

O-370-16

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION NOS. 3080590 AND 3080588
BY FOX HOLDINGS LIMITED**

**TO REGISTER THE FOLLOWING TRADE MARKS IN CLASSES 8, 9, 11, 14, 18,
20, 21, 22, 25 AND 35:**



&



**AND IN THE MATTER OF OPPOSITION THERETO
UNDER NOS. 404047 & 404487 BY WOLF LICENCES LIMITED**

BACKGROUND AND PLEADINGS

1. These consolidated opposition proceedings concern two trade mark applications filed by Fox Holdings Limited (“the applicant”) on 7 November 2014. Application number



3080590 (“590”) is for the trade mark  and it was published for opposition purposes on 26 December 2014. Application number 3080588 (“588”) is for the trade



mark **WOLF** and was published on 13 March 2015. The specifications for both marks are identical, for a range of goods and services in classes 8, 9, 11, 14, 18, 20, 21, 22, 25 and 35 (the full list of goods and services is annexed to this decision).

2. The applications are opposed by Wolf Licences Limited (“the opponent”). The oppositions are based upon section 5(2)(b) of the Trade Marks Act 1994 (“the Act”).

3. The opponent relies upon two earlier trade marks. The first is UK trade mark number 2549365 (“365”) for the trade mark shown below, which has a filing date of 3 June 2010 and for which the registration procedure was completed on 12 November 2010:



4. The mark is registered for a range of goods in classes 4, 6, 7, 8, 9, 11, 18, 20, 25 and 28. The opponent relies upon the following goods in its registration against both applications:

Class 8: Hand operated tools and implements, but not including any such tools and implements for gardening or horticultural purposes; none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning technology.

Class 9: Satellite navigation equipment; parts and fittings for all the aforesaid goods; none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning technology.

Class 11: Apparatus for lighting, torches for lighting; parts and fittings for all the aforesaid goods; none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning technology.

Class 25: Articles of clothing, footwear, headgear; none of the aforesaid being made from animal fur and none of the aforesaid being motor cycling clothing, motor cycling footwear or motor cycling headgear.

5. On the basis of earlier trade mark '365, the opposition is directed against the following goods and services in both application '590 and in application '588:

Class 8: Knives; pocket knives; screwdrivers; can openers (non-electric); scissors; files and/or nail files; spanners (tools); screwdrivers; forks (cutlery); forks (hand tools); spoons; can openers.

Class 9: Compasses; navigational instruments; parts and fittings for all of the aforesaid goods.

Class 11: Lighting apparatus; torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches.

Class 25: Clothing, footwear and headgear.

Class 35: Retail services in connection with the sale of knives, pocket knives, screwdrivers, can openers (non-electric), scissors, files and/or nail files, spanners (tools), screwdrivers, forks (cutlery), forks (hand tools), spoons, bottle openers, can openers, corkscrews, compasses, navigational instruments, lighting apparatus, torches, electric torches, flashlights, pocket torches, rechargeable torches, clothing, footwear, headgear and head torches.

6. The second trade mark relied upon by the opponent is European Union Trade Mark (“EUTM”) number 6561492 (“492”) for the trade mark **WOLF**. The mark has a filing date of 8 January 2008 and its registration procedure was completed on 6 October 2010. Against both applications, the opponent relies upon all of the goods for which its mark is registered, namely:

Class 11: Lighting apparatus; and parts and fittings therefor.

7. The opposition on the basis of EUTM '492 is directed against the following goods and services in the applications:

Application '590:

Class 11: Lighting apparatus; torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches.

Application '588:

Class 11: Lighting apparatus; torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches.

Class 35: Retail services in connection with the sale of lighting apparatus, torches, electric torches, flashlights, pocket torches, rechargeable torches and head torches.

8. In its Notices of Opposition, the opponent claims that the opposed goods and services are identical or similar to the goods of the earlier registrations and that the trade marks are similar. It also claims that the applied-for marks have WOLF as their distinctive element, the other elements of the marks being either descriptive or non-distinctive. It considers that there is a likelihood of confusion, including a likelihood of association.

9. The applicant filed counterstatements in which it denies the basis of the oppositions. It asserts that the goods and services are not similar and that the marks are dissimilar. It claims that the dominant and distinctive element in its marks is the image of an animal's head, and that there are "clear visual, aural and conceptual dissimilarities between the marks".

10. Both parties have been professionally represented throughout, the applicant by Bromhead Johnson, the opponent by HGF Limited. The proceedings were consolidated. Both parties filed evidence. Whilst neither party asked to be heard, the applicant filed brief written submissions in lieu of attendance at a hearing. I will bear these submissions in mind and refer to them, as necessary, below.

Evidence

11. For reasons which will become apparent, I do not intend to summarise the parties' evidence in detail here. However, briefly, the evidence is as follows:

The opponent's evidence in chief

12. This consists of the witness statement of Mike Irwin, dated 3 November 2015, with six exhibits. Mr Irwin is the "owner" of the opponent and indicates that he founded the company in 1999, since when he has been responsible for its operation.

13. Exhibit MI1 is a printout from the register showing the ownership history of UK trade mark number 572355. The mark is not involved in the instant proceedings and therefore has no bearing on my decision. There is also a printout from the Companies House website detailing the previous names of the opponent.

14. Exhibit MI2 consists of photocopies of pages from a catalogue showing a range of the opponent's power tools and equipment, such as lights and pressure washers, on sale. It is not dated.

15. Exhibit MI3 consists of printouts from www.ukhs.tv, showing the opponent's products on sale. There is a wide range of products, including power tools such as saws and drills, as well as items such as spanners, shelving and workbenches. There is a reference at p. 46 to an award in 2009. Other dates which appear, such as 21 October 2015 (e.g. at pp. 86 and 89), November 2015 (p. 88) and January 2016 (p. 96), are all after the relevant date (i.e. the application date of 7 November 2014).

16. Exhibit MI4 consists of printouts from www.amazon.co.uk showing the opponent's products on sale. The web pages are not dated, save for the printing dates of 26 and 27 October 2015. However, some of the printouts show the date on which the products were first available for sale on the website. Some of these dates are before the relevant date: of these, the earliest date is 16 November 2010 (p. 119, p. 130) and the latest 4 January 2013 (p. 106).

17. Exhibit MI5 consists of copies of newspaper adverts. They are all dated after the relevant date.

18. Exhibit MI6 shows circulation figures for the *Sun* and *Mail on Sunday* newspapers. There is also an explanation of the demographic classifications used. It is said to show that both newspapers attract readers from across the social spectrum. The information is dated after the relevant date.

The applicant's evidence

19. This consists of the witness statement of Michael David Spencer, dated 2 February 2016, with three exhibits. Mr Spencer is the applicant's trade mark attorney.

20. Exhibit MDS1 shows the results of searches of the register for marks consisting of the word "WOLF", with or without a device, in the same class(es) as the opposed applications. Most of the 33 marks are registered or protected but some show a status of "dead", "appealed", "opposed" or "examination".

21. Exhibit MDS2 consists of printouts from symuk.co.uk, which shows four motorcycles for sale. This is said to show EUTM number 3828902 in use in the same areas as the opponent's registrations. The mark is not owned by either party to the instant proceedings and the images are not dated, save for the printing date of 11 January 2016.

22. Exhibit MDS3 is further evidence from the register and shows the first page of results for marks containing the word "WOLF" in the same class(es) as the opposed applications. Of the ten marks shown, three have expired.

The opponent's evidence in reply

23. This consists of the second witness statement of Mike Irwin, dated 29 March 2016, with six exhibits.

24. Exhibit MI1 is a copy of a catalogue dated 2008. It shows a range of the opponent's goods offered for sale (e.g. pressure washers, air compressors, power tools).

25. Exhibit MI2 consists of copies of catalogues from 2010 showing the opponent's products offered for sale.

26. Exhibit MI3 consists of copies of newspaper adverts from a range of national newspapers. They are dated from 2010 to 2013.

27. Exhibit MI4 is a catalogue, said to have been produced and distributed in newspapers in 2006. A range of the opponent's goods are offered for sale.

28. Exhibit MI5 is a printout from www.idealworld.tv which shows a range of the opponent's products on sale. It is not dated.

29. Exhibit MI6 shows the cover of a catalogue. It is said to be the cover of the catalogue exhibited at MI2 to Mr Irwin's first witness statement. The catalogue is for April-August 2015. This is after the relevant date.

DECISION

30. The opposition is based upon section 5(2)(b) of the Act which reads as follows:

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

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

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

31. 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”.

32. In these proceedings, the opponent is relying upon the trade marks shown in paragraphs 3 and 6, which qualify as earlier trade marks under the above provisions. As these trade marks had not completed their registration process more than 5 years before the publication date of the applications in suit, they are not subject to proof of use, as per section 6A of the Act. The opponent can, as a consequence, rely upon all of the goods it has identified.

Section 5(2)(b) – case law

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

The principles:

(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 will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

The average consumer and the nature of the purchasing act

34. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods and services. I must then determine the manner in which these goods and services are likely to be selected by the average consumer in 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”.

35. In its Notices of Opposition, the opponent submits that “[p]otential customers for [the goods at issue] are not limited to a specialist field”. In its counterstatement, the applicant states that:

“It is abundantly clear from the goods listed above, e.g. those in Classes 8, 9 & 11, that these, without any further direction, are more likely to be specialist goods than ‘non-specialist’ goods. For example, the “*Hand-operated tools and implements*” in Class 8 (above) are limited to exclude ‘*any such tools and implements for gardening or horticultural purposes*”, i.e. not those offered in ‘general’ home improvement stores and garden centers [sic]. It therefore follows that the Opponent’s goods are not directed to the general public but a specialist/niche sector and specialist consumers instead”.

36. I note that the specification for earlier mark '365 contains exclusions in each class.¹ However, the effect of these is to exclude goods in a particular category, not to impose restrictions on the goods which remain in the specification. Notwithstanding the exclusion, the specification in class 8 would cover a range of tools and implements, including widely available and inexpensive goods such as hand saws or manual screwdrivers. The goods may be used in a domestic setting or in a commercial context and are unlikely to be particularly expensive or technical in nature. Similar considerations apply to the goods at issue in class 11. The average consumer of the class 8 and 11 goods is likely to be either a member of the general public or a tradesperson. I consider that both groups of average consumer will pay an average level of attention in selecting these goods.

37. The goods in class 9 are unlikely to be particularly expensive, though I accept that they may vary in both cost and in their technical specifications. “Navigational instruments” in the applicant’s specification suggests more specialised goods, for example those used on ships. The average consumer will comprise members of the general public but may also include professional business consumers. The member of the public is likely to pay an average degree of attention, no higher or lower than the norm, in selecting these goods. For the business user, who may be laying out

¹ i.e. “none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning”. The specification in class 8 of earlier mark '365 is also subject to the exclusion “but not including any such tools and implements for gardening or horticultural purposes”.

considerable sums or for whom compatibility with existing infrastructure may be a particular concern, the level of attention is likely to be reasonably high.

38. The consumer of the goods in class 25, who is a member of the public, will be attentive to ensure that the goods are suitable for their purpose and that they are, for example, the desired fit, colour or style. I am of the view that the average consumer will pay an average degree of attention in the selection of these goods.

39. As far as the channels of trade for all of the goods at issue are concerned, the parties dispute whether the channels of trade are shared but do not specify what the channels of trade would be. In my experience, the general public purchasing the goods at issue would do so by selecting the items from shelves in a retail shop, or from a catalogue or website. The specific retail premises will depend on the goods but will include hardware shops (e.g. for scissors, can openers), DIY stores and builders' merchants (e.g. for screwdrivers and spanners), shops on the high street (e.g. for lighting and clothing) or more specialist outlets, such as kitchen or outdoor equipment shops (e.g. for can openers or compasses). It is likely that all of the goods will be available via an online equivalent. In terms of "navigational instruments" in class 9 of the applied-for specification, which may entail more specialist goods, such as those for use in commercial shipping, it is likely that the consumer will select the goods following consultation of websites, trade publications and catalogues.

40. The methods of selection outlined above, i.e. self-selection from a shelf or following consideration of websites and printed publications, involve primarily visual considerations. Where the goods are purchased in retail premises, there may be aural considerations, particularly if advice is sought from a salesperson.² For the tradesperson purchasing goods in classes 8 or 11, who may place orders by telephone or over the counter at, for example, a builders' merchant, without a visual inspection of the goods at the point of purchase, there may also be an aural component. In terms of

² In relation to clothing, in *New Look Limited v OHIM*, joined cases T-117/03 to T-119/03 and T-171/03, the GC stated that the choice of an item of clothing generally a visual choice, in which the visual perception of the mark will take place prior to purchase.

the navigational goods in class 9 which may be purchased by a business consumer, although I consider that the visual selection will dominate, aural considerations may also play their part, as the selection may be discussed with sales representatives or technical advisors prior to purchase.

41. The services at issue are likely to be offered in the same bricks and mortar retail premises (or the online equivalents) as the goods at issue. The purchase is predominantly visual, with both groups of average consumer selecting the retail service following visual inspection of the shop front or website, though I do not discount an aural component. The average consumer will wish to ensure, for example, that the desired product range is offered for sale or that individual items are in stock. Overall, the member of the public or the tradesperson will pay an average degree of attention when selecting an appropriate retail channel. Given the potentially more technical and expensive nature of “navigational instruments”, I consider that the professional business user will pay a reasonably high degree of attention in choosing the appropriate retail service for these goods.

Comparison of goods and services

42. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer*, the Court of Justice of the European Union (“CJEU”) stated at paragraph 23 of its judgment:

“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”.

43. Guidance on this issue has also come from Jacob J. (as he then was) in *British Sugar Plc v James Robertson & Sons Ltd*, [1996] R.P.C. 281 (the *Treat* case), where he identified the factors for assessing similarity as:

- a) The respective users of the respective goods or services;
- b) The physical nature of the goods or acts of services;
- c) The respective trade channels through which the goods or services reach the market;
- d) 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;
- e) 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.

44. As for whether the goods and services are complementary, in *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the General Court (“GC”) stated that “complementary” means:

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

45. Regarding complementarity, I also bear in mind the guidance given by Mr Daniel Alexander QC, sitting as the Appointed Person, in case BL O/255/13 *LOVE* where he warned against applying too rigid a test:

“20. In my judgment, the reference to “legal definition” suggests almost that the guidance in Boston is providing an alternative quasi-statutory approach to evaluating similarity, which I do not consider to be warranted. It is undoubtedly right to stress the importance of the fact that customers may think that responsibility for the goods lies with the same undertaking. However, it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together. I therefore think that in this respect, the Hearing Officer was taking too rigid an approach to Boston”.

46. The GC confirmed in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05, that, even if goods/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 fur 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”.

47. I will begin with a comparison of the specification of earlier mark '365 against the applied-for specification (identical for both applications).

Class 8

Applications: Knives; pocket knives; screwdrivers; can openers (non-electric); scissors; files and/or nail files; spanners (tools); screwdrivers; forks (cutlery); forks (hand tools); spoons; can openers

v

Earlier mark: Hand operated tools and implements, but not including any such tools and implements for gardening or horticultural purposes; none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning technology.

48. The opponent submits that the opposed goods are identical or similar to the specification of the earlier mark. The applicant maintains that all of the applied-for goods and services are dissimilar to the goods in the earlier specification.

49. Notwithstanding the limitations in the specification of '365, the applicant's "knives; pocket knives; screwdrivers; can openers (non-electric); scissors; files and/or nail files; spanners (tools); screwdrivers" and "can openers" all fall within the broader term "hand operated tools and implements [...]" in the earlier specification. These goods are, applying the principle outlined in *Meric*, identical.

50. I have no evidence or submissions from the parties in relation to the similarity of "forks (hand tools)" with the goods of the earlier mark. Taken at face value, "forks (hand tools)" is covered by the broader term, in the earlier specification, of "hand operated tools and implements, but not including any such tools and implements for gardening or horticultural purposes [...]". The goods are identical. However, if I am found to be wrong in this, the goods are still highly similar: they are likely to have the same purpose and users, and be similar in nature. It is also likely that they will share the same channels of trade and they may have a competitive relationship, though they are unlikely to be complementary.

51. The applicant argues that "cutlery" is a separate part of the class heading. The class headings are simply there to give a general indication of what goods fall in a particular

class – it does not follow that one term in the class heading cannot fall within the ambit of another. Having said that, I do not think that either “forks (cutlery)” or “spoons” are similar to the goods in the earlier specification. Cutlery forks and spoons are used in the eating of food. The purpose of a hand operated tool or implement is to make a particular physical task easier, or to carry out a task that would not be possible with one’s bare hands. Tools and cutlery may both be small items made of the same or similar materials but there is likely to be little physical resemblance between the goods, which have different natures. The users may overlap, for example, in the domestic setting, in the preparation of food, as may the channels of trade, but the goods are not in competition (one would not mistake one for the other) and they do not have a complementary relationship. The position is different for knives, because the applied-for specification is unrestricted and would include, for example, utility knives, which are covered by “hand operated tools and implements”. I find that “forks (cutlery)” and “spoons” are not similar to the goods in the earlier specification.

Class 9

Applications: Compasses; navigational instruments; parts and fittings for all of the aforesaid goods

v

Earlier mark: Satellite navigation equipment; parts and fittings for all the aforesaid goods; none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning technology.

52. The applicant’s “navigational instruments; parts and fittings for all of the aforesaid goods” includes “satellite navigation equipment; parts and fittings for all the aforesaid goods; none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning technology” in class 9 of the opponent’s UK mark. These goods are, following *Meric*, identical.

53. In relation to “compasses; parts and fittings for all of the aforesaid goods”, the applicant argues that:

“The Opponent’s protection in this class is essentially to a “*Sat Nav*” as would be found in a car, which is distinctly different to, for example, a hand-held compass or other non-electric navigational tools which do not contain audio or visual directions by way of a monitor displaying a map. Furthermore, these goods would never be sold side-by-side and/or through the same trade channels. They are not in competition either, for example, by way of illustration, if one thinks of a basic hand-held compass used by a hiker or trekker, these are not identical or similar to a “*Sat Nav*””.

54. I do not agree with this assessment. “Satellite navigation equipment” is not limited to satellite navigation systems for cars. While the physical nature of the goods may differ, the intended purpose of both is to assist in navigation and in pinpointing one’s location. Contrary to what the applicant claims, I see no reason why the users would not overlap, both products being equally useful to, for example, fell walkers. I also consider that the channels of trade are likely to coincide and that the goods may have a competitive relationship. Overall, I consider that there is a reasonably high degree of similarity.

Class 11

Applications: Lighting apparatus; torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches

v

Earlier mark: Apparatus for lighting, torches for lighting; parts and fittings for all the aforesaid goods; none of the aforesaid goods relating to the field of heating, ventilating, solar and air conditioning technology

55. Although expressed slightly differently, the earlier mark and the applications include lighting apparatus. These goods are self-evidently identical. “Torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches” are also covered by the broad term “apparatus for lighting” in the earlier mark and these goods are, therefore, identical.

Class 25

Applications: Clothing, footwear and headgear

v

Earlier mark: Articles of clothing, footwear, headgear; none of the aforesaid being made from animal fur and none of the aforesaid being motor cycling clothing, motor cycling footwear or motor cycling headgear.

56. The applicant's "clothing, footwear and headgear" encompasses "articles of clothing, footwear, headgear; none of the aforesaid being made from animal fur and none of the aforesaid being motor cycling clothing, motor cycling footwear or motor cycling headgear" in the earlier UK mark's specification. The goods are, on the principle identified in *Meric*, identical.

Class 35

Applications: Retail services in connection with the sale of knives, pocket knives, screwdrivers, can openers (non-electric), scissors, files and/or nail files, spanners (tools), screwdrivers, forks (cutlery), forks (hand tools), spoons, bottle openers, can openers, corkscrews, compasses, navigational instruments, lighting apparatus, torches, electric torches, flashlights, pocket torches, rechargeable torches, clothing, footwear, headgear and head torches

v

Earlier mark: Goods in classes 8, 9, 11 and 25 (listed above)

57. In *Oakley, Inc v OHIM*, Case T-116/06, at paragraphs 46-57, the GC held that although retail services are different in nature, purpose and method of use from goods, retail services for particular goods may be complementary to those goods and distributed through the same trade channels, and therefore similar to a degree.

58. In *Tony Van Gulck v Wasabi Frog Ltd*, Case BL O/391/14, Mr Geoffrey Hobbs Q.C., sitting as the Appointed Person, reviewed the law concerning retail services v goods. He said (at paragraph 9 of his judgment) that:

“9. The position with regard to the question of conflict between use of **BOO!** for handbags in Class 18 and shoes for women in Class 25 and use of **MissBoo** for the Listed Services is considerably more complex. There are four main reasons for that: (i) selling and offering to sell goods does not, in itself, amount to providing retail services in Class 35; (ii) an application for registration of a trade mark for retail services in Class 35 can validly describe the retail services for which protection is requested in general terms; (iii) for the purpose of determining whether such an application is objectionable under Section 5(2)(b), it is necessary to ascertain whether there is a likelihood of confusion with the opponent’s earlier trade mark in all the circumstances in which the trade mark applied for might be used if it were to be registered; (iv) the criteria for determining whether, when and to what degree services are ‘*similar*’ to goods are not clear cut”.

59. However, on the basis of the European courts’ judgments in *Sanco SA v OHIM*,³ and *Assembled Investments (Proprietary) Ltd v. OHIM*,⁴ upheld on appeal in *Waterford Wedgewood Plc v. Assembled Investments (Proprietary) Ltd*,⁵ Mr Hobbs concluded that:

- (i) Goods and services are not similar on the basis that they are complementary if the complementarity between them is insufficiently pronounced that, from the consumer’s point of view, they are unlikely to be offered by one and the same undertaking;

³ Case C-411/13P

⁴ Case T-105/05, at paragraphs [30] to [35] of the judgment

⁵ Case C-398/07P

- (ii) In making a comparison involving a mark registered for goods and a mark proposed to be registered for retail services (or vice versa), it is necessary to envisage the retail services normally associated with the opponent's goods and then to compare the opponent's goods with the retail services covered by the applicant's trade mark;
- (iii) It is not permissible to treat a mark registered for 'retail services for goods X' as though the mark was registered for goods X;
- (iv) The GC's findings in *Oakley* did not mean that goods could only be regarded as similar to retail services where the retail services related to exactly the same goods as those for which the other party's trade mark was registered (or proposed to be registered).

60. The goods and services are different in nature and purpose, and they are not in competition. I have found at paragraph 51 that there is no similarity between the applicant's "forks (cutlery)" and "spoons" and the opponent's goods. In addition to a different nature and purpose, the applicant's retail services for cutlery forks and spoons are also likely to differ from the goods of the earlier mark in their channels of trade. The services are not those normally associated with the goods and I can see no meaningful complementary relationship between them. Retail services in connection with the sale of forks (cutlery), spoons are not similar to any of the goods of the earlier mark.

61. However, with the exception of retail services in relation to compasses, the applicant's remaining retail services are those which would normally be associated with the goods relied upon by the opponent. The channels of trade are also likely to coincide. In my view, the goods and services are complementary. I consider that "retail services in connection with the sale of knives, pocket knives, screwdrivers, can openers (non-electric), scissors, files and/or nail files, spanners (tools), screwdrivers, forks (hand tools), bottle openers, can openers, corkscrews, navigational instruments, lighting apparatus, torches, electric torches, flashlights, pocket torches, rechargeable torches,

clothing, footwear, headgear and head torches” share a medium degree of similarity with the goods of the earlier mark.

62. As regards the opponent’s satellite navigation equipment and the applicant’s retail services in connection with the sale of compasses, the goods are not identical but they are similar to a reasonably high degree. It is customary for retailers, particularly in the outdoor equipment sector, to offer a range of compasses as well as a range of satellite navigation equipment, to which they are an alternative. Compasses are therefore likely to be the subject of the same retail services as satellite navigation equipment. In these circumstances, the applicant’s retail services may be important for the sale of the opponent’s goods. It is therefore plausible that the relevant public might believe that the undertaking which sells satellite navigation equipment under one trade mark is the same undertaking, or a connected undertaking, that provides “retail services in connection with the sale of compasses” under the same or a similar mark. There is a degree of complementarity. I consider that the opponent’s satellite navigation equipment and the applicant’s retail of compasses are similar to a below medium degree.

63. In view of my findings at paragraphs 51 and 60 in respect of the similarity of the goods and services, the oppositions against “forks (cutlery)”, “spoons” and “retail services in connection with the sale of forks (cutlery), spoons” are hereby dismissed.⁶

64. I now turn to earlier mark number '492. The opponent relies upon “lighting apparatus; and parts and fittings therefor”.

65. The opposed goods in '590 are in class 11: *Lighting apparatus; torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches*. For the same reasons as given above, these goods are, on the basis of the principle outlined in *Meric*, identical to those in the earlier specification.

⁶ If the goods/services are not similar, there can be no likelihood of confusion. See, for example, *Waterford Wedgwood plc v OHIM*, C-398/07 P (CJEU).

66. The opponent relies upon the same goods in its opposition to application number '588. The opposed goods and services are, in class 11: *Lighting apparatus; torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches*; and in class 35: *Retail services in connection with the sale of lighting apparatus, torches, electric torches, flashlights, pocket torches, rechargeable torches and head torches*.

67. For the reasons given above, the terms in class 11 of application '588 are identical to the opponent's goods in class 11. For the reasons given above, I consider that there is a complementary relationship between the applicant's retail services and the opponent's goods. The goods and services are similar to a medium degree.

Comparison of trade marks

68. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

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

69. It would be wrong, therefore, artificially to dissect the trade marks, although it is necessary to take into account the distinctive and dominant components of the trade

marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the trade marks.

Overall impression

70. The trade marks to be compared are as follows:

The word "Wolf" is written in a bold, black, sans-serif font. The letter 'o' is stylized with a white dot in the center, making it look like a '0'.

Earlier marks: (i) '365 and (ii) WOLF ('492)

v



Applications: (i) '590 and (ii) WOLF ('588)



71. The opponent submits that the first of the applicant's marks ('590) "includes the opponent's mark WOLF in conjunction with the descriptive term ACTIVE and a non-distinctive "Wolf Device". Thus the marks are similar". It uses the same argument for both of its earlier marks. In relation to '588, the opponent states that: "The opposed mark effectively includes the opponent's mark WOLF in conjunction with a non-distinctive "Wolf Device". Thus the marks are highly similar". Again, this is reiterated for its other earlier mark.

72. The applicant states that its marks consist of the unstylised words "WOLF" and "WOLF ACTIVE" along with "a highly distinctive image of an animal's head". Of the opponent's mark '365, the applicant argues that the first letter will be perceived not as a "W" but as a "forward slash and a V". Of '492, it says that it consists "solely of a word element, 'wolf', of low distinctive character and commonplace in relation to its protected

goods". As a result, the applicant maintains that its marks and those of the opponent are not similar.

73. Both of the applicant's marks are composite marks. '590 consists of the stylised image of a canine head in black on a white background. Underneath it is the dictionary word "WOLF", in capital letters, below which is the word "ACTIVE", also in capital letters but in a slightly smaller font. The words do not hang together as a meaningful phrase. They are in white on a black background, which extends to form a black border around the device. Although the device is larger and above the word "WOLF", I nevertheless consider that both elements each make a roughly equal contribution to the mark. The word "ACTIVE" has an allusive quality, suggesting that the goods and services are suitable for use by "active" people, and thus makes a lesser contribution. The border and background play only minimal roles.

74. '588 consists of the stylised image of a canine head placed above the word "WOLF", which is in capital letters. I consider that each of these elements makes a roughly equal contribution to the overall impression.

75. The opponent's mark '365 consists of the word "Wolf" in a stylised typeface. I disagree with the applicant's assertion that the first letter will be perceived as a "forward slash and a V". Although the letter is stylised to a reasonable degree, I consider that the average consumer will perceive it as the letter "W". The remaining letters, which are presented in lower case, are only slightly stylised. In its totality, the mark will be perceived as the word "Wolf" and it is this word which dominates the overall impression.

76. Earlier mark '492 consists of the dictionary word "WOLF", presented all in capital letters. There are no other elements to contribute to the overall impression, which is contained in the word itself.

Visual, aural and conceptual comparison

Wolf ('365)

v



77. Visually, '365 and both later marks share the word “Wolf” / “WOLF”, although the word in the earlier mark is stylised to a degree. '590 includes a significant device element, the additional word “ACTIVE”, a background and border. Bearing in mind my assessment of the overall impression of the marks, I consider that there is a medium degree of visual similarity.

78. The visual differences between '365 and '588 consist of the stylisation of the word “Wolf” in the earlier mark and the device of a wolf’s head in the later mark. The similarity is in the shared word “Wolf” / “WOLF”. I consider that there is a medium degree of visual similarity with both applications.

79. Aurally, the earlier mark will be articulated as “Wolf”. It is unlikely that the device element in the applicant’s marks will be articulated. In relation to '590, there are two possibilities. For some consumers, the position, relative size and allusiveness of the word “ACTIVE” will mean that they will not articulate it. In this case, the earlier mark and '590 are aurally identical. However, I also consider that some consumers may articulate the word “ACTIVE”, which would result in the marks being aurally similar to a medium degree.

80. There are no other word elements in '588. I have already indicated that the device will not be articulated. The mark will be pronounced as the dictionary word "wolf". As a consequence, '588 and the earlier mark are aurally identical.

81. The concept associated with the earlier mark will be that of a wolf. While '590 contains a number of different elements, the concept evoked by the mark will also be that of a wolf. The device element reinforces the word "WOLF" as, given the word that appears below, the average consumer will assume that the canine head is that of a wolf, while the background and borders offer no conceptual meaning.⁷ The word "ACTIVE" plays a part in the overall impression but will be understood as alluding to the people using the goods and services. There is a high degree of conceptual similarity between '365 and '590.

82. There is a greater degree of conceptual similarity between '365 and '588. The device supports the concept of a wolf, evoked by the word itself, and there are no other elements to dilute this meaning. I have already indicated that the earlier mark will evoke the concept of a wolf: as a consequence, the marks are conceptually identical.

WOLF ('492)

v



83. Visually, the presence of "WOLF" in the earlier mark and both later marks creates an inevitable similarity. There is a fairly obvious difference between the earlier mark and '588 because of the device element. I consider that there is a medium degree of similarity between the earlier mark and '588. There is a little more difference between the earlier mark and '590 because of the device element, the additional word "ACTIVE"

⁷ For a conceptual message to be relevant, it must be capable of immediate grasp. See Case C-361/04 P *Ruiz-Picasso and Others v OHIM* [2006] ECR I-00643; [2006] E.T.M.R. 29.

and the presentation of the later mark. However, bearing in mind my assessment of the overall impression, I consider that there is also a medium degree of visual similarity, albeit slightly lower in the range, between the earlier mark and '590.

84. The earlier mark will be articulated as the dictionary word “wolf”. For the reasons given above, I consider that application '590 will be articulated either as “WOLF” or as “WOLF ACTIVE” and that it is aurally identical to the earlier mark or similar to a medium degree, respectively. I consider that '588 will be articulated as the dictionary word “wolf”: earlier mark '492 and application '588 are aurally identical.

85. I have already given my view of how the later marks will be perceived. As the earlier mark consists only of the word “WOLF”, the concept elicited is that of the same animal. I consider that there is a high degree of conceptual similarity between '590 and the earlier mark, while '588 and the earlier mark are conceptually identical.

Distinctive character of the earlier trade marks

86. The distinctive character of a trade mark can be appraised only, first, by reference to the goods and services in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91. In determining the distinctive character of a trade mark and, accordingly, in assessing whether it is highly distinctive, it is necessary to make an overall assessment of the greater or lesser capacity of the trade mark to identify the goods and services for which it has been registered as coming from a particular undertaking and thus to distinguish those goods and services from those of other undertakings - *Windsurfing Chiemsee v Huber and Attenberger* Joined Cases C-108/97 and C-109/97 [1999] ETMR 585. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an

overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, paragraph 49).

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

87. The applicant submits in relation to earlier mark '365 that:

"the word element WOLF is of low distinctive character in relation to the above goods that the Opponent is basing its opposition on. It is a rather commonplace element in a trade mark for the goods concerned. A very brief search of the UK register reveals that there are at least 163 marks on the register that contain the element WOLF and cover goods in classes 8,9,11 & 25".

88. It also argues in respect of '492 that "the element WOLF is commonplace on the UK register in respect of Classes 8,9,11 & 25". The applicant has filed printouts of search results from the register. These show 33 trade marks consisting of the word "WOLF" (some of which also include a device) whose specification includes one or more of the

classes covered by the applications.⁸ Not all of the marks are currently registered. The applicant has also filed a printout of the first page of register search results which shows that 209 marks covering one or more of the classes in the opposed applications contain the word “WOLF”.⁹

89. In *Zero Industry Srl v OHIM*, Case T-400/06, where the GC stated that:

“73. As regards the results of the research submitted by the applicant, according to which 93 Community trade marks are made up of or include the word ‘zero’, it should be pointed out that the Opposition Division found, in that regard, that ‘... there are no indications as to how many of such trade marks are effectively used in the market’. The applicant did not dispute that finding before the Board of Appeal but none the less reverted to the issue of that evidence in its application lodged at the Court. It must be found that the mere fact that a number of trade marks relating to the goods at issue contain the word ‘zero’ is not enough to establish that the distinctive character of that element has been weakened because of its frequent use in the field concerned (see, by analogy, Case T-135/04 *GfK v OHIM – BUS (Online Bus)* [2005] ECR II-4865, paragraph 68, and Case T-29/04 *Castellblanch v OHIM – Champagne Roederer (CRISTAL CASTELLBLANCH)* [2005] ECR II-5309, paragraph 71)”.

90. I do not consider that the evidence filed by the applicant is sufficient to support a finding of lower than average distinctive character based on the word being commonplace in the trade, there being no information beyond the class numbers of the goods and services for which the marks are, in fact, registered, and only one, undated, example of another “Wolf” mark in use in the market.¹⁰

⁸ Exhibit MDS1

⁹ Exhibit MDS3

¹⁰ Exhibit MDS2

91. The opponent has made no submissions about the distinctive character of its earlier trade marks. It has, however, filed evidence in support of its opposition. In that evidence, the opponent states that the WOLF brand has been established in the UK since 1936 and that the opponent has been using the WOLF brand, under licence and as owner of the registered trade marks, since 2008. A number of documents have been provided to show the opponent's goods for sale under its marks. However, no sales figures are provided, for the relevant period or otherwise, and there is no evidence to show, for example, the size of the UK market or the opponent's share of that market. On the basis of the evidence filed by the opponent, I am not in a position to determine that either mark has an enhanced distinctive character for the goods for which they are registered.

92. From an inherent perspective, the word "Wolf" / "WOLF" has no particular meaning in relation to the goods for which the marks are registered. The stylisation in '365 makes no material difference to the distinctiveness of the mark. I find that both earlier marks have an average degree of inherent distinctive character.

Likelihood of confusion

93. In determining whether there is a likelihood of confusion, 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 mark, as the more distinctive this trade mark is, the greater the likelihood of confusion. I must also bear in mind the average consumer for the goods and services, the nature of the purchasing process and 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 he has retained in his mind.

94. Confusion can be direct (the average consumer mistaking one mark for the other) or indirect (where the average consumer realises the marks are not the same, but puts the similarity that exists between the marks/goods down to the responsible undertakings being the same or related). In terms of the former, although both the opponent's and the applicant's marks contain the word "Wolf" / "WOLF", the device of a wolf's head in the applications is an element that will be remembered or recalled by the consumer. I consider that the difference created by the device is sufficient that the consumer will not simply mistake one mark for the other and that there is no risk of direct confusion.

95. However, as I indicated above, I must also decide whether there will be indirect confusion. Indirect confusion was described in the following terms by Iain Purvis, Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL-O/375/10:

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

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

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as “LITE”, “EXPRESS”, “WORLDWIDE”, “MINI” etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (“FAT FACE” to “BRAT FACE” for example”).

96. It is clear that the categories identified by Mr Purvis are illustrative not exhaustive (see *Thomson Hotels LLC v TUI Travel Amber E&W LLP* BL- O-440/14 at [29]).

97. There are, undoubtedly, differences between the marks. However, the word “WOLF” / “Wolf”, present in both the earlier and opposed marks, will convey an identical conceptual message. This message is not altered by the stylisation in ’365, or by the presence of the device and other elements in the applied-for marks. I find that, notwithstanding the presence of other elements in the opposed marks, the word “WOLF” / “Wolf” is likely to fix itself in the average consumer’s mind and that it will act as an important hook in prompting his/her recall of the competing trade marks. Even when considering those services which are similar to a below medium degree to the opponent’s goods, and in circumstances where a reasonably high degree of attention is paid to the purchase, this conceptual hook is likely to lead the average consumer to assume that the undertakings are the same or economically linked. I consider that there will be an expectation on the part of the average consumer that all of the goods and services at issue come from the same or economically linked undertakings. There is a likelihood of indirect confusion.

Conclusion

98. The oppositions under UK trade mark number 2549365 have failed in relation to “forks (cutlery)”, “spoons” and “retail services in connection with the sale of forks (cutlery), spoons”. The oppositions have succeeded in relation to all of the other goods and services. The oppositions under EUTM 6561492 have succeeded in their entirety.

99. The applications will proceed to registration for the following goods and services:

Class 8 Forks (cutlery); spoons.

Class 14 Clocks; watches; cases for watches; bands for watches; parts and fittings for all of the aforesaid goods.

Class 18 Leather and imitations of leather; cases, bags, briefcases, laptop cases, pouches, sacks, travel bags, sports bags, carrier bags and shoulder bags; travel pouches; rucksacks and backpacks; purses and wallets; parasols and umbrellas; walking sticks, mountaineering sticks and trekking poles.

Class 20 Sleeping bags.

Class 21 Bottle openers; cork screws.

Class 22 Ropes, straps, nets, tents and tarpaulins.

Class 35 Retail services in connection with the sale of forks (cutlery), spoons, clocks, watches, cases for watches, bands for watches, leather and imitations of leather, cases, bags, briefcases, laptop cases, pouches, sacks, travel bags, sports bags, carrier bags and shoulder bags, travel pouches, rucksacks and backpacks, purses and wallets, parasols and

umbrellas, walking sticks, mountaineering sticks and trekking poles, sleeping bags, ropes, straps, nets, tents and tarpaulins.

Costs

100. As the opponent has been mostly successful it is entitled to a contribution towards its costs. Both parties filed evidence but neither party's evidence has assisted me in making my decision: the applicant's evidence was mainly register evidence, while the opponent's evidence was largely intended to demonstrate the range of goods covered by its specification, which was unnecessary. The parties' pleadings were virtually identical for both oppositions and the opponent's submissions in lieu were extremely brief. Awards of costs are governed by Annex A of Tribunal Practice Notice ("TPN") 4 of 2007. Using that TPN as a guide but bearing in mind my comments, above, I award costs to the opponent on the following basis:

Official fees (x2):	£200
Preparing a statement and considering the other side's statement:	£300
Total:	£500

101. I order Fox Holdings Limited to pay Wolf Licences Limited the sum of **£500**. This sum is to be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 3rd day of August 2016

**Heather Harrison
For the Registrar
The Comptroller-General**

Annex

List of goods and services: UK trade mark numbers 3080590 and 3080588

- Class 8 Knives; pocket knives; screwdrivers; can openers (non-electric); scissors; files and/or nail files; spanners (tools); screwdrivers; forks (cutlery); forks (hand tools); spoons; can openers.
- Class 9 Compasses; navigational instruments; parts and fittings for all of the aforesaid goods.
- Class 11 Lighting apparatus; torches; electric torches; flashlights; pocket torches; rechargeable torches; head torches.
- Class 14 Clocks; watches; cases for watches; bands for watches; parts and fittings for all of the aforesaid goods.
- Class 18 Leather and imitations of leather; cases, bags, briefcases, laptop cases, pouches, sacks, travel bags, sports bags, carrier bags and shoulder bags; travel pouches; rucksacks and backpacks; purses and wallets; parasols and umbrellas; walking sticks, mountaineering sticks and trekking poles.
- Class 20 Sleeping bags.
- Class 21 Bottle openers; cork screws.
- Class 22 Ropes, straps, nets, tents and tarpaulins.
- Class 25 Clothing, footwear and headgear.

Class 35 Retail services in connection with the sale of knives, pocket knives, screwdrivers, can openers (non-electric), scissors, files and/or nail files, spanners (tools), screwdrivers, forks (cutlery), forks (hand tools), spoons, bottle openers, can openers, corkscrews, compasses, navigational instruments, lighting apparatus, torches, electric torches, flashlights, pocket torches, rechargeable torches, clocks, watches, cases for watches, bands for watches, leather and imitations of leather, cases, bags, briefcases, laptop cases, pouches, sacks, travel bags, sports bags, carrier bags and shoulder bags, travel pouches, rucksacks and backpacks, purses and wallets, parasols and umbrellas, walking sticks, mountaineering sticks and trekking poles, sleeping bags, ropes, straps, nets, tents and tarpaulins, clothing, footwear, headgear and head torches.