

O-435-10

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO 2502013
BY MICHAEL CLIFFORD RIDLEY TO REGISTER THE TRADE MARK**



IN CLASS 35

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 98902
BY DISNEY ENTERPRISES, INC.**

TRADE MARKS ACT 1994

**IN THE MATTER OF application No. 2502013
by Michael Clifford Ridley to register the trade mark**



in Class 35

and

**IN THE MATTER OF Opposition thereto under No. 98902
by Disney Enterprises, Inc.**

BACKGROUND

1) On 10 November 2008, Michael Clifford Ridley, of 3 Station Road, Withyham, Hartfield, East Sussex TN7 4BP applied under the Trade Marks Act 1994 ("the Act") for registration of the above shown mark, in respect of the following services:

Class 35

The bringing together for the benefit of others, of a variety of items of giftware and/or souvenirs, enabling customers to conveniently view and purchase those goods from a retail outlet, or by mail order, or from an Internet website or by means of telecommunications.

2) The application was published in the Trade Marks Journal in 2 January 2009 and on 2 April 2009, Disney Enterprises, Inc. ("Disney") of 500 South Buena Vista Street, Burbank, California 91521, USA filed notice of opposition to the application. The grounds of opposition are in summary:

- a) The application offends under Section 5(2)(b) of the Act because it is similar to five earlier Community Trade Marks (CTMs), namely 5241443, 983163, 5362827, 4860276 and 5335724, and in respect of identical or similar goods and services. The relevant details of these CTMs are provided in the annex to this decision.

- b) The application offends under Section 5(3) of the Act because it is identical or similar to four of the above listed CTMs that have a reputation. CTM 983163 is not relied upon.
- c) Disney is the owner of an earlier right by virtue of copyright. This earlier right is the copyright in the illustrations of E. H. Shepard in the well known books by A. A. Milne, "Winnie the Pooh" and "The House at Pooh Corner". The former of these was first published in 1926 in black and white and 1970, in colour. Disney acquired this copyright on 6 March 2001. The application therefore offends under Section 5(4)(b) of the Act.
- d) Mr Ridley is not the owner of the intellectual property in the mark applied for and he is aware of this. This knowledge resulted, in part, from correspondence between the parties in respect of another trade mark application made by Mr Ridley. The application therefore offends under Section 3(6) of the Act.

3) Mr Ridley subsequently filed a counterstatement denying Disney's claims.

4) On 24 May 2010, Mr Ridley added the following disclaimer to his application:

Registration of this mark shall give no exclusive rights in the 'back to back' picture of Christopher Robin and Winnie the Pooh as shown in the mark.

5) Both sides filed evidence in these proceedings. Both sides ask for an award of costs. The matter came to be heard on 2 December 2010 when Disney was represented by Michael Edenborough QC of Counsel, instructed by Dehns and Mr Ridley was represented by Michael Brown for Alpha & Omega.

Opponent's Evidence

6) This takes the form of two witness statements. The first is by Joseph M Letang, a partner at Frank B. Dehn & Co., Disney's representatives in these proceedings.

7) Mr Letang states that the illustrator, E. H. Shepard, is the author of the "artistic work" that appears in Mr Ridley's mark. Exhibit JKL1 is a copy of the cover and some pages of the book entitled "Winnie-the-Pooh" that was first published in 1926. The cover includes the words "with decorations by E.H. Shepard" and "E.H. Shepard was born in London in 1879". The drawing, included in the mark of the contested application, appears on both the contents page and on page 101 of the book. The same exhibit also includes an article that appeared in the online edition of the Independent newspaper, dated 5 December 2000. This article notes that E.H. Shepard died in 1976. An extract from the user-authored online encyclopaedia Wikipedia, obtained on 23 October 2009, records that the illustrator died on 24 March 1976 and that he was born in London.

8) At JL2, Mr Letang provides a number of documents supporting Disney's claim regarding the ownership of the copyright in the artistic work that appears in the contested application. These are:

- A copy of the stamped application for copyright on the US Register of Copyrights, dated 22 October 1926, relating to the book WINNIE THE POOH. The "name of author or translator" is recorded in hand-written script as "A.A.Milne Illustrations by E.H.Shepard" and the "Country in which the author is a citizen" is recorded as "of Great Britain". The copyright holder is recorded as "E.P. Dutton & Company" who, Mr Letang explains, is the book's publisher.
- An undated "application for registration of the claim to the renewal of a copyright" relating to the above copyright registration and made by "Alan Alexander Milne".
- A certificate of recordal, dated 15 May 2001, issued by the Copyright Office of the United States, recording that the copyright in respect of four book titles, including WINNIE THE POOH, has been transferred to Disney Enterprises Inc.

9) Mr Letang provides copies of correspondence between Mr Ridley and Disney's representatives at the time, Messrs Theodore Goddard. The first of these, dated 21 April 1993, states that The Walt Disney Company [of which, Mr Letang explains, the opponent is a wholly owned subsidiary] requests that Mr Ridley ceases infringing its rights by giving an undertaking to stop using the illustration, that forms part of the contested mark, in respect of goods not licensed by Disney. The letter alleges that the logo, surrounded by the words POOH CORNER HARTFIELD, appears on a board over the shop front, on plastic bags and on other material.

10) In Mr Ridley's reply of 23 April 1993, he acknowledged that Disney has exclusive use, in the UK, of the drawings "and to a great extent the names of characters from the WINNIE THE POOH books". He explains that he has used the sign since 1977 and that Disney has been aware of this since at least 1979 when he became a licence holder (later explained as a licence to manufacture certain goods including mugs that ended in 1990). He states his view that as he sells "Pooh Corner Souvenirs" only through his shop and does not make them available to other businesses to sell, such use falls outside copyright restrictions.

11) A number of other letters relating to the dispute in 1993 are also included and reflect that it is common ground between the parties that the copyright in the illustration of Christopher Robin putting on his boots and sitting back to back with WINNIE THE POOH resides with Disney. The exchange of letters concludes, in part, with a letter sent to Mr Ridley on behalf of Disney, dated 16 August 1993. This states the following:

“It [Disney] is prepared to allow you to continue to use the name “Pooh Corner” on your shop front in order to enable you to establish the connection with your customers between your shop and the shop in the Pooh stories. However, extended use of this name and E.H. Shepard illustrations on merchandise and packaging is not something which my clients are prepared to allow.”

12) Mr Ridley was also required to provide an undertaking to this effect, but there is no evidence that he did so.

13) Mr Letang also provides details of two other trade mark applications made by Mr Ridley and in respect of the illustration alone (without the words POOH CORNER HARTFIELD), dating from a year before the contested application. Both were withdrawn by Mr Ridley, one of which, after Disney had instigated opposition proceedings against it.

14) The second witness statement is by Peter Wiley, Director and European General (Legal) Counsel of The Walt Disney Company Limited that is a wholly owned subsidiary of the opponent. He states that he is authorised to make the statement on behalf of Disney. Some of this evidence has been granted confidentiality and the public version of this decision is redacted to reflect this.

15) Mr Wiley provides information regarding the reputation of Disney. It was established in the 1920s and has a worldwide reputation in respect of films, merchandise and family entertainment. Disney’s products have been marketed for over 70 years in Western Europe, generally via a network of subsidiary companies and/or licensees and including a chain of specialist Disney stores, mail order and the Internet.

16) Exhibit PWA is a copy of a photograph taken in Disney’s Disneyland Paris theme park over the weekend of 24-26 September 1999 and shows an event entitled “Winnie the Pooh Celebration of Friendship”. Mr Wiley explains that WINNIE THE POOH is one of Disney’s leading character brands. Disney acquired certain rights in the WINNIE THE POOH story in 1961, including the right to apply for and secure any and all copyrights and trade mark registrations. Disney subsequently produced a number of “featurettes” or short films about WINNIE THE POOH, in 1966, 1968 and 1974. In 1977, Disney released a compilation of these three featurettes that sold over [REDACTED] copies. One of these featurettes received an Oscar, in 1969, for “Best Short Subject, Cartoons”.

17) Over the years, a wide range of products has been sold as “spin-offs” from these films. Other WINNIE THE POOH featurettes were produced in 1981, 1986 and 1990 and a number of these featurettes have been released, over the years, on video in countries that include the UK. [REDACTED] videos have been sold in the UK since 1994, covering [REDACTED] titles and retail revenue of [REDACTED].

18) Mr Wiley also provides information about WINNIE THE POOH television programmes. Distribution in the UK is shown over the period 1979 to 1999. In 2009, eighteen "Winnie the Pooh" DVDs were available.

19) The abbreviated name POOH has been commonly used for many years in respect of books produced under licence from Disney, as well as merchandising literature, catalogues and a wide range of goods as spin-offs from the various POOH films. Revenue generated in the UK, from POOH character merchandising has only been exceeded by merchandising relating to MICKEY MOUSE. Turnover figures are provided by Mr Wiley, relating to this merchandising and to the sale of POOH books, but he does not state whether these relate to the UK or to a wider geographical area.

20) Examples of merchandising are provided at Exhibit PWG and includes photographs of keyrings, packaging of a pin badge, the cover of a DVD, a reproduction of a fridge magnet, a book, a pack of Christmas cards, a children's drinking cup, a girls' top, a pair of socks, a set of bath toys, a teddy bear and Christmas tree decorations. All are in the form of WINNIE THE POOH or feature a representation of the character. A receipt for all these goods is also exhibited showing the purchase took place on 23 November 2009 at the Brighton branch of the Disney Store and totalled £74.99. Mr Wiley points out that the majority of these products include the notice "© Disney" and sometimes the words "Based on the WINNIE THE POOH works by A.A. Milne & E.H. Shepard."

21) At Exhibit PWH, Mr Wiley provides a list of all 59 Disney Stores in the UK where these products can be purchased. Between 1 October 2003 and 30 September 2009, the total revenue in respect to POOH merchandise, through these outlets has amounted to [REDACTED].

Applicant's Evidence

22) This consists of a witness statement, dated 13 May 2010, by Michael Stanley Brown, of Alpha and Omega, Mr Ridley's representative in these proceedings. The statutory declaration executed, on 1 February 2007, by Mr Ridley in respect to proceedings involving his earlier application 2426989 is provided at Exhibit MSB1 together with various exhibits.

23) In his statutory declaration, Mr Ridley explains that he commenced trading as POOH CORNER in October 1978. The main part of the business is the retailing of WINNIE THE POOH and related goods and souvenirs. He has traded from the same premises since 1978 in Hartfield, East Sussex, where the author of the WINNIE THE POOH books, A.A. Milne, lived.

24) As the business grew, Mr Ridley began producing an in-house mail order catalogue and also, in 1997/98, he developed the POOH CORNER online shop.

The mail order catalogue was discontinued from the year 2000 in favour of promoting his online business.

25) Between 1979 and 1990, Mr Ridley held a licence from Disney for the manufacture of pottery. The issue of the use of POOH CORNER was dealt with in 1993 and he refers to the same exchange of letters detailed in Disney's evidence. He has since continued to use the name POOH CORNER.

26) Mr Ridley provides figures that illustrate a turnover ranging between about £230,000 and £390,000 a year and promotional expenditure between about £7,000 and £25,000 a year in respect of, for example, advertising in national and local newspapers, national magazines. In addition, Mr Ridley has appeared on national television and radio and POOH CORNER is usually referenced in these broadcasts.

27) At Exhibit MSB3, there is a letter from Mr Ridley to his representative, Mr Brown, where he sets out his reasons for making the application, namely to ensure that his "logo", being an unregistered trade mark, "is secure and not vulnerable to dispute." He states again that he does not dispute that the ownership of the copyright in the illustration concerned resides with Disney. He repeats the background to the case and also points out that he is the proprietor of an earlier trade mark registration dating from 2006, number 2426989 for the word mark POOH CORNER in respect of the same list of services as the contested application. Mr Ridley's letter also contains a number of submissions that I will not detail here, but I will keep in mind.

DECISION

Section 5(4)(b)

28) I will consider the ground under Section 5(4) (b) first. That section reads as follows:

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

(a) ...

(b) by virtue of an earlier right other than those referred to in subsections (1) to (3) or paragraph (a) above, in particular by virtue of the law of copyright, design right or registered designs.

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

29) E.H. Shepard died in 1976 and Section 12(2) of the Copyright, Designs and Patents Act 1988, as amended, states that copyright expires seventy years from the end of the calendar year in which the author dies. As such, copyright continues to subsist in the illustration at issue until the year 2046. Mr Ridley does not dispute that the copyright in the illustration belongs to Disney. However, the thrust of his defence is that, despite this, the long standing use that Disney has been aware of is such as to allow him to continue to use his mark. In recognition of the fact that the copyright in the illustration resides with Disney, Mr Ridley has voluntarily disclaimed exclusive right to it.

30) In effect, Mr Ridley's position is that Disney, because of it allowing his continued and long term use has, in effect, acquiesced to Mr Ridley's use of his mark.

31) I shall consider the effect of Mr Ridley's disclaimer first. The relevant parts of the Act are:

"13. - (1) An applicant for registration of a trade mark, or the proprietor of a registered trade mark, may -

(a) disclaim any right to the exclusive use of any specified element of the trade mark, or

(b) ...;

and where the registration of a trade mark is subject to a disclaimer or limitation, the rights conferred by section 9 (rights conferred by registered trade mark) are restricted accordingly."

and

"9. - (1) The proprietor of a registered trade mark has exclusive rights in the trade mark which are infringed by use of the trade mark in the United Kingdom without his consent.

..."

32) It is clear from the reading of these sections of the act that the effect of a disclaimer is to limit the proprietor's right to take infringement action insofar as that infringement action would have been in respect of the disclaimed element of the mark. In the current proceedings, the practical effect of the disclaimer is that Mr Ridley could not take action against use of another mark where the only similarity to his mark is the illustration incorporated into his mark. In other words, the effect of the disclaimer is on his rights to take infringement action and not upon the application itself to register the contested mark. As such, the addition of the disclaimer does not assist Mr Ridley in these proceedings. His mark includes

an illustration in which the copyright, he himself concedes, resides with Disney. The registration would provide Mr Ridley with rights that extend to the whole of the UK and, therefore, it would go beyond the limited use as agreed by Disney in 1993.

33) Mr Edenborough also confirmed that Disney saw the issue as being one of acquiescence, however, as there is no evidence of prejudice to Mr Ridley, his goodwill in the business associated with his shop located in Hartfield is not fettered in any way by these proceedings. The scope of such acquiescence is set out in the letter detailed in paragraph 13 above. In that letter, Disney permitted Mr Ridley to continue to use his mark on his shop front in Hartfield but was not prepared to allow any extended use.

34) Of relevance here is the following extract from *Kerly's Law of Trade Marks and Trade names, Fourteenth Edition*, paragraph 14-190, on the issue of acquiescence:

“The law on this subject used to be both rather technical and rather obscure, as is illustrated for example, by the “five probanda” referred to in *Willmott v Barber* (1880) 15 ChD 97. It is now clear, however, that the relevant test is now the much broader one appearing in *Habib Bank v Habib Bank* [1982] R.P.C. 1, which is whether in all the circumstances it would be unconscionable to allow the claimant to maintain his claim. It is, however, clear that the matters which fall to be considered include the factors identified in the old cases: whether the proprietor induced or encouraged the defendant's behaviour, or represented to him that he was entitled so to act, the passage of time, reliance by and detriment to the defendant and so on.”

35) The only one of these “five probanda” relied upon by Mr Ridley is the “passage of time” argument, but as I have already noted, his use of the contested mark was with limited acquiescence from Disney. His application to register the mark goes beyond this acquiescence. At the hearing, Mr Brown merely relied on the fact that Mr Ridley is getting closer to retirement and considers that his business would be of more value if his mark was registered. Mr Brown was unable to provide any argument as to why any alleged acquiescence on the part of Disney should be extended to include Mr Ridley registering a mark containing an illustration in which Disney owns the copyright. Mr Edenborough argued that Mr Ridley is still able to continue his business in Hartfield, identify it by reference to his unregistered mark and is able to protect his goodwill. The opposition to his application to register his mark does not impact upon any of this. Therefore there is no detriment to him.

36) Mr Ridley, in his letter to Mr Brown claims that Disney, in its letter (in 1993), gave their “de facto” approval of the continued use of the illustration and consequently made no further issue of its continued use. He also claims his use

has not been a threat to Disney's "regional, national or global enterprise". I am not persuaded by these submissions because they go to the issue of Mr Ridley's use of his mark as distinct to the registration of it. Disney has effectively acquiesced to this limited use. There is nothing in the evidence to suggest that the scope of acquiescence on the part of Disney is any different to that defined in its letter to Mr Ridley in 1993. The rights afforded by a trade mark registration are national in nature and cover the whole of the UK. Such a right will extend well beyond what Disney have acquiesced to.

37) Taking all of the above into account, I accept Mr Edenborough's interpretation of the facts and I find that Mr Ridley's application to register his mark is in breach of Section 5(4)(b) of the Act. Disney's opposition is therefore successful against all of the services claimed.

38) Such a finding is sufficient to refuse Mr Ridley's application in its entirety, however, I will comment on the remaining grounds, sometimes briefly, as follows.

Section 3(6)

39) Section 3(6) of the Act reads as follows:

"3(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith."

40) In terms of the date at which the matter falls to be considered, it is well established that the relevant date for consideration of a bad faith claim is the application filing date (*Chocoladefabriken Lindt & Sprüngli AG v Franz Hauswirth GmbH*, Case C-529/07 paragraph 35).

41) Bad faith "includes [...] some dealings which fall short of the standards of acceptable commercial behaviour observed by reasonable and experienced men in the particular area being examined" (Lindsey J. in *Gromax Plasticulture Ltd v. Don & Low Nonwovens Ltd* [1999] RPC 367). Further, the court must decide whether the knowledge of the applicant was such that his decision to apply for registration would be regarded as in bad faith by persons adopting proper standards" (*Harrison v. Teton Valley Trading Co* [2005] FSR 10). In the current case, Mr Ridley applied to register his mark in the full knowledge that it contained intellectual property belonging to Disney. It is clear to me that to do so falls short of acceptable commercial behaviour and such an action is not consistent with proper business standards.

42) Taking the above into account, I find that Disney's opposition based upon Section 3(6) is also successful.

Section 5(2)(b)

43) Section 5(2)(b) reads:

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

(a) ...

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

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

44) An earlier 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), 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.”

45) Of potential relevance to a ground of opposition under Section 5(2) are the provisions that relate to proof of use. Section 6A(1) details the circumstances where these provisions apply:

“6A Raising of relative grounds in opposition proceedings in case of non-use

(1) This section applies where –

(a) an application for registration of a trade mark has been published,

(b) there is an earlier trade mark of a kind falling within section 6(1)(a), (b) or (ba) in relation to which the conditions set out in section 5(1), (2) or (3) obtain, and

(c) the registration procedure for the earlier trade mark was completed before the start of the period of five years ending with the date of publication.”

46) Disney relies upon five earlier CTMs, all are registered and therefore qualify as earlier marks as defined by Section 6 of the Act. All five have completed registration procedures within five years of the publication of Mr Ridley's mark and, as such, do not fall foul of the proof of use provisions.

47) In my consideration of a likelihood of confusion, I take into account the guidance from the settled case law provided by the Court of Justice of the European Union (CJEU) in *Sabel BV v Puma AG* [1998] RPC 199, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] RPC 117, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* [2000] FSR. 77, *Marca Mode CV v Adidas AG & Adidas Benelux BV* [2000] ETMR 723, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH* C-120/04 and *Shaker di L. Laudato & C. Sas v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* C-334/05 P (LIMONCELLO). It is clear from these cases that:

- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v Puma AG*,
- (b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v Puma AG*, 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; *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel B.V.*,
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v Puma AG*,
- (d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v Puma AG*,
- (e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*,
- (f) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either *per se* or because of the use that has been made of it; *Sabel BV v Puma AG*,
- (g) in determining whether similarity between the goods or services covered by two marks is sufficient to give rise to the likelihood of confusion, the distinctive character and reputation of the earlier mark must

be taken into account; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*,

(h) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v Puma AG*,

(i) further, 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; *Marca Mode CV v Adidas AG and Adidas Benelux BV*,

(j) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*.

(k) assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark; the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH (MEDION)*

(l) it is only when all other components of a complex mark are negligible that it is permissible to make the comparison on the basis of the dominant element; *Shaker di L. Laudato & C. Sas v OHIM (LIMONCELLO)*

Comparison of goods

48) In assessing the similarity of goods, it is necessary to apply the approach advocated by case law and all relevant factors relating to the respective goods and services should be taken into account in determining this issue. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* the CJEU stated at paragraph 23:

‘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.’

49) Other factors may also be taken into account such as, for example, the distribution channels of the goods concerned (see, for example, *British Sugar Plc v James Robertson & Sons Limited (TREAT)* [1996] RPC 281).

50) Mr Ridley's services are essentially retail services in respect of giftware and souvenirs. Below, I provide a list of goods that appear in Disney's registrations. These represent goods that can be sold as giftware or souvenirs. The list is not intended to be exhaustive, but merely illustrative and, in my view, represent Disney's strongest case. If Mr Ridley is to survive the challenge based upon Section 5(2)(b), there must be no likelihood of confusion when considering his services and Disney's goods as listed below:

Examples of Disney's most relevant goods
<p>Class 3: [...] soaps; perfumery, essential oils, cosmetics, [...]; aromatherapy oils; [...] baby oil; baby wipes; bath gels; bath powder; [...] bubble bath; cologne; [...] essential oils for personal use; [...] fragrance emitting wicks for room fragrance; [...] hair conditioners; hair shampoo; hair mousse; [...] hand soaps; lip balm; [...] skin soap; talcum powders; toilet water; skin creams; skin moisturizer; sun block; sun screen; decorative glitter</p>
<p>Class 14: Precious metals and their alloys and goods in precious metals or coated therewith (included in class 14); jewellery, precious stones; horological and chronometric instruments; alarm clocks; [...] bracelets; busts of precious metal; [...] charms; clocks; earrings; jewelry cases of precious metal; [...] key rings of precious metal; lapel pins; letter openers of precious metal; [...] necklaces; [...] non-monetary coins; ornamental pins; pendants; rings; slides for bolo ties; [...] tie clips; tie fasteners; tie tacks; wall clocks; watch bands; watch cases; [...] watch straps; watches; [...] wristwatches.</p>
<p>Class 20: Furniture, mirrors, picture frames; goods (included in class 20) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics; air mattresses for use when camping; bassinets; beds; benches; bookcases; cabinets; chairs; coat racks; computer furniture; computer keyboard trays; cots; couches; decorative mobiles; desks; drinking straws; engraved and cut stone plaques; figurines and statuettes made of bone, plaster, plastic, wax, or wood; flagpoles; foot stools; gift package decorations made of plastic; hand fans; hand-held mirrors; jewelry boxes not of metal; key fobs not of metal; lawn furniture; love seats; magazine racks; mattresses; non-Christmas ornaments made of bone, plaster, plastic, wax or wood; ottomans; party ornaments of plastic; pedestals; pillows; plant stands made of wire and metal; decorative wall plaques; plastic flags; plastic name badges; plastic novelty license plates; plastic pennants; plastic cake decorations; sea shells; sleeping bags; tables; toy chests; umbrella stands; venetian blinds; wind chimes. (from CTM 5241443 POOH)</p>

Class 16: Paper, cardboard and goods made from these materials, not included in other classes; printed matter; [...]; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; [...] playing cards; [...]

Class 18: Leather and imitations of leather, and goods made of these materials and not included in other classes; [...] travelling bags; umbrellas, parasols and [...].

Class 21: Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; [...]; glassware, porcelain and earthenware not included in other classes.

Class 24: Textiles and textile goods, not included in other classes; bed and table covers.

Class 25: Clothing, footwear, headgear.

Class 28: Games and playthings; [...]; decorations for Christmas trees. (from CTM 983163 )

51) I obtain guidance on the level of similarity between goods and the retail of the same goods from the CJEU in *Praktiker Bau- und Heimwerkermärkte C-418/02*. At paragraph 34 the court identified that the objective of the retail trade is the sale of goods to consumers and that this includes, in addition to the legal sales transaction, all activity carried out by the trader for the purpose of encouraging the conclusion of such a transaction. Further, the General Court (GC) in *Oakley, Inc v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) Case T-116/06*, when considering goods in Class 18 and Class 25, and the retail of the same, stated:

“54 Clearly, in the present case, the relationship between the retail services and the goods covered by the earlier trade mark is close in the sense that the goods are indispensable to or at the very least, important for the provision of those services, which are specifically provided when those goods are sold. As the Court held in paragraph 34 of *Praktiker Bau- und Heimwerkermärkte*, paragraph 17 above, the objective of retail trade is the sale of goods to consumers, the Court having also pointed out that that trade includes, in addition to the legal sales transaction, all activity carried out by the trader for the purpose of encouraging the conclusion of such a transaction. Such services, which are provided with the aim of selling certain specific goods, would make no sense without the goods.”

52) With the comments in mind, it is clear to me that the high level of complementarity between goods in Class 18 and Class 25 and the retail of the same is such as to result in the respective goods and services sharing a reasonably high level of similarity. The principle that the goods are indispensable, or at least important, for the provision of the retail service holds good in respect of goods in Classes 3, 14, 16, 20, 21, 24 and 28 also. As such, I find that there is a reasonably high level of similarity between the highlighted goods in those classes of Disney's registrations and Mr Ridley's services.

The average consumer

53) As matters must be judged through the eyes of the average consumer (*Sabel BV v. Puma AG*, paragraph 23) it is important that I assess who the average consumer is for the goods and services at issue. I have already concluded that the average consumer of the most relevant of Disney's goods and Mr Ridley's services are the same.

54) All the respective goods and services are either gift or souvenir items or the services of retailing such products. The average consumer of such goods and services is reasonably observant, paying a reasonable degree of attention. The goods will generally be of a relatively low cost and are, obviously, available from the same outlets as the retail services are provided from. The purchase of the relevant goods will be a combination of visual and aural, with labels and other marks often being visible at the point of purchase.

Comparison of marks

55) For ease of reference, I will compare what I consider to be the mark that constitutes Disney's best case with Mr Ridley's mark. The respective marks are:

Disney's mark	Mr Ridley's mark
<p style="text-align: center;">POOH</p>	

56) When assessing the extent of similarity between the respective marks, I must do so with reference to their visual, aural and conceptual similarities bearing in mind their distinctive and dominant components (*Sabel BV v. Puma AG*, para 23). When conducting a visual comparison, a point of similarity is the word POOH that appears in both marks. However, that is the end of the similarity. Mr Ridley's mark additionally contains the words CORNER and HARTFIELD, a banner device at the top of the mark and the illustration of a boy pulling on his boots, sitting back to back with a teddy bear.

57) In making this comparison, I am also mindful of the guidance given by the CJEU in *MEDION* that assessment of similarity means more than taking just one component of a composite mark and comparing it with another mark and also in *LIMONCELLO* that only if other components are negligible is it permissible to make the comparison on the basis of the dominant element. In this case, the dominant and only element in the earlier mark is the word POOH. In Mr Ridley's mark, the words POOH CORNER and the illustration are of equal prominence, with the word HARTFIELD being in a slightly less dominant position at the bottom of the mark. I recognise that the word POOH in Mr Ridley's mark is not negligible. However, the prominence of this word is slightly lessened as a result of it appearing next to the word CORNER apparently creating the name of a location.

58) All these factors combine to create two marks that share a moderate level of visual similarity.

59) The marks share some aural similarity in that they both contain the word POOH, pronounced POO. Mr Ridley's mark also contains the additional words, identified above, so taking his mark as a whole, it will be pronounced P-OO CORN-ER HART-FIELD. The illustration does not contribute to its aural characteristics. Taking all of these points into account, I find that the respective marks share a lowish level of aural similarity.

60) From a conceptual perspective, the word POOH is used as an exclamation to express disgust at an unpleasant smell¹. In the case of Mr Ridley's mark, the word POOH forms part of a location known as POOH CORNER. The location is additionally identified by the place name HARTFIELD. This place name is descriptive of the location where the services are provided. The illustration of a boy and a teddy bear also contributes to the conceptual identity of Mr Ridley's mark, but does so in an imprecise way, but may be perceived by the average consumer as being a scene relating to POOH CORNER. Taking all these points into account, the similarities and differences between the respective marks combine to give a moderate level of conceptual similarity.

61) Taking all of the above factors into account, I conclude that, overall, the marks share a moderate level of similarity.

Distinctive character of the earlier trade mark

62) As above, I will confine my analysis to Disney's earlier mark POOH. I have to consider whether this mark has a particularly distinctive character either arising from the inherent characteristics of the marks or because of the use made of it. The word POOH is an exclamation and, as a known word, is not possessed with

¹ "pooh". Oxford Dictionaries. April 2010. Oxford Dictionaries. April 2010. Oxford University Press. 6 December 2010 <<http://oxforddictionaries.com/definition/pooh?rskey=8aDBuc&result=2>>.

the highest level of inherent distinctive character unlike an invented word. Nevertheless, the word is somewhat unusual and, further, as it is phonetically equivalent to the informal word for excrement, thus making it more memorable in the minds of consumers, it retains a reasonably high level of inherent distinctive character.

63) I must also consider the effect of reputation on the global consideration of a likelihood of confusion under Section 5(2)(b) of the Act. This was considered by David Kitchen Q.C. sitting as the Appointed Person in *Steelco Trade Mark* (BL O/268/04). Mr Kitchen concluded at paragraph 17 of his decision:

“The global assessment of the likelihood of confusion must therefore be based on all the circumstances. These include an assessment of the distinctive character of the earlier mark. When the mark has been used on a significant scale that distinctiveness will depend upon a combination of its inherent nature and its factual distinctiveness. I do not detect in the principles established by the European Court of Justice any intention to limit the assessment of distinctiveness acquired through use to those marks which have become household names. Accordingly, I believe the observations of Mr. Thorley Q.C in *DUONEBS* should not be seen as of general application irrespective of the circumstances of the case. The recognition of the earlier trade mark in the market is one of the factors which must be taken into account in making the overall global assessment of the likelihood of confusion. As observed recently by Jacob L.J. in *Reed Executive & Ors v Reed Business Information Ltd & Ors*, EWCA Civ 159, this may be particularly important in the case of marks which contain an element descriptive of the goods or services for which they have been registered. In the case of marks which are descriptive, the average consumer will expect others to use similar descriptive marks and thus be alert for details which would differentiate one mark from another. Where a mark has become distinctive through use then this may cease to be such an important consideration. But all must depend upon the circumstances of each individual case.”

64) Disney’s evidence illustrates that POOH, or WINNIE THE POOH, is a fictional teddy bear, the subject of a series of books by A.A. Milne. Since acquiring the intellectual property rights in these books, Disney produced a number of short films between 1966 and 1977 and a compilation of these was produced. I further three short films was produced between 1981 and 1990. It has sold these on video and more latterly on DVD. A precise breakdown of the sales of these has not been provided but they have generated an income as recorded earlier, at paragraph 17. In addition, the name POOH has been used for many years, in respect of books and a wide range of spin-off goods producing a revenue noted in earlier, at paragraph 21.

65) Use of the mark POOH appears to be as a secondary mark, with the primary marks being DISNEY or similar. Whilst it is clear from the evidence that DISNEY marks enjoys a significant reputation in respect of films, DVDs and related merchandising, it is also equally clear from the evidence before me, the mark POOH is a commonly used abbreviation of WINNIE THE POOH and benefits from a reputation of its own. Taking all of this into account, I conclude that the mark POOH benefits from an enhanced distinctive character.

Likelihood of confusion

66) I must adopt the global approach advocated by case law and take into account that marks are rarely recalled perfectly with the consumer relying instead on the imperfect picture of them he has in kept in his mind (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* paragraph 27).

67) Mr Ridley argued that the addition of the location “Hartfield” in his mark clearly differentiates it from the opponent and that the other word element, namely POOH CORNER is already registered by him and in respect of identical services to his current application. I am not persuaded by these arguments. The word “Hartfield” merely identifies a geographical location and does not assist in putting distance between the respective marks, in terms of identifying trade origin of the goods and services, in the minds of the average consumer. Further, Mr Ridley’s earlier registration has no bearing on these proceedings as it is well established that the mere existence of other marks on the register is not persuasive (see the comments of Jacob J in *British Sugar* [1996] R.P.C. 281 at 305)

68) I have found that the respective marks share a moderate level of similarity, that the average consumer for the respective goods and services is the same and is reasonably observant, paying a reasonable degree of attention during the purchasing act and that the goods and services share a reasonably high level of similarity. I have also found that the mark POOH has a reasonably high level of inherent distinctive character and that this is further enhanced through the use made of it.

69) The visual differences between the marks preclude any direct confusion, that is, where the average consumer will confuse Mr Ridley’s mark with that of Disney. However, taking account of the fact that the reasonably high level of distinctive character in the mark POOH and the fact that it also appears in Mr Ridley’s mark as part of a location related to the same POOH leads me to the conclusion that the average consumer, when seeing the mark used in respect of the retail of giftware and souvenir goods will assume that the services are provided by the same or economically linked undertaking as that that provides goods under the mark POOH. I therefore find that there is a likelihood of indirect confusion.

70) In light of my findings above, Disney's opposition, in respect of the grounds based upon Section 5(2)(b) of the Act, is successful against the whole of Mr Ridley's application.

Section 5(3)

71) In light of my finding in respect of the grounds based upon Section 5(4)(b), Section 3(6) and now Section 5(2)(b), it is not necessary for me to consider the grounds under Section 5(3) in any great detail. However, I will say that, insofar that Disney is able to demonstrate a reputation, it will also be successful on these grounds also. I have already found indirect confusion would exist and such confusion is sufficient to conclude that the necessary link between the marks would be established for the purposes of Section 5(3) of the Act. This will result in, at least, an unfair advantage (also known as "free-riding"). It is clear to me that Mr Ridley's application would gain an advantage from Disney's marks and reputation and that there is a real likelihood that the use of his mark will bring about a change in the economic behaviour of people in the market place. In other words, Mr Ridley's application is using the attractive force of being associated to the mark POOH to gain an advantage in business without due cause. This advantage is unfair in that, as is conceded by Mr Ridley, he is doing so intentionally, albeit under the misguided assumption that the limited longstanding use allows him to monopolise, on a national scale, his mark despite there being an advantage to him obtained as a result of his marks association to those of Disney's.

72) In summary, I conclude that insofar that Disney has demonstrated a reputation associated to its mark POOH, it is successful in respect of its grounds of opposition based upon Section 5(3) of the Act.

COSTS

73) The opposition having been successful, Disney is entitled to a contribution towards its costs. Mr Edenborough argued that an award that goes off the established scale is appropriate in light of Mr Ridley pursuing the proceedings to a hearing, rather than withdrawing at an earlier stage. I am not persuaded by this argument. Mr Ridley had an arguable defence, namely that Disney acquiesced to his long standing use of his mark. Whilst this defence was ultimately not successful, it would not be appropriate to do as Mr Edenborough suggested.

74) I take account of the fact that Disney filed evidence and attended a hearing. I award costs on the following basis:

Notice of Opposition and statement & considering other side's statement	£500
Preparing and filing evidence	£900
Preparing and attending hearing	£600
TOTAL	£2000

75) I order Michael Clifford Ridley to pay Disney Enterprises, Inc. the sum of £2000. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 21 day of December 2010

**Mark Bryant
For the Registrar,
the Comptroller-General**

REDACTED VERSION

Annex – Disney’s earlier marks

Mark details	List of goods and services
<p>CTM 5241443</p> <p>POOH</p> <p>Filing date: 4 August 2006</p> <p>Registration date: 6 August 2007</p>	<p>Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; after-shave lotions; antiperspirants; aromatherapy oils; artificial eyelashes and fingernails; baby oil; baby wipes; bath gels; bath powder; beauty masks; blush; body creams, lotions, and powders; breath freshener; bubble bath; cologne; deodorants; dusting powder; essential oils for personal use; eye liner; eye shadows; eyebrow pencils; face powder; facial creams; facial lotion; facial masks; facial scrubs; fragrance emitting wicks for room fragrance; fragrances for personal use; hair gel; hair conditioners; hair shampoo; hair mousse; hair creams; hair spray; hand cream; hand lotions; hand soaps; lip balm; lipstick; lipstick holders; lip gloss; liquid soaps; makeup; mascara; mouthwash; nail care preparations; nail glitter; nail hardeners; nail polish; perfume; potpourri; room fragrances; shaving cream; skin soap; talcum powders; toilet water; skin creams; skin moisturizer; sun block; sun screen; decorative glitter</p> <p>Class 14: Precious metals and their alloys and goods in precious metals or coated therewith (included in class 14); jewellery, precious stones; horological and chronometric instruments; alarm clocks; belt buckles of precious metal (for clothing); bolo ties with precious metal tips; bracelets; busts of precious metal; candle snuffers of precious metal; candlesticks of precious metal; charms; clocks; earrings; jewelry cases of precious metal; jewelry chains; key rings of precious metal; lapel pins; letter openers of precious metal; neck chains; necklaces; necktie fasteners; non-monetary coins; ornamental pins; pendants; rings; slides for bolo ties; stop watches; tie clips; tie fasteners; tie tacks; wall clocks; watch bands; watch cases; watch chains; watch straps; watches; wedding bands; wristwatches.</p> <p>Class 20: Furniture, mirrors, picture frames; goods (included in class 20) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics; air mattresses for use when</p>

	<p>camping; bassinets; beds; benches; bookcases; cabinets; chairs; coat racks; computer furniture; computer keyboard trays; cots; couches; decorative mobiles; desks; drinking straws; engraved and cut stone plaques; figurines and statuettes made of bone, plaster, plastic, wax, or wood; flagpoles; foot stools; gift package decorations made of plastic; hand fans; hand-held mirrors; jewelry boxes not of metal; key fobs not of metal; lawn furniture; love seats; magazine racks; mattresses; non-Christmas ornaments made of bone, plaster, plastic, wax or wood; ottomans; party ornaments of plastic; pedestals; pillows; plant stands made of wire and metal; decorative wall plaques; plastic flags; plastic name badges; plastic novelty license plates; plastic pennants; plastic cake decorations; sea shells; sleeping bags; tables; toy chests; umbrella stands; venetian blinds; wind chimes.</p> <p>Class 29: Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats; cheese; cheese spread; candied fruit; chocolate milk; dairy products excluding ice cream, ice milk and frozen yogurt; dips; dried fruits; drinking yogurts; frozen meals consisting primarily of meat, fish, poultry or vegetables; fruit preserves; fruit-based snack food; milk beverages with high milk content; nuts; peanut butter; potato chips; potato-based snack foods; powdered milk; raisins; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; soup; soup mixes; yogurt.</p> <p>Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals; bread; pastry and confectionery, chocolate and chocolate articles, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces (condiments); spices; ice; bagels; bases for making milkshakes; biscuits; breakfast cereal; bubble gum; cakes; cake mixes; candies; cake decorations made of candy; ketchup; cereal-based snack bars; chewing gum; chocolate-based beverages; cocoa-based beverages; cones for ice cream; cookies; corn-based snack foods; crackers; deli sandwiches; flavored, sweetened gelatin desserts; frozen confections; frozen meals consisting primarily of pasta or rice; frozen yogurt; ice milk; licorice;</p>
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	<p>marshmallows; mayonnaise; muffins; noodles; oatmeal; pancakes; pancake mixes; pasta; pastries; pancake syrup; pies; pizza; popcorn; pretzels; puddings; rolls; salad dressings; sherbets; tea; tortillas; waffles; cheese and cracker combinations.</p> <p>Class 32: Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks, fruit juices and lemonades; syrups and other preparations for making beverages; drinking water; energy drinks; flavored waters; fruit-flavored beverages; juice base concentrates; punch; non-alcoholic beverages, namely, carbonated beverages; non-alcoholic beverages containing fruit juices; smoothies; sparkling water; sports drinks; syrups for making soft drinks; table water; vegetable juices.</p> <p>Class 41: Education and entertainment services; providing of training; sporting and cultural activities; production, presentation, distribution, and rental of motion picture films; production, presentation, distribution, and rental of television and radio programs; production, presentation, distribution, and rental of sound and video recordings; entertainment information; production of entertainment shows and interactive programs for distribution via television, cable, satellite, audio and video media, cartridges, laser discs, computer discs and electronic means; production and provision of entertainment, news, and entertainment information via communication and computer networks; amusement park and theme park services; educational and entertainment services rendered in or relating to theme parks; live stage shows; presentation of live performances; theater productions; entertainer services.</p>
<p>CTM 983163</p>  <p>Filing date: 11 November 1998</p>	<p>Class 9: Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.</p> <p>Class 16: Paper, cardboard and goods made from</p>

<p>Registration date: 04 May 2004</p>	<p>these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.</p> <p>Class 18: Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.</p> <p>Class 21: Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.</p> <p>Class 24: Textiles and textile goods, not included in other classes; bed and table covers.</p> <p>Class 25: Clothing, footwear, headgear.</p> <p>Class 28: Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.</p>
<p>CTM 5362827</p> <p>MY FRIENDS TIGGER & POOH</p> <p>Filing date: 6 October 2006</p> <p>Registration date: 5 September 2007</p>	<p>Class 18: Leather and imitations of leather and goods made of these materials (included in class 18); animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.</p>

<p>CTM 4860276</p> <p>MY FRIENDS TIGGER & POOH</p> <p>Filing date: 26 January 2006</p> <p>Registration date: 26 February 2007</p>	<p>Class 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus; computer hardware and computer software, peripherals; operating and user instructions stored in digital form for computers and computer software, in particular on floppy disks or CD-ROM; eyeglasses and sunglasses; protective helmets; swimming jackets, life jackets; cinematographic films, exposed films.</p> <p>Class 16: Paper, cardboard and goods made from these materials (included in class 16); printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (included in class 16); printers' type; printing blocks.</p> <p>Class 25: Clothing, footwear, headgear; belts.</p> <p>Class 28: Games and playthings; gymnastic and sporting articles (included in class 28); decorations for Christmas trees (except illumination articles and confectionery); playing cards.</p> <p>Class 41: Education and entertainment services; providing of training; sporting and cultural activities.</p>
<p>CTM 5335724</p> <p>MY FRIENDS TIGGER & POOH</p> <p>Filing date: 25 September 2006</p>	<p>Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.</p> <p>Class 14: Precious metals and their alloys and goods in precious metals or coated therewith (included in class 14); jewellery, precious stones; horological and</p>

Registration date:
24 August 2007

chronometric instruments.

Class 20: Furniture, mirrors, picture frames; goods (included in class 20) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

Class 21: Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware (included in class 21).

Class 24: Textiles and textile goods (included in class 24); bed and table covers.

Class 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 29: Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.

Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

Class 32: Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.