

**O/215/20**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO. UK00003370381 BY  
SILVINA'S NATURE LIMITED  
TO REGISTER:**

**Mimbles**

**AS A TRADE MARK IN CLASS 30**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 416580 BY  
KALLO FOODS LIMITED**

## BACKGROUND AND PLEADINGS

1. On 27 January 2019, Silvina's Nature 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 February 2019 and registration is sought for the goods shown in the **Annex** to this decision.
2. On 8 May 2019, the application was opposed by Kallo Foods Limited ('the opponent'). The opposition was initially based on section 5(2)(b) and section 5(3) of the Trade Marks Act 1994 ('the Act'). The opposition under section 5(3) of the Act was withdrawn by the opponent via written correspondence on 14 October 2019. The opponent relies on the following trade marks:

MRS. CRIMBLE'S

UK registration no. 3243585

Filing date 13 July 2017; registration date 24 November 2017

Relying on all goods and services namely:

Class 29 Dried and cooked fruits, jams, fruit sauces, jellies; prepared meals and snacks; meat, fish, poultry and game; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.

Class 30 Flour and preparations made from cereals; bread, pastry and confectionery; cocoa, chocolate; prepared meals and snacks consisting primarily of grains and cereals; cereal bars; food flavourings; bakery products; dough, pastry, dough products, pastry products; pastries; cakes, doughnuts, biscuits, cookies; dough mixes, cake mixes, doughnut mixes, biscuit mixes; cereal and oat based products namely health bars; desserts and dessert mixes; rice cakes, corn cakes; crackers; macaroni, noodles, pasta, tomato sauce, sauces, seasonings; coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice.

("the first earlier mark")

and;



UK registration no. 3243733

Filing date 14 July 2017; registration date 24 November 2017

Relying on all goods and services namely:

Class 29 Dried and cooked fruits, jams, fruit sauces, jellies; prepared meals and snacks; meat, fish, poultry and game; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.

Class 30 Flour and preparations made from cereals; bread, pastry and confectionery; cocoa, chocolate; prepared meals and snacks consisting primarily of grains and cereals; cereal bars; food flavourings; bakery products; dough, pastry, dough products, pastry products; pastries; cakes, doughnuts, biscuits, cookies; dough mixes, cake mixes, doughnut mixes, biscuit mixes; cereal and oat based products namely health bars; desserts and dessert mixes; rice cakes, corn cakes; crackers; macaroni, noodles, pasta, tomato sauce, sauces, seasonings; coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice.

("the second earlier mark")

3. The opponent submits that there is a likelihood of confusion between the parties' respective marks because the goods are identical and/or similar and the marks are highly similar.
4. The applicant filed a counter statement denying the claim made.

5. The applicant is represented by Beck Greener LLP and the opponent is represented by Novagraaf UK. Only the applicant has filed evidence in the form of the witness statement of the applicant's representative Kashif Syed dated 29 October 2019. No hearing was requested and only the opponent filed written submissions in lieu of a hearing. I have taken the evidence and the written submissions into consideration and will refer to them below where necessary. The decision is taken following a careful perusal of the papers.

## **EVIDENCE**

6. The applicant has submitted evidence in the form of the witness statement of Kashif Syed, being the applicant's representative, dated 29 October 2019. The evidence focuses on the meaning on the word 'Crimble' within the opponent's earlier marks. The applicant states that the word 'Crimble' is a "British informal or slang word for 'Christmas' which has its origins in the 1960s<sup>1</sup>". The applicant relies on various internet print outs from Lexico.com<sup>2</sup>, UrbanDictionary.com<sup>3</sup>, Wiktionary.com<sup>4</sup> and BBC America<sup>5</sup> in order to show the connection between the word Crimble and the Christmas period. Further, the applicant also relies on Christmas recipes from leading British supermarket chain ASDA<sup>6</sup> and fast-food chain PRET<sup>7</sup> to further prove the association. I do not intend to describe the evidence further here but will refer to it below as I consider appropriate.

## **DECISION**

### **Section 5(2)(b): legislation and case law**

7. Section 5(2)(b) of the Act reads as follows:

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<sup>1</sup> Paragraph 3 of the Witness Statement of Kashif Syed

<sup>2</sup> Exhibit KS1

<sup>3</sup> Exhibit KS2

<sup>4</sup> Exhibit KS3

<sup>5</sup> Exhibit KS5

<sup>6</sup> Exhibit KS4

<sup>7</sup> Exhibit KS4

“(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 or association with the earlier trade mark.”

8. Section 5A of the Act states as follows:

“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.”

9. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“(6)(1) In this Act an “earlier trade mark” means –

(a) a registered trade mark, international trade mark (UK) or Community trade mark or international trade mark (EC) which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,

(2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b), subject to its being so registered.”

10. The earlier marks upon which the opponent relies qualify as earlier trade marks under the above provisions. As the opponent's marks had not completed their registration process more than 5 years before the date of the application in issue, they are not subject to proof of use pursuant to section 6A of the Act. The opponent can, therefore, rely upon all of the goods for which the marks are registered.
11. 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 Office for Harmonization in the Internal Market (Trade Marks and Designs) (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**

12. The first earlier mark's and the second earlier mark's specifications for goods are identical (as set out in paragraph 2 above). The same goods comparison with the applicant's mark can therefore be applied to both the first earlier mark and the second earlier mark.

13. As noted above, the applicant's full specification is set out in the Annex to this decision.

14. When making the comparison, all relevant factors relating to the goods 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".

15. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (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.

16. The General Court (“GC”) confirmed in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, that, even if goods or services are not worded identically, they can still be considered identical if one term falls within the scope of another or (vice versa):

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

17. In its counterstatement, the applicant stated:

“That some of the goods listed in the Application are either identical or similar to some of the goods asserted in the Opponent’s registrations under Section 5(2) of the Act, is admitted. That all of the goods listed in the Application are either identical or similar to any of all of the goods in the Opponent’s registrations as asserted by the Opponent is denied.”

18. However, as no clarification has been provided by the applicant as to which goods they consider similar, or to what degree, I am required to assess the similarity of the parties’ respective goods.

19. The opponent provided written submissions on the similarity of the goods which I do not propose to reproduce in full. However, I have taken them into consideration in reaching my decision.

20. “Fruit sauces”, “Flour”, “Preparations made from cereals”, “Bread”, “Pastry”, “Confectionery”, “Cocoa”, “Chocolate”, “Cereal bars”, “Dough”, “Pastries”, “Cakes”, “Doughnuts”, “Biscuits”, “Cookies”, “Doughnut mixes”, “Biscuit mixes”, “Rice

cakes”, “Crackers” and “Treacle” in the applicant’s specification all have direct counterparts in the earlier marks’ specifications. These goods are identical.

21. “Bakery goods”, “Dough mix”, “rice cake snacks”, “Cakes (Rice -)” and “treacles” also have direct counterparts in the earlier marks’ specifications, although expressed in slightly different terms (“Bakery products”, “rice cakes”, “dough mixes” and “treacle”). These goods are also identical.

22. “Crisp breads”, “Crisp rolls”, “Crispbread”, “Crispbread snacks”, “Croutons”, “Croûtons”, “Crumpets” and “Toasts” contained within the applicant’s specification all fall within the broader categories of “bakery products” and/or “crackers” contained in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

23. “Extruded food products made of rice”, “Flavoured rices”, “Foodstuffs made of rice”, “Rice chips”, “Rice crisps”, “Rice snacks”, “Rice-based snack food”, “Rice-based snack foods”, “Snack food products made from rice”, “Snack food products made from rice flour” and “Snack food (Rice-based -)” contained within the applicant’s specification are all goods that consist of rice. Rice is a widely consumed cereal grain and therefore, these goods fall within the category of “prepared meals and snacks consisting primarily of grain and cereal” contained in the earlier marks’ specifications. These goods can, therefore, be considered identical on the principle outlined in *Meric*.

24. “Cereal based prepared snack foods”, “Cereal based snack foods”, “Cereal based snacks”, “Cereal snacks”, “Cereal-based snack food”, “Cereal based foodstuffs for human consumption”, “Cereals”, “Crisps made of cereals”, “Food mixtures consisting of cereal and dried fruits”, “Foods produced from baked cereals”, “Foodstuffs made from cereals”, “Muesli consisting predominantly of cereals”, “Snack food (Cereal-based -)”, “Snack food products consisting of cereal products”, “Snack food products made from cereal flour”, “Snack food products made from cereal starch”, “Snack food products made from cereals”, “Snack products made of cereals”, “Snacks manufactured from cereals”, “Flapjacks”, “Food preparations based on grains”, “Grain-based chips”, “Grain-based snack foods”, “Granola”,

“Granola bars”, “Granola snacks”, “Granola-based snack bars”, “Granola-based snack foods”, “Multigrain-based snack foods”, “Snack bars containing a mixture of grains, nuts and dried fruit [confectionery]”, “Snack foods consisting principally of grain”, “Muesli”, “Muesli bars”, “Snacks made from muesli”, “Snacks manufactured from muesli”, “Foodstuffs made from oats”, “Oat bars”, “Oat cakes for human consumption”, “Oat-based foods”, “Extruded food products made of maize”, “Extruded snacks containing maize”, “Foodstuffs made from maize”, “Maize based snack products”, “Maize flakes”, “Snack food products made from maize flour”, “Snack foods prepared from maize”, “Extruded food products made of wheat”, “Extruded wheat snacks”, “Snack foods made from wheat”, “Snack foods made of whole wheat”, “Corn chips”, “Corn curls”, “Corn flakes”, “Corn-based savoury snacks”, “Corn-based snack foods”, “Extruded corn snacks”, “Snack foods made from corn”, “Snack foods made from corn and in the form of puffs”, “Snack foods made from corn and in the form of rings”, “Processed quinoa”, “Porridge”, “Snack foods consisting principally of extruded cereals”, “Snack foods made of wheat”, “Tortilla chips”, “Tortilla shells” and “Tortilla snacks” contained within the applicant’s specification fall within the broader category of “prepared meals and snacks consisting primarily of grains and cereals” in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

25. “Filled baguettes”, “Filled bread rolls”, “Filled buns”, “Filled rolls”, “Flour based chips”, “Flour based savory snacks”, “Japanese-style pancakes (Okonomiyaki)”, “Open sandwiches”, “Prepared savory foodstuffs made from potato flour”, “Snack food products made from potato flour”, “Snack food products made from soya flour”, “Snack foods consisting principally of bread”, “Snack foods prepared from potato flour” and “Snack food products made from rusk flour” contained within the applicant’s specification fall within the broader category of “prepared meals and snacks” contained in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

26. “Snack foods consisting principally of confectionery” contained within the applicant’s specification falls within the broader categories of “confectionery” and

“prepared meals and snacks” contained in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

27. “Cereal preparations”, “Corn flour”, “Corn flour [for food]”, “Corn starch flour”, “Cornflour”, “Dough flour”, “Edible Flour”, “Flour concentrate for food”, “Flour for baking”, “Flour for food”, “Flour for doughnuts”, “Flour for making dumplings of glutinous rice”, “Flour of corn”, “Flour ready for baking”, “Flour preparations for food”, “Maize flour”, “Nut flours” and “Rice starch flour” contained within the applicant’s specification are self-evidently or *Meric* identical to “Flour and preparations made from cereals” contained in the earlier marks’ specifications.

28. ‘Oatmeal’ is either a kind of flour made by crushing oats or a thick sticky food made from oats cooked in water or milk and eaten hot, especially for breakfast<sup>8</sup>. “Oatmeal” as contained within the applicant’s specification, therefore, falls within the broader categories of “flour and preparations made from cereals” and “prepared meals and snacks consisting primarily of grains and cereals” contained within the earlier marks’ specifications. These goods can therefore be considered identical under the principle of *Meric*.

29. ‘Cornmeal’ is a type of powder or meal made from maize that is used in cooking<sup>9</sup>. “Cornmeal” and “Corn meal” as contained in the applicant’s specification fall within the broader category of “Flour and preparations made from cereals” contained within the earlier marks’ specifications. These goods can therefore be considered identical under the principle of *Meric*.

30. ‘Cornstarch’ is a fine starchy maize flour for thickening sauces that, in the United Kingdom, is also called ‘cornflour’<sup>10</sup>. “Corn starch [for food]” and “Cornstarch for culinary purposes” contained within the applicant’s specification falls within the broader category of “flour and preparations made from cereals” contained within the earlier marks’ specifications. These goods can therefore be considered identical under the principle of *Meric*.

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<sup>8</sup> <https://www.collinsdictionary.com/dictionary/english/oatmeal>

<sup>9</sup> <https://www.collinsdictionary.com/dictionary/english/cornmeal>

<sup>10</sup> <https://www.collinsdictionary.com/dictionary/english/cornstarch>

31. 'Maize' is a tall grass cultivated for its yellow edible grains that is also known commonly as 'corn'<sup>11</sup>. "Maize meal" as contained within the applicant's specification is therefore identical to 'corn meal' and falls within the category of "flour and preparations made from cereals" contained within the earlier marks' specifications. These goods can therefore be considered identical under the principle of *Meric*. Corn on the cob, which is harvested from the maize plant, can be consumed either as a side to a main meal or on its own as a snack. Further, corn, when roasted, is often eaten as a flavoured snack food as an alternative to nuts. I, therefore, consider "Maize (Processed -) for consumption by humans", "Maize, roasted" and "Processed maize" in the applicant's specification to be *Meric* identical to "prepared meals and snacks consisting primarily of grains and cereals" and "flour and preparations made from cereals" in the earlier marks' specifications.
32. 'Milling' is a process of grinding, cutting, pressing or crushing something in a mill. The 'milled' product is usually ground down into a flour or meal<sup>12</sup>. "Corn, milled" and "Maize, milled" within the applicant's specification, therefore, fall within the category of "flour and preparations made from cereals" contained within the earlier marks' specifications. These goods can therefore be considered identical under the principle of *Meric*.
33. "Almond confectionary", "Boiled confectionery", "Boiled sugar confectionery", "Boiled sweets", "Bonbons", "Bonbons made of sugar", "Candies", "Candies (Non-medicated -)", "Candies [sweets]", "Candy", "Candy bars", "Candy coated confections", "Candy with caramel", "Candy with cocoa", "Caramels", "Caramels [candy]", "Christmas tree decorations [edible]", "Christmas trees (Confectionary for decorating -)", "Coated nuts [confectionary]", "Confectionery bars", "Confectionery chips for baking", "Confectionery chocolate products", "Confectionery containing jam", "Confectionery containing jelly", "Confectionery for decorating Christmas trees", "Confectionery having liquid fruit fillings", "Confectionery having liquid spirit fillings", "Confectionery having wine fillings", "Confectionery in frozen form",

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<sup>11</sup> <https://www.collinsdictionary.com/dictionary/english/maize>

<sup>12</sup> <https://www.collinsdictionary.com/dictionary/english/milling>

“Confectionery in liquid form”, “Confectionery in the form of tablets”, “Confectionery items coated with chocolate”, “Confectionery items formed from chocolate”, “Confectionery items (Non-medicated -)”, “Confectionery made of sugar”, “Confectionery (Non-medicated -)”, “Confectionery products (Non-medicated -)”, “Cotton Candy”, “Crystal sugar pieces [confectionery]”, “Dairy confectionery”, “Filled caramels”, “Flavoured sugar confectionery”, “Flour confectionery”, “Foamed sugar pastilles”, “Foamed sugar sweets”, “Fondants”, “Fondants [confectionery]”, “Frozen confectionery”, “Frozen confectionary containing ice cream”, “Frozen confections”, “Frozen confections on a stick”, “Frozen dairy confections”, “Frozen yogurt confections”, “Fruit drops [confectionery]”, “Fruit jellies [confectionery]”, “Fruit jelly candy”, “Fudge”, “Gum sweets (Non-medicated -)”, “Gum sweets”, “Gummy candies”, “Hard candy”, “Hard caramels [candies]”, “Honeycomb toffee”, “Ice candies”, “Ice candy”, “Jellies (Fruit -) [confectionery]”, “Jelly beans”, “Korean traditional pressed sweets (Dasik)”, “Licorice”, “Liquorice [confectionery]”, “Liquorice flavoured confectionery”, “Lollipops”, “Low-carbohydrate confectionary”, “Mallows [confectionery]”, “Marshmallow”, “Marshmallow confectionery”, “Marshmallow filled chocolates”, “Marshmallows”, “Marzipan”, “Milk tablet candy”, “Mint flavoured confectionery (Non-medicated -)”, “Mint-based sweets”, “Mousse confections”, “Non-medicated candy”, “Non-medicated chocolate confectionery”, “Non-medicated confectionery”, “Non-medicated confectionery candy”, “Non-medicated confectionery containing chocolate”, “Non-medicated confectionery containing milk”, “Non-medicated confectionery for use as part of a calorie controlled diet”, “Non-medicated confectionery having a milk flavour”, “Non-medicated confectionery having toffee fillings”, “Non-medicated confectionery in jelly form”, “Non-medicated confectionery in the form of lozenges”, “Non-medicated confectionery in the shape of eggs”, “Non-medicated confectionery products”, “Non-medicated flour confectionery”, “Non-medicated flour confectionery coated with chocolate”, “Non-medicated flour confectionery containing chocolate”, “Non-medicated flour confections”, “Non-medicated mint confectionery”, “Non-medicated sugar confectionery”, “Non-medicated sweets”, “Nougat”, “Nut confectionery”, “Orange based confectionery”, “Panned sweets (Non-medicated -)”, “Pastila [confectionery]”, “Pastilles [confectionery]”, “Pastilles [other than for medical purposes]”, “Peanut brittle”, “Peanut butter confectionery chips”, “Peanut confectionery”, “Petit fours”, “Potato flour confectionery”, “Pralines”, “Pralines

made of chocolate”, “Pralines with liquid filling”, “Salted butter caramel”, “Salted butter fudge”, “Sesame confectionery”, “Soft caramels”, “Sugar confectionery”, “Sugar confectionery (Non-medicated -)”, “Toffee”, “Turkish delight”, “Turkish delight coated in chocolate”, “Zefir [confectionery]” and “Corn candy” contained within the applicant’s specification fall within the category of “confectionery” contained in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

34. “Processed popcorn”, “Seasoned popcorn”, “Microwave popcorn”, “Pop corn”, “Popcorn”, “Popped popcorn”, “Corn (Pop -)”, “Flavoured popcorn”, “Glazed popcorn”, “Candy coated popcorn”, “Candy-coated popcorn”, “Caramel coated popcorn”, “Caramel coated popcorn with candied nuts”, “Caramel popcorn” and “Caramel-coated popcorn” within the applicant’s specification can be considered to be confectionery goods and therefore falls within “confectionery” of the earlier marks’ specification. Alternatively, if I am wrong in my assessment that these goods are considered confectionery, corn constitutes the primary ingredient of these goods. Given that corn is a cereal grain, these goods also fall within the specification “prepared meals and snacks consisting primarily of grains and cereals” of the earlier marks’ specification. These goods can therefore be considered identical on the principle outline in *Meric*.

35. “Chocolate bars”, “Chocolate bunnies”, “Chocolate chips”, “Chocolate decorations for cakes”, “Chocolate decorations for christmas trees”, “Chocolate eggs”, “Dairy chocolate”, “Dairy-free chocolate”, “Milk chocolate”, “Milk chocolate bars”, “Milk chocolates”, “Non-medicated chocolate”, “Chocolate candies”, “Chocolate candy with fillings”, “Chocolate coated fruits”, “Chocolate coated macadamia nuts”, “Chocolate coated nougat bars”, “Chocolate coated nuts”, “Chocolate confectionary”, “Chocolate confectionery”, “Chocolate confectionery containing pralines”, “Chocolate confectionery having a praline flavour”, “Chocolate confectionery products”, “Chocolate confections”, “Chocolate creams”, “Chocolate decorations for confectionery items”, “Chocolate flavoured confectionery”, “Chocolate for toppings”, “Chocolate fudge”, “Chocolate marzipan”, “Chocolate shells”, “Chocolate sweets”, “Chocolate truffles”, “Chocolate-based bars”, “Chocolate-based ready-to-eat food bars”, “Chocolate-coated bars”, “Chocolate-

coated sugar confectionery”, “Chocolate-covered nuts”, “Chocolates”, “Chocolates in the form of pralines”, “Chocolates in the form of sea horses”, “Chocolates in the form of sea shells”, “Chocolates presented in an advent calendar”, “Chocolates with mint flavoured centres”, “Easter eggs”, “Filled chocolate”, “Filled chocolate bars”, “Filled chocolates”, “Liqueur Chocolates” and “Milk chocolate teacakes” contained within the applicant’s specification fall within the broader categories of “chocolate” and/or “confectionery” in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

36. “Imitation chocolate”, “Non-medicated flour confectionery containing imitation chocolate”, “Substitutes (Chocolate -)” and “Non-medicated flour confectionery coated with imitation chocolate” contained within the applicant’s specification fall within the broader category of “confectionery” in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*. If I am wrong in this finding then the goods will overlap in use, user, method of use, nature and trade channels with “chocolate” in the earlier marks’ specifications. A consumer may purchase imitation chocolate or a chocolate substitute as an alternative to traditional chocolate and there may, therefore, be a competitive relationship between them. These goods are, therefore, highly similar.

37. “Flapjacks [griddle cakes]” contained within the applicant’s specification is a product similar to a scotch or buttermilk pancake. These goods will therefore fall within the broader category of “cakes” contained within the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

38. ‘Cocoa’ is both a powder made from the seeds of a plant (from which chocolate is made) and a type of hot drink made from cocoa powder and milk or water.<sup>13</sup> Consequently, “Cocoa beverages”, “Cocoa drinks”, “Cocoa preparations for use in making beverages”, “Cocoa beverages with milk”, “Drinks in powder form containing cocoa”, “Drinks prepared from cocoa”, “Drinking cocoa paste”, “drinks based on cocoa” and “Instant cocoa powder” within the applicant’s specification

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<sup>13</sup> <https://www.collinsdictionary.com/dictionary/english/cocoa>

could be considered to fall within the broader category of “cocoa” within the opponent’s specifications to the extent that this is recognised as the drink. These goods can therefore be considered identical on the principle outlined in *Meric*. Even if I am wrong in my assessment that ‘cocoa’ in this context will be viewed as the drink rather than the powder, the goods in the applicant’s specification will overlap in user, use, method of use and nature with “coffee, tea [...] artificial coffee” within the opponent’s specifications. There may also be a competitive relationship between the goods. They can therefore be considered highly similar.

39. “Bread pudding”, “Brownies”, “Christmas puddings”, “Chocolate desserts”, “Eclairs”, “Chocolate mousses”, “Chocolate fondue”, “Churros”, “Cream (Ice -)”, “Cream pies”, “Cream puffs”, “Creamed rice”, “Crème brûlées”, “Creme brulees”, “Crème caramel”, “Creme caramels”, “Crepes”, “Crumble”, “Crumb”, “Custards”, “Custards [baked desserts]”, “Dairy ice cream”, “Dessert mousses [confectionery]”, “Dessert puddings”, “Dessert souffles”, “Filled sweetmeats”, “Flans”, “Frozen custards”, “Frozen yogurt pies”, “Fruit ice creams”, “Fruit pies”, “Gâteaux”, “Ice cream”, “Ice cream bars”, “Ice cream cakes”, “Ice cream cone mixes”, “Ice cream cones”, “Ice cream desserts”, “Ice cream gateaux”, “Ice cream mixes”, “Ice cream powder”, “Ice cream powders”, “Ice cream sandwiches”, “Ice cream stick bars”, “Ice cream substitute”, “Ice cream with fruit”, “Ice creams”, “Ice creams containing chocolate”, “Ice creams flavoured with chocolate”, “Ice milk bars”, “Ice milk [ice cream]”, “Ice-cream”, “Ice-cream cakes”, “Imitation ice cream”, “Instant dessert puddings”, “Instant ice cream mixes”, “Meringue”, “Meringues”, “Mincemeat pies”, “Mousse (sweet)”, “Mousses”, “Mousses (Chocolate -)”, “Mousses (Dessert -) [confectionery]”, “Muesli desserts”, “Non-dairy ice cream”, “Parfaits”, “Pavlovas flavoured with hazelnuts”, “Pavlovas made with hazelnuts”, “Prepared desserts [chocolate based]”, “Prepared desserts [confectionery]”, “Profiteroles”, “Puddings”, “Puddings for use as desserts”, “Ready-to-eat puddings”, “Rice puddings”, “Rice-based pudding dessert”, “Sorbets”, “Soya based ice cream products”, “Soy-based ice cream substitute”, “Tortes”, “Treacle tarts”, “Yoghurt based ice cream [ice cream predominating]” and “Yoghurt (Frozen -) [confectionery ices]” contained within the applicant’s specification fall the broader category of “desserts and dessert mixes” contained in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

40. “Foodstuffs made of sweetener for making a dessert” and “Foodstuffs made of sugar for making a dessert” contained within the applicant’s specification are goods that are used for making desserts and therefore and fall within the category of “dessert mixes” contained within the earlier marks’ specifications. They may also fall within the broader category of “food flavourings” within the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.
41. “Candied cakes of popped rice”, “Chocolate-coated rice cakes”, “Half-moon shaped cake of rice containing sweet or semi-sweet fillings (songpyeon)”, “Half-moon-shaped rice cake [songpyeon]”, “Korean traditional rice cake (injeolmi)”, “Soft pin-rolled cakes of pounded rice (gyuhi)” and “Sticky rice cakes (Chapsalttock)” contained within the applicant’s specification fall within the goods “rice cakes” contained in the earlier marks’ specifications and can therefore be considered identical on the principle outlined in *Meric*.
42. “Crackers [edible]”, “Crackers filled with cheese”, “Crackers flavoured with cheese”, “Crackers flavoured with fruit”, “Crackers flavoured with herbs”, “Crackers flavoured with meat”, “Crackers flavoured with spices”, “Crackers flavoured with vegetables”, “Crackers made of prepared cereals”, “Cream crackers”, “Graham crackers”, “Rice crackers” and “Rice crackers [senbei]” contained within the applicant’s specification fall within the goods “crackers” contained in the earlier marks’ specifications and can therefore be considered identical on the principle outlined in *Meric*.
43. Farinaceous foods are foods consisting or made of starch.<sup>14</sup> “Macaroni, noodles, pasta” within the opponent’s specifications would all, therefore, be considered farinaceous foods and therefore fall within the broader category of “Foods (Farinaceous -)” contained within the applicant’s specification. These goods can therefore be considered identical on the principle outlined in *Meric*.

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<sup>14</sup> <https://www.collinsdictionary.com/dictionary/english/farinaceous>

44. “Confectionery ices”, “Edible fruit ices”, “Frozen ices”, “Frozen lollipops”, “Ice lollies”, “Ice lollies being milk flavoured”, “Ice lollies containing milk”, “Iced lollies”, “Ice pops”, “Ice confectionery”, “Ice confectionery in the form of lollipops” and “Ice confections” contained within the applicant’s specification commonly refers to frozen ice lollies. These goods can therefore fall within the broader categories of “desserts”, “ices” and/or “confectionery” contained within the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.
45. “Boiled sugar”, “Sugar for making conserves of fruit” and “Liquid sugar” contained within the applicant’s specification fall within the category of “sugar” contained in the earlier marks’ specifications and can therefore be considered identical on the principle outlined in *Meric*.
46. Energy bars can be made primarily of cereal, fortified with other ingredients to provide an energy boost. Consequently, I consider “Cereal bars and energy bars”, “Cereal based energy bars”, “Cereal based food bars”, “Cereal products in bar form” and “Cereal-based snack bars” contained within the applicant’s specification are either self-evidently or *Meric* identical to “cereal bars” in the earlier marks’ specifications. If I am wrong in my finding regarding energy bars, then these will also fall within the broader category of “prepared meals and snacks” within the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.
47. “Currant bread”, “Bread and buns”, “Bread flavoured with spices”, “Bread flavored with spices”, “Bread (Ginger-)", “Danish bread”, “Danish bread rolls”, “Fresh pasties”, “Fresh pies”, “Fruit breads”, “Fruited scones”, “Gluten-free bread”, “Malt bread”, “Muffins”, “Multigrain bread”, “Non-meat pies”, “Pasties”, “Scones”, “Soda bread”, “Soft rolls [bread]”, “Steamed bread”, “Unfermented bread”, “Wholemeal bread”, “Cream buns” and “fried dough twists” contained within the applicant’s specification are either self-evidently or *Meric* identical to “bread” and/or “bakery products” contained in the earlier marks’ specifications and can therefore be considered identical on the principle outlined in *Meric*.

48. “Brownie Dough”, “Dough for cakes”, “Filled yeast dough with fillings consisting of fruits”, “Filo dough”, “Filo doughs”, “Pastry dough”, “Foodstuffs made from dough”, “Frozen biscotti dough”, “Frozen brownie dough” and “Frozen dough” contained within the applicant’s specification fall within the goods “dough [...] dough products” contained in the earlier marks’ specifications and can therefore be considered identical on the principle outlined in *Meric*.
49. “Almond pastries”, “Chocolate pastries”, “Danish pastries”, “Filo pastry”, “Frozen pastry”, “Frozen pastry sheets”, “Fruit filled pastry products”, “Fruit pastries”, “Long-life pastry”, “Macaroons [pastry]”, “Mille-feuilles”, “Orange based pastry”, “Pastries containing creams”, “Pastries containing creams and fruit”, “Pastries containing fruit”, “Pastries filled with fruit”, “Pastries with fruit”, “Pastry cases”, “Pastry mixes”, “Pastry shells”, “Pastry shells for monaka”, “Poppy seed pastry”, “Puff pastry”, “Savory pastries”, “Shortcrust pastry” and “Croissants” contained within the applicant’s specification fall within the categories “pastries”, “pastry” and “pastry products” contained in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.
50. “Aperitif biscuits”, “Biscotti”, “Biscuits containing chocolate flavoured ingredients”, “Biscuits containing fruit”, “Biscuits flavoured with fruit”, “Biscuits for cheese”, “Biscuits for human consumption made from cereals”, “Biscuits for human consumption made from malt”, “Biscuits having a chocolate coating”, “Biscuits having a chocolate flavoured coating”, “Biscuits [sweet or savoury]”, “Biscuits with an iced topping”, “Bread biscuits”, “Butter biscuits”, “Chocolate biscuits”, “chocolate coated biscuits”, “chocolate coated marshmallow biscuits containing toffee”, “Chocolate covered biscuits”, “Chocolate covered wafer biscuits”, “Half covered chocolate biscuits”, “Malt biscuits”, “Oat biscuits for human consumption”, “Petit-beurre biscuits”, “Salted wafer biscuits”, “Salted biscuits”, “Salty biscuits”, “Savoury biscuits”, “Shortbread”, “shortbread biscuits”, “shortbread part coated with a chocolate flavoured coating”, “Shortbread part coated with chocolate”, “Shortbread with a chocolate coating”, “Shortbread with a chocolate flavoured coating”, “Shortbreads”, “Toasts [biscuits]”, “Wafered pralines”, “Wafers”, “Wafers [biscuits]”, “Breakfast Cake”, “Cake bars”, “Cake Pops”, “Candy Cake”, “Cereal cakes for human consumption”, “Chocolate brownies”, “Chocolate cake”, “Chocolate cakes”,

“Chocolate covered cakes”, “Cream cakes”, “Cupcakes”, “Deep chocolate cake made with chocolate sponge”, “Frozen cakes”, “Frozen Yogurt Cakes”, “Fruit cake snacks”, “Fruit Cakes”, “Iced cakes”, “Iced fruit cakes”, “Iced sponge cakes”, “Japanese sponge cakes (katutera)”, “Japanese style steamed cakes (mushigashi)”, “Madeleines”, “Malt cakes”, “Millet cakes”, “Moon cakes”, “Mooncakes”, “Pancakes”, “Shortcake”, “Sponge cake”, “Sponge cakes”, “Sponge fingers [cakes]”, “Steamed sponge cakes (fagao)”, “Tea cakes”, “Treacle cake”, “Almond cookies”, “Danish butter cookies”, “Fortune Cookies”, “Fried dough cookies”, “Fried dough cookies (karintoh)” and “Panettoni” contained within the applicant’s specification fall within the category of “cakes, [...] biscuits, cookies” contained in the earlier marks’ specifications and can therefore be considered identical on the principle outlined in *Meric*.

51. “Cake preparations” contained within the applicant’s specification could be goods that are either cakes or cake mixes and therefore fall within the broader categories of “cakes” and/or “cake mixes” within the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

52. “Brownie mixes”, “Instant doughnut mixes”, “Instant pancake mixes”, “Instant pudding mixes”, “Mixes for making bakery products”, “Mixes for making cakes”, “Mixtures for making cakes”, “Muffin mixes”, “Powder (Cake -)”, “Powder for making cakes”, “Preparations for making bakery products”, “Preparations for making gateaux”, “Prepared baking mixes”, “Pudding powders”, “Puddings in powder form” and “Wholemeal bread mixes” contained within the applicant’s specification fall within the category “dough mixes, cake mixes, doughnut mixes” contained in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

53. “Salts, seasonings, flavourings and condiments” contained within the applicant’s specification is a broad term that encompasses many different types of goods. All these goods can be considered to be items that add flavourings to food. I am therefore of the view that these goods can fall within the category of “food flavourings” contained in the earlier marks’ specifications. Furthermore, an element of these goods also falls within the category “vinegar, sauces (condiments)”

contained within the earlier marks' specifications. These goods can therefore be considered identical on the principle outlined in *Merix*.

54. "Doughs, batters, and mixes therefor" contained within the applicant's specification falls within the categories "dough, pastry, dough products, pastry products" and "dough mixes, cake mixes, doughnut mixes, biscuit mixes" contained within the earlier marks' specifications. A batter is defined as a thin dough made up of a mixture of flour, eggs and milk and therefore falls within these categories also. These goods can therefore be considered identical on the principle outlined in *Merix*.

55. "Korean traditional sweets and cookies [hankwa]" contained within the applicant's specification falls within the broader categories of "cookies" and "confectionery" contained within the earlier marks' specifications. These goods can therefore be considered identical on the principle outlined in *Merix*.

56. "Frozen cookie dough" contained within the applicant's specification is a product that can be eaten in its raw form as a dessert, so it is likely to fall within the categories of "desserts" contained within the earlier marks' specifications. Alternatively, "frozen cookie dough" would fall within the broader category of "dough products" contained within the earlier marks' specifications. These goods can therefore be considered identical on the principle outlined in *Merix*.

57. "Ice, ice creams, frozen yogurts and sorbets" contained within the applicant's specification are either self-evidently or *Merix* identical to "ice" and "desserts" contained within the earlier marks' specification. These goods can therefore be considered identical on the principle outlined in *Merix*.

58. "Ice cream confectionery", "Ice cream confections" and "Iced confectionery (Non-medicated -)" contained within the applicant's specification are goods that fall within the broader categories of "desserts" and "confectionery" contained within the earlier marks' specifications. These goods can therefore be considered identical on the principle outlined in *Merix*.

59. “Prepared desserts [pastries]” contained within the applicant’s specification falls within the broader categories of “desserts” and/or “pastries” contained within the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.
60. “Foodstuffs containing chocolate [as the main constituent]” and “chocolate based products” contained within the applicant’s specification can consist of a number of goods that would all contain chocolate. This term is likely to include chocolate goods, confectionery, bakery products and pastries. These goods are, therefore *Meric* identical to “chocolate”, “confectionery”, “bakery products”, “pastries”, “dough products” and “prepared meals and snacks” in the earlier marks’ specifications.
61. “Pastries, cakes, tarts and biscuits (cookies)” contained within the applicant’s specification are either self-evidently or *Meric* identical to “pastries”, “cakes”, “bakery products”, “biscuits” and “cookies” in the earlier marks’ specifications.
62. “Ice, natural or artificial” contained within the applicant’s specification falls within the broader category of “ice” contained within the earlier marks’ specifications. These goods can therefore be considered identical under the principle of *Meric*.
63. “Truffle cream sauces” within the applicant’s specification falls within the broader category of “sauces” contained within the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.
64. “Corn, roasted” contained within the applicant’s specification is a good that can have various meanings. In my view, and in the absence of any submissions to the contrary, I consider that this would include a type of snack similar to popcorn. Given that corn is a cereal grain, these goods fall within the category of “prepared meals and snacks consisting primarily of grains and cereals” contained within the earlier marks’ specifications. These goods can therefore be considered identical under the principle of *Meric*.
65. “Prepared foodstuffs in the form of sauces”, “ready-made sauces”, “sauce [edible]” and “sauces for ice cream” contained within the applicant’s specification fall within

the broader category of “sauces” in the earlier marks’ specifications. These goods can therefore be considered identical on the principle outlined in *Meric*.

66. “Foods with a cocoa base” and “Foodstuffs containing cocoa [as the main constituent]” contained within the applicant’s specification do not fall readily within the category of “cocoa” in the earlier marks’ specifications. The applicant’s goods refer to goods with cocoa as an ingredient whereas the goods contained within the opponent’s marks refer to the ingredient itself. Cocoa is a key ingredient in the recipe for chocolate and products with a cocoa base are commonly chocolate type snacks or other foodstuffs. The goods in the applicant’s specification are likely to be goods such as chocolate cakes, chocolate pastries, chocolate snacks or other chocolate confections. These goods are therefore likely to fall within the broader categories of “bakery products”, “cakes, doughnuts, biscuits, cookies”, “chocolate” and “pastry and confectionery”. I am therefore of the view that these goods are considered identical on the principle outlined in *Meric*.

67. “Preparations based on cocoa”, “Cocoa products” and “Cocoa preparations” contained within the applicant’s specification are likely to be goods such as cocoa powder or cocoa paste. These goods would therefore fall within the category of “cocoa” contained within the earlier marks’ specifications. These goods would therefore be considered identical on the principle outlined in *Meric*. If I am wrong in my finding that the applicant’s goods will be cocoa powder and/or paste, then they may be other cocoa based products such as baked goods, pastries or other confections. In this instance, I find that these goods would fall within the broader categories of “bakery products”, “cake, doughnuts, biscuits, cookies” and “pastry and confectionery” within the earlier marks’ specifications. These could be considered identical on the principle outlined in *Meric*.

68. “Chocolate syrup”, “Chocolate sauce” and “Chocolate syrups” contained within the applicant’s specification are likely to be goods used as a sauce topping for ice cream or other desserts and therefore fall within the broader category of “sauces” contained within the earlier marks’ specifications. If I am wrong in my finding that the applicant’s syrup-based goods are used as sauces, then they will be used to flavour other food products and will fall within “food flavourings” in the earlier marks’

specifications. These goods can, therefore, be considered identical on the principal outlined in *Meric*.

69. "Curried food pastes" within the applicant's specification describes a pre-made curry paste that is used as a main ingredient in homemade curries. It is commonly thick paste that is added to other ingredients in the process of cooking to make a curry sauce. There is, therefore, a degree of similarity with "sauces" in the specifications of the earlier marks' as this could include curry sauces. The goods are likely to overlap in use and user because they can both be used by the general public in order to make a curry dish. Further, there may be overlap in trade channels because the same undertakings are likely to produce both finished curry sauce products and pastes for consumers to make their own as alternatives. These goods may also have a competitive relationship. I therefore consider these goods to be highly similar.

70. "Chocolate topping" contained within the applicant's specification is a good that can have various meanings. For example, a chocolate topping could be a chocolate sauce or syrup, a spread or a hard chocolate decoration. This good can therefore be considered *Meric* identical to "chocolate" and/or "sauces" contained within the earlier marks' specifications. If I am wrong in this finding, then the goods may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. The goods can therefore be considered highly similar.

71. 'Pancake syrup' is commonly an alternative to maple syrup and is often a thick sugary syrup. "Pancake syrup" as contained within the applicant's specification falls within the broader category of "sauces" as contained within the earlier marks' specifications. These goods can therefore be considered identical on the principle outlined in *Meric*. If I am wrong in my finding that these goods are identical, "pancake syrup" is similar to the goods "honey, treacle" contained within the earlier marks' specifications. The goods may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. The goods can therefore be considered highly similar.

72. “Chocolate syrups for the preparation of chocolate based beverages”, “Drinks prepared from chocolate”, “Drinks flavoured with chocolate”, “Drinking chocolate”, “Drinks containing chocolate” and “Drinks based on chocolate” contained within the applicant’s specification are similar to the goods “coffee, tea, cocoa and artificial coffee” contained within the earlier marks’ specifications. The goods may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. The goods can therefore be considered highly similar.

73. “Chocolate pastes”, “Chocolate spread”, “Chocolate spreads”, “Chocolate spreads for use on bread”, “Chocolate-based spreads”, “Chocolate spreads containing nuts”, “Sandwich spread made from chocolate and nuts” and “Cocoa based creams in the form of spreads” in the applicant’s specification are all goods that are commonly consumed by spreading them on various items such as breads and other pastry products. These goods will commonly be found on the same shelves in a supermarket as other types of spreads, including jams. Chocolate spreads and jams commonly share the same purpose. The goods contained within the applicant’s specification can therefore be similar to the goods “jams” contained within the earlier marks’ specifications. The goods may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. The goods can therefore be considered highly similar.

74. “Marshmallow topping” contained within the applicant’s specification does not have a direct counterpart within the earlier marks’ specifications. Marshmallow topping can take either the form of sweets or be in the form of a spread, a frosting or a sauce. It may, therefore, fall within the broader categories of “confectionery” and “sauces” contained within the earlier marks’ specifications. These goods can be considered identical on the principal outlined in *Merix*. If I am wrong in this finding then the goods may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. The goods can therefore be considered highly similar.

75. “Chocolate-based fillings for cakes and pies”, “Chocolate fillings for bakery products” and “Chocolate for confectionery and bread” contained within the applicant’s specification do not have a direct counterpart in the earlier marks’ specifications. However, these goods are likely to be used as fillings for different types of confections and baked goods in order to give them flavour. Therefore, these goods are similar to “food flavouring” and/or “jams” as contained within the earlier marks’ specifications. The goods may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. These goods can therefore be considered highly similar.
76. “Paste (Almond -)” contained within the applicant’s specification does not have a direct counterpart in the earlier marks’ specifications. Almond paste is commonly used as a filling to various types of pastries and other baked goods to give them their flavour. This good would therefore be similar to “food flavourings” and/or “jams” as contained within the earlier marks’ specifications. These goods may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. The goods can, therefore, be considered highly similar.
77. “Dulce de leche” contained within the applicant’s specification is a product that is prepared by heating sweetened milk to form a thick sauce. It has an appearance and flavour similar to caramel. It is commonly used as a sauce, spread, topping or filling for bakery or pastry products. It may also be used as a sweetener for desserts in the same way that treacle is often used. These goods are, therefore, similar to “treacle” and/or “sauces” as contained within the earlier marks’ specifications as they may overlap in use, user, method of use, nature and trade channels. There may also be a competitive relationship between the goods. The goods can therefore be considered highly similar.
78. “Crushed oats” contained within the applicant’s specification is an ingredient that is used for porridge, muesli or granola. Crushed oats can be purchased in their raw form as an alternative to buying ready-made porridge. A consumer may either choose to buy ready-made porridge or crushed oats so that they may make porridge themselves. These goods may therefore overlap in use and user as

porridge, which falls within the category of “prepared meals and snacks consisting primarily of grains and cereals” contained within the earlier marks’ specifications. While some porridge manufacturers may sell ready-made porridge, some others may sell crushed oats in their raw form meaning that the goods may overlap in trade channels. There may also be a competitive relationship between the goods. I, therefore, find that these goods are similar to between a medium and high degree.

79. “Processed corn” contained within the applicant’s specification does not have a direct counterpart in the earlier marks’ specifications. However, processed corn can be a raw product purchased to make popcorn at home. A consumer can choose to either buy the finished product of popcorn or buy the processed corn to make popcorn themselves at home. These goods would therefore share use and user with popcorn, that falls within the category of “prepared meals and snacks consisting primarily of grains and cereals” contained within the earlier marks’ specification. While some manufacturers may sell popcorn in its final form, others may sell processed corn to allow consumers to make popcorn themselves at home. These goods may therefore have a competitive relationship. I, therefore, find that these goods are similar to a medium degree.

80. “Glucose preparations for food”, “Foodstuffs made of a sweetener for sweetening desserts” and “Foodstuffs made of sugar for sweetening desserts” contained within the applicant’s specification are goods that are used for sweetening desserts. I do not consider these goods to have a direct counterpart within the earlier marks’ specification. However, I consider that they are similar to the category of “treacle” as contained within the earlier marks’ specifications. Treacle is often used in baking and/or dessert making in order to sweeten the baked products and/or desserts. Goods made of glucose, sugar and sweetener will also be used to sweeten baked products and/or desserts. Therefore, the goods may share use and user. There may be a degree of overlap in nature. The goods may also be used as an alternative to treacle and would therefore have a competitive relationship. I find that these goods are similar to a medium degree. If I am wrong in my finding of similarity of these goods with ‘treacle’, I also find that they are similar with “food flavourings” contained within the earlier marks’ specifications. Sweeteners and

glucose preparations are often used to give products a sweet flavouring and these goods would therefore share use, user and nature. The goods may also have a competitive relationship. I find these goods to be similar to a medium degree.

81. A 'glaze' is a thin layer of liquid that is spread onto food in order to make the surface shine and look attractive<sup>15</sup>. When a glaze is used by a confectioner, it is spread onto various items of confectionery such as sweets, chocolates etc. "Confectioners' glaze" contained within the applicant's specification does not have a direct counterpart in the earlier marks' specifications. This is a good that is used as an element or component of "confectionery" as contained within the earlier marks' specifications. However, while I do not discount the fact that members of the general public may use this good, it would most commonly be used by professionals within the trade of making confectionery. These goods would therefore differ in user, nature and trade channels to the goods in the earlier marks' specifications. In addition, I note the finding of the General Court in *In Les Éditions Albert René v OHIM, Case T-336/03*, in which it found that:

"61... The mere fact that a particular good is used as a part, element or component of another does not suffice in itself to show that the finished goods containing those components are similar since, in particular, their nature, intended purpose and the customers for those goods may be completely different."

82. Therefore, I do not consider it identical or similar to any of the goods listed within the earlier marks' specifications. If I am wrong in my above finding, then the goods would be similar to only a low degree.

### **The average consumer and the nature of the purchasing act**

83. 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 decide the manner in which these goods are likely to be selected by the average consumer in

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<sup>15</sup> <https://www.collinsdictionary.com/dictionary/english/glaze>

the course of trade. 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. 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.”

84. The opponent submits that the average consumer of the goods will be “the public at large”. I have no submissions from the applicant on this point. I consider that the average consumer for the goods contained within the applicant’s specification and the opponent’s marks’ specifications will be a member of the general public.

85. It is my experience, as an average consumer of these goods, that they are generally sold through a range of retail shops, such as supermarkets and their online equivalents. The goods may also be sold in cafes, restaurants, bars and public houses. In retail premises, the goods at issue will be displayed on shelves, where they will be viewed and self-selected by the consumer. A similar process will apply to websites, where the consumer will select the goods having viewed an image displayed on a webpage. In outlets such as cafes, bars and restaurants, the goods are likely to be on display, for example, on counters or shelves at a bar. They also may be shown on food/drinks menus where the trademark will be visible. While I do not discount there may be an aural component in the selection and ordering of the goods in eating and drinking establishments, this is likely to take place after a visual inspection of the goods or a menu. (see *Simonds Farsons Cisk PLC v OHIM*, Case T-3/04 (GB)). The selection of the goods at issue will, therefore, be primarily visual, although I do not discount that aural considerations may play a part.

86. The goods at issue are fairly low in value and will be reasonably frequent purchases. When selecting the goods, the average consumer is likely to consider such things as dietary requirements, flavour and/or nutritional information. For the majority of the goods, the average consumer is likely to pay a medium degree of attention during the selection process. However, I recognise that some of the goods will be very casual purchases (such as confectionery or snacks selected at checkout), and for those goods I find that the average consumer is likely to pay a lower degree of attention.

### **Comparison of marks**

87. It is clear from *Sabel 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.

88. 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.”

89. 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.

90. The respective trade marks are shown below:

Opponent's trade marks	Applicant's trade mark
<p data-bbox="341 360 647 450">MRS. CRIMBLE'S (the first earlier mark)</p>  <p data-bbox="316 692 675 730">(the second earlier mark)</p>	<p data-bbox="1038 360 1158 394">Mimbles</p>

91. In its counterstatement, the applicant states that “the respective marks are visually, phonetically and conceptually dissimilar.”

92. The opponent has submitted the following:

“The marks contain and share the identical suffix -IMBLES. The beginnings of the marks share the same sound, namely ‘Mim-’ versus ‘Crim-’. Accordingly, the marks are similar both visually and aurally to a medium to high degree.”

### Overall Impression

#### *The applicant's mark*

93. The applicant's mark consists of the made-up word ‘Mimbles’. There are no other elements to contribute to the overall impression, which lies in the word itself.

#### *The first earlier mark*

94. The first earlier mark consists of the word ‘MRS.’, followed by the word ‘CRIMBLE’S’. The word ‘MRS.’ is a commonly used title for women in the English language that is usually used by those who are married and who do not use another

title. The second word, 'CRIMBLE'S' is the word 'CRIMBLE' with an apostrophe and an 'S', which in the English language is the marking of a possessive noun. The overall impression of the mark lies in the combination of these words as a unit.

#### *The second earlier mark*

95. The second earlier mark consists of the same words as the first earlier mark but is presented in a stylised font with a figurative element and additional wording. The dot of the 'i' is stylised with a pink heart device. The words are presented in a stylised dark grey/black font. The word 'MRS' is smaller and placed above the 'r' of 'Crimbles' and just to the left of the pink heart device.

96. Beneath the word CRIMBLES is the words 'GLORIOUSLY GLUTEN FREE'. The words 'GLORIOUSLY GLUTEN FREE' are likely to be seen as laudatory and descriptive of the goods offered under the mark and so will be attributed little trade mark significance by the average consumer. The word 'Crimble's' plays the greater role in the overall impression due to its size compared to the other elements of the mark. The word 'MRS' and the pink heart device play a lesser role in the mark. The words GLORIOUSLY GLUTEN FREE have the least impact on the overall impression due to their laudatory and descriptive nature.

#### Visual Comparison

##### *The first earlier mark and the applicant's mark*

97. Visually, the first earlier mark and the applicant's mark coincide in the presence of the last six letters, being '-IMBLES'. However, in the first earlier mark, the letters '-IMBLES' are broken up with an apostrophe between the 'E' and the 'S'. The marks also differ in that the letter 'M-' precedes '-imbles' in the applicant's mark whereas the first earlier mark precedes '-IMBLES' with the letters 'MRS. CR-'. It is established case law that the beginnings of marks tend to have more impact than the ends (see *El Corte Inglés, SA v OHIM* Cases T-183/02 and T-184/02). Overall, I consider the marks to be visually similar to a low degree.

### *The second earlier mark and the applicant's mark*

98. Visually, the same points apply regarding the similarity between the words and letters used in the marks as noted above. However, the second earlier mark contains a pink heart device that has no counterpart in the applicant's mark. The second earlier mark contains additional wording of 'GLORIOUSLY GLUTEN FREE', which has no counterpart within the applicant's mark. As noted above, the word 'Crimble's' plays a greater role in the second earlier mark's overall impression. The addition of the pink heart device, the stylisation of the letters and the addition of the words 'GLORIOUSLY GLUTEN FREE' give the second earlier mark further dissimilarities to the applicant's mark. However, these are offset by the fact that 'Crimble's' has a more prominent role in the second earlier mark. I consider the marks to be visually similar to between a low and medium degree.

### Aural Similarity

99. The opponent has submitted that the beginnings of the marks share the same sound, being 'CRIM' and 'MIM'. I do not agree with this submission as it discounts the presence of the word 'MRS' in both the earlier marks.

### *The first earlier mark and the applicant's mark*

100. Aurally, the first earlier mark will be pronounced MISS-IZ-KRIM-BLS. The applicant's mark will be pronounced MIM-BLS. The aural similarity in the marks lies in the end of the marks, being the pronunciation of '-IM-BLS'. The marks differ aurally with the inclusion of 'MISS-IZ-KR' in the first earlier mark and the letter 'M' in the applicant's mark. I consider that the inclusion of 'MISS-IZ' to the first earlier mark together with the hard pronunciation of 'KRIM' in the first earlier mark to be significantly different aurally to the applicant's mark. However, I do not discount the similarities. I therefore consider the marks to be aurally similar to between a low and medium degree.

*The second earlier mark and the applicant's mark*

101. The pink heart device of the second earlier mark will clearly not be pronounced by the average consumer. Additionally, the words 'GLORIOUSLY GLUTEN FREE', as noted above, are more likely to be seen by the average consumer as laudatory and descriptive of the goods sold under the mark and will not be pronounced aurally. I see no reason to conclude that the word 'MRS' would not be pronounced, despite it being in a smaller font. The same points, therefore, apply to the aural comparison between these marks as noted above and I consider there to be between a low and medium degree of aural similarity between the marks. If I am incorrect and the words 'GLORIOUSLY GLUTEN FREE' are pronounced, then there will only be a low degree of aural similarity between the marks.

Conceptual Similarity

*The first earlier mark and the applicant's mark*

102. As noted above, the first earlier mark contains the popular title for married women, being 'MRS.' and the word 'CRIMBLE'S' which contains an apostrophe indicates a possessive noun. These words combined allude to a married female with the surname 'Crimble.' The alteration of Crimble to a possessive noun indicates that the goods at issue were created by or belong to 'Mrs Crimble'. I have reviewed the evidence submitted by the applicant alleging that the word 'Crimble' is a British slang term for Christmas. I accept that there is evidence that shows a connection between the word 'Crimble' and Christmas, further reinforced by the fact that 'Crimble' shares similarities to the words 'Crimbo' and 'Kringles' which have a connection to Christmas. I consider the first earlier mark will be recognised by a significant proportion of average consumers as a person associated with Christmas.

103. The applicant's mark is an invented word with no meaning. I have no submissions from the applicant as to the conceptual meaning behind the term and, therefore, I must take it on face value as an invented word.

104. I consider that the first earlier mark and the applicant's mark are conceptually dissimilar in that the first earlier mark is conceptually the name of a married female (with a connection to Christmas) whereas the applicant's mark is simply a made-up word with no identifiable meaning. I consider the marks to be conceptually dissimilar. Even if I am wrong in my finding that a significant proportion of average consumers would understand that the word 'Crimble' alludes to Christmas, it does not affect my finding that the marks are conceptually dissimilar because the first earlier mark still refers to a married female, whereas the applicant's mark has no identifiable meaning.

#### *The second earlier mark and the applicant's mark*

105. The second earlier mark shares the same concept as the first earlier mark save for the inclusion of the pink heart device and the words 'GLORIOUSLY GLUTEN FREE'. The inclusion of the pink heart device is unlikely to contribute significantly to the overall meaning conveyed by the mark. The inclusion of the additional words will convey the fact that the goods are gluten-free products ('GLORIOUSLY GLUTEN FREE'). As noted above, the applicant's mark is an invented word with no meaning that does not allude to what goods are being provided under the mark. I found above that the first earlier mark and the applicant's mark were conceptually dissimilar. The inclusion of the pink heart device and the word 'GLORIOUSLY GLUTEN FREE' in the second earlier mark does not alter this finding and I therefore consider that the second earlier mark and the applicant's mark are conceptually dissimilar.

#### **Distinctive character of the earlier marks**

106. 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-0000, paragraph 49).

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

107. Registered trade marks possess various degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, 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 made of it.

108. The opponent has not pleaded that its mark has acquired enhanced distinctive character through use, nor has it filed any evidence to support such a claim. I have, therefore, only the inherent position to consider.

#### *The first earlier mark*

109. I must assess the inherent distinctiveness of the first earlier mark as a whole. The mark refers to a person named Mrs Crimble. If the word Crimble is recognised as a reference to Christmas, the mark may be allusive to products that are sold for Christmas time. I consider the first earlier mark to have a medium degree of inherent distinctive character.

### *The second earlier mark*

110. I must make an assessment of the inherent distinctiveness of the second earlier mark as a whole. The distinctiveness of the words contained within the first earlier mark have a medium degree of inherent distinctive character. The second earlier mark contains the same words but with additional visual elements, being the font, the pink heart device, the placement of the word 'MRS' and the inclusion of the words 'GLORIOUSLY GLUTEN FREE'. The words 'GLORIOUSLY GLUTEN FREE' describe the nature of the goods protected under the second earlier mark. I consider the second earlier mark to have a higher than medium degree of inherent distinctive character.

### **Likelihood of confusion**

111. 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 and services 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 services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's trade 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.

112. I have found the majority of the goods of the applicant's mark to be identical to the earlier marks' specifications save for the goods listed as similar (to varying degrees) and dissimilar above. I have found the average consumer to be a member of the general public who will purchase the goods primarily by visual means,

although I do not discount an aural component. I have concluded that a medium degree of attention is likely to be paid in the purchasing process for the majority of the goods in issue, although I recognise that for some of the goods a lower degree of attention may be paid. I have taken these factors into account in my assessment of the likelihood confusion between the marks.

### Direct confusion

#### *First earlier mark and the applicant's mark*

113. I have found the first earlier mark to be visually similar to a low degree, aurally similar to between a low and medium degree and conceptually dissimilar to the applicant's mark. The first earlier mark is inherently distinctive to a medium degree. Notwithstanding the principle of imperfect recollection, taking all of the above factors into account, given the visual, aural and conceptual differences between them, I do not consider that the marks will be mistakenly recalled or misremembered for each other. In particular, it is my view that the fact the first earlier mark will be read 'MRS. CRIMBLE'S' i.e. a reference to a particular person, will prevent any confusion with the invented word 'Mimbles'. Consequently, I do not consider there to be a likelihood of direct confusion between the first earlier mark and the applicant's mark, even where they are used on identical goods.

#### *Second earlier mark and the applicant's mark*

114. I have found the second earlier mark to be visually similar to between a low and medium degree and conceptually dissimilar to the applicant's mark. I have found the second earlier mark to be aurally similar to between a low and medium degree if the words 'GLORIOUSLY GLUTEN FREE' are not pronounced or aurally similar to a low degree if they are pronounced. The second earlier mark is distinctive to a higher than medium degree. Notwithstanding the principle of imperfect recollection, taking all of the above factors into account, I do not consider that the marks will be mistakenly recalled or misremembered for each other. I do not think that the word MRS. and the heart device in the second earlier mark will be overlooked. Consequently, I do not consider there to be a likelihood of direct confusion between

the second earlier mark and the applicant's mark, even where they are used on identical goods.

### Indirect confusion

115. I now turn 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.

116. It is my view that the average consumer will not consider the goods to have been provided by the same or economically linked undertakings. Having recognised the differences between the marks, I can see no reason why the average consumer would conclude that one was a natural variant or brand extension of the other. I do not consider there to be a likelihood of indirect confusion between the earlier marks and the applicant's mark.

### **CONCLUSION**

117. The opposition fails in its entirety and the applicant can proceed to registration.

## **COSTS**

118. As the applicant has been successful, it 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 **£700** as a contribution towards its costs. The sum is calculated as follows:

Preparing a statement and considering the opponent's statement:	£200
Preparing evidence:	£500
<b>Total</b>	<b>£700</b>

119. I therefore order Kallo Foods Limited to pay Silvina's Nature Limited the sum of £700. This sum should 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 7<sup>th</sup> day of April 2020**

**A COOPER**

**For the Registrar**

## ANNEX

### Class 30

Almond confectionery; Almond cookies; Almond pastries; Aperitif biscuits; Bakery goods; Biscotti; Biscuit mixes; Biscuits; Biscuits containing chocolate flavoured ingredients; Biscuits containing fruit; Biscuits flavoured with fruit; Biscuits for cheese; Biscuits for human consumption made from cereals; Biscuits for human consumption made from malt; Biscuits having a chocolate coating; Biscuits having a chocolate flavoured coating; Biscuits [sweet or savoury]; Biscuits with an iced topping; Boiled confectionery; Boiled sugar; Boiled sugar confectionery; Boiled sweets; Bonbons; Bonbons made of sugar; Bread; Bread and buns; Bread biscuits; Bread flavored with spices; Bread flavoured with spices; Bread (Ginger -); Bread pudding; Breakfast cake; Brownie dough; Brownie mixes; Brownies; Butter biscuits; Cake bars; Cake Pops; Cake preparations; Cakes; Cakes (Rice -); Candied cakes of popped rice; Candies; Candies (Non-medicated -); Candies [sweets]; Candy; Candy bars; Candy cake; Candy coated confections; Candy coated popcorn; Candy with caramel; Candy with cocoa; Candy-coated popcorn; Caramel coated popcorn; Caramel coated popcorn with candied nuts; Caramel popcorn; Caramel-coated popcorn; Caramels; Caramels [candy]; Cereal bars; Cereal bars and energy bars; Cereal based energy bars; Cereal based food bars; Cereal based foodstuffs for human consumption; Cereal based prepared snack foods; Cereal based snack foods; Cereal based snacks; Cereal cakes for human consumption; Cereal preparations; Cereal products in bar form; Cereal snacks; Cereal-based snack bars; Cereal-based snack food; Cereals; Chocolate; Chocolate bars; Chocolate based products; Chocolate biscuits; Chocolate brownies; Chocolate bunnies; Chocolate cake; Chocolate cakes; Chocolate candies; Chocolate candy with fillings; Chocolate chips; Chocolate coated biscuits; Chocolate coated fruits; Chocolate coated macadamia nuts; Chocolate coated marshmallow biscuits containing toffee; Chocolate coated nougat bars; Chocolate coated nuts; Chocolate confectionary; Chocolate confectionery; Chocolate confectionery containing pralines; Chocolate confectionery having a praline flavour; Chocolate confectionery products; Chocolate confections; Chocolate covered biscuits; Chocolate covered cakes; Chocolate covered wafer biscuits; Chocolate creams; Chocolate decorations for cakes; Chocolate decorations for christmas trees; Chocolate decorations for

confectionery items; Chocolate desserts; Chocolate eggs; Chocolate fillings for bakery products; Chocolate flavoured confectionery; Chocolate fondue; Chocolate for confectionery and bread; Chocolate for toppings; Chocolate fudge; Chocolate marzipan; Chocolate mousses; Chocolate pastes; Chocolate pastries; Chocolate sauce; Chocolate shells; Chocolate spread; Chocolate spreads; Chocolate spreads containing nuts; Chocolate spreads for use on bread; Chocolate sweets; Chocolate syrup; Chocolate syrups; Chocolate syrups for the preparation of chocolate based beverages; Chocolate topping; Chocolate truffles; Chocolate-based bars; Chocolate-based fillings for cakes and pies; Chocolate-based ready-to-eat food bars; Chocolate-based spreads; Chocolate-coated bars; Chocolate-coated rice cakes; Chocolate-coated sugar confectionery; Chocolate-covered nuts; Chocolates; Chocolates in the form of pralines; Chocolates in the form of sea horses; Chocolates in the form of sea shells; Chocolates presented in an advent calendar; Chocolates with mint flavoured centres; Christmas puddings; Christmas tree decorations [edible]; Christmas trees (Confectionery for decorating -); Churros; Coated nuts [confectionery]; Cocoa; Cocoa based creams in the form of spreads; Cocoa beverages; Cocoa beverages with milk; Cocoa drinks; Cocoa preparations; Cocoa preparations for use in making beverages; Cocoa products; Confectioners' glaze; Confectionery; Confectionery bars; Confectionery chips for baking; Confectionery chocolate products; Confectionery containing jam; Confectionery containing jelly; Confectionery for decorating Christmas trees; Confectionery having liquid fruit fillings; Confectionery having liquid spirit fillings; Confectionery having wine fillings; Confectionery ices; Confectionery in frozen form; Confectionery in liquid form; Confectionery in the form of tablets; Confectionery items coated with chocolate; Confectionery items formed from chocolate; Confectionery items (Non-medicated -); Confectionery made of sugar; Confectionery (Non-medicated -); Confectionery products (Non-medicated -); Cookies; Corn candy; Corn chips; Corn curls; Corn flakes; Corn flour; Corn flour [for food]; Corn meal; Corn, milled; Corn (Pop -); Corn, roasted; Corn starch flour; Corn starch [for food]; Corn-based savoury snacks; Corn-based snack foods; Cornflour; Cornmeal; Cornstarch for culinary purposes; Cotton candy; Crackers; Crackers [edible]; Crackers filled with cheese; Crackers flavoured with cheese; Crackers flavoured with fruit; Crackers flavoured with herbs; Crackers flavoured with meat; Crackers flavoured with spices; Crackers flavoured with vegetables; Crackers made of prepared cereals; Cream buns; Cream cakes; Cream crackers; Cream (Ice -); Cream pies; Cream puffs; Creamed

rice; Crème brûlées; Creme brulees; Crème caramel; Creme caramels; Crepes; Crisp breads; Crisp rolls; Crispbread; Crispbread snacks; Crisps made of cereals; Croissants; Croutons; Croûtons; Crumb; Crumble; Crumpets; Crushed oats; Crystal sugar pieces [confectionery]; Cupcakes; Currant bread; Curried food pastes; Custards; Custards [baked desserts]; Dairy chocolate; Dairy confectionery; Dairy ice cream; Dairy-free chocolate; Danish bread; Danish bread rolls; Danish butter cookies; Danish pastries; Deep chocolate cake made with chocolate sponge; Dessert mousses [confectionery]; Dessert puddings; Dessert souffles; Dough; Dough flour; Dough for cakes; Dough mix; Doughnut mixes; Doughnuts; Doughs, batters, and mixes therefor; Drinking chocolate; Drinking cocoa paste; Drinks based on chocolate; Drinks based on cocoa; Drinks containing chocolate; Drinks flavoured with chocolate; Drinks in powder form containing cocoa; Drinks prepared from chocolate; Drinks prepared from cocoa; Dulce de leche; Easter eggs; Eclairs; Edible flour; Edible fruit ices; Extruded corn snacks; Extruded food products made of maize; Extruded food products made of rice; Extruded food products made of wheat; Extruded snacks containing maize; Extruded wheat snacks; Filled baguettes; Filled bread rolls; Filled buns; Filled caramels; Filled chocolate; Filled chocolate bars; Filled chocolates; Filled rolls; Filled sweetmeats; Filled yeast dough with fillings consisting of fruits; Filo dough; Filo doughs; Filo pastry; Flans; Flapjacks; Flapjacks [griddle cakes]; Flavoured popcorn; Flavoured rices; Flavoured sugar confectionery; Flour; Flour based chips; Flour based savory snacks; Flour concentrate for food; Flour confectionery; Flour for baking; Flour for doughnuts; Flour for food; Flour for making dumplings of glutinous rice; Flour of corn; Flour preparations for food; Flour ready for baking; Foamed sugar pastilles; Foamed sugar sweets; Fondants; Fondants [confectionery]; Food mixtures consisting of cereal flakes and dried fruits; Food preparations based on grains; Foods (Farinaceous -); Foods produced from baked cereals; Foods with a cocoa base; Foodstuffs containing chocolate [as the main constituent]; Foodstuffs containing cocoa [as the main constituent]; Foodstuffs made from cereals; Foodstuffs made from dough; Foodstuffs made from maize; Foodstuffs made from oats; Foodstuffs made of a sweetener for making a dessert; Foodstuffs made of a sweetener for sweetening desserts; Foodstuffs made of rice; Foodstuffs made of sugar for making a dessert; Foodstuffs made of sugar for sweetening desserts; Fortune cookies; Fresh pasties; Fresh pies; Fried dough cookies; Fried dough cookies (karintoh); Fried dough twists; Frozen biscotti dough; Frozen brownie dough; Frozen cakes; Frozen confectionery;

Frozen confectionery containing ice cream; Frozen confections; Frozen confections on a stick; Frozen cookie dough; Frozen custards; Frozen dairy confections; Frozen dough; Frozen ices; Frozen lollipops; Frozen pastry; Frozen pastry sheets; Frozen yogurt cakes; Frozen yogurt confections; Frozen yogurt pies; Fruit breads; Fruit cake snacks; Fruit cakes; Fruit drops [confectionery]; Fruit filled pastry products; Fruit ice creams; Fruit jellies [confectionery]; Fruit jelly candy; Fruit pastries; Fruit pies; Fruit sauces; Fruited scones; Fudge; Gâteaux; Glazed popcorn; Glucose preparations for food; Gluten-free bread; Graham crackers; Grain-based chips; Grain-based snack foods; Granola; Granola bars; Granola snacks; Granola-based snack bars; Granola-based snack foods; Gum sweets; Gum sweets (Non-medicated -); Gummy candies; Half covered chocolate biscuits; Half-moon-shaped cake of rice containing sweet or semi-sweet fillings (songpyeon); Half-moon-shaped rice cake [songpyeon]; Hard candy; Hard caramels [candies]; Honeycomb toffee; Ice candies; Ice candy; Ice confectionery; Ice confectionery in the form of lollipops; Ice confections; Ice cream; Ice cream bars; Ice cream cakes; Ice cream cone mixes; Ice cream cones; Ice cream confectionery; Ice cream confections; Ice cream desserts; Ice cream gateaux; Ice cream mixes; Ice cream powder; Ice cream powders; Ice cream sandwiches; Ice cream stick bars; Ice cream substitute; Ice cream with fruit; Ice creams; Ice creams containing chocolate; Ice creams flavoured with chocolate; Ice, ice creams, frozen yogurts and sorbets; Ice lollies; Ice lollies being milk flavoured; Ice lollies containing milk; Ice milk bars; Ice milk [ice cream]; Ice, natural or artificial; Ice pops; Ice-cream; Ice-cream cakes; Iced cakes; Iced confectionery (Non-medicated -); Iced fruit cakes; Iced lollies; Iced sponge cakes; Imitation chocolate; Imitation ice cream; Instant cocoa powder; Instant dessert puddings; Instant doughnut mixes; Instant ice cream mixes; Instant pancake mixes; Instant pudding mixes; Japanese sponge cakes (kasutera); Japanese style steamed cakes (mushi-gashi); Japanese-style pancakes (Okonomiyaki); Jellies (Fruit -) [confectionery]; Jelly beans; Korean traditional pressed sweets (Dasik); Korean traditional rice cake [injeolmi]; Korean traditional sweets and cookies [hankwa]; Licorice; Liqueur chocolates; Liquid sugar; Liquorice [confectionery]; Liquorice flavoured confectionery; Lollipops; Long-life pastry; Low-carbohydrate confectionery; Macaroons [pastry]; Madeleines; Maize based snack products; Maize flakes; Maize flour; Maize meal; Maize, milled; Maize (Processed -) for consumption by humans; Maize, roasted; Mallows [confectionery]; Malt biscuits; Malt bread; Malt cakes; Marshmallow; Marshmallow confectionery; Marshmallow

filled chocolates; Marshmallow topping; Marshmallows; Marzipan; Meringue; Meringues; Microwave popcorn; Milk chocolate; Milk chocolate bars; Milk chocolate teacakes; Milk chocolates; Milk tablet candy; Mille-feuilles; Millet cakes; Mincemeat pies; Mint flavoured confectionery (Non-medicated -); Mint-based sweets; Mixes for making bakery products; Mixes for making cakes; Mixtures for making cakes; Moon cakes; Mooncakes; Mousse confections; Mousse (sweet); Mousses; Mousses (Chocolate -); Mousses (Dessert -) [confectionery]; Muesli; Muesli bars; Muesli consisting predominantly of cereals; Muesli desserts; Muffin mixes; Muffins; Multigrain bread; Multigrain-based snack foods; Non-dairy ice cream; Non-meat pies; Non-medicated candy; Non-medicated chocolate; Non-medicated chocolate confectionery; Non-medicated confectionery; Non-medicated confectionery candy; Non-medicated confectionery containing chocolate; Non-medicated confectionery containing milk; Non-medicated confectionery for use as part of a calorie controlled diet; Non-medicated confectionery having a milk flavour; Non-medicated confectionery having toffee fillings; Non-medicated confectionery in jelly form; Non-medicated confectionery in the form of lozenges; Non-medicated confectionery in the shape of eggs; Non-medicated confectionery products; Non-medicated flour confectionery; Non-medicated flour confectionery coated with chocolate; Non-medicated flour confectionery coated with imitation chocolate; Non-medicated flour confectionery containing chocolate; Non-medicated flour confectionery containing imitation chocolate; Non-medicated flour confections; Non-medicated mint confectionery; Non-medicated sugar confectionery; Non-medicated sweets; Nougat; Nut confectionery; Nut flours; Oat bars; Oat biscuits for human consumption; Oat cakes for human consumption; Oat-based foods; Oatmeal; Open sandwiches; Orange based confectionery; Orange based pastry; Pancake syrup; Pancakes; Panettoni; Panned sweets (Non-medicated -); Parfaits; Paste (Almond -); Pasties; Pastila [confectionery]; Pastilles [confectionery]; Pastilles [other than for medical purposes]; Pastries; Pastries, cakes, tarts and biscuits (cookies); Pastries containing creams; Pastries containing creams and fruit; Pastries containing fruit; Pastries filled with fruit; Pastries with fruit; Pastry; Pastry cases; Pastry dough; Pastry mixes; Pastry shells; Pastry shells for monaka; Pavlovas flavoured with hazelnuts; Pavlovas made with hazelnuts; Peanut brittle; Peanut butter confectionery chips; Peanut confectionery; Petit fours; Petit-beurre biscuits; Pop corn; Popcorn; Popped popcorn; Poppy seed pastry; Porridge; Potato flour confectionery; Powder (Cake -); Powder for making cakes;

Pralines; Pralines made of chocolate; Pralines with liquid filling; Preparations based on cocoa; Preparations for making bakery products; Preparations for making gateaux; Preparations made from cereals; Prepared baking mixes; Prepared desserts [chocolate based]; Prepared desserts [confectionery]; Prepared desserts [pastries]; Prepared foodstuffs in the form of sauces; Prepared savory foodstuffs made from potato flour; Processed corn; Processed maize; Processed popcorn; Processed quinoa; Profiteroles; Pudding powders; Puddings; Puddings for use as desserts; Puddings in powder form; Puff pastry; Ready-made sauces; Ready-to-eat puddings; Rice cake snacks; Rice cakes; Rice chips; Rice crackers; Rice crackers [senbei]; Rice crisps; Rice puddings; Rice snacks; Rice starch flour; Rice-based pudding dessert; Rice-based snack food; Rice-based snack foods; Salted biscuits; Salted butter caramel; Salted butter fudge; Salted wafer biscuits; Salts, seasonings, flavourings and condiments; Salty biscuits; Sandwich spread made from chocolate and nuts; Sauce [edible]; Sauces for ice cream; Savory pastries; Savoury biscuits; Scones; Seasoned popcorn; Sesame confectionery; Shortbread; Shortbread biscuits; Shortbread part coated with a chocolate flavoured coating; Shortbread part coated with chocolate; Shortbread with a chocolate coating; Shortbread with a chocolate flavoured coating; Shortbreads; Shortcake; Shortcrust pastry; Snack bars containing a mixture of grains, nuts and dried fruit [confectionery]; Snack food (Cereal-based -); Snack food products consisting of cereal products; Snack food products made from cereal flour; Snack food products made from cereal starch; Snack food products made from cereals; Snack food products made from maize flour; Snack food products made from potato flour; Snack food products made from rice; Snack food products made from rice flour; Snack food products made from rusk flour; Snack food products made from soya flour; Snack food (Rice-based -); Snack foods consisting principally of bread; Snack foods consisting principally of confectionery; Snack foods consisting principally of extruded cereals; Snack foods consisting principally of grain; Snack foods made from corn; Snack foods made from corn and in the form of puffs; Snack foods made from corn and in the form of rings; Snack foods made from wheat; Snack foods made of wheat; Snack foods made of whole wheat; Snack foods prepared from maize; Snack foods prepared from potato flour; Snack products made of cereals; Snacks made from muesli; Snacks manufactured from cereals; Snacks manufactured from muesli; Soda bread; Soft caramels; Soft pin-rolled cakes of pounded rice (gyuhi); Soft rolls [bread]; Sorbets; Soya based ice cream products; Soy-based ice cream substitute; Sponge

cake; Sponge cakes; Sponge fingers [cakes]; Steamed bread; Steamed sponge cakes (fagao); Sticky rice cakes (Chapsalttock); Substitutes (Chocolate -); Sugar confectionery; Sugar confectionery (Non-medicated -); Sugar for making conserves of fruit; Tea cakes; Toasts; Toasts [biscuits]; Toffee; Tortes; Tortilla chips; Tortilla shells; Tortilla snacks; Treacle; Treacle cake; Treacle tarts; Treacles; Truffle cream sauces; Turkish delight; Turkish delight coated in chocolate; Unfermented bread; Wafered pralines; Wafers; Wafers [biscuits]; Wholemeal bread; Wholemeal bread mixes; Yoghurt based ice cream [ice cream predominating]; Yoghurt (Frozen -) [confectionery ices]; Zefir [confectionery].