TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION 3016466
BY SKIMPIE LTD
TO REGISTER THE FOLLOWING TRADE MARK IN CLASS 25:**

skimpie

AND

**AN OPPOSITION THERETO (NO. 401268) BY
DIRAMODE (SOCIETE ANANYME)**

Background and pleadings

1. This dispute concerns whether the trade mark **skimpie** should be registered, a mark which was filed by Skimpie Limited ("the applicant") on 2 August 2013 and was published in the Trade Marks Journal on 23 August 2013. Registration is sought for a large range of goods in class 25 (various items of clothing, footwear and headgear).

2. DIRAMODE (Societe Anonyme) ("the opponent") opposes the registration under the following grounds:

- Under section 3(1)(b) of the Trade Marks Act 1994 ("the Act") because Skimpie is a misspelling of the well-known English word Skimpy which is defined as "made of too little material". It is claimed that the term is frequently used in the clothing trade, suggesting garments of a scant nature. It also states that the word should not be reserved to one undertaking as it should be available for everyone to use and that skimpie and skimpy are phonetically identical. It is argued that the registration of the word would cause uncertainty for traders in class 25 as to the extent to which they can use the word skimpy in trade.

- Under section 3(1)(c) of the Act on a similar basis to the above. The mark is said to make a direct reference to a characteristic of the goods, namely that the goods are skimpy in nature.

- Under section 5(2)(b) of the Act relying on Community Trade Mark ("CTM") registration no. 188995 which is for the mark: **PIMKIE.** The opponent's mark was filed on 1 April 1996 and completed its registration procedure on 15 November 2005. The mark is relied upon to the extent that it covers the following goods in class 25:

  "Ready-made clothing, knitted garments and hosiery, skirts, dresses, trousers, jackets, coats, shirts, gloves, hats, rainwear, footwear, tights, books, shoes".

  Given its date of filing, the mark constitutes an earlier mark as defined by section 6 of the Act. The earlier mark completed its registration procedure before the five year period ending on the date of publication of the applicant's mark, so meaning that the use conditions set out in section 6A of the Act are pertinent. The opponent made a statement of use that it has used its mark for all of the goods relied upon.

- Under section 5(2)(b) of the Act relying on International Registration ("IR") no. 1057671 which designated the EU for protection on 7 October 2010 and for which protection was conferred on 11 October 2011. The mark is depicted below:

and is relied upon to the extent that it is registered for the following class 25 goods:

"Ready-made clothing, knitwear and hosiery, lingerie, underwear, pajamas, dressing gowns, skirts, frocks, trousers, jackets, coats, blouses, neckties, scarves, belts, gloves, hats, waterproof clothing, footwear articles, socks, stockings, tights, boots, footwear (excluding orthopaedic footwear), excluding boots for sports, slippers, all clothing for men, women and children."

Given its date of filing, the mark constitutes an earlier mark as defined by section 6 of the Act. The mark completed its registration procedure within the five year period ending on the date of publication of the applicant's mark, so meaning that the use conditions set out in section 6A of the Act are not pertinent. The goods in class 25 may, therefore, be relied upon as registered.

3. The applicant filed a counterstatement denying the opposition. In relation to the section 3 grounds, it highlights that its mark is **skimpie** not **skimpy.** It does not believe that its mark is similar to those of the opponent and, therefore, there will be no confusion.

4. Both sides filed evidence (the opponent's evidence was filed together with some written submissions). Neither party requested a hearing. The applicant filed written submissions in lieu of a hearing, the opponent did not.

The evidence

5. This opponent's evidence comes from Mr Martin Stanway, a trade mark attorney at Stevens, Hewlett & Perkins. Mr Stanway has provided two witness statements, both of which relate to the term SKIMPY, what that word means, and the use made of it in the clothing field. The applicant's evidence comes from Mr David Martin, a company director of the applicant. His evidence largely rebuts the evidence of Mr Stanway and, also, provides some evidence as to the use the applicant has made of its mark. As the evidence of both sides goes primarily to the section 3 grounds of opposition, I will summarise the evidence further in the relevant part of my decision.

The "absolute" grounds of opposition

6. Sections 3(1)(b) and (c) of the Act read:

"3(1) The following shall not be registered –

(a) ...

(b) trade marks which are devoid of any distinctive character,

(c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,

(d) ...

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it."

7. Although the pleaded case of the opponent overlaps, to a large extent, in so far as the section 3(1)(b) and (c) grounds of opposition are concerned, it must be borne in mind that these grounds are independent and have differing general interests. It is possible, for example, for a mark not to fall foul of section 3(1)(c), but still be objectionable under section 3(1)(b) of the Act. In *SAT.1 SatellitenFernsehen GmbH v OHIM,* Case C-329/02 P, the Court of Justice of the European Union ("CJEU") stated that:

> "25. Thirdly, it is important to observe that each of the grounds for refusal to register listed in Article 7(1) of the regulation is independent of the others and requires separate examination. Moreover, it is appropriate to interpret those grounds for refusal in the light of the general interest which underlies each of them. The general interest to be taken into consideration when examining each of those grounds for refusal may or even must reflect different considerations according to the ground for refusal in question (Joined Cases C-456/01 P and C-457/01 *P Henkel v OHIM* [2004] ECR I-0000, paragraphs 45 and 46)."

8. I will begin my assessment under section 3(1)(c) of the Act.

Section 3(1)(c) of the Act

9. Section 3(1)(c) is the equivalent of Article 7(1)(c) of the Community Trade Mark Regulation, the case-law of which was summarised by Arnold J. in *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc* [2012] EWHC 3074 (Ch):

> "91. The principles to be applied under art.7(1)(c) of the CTM Regulation were conveniently summarised by the CJEU in *Agencja Wydawnicza Technopol sp. z o.o. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-51/10 P) [2011] E.T.M.R. 34 as follows:
>
> > "33. A sign which, in relation to the goods or services for which its registration as a mark is applied for, has descriptive character for the purposes of Article 7(1)(c) of Regulation No 40/94 is – save where Article 7(3) applies – devoid of any distinctive character as regards those goods or services (as regards Article 3 of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40 , p. 1), see, by analogy, [2004] ECR I-1699 , paragraph 19; as regards Article 7 of Regulation No 40/94 , see *Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) v Wm Wrigley Jr Co* (C-191/01 P) [2004] 1 W.L.R. 1728 [2003] E.C.R. I-12447; [2004] E.T.M.R.

9; [2004] R.P.C. 18 , paragraph 30, and the order in *Streamserve v OHIM* (C-150/02 P) [2004] E.C.R. I-1461 , paragraph 24).
36. … due account must be taken of the objective pursued by Article 7(1)(c) of Regulation No 40/94 . Each of the grounds for refusal listed in Article 7(1) must be interpreted in the light of the general interest underlying it (see, inter alia , *Henkel KGaA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-456/01 P) [2004] E.C.R. I-5089; [2005] E.T.M.R. 44 , paragraph 45, and *Lego Juris v OHIM* (C-48/09 P) , paragraph 43).

37. The general interest underlying Article 7(1)(c) of Regulation No 40/94 is that of ensuring that descriptive signs relating to one or more characteristics of the goods or services in respect of which registration as a mark is sought may be freely used by all traders offering such goods or services (see, to that effect, *OHIM v Wrigley* , paragraph 31 and the case-law cited).

38. With a view to ensuring that that objective of free use is fully met, the Court has stated that, in order for OHIM to refuse to register a sign on the basis of Article 7(1)(c) of Regulation No 40/94 , it is not necessary that the sign in question actually be in use at the time of the application for registration in a way that is descriptive. It is sufficient that the sign could be used for such purposes (*OHIM v Wrigley*, paragraph 32; *Campina Melkuniei*, paragraph 38; and the order of 5 February 2010 in *Mergel and Others v OHIM* (C-80/09 P), paragraph 37).

39. By the same token, the Court has stated that the application of that ground for refusal does not depend on there being a real, current or serious need to leave a sign or indication free and that it is therefore of no relevance to know the number of competitors who have an interest, or who might have an interest, in using the sign in question (Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee* [1999] ECR I-2779, paragraph 35, and Case C-363/99 *Koninklijke KPN Nederland* [2004] ECR I-1619, paragraph 38). It is, furthermore, irrelevant whether there are other, more usual, signs than that at issue for designating the same characteristics of the goods or services referred to in the application for registration (Koninklijke *KPN Nederland*, paragraph 57).

And

46. As was pointed out in paragraph 33 above, the descriptive signs referred to in Article 7(1)(c) of Regulation No 40/94 are also devoid of any distinctive character for the purposes of Article 7(1)(b) of that regulation. Conversely, a sign may be devoid of distinctive character for the purposes of Article 7(1)(b) for reasons other than the fact that it may be descriptive (see, with regard to the identical provision laid down in Article 3 of Directive 89/104, *Koninklijke KPN Nederland* , paragraph 86, and *Campina Melkunie*, paragraph 19).

47. There is therefore a measure of overlap between the scope of Article 7(1)(b) of Regulation No 40/94 and the scope of Article 7(1)(c) of that regulation (see, by analogy, *Koninklijke KPN Nederland*, paragraph 67), Article 7(1)(b) being distinguished from Article 7(1)(c) in that it covers all the circumstances in which a sign is not capable of distinguishing the goods or services of one undertaking from those of other undertakings.

48. In those circumstances, it is important for the correct application of Article 7(1) of Regulation No 40/94 to ensure that the ground for refusal set out in Article 7(1)(c) of that regulation duly continues to be applied only to the situations specifically covered by that ground for refusal.

49. The situations specifically covered by Article 7(1)(c) of Regulation No.40/94 are those in which the sign in respect of which registration as a mark is sought is capable of designating a 'characteristic' of the goods or services referred to in the application. By using, in Article 7(1)(c) of Regulation No 40/94 , the terms 'the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service', the legislature made it clear, first, that the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service must all be regarded as characteristics of goods or services and, secondly, that that list is not exhaustive, since any other characteristics of goods or services may also be taken into account.

50. The fact that the legislature chose to use the word 'characteristic' highlights the fact that the signs referred to in Article 7(1)(c) of Regulation No 40/94 are merely those which serve to designate a property, easily recognisable by the relevant class of persons, of the goods or the services in respect of which registration is sought. As the Court has pointed out, a sign can be refused registration on the basis of Article 7(1)(c) of Regulation No 40/94 only if it is reasonable to believe that it will actually be recognised by the relevant class of persons as a description of one of those characteristics (see, by analogy, as regards the identical provision laid down in Article 3 of Directive 89/104, *Windsurfing Chiemsee*, paragraph 31, and *Koninklijke KPN Nederland*, paragraph 56)."

92. In addition, a sign is caught by the exclusion from registration in art.7(1)(c) if at least one of its possible meanings designates a characteristic of the goods or services concerned: see *OHIM v Wrigley* [2003] E.C.R. I-12447 at [32] and *Koninklijke KPN Nederland NV v Benelux-Merkenbureau* (C-363/99 [2004] E.C.R. I-1619; [2004] E.T.M.R. 57 at [97]."

10. Whether a mark is descriptive must be assessed via the perception of the relevant public – as well as average consumers of the goods, this also includes those in the trade. In *Matratzen Concord AG v Hukla Germany SA,* Case C-421/04, the CJEU held that:

> "24. In fact, to assess whether a national trade mark is devoid of distinctive character or is descriptive of the goods or services in respect of which its registration is sought, it is necessary to take into account the perception of the relevant parties, that is to say in trade and or amongst average consumers of the said goods or services, reasonably well-informed and reasonably observant and circumspect, in the territory in respect of which registration is applied for (see Joined Cases C-108/97 and C-109/97 Windsurfing Chiemsee [1999] ECR I-2779, paragraph 29; Case C-363/99 Koninklijke KPNNederland [2004] ECR I-1619, paragraph 77; and Case C-218/01 Henkel [2004] ECR I-1725, paragraph 50)."

11. It is at this point that I turn to the evidence.

The opponent's evidence

12. Mr Stanway provides a dictionary definition from Collins English Dictionary[1] for the word "skimpy" which means "of clothes etc, made of too little material". The words skimpier and skimpiest (which Mr Stanway notes includes "skimpie" in totality) are identified as appropriate adjectives. A further definition from oxforddictionaries.com defines the word as "(of clothes) short and revealing: a skimpy dress...". Further extracts from the same source under the heading "Synonyms of skimpy.." include: "Judy wriggled into a skimpy black dress". All of this is contained in exhibits MCS 1-3 of Mr Stanway's first witness statement.

13. Exhibit MC4 contains "source data" from the applicant's **skimpie** website which include various embedded keywords including skimpy. There are many many others including skimpie, skimpi and skimp-up. Exhibit MC5 contains a page from Google after the term skimpy was entered. The drop down box (which gives suggestions for the user to click upon) has a number that relate to clothing. The drop-down also includes **skimpie.** The Google page retrieved after **skimpie** is clicked is then provided, with the applicant's website listed first. There are some other hits, but there is nothing to show that skimpie is used descriptively.

14. Exhibit MC6 contains what is described as a selection of articles which were found when using the search term "skimpy" in a Google search. They include headlines such as ".....refuses to wear skimpy outfits", "..thrown off plane for outfit deemed too skimpy", "25 skimpiest fan outfits in sport" and "what is wrong with girls and women wearing skimpy clothes?". There is a US thrust to the articles. Mr Stanway may, therefore, have conducted his search for the web as a whole rather than limiting the results to the UK.

15. Mr Stanway provides further evidence in his second witness statement. Exhibits MCS1-3 contain website extracts for three different retailers where the word skimpy is used:

- living3000.co.uk. Most of the hits on this website are in respect of articles of underwear e.g. "Gorgeous skimpy blue Lycra thong". There are many more, including skimpy length trousers. Mr Stanway highlights that on this website

[1] 21 Century Edition, Fifth Edition 2000.

1998 hits were found after entering the term “skimpy” in the search bar. Although, I add that not all of the descriptions actually include the word.

- xxl-sale.co.uk. A number of hits, again, mainly for underwear items.

- zappos.com. This includes a product described as “Cosabella Never Say Never Skimpie G string” which, although priced in US$, is claimed to be available in the UK.

16. Mr Stanway provides a Google page for the search term “fashion magazines uk” from which he selected some of those hits for further investigation showing:

- Extracts from stylist.co.uk. After a search for SKIMPY was entered, a number of articles are shown, four of which use the word skimpy in association with clothing in a descriptive manner.

- Extracts from look.co.uk. After a search for skimpy was entered, a number of articles are shown, around 9 of which use the word skimpy in association with clothing in a descriptive manner.

The applicant’s evidence

17. A large part of Mr Martin’s evidence is by way of critique of the evidence of Mr Stanway. All of it is borne in mind even if I do not mention everything. His primary point is that the word **skimpie** is a different word to skimpy. This, he feels, ends the matter. But, in the event that it does not, he does not agree that skimpy is commonly used in the clothing field. Some of the points he makes are that:

- Skimpie is a different word to skimpie. It is also different from skimpiest and skimpier (the adjectives referred to by Mr Stanway).

- The evidence of the opponent is lighter than it looks at first hand, once all the extraneous information is stripped out.

- The word skimpy can be used in contexts beyond clothing.

- Even if skimpie were not distinctive, the applicant has used its mark, gaining distinctiveness through use. Reference is made to exhibits SK2 and SK3. I will come back to this if it becomes necessary to consider what is known as the “proviso” to section 3 of the Act.

- The word “frequently” has various meanings such as commonly, usually, habitually. These definitions are provided to show that the word skimpy is not used “frequently” in trade.

- Exhibit SK5 contains evidence from the websites of around 13 clothing retailers (some are well-known) after a search for **skimpie** was conducted. The word is not found on the websites. Neither is it found on the website of the opponent (Exhibit SK6).

- Exhibit SK7 contains a search for the same clothing retailers for the word SKIMPY. Nothing, again, is found.

- As the opponent is a French company, a search was made on its website for the term maigre, the equivalent of skimpy. No results were found.

- Mr Martin states that the above demonstrates that the word skimpy is not frequently used in the clothing trade. One of the reasons he puts down for this is that the word has some negative connotations.

- The opponent did not have permission to access the applicant's website infrastructure to gain its keywords, but this shows nothing other than that the applicant has listed every conceivable misspelling of its mark for search engine optimisation purposes.

- The evidence of skimpie appearing on a Google drop down box after a search for skimpy is entered is unreliable as this could be based on the previous browsing history of the user. Hits from different computers are provided showing no suggestions for skimpie when skimpy is entered.

- The opponent's second witness statement should be disregarded[2] as it was filed following an extension of time requested due to the need to use specialist investigators. The evidence filed does not come from such people.

- The evidence in the second witness statement is not strong, being limited to journalistic use (of a mainly sensational nature) or a few reference to g-strings etc.

18. Submissions are made in response to the submissions of the opponent. I will refer to them later as and when relevant.

Findings of fact based on the evidence

19. After considering both side's evidence and submissions, I make the following findings of fact.

i) The word skimpy is a known English word which has a clear ability to be used to qualify, in the English language, certain items of clothing.

ii) The evidence that the word is frequently used by traders as a description is weak. Mr Stanway has not provided a terrific amount of evidence. Furthermore, the applicant's evidence showing an absence of any search results (for SKIMPY) on the websites of a number of leading retailers is informative.

[2] I do not intend to disregard the evidence. The evidence had already been admitted and the manner of the applicant's request for the evidence to be disregarded was not highlighted to the tribunal by way of formal application. In any event, even though the evidence was not filed by any form of specialist, the evidence may have been obtained following such advice.

iii) Irrespective of the above, some traders in the clothing business have made use of the word in a descriptive manner, most often in the underwear field.

iv) That due to i) above, the word skimpy is often used in a journalist sense, often reporting on what celebrities are wearing etc.

v) Whilst many people will regard wearing skimpy clothing (at least in public) as a negative, some people will not see it that way.

vi) There is no evidence of the word **skimpie** being used by anyone other than the applicant.

Assessment and conclusion

20. I begin by observing that had the mark in question been the word skimpy, I would have had little hesitation in concluding that the mark was caught by the ground of refusal under section 3(1)(c) of the Act. Whilst the evidence of current use in the trade is not great (although there is some), current use is not a requirement. Neither is it a requirement that a word be exclusively descriptive in one field, so Mr Martin's point that the word could be used in other contexts in not pertinent. The word has a clear descriptive connotation and I consider that both average consumers and those in the trade would see the word skimpy for what is, a description that the clothing items in question are skimpy in nature.

21. However, as Mr Martin has pointed out, the mark is for the word skimpie, not skimpy. There is nothing to suggest that skimpie is an alternative spelling for the word skimpy. The matter must, though, be judged upon the impact that the sign would have on the relevant public. To this extent, I note that in the judgment of the General Court in *En Route International Ltd v OHIM,* Case T-147/06, it was found that the word FRESHHH was descriptive of a characteristic of foodstuffs, and that notwithstanding the visual distinction between FRESH and FRESHHH, that mark was caught by the equivalent of 3(1)(c) of the Act; FRESHHH was, effectively, held to be variant spelling and that it would still be perceived merely as a description.

22. Each case must be considered on its own merits. I come to the view that skimpie has its own look and feel separate from the word skimpy. To suggest that they are alternative spellings creates something of a jar. It see no reason why skimpy would be lengthened to skimpie. This would be an unusual move. I bear in mind that, in the above case, FRESH was lengthened to FRESHHH. However that merely intensifies a recognised word. I consider there to be distinctiveness in the way in which the word **skimpie** has been spelt and presented and it would not be seen merely as a (variant) description of the goods. I also bear in mind that in the judgment of the General Court in *Avon Products, Inc. v OHIM, Case T-184/07* the mark ANEW ALTERNATIVE lacked distinctiveness on a aural basis even if it was visually distinctive, and that this was enough for the mark to be refused. However, it is important in this case to bear in mind that the goods in question are predominantly selected by the eye (as per paragraph 32 below) so the visual distinctiveness of the mark takes on much greater weight and significance. In any event, whilst I accept

that some average consumers would pronounce the mark as SKIM-PEA, some could pronounce it as SKIM-PIE.

23. I come to the view that skimpie will not be perceived merely as a variant spelling of skimpy, it will not be perceived as a mere description and there is no need to keep skimpie free for the descriptive use of other traders in the clothing field. **The objection under section 3(1)(c) fails.**

Section 3(1)(b) of the Act

24. As stated above, this ground must be considered independently of section 3(1)(c), although, the evidence I have summarised and the findings of fact I have made are applicable here also. Section 3(1)(b) of the Act is the equivalent of article 7(1)(b) of the CTM Regulation, the principles of which were conveniently summarised by the CJEU in *OHIM v BORCO-Marken-Import Matthiesen GmbH & Co KG* (C-265/09 P) as follows:

> "29..... the fact that a sign is, in general, capable of constituting a trade mark does not mean that the sign necessarily has distinctive character for the purposes of Article 7(1)(b) of the regulation in relation to a specific product or service (Joined Cases C-456/01 P and C-457/01 P *Henkel* v *OHIM* [2004] ECR I-5089, paragraph 32).
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> 30. Under that provision, marks which are devoid of any distinctive character are not to be registered.
>
> 31. According to settled case-law, for a trade mark to possess distinctive character for the purposes of that provision, it must serve to identify the product in respect of which registration is applied for as originating from a particular undertaking, and thus to distinguish that product from those of other undertakings (*Henkel* v *OHIM*, paragraph 34; Case C-304/06 P *Eurohypo* v *OHIM* [2008] ECR I-3297, paragraph 66; and Case C-398/08 P *Audi* v *OHIM* [2010] ECR I-0000, paragraph 33).
>
> 32. It is settled case-law that that distinctive character must be assessed, first, by reference to the goods or services in respect of which registration has been applied for and, second, by reference to the perception of them by the relevant public (*Storck* v *OHIM*, paragraph 25; *Henkel* v *OHIM*, paragraph 35; and *Eurohypo* v *OHIM*, paragraph 67). Furthermore, the Court has held, as OHIM points out in its appeal, that that method of assessment is also applicable to an analysis of the distinctive character of signs consisting solely of a colour per se, three-dimensional marks and slogans (see, to that effect, respectively, Case C-447/02 P *KWS Saat* v *OHIM* [2004] ECR I-10107, paragraph 78; *Storck* v *OHIM*, paragraph 26; and *Audi* v *OHIM*, paragraphs 35 and 36).
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> 33. However, while the criteria for the assessment of distinctive character are the same for different categories of marks, it may be that, for the purposes of applying those criteria, the relevant public's perception is not necessarily the same in relation to each of those categories and it could therefore prove more difficult to establish distinctiveness in relation to marks of certain categories as

compared with marks of other categories (see Joined Cases C-473/01 P and C-474/01 P *Proctor & Gamble* v *OHIM* [2004] ECR I-5173, paragraph 36; Case C-64/02 P *OHIM* v *Erpo Möbelwerk* [2004] ECR I-10031, paragraph 34; *Henkel* v *OHIM*, paragraphs 36 and 38; and *Audi* v *OHIM*, paragraph 37)."

25. The opponent has not pleaded a materially different ground under section 3(1)(b) than it has under section 3(1)(c). Having held that the mark will not be perceived as a mere description then it follows that any claim that the mark is devoid of distinctiveness on account of it being descriptive must also fail. I see no other basis, given my findings in relation to section 3(1)(c), as to why the mark **skimpie** would not perform the essential distinguishing function. The mark may be suggestive of the word skimpy, but the way in which it is represented has the necessary qualities for it to be regarded as a badge of trade origin. **The ground under section 3(1)(b) fails.**

26. I should add that if the mark had fallen foul of either (or both) section 3(1)(b) and (c) of the Act then the evidence filed by the applicant would not have been sufficient to establish acquired distinctiveness. At the relevant date the mark had been used for just six months and no turnover/sales figures have been supplied. This would not have been enough.

The "relative" grounds of opposition

27. Section 5(2)(b) of the Act states that:

> "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."

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

> (a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;
>
> (b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely

upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

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

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods

29. Goods can be considered as identical when the goods of the applied for mark fall within the ambit of broad terms in the earlier mark[3]. The specifications relied upon/registered by the opponent are:

[3] See, for example, *Gérard Meric v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)* Case T-133/05 – "*Meric*")

PIMKIE

"**Ready-made clothing**, knitted garments and hosiery, skirts, dresses, trousers, jackets, coats, shirts, gloves, **hats**, rainwear, **footwear**, tights, books, shoes".

"**Ready-made clothing**, knitwear and hosiery, lingerie, underwear, pajamas, dressing gowns, skirts, frocks, trousers, jackets, coats, blouses, neckties, scarves, belts, gloves, **hats**, waterproof clothing, **footwear articles**, socks, stockings, tights, boots, **footwear (excluding orthopaedic footwear**), excluding boots for sports, slippers, all clothing for men, women and children."

30. As can be seen from the terms emboldened above, the opponent's specifications cover broad terms [ready-made] clothing and footwear. They also have the fairly broad term hats. The applicant seeks registration for the very large list of class 25 goods set out in Annex A. Clothing is a term broad enough, in my view, to actually include all items of clothing including clothing for the head and feet. On this basis, all of the applied for goods fall with the ambit of the opponent's term and are, therefore, identical. Even if clothing should not be interpreted so widely, the applied for goods would either fall within the terms [ready made] clothing or footwear and are identical on this basis. The only exception would be for any items of headwear in the applied for specification given that the opponent's do not have coverage for headwear at large. However, on account of the term hats, the goods will still be highly similar.

Average consumer and the purchasing act

31. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97.* 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."

32. The conflict relates to clothing products. Such goods are "consumed" by members of the general public. The goods may be tried on and are likely to be inspected for colour, size, style, fitness for purpose etc. All of this increases the potential exposure to the trade mark. That being said, the purchase is unlikely to be a highly considered process as clothing is purchased relatively frequently and, although cost can vary, it is not, generally speaking, a highly expensive purchase. The applicant considers that a high degree of care will go into the selection of clothing, the opponent argues for a low degree. I consider the purchasing process to be a normal, reasonably considered one, no higher or lower than the norm.

33. In terms of how the goods will be selected, this will normally be via self-selection from a rail or shelf (or the online equivalents) or perhaps chosen from catalogues/brochures. This suggests a process of visual selection, a view which has been expressed in previous cases[4].

Distinctive character of the earlier trade mark

34. The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark, based either on inherent qualities or because of use made, the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). In *Lloyd Schuhfabrik Meyer & Co. GmbH* v *Klijsen Handel BV,* Case C-342/97 the CJEU stated that:

> "22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee* v *Huber and Attenberger* [1999] ECR I-0000, paragraph 49).
>
> 23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)."

35. The opponent has provided no evidence of use of its mark(s) so only the inherent characteristics of them need to be considered. The mark PIMKIE is an invented word (as far as I know). It has no allusive or suggestive characteristics to

[4] See, e.g. *New Look Ltd v OHIM* – Joined cases T-117/03 to T-119/03 and T-171/03 (GC)

the goods. PIM KIE will be seen as two words, neither of which have any meaning. Both marks have a high level of inherent distinctive character.

Comparison of marks

36. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a 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 marks must be assessed by reference to the overall impressions created by the 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."

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

The applicant's mark	The opponent's mark
skimpie	**PIMKIE** **&** pim ®kie

38. The overall impression of the applicant's mark is based upon its sole element, the word skimpie. The same applies to the opponent's word mark, its overall impression is based upon the word PIMKIE. In relation to the second of the opponent's marks, it is composed of the words "pim" and "kie" presented on two separate lines, it has a degree of stylisation, is presented on a square black background, and has an ® symbol next to the letter K. The overall impression is strongly dominated by the words "pim" and "kie". Neither of those words dominate the other. The stylisation plays a much weaker role, but it should not be ignored. The ® symbol is negligible and completely non-distinctive, and should not be taken to form part of the overall impression.

39. In terms of visual similarities, the words skimpie and PIMKIE are of similar (but not identical) lengths. They both end in the letters IE and both have the letters IM as

the third and fourth/second and third letters respectively. Both have a letter K and both have a letter P, although in quite different parts of the marks. The beginnings look quite different. Weighing the similarities and differences, I consider any degree of visual similarity to be low.

40. Aurally the marks are slightly closer. PIMKIE will be pronounced as PIM-KEY. Skimpie could be pronounced as SKIM-PEA which creates a reasonable degree of similarity, but some will pronounce it as SKIM-PIE, which creates only a low degree of similarity.

41. From a conceptual perspective, as stated earlier, skimpie may be seen as suggestive of the word skimpy. In this case there is a conceptual difference because PIMKIE is just an invented word. I acknowledge, though, that some may not see the suggestive meaning in which case there will be neither conceptual similarity nor dissimilarity.

42. The assessments made so far focus more on the opponent's word mark. Similar observations follow through to its other mark, although there is a greater degree of visual difference on account, mainly, of the separation of the words "pim" and "kie".

Likelihood of confusion

43. The factors assessed so far have a degree of interdependency (*Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17), a global assessment of them must be made when determining whether there exists a likelihood of confusion (*Sabel BV v. Puma AG,* paragraph 22). However, there is no scientific formula to apply. It is a matter of considering the relevant factors from the viewpoint of the average consumer and determining whether they are likely to be confused.

44. The goods are identical. The goods will be selected with an average level of care via primarily visual means. Whilst I bear in mind the concept of imperfect recollection, I consider that what is only a low degree of visual similarity goes a long way to avoiding a likelihood of confusion in this case. I accept that there is more aural similarity, but for those that would articulate skimpie as skimpy (which is where there is most aural similarity) those people would also likely observe a conceptual difference which assists in the distinguishing process. All things considered, there is no likelihood of confusion on the part of the average consumer with regard to either of the opponent's earlier marks.

Costs

45. The applicant has been successful and is entitled to a contribution towards its costs. In making my assessment I have borne in mind that the applicant was not legally represented so would not have incurred any legal fees. I award the applicant the sum of £650 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Preparing a statement and considering the other side's statement - £150

Filing and considering evidence - £400

Written submissions - £100

***Total* - £650**

46. I therefore order DIRAMODE (Societe Anonyme) to pay Skimpie Limited the sum of £650. The above sum should 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 22nd day of December 2014

Oliver Morris
For the Registrar,
The Comptroller-General

Annex A – the applied for goods in class 25

After ski boots;Albs;Anglers' shoes;Ankle boots;Ankle socks;Ankle warmers;Anoraks;Anti-perspirant socks;Aprons;Aprons [clothing];Army boots;Ascots;Athletic clothing;Athletics footwear;Athletics hose;Athletics shoes;Athletics vests;Athletics wear;Babies' clothing;Babies' pants [clothing];Babushkas;Baby doll pyjamas;Baby layettes for clothing;Baby pants;Balaclavas;Ballet shoes;Ballet slippers;Ballet suits;Bandanas;Bandanas [neckerchiefs];Barber smocks;Baseball caps;Baseball caps and hats;Baseball shoes;Baseball uniforms;Basketball shoes;Basketball sneakers;Bath robes;Bath sandals;Bath shoes;Bath slippers;Bath wraps;Bathing caps;Bathing costumes;Bathing costumes for women;Bathing drawers;Bathing gowns;Bathing suit cover-ups;Bathing suits;Bathing suits for men;Bathing trunks;Bathing wraps;Bathrobes;Bathwraps;Beach clothes;Beach footwear;Beach hats;Beach robes;Beach shoes;Beach wraps;Beachwear;Beanies;Bed jackets;Bed socks;Belts [clothing];Belts made from imitation leather;Belts made of leather;Belts made out of cloth;Belts (Money -) [clothing];Belts of textile;Berets;Bermuda shorts;Bib overalls;Bib shorts;Bibs, not of paper;Bikinis;Blazers;Bloomers;Blouses;Blouson jackets;Blousons;Boas;Boas [clothing];Boas [necklets];Bobble hats;Bodices;Bodices [lingerie];Body linen [garments];Body stockings;Body suits;Body warmers;Body warmers [clothing];Boiler suits;Boleros;Bolo ties with precious metal tips;Bonnets;Bonnets [headware];Boot uppers;Booties;Boots ;Boots for motorcycling;Boots for sport;Boots for sports ;Boots (Ski -);Bottoms [clothing];Bow ties;Bowling shoes;Bowties;Boxer briefs;Boxer shorts;Boxing shoes;Braces for clothing [suspenders];Braces [suspenders];Bras;Brassieres;Breeches;Breeches for wear;Bridal gowns;Bridal wear;Bridesmaid dresses;Bridesmaids wear;Briefs;Burnouses;Bushjackets;Bustiers;Bustle holder bands for obi (obiage);Bustles for obi-knots (obiage-shin);Button down shirts;Caftans;Cagoules;Camiknickers;Camisoles;Canvas shoes;Cap peaks;Cap visors;Capes;Caps [headwear];Caps (Shower -);Caps with visors;Car coats;Cardigans;Cashmere scarves;Casual clothing;Casual footwear;Casual jackets;Casual shirts;Casual trousers;Casualwear;Chaps (clothing);Chasubles;Chefs' whites;Chemise tops;Chemises;Chemisettes;Children's footwear;Children's headwear;Christening gowns;Christening robes;Climbing boots;Climbing boots [mountaineering boots];Cloaks;Clogs;Cloth bibs;Clothes for sports;Clothing ;Clothing, footwear, headgear;Clothing for children;Clothing for cycling;Clothing for cyclists;Clothing for fishermen;Clothing for gymnastics;Clothing for horse-riding [other than riding hats];Clothing for infants;Clothing for martial arts;Clothing for skiing;Clothing for wear in judo practices;Clothing for wear in wrestling games;Clothing made of leather;Clothing of imitations of leather;Clothing of leather;Coats;Coats (Top -);Cocktail dresses;Collar protectors;Collared shirts;Collars;Collars [clothing];Combative sports uniforms;Combinations [clothing];Corduroy trousers;Corselets;Corsets;Corsets [clothing, foundation garments];Corsets [foundation clothing];Corsets [underclothing];Costumes;Costumes for use in role-playing games;Costumes (Masquerade -);Cotton coats;Coveralls;Cowls [clothing];Cravates;Cravats;Crinolines;Cuffs;Culotte skirts;Culottes;Cummerbunds;Cycling pants;Cycling shoes;Cycling shorts;Cyclists' clothing;Dance shoes;Deck-shoes;Denim jackets;Denims [clothing];Desert boots;Detachable collars;Detachable neckpieces for kimonos (haneri);Dinner jackets;Dinner suits;Donkey jackets;Down jackets;Drawers [clothing];Dress

pants;Dress shields;Dress shirts;Dress shoes;Dress suits;Dresses;Dresses for evening wear;Dressing gowns;Duffel coats;Dungarees;Dust coats;Ear muffs;Ear muffs [clothing];Espadrilles;Esparto shoes or sandals;Esparto shoes or sandles;Evening coats;Evening dresses;Evening gowns;Evening suits;Evening wear;Eye masks;Fabric belts;Fancy dress costumes;Fezzes;Fishermen's jackets;Fishing boots;Fishing jackets;Fishing smocks;Fishing vests;Fishing waders;Fittings of metal for footwear;Flat caps;Fleece shorts;Fleeces;Flip-flops;Flying suits;Football boots;Football boots (Studs for -);Football jerseys;Football shirts;Football shoes;Footless tights;Footmuffs, not electrically heated;Footwear ;Footwear;Footwear [excluding orthopedic footwear];Footwear (Fittings of metal for -);Footwear for men;Footwear for sport;Footwear for sports;Footwear for women;Footwear (Heelpieces for -);Footwear made of wood;Footwear (Non-slipping devices for -);Footwear (Tips for -);Footwear uppers;Footwear (Welts for -);Formal evening wear;Foundation garments;Frames (Hat -) [skeletons];Full-length kimonos (nagagi);Fur coats;Fur coats and jackets;Fur hats;Fur jackets;Fur muffs;Fur stoles;Furs [clothing];Gabardines;Gabardines [clothing];Gaiter straps;Gaiters;Galoshes;Garments for protecting clothing;Garter belts;Garters;Gilets;Girdles;Girdles [corsets];Gloves;Gloves as clothing;Gloves [clothing];Gloves for apparel;Gloves for cyclists;Gloves including those made of skin, hide or fur;Golf caps;Golf footwear;Golf pants, shirts and skirts;Golf shirts;Golf shoes;Golf trousers;Goloshes;Gowns;Gowns (Dressing -);Greatcoats;G-strings;Guernseys;Gym boots;Gym shorts;Gymnastic shoes;Gymshoes;Gymwear;Half-boots;Halter tops;Handball shoes;Handwarmers [clothing];Hat frames [skeletons];Hats;Hats (Paper -) [clothing];Head bands;Head scarves;Head sweatbands;Head wear;Headbands;Headbands against sweating;Headbands [clothing];Headbands for clothing;Headdresses [veils];Headgear for wear;Headscarfs;Headscarves;Headshawls;Headsquares;Headwear;Heavy jackets;Heel pieces for shoes;Heelpieces for footwear;Heelpieces for stockings;Heels;Heels for shoes;High rain clogs (ashida);High-heeled shoes;Hiking boots;Hiking shoes;Hockey shoes;Hooded pullovers;Hooded sweatshirts;Hooded tops;Hoods;Hoods [clothing];Horse-riding boots;Hosiery;House coats;Housecoats;Hunting boots;Inner socks for footwear;Inner soles;Innersocks;Insoles;Insoles for footwear;Insoles [for shoes and boots];Intermediate soles;Jackets;Jackets and socks;Jackets [clothing];Jackets (Stuff -) [clothing];Japanese footwear of rice straw (waraji);Japanese kimonos;Japanese sleeping robes (nemaki);Japanese split-toed work footwear (jikatabi);Japanese style clogs and sandals;Japanese style sandals of felt;Japanese style sandals of leather;Japanese style sandals (zori);Japanese style socks (tabi);Japanese style socks (tabi covers);Japanese style wooden clogs (geta);Japanese toe-strap sandals (asaura-zori);Jeans;Jerkins;Jerseys;Jerseys [clothing];Jockstraps [underwear];Jodhpurs;Jogging bottoms;Jogging bottoms [clothing];Jogging pants;Jogging shoes;Jogging suits;Jogging tops;Judo suits;Jump Suits;Jumper dresses;Jumper suits;Jumpers;Jumpers [pullovers];Jumpers [sweaters];Kaftans;Karate suits;Kendo outfits;Kerchiefs [clothing];Kilts;Kimonos;Knee-high stockings;Knickerbockers;Knickers;Knit jackets;Knit shirts;Knitted gloves;Knitted underwear;Knitwear;Knitwear [clothing];Laboratory coats;Lace boots;Ladies' boots;Ladies' footwear;Ladies' suits;Ladies' underwear;Layettes;Layettes [clothing];Leather belts [clothing];Leather clothing;Leather (Clothing of -);Leather (Clothing of imitations of -);Leather

coats;Leather garments;Leather headwear;Leather jackets;Leather pants;Leather shoes;Leather slippers;Leather waistcoats;Leg warmers;Leggings [leg warmers];Leggings [trousers];Legwarmers;Leisure shoes;Leisure suits;Leisure wear;Leisurewear;Leotards;Light-reflecting coats;Light-reflecting jackets;Linen (Body -) [garments];Lingerie;Linings (Ready-made -) [parts of clothing];Liveries;Long jackets;Long sleeve pullovers;Long sleeved vests;Loungewear;Lounging robes;Low wooden clogs (hiyori-geta);Low wooden clogs (koma-geta);Lumberjackets;Mackintoshes;Maillots;Maniples;Mantillas;Mantles;Martial arts uniforms;Masks (Sleep -);Masquerade costumes;Maternity clothing;Maternity wear;Men's and women's jackets, coats, trousers, vests;Men's socks;Men's suits;Menswear;Metal fittings for japanese style wooden clogs;Millinery;Miters [hats];Mitres [hats];Mittens;Mitts [clothing];Moccasins;Money belts [clothing];Morning coats;Motorcycle gloves;Motorcycle jackets;Motorcycle riding suits;Motorcyclist boots;Motorcyclists' clothing of leather;Motorists' clothing;Mountaineering boots;Mountaineering shoes;Mufflers;Mufflers [clothing];Muffs;Muffs [clothing];Mules;Nappy pants [clothing];Neck scarves;Neckerchiefs;Neckties;Neckwear;Negligees;Night gowns;Nightcaps;Nightdresses;Nightgowns;Nighties;Nightshirts;Nightwear;Non-slipping devices for footwear;Nurses' uniforms;Oilskins [clothing];One-piece suits;Open-necked shirts;Outer soles;Outerclothing;Overalls;Overcoats;Overshoes;Overtrousers;Over-trousers;Pajamas (Am.);Pantie-girdles;Panties;Panties, shorts and briefs;Pants;Pantyhose;Paper clothing;Paper hats [clothing];Paper hats for use as clothing items;Paper hats for wear by chefs;Paper hats for wear by nurses;Pareos;Pareus;Parkas;Party hats [clothing];Peaked headwear;Peaks (Cap -);Peignoirs;Pelerines;Pelisses;Petticoats;Pinafore dresses;Pinafores;Pique shirts;Pirate pants;Pleated skirts for formal kimonos (hakama);Plimsolls;Plus fours;Pocket kerchiefs;Pocket squares;Pocket squares [clothing];Pockets for clothing;Polo boots;Polo knit tops;Polo neck jumpers;Polo shirts;Polo sweaters;Ponchos;Pullovers;Pullstraps for shoes and boots;Pumps [footwear];Puttees and gaiters;Pyjamas;Pyjamas [from tricot only];Rain boots;Rain coats;Rain hats;Rain ponchos;Rain suits;Rain trousers;Rain wear;Raincoats;Rainproof clothing;Rainproof jackets;Rainshoes;Rainsuits;Rainwear;Ready-made clothing;Ready-made linings [parts of clothing];Referees uniforms;Removable collars;Replica football kits;Riding boots;Riding gloves;Riding jackets;Riding shoes;Riding trousers;Robes;Robes (Bath -);Roll necks [clothing];Romper suits;Rompers;Rubber shoes;Rubber soles for jikatabi;Rugby boots;Rugby jerseys;Rugby shirts;Rugby shoes;Rugby shorts;Rugby tops;Running shoes;Running Suits;Running vests;Sabots;Sailing wet weather clothing;Sailor suits;Salopettes;Sandal-clogs;Sandals;Sandals and beach shoes;Sarees;Saris;Sarongs;Sash bands for kimono (obi);Sashes for wear;Scarfs;Scarves;School uniforms;Sedge hats (suge-gasa);Serapes;Shawls;Shawls and headscarves;Shawls and stoles;Shawls [from tricot only];Sheepskin coats;Shell suits;Shields (Dress -);Shift dresses;Shirt fronts;Shirt yokes;Shirts;Shirts and slips;Shirts for suits;Shoe soles;Shoes ;Shoes for infants;Shoes for leisurewear;Shoes soles for repair;Shoes with hook and pile fastening tapes;Short overcoat for kimono (haori);Short petticoats;Short sets [clothing];Short trousers;Shorts;Shorts [clothing];Short-sleeve shirts;Short-sleeved or long-sleeved t-shirts;Short-sleeved shirts;Shoulder scarves;Shoulder wraps;Shoulder wraps [clothing];Shoulder wraps for clothing;Shower caps;Silk scarves;Silk

ties;Singlets;Ski and snowboard shoes and parts thereof;Ski boots;Ski gloves;Ski hats;Ski jackets;Ski pants;Ski suits;Ski suits for competition;Ski trousers;Skiing shoes;Skirt suits;Skirts;Skorts;Skull caps;Slacks;Sleep masks;Sleeping garments;Sleepwear;Sleeved jackets;Sleeveless jackets;Sleeveless jerseys;Slip-on shoes;Slipovers;Slipovers [clothing];Slipper soles;Slippers;Slippers made of leather;Slips;Slips [clothing];Slips [undergarments];Small hats;Smocks;Smoking jackets;Sneakers;Sneakers [footwear];Snow boarding suits;Snow boots;Snowboard boots;Snowboard jackets;Snowboard shoes;Snowboard trousers;Snowsuits;Soccer boots;Soccer shoes;Sock suspenders;Socks;Socks and stockings;Soles for footwear;Soles for japanese style sandals;Soles [Inner];Spats;Sport shirts;Sport stockings;Sports (Boots for -) ;Sports caps and hats;Sports jackets;Sports jerseys;Sports jerseys and breeches for sports;Sports overuniforms;Sports shirts;Sports shirts with short sleeves;Sports shoes ;Sports socks;Sports vests;Sportswear;Stiffeners for boots;Stiffeners for shoes;Stocking suspenders;Stockings;Stockings (Heel pieces for -);Stockings [sweat-absorbent];Stockings (Sweat-absorbent -);Stoles;Stoles (Fur -);Strapless bras;Straps (Gaiter -);String fasteners for haori (haori-himo);Studs for football boots;Stuff jackets [clothing];Suede jackets;Suits;Suits (Bathing -);Suits made of leather;Suits of leather;Sun hats;Sun visors;Sun visors [headwear];Suspender belts;Suspender belts for men;Suspender belts for women;Suspenders;Suspenders [braces];Sweat bands;Sweat bands for the head;Sweat bands for the wrist;Sweat bottoms;Sweat pants;Sweat shirts;Sweat shorts;Sweat suits;Sweat-absorbent underclothing [underwear];Sweatbands;Sweaters;Sweatjackets;Sweatpants;Sweatshirts;Sweatsho rts;Sweatsuits;Swim briefs;Swim suits;Swim wear for gentlemen and ladies;Swimming caps;Swimming caps [bathing caps];Swimming costumes;Swimming suits;Swimming trunks;Swimsuits;Swimwear;Tabards;Tail coats;Tam o'shanters;Tams;Tank tops;Tank-tops;Tartan kilts;Teddies;Teddies [undergarments];Tee-shirts;Tennis dresses;Tennis pullovers;Tennis shirts;Tennis shoes;Tennis shorts;Tennis skirts;Tennis socks;Tennis sweatbands;Theatrical costumes;Thermal underwear;Thermally insulated clothing;Thongs;Three piece suits [clothing];Ties;Ties [clothing];Tightening-up strings for kimonos (datejime);Tights;Tips for footwear;Toe straps for japanese style wooden clogs;Togas;Tongues for shoes and boots;Top coats;Top hats;Topcoats;Tops [clothing];Toques [hats];Track and field shoes;Track pants;Track suits;Tracksuit bottoms;Tracksuit tops;Tracksuits;Trainers;Trainers [footwear];Training shoes;Training suits;Trekking boots;Trench coats;Trenchcoats;Trews;Trouser straps;Trousers;Trousers for children;Trousers for sweating;Trousers of leather;Trousers shorts;Trunks;Trunks (Bathing -);T-shirts;Tunics;Turbans;Turtleneck pullovers;Turtleneck sweaters;Turtlenecks;Tuxedo belts;Tuxedos;Twin sets;Umpires uniforms;Under garments;Under shirts;Underclothes;Underclothing;Underclothing (Anti-sweat -);Underclothing for women;Undergarments;Underpants;Undershirts;Undershirts for kimonos (juban);Undershirts for kimonos (koshimaki);Underskirts;Underwear;Underwear (Anti-sweat -);Uniforms;Uniforms for nurses;Unitards;Uppers (Footwear -);Uppers for Japanese style sandals;Uppers of woven rattan for Japanese style sandals;Veils;Veils [clothing];Vest tops;Vests;Vests (Fishing -);Visors;Visors [clothing];Visors [hatmaking];Volleyball shoes;Waders;Waist belts;Waist strings for kimonos (koshihimo);Waistcoats;Walking boots;Walking breeches;Walking shoes;Warm up suits;Warm-up jackets;Warm-up pants;Warm-up suits;Warm-up tops;Waterpolo caps;Waterproof capes;Waterproof clothing;Waterproof outerclothing;Waterproof pants;Waterproof suits for

motorcyclists;Waterproof trousers;Waterskiing suits;Wearable garments and clothing, namely, shirts;Weatherproof jackets;Wedding dresses;Wedding gowns;Wellington boots;Wellingtons;Welts for footwear;Wet suits;Wet suits for surfing;Wet suits for water-skiing;Wet suits for water-skiing and sub-aqua;Wet suits for windsurfing;Wetsuits for water-skiing;White coats for hospital use;Wimples;Wind coats;Wind jackets;Wind resistant jackets;Wind vests;Windbreakers;Windbreakers [clothing];Windcheaters;Windjammers;Windproof jackets;Winter boots;Women's ceremonial dresses;Women's foldable slippers;Women's shoes;Women's suits;Womens' underclothing;Womens' undergarments;Women's underwear;Wooden main bodies of japanese style wooden clogs;Wooden shoes;Wooden supports of japanese style wooden clogs;Woollen socks;Woollen tights;Woolly hats;Work boots;Work shoes;Working overalls;Wrap belts for kimonos (datemaki);Wraps [clothing]; Wrist warmers; Wristbands; Wristbands [clothing]; Yashmaghs; Yashmaks; Yokes (Shirt -);Zori