marks to simply be too dissimilar for a link to be made. Even for those consumers who recognise the conceptual similarity, there will still be a recognition that the words are presented in a different language and that there are visual and aural differences between them. Bearing this in mind, I do not consider it likely that there will be a link made in the mind of the consumer. Even if a link is made, it will be too fleeting for damage to occur.

48. The opposition based upon section 5(3) of the Act fails in its entirety.

Section 5(4)(a)

49. Section 5(4)(a) of the Act states as follows:

"5(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented -

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

aa)...

b) ...

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of “an earlier right” in relation to the trade mark”.

50. Subsection (4A) of section 5 of the Act states:

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

51. I can deal with this ground relatively swiftly. Plainly, the opponent had goodwill and the sign LIVE was distinctive of that goodwill for “hair colourants” at the relevant date. However, whilst the test for misrepresentation is different from that for likelihood of confusion in that it entails “deception of a substantial number of members of the public” rather than “confusion of the average consumer”, it has been acknowledged that they are unlikely to produce different outcomes in practice.⁶ Certainly, I believe that to be the case here. For the same reasons set out above, I do not consider that there will be misrepresentation or damage.

52. The opposition based upon section 5(4)(a) of the Act fails in its entirety.

CONCLUSION

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

⁶ *Marks and Spencer PLC v Interflora* [2012] EWCA (Civ) 1501

COSTS

54. 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 **£1,300**, calculated as follows:

Considering the Notice of opposition and preparing a counterstatement	£400
Considering the opponent's evidence	£550
Written submissions in lieu	£350
Total	£1,300

55. I therefore order Henkel AG & Co. KgaA to pay Vive Skincare Limited the sum of **£1,300**. 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 expiry of the appeal period.

Dated this 1st day of December 2023

S WILSON

For the Registrar

ANNEX

Class 3

Acne cleansers, cosmetic; After shave lotions; After sun creams; After sun moisturisers; Aftershave moisturising cream; After-sun creams; After-sun lotions; After-sun lotions [for cosmetic use]; After-sun milk; After-sun milk [cosmetics]; After-sun milk for cosmetic use; After-sun milks; After-sun milks [cosmetics]; After-sun oils [cosmetics]; After-sun preparations for cosmetic use; Age retardant gel; Age retardant lotion; Age spot reducing creams; Almond milk for cosmetic purposes; Almond oil; Almond soap; Almond soaps; Aloe soap; Aloe soaps; Aloe vera gel for cosmetic purposes; Aloe vera preparations for cosmetic purposes; Anti-ageing creams; Anti-ageing creams [for cosmetic use]; Anti-ageing moisturiser; Anti-ageing serum; Anti-ageing serums for cosmetic purposes; Anti-aging cream; Anti-aging creams; Anti-aging creams [for cosmetic use]; Anti-aging moisturizers; Anti-aging moisturizers used as cosmetics; Anti-aging serum for cosmetic use; Anti-aging skincare preparations; Anti-freckle creams; Anti-perspirant deodorants; Anti-perspirant preparations; Antiperspirant soap; Antiperspirants; Anti-perspirants; Antiperspirants for personal use; Anti-perspirants for personal use; Anti-perspirants in the form of sprays; Antiperspirants [toiletries]; Anti-wrinkle cream; Anti-wrinkle cream [for cosmetic use]; Anti-wrinkle creams; Anti-wrinkle creams [for cosmetic use]; Aromatherapy creams; Aromatherapy lotions; Aromatherapy oil; Aromatherapy oils; Aromatherapy pillows comprising potpourri in fabric containers; Aromatherapy preparations; Aromatic essential oils; Aromatic oils; Aromatic oils for the bath; Aromatic plant extracts; Aromatic potpourris; Aromatics; Aromatics [essential oils]; Babies' creams [non-medicated]; Baby bath mousse; Baby body milks; Baby bottom balm ;Baby bubble bath; Baby care products (Non-medicated -); Baby hair conditioner; Baby lotion; Baby lotions; Baby oil; Baby oils; Baby shampoo; Baby shampoo mousse; Baby suncreams; Baby wipes; Balms (Non medicated -); Balms other than for medical purposes; Balms, other than for medical purposes; Bar soap; Bath and shower foam; Bath and shower gel; Bath and shower gels; Bath and shower gels, not for medical purposes; Bath and shower oils [non-medicated]; Bath and shower preparations; Bath beads; Bath concentrates (Non-medicated -); Bath cream; Bath creams; Bath creams (Non-medicated -); Bath crystals (Non-medicated -); Bath crystals, not for medical use; Bath foam; Bath foams; Bath foams (Non-medicated -); Bath gel; Bath gels; Bath gels (Non-

medicated -); Bath herbs; Bath lotion; Bath lotions (Non-medicated -); Bath milk; Bath oil; Bath oil, not for medical use; Bath oils; Bath oils for cosmetic purposes; Bath oils (Non-medicated -); Bath preparations; Bath preparations (Non-medicated -); Bath preparations, not for medical purposes; Bath preparations, not medicated; Bath soak for cosmetic use; Bath soap; Bath soaps; Bathing lotions; Baths (Cosmetic preparations for -); Beard oil; Beauty balm creams; Beauty care cosmetics; Beauty care preparations; Beauty creams; Beauty creams for body care; Beauty gels; Beauty lotions; Beauty masks; Beauty masks for hands; Beauty milk; Beauty milks; Beauty preparations for the hair; Beauty serums; Beauty serums with anti-ageing properties; Beauty soap; Beauty tonics for application to the body; Beauty tonics for application to the face; Bergamot oil; Beverages (Flavorings [flavourings] for -) essential oils; Blemish balm creams; Blended essential oils; Body and facial butters; Body and facial creams [cosmetics]; Body and facial gels [cosmetics]; Body and facial oils; Body butter; Body butters; Body care cosmetics; Body cleaning and beauty care preparations; Body cleansing foams; Body cream; Body cream for cosmetic use; Body cream soap; Body creams; Body creams [cosmetics]; Body deodorants; Body gels; Body gels [cosmetics]; Body lotion; Body mask cream; Body mask lotion; Body mask powder; Body masks; Body massage oils; Body milk; Body milks; Body mist; Body moisturisers; Body oil; Body oil [for cosmetic use]; Body oil spray; Body oils; Body oils [for cosmetic use]; Body shampoos; Body soap; Body soufflé; Body splash; Body spray; Body sprays; Body sprays [non-medicated]; Body wash; Body washes; Boot cream; Boot polish; Bubble bath; Bubble bath [for cosmetic use]; Bubble bath preparations; Bubble bath preparations [for cosmetic use]; Bubble baths; Cakes of soap; Cakes of soap for body washing; Clay skin masks; Cleaning agents for the hands; Cleaning foam; Cleaning masks for the face; Cleansers for intimate personal hygiene purposes, non medicated; Cleansing balm; Cleansing cream; Cleansing creams; Cleansing creams [cosmetic]; Cleansing foam; Cleansing gels; Cleansing lotions; Cleansing masks; Cleansing milk; Cleansing milk for cosmetic purposes; Cleansing milks for skin care; Cleansing mousse; Cleansing oil; Cleansing products for the eyes; Collagen for cosmetic purposes; Collagen preparations for cosmetic application; Collagen preparations for cosmetic purposes; Colour cosmetics for children; Colour cosmetics for the eyes; Colour cosmetics for the skin; Colouring lotions for the hair; Colouring preparations for cosmetic purposes; Compacts containing make-up; Compounds for skin care after exposure to the sun's rays;

Concealers; Concealers for lines and wrinkles; Concealers for spots and blemishes; Conditioners for treating the hair; Conditioners for use on the hair; Conditioners in the form of sprays for the scalp; Conditioning balsam; Conditioning creams; Conditioning preparations for the hair; Conditioning sprays for animals; Corundum [abrasive]; Cosmetic bath salts; Cosmetic body mud; Cosmetic body scrubs; Cosmetic creams; Cosmetic creams and lotions; Cosmetic creams for dry skin; Cosmetic creams for firming skin around eyes; Cosmetic creams for skin care; Cosmetic creams for the skin; Cosmetic dyes; Cosmetic eye gels; Cosmetic eye pencils; Cosmetic face powders; Cosmetic facial lotions; Cosmetic facial masks; Cosmetic facial packs; Cosmetic foams containing sunscreens; Cosmetic hair care preparations; Cosmetic hair dressing preparations; Cosmetic hair lotions; Cosmetic hair regrowth inhibiting preparations; Cosmetic hand creams; Cosmetic kits; Cosmetic masks; Cosmetic massage creams; Cosmetic moisturisers; Cosmetic mud masks; Cosmetic nail care preparations; Cosmetic nail preparations; Cosmetic nourishing creams; Cosmetic oils; Cosmetic oils for the epidermis; Cosmetic paste for application to the face to counteract glare; Cosmetic pencils; Cosmetic pencils for cheeks; Cosmetic powder; Cosmetic preparations; Cosmetic preparations against sunburn; Cosmetic preparations for bath and shower; Cosmetic preparations for baths; Cosmetic preparations for body care; Cosmetic preparations for dry skin during pregnancy; Cosmetic preparations for eye lashes; Cosmetic preparations for eyelashes; Cosmetic preparations for nail drying; Cosmetic preparations for protecting the skin from the sun's rays; Cosmetic preparations for skin care; Cosmetic preparations for skin firming; Cosmetic preparations for skin renewal; Cosmetic preparations for slimming purposes; Cosmetic preparations for the care of mouth and teeth; Cosmetic preparations for the hair and scalp; Cosmetic preparations for use as aids to slimming; Cosmetic products for the shower; Cosmetic products in the form of aerosols for skin care; Cosmetic products in the form of aerosols for skincare; Cosmetic rouges; Cosmetic skin enhancers; Cosmetic skin fresheners; Cosmetic soap; Cosmetic soaps; Cosmetic sun milk lotions; Cosmetic sun oils; Cosmetic sun-protecting preparations; Cosmetic sunscreen preparations; Cosmetic suntan lotions; Cosmetic suntan preparations; Cosmetic sun-tanning preparations; Cosmetic tanning preparations; Cosmetic white face powder; Cosmetic-impregnated tissues; Cosmetics; Cosmetics all for sale in kit form; Cosmetics and cosmetic preparations; Cosmetics containing hyaluronic acid; Cosmetics containing keratin; Cosmetics containing panthenol; Cosmetics for

animals; Cosmetics for children; Cosmetics for eye brows; Cosmetics for eye-lashes; Cosmetics for personal use; Cosmetics for protecting the skin from sunburn; Cosmetics for suntanning; Cosmetics for the treatment of dry skin; Cosmetics for the use on the hair; Cosmetics for use in the treatment of wrinkled skin; Cosmetics for use on the skin; Cosmetics in the form of creams; Cosmetics in the form of eye shadow; Cosmetics in the form of gels; Cosmetics in the form of lotions; Cosmetics in the form of milks; Cosmetics in the form of oils; Cosmetics in the form of powders; Cosmetics in the form of rouge; Cosmetics preparations; Cream cleaners (Non-medicated -); Cream foundation; Cream soaps; Creams (Cosmetic -); Creams for cellulite reduction; Creams for firming the skin; Creams for fixing hair; Creams for leather; Creams for tanning the skin; Creams for the skin; Creams (Non-medicated -) for the body; Creams (Non-medicated -) for the eyes; Creams (Skin whitening -); Creams (Soap -) for use in washing; Creamy face powder; Creamy foundation; Creamy rouge; Creamy rouges; Dandruff shampoo; Dandruff shampoos, not for medical purposes; Day cream; Day creams; Day lotion; Dental rinses for non-medical purposes; Dental rinses, non medicated; Deodorant for personal use; Deodorant preparations for personal use; Deodorants for human beings; Deodorants for personal use; Deodorants, for personal use in the form of sticks; Dermatological creams [other than medicated]; Essential oils; Essential oils and aromatic extracts; Essential oils as fragrances for laundry use; Essential oils as perfume for laundry purposes; Essential oils for aromatherapy; Essential oils for aromatherapy use; Essential oils for cosmetic purposes; Essential oils for food flavorings; Essential oils for household purposes; Essential oils for household use; Essential oils for industrial use; Essential oils for personal use; Essential oils for soothing the nerves; Essential oils for the care of the skin; Essential oils for use in air fresheners; Essential oils for use in manufacturing processes; Essential oils for use in the manufacture of scented products; Essential oils of cedarwood; Essential oils of citron; Essential oils of lemon; Exfoliant creams; Exfoliants; Exfoliants for the care of the skin; Exfoliants for the cleansing of the skin; Exfoliating body scrub; Exfoliating creams; Exfoliating scrubs for cosmetic purposes; Exfoliating scrubs for the body; Exfoliating scrubs for the face; Exfoliating scrubs for the feet; Exfoliating scrubs for the hands; Extracts of flowers; Eye brightening correctors; Eye care products, non-medicated; Eye compresses for cosmetic purposes; Eye concealers; Eye cosmetics; Eye cream; Eye creams; Eye gel; Eye gels; Eye liner; Eye lotions; Eye make up remover; Eye makeup; Eye make-up; Eye makeup

remover; Eye make-up removers; Eye pencils; Eye shadow; Eye shadows; Eye sticks; Eye stylers; Eye wrinkle lotions; Eyebrow colors; Eyebrow colors in the form of pencils and powders; Eyebrow cosmetics; Face and body creams; Face and body glitter; Face and body lotions; Face and body masks; Face blusher; Face cream (Non-medicated -); Face creams; Face creams for cosmetic use; Face dusting powders; Face gels; Face masks; Face oils; Face packs; Face packs [cosmetic]; Face powder; Face powder [for cosmetic use]; Face powder (Non medicated -); Face powders; Face powders [for cosmetic use]; Face scrub; Face scrubs (Non-medicated -); Face wash; Face wash [cosmetic]; Face-powder on paper; Facial beauty masks; Facial butters; Facial care preparations; Facial cleansers; Facial cleansers [cosmetic]; Facial cleansing grains; Facial cleansing milk; Facial concealer; Facial cream; Facial cream [for cosmetic use]; Facial creams; Facial creams [cosmetic]; Facial creams [cosmetics]; Facial creams [for cosmetic use]; Facial emulsions; Facial gels [cosmetics]; Facial lotion; Facial lotions; Facial lotions [cosmetic]; Facial makeup; Facial masks; Facial masks [cosmetic]; Facial massage oils; Facial moisturisers [cosmetic]; Facial moisturizers; Facial oil; Facial oils; Facial peel preparations for cosmetic use; Facial preparations; Facial scrubs; Facial scrubs [cosmetic]; Facial serum for cosmetic use; Facial soaps; Facial toner; Facial toners [cosmetic]; Facial wash; Facial washes; Facial washes [cosmetic]; Facial wipes impregnated with cosmetics; Feminine deodorant sprays; Flavorings [flavourings] for beverages [essential oils]; Flavorings for beverages [essential oils]; Flavour enhancers for food [essential oils]; Flavourings for beverages [essential oils]; Fluid creams [cosmetics]; Foam bath; Foam bath preparations; Foam cleaning preparations; Foam detergents; Foam for use in shaving; Foaming bath gels; Foaming bath liquids; Foams for the bath; Foams for use in shaving; Foams for use in the shower; Food flavoring, being essential oils; Food flavorings [essential oils]; Food flavorings prepared from essential oils; Food flavourings [essential oils]; Foot balms (Non-medicated -); Foot care preparations (Non-medicated -); Foot deodorant spray; Foot masks for skin care; Foot perspiration (Soap for -); Foot powder [non-medicated]; Foot scrubs; Foot smoothing stones; Foundation; Foundation make-up; Foundations; Functional cosmetics; Gel eye masks; Gel eye patches for cosmetic purposes; Gels for cosmetic purposes; Gels for cosmetic use; Gels for use on the hair; Hair and body wash; Hair balm; Hair balms; Hair balsam; Hair care agents; Hair care creams; Hair care creams [for cosmetic use]; Hair care lotions; Hair care lotions [for cosmetic use]; Hair care

masks; Hair care preparations; Hair care preparations, not for medical purposes; Hair care serum; Hair care serums; Hair cleaning preparations; Hair conditioner; Hair conditioner bars; Hair conditioners; Hair conditioners for babies; Hair cream; Hair creams; Hair serums; Hair shampoo; Hair shampoos; Hair tonic; Hair tonic [for cosmetic use]; Hair tonic [non-medicated]; Hair tonics; Hair tonics [for cosmetic use]; Hair treatment preparations; Hand and body butter; Hand cleaner; Hand cleaners [hand cleaning preparations]; Hand cleaning preparations; Hand cleansers; Hand cream; Hand creams; Hand gels; Hand lotion (Non-medicated -); Hand lotions; Hand masks for skin care; Hand milks; Hand oils (Non-medicated -); Hand powders; Hand scrubs; Hand soap; Hand soaps; Hand washes; Handmade soap; Helichrysum [essential oils]; Helichrysum (essential oils); Herbal extracts for cosmetic purposes; Hydrating creams for cosmetic use; Hydrating masks; Hydrolyzed collagen for cosmetic purposes; Hypochloride (Potassium -); Lip balm; Lip balm [non-medicated]; Lip balms; Lip balms [non-medicated]; Lip care preparations; Lip coatings [cosmetic]; Lip coatings (Non-medicated -); Lip conditioners; Lip cosmetics; Lip cream; Lip gloss; Lip liner; Lip liners; Lip protectors [cosmetic]; Lip protectors (Non-medicated -); Liquid bath soaps; Liquid soap used in foot bath; Liquid soap used in foot baths; Liquid soaps; Liquid soaps for hands and face; Long lash mascaras; Loofah soaps; Loose face powder; Lotions for beards; Lotions for cellulite reduction; Lotions for cosmetic purposes; Lotions for face and body care; Lotions for strengthening the nails; Lotions for the skin; Lotions (Tissues impregnated with cosmetic -); Make up removing preparations; Makeup; Make-up; Make-up removing gels; Make-up removing lotions; Make-up removing milk; Make-up removing milks; Masks (Beauty -); Massage candles for cosmetic purposes; Massage creams, not medicated; Massage gels other than for medical purposes; Massage gels, other than for medical purposes; Massage oil; Massage oils; Massage oils and lotions; Massage oils, not medicated; Massage waxes; Milk for cosmetic purposes; Milks [cosmetics]; Milky lotions for skin care; Mineral oils [cosmetic]; Mineral water sprays for cosmetic purposes; Mint essence [essential oil]; Moisture body lotion; Moisturiser; Moisturisers; Moisturisers [cosmetics]; Moisturising body lotion [cosmetic]; Moisturising concentrates [cosmetic]; Moisturising creams; Moisturising creams, lotions and gels; Moisturising gels [cosmetic]; Moisturising preparations; Moisturising skin creams [cosmetic]; Moisturising skin lotions [cosmetic]; Moisturizers; Moisturizing body lotions; Moisturizing creams; Moisturizing milk; Moisturizing preparations for the skin; Mouth

[breath] fresheners, not for medical use; Mouth sprays, not for medical use; Mouth washes; Mouth washes, not for medical purposes; Mouthwash; Mouthwashes; Mouthwashes, not for medical purposes; Nail care preparations; Nail conditioners; Nail cosmetics; Nail cream; Nail enamel; Nail enamel remover; Nail enamel removers; Nail enamels; Nail gel; Nail hardeners; Nail hardeners [cosmetics]; Nail repair preparations; Nail strengtheners; Natural essential oils; Natural oils for cleaning purposes; Natural oils for cosmetic purposes; Night cream; Night creams; Night creams [cosmetics]; Non-medicated skin toners; Non-medicated antiperspirants; Non-medicated balm for hair; Non-medicated bath oils; Non-medicated bath preparations; Non-medicated bath salts; Non-medicated beauty preparations; Non-medicated body care preparations; Non-medicated body soaks; Non-medicated bubble bath preparations; Non-medicated cleansing creams; Non-medicated cosmetics; Non-medicated cosmetics and toiletry preparations; Non-medicated creams; Non-medicated dental rinse; Non-medicated face care preparations; Non-medicated foot cream; Non-medicated foot lotions; Non-medicated foot soaks; Non-medicated hair lotions; Non-medicated hair shampoos; Non-medicated hair treatment preparations for cosmetic purposes; Non-medicated lip balms; Non-medicated lip care preparations; Non-medicated lotions; Non-medicated massage preparations; Non-medicated moisturisers; Non-medicated mouth rinse; Non-medicated mouth sprays; Non-medicated mouth washes; Non-medicated mouth washes for pets; Non-medicated mouthwashes; Non-medicated oils; Non-medicated scalp treatment cream; Non-medicated shampoos; Non-medicated shower oils; Non-medicated skin balms; Non-medicated skin care preparations; Non-medicated skin clarifying lotions; Non-medicated skin creams; Non-medicated skin lotions; Non-medicated skin serums; Non-medicated skincare preparations; Non-medicated soaps; Non-medicated toilet preparations; Non-medicated toilet soaps; Non-medicated toiletries; Non-medicated toiletry preparations; Non-medicated toothpaste; Oil baths for hair care; Oils for cleaning purposes; Oils for cosmetic purposes; Oils for hair conditioning; Oils for moisturising the skin after sunbathing; Oils for the skin; Oils for toilet purposes; Oils for toiletry purposes; Ointments for cosmetic use; Oral hygiene preparations; Organic cosmetics; Essential oils; Personal deodorants; Preparations for cleaning teeth; Preparations for cleaning the teeth; Preparations for permanent hair waves; Preparations for protecting coloured hair; Preparations for protecting the hair from the sun; Preparations for reinforcing the nails; Preparations for the bath; Preparations for the bath and shower; Preparations for the

care of the body; Preparations for the conditioning of the body; Preparations for the shower; Preparations for use in the bath or shower; Pre-shaving preparations; Pressed face powder; Procollagen for cosmetic purposes; Pro-collagen for cosmetic purposes; Products for protecting coloured hair; Refill packs for body cleansing product dispensers; Refill packs for cosmetics dispensers; Refill packs for hair fixer dispensers; Refill packs for hand soap dispensers; Refill packs for shampoo dispensers; Refill packs for shower gel dispensers; Refill packs for skin care cream dispensers; Retinol cream for cosmetic purposes; Rinsing agents for laundry; Rose oil; Rose oil for cosmetic purposes; Rosemary oil for cosmetic use; Scalp treatments (Non-medicated -); Scented body creams; Scented body lotions; Scented body lotions and creams; Shampoo; Shampoo bars; Shampoo-conditioners; Shampoos; Shampoos for babies; Shampoos for human hair; Shampoos for personal use; Shower and bath foam; Shower and bath gel; Shower and bath preparations; Shower cream; Shower creams; Shower foams; Shower gel; Shower gels; Shower oils; Shower preparations; Shower salts not for medical purposes; Shower soap; Skin balms [cosmetic]; Skin balms (Non-medicated -);Skin care (Cosmetic preparations for -);Skin care cosmetics; Skin care creams [cosmetic];Skin care creams, other than for medical use; Skin care lotions [cosmetic]; Skin care mousse; Skin care oils [cosmetic]; Skin care oils [non-medicated]; Skin care preparations; Skin clarifiers; Skin cleaners [non-medicated]; Skin cleaning and freshening sprays; Skin cleansers; Skin cleansers [cosmetic]; Skin cleansers [non-medicated]; Skin cleansing cream; Skin cleansing cream [non-medicated]; Skin cleansing foams ;Skin cleansing lotion; Skin conditioners; Skin conditioning creams for cosmetic purposes; Skin cream; Skin cream [for cosmetic use]; Skin creams; Skin creams [cosmetic];Skin creams [for cosmetic use]; Skin creams [non-medicated]; Skin emollients; Skin emollients [non-medicated]; Skin, eye and nail care preparations; Skin hydrators; Skin lotion; Skin lotions; Skin masks [cosmetics];Skin moisturiser; Skin moisturisers; Skin moisturizer; Skin moisturizer masks; Skin moisturizers; Skin moisturizers used as cosmetics; Skin recovery creams [cosmetics]; Skin soap; Skin softening preparations; Skin texturizers; Skin toner; Skin toners; Skin toners [cosmetic]; Skin tonics [non-medicated]; Skincare cosmetics; Skincare preparations; Slimming aids [cosmetic], other than for medical use; Slimming purposes (Cosmetic preparations for -); Smoothing emulsions [cosmetics]; Smoothing emulsions for the skin; Soap; Soap (Antiperspirant -); Soap (Cakes of -); Soap (Deodorant -); Soap for foot perspiration; Soap free washing

emulsions for the body; Soap pads; Soap powder; Soap powders; Soap products; Soap sheets; Soap solutions; Soaps; Soaps and gels; Soaps for body care; Soaps for personal use; Soaps in gel form; Soaps in liquid form; Soapy gels; Spot remover; Spot removers [preparations]; Sun barriers [cosmetics]; Sun block [cosmetics]; Sun block preparations; Sun blocking lipsticks [cosmetics]; Sun blocking oils [cosmetics]; Sun blocking preparations [cosmetics]; Sun bronzers; Sun care lotions; Sun care lotions [for cosmetic use]; Sun care preparations; Sun care preparations for cosmetic use; Sun creams; Sun creams [for cosmetic use]; Sun protecting creams [cosmetics]; Sun protection preparations; Sun protectors for lips; Sun screen; Sun screen preparations; Sun tan gel; Sun tan lotion; Sun tan milk; Sun tan oil; Sunblock; Sun-block lotions; Suncare lotions; Suncare lotions [for cosmetic use]; Sunscreen; Sunscreen cream; Sunscreen creams; Sunscreen creams [for cosmetic use]; Sunscreen [for cosmetic use]; Sunscreen lotions; Sunscreen preparations; Sunscreen sticks; Sun-screening preparations; Sunscreens; Sunscreens [for cosmetic use]; Suntan creams; Suntan creams [self-tanning creams]; Suntan lotion [cosmetics]; Suntan lotions; Suntan oils [cosmetics]; Suntan oils for cosmetic purposes; Tea-tree oil; Teeth cleaning lotions; Teeth cleaning (Preparations for -); Teeth whitening preparations; Teeth whitening strips; Throat sprays [non-medicated]; Toners for cosmetic use; Tonics [cosmetic]; Toning creams [cosmetic]; Tooth care preparations; Tooth cleaning preparations; Tooth gel; Tooth paste; Tooth polish; Tooth polishes; Tooth powder; Tooth powder [for cosmetic use]; Tooth powders; Tooth powders [for cosmetic use]; Tooth whitening creams; Tooth whitening pastes; Tooth whitening preparations; Toothpaste; Toothpaste in soft cake form; Toothpastes; Waterless shampoo; Waterless shampoos; Waterproof sunscreen; Wipes impregnated with a cleaning preparation; Wipes impregnated with a skin cleanser; Wipes incorporating cleaning preparations; Wrinkle removing skin care preparations; Wrinkle resistant cream; Wrinkle resistant creams; Wrinkle resistant creams [for cosmetic use]; Wrinkle-minimizing cosmetic preparations for topical facial use.

Class 5

Acne cleansers [pharmaceutical preparations]; Acne cream [pharmaceutical preparations]; Acne creams [pharmaceutical preparations]; Acne medication; Acne medications; Acne treatment preparations; Allergy capsules; Allergy medication; Allergy medications; Allergy relief medication; Allergy tablets; Almond milk for

pharmaceutical purposes; Almond oil for pharmaceutical purposes; Almonds (Milk of -) for pharmaceutical purposes; Aloe vera gel for therapeutic purposes; Aloe vera preparations for pharmaceutical purposes; Aloe vera preparations for therapeutic purposes; Amino acid preparations for medical purposes; Amino acid preparations for medical use; Amino acid preparations for pharmaceutical use; Amino acids for medical purposes; Anti-allergy sprays; Antibacterial acne preparations; Anti-bacterial face washes (Medicated -); Antibacterial facial cleanser; Antibacterial gels; Antibacterial hand lotions; Antibacterial handwash; Antibacterial handwashes; Antibacterial lathering cleanser; Antibacterial mouthwashes; Anti-bacterial pharmaceutical preparations; Antibacterial pharmaceuticals; Antibacterial preparations; Anti-bacterial preparations; Antibacterial soap; Anti-bacterial soap; Antibacterial sprays; Antibacterial substances for medical use; Antibacterial wipes; Antibacterials for pharmaceutical use; Antidepressants; Anti-emetics obtained from plant sources; Anti-inflammatories; Anti-inflammatory analgesic plasters; Anti-inflammatory gels; Anti-inflammatory ointments; Anti-inflammatory preparations; Anti-inflammatory salves; Anti-inflammatory sprays; Antineoplastics; Anti-oxidant food supplements; Antioxidant pills; Anti-oxidant supplements; Antioxidants; Anti-oxidants comprising enzymes; Antioxidants derived from honey; Anti-oxidants for dietary use; Anti-oxidants obtained from herbal sources; Antiseptic body care preparations; Antiseptic ointments; Antiseptic preparations; Athlete's foot lotions; Athletes' foot powders; Athlete's foot preparations; Balms for medical purposes; Balms for pharmaceutical purposes; Bath preparations for medical purposes; Bath preparations, medicated; Bath salts for medical purposes; Bath (Therapeutic preparations for the -); Baths (Salts for mineral water -); Beverages adapted for medicinal purposes; Biological preparations for medical purposes; Biological reagents for medical use; Body creams for pharmaceutical use; Body creams [medicated]; Body gels for pharmaceutical use; Breath refreshers for medical purposes; Breath-freshening chewing gum for medicinal purposes; Caffeine preparations for medical use; Caffeine preparations for stimulative use; Calamine lotion; Castor oil as a coating for pharmaceuticals; Castor oil for medical purposes; Castor oil [for medical purposes]; Charcoal for pharmaceutical purposes; Chemical preparations for pharmaceutical purposes; Chemicals for pharmaceutical use; Clay for pharmaceutical use; Clay for treating skin conditions; Coconut oil for medical purposes; Cough capsules; Cough drops; Cough medicine; Cough mixtures; Cough pastilles for medical use; Cough suppressants; Cough syrups; Cough tablets; Creams

for dermatological use; Creams (Medicated -) for application after exposure to the sun; Creams (Medicated -) for the feet; Creams (Medicated -) for the lips; Dandruff (Pharmaceutical preparations for treating -);Decoctions of medicinal herb; Decongestant capsules; Decongestant nasal sprays; Decongestants; Dermatological pharmaceutical products; Dermatological pharmaceutical substances; Dermatological preparations; Diet capsules; Dietary and nutritional preparations; Dietary and nutritional supplements; Dietary fiber; Dietary fiber to aid digestion; Dietary fibre; Dietary food supplements; Dietary food supplements used for modified fasting; Dietary pet supplements in the form of pet treats; Dietary supplement drink mixes; Dietary supplement drinks; Dietary supplemental drinks; Dietary supplements; Dietary supplements and dietetic preparations; Dietary supplements and dietetic preparations containing CBD oil; Dietary supplements consisting of vitamins; Dietary supplements consisting primarily of calcium; Dietary supplements consisting primarily of iron; Dietary supplements consisting primarily of magnesium; Dietary supplements for animals; Dietary supplements for controlling cholesterol; Dietary supplements for human beings; Dietary supplements for human beings and animals; Dietary supplements for humans; Dietary supplements for humans not for medical purposes; Dietary supplements for infants; Dietary supplements for medical use; Dietary supplements for pets; Dietary supplements for pets in the nature of a powdered drink mix; Dietary supplements promoting fitness and endurance; Dietary supplements with a cosmetic effect; Dietetic and nutritional preparations; Digestive enzymes; Disinfecting handwash; Electrolyte solutions for medical use; Electrolytes for medical use; Elixirs for calming the skin; Elixirs for eczema; Elixirs for preventing chills; Elixirs for preventing colds; Elixirs for preventing throat infections; Elixirs for psoriasis; Elixirs for relieving asthma; Elixirs for relieving chills; Elixirs for relieving colds; Elixirs [pharmaceutical preparations]; Embedding material for dental use; Extracts of medicinal herbs; Extracts of medicinal plants; Eye bandages for medical use; Eye compresses; Eye drops; Eye lotions for medical use; Face cream (Medicated -); Face scrubs (Medicated -); Folic acid dietary supplements; Folic acid synthesis inhibitors; Food supplements; Food supplements consisting of amino acids; Food supplements consisting of trace elements; Food supplements for dietetic use; Food supplements for medical purposes; Food supplements for non-medical purposes; Food supplements for sportsmen; Food supplements for veterinary use; Food supplements in liquid form; Foot balms (Medicated -); Foot care preparations for medical use; Foot

creams (Medicated -); Foot perspiration (Remedies for -); Glucose dietary supplements; Glucose for medical purposes; Glucose for use as an additive to foods for medical purposes; Guaiacol for pharmaceutical purposes; Hair growth preparations (Medicinal -); Hair growth stimulants; Hand creams for medical use; Hand lotion (Medicated -); Hand-sanitizing preparations; Headache relief sticks; Health food supplements for persons with special dietary requirements; Health food supplements made principally of minerals; Health food supplements made principally of vitamins; Herb teas for medicinal purposes; Herbal beverages for medicinal use; Herbal compounds for medical use; Herbal dietary supplements for persons special dietary requirements; Herbal extracts for medical purposes; Herbal honey throat lozenges; Herbal male enhancement capsules; Herbal medicine; Herbal mud packs for therapeutic use; Herbal preparations for medical use; Herbal sprays for medical use; Herbal supplements; Herbal tea for medicinal use; Herbal teas for medicinal purposes; Herbs for medicinal purposes; Herbs (Medicinal -); Homeopathic anti-inflammatory ointments; Homeopathic medicines; Homeopathic pharmaceuticals; Homeopathic supplements; Infusions (Medicinal -); Inhalants; Liquid dietary supplements; Liquid herbal supplements; Liquid vitamin supplements; Lotions for pharmaceutical purposes; Lotions for treating athlete's foot; Marijuana for medical purposes; Massage gels for medical purposes; Meal replacement powders; Medical mouthwashes; Medicated after-shave lotions; Medicated and sanitising soaps and detergents; Medicated balms; Medicated bath preparations; Medicated body gels; Medicated body powder; Medicated brush-on oral care gels; Medicated creams; Medicated creams for the care of the feet; Medicated creams for treating dermatological conditions; Medicated dental rinses; Medicated dry shampoos; Medicated eye-washes; Medicated face lotions; Medicated food supplements; Medicated foot powder; Medicated hair care preparations; Medicated hair lotions; Medicated hand wash; Medicated handwash; Medicated lip balm; Medicated lip care preparations; Medicated lotions; Medicated lotions for the hands; Medicated lotions for treating dermatological conditions; Medicated mouth care preparations; Medicated mouth spray; Medicated mouth treatment preparations; Medicated mouth wash; Medicated mouth washes; Medicated mouthwash; Medicated mouthwashes; Medicated muscle soaks; Medicated nappy rash ointments; Medicated nasal spray preparations; Medicated ointments for application to the skin; Medicated ointments for treating dermatological conditions; Medicated oral care gels; Medicated preparations for skin treatment;

Medicated shampoo; Medicated shampoos; Medicated skin care preparations; Medicated skin creams; Medicated skin lotions; Medicated soap; Medicated throat sprays; Medicated toothpaste; Medicinal alcohol; Medicinal beverages; Medicinal clays; Medicinal creams for skin care; Medicinal creams for the protection of the skin; Medicinal hair growing preparations; Medicinal hair growth preparations; Medicinal healthcare preparations; Medicinal herb extracts; Medicinal herb infusions; Medicinal herbal extracts for medical purposes; Medicinal herbs; Medicinal herbs in dried or preserved form; Medicinal infusions; Medicinal mud; Medicinal oils; Medicinal ointments; Medicinal preparations and substances; Medicinal preparations for stimulating hair growth; Medicinal sprays; Medicinal tea; Milk of almonds for pharmaceutical purposes; Mineral dietary supplements for humans; Mineral food supplements; Mineral nutritional supplements; Mineral supplements; Mint for pharmaceutical purposes; Mint-flavored chewing gum for medical use; Moisturising body lotion [pharmaceutical]; Moisturising creams [pharmaceutical]; Multi-purpose medicated mentholated salves; Multivitamin preparations; Multi-vitamin preparations; Multivitamins; Nail care preparations for medical use; Nail sanitizing preparations; Nasal cleaning preparations for medical purposes; Nasal decongestants; Nasal drops for the treatment of allergies; Nasal spray for the treatment of allergies; Nasal sprays for medical purposes; Naturally derived antimicrobials for dermatological use; Nutraceutical preparations for therapeutic or medical purposes; Nutraceuticals for therapeutic purposes; Nutraceuticals for use as a dietary supplement; Nutritional drink mix for use as a meal replacement; Nutritional supplement energy bars; Nutritional supplements; Nutritional supplements consisting of fungal extracts; Oils (Medicinal -); Ointments for pharmaceutical purposes; Ophthalmic muscle relaxants; Organotherapeutic drugs; Organotherapeutic preparations; Organotherapeutics; Organotherapy preparations; Pain relief medication; Pain relief preparations; Pain relieving creams; Petroleum jelly for medical purposes; Pharmaceutical agents for epidermis; Pharmaceutical creams; Pharmaceutical drugs; Pharmaceutical lipsalves; Pharmaceutical preparation for skin care; Pharmaceutical preparations for hair care; Pharmaceutical preparations for human use; Pharmaceutical preparations for skin care; Pharmaceutical preparations for the treatment of inflammatory diseases; Pharmaceutical preparations for treating arthritis; Pharmaceutical skin lotions; Powdered nutritional supplement drink mix; Powdered nutritional supplement energy drink mix; Prenatal vitamins; Preparations of vitamins; Protective creams (Medicated

-); Protein dietary supplements; Protein powder dietary supplements; Serums; Skin care creams for medical use; Skin care lotions [medicated]; Skin care (Pharmaceutical preparations for -); Skin care preparations for medical use; Skin tonics [medicated]; Smoking herbs for medical purposes; Throat lozenges; Throat sprays [medicated]; Tinctures for medical purposes; Tonics for medical use; Tonics [medicines]; Vitamin and mineral supplements; Vitamin drinks; Vitamin drops; Vitamin supplements; Waters (Mineral -) for medical purposes.