

O-657-19

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NOS 3256346 & 3256349
BY BOSCO BRANDS UK LTD**

AND

**IN THE MATTER OF OPPOSITIONS THERETO
UNDER NOS 411537 & 411538
BY ROBERT BOSCH GMBH**

Background and pleadings

1. The first matter in these consolidated proceedings concerns trade mark application number 3256346 for the following trade mark (“the contested figurative mark”):



2. The second trade mark at issue is trade mark application number 3256349 for the trade mark **BOSCO** (“the contested word mark”).

3. Both applications stand in the name of Bosco Brands UK Ltd (“the applicant”). They were filed on 13 September 2017 and published on 24 November 2017, for a range of goods and services in classes 18, 25, 28 and 35. The specifications for both marks are identical and are set out in full at annexe 1 to this decision.

4. The applications are opposed by Robert Bosch GmbH (“the opponent”). The oppositions are brought under ss. 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”). Under both grounds, the opponent relies upon its European Union trade mark number 10359966 **BOSCH**. The mark was filed on 21 October 2011 and was entered in the register on 30 January 2014. It is registered for a large number of goods and services in classes 1, 3, 4, 6 – 12, 16, 17, 25, 28, 35, 37, 38, 41, 42, 44 and 45 (see annexe 2 to this decision for full details).

5. Under s. 5(2)(b), the oppositions are directed against all of the goods and services in classes 25, 28 and 35 only. The opponent relies upon all of the goods and services for which its trade mark is registered. It claims that a likelihood of confusion, including the likelihood of association, arises because of the similarities between the marks and the identity or similarity of the respective goods and services.

6. Under s. 5(3), the oppositions are directed against all of the goods and services in the applications. The opponent claims that its mark has a reputation in respect of the goods registered in classes 7, 8 and 11. It claims that the similarity between the marks is such that the relevant public would believe that the marks are used by the same undertaking or that they would believe that there is an economic connection between the applicant and the opponent, where no such connection exists.

7. The applicant filed counterstatements denying the grounds of opposition and putting the opponent to proof of its claims.

8. Given its date of filing, the opponent's trade mark qualifies as an earlier mark in accordance with s. 6 of the Act. As the mark had not completed its registration process more than five years before the publication date of the applications in suit, it is not subject to the proof of use provisions contained in s. 6A of the Act. The relevant date is, therefore, the contested marks' date of application, i.e. 13 September 2017.

9. Only the opponent filed evidence, though both parties filed written submissions during the evidence rounds which I bear in mind. A hearing took place before me, by videoconference, on 16 August 2019 at which the opponent was represented by Rigel Moss McGrath for WP Thompson and the applicant by Charlotte Blythe of counsel, instructed by Potter Clarkson LLP.

Evidence

Opponent's evidence

10. This consists of the witness statements of Dieter Alverman, a Director of Intellectual Property at the opponent, and the statement of Francesco Simone, a trade mark attorney at the opponent's firm of professional representatives.

11. Mr Alverman confirms that the main trading company of the opponent in the UK was incorporated in 1924 and has traded in a wide range of products, including the goods relied upon.

12. UK sales figures for BOSCH products are given as follows:

m GBP	2015	2013	2014	2015	2016	2017
Total UK TNS	990	1,122	1,150	1,161	1,932	1,940

13. UK advertising expenditure is given as follows in “m GBP” (presumably, million GBP):

	2012	2013	2014	2015	2016	2017
Total UK	12.3	11.3	16.1	17.6	9.9	8.2

14. Mr Simone’s statement introduces two exhibits. At FS1 is evidence of various “Bosch” products on sale at www.amazon.co.uk as well as Google search results for “bosch toy”.¹ The products include gardening gloves, jackets, trousers, ignition cables, sanding discs and saw blades, as well as toys such as drills, workbenches, hand mixers, lawnmowers and tool vests. The majority of the prints are undated, showing only a printing date after the relevant date. I note, however, that product details for a “Bosch Toy Workshop” indicate it has been available since October 2011 and that a number of the reviews of the product are dated before the relevant date. There are also prints from www.bosch-sensortec.com in relation to a rehabilitation glove; it is undated save for a printing date after the relevant date. Further prints from the opponent’s own online shop are provided; none is dated before the relevant date.

15. Exhibit FS2 comprises brand rankings for the opponent from 2008 to 2018. Some are global rankings (e.g. number 76 in the Fortune Global 500 in 2017), others specific to the UK (e.g. number 12 in 2017 for UK RepTrak 100). No additional details are given.

¹ Exhibit FS1.

There is also an article from www.forbes.com dated February 2017 regarding “the world’s most reputable companies”. Bosch is at number 6. A second article, dated June 2015, from www.knowsleydomestics.co.uk discusses the “reputation growth” of the opponent. It is described as “certainly one of the world’s premier manufacturers of automotive components, household appliances, industrial products in addition to building products” and “one of the world’s largest and most trustworthy manufacturers of portable diy equipment, making robust power tools [...]”. The article notes that “Bosch appliances have managed to make a reputation for themselves through their reliability, technical perfection and also quality”. It lists various household appliances in which the opponent is said to specialise (e.g. cookers, washing machines and tumble dryers, coffee machines and wine coolers).

16. The applicant having filed no evidence, that concludes my summary.

Section 5(2)(b)

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

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

[...]

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

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

18. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, EU:C:1997:528, *Canon Kabushiki Kaisha v Metro-*

Goldwyn-Mayer Inc, Case C-39/97, EU:C:1998:442, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, EU:C:1999:323, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, EU:C:2000:339, *Matratzen Concord GmbH v OHIM*, Case C-3/03, EU:C:2004:233, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, EU:C:2005:594, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P, EU:C:2007:333, and *Bimbo SA v OHIM*, Case C-591/12P, EU:C:2016:591:

(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 and services

19. When making the comparison, all relevant factors relating to the goods and services in the specification should be taken into account. In *Canon*, the Court of Justice of the European Union (“CJEU”) stated at paragraph 23 of its judgment:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their

intended purpose and their method of use and whether they are in competition with each other or are complementary”.

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

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

21. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, EU:T:2006:247, the General Court (“GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut fur Lernsysteme*

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

22. In *Avnet Incorporated v Isoact Limited*, [1998] F.S.R. 16, Jacob J. (as he then was) stated that:

“In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase.”

23. In *Kurt Hesse v OHIM*, Case C-50/15 P, EU:C:2016:34, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods and in *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as ‘complementary’ and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different, i.e. *chicken* against *transport services for chickens*. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, EU:T:2009:428, the GC stated that “complementary” means:

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

24. I also bear in mind the comments of Daniel Alexander Q.C., sitting as the Appointed Person, in *Sandra Amelia Mary Elliot v LRC Holdings Limited*, BL O/255/13, where he warned against applying too rigid a test when considering complementarity:

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

25. The only area in which there is any dispute is class 35. The applicant accepts that the contested goods in classes 25 and 28 are identical to goods in the same classes of the earlier specifications.² It also accepts that “advertising; business management; business administration; office functions” in class 35 of the contested specifications have identical counterparts in the earlier specification.³

Import and export services

26. In respect of these contested services, the opponent asserts that its best case is with the earlier mark’s “procurement services for others [purchasing goods and services for other businesses]”. Ms Moss McGrath submitted that these services have similar if not the same aims and that they are likely to have the same users. Ms Blythe submitted that the earlier term is unclear, though she did not press this point at the hearing. She also submitted that the purpose of the earlier services is to acquire goods for a third party so that that third party does not need to acquire those goods itself. The services are, therefore, different in nature and purpose.

27. In *Advance Magazine Publishers, Inc. v OHIM*, Case T-229/12, the GC held that “accessories” is a vague term. The OHIM Board of Appeal therefore erred in law in

² Skeleton argument, §§8-9.

³ *Idem*, §11.

comparing it with “umbrellas”. It therefore appears that where a term is not sufficiently precise to identify the characteristics of the goods or services at issue, that term cannot be the subject of a finding that it covers goods/services which are similar to other goods/services.

28. The *Oxford Dictionary of English* defines “import” as to “bring (goods or services) into a country from abroad for sale”.⁴ “Export” is defined as to “send (goods or services) to another country for sale”.⁵ The core purpose of the services therefore appears to be the movement of goods and services across territorial boundaries. In the context of a service offered to a third party, it seems to me that this would entail the arrangement on a party’s behalf of services such as the logistics of transporting goods cross-border and preparing customs papers. The term does not strike me as one which involves the purchase on behalf of others of goods and services in other countries but rather it is one which facilitates the movement of such goods and services once the purchase has been made by a third party. That is to be contrasted with “procurement”, which is the act of obtaining something, in the case of the specification relied upon, purchasing goods and services for businesses.⁶ I do not agree with Ms Blythe that this term is too vague to be considered, particularly given that it is particularised as “purchasing goods and services for other businesses”: although the goods and services purchased may be wide-ranging, the term is sufficiently clear and precise to indicate that the services entails the purchase of goods and services for businesses. Whilst the respective services involve the transfer of goods and services, the one is concerned primarily with their movement between countries, the other with sourcing and buying goods and services for another business. I do not exclude the possibility that a procurement service may purchase goods from overseas. However, there is no evidence to show that this would be usual and it seems to me that to hold that the purchasing of goods and services for

⁴https://www.oxfordreference.com/view/10.1093/acref/9780199571123.001.0001/m_en_gb0402930?rskey=U2gJ04&result=1 [accessed 10 October 2019]. It is appropriate for a decision maker to take into account dictionary definitions to confirm his/her own understanding of words, even when those references are not in evidence; see *Forex* (BL O/100/09) at [19].

⁵https://www.oxfordreference.com/view/10.1093/acref/9780199571123.001.0001/m_en_gb0281640?rskey=GxqLcj&result=1 [accessed 10 October 2019].

⁶https://www.oxfordreference.com/view/10.1093/acref/9780199571123.001.0001/m_en_gb0664280?rskey=oxLXOv&result=1 [accessed 10 October 2019].

businesses involves end-to-end sourcing, purchase and logistics including the arrangement of cross-border transport, is to give an overly wide scope to the term. The core nature and purpose of these services are different. It seems unlikely that the services will reach the market through the same channels and they are not alternatives to one another. They are both likely to be used by businesses but, in the absence of evidence to the contrary, the services do not strike me as either dependent on or important for one another in such a way that would give rise to complementarity as defined in the case law. There is no overall similarity. If that is not right, any similarity is only at a low level.

Retail sales connected with the sale of [all of the specified goods]

29. The opponent contends that all of the retail services in the contested specifications are similar to the earlier term “presentation of goods on communication media, for retail purposes”. Ms Moss McGrath submitted that the earlier term entails offering the goods on any media for the purpose of selling goods. The services are, she submitted, in essence retail services, with the same aim and consumer as the contested services and with which there is a competitive relationship. Ms Blythe submitted that the earlier term is vague and that it is unclear what it is intended to cover. However, she submitted that it appeared that the term covers the creation of sales and marketing collateral to aid the retail process.

30. Given the judgment in *Praktiker*, Case C-418/02, EU:C:2005:425, it is clear that retail services have to be accompanied by an indication of the goods to which those services relate. As there is no such indication in the earlier term, it cannot be taken as meaning a retail service provided in connection with goods at large.

31. That, though, is not the only question. “Communication media” is undoubtedly wide in scope but it does not strike me as a term that is unclear: it would include all types of communication media, from social media to television. My view is that the literal meaning of “presentation of goods on communication media” appears to indicate no

more or less than the service of presenting goods on any kind of communication media. I acknowledge that the service is “for retail purposes”. There is a tension between the presentation of goods on communication media, which smacks of an advertising service, and the stated “retail” purpose. In the event, my view is that “for retail purposes” indicates that the goods are intended to be sold, not that the service of presenting those goods itself offers a means of selling/purchasing goods. It is essentially an advertising service. I agree with Ms Blythe that presenting goods on communication media would include the creation of sales and marketing collateral, including advertisements, and its presentation on various forms of communication media. I proceed on that basis.

32. Turning to the comparison itself, I also agree with Ms Blythe that the user of “presentation of goods on communication media, for retail purposes” is most likely to be a business. The parties agree that the consumer of the contested retail services is a member of the general public. The purpose of the opponent’s services is primarily to promote a third party’s goods, whereas the later specification is concerned with creating a retail environment which induces their purchase. The channels of trade differ and there is no competition. Nor is there complementarity as defined the case law: neither service is essential or important for the other and even where advertising material is present in a retail environment, the consumer is unlikely to think that the retailer is the creator of such material. These services are not similar.

Retail sales connected with the sale of clothing, footwear and headgear

33. In the alternative, Ms Moss McGrath submitted that the above services are similar to the earlier mark’s “clothing, footwear, headgear”. Ms Blythe argues that any similarity between these goods and services would only derive from complementarity.

34. There is no similarity of nature or purpose between these goods and services. However, their users will be the same and there is obvious potential for the goods to reach the market through the very same retail channels through which the applicant’s retail services are offered. There is no competition but there is complementarity, given

that the goods are essential for the above services and that the consumer may believe that both are the responsibility of the same undertaking. There is a medium degree of similarity overall.

Retail sales connected with the sale of various goods, namely all-purpose athletic bags, all purpose sport bags, bags for sports, bags for sports clothing, gym bags, sports bags, bags for sports, technical clothes, technical shoes and technical hats for the use in sports and sports equipment and gymnastic and sporting articles, ski bags, snowboard bags, appliances for gymnastics, aerobic steps, articles for playing golf, articles for use in archery, badminton equipment, bags adapted for skis, balls for sports, balls for playing sports, baseball bases, baseball bats, baseball gloves, baseball masks, basketball baskets, bowling bags, caddie bags for golf clubs, clubs for gymnastics, clubs (Golf-), cricket bags [adapted], cricket balls, cricket bats, edges of skis, face masks for sports, face protectors for athletic use, fencing equipment, fencing gloves, fencing masks, fencing weapons, football gloves, footballs, gloves (Baseball-), gloves for games, gloves for golf, golf bags, gymnastic articles, hockey gloves, hockey goals, hockey pucks, hockey sticks, hunting and fishing equipment, ice hockey sticks, ice hockey skates, ice skates, in-line roller skates, indoor fitness apparatus, karate gloves, knee guards [sports articles], machines for physical exercises, machines incorporating weights for use in physical exercise, netballs, nets for sports, platform tennis balls, platform tennis nets, paintballs, protective padding for sports, protective vests for martial arts, protectors for elbows for use when skateboarding [sports articles], protectors for the knees for use when skateboarding [sports articles], rugby balls, rollerskates, sail boards, running machines, skateboard rollers, skates (Ice-), skates (In-line roller-), skates (Roller-), ski bags, ski bindings, ski bindings and parts therefor, ski boards, ski brakes, ski covers, ski cases, ski edges, ski poles, ski skins, ski sticks, skis and surfboards (Bags especially designed for-), soccerballs, snowboards, snowboard bindings, snowshoes, softballs, sports balls, sports equipment, sports training apparatus, surf skis, surf boards, stationary exercise bicycles, swimming equipment, targets, targets (Electronic-), targets for sporting use, tennis rackets, tennis balls, tennis

nets, trampolines, volley balls, volleyball equipment, waist protectors for athletic use, wakeboards.

35. It is claimed that these services are similar to “gymnastic and sporting articles not included in other classes”. This appears to be on the basis that the goods to which the retail services relate are covered by the earlier term. For some of the goods in the list above, that is inaccurate.

36. “Technical clothes, technical shoes and technical hats for use in sports” are proper not to class 28 but to class 25. The associated retail services are different in nature and purpose from the goods the opponent has identified in class 28. There is no competition, nor is there complementarity in the sense described in the case law. It is, however, likely that the goods covered by the earlier specification would be sold in the same stores providing retail services for technical sports clothing, and the users will be the same. There is a very low degree of similarity between these goods and services. For the record, had the opponent submitted that these goods are similar to its earlier class 25 specification, my findings at paragraph 34 would apply.

37. “All-purpose athletic bags, all purpose sport bags, bags for sports, bags for sports clothing, gym bags, sports bags, bags for sports” are proper to class 18 and are, therefore, not encompassed by the earlier “gymnastic and sporting articles not included in other classes”. There will, however, be overlap in users and channels of trade. These retail services are similar to a very low degree with the goods identified by the opponent.

38. As for the remaining retail services, they all have as their object goods which are encompassed by the earlier “gymnastic and sporting articles not included in other classes”. There is a higher degree of similarity here because there is an overlap not just in users and channels of trade but also because the goods and services are complementary. Moreover, because the earlier “gymnastic and sporting articles” are essential for the retail services of those goods, it is a reasonably close complementary

relationship. There is a medium degree of overall similarity between these goods and services.

The average consumer and the nature of the purchasing act

39. It must be determined who the average consumer is for the respective parties' goods and services. I must then decide the manner in which these goods and services are likely to be selected by the average consumer in the course of trade. The average consumer is a legal construct deemed to be reasonably well informed and reasonably circumspect: *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) at [60]. For the purposes 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 and services in question: *Lloyd Schuhfabrik*.

40. The parties are agreed that the average consumer for the goods at issue and for all of the contested retail services is a member of the general public. Ms Blythe submitted that a moderate level of attention will be paid; Ms Moss McGrath indicated that there is nothing specialised about these goods and services and that the visual impact of the marks will be paramount.

41. I agree that a medium level of attention will be paid to the selection of the goods and the contested retail services. The goods in classes 25 and 28 will vary across the categories but do not strike me as specialised goods which require particularly careful consideration or extraordinary outlay, though attention will be paid to factors such as suitability for their intended purpose, fit and colour. I consider that the same applies to the retail services, which will be selected with some attention to factors such as the range of goods on offer, stock levels and knowledgeability of staff but which will not, in the main, attract more than a medium degree of care.

42. There remains some dispute regarding advertising, business management, business administration, office functions and import and export services in class 35. Ms Blythe submitted that these services will be purchased by businesses who will be more knowledgeable about the sector and will pay a higher degree of attention to detail. Ms Moss McGrath submitted that there is nothing in the specification which suggests that these services are specialised. These services all strike me as the type of services which are used by businesses rather than members of the public. The financial success or reputation of the business may be in issue and service contracts of potentially longer duration or higher expense are likely to be factors in the selection process. I agree with Ms Blythe that businesses or professionals choosing these services will pay more than a medium degree of care. I would, however, pitch this at a reasonably high, rather than the highest, level of attention.

43. In terms of the method of selection, all of the goods and services will be purchased primarily by visual means. I note Ms Blythe's contention that the visual impact will not be paramount but my view is that the goods at issue are likely to be selected mainly from the shelves of retail premises or from their online equivalents. Selection of the services is likely to follow visual inspection of premises. Promotional or advertising material both in print and online will be relevant for both the goods and services. I agree that there is potential for aural exposure to the marks though means such as oral recommendations or radio advertisements, for example, but this will be secondary to visual considerations, particularly as the actual purchase of the goods or services is likely to take place after visual inspection of the marks.

Distinctive character of the earlier trade mark

44. The distinctive character of a trade mark can be appraised only, first, by reference to the goods and services in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public: *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91. In *Lloyd Schuhfabrik*, the CJEU stated that:

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

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

45. Ms Blythe submitted that the earlier mark has only a low degree of inherent distinctiveness. I cannot accept that submission. The mark will be perceived as an invented word and has a correspondingly high level of inherent distinctiveness. There appears to be no claim to enhanced distinctiveness in relation to the goods upon which the opponent’s primary case is made. In any event, the evidence provides only total sales figures with no indication of what, if any, proportion of the sales are in relation to goods and services in classes 25, 28 or 35. The only evidence of relevant goods on the market is too limited to sustain any claim to enhanced distinctiveness and any references to the opponent’s reputation do not go to goods in the relevant classes. The evidence does not establish that the earlier mark enjoyed enhanced distinctiveness in relation to any of the relevant goods and services in classes 25, 28 or 35.

Comparison of trade marks

46. The average consumer normally perceives a mark as a whole and does not proceed to analyse its various details: *Sabel* (particularly paragraph 23). *Sabel* 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 *Bimbo*, 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”.

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

Earlier mark	Contested marks
BOSCH	<p>(i) </p> <p>(ii) BOSCO</p>

48. The opponent's position is that there is a high degree of visual similarity between the respective marks and a low degree of aural similarity. The applicant's position is that visual and aural similarity between the marks is at best limited and that the device in the contested figurative mark adds a point of visual and conceptual difference.

49. The earlier mark consists of the word "BOSCH", presented in capital letters. The overall impression of the mark is contained in that word.

50. The contested figurative mark consists of the word "BOSCO", presented in capital letters in a minimally stylised, bold typeface, and a device. The device is positioned at the upper right corner of the word "BOSCO" and resembles two cherries hanging on their stalks. Given its position and size, the overall impression is dominated by the word "BOSCO". The device makes a contribution but it is of much lesser impact.

51. The contested word mark is the word "BOSCO", in which the overall impression rests.

BOSCH v **BOSCO** 

52. Considering the position in relation to the contested figurative mark first, both marks begin with the letters "BOSC". The final letters are "H" and "O", which bear no visual resemblance to one another. Although differences at the ends of marks tend to have less impact, it is also important to bear in mind the relative shortness of the words, at only five letters long. There is a further point of visual difference because of the device in the later mark. Overall, there is a degree of visual similarity somewhat lower than medium.

53. Aurally, the earlier mark will be pronounced "BOSH". The later mark will be articulated as "BOS-CO" and the device will not be verbalised. There is therefore some similarity because of the shared beginning "BO" (I consider that the "O" in both marks will be the same open "O" sound). There are differences which arise from the number of

syllables (one in the earlier mark, two in the later mark), the articulation of the “S” in the later mark as a separate consonant sound and because of the final sounds “SH” and “CO”, which are very different from one another. There is a low degree of aural similarity.

54. The parties agree that “BOSCO” and “BOSCH” have no meaning. The device in the contested figurative mark resembles two cherries and is likely to be perceived as such. To that rather limited extent, it introduces a point of conceptual difference.

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55. The contested word mark shares with the earlier trade mark the first four of its five letters. The only point of visual difference is the final letter “O”, as contrasted with the “H” of the earlier mark. The marks are visually similar to a medium degree.

56. Aurally, the position is identical to that described above, namely that there is a low degree of aural similarity.

57. Conceptually, neither mark has a meaning and the position is neutral.

Likelihood of confusion

58. There is no simple formula for determining whether there is a likelihood of confusion. The factors considered above have a degree of interdependency (*Canon* at [17]). I must make a global assessment of the competing factors (*Sabel* at [22]), considering the various factors from the perspective of the average consumer and deciding whether the average consumer is likely to be confused. In making my assessment, I must keep in mind that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he has retained in his mind (*Lloyd Schuhfabrik* at [26]). Confusion can be direct or indirect. Direct confusion involves the average consumer

mistaking one mark for the other, whilst indirect confusion involves the consumer recognising that the marks are different but nevertheless concluding that the later mark is another brand of the earlier mark owner: *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10 at [16].

59. Where there is no similarity between the goods and services, there can be no confusion and the opposition against the dissimilar services is dismissed accordingly.⁷

60. I will consider first the position for the contested word mark. The opponent's strongest case lies with the identical goods which are selected with a medium level of attention. The respective marks have a medium degree of visual similarity, a low degree of aural similarity and are conceptually neither similar nor dissimilar. The goods and services are all subject to a purchasing process which is mainly visual and it is, therefore, the visual similarity between the marks which carries the greatest weight in the comparison. Nevertheless, my view is that despite the high level of distinctiveness of the earlier mark and the levels of similarity between the marks and the respective goods and services, the consumer will not be directly confused. Even though the difference is at the end of the marks, a position which ordinarily has less impact than the beginning, that is offset by the shortness of the marks. I have not overlooked the impact of imperfect recollection but my view is that the differences between the marks are sufficient, notwithstanding the other factors outlined above, to avoid the consumer mistaking one mark for the other where the goods are purchased with a medium level of attention. The remaining goods and services are either further removed or are bought with a higher level of attention. Both of these factors point towards a lesser, rather than greater, risk of confusion. The opposition under this ground is dismissed.

61. Turning to the contested figurative mark, my view is also that there is no likelihood of confusion, whether direct or indirect. There is less visual similarity between the marks overall and a degree of conceptual difference, albeit limited, whilst the remaining factors are the same as for the word marks considered above. For the same reasons, i.e. that

⁷See, for example, *Waterford Wedgwood plc v OHIM*, Case C-398/07 P, EU:C:2009:288 (CJEU).

the differences between the marks are sufficient to outweigh the similarities between the goods and services, even when the high degree of distinctiveness of the earlier mark is borne in mind and even where the goods or services are purchased with no more than a medium level of attention, the marks will not be mistaken for one another.

62. As the assessment above has been made on what the opponent considers to be its best case, I decline to consider the position in respect of the remaining goods and services in the earlier mark's specification which offer the opponent, on its own admission, no better a case.

Section 5(3)

63. Section 5(3) states:

“(3) A trade mark which-

(a) is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark”.

64. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, EU:C:1999:408, *General Motors* [1999] ETMR 950; Case 252/07, EU:C:2008:655 *Intel*, [2009] ETMR 13; Case C-408/01, EU:C:2003:582, *Adidas-Salomon*, [2004] ETMR 10; and C-487/07, EU:C:2009:378, *L’Oreal v Bellure* [2009] ETMR 55; and Case C-323/09, EU:C:2011:604, *Marks and Spencer v Interflora*. The law appears to be as follows:

a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors*, paragraph 24.

(b) The trade mark for which protection is sought must be known by a significant part of that relevant public; *General Motors*, paragraph 26.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Saloman*, paragraph 29 and *Intel*, paragraph 63.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel*, paragraph 42.

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph 68; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

(f) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel*, paragraphs 76 and 77.

(g) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel*, paragraph 74.

(h) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV*, paragraph 40.

(i) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora*, paragraph 74 and the court's answer to question 1 in *L'Oreal v Bellure*).

65. In *General Motors*, the CJEU considered the assessment of reputation as follows:

“25. It cannot be inferred from either the letter or the spirit of Article 5(2) of the Directive that the trade mark must be known by a given percentage of the public so defined.

26. The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.

27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.

28. Territorially, the condition is fulfilled when, in the terms of Article 5(2) of the Directive, the trade mark has a reputation 'in the Member State'. In the absence of any definition of the Community provision in this respect, a trade mark cannot be required to have a reputation 'throughout' the territory of the Member State. It is sufficient for it to exist in a substantial part of it".

66. As the earlier mark is an EUTM, I also keep in mind the guidance of the CJEU in *Pago International GmbH v Tirolmilch registrierte GmbH*, Case C-301/07, EU:C:2009:611, at [20] to [30] and *Burgerista Operations GmbH v Burgista Bros Limited* [2018] EWHC 35 (IPEC) at [69].

67. The opponent has provided sales figures which are not broken down in respect of the various goods in classes 7, 8 and 11 relied upon under this ground. Nor is it entirely clear whether the figures are in millions sterling ("m GBP") or some other figure ("UK TNS"). Advertising expenditure is significant but not broken down. There is very little additional evidence to assist me in determining the extent of any reputation. The opponent has been ranked highly in various brand rankings but, again, the evidence is unclear as to how this relates to a reputation in the specific goods and services claimed in the relevant territory. There is an article which describes the opponent variously as "one of the world's premier manufacturers" of various goods, including household appliances, and as "one of the world's largest and most trustworthy manufacturers" of

portable DIY equipment and power tools. It is, however, but one example and it is, therefore, difficult to assess how representative the comments are.

68. The applicant's primary position is that the opponent has failed to establish in evidence that it has the claimed reputation. Its alternative position is that if there is found to be a reputation then it can only subsist in electronic products, broadly construed (as Ms Blythe confirmed at the hearing, including power tools and household appliances). The applicant's contention that the opponent has failed to establish its reputation in evidence is not without justification: the evidence certainly leaves a lot to be desired. However, given the terms in which the opponent is described in the articles in evidence, the advertising spend and the sales figures— which appear to be significant even if their exact size is unclear—it would, in my view, be unrealistic to hold that the opponent has no reputation at all. That appears to be reflected in the applicant's alternative submission. The evidence is insufficient to establish a reputation more widely and I will, therefore, proceed on the basis that the opponent has a reputation in electronic products, namely household appliances and power tools.

69. The question of whether a link will be established was considered in *Intel*, the factors being outlined at paragraph 64(d), above.

70. I adopt here my findings in relation to the similarity between the marks at paragraphs 49 to 57, above.

71. I can see no similarity between the contested goods and services and the opponent's household appliances and power tools. Their only point of potential overlap is in users, which is at too high a level of generality for there to be similarity on that basis alone. I accept that the broad heading "games, toys and playthings" will include goods such as toy power tools and cookers. That does not, however, make for overall similarity. The nature and purpose of the goods is different, and they are clearly not in competition. Even if they are produced by the same manufacturer, or under licence from the same manufacturer, they will not reach the market through the same channels and

they are not important for one another's use. Similarly, whilst "video game apparatus", "targets (electronic-)" and the various machines for exercise in class 28 of the contested specification are electronic goods, or potentially use electronics, they are not similar in purpose to the opponent's goods. Save for their common use of electronics to function, it seems to me that there is no real overlap in nature. The goods do not coincide in channels of trade and are not in competition, nor are they complementary.

72. On the evidence before me, the reputation can be no more than moderate. The mark is inherently highly distinctive. It is likely that it benefits from some enhancement for the goods in which it has a reputation but given the deficiencies in the evidence I am not prepared to find that its distinctiveness is at the very highest level.

73. There is no similarity between the goods and services. I do not consider that there would be any confusion in this case: the differences between the marks, coupled with the distance between the respective goods and services, are more than sufficient to avoid a likelihood of confusion.

74. Taking all of the above factors into account, my conclusion is that no link would be made. The at best moderate reputation of the earlier mark is insufficient, despite its distinctiveness, to bridge the gap resulting from the differences in the marks and the distance between the respective goods and services. The claim under s. 5(3) is dismissed accordingly.

Conclusion

75. The opposition has failed. The application will proceed to registration.

Costs

76. The applicant has been successful and is entitled to an award of costs, which are sought on the scale (Tribunal Practice Notice (2/2016) refers). I award costs to the applicant as follows:

Considering the notice of opposition and filing the counterstatement:	£200
Filing evidence and considering the other party's evidence	£600
Preparing for and attending a hearing:	£800
Total:	£1,600

77. I order Robert Bosch GmbH to pay Bosco Brands UK Ltd the sum of **£1,600**. This sum is to be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 29th day of October 2019

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

Annexe 1: UK trade mark application numbers 3256346 and 3256349

Class 18: Leather and imitations of leather; Animal skins and hides; Luggage and carrying bags; Umbrellas and parasols; Walking sticks; Whips, harness and saddlery; Collars, leashes and clothing for animals; Airline travel bags; All-purpose athletic bags; All-purpose carrying bags; All purpose sport bags; Articles of luggage; Attaché cases; Baby backpacks; Baby carrying bags; Backpacks; Baggage; Bags; Bags for sports; Bags for sports clothing; Bags made of imitation leather; Beach bags; Beauty cases [not fitted]; Briefcases; Card cases [notecases]; Card wallets [leatherware]; Carry-on bags; Cases for keys; Casual bags; Clutch bags; Clutches [purses]; Cosmetic bags; Coin holders; Credit-card holders; Diplomatic bags; Document cases; Gym bags; Handbags; Holdalls for sports clothing; Leather handbags; Leather key cases; Leather bags and wallets; Make-up bags; Leather suitcases; Pouches; Pochettes; Rucksacks; Satchels; School bags; Shopping bags; Sports bags; Suitcases; Traveling sets [leatherware]; Travelling bags; Valises; Wheeled bags; Cases, of leather or leatherboard.

Class 25: Clothing, footwear, headgear; Sportswear; Sports shoes; Sports caps; Sports footwear; Sports socks; Sports clothing [other than golf gloves]; Ski jackets; Ski wear; Ski boots; Ski suits; Golf skirts; Après-ski boots; Clothing for skiing; Ski and snowboard shoes and parts thereof; Gloves; Wetsuit gloves; Snowboard gloves; Gloves including those made of skin, hide or fur; Snowboard shoes; Snowboard boots; Snowboard jackets; Footwear for snowboarding; Athletic clothing; Athletic footwear; Athletic uniforms; Athletic shoes; Athletics footwear; Gymwear; Gymshoes; Clothing for gymnastics; clothing, shoes and hats in special fabric for the use in sport.

Class 28: Games, toys and playthings; Gymnastic and sporting articles; Decorations for Christmas trees; Video game apparatus; ski bags, snowboard bags; Appliances for gymnastics; Aerobic steps; Articles for playing golf; Articles for use in archery; Badminton equipment; Bags adapted for skis; Balls for sports; Balls for playing sports; Baseball bases; Baseball balls; Baseball bats; Baseball gloves; Baseball masks; Basketball baskets; Bowling bags; Caddie bags for golf clubs; Clubs for gymnastics;

Clubs (Golf -); Cricket bags [adapted]; Cricket balls; Cricket bats; Edges of skis; Face masks for sports; Face protectors for athletic use; Fencing equipment; Fencing gloves; Fencing masks; Fencing weapons; Football gloves; Footballs; Gloves (Baseball -); Gloves for games; Gloves for golf; Golf bags; Gymnastic articles; Hockey gloves; Hockey goals; Hockey pucks; Hockey sticks; Hunting and fishing equipment; Ice hockey sticks; Ice hockey skates; Ice skates; In-line roller skates; Indoor fitness apparatus; Karate gloves; Knee guards [sports articles]; Machines for physical exercises; Machines incorporating weights for use in physical exercise; Netballs; Nets for sports; Platform tennis balls; Platform tennis nets; Paintballs; Protective padding for sports; Protective vests for martial arts; Protectors for elbows for use when skateboarding [sports articles]; Protectors for the knees for use when skateboarding [sports articles]; Rugby balls; Roller-skates; Sail boards; Running machines; Skateboard rollers; Skates (Ice -); Skates (In-line roller -); Skates (Roller -); Ski bags; Ski bindings; Ski bindings and parts therefor; Ski boards; Ski brakes; Ski covers; Ski cases; Ski edges; Ski poles; Ski skins; Ski sticks; Skis and surfboards (Bags especially designed for -); Soccerballs; Snowboards; Snowboard bindings; Snowshoes; Softballs; Sports balls; Sports equipment; Sports training apparatus; Surf skis; Surf boards; Stationary exercise bicycles; Swimming equipment; Targets; Targets (Electronic -); Targets for sporting use; Tennis rackets; Tennis balls; Tennis nets; Trampolines; Volley balls; Volleyball equipment; Waist protectors for athletic use; Wakeboards.

Class 35: Advertising; Business management; Business administration; Office functions; Import and export services; Retail sales connected with the sale of various goods, namely Luggage and carrying bags; Airline travel bags; All-purpose athletic bags; All-purpose carrying bags; All purpose sport bags; Articles of luggage; Attaché; cases; Baby backpacks; Baby carrying bags; Backpacks; Baggage; Bags; Bags for sports; Bags for sports clothing; Bags made of imitation leather; Beach bags; Beauty cases [not fitted]; Briefcases; Card cases [notecases]; Card wallets [leatherware]; Carry-on bags; Cases for keys; Casual bags; Clutch bags; Clutches [purses]; Cosmetic bags; Coin holders; Credit-card holders; Diplomatic bags; Document cases; Gym bags; Handbags; Holdalls for sports clothing; Leather handbags; Leather key cases; Leather bags and

wallets; Make-up bags; Leather suitcases; Pouches; Pochettes; Rucksacks; Satchels; School bags; Shopping bags; Sports bags; Suitcases; Traveling sets [leatherware]; Travelling bags; Valises; Wheeled bags; Cases, of leather or leatherboard, bags, handbags, bags for sports, suitcases and luggage, clothing, footwear and headgear and technical clothes, technical shoes and technical hats for the use in sports and sports equipment and Gymnastic and sporting articles, ski bags, snowboard bags; Appliances for gymnastics; Aerobic steps; Articles for playing golf; Articles for use in archery; Badminton equipment; Bags adapted for skis; Balls for sports; Balls for playing sports; Baseball bases; Baseball balls; Baseball bats; Baseball gloves; Baseball masks; Basketball baskets; Bowling bags; Caddie bags for golf clubs; Clubs for gymnastics; Clubs (Golf -); Cricket bags [adapted]; Cricket balls; Cricket bats; Edges of skis; Face masks for sports; Face protectors for athletic use; Fencing equipment; Fencing gloves; Fencing masks; Fencing weapons; Football gloves; Footballs; Gloves (Baseball -); Gloves for games; Gloves for golf; Golf bags; Gymnastic articles; Hockey gloves; Hockey goals; Hockey pucks; Hockey sticks; Hunting and fishing equipment; Ice hockey sticks; Ice hockey skates; Ice skates; In-line roller skates; Indoor fitness apparatus; Karate gloves; Knee guards [sports articles]; Machines for physical exercises; Machines incorporating weights for use in physical exercise; Netballs; Nets for sports; Platform tennis balls; Platform tennis nets; Paintballs; Protective padding for sports; Protective vests for martial arts; Protectors for elbows for use when skateboarding [sports articles]; Protectors for the knees for use when skateboarding [sports articles]; Rugby balls; Rollerskates; Sail boards; Running machines; Skateboard rollers; Skates (Ice -); Skates (In-line roller -); Skates (Roller -); Ski bags; Ski bindings; Ski bindings and parts therefor; Ski boards; Ski brakes; Ski covers; Ski cases; Ski edges; Ski poles; Ski skins; Ski sticks; Skis and surfboards (Bags especially designed for -); Soccerballs; Snowboards; Snowboard bindings; Snowshoes; Softballs; Sports balls; Sports equipment; Sports training apparatus; Surf skis; Surf boards; Stationary exercise bicycles; Swimming equipment; Targets; Targets (Electronic -); Targets for sporting use; Tennis rackets; Tennis balls; Tennis nets; Trampolines; Volley balls; Volleyball equipment; Waist protectors for athletic use; Wakeboards.

Annexe 2: European Union trade mark number 10359966

Class 1: Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; Unprocessed artificial resins, unprocessed plastics; Manures; Fire extinguishing compositions; Tempering and soldering preparations; Chemical substances for preserving foodstuffs; Tanning substances; Adhesives used in industry; Acidulated water for recharging accumulators; Brake fluid; Fillers for automobile bodies; Coolants for vehicle engines; Brake fluid; Fluids for hydraulic circuits; Moulding compounds (Foundry -); Foundry sand; Gelatine for industrial purposes; Compositions for repairing inner tubes; Mould-release preparations; Power steering fluid; Tire repairing compositions; Soap [metallic] for industrial purposes; Transmission fluid.

Class 3: Cobblers' wax; shoemakers' wax; tailors' wax.

Class 4: Industrial oils and greases; Lubricants; Dust absorbing, wetting and binding compositions; Fuels (including motor spirit) and illuminants; Candles and wicks for lighting; Electrical energy; Non- chemical fuel additives; Non- chemical fuel additives; Non-slipping preparations for belts.

Class 6: Common metals and their alloys; Metal building materials; Transportable buildings of metal; Materials of metal for railway tracks; Non-electric cables and wires of common metal; Ironmongery, small items of metal hardware; Pipes and tubes of metal; Safes; Goods of common metal not included in other classes; Ores.

Class 7: Machines and machine tools; Motors and engines (except for land vehicles); Machine coupling and transmission components (except for land vehicles); Agricultural implements other than hand-operated; Incubators for eggs; Catalytic converters; Starters for motors and engines; Fittings for engine boilers; Manifold (Exhaust -) for engines; Exhausts for motors and engines; Drill chucks [parts of machines]; Drilling heads [parts of machines]; Drilling bits [parts of machines]; Fuel conversion apparatus for internal combustion engines; Brushes [parts of machines]; Steam condensers [parts

of machines]; Printing plates; Reducers (Pressure -) [parts of machines]; Pressure regulators [parts of machines]; Pressure valves [parts of machines]; Printing cylinders; Cartridges for filtering machines; Injectors; Expansion tanks [parts of machines]; Inking apparatus for printing machines; Springs [parts of machines]; Flues for engine boilers; Filters [parts of machines or engines]; Guides for machines; Hangers [parts of machines]; Glaziers' diamonds [parts of machines]; Glow plugs for Diesel engines; Moulds [parts of machines]; Taps [parts of machines, engines or motors]; Hoods [parts of machines]; Controls (Hydraulic -) for machines, motors and engines; Hydraulic door openers and closers [parts of machines]; Card clothing [parts of carding machines]; Tubes (Boiler -) [parts of machines]; Scale collectors for machine boilers; Kick starters for motorcycles; Valves (Clack -) [parts of machines]; Pistons [parts of machines or engines]; Pistons for engines; Piston rings; Fuel economisers for motors and engines; Radiators [cooling] for motors and engines; Filters for cleaning cooling air, for engines; Knives for mowing machines; Housings [parts of machines]; Stands for machines; Tables for machines; Knives [parts of machines]; Blade holders [parts of machines]; Feeders [parts of machines]; Controls (Pneumatic -) for machines, motors and engines; Pneumatic door openers and closers [parts of machines]; Pumps [parts of machines, engines or motors]; Pump diaphragms; Regulators [parts of machines]; Saw blades [parts of machines]; Saw benches [parts of machines]; Mufflers for motors and engines; Valves [parts of machines]; Slide rests [parts of machines]; Grease boxes [parts of machines]; Rings (Grease -) [parts of machines]; Lubricators [parts of machines]; Machine fly-wheels; Chucks [parts of machines]; Feeding apparatus for engine boilers; Carburetter feeders; Reels [parts of machines]; Vacuum cleaner bags; Vacuum cleaner hoses; Vacuum cleaner attachments for disseminating perfumes and disinfectants; Control mechanisms for machines, engines or motors; Control cables for machines, engines or motors; Stuffing boxes [parts of machines]; Plunger pistons; Drums [parts of machines]; Fans for motors and engines; Fan belts for motors and engines; Heat exchangers [parts of machines]; Water heaters [parts of machines]; Holding devices for machine tools; Rack and pinion jacks; Sparking plugs for internal combustion engines; Igniting magnetos; ignition inductors for engines; Igniting devices for internal combustion engines; Cylinders for machines; Cylinders for motors and engines; Pistons

for cylinders; Cylinder heads for engines; Alternators; Anti-friction pads for machines; Anti-pollution devices for motors and engines; Axles for machines; Ball-bearings; Adhesive bands for pulleys; Bearing brackets for machines; Ball rings for bearings; Dynamo belts; Belts for conveyors; Bicycle dynamos; Blades [parts of machines]; Bearing brackets for machines; Brake linings, other than for vehicles; Brake segments, other than for vehicles; Brake shoes, other than for vehicles; Carbon brushes [electricity]; Carburettors; Carriage aprons; Chaff cutter blades; Chisels for machines; Drain cocks; Dynamo brushes; Freewheels, other than for land vehicles; Sharpening wheels [parts of machines]; Hammers [parts of machines]; Sealing joints [parts of engines]; Machine wheels; Machine wheelwork; Reels [parts of machines]; Bearings; Printing rollers for machines; Rolling mill cylinders; Self-oiling bearings; Sieves [machines or parts of machines]; Speed governors for machines, engines and motors; Superchargers; Tools [parts of machines]; Turbocompressors.

Class 8: Hand tools and implements (hand-operated); Cutlery; Side arms; Razors; Bits [parts of hand tools]; Extension pieces for braces for screwtaps; Frames for handsaws; Glaziers' diamonds [parts of hand tools]; Hollowing bits [parts of hand tools]; Saw blades [parts of hand tools]; Saw holders; Shear blades; Tool belts [holders]; Depilation appliances, electric and non-electric; Hair clippers for personal use, electric and non-electric; Manicure sets, electric; Fingernail polishers, electric or non-electric; Nail clippers, electric or non-electric; Nail files, electric.

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 and data-processing equipment; Fire-extinguishing apparatus; Lift operating apparatus; Decorative magnets; Electronic publications, downloadable; Welding apparatus (electric arc -); Hair-curlers, electrically heated;

Magnets; Electric welding apparatus; Sealing plastics (electrical apparatus for -) [packaging]; Electric door openers; Electric door closers; Cigar lighters for automobiles; Asbestos clothing for protection against fire; Asbestos gloves for protection against accidents; Speaker enclosures; Clothing especially made for laboratories; Clothing for protection against accidents, irradiation and fire; Coin-operated gates ' for car parks or parking lots; Computer keyboards; Computer operating programs, recorded; Peripherals adapted for use with computers; Recorded computer programs; Computer programs [downloadable software]; Recorded computer software; Covers for electric outlets; Electric arc cutting apparatus; Electric installations for the remote control of industrial operations; Lift operating apparatus; Electrified fences; Filters for respiratory masks; Clothing for protection against fire; Electrical irons; Furniture especially made for laboratories; Gates for car parks (coin-operated -); Holders for electric coils; Hands free kits for phones; Electronic locks; Protective masks; Masts for wireless aerials; Monitors [computer programs]; Protection devices for personal use against accidents; Push buttons for bells; Railway traffic safety appliances; Safety restraints, other than for vehicle seats and sports equipment; Shoes for protection against accidents, irradiation and fire; Solderers' helmets; Spark-guards; Steering apparatus, automatic, for vehicles; Theft prevention installations, electric; Camera tripods; Turnstiles, automatic; Vehicle breakdown warning triangles; Electrodes for welding; Workmen's protective face-shields.

Class 10: Medical and veterinary apparatus and instruments, except dental instruments, artificial limbs; Orthopedic articles; Suture materials.

Class 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; Igniters; Friction lighters for igniting gas; Gas lighters; Gas generators; Gas condensers, other than parts of machines; Regulating and safety accessories for gas pipes; Air valves for steam heating installations; Anti-glare devices for automobiles [lamp fittings]; Anti-splash tap nozzles; Lava rocks for use in barbecue grills; Bath fittings; Boiler pipes [tubes] for heating installations; Brackets for gas burners; Carbon for arc lamps; Chimney blowers;

Chimney flues; Lamp chimneys; Coils [parts of distilling, heating or cooling installations]; Gas condensers, other than parts of machines; Dampers [heating]; Disposable sterilization pouches; Distillation apparatus; Distillation columns; Filters for drinking water; Expansion tanks for central heating installations; Feeding apparatus for heating boilers; Filters [parts of household or industrial installations]; Filters for air conditioning; Filters for drinking water; Fire bars; Fittings, shaped, for ovens; Flues for heating boilers; Gas generators (installations); Gas cleaners and purifiers; Hot air bath fittings; Humidifiers for central heating radiators; Kiln furniture [supports]; Lamp casings; Lamp glasses; Lamp globes; Lamp shades; Lampshade holders; Light diffusers; Mixer taps for water pipes; Oil-scrubbing apparatus; Oven fittings made of fireclay; Ovens (Shaped fittings for -); Taps [cocks, spigots] faucets [Am.] for pipes; Water-pipes for sanitary installations; Polymerisation installations; Sewage purification installations; Radiator caps; Lamp reflectors; Regulating accessories for water or gas apparatus and pipes; Regulating and safety accessories for water apparatus; Safety accessories for water or gas apparatus, and for water or gas pipes; Sockets for electric lights; Welding lights; Framework of metal for ovens; Level controlling valves in tanks; Valves (Thermostatic -) [parts of heating installations]; Washers for water taps.

Class 12: Vehicles; Apparatus for locomotion by land, air or water; Vehicle covers [shaped]; Axle journals; Air bags [safety devices for automobiles]; Trailer hitches for vehicles; Transmission chains for land vehicles; Driving motors for land vehicles; Shafts for land vehicles; Tyres for motor vehicles; Saddle covers for bicycles or motorcycles; Covers for vehicle steering wheels; Balance weights for vehicle wheels; Anti-glare devices for vehicles; Brake segments for vehicles; Brake facings for vehicles; Brake shoes for vehicles; Vehicle chassis; Automobile chassis; Anti-theft devices for vehicles; Anti-theft alarms for vehicles; Torque converters for land vehicles; Jet engines for land vehicles; Motors, electric, for land vehicles; Bicycle stands; Brakes for bicycles, cycles; Rims for wheels of bicycles, cycles; Brakes for vehicles; Windows for vehicles; Bodies for vehicles; Wheeled vehicles; Vehicle tires; Vehicle seats; Doors for vehicles; Repair outfits for inner tubes; Crankcases for land vehicle components, other than for engines; Horns for vehicles; Hydraulic circuits for vehicles; Automobile bodies; Automobile

chains; Couplings for land vehicles; Treads for retreading tires [tyres]; Tyre casings; Motors for land vehicles; Hoods for vehicle engines; Automobile hoods; Hubs for vehicle wheels; Bands for wheel hubs; Connecting rods for land vehicles, other than parts of motors and engines; Screw-propellers; Axles for vehicles; Gearing for land vehicles; Treads for vehicles [roller belts]; Tires for vehicle wheels; Reversing alarms for vehicles; Rearview mirrors; Clutches for land vehicles; Windscreen wipers; Marine propellers; Steering gears for ships; Tubeless tires [tyres] for bicycles, cycles; Mudguards; Inclined ways for boats; Safety belts for vehicle seats; Safety seats for children, for vehicles; Safety harnesses for vehicle seats; Suspension shock absorbers for vehicles; Shock absorbers for automobiles; Shock absorbing springs for vehicles; Vehicle bumpers; Bumpers for automobiles; Torsion bars for vehicles; Vehicle suspension springs; Driving chains for land vehicles; Propulsion mechanisms for land vehicles; Turbines for land vehicles; Transmissions, for land vehicles; Reduction gears for land vehicles; Valves for vehicle tires [tyres]; Windscreens; Motors for cycles; Cycle stands; Gears for cycles.

Class 16: Paper, cardboard and goods made from these materials, not included in other classes; Printed matter; Book binding 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); Printers' type; Printing blocks.

Class 17: Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; Plastics in extruded form for use in manufacture; Packing, stopping and insulating materials; Flexible pipes, not of metal; Compressed air pipe fittings, not of metal; Junctions, not of metal, for flexible pipes; Brake lining materials, partly processed; Clutch linings; Semi-processed plastics; Reinforcing materials, not of metal, for pipes; Resins (Artificial -) [semi-finished products]; Valves of india-rubber or vulcanized fiber [fibre]; Washers of rubber or vulcanized fiber [fibre].

Class 25: Clothing, footwear, headgear.

Class 28: Games and playthings; Gymnastic and sporting articles not included in other classes; Decorations for Christmas trees.

Class 35: Advertising; Business management; Business administration; Office functions; Office machines and equipment rental; Organisation of trade fairs for commercial or advertising purposes; Presentation of goods on communication media, for retail purposes; Presentation of goods on communication media, for retail purposes; Procurement services for others [purchasing goods and services for other businesses]; Publicity material rental; Rental of advertising space; Rental of advertising time on communication media.

Class 37: Building construction; Repair; Installation services; Airplane maintenance and repair; Anti-rust treatment for vehicles; Boiler cleaning and repair; Cleaning of building interiors; Cleaning of buildings [interior]; Burner maintenance and repair; Vehicle cleaning; Rental of cleaning machines; Computer hardware (Installation, maintenance and repair of -); Machinery installation, maintenance and repair; Motor vehicle maintenance and repair; Motor vehicle wash; Office machines and equipment installation, maintenance and repair; Varnishing; Car cleaning; Vehicle greasing; Vehicle maintenance; Vehicle polishing; Service stations (Vehicle -) [refuelling and maintenance]; Vehicle wash.

Class 38: Telecommunications; Rental of facsimile apparatus; Rental of modems; Rental of telecommunication equipment; Rental of telephones; Rental of message sending apparatus; Information about telecommunication.

Class 41: Education; Providing of training; Entertainment; Sporting and cultural activities; Publication of texts, other than publicity texts; Digital image processing; Education information; Publication of electronic books and journals on-line; Rental of audio equipment.

Class 42: Scientific and technological services and research and design relating thereto; Industrial analysis and research services; Design and development of computer hardware and software; Computer rental; Rental of software; Rental of web servers; Rental of software.

Class 44: Medical services; veterinary services; agriculture, horticulture and forestry services; flower arranging; rental of sanitation facilities; wreath making.

Class 45: Legal services; Security services for the protection of property and individuals; Personal and social services rendered by others to meet the needs of individuals; Rental of fire alarms; Rental of fire extinguishers; Physical security consultancy.