

O/0277/24

TRADE MARKS ACT 1994

TRADE MARK APPLICATION No. 3638394

BY STUDIO DU FEU LTD

AND

OPPOSITION No. 427751

BY DU FEU LTD

AND

TRADE MARK REGISTRATION No. 3637708

IN THE NAME OF DU FEU LTD

AND

APPLICATION No. 505273

BY STUDIO DU FEU LTD

FOR THE INVALIDATION OF THE REGISTRATION

BACKGROUND AND PLEADINGS

1. These are consolidated opposition and cancellation proceedings between Du Feu Ltd (“DFL”) and Studio Du Feu Ltd, formerly Rebecca Du Feu Design Ltd (“Design”).

2. On 7th May 2021, Design applied to register DU FEU DESIGN as a trade mark for:

Class 42: Architectural services; computer aided design services relating to architecture; design services relating to interior decorating for homes; design services relating to interior decorating for offices; design services relating to shopfronts; design services relating to signage; design of lighting systems; design services relating to shop, restaurant, bar, residential and workplace fixtures; design of layouts for office furniture; design services relating to architecture; design services relating to hospitality venues; furnishing design services for the interiors of buildings; professional consultancy relating to the design of interior accommodation; consultancy relating to selection of furnishing fabrics [interior design]; furniture design; interior design services and information and advisory services relating thereto; information services relating to the combination of colours, paints and furnishings for interior design; commercial interior design; shop interior design; interior design services; design of interior decoration; architectural design for interior decoration; space planning [design] of interiors; interior design services for the retail industry; planning [design] of bars; planning [design] of restaurants; planning [design] of hotels; planning [design] of workplaces; consultancy, information and advisory services related to the aforesaid.

3. The application was opposed by DFL, which is the proprietor of a series of three trade marks consisting of the word DU FEU in variations of upper and lower case letters. There is no need to distinguish between them for present purposes, so for the sake of simplicity I will refer to DFL’s trade marks in the singular as DU FEU. DFL’s application was filed on 6th May 2021 and registered on 24th September 2021. It is therefore an ‘earlier trade mark’ compared to Design’s application, albeit by only one day.

4. DFL’s mark is registered in relation to goods/services in eight classes, but the only services relied on for the purposes of the opposition proceedings are the following services in class 42:

Fashion design; Design of fashion accessories; Fashion design consulting services; Providing information about fashion design services; Designing of

clothing; Design of clothing; Clothing design services; Design services for clothing; Design of clothing accessories; Design of clothing, footwear and headgear; Design for others in the field of clothing; Designing; Dress design; Designing (Dress -); Hat design.

5. According to DFL, the trade marks at issue are highly similar, the respective services are the same or similar, and there is a likelihood of confusion on the part of the public. Consequently, the registration of Design's mark would be contrary to section 5(2)(b) of the Trade Marks Act 1994 ("the Act"), which states:

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

(a) –

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark."

6. Design filed a counterstatement denying DFL's grounds of opposition. I note that:

(1) Design denied that the respective services are similar;

(2) Du Feu is the surname "*from birth*" of Rebecca de Feu;

(3) The validity of DFL's earlier trade mark was called into question.

7. On 7th September 2022, Design followed up on point (3) above by filing an application under section 47 of the Act to invalidate the registration of DFL's earlier trade mark in relation to all the goods/services for which it is registered.¹ The grounds put forward are that:

(1) Design is the owner of an earlier unregistered right to DU FEU as a result of the use of that sign throughout the UK since 2004 in relation to architecture and interior/exterior design services;

¹ These are shown at Annex A

(2) The respective goods/services are identical or similar because *“Designing covers all types and areas of designing services, including those covered by the Earlier Mark”*;

(3) The respective marks are identical or highly similar;

(4) The application to register DFL’s trade mark was filed in bad faith because DFL’s owner, Marie-Anne Du Feu, is the cousin-in-law of Rebecca Du Feu and knew about her architecture/design business, yet she applied to register the DU FEU trade mark, including for ‘designing’ services in general.

8. Consequently, the registration of DFL’s mark is said to have been contrary to sections 5(4)(a) and 3(6) of the Act. The relevant parts of these provisions, and section 47 of the Act, are set out below:

“47(1) The registration of a trade mark may be declared invalid on the ground that the trademark was registered in breach of section 3 or any of the provisions referred to in that section (absolute grounds for refusal of registration).

(2) the registration of a trade mark may be declared invalid on the ground—

(a) –

(b) that there is an earlier right in relation to which the condition set out in section 5(4) is satisfied, unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.

(5) Where the grounds of invalidity exists in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

(6) Where the registration of a trade mark is declared invalid to any extent, the registration shall to that extent be deemed never to have been made:

Provided that this shall not affect transactions past and closed.”

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

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

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

(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

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

9. DFL filed a counterstatement denying the grounds for invalidation advanced by Design. I note, in particular, that DFL:

- denied that Design had made sufficient use of DU FEU, and/or acquired goodwill under that sign, so as to substantiate a passing off claim:
- put Design to proof of the existence of such goodwill.

REPRESENTATION

10. Design is represented by Inbrandgible. DFL is represented by Murgitroyd & Company. Neither party requested a hearing. Consequently, this decision is made on the basis of the law and the evidence/written submissions filed by the parties.

THE EVIDENCE

11. Design filed two witness statements by Rebecca Du Feu with 10 exhibits.

12. DFL filed a witness statement by Marie-Anne Du Feu with 6 exhibits.

DESIGN'S APPLICATION TO INVALIDATE DFL'S EARLIER TRADE MARK 3637708

13. It is convenient to examine Design's application to invalidate DFL's earlier trade mark before considering DFL's opposition to Design's trade mark application based on that earlier mark. I will start by considering the merits of Design's claim that use of DFL's mark would amount to passing off.

The Passing Off Right Claim

14. In *Discount Outlet v Feel Good UK*,² Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

"55. The elements necessary to reach a finding of passing off are the 'classical trinity' of that tort as described by Lord Oliver in the Jif Lemon case (Reckitt & Colman Product v Borden [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs."

15. In *Sworders TM*³ I said that:

"Strictly, the relevant date for assessing whether s.5(4)(a) applies is always the date of the application for registration or, if there is a priority date, that date... . However, where the applicant has used the mark before the date of the application it is necessary to consider what the position would have been at the date of the start of the behaviour complained about, and then to assess whether

² [2017] EWHC 1400 IPEC

³ BL O/212/06. Subsequently approved by Mr Daniel Alexander KC as the Appointed Person in *Advanced Perimeter Systems Limited v Multisys Computers Limited*, BL O-410-11.

the position would have been any different at the later date when the application was made.”

16. In *Smart Planet Technologies, Inc. v Rajinda Sharma*,⁴ Mr Thomas Mitcheson KC, as the Appointed Person, pointed out that *“the start of the behaviour complained about”* is not the same as the date that the user of the applied-for mark acquired the right to protect it under the law of passing off. Rather, it is the date the user of that mark committed the first external act about which the other party could have complained (if it knew about it) as an act of actual or threatened passing off. Typically, this will be the date when first offer was made to market relevant goods or services under the mark. However, it could also be the date the first public-facing indication was made that sales were proposed to be made under the mark in future. If the user of the applied-for mark was not passing off at the time such use commenced (usually because the complainant had not acquired a protectable goodwill under a conflicting mark by that time), he or she will not normally be passing off by continuing to use the mark.

17. According to Marie-Anne Du Feu, after passing courses in interior design, she was self-employed as an interior designer between 2000 and 2006. She says she worked on hotels and high-end properties. Between 2007 and 2019 she worked for Howdens Joinery, Homebase and Benchmarx as a kitchen designer. Whether self-employed or as an employee, she worked under Marie-Anne Du Feu. However, DFL’s mark is not Marie-Anne Du Feu, but DU FEU solus. Any right DFL may have to continue to use Marie-Anne Du Feu would not necessarily extend to DU FEU alone.⁵ Therefore, the prior use of Marie-Anne Du Feu does not constitute *“the start of the behaviour complained about.”* For that I must look at the evidence around the incorporation of the companies of which Marie-Anne Du Feu is a director.

18. In 2019, Marie-Anne Du Feu incorporated a company called Du Feu Designs Ltd. In 2021, she incorporated DFL. She says her company operates a website at dufeudesignltd.com, and that *“I provide”* design services for kitchens and bathrooms, gardens, cabins, commercial interiors, as well as living spaces for domestic properties.

⁴ BL O/304/20

⁵ See *Sir Robert McAlpine Limited v Alfred McAlpine Plc* [2004] RPC 36

She provides copies of images showing design mock-ups and invoices relating to these activities.⁶

19. I note that the first, third and sixth exhibits include invoices for designs for a kitchen, a garden, and for an extension to a house. These are dated 30th August 2019, 17th August 2020 and 12th March 2021, respectively. The other invoices postdate the date of DFL's application to register its trade mark. All the invoices identify the provider as Du Feu Designs Ltd, i.e. the first company Marie-Anne Du Feu incorporated in 2019 (not DFL).

20. Rebecca Du Feu gives evidence that:

(1) Du Feu Designs Ltd was incorporated on 15th May 2019.⁷

(2) Du Feu Designs Ltd created a Twitter account on 20th October 2020.⁸

(3) "*Marie-Anne's website*", dufeudesignltd.com, was registered on 16th December 2020.⁹

(4) DFL was incorporated on 16th April 2021.¹⁰

21. According to Design, the events associated with Du Feu Designs Ltd are irrelevant because the applicant is DFL. I disagree. The purpose of considering whether the use complained about was passing off when it started is to safeguard use that was innocent at its inception and simply continues thereafter. It would be unfair if such use came to constitute passing off because of someone else's trading activities. Du Feu Designs Ltd and DFL seem to be corporate vehicles through which Marie-Anne Du Feu conducts, or plans to conduct, her business. This can be seen from the way Rebecca Du Feu herself attributes the actions of her cousin-in-law's companies to Marie-Anne Du Feu, and the fact she attributes DFL with the knowledge and motives of Marie-Anne Du Feu. If this was an actual passing off action, commenced at the date of the application for invalidation, it seems likely that Marie-Anne Du Feu and the corporate vehicle through which she appears to have used DU FEU (Du Feu Designs Ltd), and the one she appears to intend to use in the future (DFL), could be sued as

⁶ See exhibits MADF1 to MADF6

⁷ See exhibit RDF1

⁸ See exhibit RDF8

⁹ See exhibit RDF5 (note registrant ca)

¹⁰ See exhibit RDF2

joint tortfeasors. This is because Marie-Anne Du Feu appears to control the actions of her companies, and is, therefore, partly accountable for the acts complained about.

22. In these circumstances, I consider it artificial to treat the acts of Du Feu Designs Ltd as irrelevant to my assessment of *“the start of the behaviour complained about.”* Rather, the required assessment should take account of the whole conduct of the behaviour complained about.¹¹ This appears to have started when Marie-Anne Du Feu incorporated Du Feu Designs Ltd.

23. The next question is whether the date of incorporation of Du Feu Designs Ltd (15th May 2019) should be taken as *“the start of the behaviour complained about,”* or whether this should be the first date on which the evidence shows the company providing design services under the DU FEU DESIGNS mark, which is 30th August 2019.

24. I note that paragraph 5-313 of Wadlow on the Law of Passing Off: 6th Ed. cites, with approval, *Barnsley Brewery v RBNB*, as follows:

“In Barnsley Brewery v RBNB¹² a dispute arose as to whether the relevant date was in March 1995 (when the defendants’ solicitors notified the plaintiffs that they intended to market “Barnsley Bitter” at some indeterminate time in the future) or at the end of 1996 when launch of the defendants’ beer was imminent. Robert Walker J held that a quia timet action in 1995, relying only on the letter and two trade mark applications, would have been premature. The relevant date was late 1996, and the plaintiffs were therefore entitled to rely on an additional 20 months’ trading and advertising.”

25. This would suggest that the relevant date is when use of the defendant’s sign in relation to goods/services is concrete and imminent, such as in pre-launch activities.

26. On the other hand, in *Marks & Spencer Plc v One In A Million Ltd and Others*¹³ the deputy Judge (Jonathan Sumption QC) granted summary judgment on the basis that

¹¹ See Wadlow on the Law of Passing Off: 6th Ed. at 5-310

¹² [1997] FSR 462

¹³ [1998] FSR 265, affirmed by the Court of Appeal [1999] FSR 1

registration of internet domain names constituted “*instruments of deception.*” In so doing he followed the judgment of Lightman J in *Glaxo Plc v Glaxowellcome Ltd*,¹⁴ who had reached a similar finding in relation to the registration of company names. It is implicit from these judgments that “*the start of the behaviour complained about*” was taken as the date on which the company or domain name was registered. There was no need to wait for any actual use of those names in trade. The deputy judge explained the law as follows:

“The mere creation of an ‘instrument of deception’, without either using it for deception or putting it into the hands of someone else to do so, is not passing off. There is no such tort as going equipped for passing off. It follows that the mere registration of a deceptive company name or a deceptive Internet domain name is not passing off. In both of these cases [GlaxoWellcome and Direct Line] the court granted what amounted to a quia timet injunction to restrain a threatened rather than an actual tort. In both cases, the injunctions were interlocutory rather than final, and the threat is no doubt easier to establish in that context. But even a final injunction does not require proof that damage will certainly occur. It is enough that what is going on is calculated to infringe the plaintiff’s rights in future.”

27. The net effect of this analysis, with which I respectfully agree, is that the mere registration of a company or internet domain name does not constitute “*the start of the behaviour complained about*” for passing off purposes. However, it may count as such if the registration is a precursor to subsequent, imminent, and potentially deceptive trading activities under the name complained about, or an express or implied threat to transfer the name to someone else to facilitate that party commencing such a trade under the name.

28. The incorporation of Du Feu Design Ltd in May 2019 was clearly a precursor to subsequent (and imminent) trading activities under that name from at least as early as August 2019. I therefore find that the behaviour complained about started on 15th May 2019.

¹⁴ [1996] FSR 388

29. The next issue is the date by which Design acquired goodwill. Rebecca Du Feu's evidence is that she graduated in 2003 as an Interior Architect and began building up the goodwill in the use of the name Du Feu in respect of architecture and interior, exterior design for both individual, retail and commercial properties. She expands on this assertion in her second witness statement, as follows:

"I acted as a freelance designer, so goodwill is accrued in my name, as this is what clients remember. This goodwill in your name will follow you as it did when I decided to set up on my own."

30. Rebecca Du Feu expands on this claim as follows:

- (1) She worked as a freelance designer for Grapes Associates from August 2003 to October 2003 where she used her own name.
- (2) She worked as an interior designer for Frome Partnership from November 2003 to February 2004.
- (3) She worked as an interior designer for Four-by-Two Consultants from March 2004 - July 2005.
- (4) She worked as a freelance designer between August 2005 and March 2006 using her own name (she does not say where).
- (5) She worked as a freelance designer at Grapes Associates from March 2006 to January 2007 where she was responsible for designing and project managing the interior design of bars and restaurants across the UK, including The Spirit Group, Bunker Bar, Faucet Inn Pub Company and Swap Bars Ltd.
- (6) She worked as a freelance designer at Landor Associates between January and June 2007, where she worked as part of the "3D" team designing for customers in the Middle East.
- (7) She was Design Director for Four-by-Two from January 2014 to December 2018.
- (8) *"After joining Grapes Design for one year, on 29 March 2019 I incorporated my limited company, namely Rebecca Du Feu Limited."*

31. Exhibit RDF-7 to Rebecca Du Feu's second statement consists of three 'to-whom-it-may-concern' style communications from people she has worked with. The first is from someone I shall call GP at Garenne Shopfitting. It is dated March 2023. GP writes:

"I initially met Becky du Feu in 2008 when our business were working with Four by Two on Phase Eight projects for which Becky led the design role. Subsequently, this led to collaboration with Four By Two and Becky with various other retailers until 2013. We also worked with Becky when she introduced our business to Grapes Design. It was the 'du Feu' name that we recognised as Becky's brand and for the last four years we have been working with Becky for projects which she and her team have designed and recommended Garenne to act as Principal Contractor. This relationship is reciprocal and we often use Becky's services at Studio Du Feu for clients who ask us to recommend a designer for their project."

32. Rebecca Du Feu appears to have been an employee of Four by Two in 2004/5. She has not said who she worked with, or for, between 2008 and 2013. Consequently, GP's letter does not support her evidence on that matter, and GP has given no evidence of his own. I note GP's statement that *"it was the 'du feu' name we recognised,"* but it seems clear GP knew her as Becky Du Feu.

33. GP's letter supports Rebecca Du Feu's claim to have been working under her name, and that of her company, from around 2019 onwards, although the Studio Du Feu name he mentions seems to have been adopted later, in October 2021.

34. The second communication is from someone I shall call SS at Furniture Fusion Ltd. It is also dated March 2023. SS writes:

"I can confirm that I initially met Becky du Feu in 2006 when we were working with Grapes Design. I recognised her name some years later and as a result we started to work together in 2020 on Becky's own projects."

35. Rebecca Du Feu says she worked for Grapes Design around 2019, not 2006. It is possible SS means Grapes Associates, for whom she says she worked as a freelance

designer in 2006. It is also possible that Grapes Design was previously Grapes Associates and SS used the firm's current name to refer to events in the past. Either way, SS's letter provides some support for this part of Rebecca Du Feu's evidence. It also provides support for her claim that she continues to be recognised by some people from activities undertaken in 2006. It seems SS also knew her as Becky Du Feu.

36. The third communication is from someone I shall call JL at Sunbury Design. Again, it is dated March 2023. JL writes:

"I confirm I first met Becky du Feu when she was at Grapes Design in 2019, whom were a client of ours. I recognised the Du Feu name when she set up on her own and I approached her as I felt our products would work well with the projects she was working on.

I have since recommended her brand to several of my other clients seeking design assistance."

37. JL's statement supports Rebecca Du Feu's evidence that she worked at Grapes Design for a year around 2019.

38. People often get to know the names of employees (including directors) of businesses they deal with. Normally, this does not generate goodwill for the employee/officer. Any goodwill generated by Rebecca Du Feu, simply as someone who worked for Frome Partnership, Four-by-Two, and Grapes Design, belongs to her past employers rather than to her.

39. Although Ms Du Feu makes no such claim, the evidence at exhibit RDF-10 (see paragraph 47 below) indicates that Rebecca Du Feu worked for Grapes Design as a consultant for 16.5 days in March 2019. Goodwill generated by someone working as a consultant (as opposed to an employee) is capable of attaching to the name of the consultant.¹⁵ The communication from JL quoted above indicates Rebecca Du Feu's name was known to him from when she was at Grapes Design. However, it is not clear

¹⁵ See, for example, *Newman Ltd v Adlem* [2005] EWCA Civ 741

when in 2019 JL first met her. This is because the “one year” she says she was at Grapes Design must overlap with either the preceding period up to 31st December 2018, when she worked as a Director of Four-by-Two, and/or for a period after she formed her own company on 29th March 2019. Further, JL says Grapes Design was a “client” of Sunbury Design. This suggests Sunbury Design was providing services to Grapes Design. Consequently, it is not at all clear from the documents in evidence whether Rebecca Du Feu provided services to Sunbury Design in her capacity as a consultant (or at all). There is no clear evidence that she did.

40. I first consider whether Rebecca Du Feu retained residual goodwill at the date of the start of the behaviour complained in May 2019 as a result of her past activities as a freelance designer. In *Sutherland v V2 Music Ltd*,¹⁶ Laddie J considered whether the goodwill generated by a band called Liberty 1, which had been formed in the late 1980s, still subsisted in March 2001. He said this:

“There is one other general matter to deal with before turning to the facts, namely the size of the claimant’s reputation. At some point a reputation may be respected by such a small group of people that it will not support a passing-off action. Neither Mr. Purle nor Mr. Speck were able to formulate a test for this bottom level. Mr. Purle said it was a matter of fact and degree. I agree with that. The law of passing off protects the goodwill of a small business as much as the large, but it will not intervene to protect the goodwill which any reasonable person would consider trivial”.

41. In *Minimax GmbH & Co KG v Chubb Fire Limited*,¹⁷ Floyd J (as he then was) grappled with the issue of defining when a residual reputation dissipates to the point where it becomes ‘trivial’. He said:

“It is difficult to define any minimum threshold. It will all depend on the facts. How big was the reputation when use stopped? How lasting in the public eye are the goods or services to which the mark is applied? How, if at all, has the person asserting the existence of the goodwill acted in order to keep the

¹⁶ [2002] EMLR 28

¹⁷ [2008] EWHC 1960 (Pat)

reputation in the public eye? The greater each of these elements is, the longer, it seems to me, it will take for any goodwill to dissipate.”

42. According to Rebecca Du Feu, she worked as a freelance designer (i.e. on her own account) between August 2003 and February 2004, and again between August 2005 and January 2007. She also seems to have worked as one of a team of freelance designers between January 2007 and June 2007. However, it is not clear whether, or to what extent, this was under her own name (as opposed to the name of the team – 3D). Further, the clients appear to have been in the Middle East, so it is doubtful that there could be any residual goodwill in the UK from her activities during 2007.

43. In total, Rebecca Du Feu appears to have worked as a freelance designer for a little under two years between 2003 and 2007. There is no evidence as to the size of the business she generated at that time. Further, these activities pre-date the start of the behaviour complained about by 12 years or more. Therefore, despite having the support of the communication from SS, I find that Design has not shown that Rebecca Du Feu retained more than a trivial goodwill from her personal activities as a freelance designer prior to 2019.

44. Rebecca Du Feu’s evidence is that she incorporated Design on 29th March 2019 and registered the domain name dufeudesign.com on 20th July 2020. Goodwill is the attractive force which brings in custom.¹⁸ Registering names *per se* has no impact on customers or potential customers. Therefore, it does not generate goodwill.

45. According to Rebecca Du Feu’s first statement, Design’s turnover in its first year to 31st March 2020 was £71,637. However, it is not clear whether, or to what extent, this business pre-dated the start of the behaviour complained about in May 2019, or the earliest date the evidence shows Du Feu Design Ltd trading (August 2019).

46. Exhibits RDF 9 and 10 to Rebecca Du Feu’s second statement consist of a website analytics graph showing the number of visits and visitors to Design’s website in 2022, and an invoice for consultancy services from March 2019. The first document does not assist because it covers a period well after the start of the behaviour complained about

¹⁸ *Inland Revenue Commissioners v Muller & Co’s Margarine Ltd* [1901] AC 217 (HOL)

(if this started with the acts of Du Feu Designs Ltd). It also postdates DFL's trade mark application. The witness says that the number of visitors increased by 39% from the year before. That was 2021, which is still after the start of the behaviour complained about. In any event, it straddles, without division or distinction, the date of DFL's application in May 2021. Further, the number of unique visitors to the site in 2022 (3200) is not so large as to indicate substantial interest in previous years. Indeed, the graph indicates that this small figure was an increase of 158% on the even smaller figure for 2021.

47. The invoice in RDF-10 is dated 28th March 2019 and is addressed to Grapes Design Ltd. The invoice is from Rebecca Du Feu at Rebecca Du Feu Ltd. This is odd because the latter was not incorporated until the following day. The invoice was for just over £5k in payment for 16.5 days of (unspecified) consultancy services between 6th March 2019 and 28th March 2019. I note that payment was required to be made to Ms Du Feu's personal account. This does not show when Design started trading under DU FEU.

48. I note that GP's communication, dated March 2023, says his firm has been working with Rebecca Du Feu and her company "*for the last four years.*" However, the precise meaning of this statement is not clear enough to date the commencement of Design's trade prior to May (or August) 2019. It would be particularly difficult to attribute the required degree of precision to GP's words in circumstances where GP has not made a witness statement, including a statement of truth. Consequently, he cannot be taken to have chosen the words used in his communication with level of care and precision one would expect from someone signing a witness statement.

49. In *Awareness Limited v Plymouth City Council*,¹⁹ Mr Daniel Alexander QC as the Appointed Person, stated that:

"22. The burden lies on the registered proprietor to prove use..... However, it is not strictly necessary to exhibit any particular kind of documentation, but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the

¹⁹ Case BL O/236/13

more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal (which in many cases will be the Hearing Officer in the first instance) comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said, the public.”

50. This statement was made in the context of proving use of a registered mark rather than establishing goodwill under an unregistered mark. However, the same evidential considerations apply, and it is difficult to see why the standard of proof should be different.

51. I am struck by the absence of evidence of even a single invoice, or advertisement of any kind, including social media, from Design, whether dating from before the start of the behaviour complained about, or at all. This is all the more surprising because, if they exist, it should have been easy to provide such documents.

52. I find that:

(1) Rebecca Du Feu appears to have retained some residual goodwill as a result of her work as a freelance designer between 2002 and 2006, but it seems trivial in extent;

(2) It is possible that Rebecca Du Feu acquired goodwill as a result of the 16.5 days consultancy work undertaken for Grapes Design in March 2019, but this is not established because there is no evidence these services were provided to third parties under her name, or what they were for.

(3) The evidence does not establish that Design started trading before the start of the behaviour complained about, or before the evidence shows Du Feu Design Ltd was providing design services (in August 2019).

53. In *Smart Planet Technologies, Inc. v Rajinda Sharma*,²⁰ Mr Thomas Mitcheson QC, as the Appointed Person, reviewed the authorities about the establishment of goodwill for the purposes of passing-off, Mr Mitcheson concluded:

“.. a successful claimant in a passing off claim needs to demonstrate more than nominal goodwill. It needs to demonstrate significant or substantial goodwill and at the very least sufficient goodwill to be able to conclude that there would be substantial damage on the basis of the misrepresentation relied upon.”

54. I would have been prepared to infer that any goodwill owned by Rebecca Du Feu as a designer was transferred to Design when she incorporated the company to conduct her design business.

55. Any such goodwill would have been distinguished by her name and that of her company at that time, i.e. Rebecca Du Feu, and/or by her informal name, Becky Du Feu.

56. However, I have found that even if Design owned any such goodwill, on the evidence it was trivial. The use of DU FEU may have caused a few people to wonder whether the user was Rebecca Du Feu. However, in the context of procuring design services, any such wondering is unlikely to have persisted after the sort of enquiries one would expect to happen before a designer is engaged. Consequently, it would not support a finding that DFL’s use of DU FEU (alone) was a misrepresentation to the public likely to cause substantial damage to Design’s goodwill.

57. Further, even if such wondering crossed over into transitory confusion (also called ‘initial interest confusion’), this does not amount to passing off unless damage is caused (or likely to be caused) to the claimant’s goodwill. As His Honour Judge Hacon explained in *Moroccan Oil Israel Ltd v Aldi Stores Ltd*:²¹

“25 It seems to me that Och-Ziff and Woolley are judgments entirely consistent with one another. If a customer makes an initial false assumption as to a trade connection between the claimant’s and defendant’s goods but that assumption

²⁰ BL O/304/20

²¹ [2014] EWHC 1686 (IPEC)

is dispelled before any purchase is made and as a consequence the claimant suffers no damage, there is no passing off (see Woolley). Damage remains one of the three essential ingredients of the tort.

26 In Och-Ziff there was goodwill and a likelihood of a false assumption as to trade origin on the part of the relevant public; there was no likelihood of a direct pecuniary loss but Arnold J inferred a probability of other damage. This was therefore passing off of the conventional sort.”

58. For these reasons, I reject Design’s application under section 47(2) of the Act to invalidate DFL’s trade mark.

Bad Faith

59. In written submissions dated 6th March 2023, Design’s representatives sought to expand on the pleaded bad faith case by submitting:

“Further or alternatively, the Registered Proprietor is acting in bad faith in applying to register the mark for "designing" because she has no intention of using the mark in relation to some or all of the services, and we submit therefore has the intention either of undermining, in a manner inconsistent with honest practices, the interests of the Applicant, or of obtaining, an exclusive right for purposes other than those falling within the functions of the trade mark.”

60. No application was made to amend the pleadings so as to add ‘no intention to use the mark’ as an alternative basis for the bad faith allegation. Consequently, I have not considered this (non-pleaded) aspect of Design’s case.

61. In *Sky Limited & Ors v Skykick, UK Ltd & Ors*,²² the Court of Appeal summarised the case law on bad faith. The relevant part of the summary is shown below (with citations of earlier cases omitted):

“3. The concept of bad faith presupposes the existence of a dishonest state of mind or intention, but dishonesty is to be understood in the context of trade

²² [2021] EWCA Civ 1121

mark law, i.e. the course of trade and having regard to the objectives of the law namely the establishment and functioning of the internal market, contributing to the system of undistorted competition in the Union, in which each undertaking must, in order to attract and retain customers by the quality of its goods or services, be able to have registered as trade marks signs which enable the consumer, without any possibility of confusion, to distinguish those goods or services from others which have a different origin.

4. The concept of bad faith, so understood, relates to a subjective motivation on the part of the trade mark applicant, namely a dishonest intention or other sinister motive. It involves conduct which departs from accepted standards of ethical behaviour or honest commercial and business practices.

5. The date for assessment of bad faith is the time of filing the application.

6. It is for the party alleging bad faith to prove it: good faith is presumed until the contrary is proved.

7. Where the court or tribunal finds that the objective circumstances of a particular case raise a rebuttable presumption of lack of good faith, it is for the applicant to provide a plausible explanation of the objectives and commercial logic pursued by the application.

8. Whether the applicant was acting in bad faith must be the subject of an overall assessment, taking into account all the factors relevant to the particular case.

9. For that purpose it is necessary to examine the applicant's intention at the time the mark was filed, which is a subjective factor which must be determined by reference to the objective circumstances of the particular case.

10. Even where there exist objective indicia pointing towards bad faith, however, it cannot be excluded that the applicant's objective was in pursuit of a legitimate objective, such as excluding copyists."

62. Rebecca Du Feu's gives evidence that:

"I graduated in 2003 in interior architect and began building up the goodwill in the use of the name Du Feu in respect of architecture and interior, exterior design for both individual, retail and commercial properties."

"I confirm that I am well known to Marie-Anne Du Feu who is owner of du feu Ltd, as she is my cousin in law. Furthermore, Marie-Anne is aware of my studies, my employment and my limited company. We have met together at many family occasions and family members often share stories with each other."

"Marie du Feu also started her business in the fashion industry, designing clothing. I do not have a problem with her using the surname as fashion and architecture and the interior and exterior design services I provide are different."

63. Marie-Anne Du Feu's gives evidence that:

(1) She took the name Du Feu when she married in 1999 and;

(2) She took an interior decorative techniques course in 1998/9, and an interior design course in 1999/2000, both at Bournemouth & Poole college;

(3) She worked as a painter and decorator for Council Update between 2000-2006;

(4) In this period, she also worked on a self-employed basis as an interior designer for hotels and high-end properties;

(5) Between 2007 - 2019, she worked as a kitchen designer for Howden's, Homebase, and then Benchmarx;

(6) She then started her own company and registered the domain name dufuedesignltd.com.

64. Marie-Anne Du Feu concludes:

“17. It is therefore clear that the claims made by Rebecca du Feu In her witness statement are incorrect and that my use of the name du Feu both personally and as my company names has been in relation to a range of interior design services and associated services.

18. Rebecca du Feu is in fact aware of this as she has prior knowledge of my business through our family connections and was also advised of same previously prior to these proceedings.

19. With regard to the specification, I decided to file a trade mark application as I realised that I wished to extend my services into a separate business with regard to fashion design. It was at that time that I realised that I probably should have a trade mark registration and therefore filed the application.

20. I used various terms from the Registry website relating to fashion design as I filed the application myself but included the general term "designing" as it would relate not only to my new venture but also to all of the services which I had offered for over two decades under my own name and later under my company name in relation to various design services.”

65. The relevant date for assessing bad faith is 6th May 2021.

66. The evidence is not entirely clear, but I consider it likely that Marie-Anne Du Feu knew her cousin was an interior designer when she applied to register the DU FEU mark. By contrast, it is not clear she knew at that time Rebecca Du Feu intended to trade as Du Feu Design. Both parties appear to assume that the other knew of their businesses through family connections and “*sharing stories.*” However, Rebecca Du Feu does not say in terms that she told Marie-Anne Du Feu of her intention to trade as Du Feu Design. I note Marie-Anne Du Feu registered the domain name dufeudesignltd.com on 16th December 2020 (5 months prior to the relevant date). Including ‘ltd’ in a domain name is unusual. It was probably done because Marie-Anne Du Feu found someone else had already registered dufeudesign.com. It is now clear to all concerned that the person concerned was Rebecca De Feu. However, the

'whois' domain name registration document in evidence shows the registrant opted to keep their identity private.²³ Consequently, it cannot be inferred from this evidence that Marie-Anne Du Feu must have found out that her cousin-in-law had already registered dufeudesign.com.

67. I am not satisfied either, that Marie-Anne Du Feu knew that Rebecca Du Feu was already trading as DU FEU DESIGN when she made her trade mark application. After all, Design has been unable to provide much information about this trade for the purposes of these proceedings, even after being specifically put to proof. In these circumstances, I am not prepared to infer the existence of this business under DU FEU DESIGN must have been apparent to Marie-Anne Du Feu.

68. According to her witness statement, Rebecca De Feu does not have a problem with her cousin-in-law using the Du Feu surname for fashion designing. The evidence indicates that Marie-Anne Du Feu's first company - Du Feu Design Ltd - was in fact using the name, prior to the date of DFL's application, in relation to design services that were similar to interior design/architect services, i.e. kitchen, garden and building (extension) design. 'Design' is entirely descriptive. Therefore, in my view, Marie-Anne Du Feu had a legitimate interest in registering the distinctive part of her company name – DU FEU – for a description of services that covered those activities too. 'Designing' is such a term. It is true the term also covers interior design services in which she probably knew that Rebecca Du Feu was engaged. However, that does not necessarily mean she applied to register the mark in bad faith.

69. In *Hotel Cipriani SRL and others v Cipriani (Grosvenor Street) Limited and others*,²⁴ Arnold J. (as he then was) stated that:

“Even if the applicant does not believe that he has a superior right to registration and use of the mark, he may still believe that he is entitled to registration. The applicant may not intend to seek to enforce the trade mark against the third parties and/or may know or believe that the third parties would have a defence to a claim for infringement... .”

²³ See exhibit RDF 4

²⁴ [2009] RPC 9 (approved by the COA in [2010] RPC 16)

70. In this connection, I note that section 10(2) of the Act provides:

“(2) A registered trade mark is not infringed by—

(a) the use by an individual of his own name or address

provided the use is in accordance with honest practices in industrial or commercial matters.”

71. This would appear to provide Rebecca Du Feu with a *prima facie* defence in respect of her use of her personal name in relation to interior design services. The effect of the registration of the DU FEU mark by DFL would not, therefore, have been likely to prevent Rebecca Du Feu from continuing to trade under her own name as an interior designer.

72. Taking all of the above into account, I am not satisfied the evidence shows that DFL applied to register the DU FEU mark in bad faith. Taken at its highest, the evidence establishes facts that are as consistent with good faith as bad faith. Therefore, I also reject the ground for invalidation based on sections 3(6) and 47(1) of the Act.

DFL’S OPPOSITION TO DESIGN’S TRADE MARK APPLICATION No. 3638394

73. As DFL’s trade mark 3637708 has survived the attack on its validity, DFL is entitled to rely on the registration of DU FEU as an earlier trade mark for the purposes of its opposition to Design’s trade mark application 3638394, DU FEU DESIGN.

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

The principles

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

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

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

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

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

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

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

Comparison of services

75. The respective services are shown below.

Services applied for	Services covered by earlier mark
Class 42: <u>Architectural services</u> ; computer aided design services relating to architecture; design services relating to interior decorating for homes; design services relating to interior decorating for offices; design services relating to shopfronts; design services relating to signage; design of lighting systems; design services relating to shop, restaurant, bar, residential and workplace fixtures; design of layouts for office furniture; design services relating to architecture; design services relating to hospitality venues; furnishing design services for the interiors of buildings; professional consultancy relating to the design of interior accommodation; consultancy relating to selection of furnishing fabrics [interior design];	Class 42: Fashion design; Design of fashion accessories; Fashion design consulting services; Providing information about fashion design services; Designing of clothing; Design of clothing; Clothing design services; Design services for clothing; Design of clothing accessories; Design of clothing, footwear and headgear; Design for others in the field of clothing; Designing; Dress design; Designing (Dress -); Hat design.

<p>furniture design; interior design services <u>and information and advisory services relating thereto</u>; information services relating to the combination of colours, paints and furnishings for interior design; commercial interior design; shop interior design; interior design services; design of interior decoration; architectural design for interior decoration; space planning [design] of interiors; interior design services for the retail industry; planning [design] of bars; planning [design] of restaurants; planning [design] of hotels; planning [design] of workplaces; <u>consultancy, information and advisory services related to the aforesaid.</u></p>	
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76. In *Gérard Meric v Office for Harmonisation in the Internal Market*,²⁵ the General Court stated that:

“29. 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.”

77. Applying this guidance to the case in hand, I find that apart from those services underlined in the table above, all the services covered by Design’s application are identical to “*Designing*” in the specification of the earlier mark.

78. Further, as is apparent from the inclusion of the term “*architectural design for interior decoration*” in the specification of Design’s application, “*architectural services*” are clearly highly similar to “*designing.*”

²⁵ Case T-133/05

79. Further still, “*consultancy, information and advisory services related to* [Design’s specified services]” are highly similar to “*designing*” in the specification of the earlier mark because that term covers designing of [property] interiors.

80. For the sake of completeness, I record here that even if I had upheld Design’s application to invalidate the registration of the earlier mark in relation to “*designing*” (unqualified), I would still have found the earlier mark was validly registered in relation to ‘designing’ services for, inter alia, kitchens, gardens and property exteriors. Consequently, applying the guidance from *Canon*,²⁶ I would still have found the respective services to be identical or highly similar.

Average consumer and the selection process

81. Given the likely cost of the services, and the importance of the outcome of the design to the user, the average consumer is likely to pay an above average level of attention when selecting architectural or interior design services.

82. The services are likely to be initially selected by eye, but word-of-mouth recommendations and enquiries are also likely to pay an important part in the selection process.

Distinctive character of the earlier mark

83. The earlier mark consists of the surname DU FEU. It is not descriptive of the services. Although there is no evidence before me, my experience suggests that it is not a common surname. However, it is not a very rare or highly unusual name. Therefore, I find the earlier mark is inherently distinctive to a ‘normal’ or ‘average’ degree.

84. The evidence does not establish that the earlier mark had acquired a more distinctive character through use prior to the date of DFL’s application.

²⁶ Case C-39/97

Comparison of marks

85. The marks are DU FEU DESIGN and DU FEU. DU FEU is plainly the distinctive part of DU FEU DESIGN when considered in relation to the services at issue. In my view, the marks are highly similar to the point of being almost identical.

Likelihood of confusion

86. If the marks are used concurrently in relation to identical or highly similar services, there is a clear likelihood of confusion.

87. DFL's opposition under section 5(2) of the Act therefore succeeds.

OVERALL OUTCOME

88. Design's application to invalidate trade mark 3637708 has failed.

89. DFL's opposition to Design's trade mark application 3638394 succeeds. Consequently, that application will be refused.

COSTS

90. It is highly regrettable that these small one-woman businesses have not been able to settle this dispute without a decision from this tribunal. One might have thought that given the people behind these companies are known as Marie-Anne Du Feu and Rebecca/Becky Du Feu, respectively, there is a potential solution to their common desire to trade under the family name DU FEU. Instead they seem to have focussed on perceived differences between their fields of design activity, a distinction I have found to be less clear-cut than at least one of them may have understood. It is to be hoped that, even now, they will find a solution which avoids the need for further costly litigation.

91. Be that as it may, DFL has been successful in these proceedings. This means that according to well established principles, it is entitled to a contribution towards its costs. I assess this as follows:

Filing a notice of opposition: official fee: £100

Preparing a statement of grounds in the opposition, considering the application for invalidation and filing a counterstatement: £350

Filing evidence and considering the other side's evidence and submissions: £750

Preparing final written submissions: £100

92. I therefore order Studio Du Feu Ltd to pay Du Feu Ltd the sum of £1300. This sum to be paid within 21 days of the end of the period allowed for appeal or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings if the appeal is unsuccessful or does not proceed.

Dated this 28th day of March 2024

Allan James
For the Registrar

Annex A

Class 9: Fashion sunglasses; Sunglasses; Sunglass cords; Sunglasses frames; Sunglass lenses; Sunglass cases; Cases for sunglasses; Cords for sunglasses; Covers for sunglasses; Straps for sunglasses; Chains for sunglasses; Frames for sunglasses; Lenses for sunglasses; Boxes [cases] for sunglasses.

Class 14: Jewellery fashioned of precious metals; Jewellery fashioned of cultured pearls; Jewellery fashioned of semi-precious stones; Jewellery fashioned from non-precious metals; Fashion jewellery; Jewellery for personal wear; Tie clasps of precious metals; Clasps for jewelry; Hat jewelry; Hat ornaments of precious metal; Jewelry; Jewelry (Paste -) [costume jewelry]; Paste jewelry [costume jewelry]; Necklaces [jewelry]; Costume jewelry; Jewelry charms; Brooches [jewelry]; Jewelry brooches; Children's jewelry; Locketts [jewelry]; Bracelets [jewelry]; Jewelry chains; Shoe jewelry; Women's jewelry; Pearls [jewelry]; Pendants [jewelry]; Diamond jewelry; Cufflinks; Boxes for cufflinks; Earrings; Clip earrings; Ear studs; Hoop earrings; Gold earrings; Drop earrings; Silver earrings; Silver-plated earrings; Gold plated earrings; Gold-plated earrings; Earrings of precious metal.

Class 18: Fashion handbags; Leather cloth; Cloth bags; Umbrellas for children; Handbags for men; Small bags for men; Reins for guiding children; Bags; Casual bags; Hand bags; Sports bags; Waist bags; Umbrella bags; Crossbody bags; Duffel bags; Duffle bags; Evening bags; Shoulder bags; Carrying bags; Beach bags; Shoe bags; Tote bags; Clutch bags; Leather bags; Imitation leather bags; Straps (Leather -); Leather straps; Shoulder straps; Handbag straps; Straps (Leather shoulder -); Straps for handbags; Leather shoulder straps; All-purpose leather straps; Straps made of imitation leather; Baggage tags; Weekend bags.

Class 25: Face masks [fashion wear] ; Clothing; Clothes; Tops [clothing];Hoods [clothing]; Leisure clothing; Infant clothing; Children's clothing; Childrens' clothing; Sports clothing; Leather clothing; Gloves [clothing]; Waterproof clothing; Plush clothing; Girls' clothing; Swaddling clothes; Cloth bibs; Playsuits [clothing]; Slipovers [clothing]; Jerseys [clothing]; Weatherproof clothing; Casual clothing; Denims [clothing]; Combinations [clothing]; Furs [clothing]; Shorts [clothing]; Collars [clothing]; Babies' clothing; Ties [clothing]; Outer clothing; Cashmere clothing; Bandeaux

[clothing]; Women's clothing; Bodies [clothing]; Embroidered clothing; Fashion hats; Leisure wear; Infant wear; Exercise wear; Surf wear; Ladies wear; Maternity wear; Bridesmaids wear; Casual wear; Children's wear; Formal wear; Evening wear; Sports wear; Head wear; Rain wear; Formal evening wear; Headgear for wear; Shoes for casual wear; Ready-to-wear clothing; Clothing for leisure wear; Dresses for evening wear; Swim wear for gentlemen and ladies; Clothing for children; Trousers for children; Swim wear for children; Clothing for men, women and children; Footwear for men; Coats for men; Outerclotting for men; Socks for men; Footwear for men and women; Bathing suits for men; Boys' clothing; Boy shorts [underwear]; Outerclotting for boys; Outerclotting for girls; Layettes [clothing]; Jackets [clothing]; Kerchiefs [clothing]; Chaps (clothing); Maternity clothing; Thermal clothing; Belts [clothing]; Muffs [clothing]; Slips [clothing]; Wraps [clothing]; Athletic clothing; Button down shirts; Button-front aloha shirts; Hats; Beanie hats; Rain hats; Bobble hats; Small hats; Woolly hats; Sun hats; Baseball hats; Beach hats; Baseball caps and hats; Sports caps and hats; Gloves; Underwear; Briefs [underwear]; Women's underwear; Men's underwear; Functional underwear; Ladies' underwear; Trunks [underwear]; Maternity underwear; Underwear for women; Boxer shorts; Boxer briefs; Slipper socks; Woollen socks; Pop socks; Men's dress socks; Socks; Men's socks; Bed socks; Trouser socks; Ankle socks; Anklets [socks]; Sports socks; Thermal socks; Toe socks; Non-slip socks; Socks and stockings; Socks for infants and toddlers; Shoes; Dress shoes; Rubber shoes; Leisure shoes; Shoe straps; Baby shoes; Canvas shoes; Women's shoes; Infants' shoes; Shoe soles; Deck-shoes; Rain shoes; Leather shoes; Beach shoes; Slip-on shoes; Shoes for infants; High-heeled shoes; Shoes for leisurewear; Wellington boots; Wellingtons; Boots; Infants' boots; Boot cuffs; Baby boots; Ladies' boots; Half-boots; Ankle boots; Rain boots; Winter boots.

Class 26: Cloth patches for clothing; Buckles for clothing [clothing buckles]; Novelty buttons [badges] for wear; Strap buckles; Belt buckles; Buckles (Shoe -); Clothing buckles; Hair buckles; Shoe buckles; Belt buckles of precious metals; Belt buckles not of precious metal; Belt buckles [clothing accessories]; Belt buckles of precious metal [for clothing]; Buckles of precious metal [clothing accessories]; Buckles for clothing; Buckles [clothing accessories]; Belt buckles for clothing; Belt buckles [for clothing]; Belt clasp; Clasp (Belt -); Belt clasps; Clasps for clothing; Buttons; Campaign buttons; Button badges; Stud buttons; Snap buttons; Shirt buttons; Rivet buttons; Novelty

buttons; Press buttons; Buttons for clothing; Badges [buttons] (Ornamental novelty -); Snap buttons for clothing; Stud buttons [fasteners] for shoes; Blazer buttons of precious metals; Embroidery; Silver embroidery; Embroidery laces; Gold embroidery; Embroidery for garments; Fancy goods [embroidery]; Silver embroidery for garments; Gold embroidery for garments; Laces [except embroidery laces]; Ornaments (Hat -), not of precious metal; Laces (Shoe -); Shoe laces; Laces for shoes; Lace; Lace for edgings; Laces for boots; Laces for footwear; Eyelets (Shoe -); Fasteners (Shoe -); Shoe trimmings; Hooks (Shoe -); Shoe fasteners; Shoe eyelets; Shoe hooks; Zips; Zip fasteners; Zip fasteners for bags; Bags [Zip fasteners for -].

Class 35: Fashion show exhibitions for commercial purposes; Fashion shows for promotional purposes (Organization of -); Retail services in relation to fashion accessories; Promoting the sale of fashion goods through promotional articles in magazines.

Class 42: Fashion design; Design of fashion accessories; Fashion design consulting services; Providing information about fashion design services; Designing of clothing; Design of clothing; Clothing design services; Design services for clothing; Design of clothing accessories; Design of clothing, footwear and headgear; Design for others in the field of clothing; Designing; Dress design; Designing (Dress -); Hat design.

Class 45: Personal fashion consulting services.