

o/0771/24

TRADE MARKS ACT 1994

**IN THE MATTER OF INTERNATIONAL REGISTRATION NUMBER
WO0000001754344**

BY WING AVIATION LLC

TO PROTECT THE FOLLOWING TRADE MARK IN CLASSES 6, 7:

AutoLoader

AND

**IN THE MATTER OF INTERNATIONAL REGISTRATION NUMBER
WO0000001755177**

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AUTOLOADER

TRADE MARKS ACT 1994
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AutoLoader

AUTOLOADER

Background

1. On 6 September 2023, Wing Aviation LLC ('the holder') designated the United Kingdom to protect the above marks for the same list of goods, as follows:

Class 6: Metal stands for holding packages; metal stand devices for holding packages for subsequent drone pickup and delivery; metal storage containers for storage of packages; metal stands containing metal storage containers for holding packages.

Class 7: Loading and unloading machines; machines for holding packages; machines for holding packages for drone pickup and delivery.

2. On 19 October 2023, in relation to WO0000001754344 ('344'), the Intellectual Property Office ('IPO') issued a Notification of a Provisional Total Refusal of Protection to WIPO. In that report, an objection was raised under section 3(1)(b) and (c) of the Trade Marks Act 1994 ('the Act') which read as follows:

Absolute grounds for refusal

Section 3(1)(b) and (c)

The designation is not acceptable in Classes 6 and 7. There is an objection under Section 3(1)(b) and (c) of the Act. This is because the mark "AutoLoader" consists exclusively of a sign which may serve in trade to designate the kind and intended purpose of the goods e.g. metal stands for holding packages with automatic loading capabilities; loading and unloading machines with automatic loading capabilities.

Autoloader is defined as being apparatus or machines that have the capability of automatic loading, that is without the need of an operative to load the products. Therefore, the average consumer of the goods would perceive the mark as describing a desirable capability of the goods and not as a trade

mark. It would not enable them to distinguish between one trader to another and therefore cannot act as a badge of origin or function as a trademark.

On 25 October 2023, in relation to WO0000001755177 ('177'), the IPO issued a Notification of a Provisional Total Refusal of Protection to WIPO. In that report, an objection was raised under section 3(1)(b) and (c) of the Act which read as follows:

Absolute grounds for refusal

Section 3(1)(b) and (c)

The designation is not acceptable in Classes 6 and 7. There is an objection under Section 3(1)(b) and (c) of the Act. This is because the mark consists exclusively of the word "AUTOLOADER", being a sign which may serve in trade to designate the kind and intended purpose of the goods e.g., metal stands for holding packages with automatic loading capabilities; loading and unloading machines with automatic loading capabilities.

Internet research demonstrates that the term AUTOLOADER is used in relation to apparatus or machines that have the capability of automatic loading, that is without the need of an operative to load the products. Internet references are attached below at Annex A. Whilst they show use of the term in various fields, the term still has the same meaning – it refers to goods that can load automatically.

Therefore, the mark may serve in trade to inform the consumer that the goods are capable of automatic loading, rather than to indicate sole trade origin of the goods.

3. On 18 December 2023, the holder requested an *ex parte* hearing in relation to both UK designations which were to be heard at the same time due to the obvious similarities between the marks.
4. The hearing was held before me on 8 February 2024 with the holder's representative Ms Karen Veitch of Lincoln IP.
5. From the outset, Ms Veitch stated that her arguments in favour of the acceptance of both UK designations would be the same because even though '344 is 'figurative' the presentation is clearly very minor. I agreed that there is nothing in the stylisation. Therefore, Ms Veitch had no separate or distinct arguments in relation to the figurative mark. Because of the overriding similarities of the marks and identity of the goods, the fact they were both dealt with at the same hearing without clear differentiation I am dealing with both in this statement of

grounds. I would simply add as I have said that insofar as one of the marks possesses a measure of 'stylisation' this is only really in relation to font type and does not present as a material reason to suggest the marks need to be treated differently.

6. At the hearing, Ms Veitch provided background information regarding the holder and their specific business activities. She stated that whilst the specifications are rather wide, the holder actually seeks protection for a very specific and specialist product – Ms Veitch explained that the class 6 goods are used in the delivery of small light objects via drones and the product concerned is one very specific component of this overall process. She continued, the metal stands in class 6 are a 'Y'-shaped stationary docking/collection point and a drone drops a winch that is channelled into the metal stand allowing products to be loaded onto the drone ready for delivery. A more detailed and visual representation of the overall system appears below in my decision. Ms Veitch explained that the goods have no electrical power, and the collection process is entirely mechanical and therefore, in her submission, no "automatic loading" takes place as the goods are not machines *per se*. Whilst the hearing focussed quite extensively on a very specific product in class 6 (metal stands), Ms Veitch did not concede that the sign is descriptive of any of the goods for which protection is sought. She maintained that the mark is not descriptive and that her client is using the sign as a brand.

I believe it is fair to say that Ms Veitch's key point as regards class 6 was that the goods are a stand only and not a machine for example that is electronically controlled. However, I explained at the hearing that what matters for my purposes is the specification as filed which defines as far as third parties are concerned and not the product itself.

7. I deferred my decision at the hearing to undertake further research. I subsequently issued my hearing reports maintaining the section 3(1)(b) and (c) objections against all goods and in connection with both UK designations. I allowed two months for a response.
8. The holder did not respond within the specified timeframe, so on 23 April 2024, I issued refusal letters for both UK designations in accordance with section 37(4) of the Act.
9. On 23 May 2024, the IPO received form TM5 requesting a statement of reasons for the Registrar's decision for '344 and '177.
10. I am now asked under section 76 of the Act and rule 69 of the Trade Marks Rules 2008, to state in writing the grounds for my decision and the materials used in arriving at it. No formal evidence of use has been put before me for the purposes

of demonstrating acquired distinctiveness. Therefore, in respect of the goods listed at paragraph 1, I only have the *prima facie* case to consider.

The Law

11. The relevant parts of section 3 of the Act read as follows:

3 Absolute grounds for refusal of registration

(1) *The following shall not be registered—*

(a) [...]

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

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

(d) [...]

Relevance of EU Law

12. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision may refer to decisions of the EU courts which predate the UK's withdrawal from the EU.

The relevant legal principles

13. The case law under section 3(1)(c) of the Act was summarised by Arnold J (as he then was) in *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc*. [2012] EWHC 3074 (Ch). These are the most relevant points:

(a) The general interest underlying section 3(1)(c) is that of ensuring that descriptive signs relating to one or more characteristics of the goods or services in respect of which registration as a mark is sought may be freely used by all traders offering such goods or services.

- (b) With a view to ensuring that that objective of free use is fully met, it is not necessary that the sign in question actually be in use at the time of the application for registration in a way that is descriptive. It is sufficient that the sign could be used for such purposes.
- (c) The application of that ground for refusal does not depend on there being a real, current or serious need to leave a sign or indication free and that it is therefore of no relevance to know the number of competitors who have an interest, or who might have an interest, in using the sign in question. It is, furthermore, irrelevant whether there are other, more usual, signs than that at issue for designating the same characteristics of the goods or services referred to in the application for registration.
- (d) The situations specifically covered by section 3(1)(c) of the Act are those in which the sign in respect of which registration as a mark is sought is capable of designating a 'characteristic' of the goods or services referred to in the application. By using the terms 'the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service', the legislature made it clear, first, that the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service must all be regarded as characteristics of goods or services and, secondly, that that list is not exhaustive, since any other characteristics of goods or services may also be taken into account.
- (e) The fact that the legislature chose to use the word 'characteristic' highlights the fact that the signs referred to in section 3(1)(c) of the Act are merely those which serve to designate a property, easily recognisable by the relevant class of persons, of the goods or the services in respect of which registration is sought. A sign can be refused registration on the basis of section 3(1)(c) only if it is reasonable to believe that it will actually be recognised by the relevant class of persons as a description of one of those characteristics.
- (f) In addition, a sign is caught by the exclusion from registration in section 3(1)(c) if at least one of its possible meanings designates a characteristic of the goods or services concerned.

14. In addition, there are a number of judgments from the CJEU which deal with the scope of Article 3(1)(c) of First Council Directive 89/104 (recoded and replaced by Directive 2008/95/EC on 22 October 2008) and Article 7(1)(c) of the Community Trade Mark Regulation (the 'CTMR'), whose provisions correspond to section 3(1)(c) of the UK Act. For the avoidance of doubt, it is noted that the

Trade Marks Act 1994 is largely derived from EU law (Directive 2015/2436). I derive the following main guiding principles from the cases noted below:

- Subject to any claim in relation to acquired distinctive character, signs and indications which may serve in trade to designate the characteristics of goods or services are deemed incapable of fulfilling the indication of origin function of a trade mark (*Wm Wrigley Jr & Company v OHIM*, C-191/01P ‘*Doublemint*’, paragraph 30);
- Article 7(1)(c) (section 3(1)(c)) pursues an aim which is in the public interest, namely that signs or indications relating to the categories of goods or services in respect of which registration is sought may be freely used by all. The provision therefore prevents such signs or indications from being reserved to one undertaking alone because they have been registered as trade marks (see judgment of 4 May 1999 in Joined cases C-108/97 and C-109/97 *Windsurfing Chiemsee Produktions- und Vertriebs GmbH (WSC) v Boots-und Segelzubehör Walter Huber and Franz Attenberger (Chiemsee)* [1999] ECR I2779, at paragraph 25);
- It is also a well-established principle that the Registrar’s role is to engage in a full and stringent examination of the facts, underlying the Registrar’s frontline role in preventing the granting of undue monopolies, see to that effect CJEU Case C-51/10 P, *Agencja Wydawnicza Technopol sp. z.o.o. v OHIM* [2011] ECR I-1541 (*Technopol*);
- When determining whether a sign is devoid of distinctive character or is descriptive of the goods or services in respect of which registration is sought, it is necessary to take into account the perception of the relevant consumer who is reasonably well-informed and reasonably observant and circumspect (*Matratzen Concord AG v Hukla Germany SA*, C-421/04);
- There must be a sufficiently direct and specific relationship between the sign and the goods in question to enable the relevant consumer immediately to perceive, without further thought, a description of the category of goods and services in question or one of their characteristics (*Ford Motor Co v OHIM*, T67/07).

15. I am also mindful of the legal principles laid down by the ECJ in the case of *Campina Melkunie BV v Benelux-Merkerbureau* C-265/00 (“BIOMILD”) where it was ruled at paragraph 43 that:

...a trade mark consisting of a neologism composed of elements each of which is descriptive of characteristics of the goods or services in respect of which the application is sought is itself descriptive of the characteristics of

those goods or services for the purposes of that provision, unless there is a perceptible difference between the neologism and the mere sum of its parts: that assumes that, because of the unusual nature of the combination in relation to the goods or services, the word creates an impression which is sufficiently far removed from that produced by the mere combination of meanings lent by the elements of which it is composed, with the result that the word is more than the sum of its parts.

16. Additionally, in 'Postkantoor' (see C-363/99 Koninklijke KPN Nederland NV v Benelux-Merkenbureau) the Court of Justice stated:

98. As a general rule, a mere combination of elements, each of which is descriptive of characteristics of the goods or services in respect of which registration is sought, itself remains descriptive of those characteristics for the purposes of Art. 3(1)(c) of the Directive. Merely bringing those elements together without introducing any unusual variations, in particular as to syntax or meaning, cannot result in anything other than a mark consisting exclusively of signs or indications which may serve, in trade, to designate characteristics of the goods or services concerned.

17. I have also taken into account the consequences for third parties of granting the holder a monopoly. In *Linde A.G. v Rado Uhren A.G.* Case C-53/01 the following guidance was given:

*73. According to the Court's case-law "Article 3(1)(c) of the Directive pursues an aim which is in the public interest, namely that descriptive signs or indications relating to the characteristics of goods or services in respect of which registration is applied for may be freely used by all, including as collective marks or as part of complex or graphic marks. Article 3(1)(c) therefore prevents such signs and indications from being reserved to one undertaking alone because they have been registered as trade marks (see to that effect, *Windsurfing Chiemsee*, paragraph 25).*

74. The public interest underlying Article 3(1)(c) of the Directive implies that, subject to Article 3(3) any trade mark which consists exclusively of a sign or indication which may serve to designate the characteristics of goods or a service within the meaning of that provision must be freely available to all and not be registrable.

Application of legal principles

18. In relation to identifying the relevant consumer, given the goods for which protection is sought, I feel that they are extremely unlikely to be purchased by the general public, although they are likely to be used by the general public as end

user. Having discussed the holder's business activities with Ms Veitch at length during the hearing, it is probably fair to say that the business venture or business project being undertaken by the holder is relatively new and novel. I say this because having conducted internet research, the collection or delivery of packages via drone is certainly not common at this time (at least as a practical reality, as opposed to a conceptual prospect) and I feel it is reasonable to conclude that it is currently a niche and unconventional delivery-type service. Nevertheless, I must take each of the goods individually and consider their ordinary and natural meaning and as stated above, although Ms Veitch focussed more so on the holder's 'Y'-shaped metal stand in class 6 specifically, the goods have not been narrowed or restricted in any way.

19. Thus, I am required to assess the full range of goods in their broadest sense and determine who I consider the relevant consumer to be.

20. It is quite clear that the goods will be purchased by anybody seeking *metal stands for holding packages, metal stands for holding packages for subsequent drone pickup and delivery (cl.6), loading and unloading machines, machines for holding packages (cl.7)*. The consumer here will probably be a business owner, such as a courier firm, or even, perhaps, a local authority or government. In this regard, I would posit that the relevant consumer of such goods will likely be expert, specialist, or at the very least, a professional consumer. Having determined that the consumer of such items will most likely be professionals in the field of courier delivery I have concluded that they are likely to display a high level of attention and knowledge. I say this because the purchase of a metal stand for holding packages or a loading machine for example will not be undertaken on a whim or purchased impulsively. Consequently, they will be highly aware and attentive in their consideration and selection of such products. Nevertheless, I am mindful that it was held by the CJEU in Case C-311/11P *Smart Technologies ULC v. OHIM* at paragraph [48]:

...the fact that the relevant public is a specialist one cannot have a decisive influence on the legal criteria used to assess the distinctive character of a sign. Although it is true that the degree of attention of the relevant specialist public is, by definition, higher than that of the average consumer, it does not necessarily follow that a weaker distinctive character of a sign is sufficient where the relevant public is specialist.

21. The marks consist of the two words 'Auto / AUTO' and 'Loader / LOADER' (conjoined) which create the word combinations 'AutoLoader / AUTOLOADER'. The mark for which protection is sought under '177 is all in capital letters but in my view, there is a clear, obvious, and natural break between the first letter 'O' and the letter 'L'. This will be easily and readily discerned by the relevant consumer, and they will not interpret the sign as anything other than 'AUTO

LOADER'. In my opinion, whether presented together, or separately, the perception and meaning of the wording is the same.

22. The Oxford English Dictionary defines the word 'auto' as follows:

auto/auto-

- *short for automatic*
- *by itself or automatic*

automatic

- *(of a device or process) working by itself with little or no direct human control*
- *a mode of operation in which a particular function of a piece of equipment is performed automatically rather than manually*

The Oxford English Dictionary defines the word 'loader' as follows:

loader

- *a machine or person that loads something*

23. As stated in the case law (*inter alia*, *BIOMILD* (C-265/00) and *POSTKANTOOR* (C-363/99)), when bringing two words together there must be a perceptible difference between the whole and the mere sum of its parts to imbue a sign with a distinctive character. However, regarding the signs in question in connection with the goods, there is no such difference in my view. The word 'auto' qualifies the word 'loader' and vice versa with the result being a descriptive combination which serves to describe a loader that functions automatically. There is no unusual variation in syntax or juxtaposition from a purely linguistic perspective.

24. It is incumbent on me to consider those words individually, and then fundamentally, as a whole. When considering the ordinary and natural meaning of the words in combination they could serve to describe a metal stand or loading machine (covering both classes specified) that is capable of automatically loading something i.e., it is an autoloader *per se*, or the product has the capacity to automatically load something. The sign could, without education, be immediately understood by the relevant public, without further thought and without the need to analyse in detail, a descriptive message as to at least one essential characteristic of the goods. This characteristic could for example be a feature of the product as a whole leading to a description of a type or kind of delivery product.

25. I will discuss below (as I feel that it is necessary) the holder's specific product (where the marks remain descriptive in my view). However, in the first instance, I must of course consider the full range of goods for which protection is sought. This is especially important in light of specific submissions made by the attorney

directed to class 6 rather than class 7; namely, that a metallic stand without electrical input is unlikely to have an 'autoloading' capability. In this regard, *metal stands for holding packages* and *loading and unloading machines* at large are very broad terms in trade and would cover a wide range of products for which the signs *could* be used descriptively. Therefore, I must consider the goods in the widest possible context which means any metal stand or any loading and unloading machine that is, or can function as, an autoloader.

26. As stated above, I am assessing the mark against the specifications to define the rights, not the holder's product. In this regard, a stand in class 6 may, for example, be mechanically, if not electrically, capable of having an autoloader function.
27. The relevant consumer will not overanalyse the marks and they will take those words at face value. Indeed, I note two different IPO examiners reached the same conclusion that the signs may serve in trade as a description, and I believe that, absent education through use, this will be the perception of the relevant consumer seeking out such products.
28. At the hearing, I explained to Ms Veitch that, as far as class 7 is concerned, the word 'autoloader' is perhaps even more apt than in class 6. These are machines, suggesting a power source and possibly with minimal human intervention. It appears entirely reasonable that a loading machine or unloading machine in class 7 could operate autonomously and without human intervention. Therefore, the words 'auto loader' used in connection with such products, whereby their primary purpose is to independently load or unload something, are entirely apt to describe an essential characteristic of such products.
29. As mentioned above, I feel that it is necessary to include the holder's specific business activities that assisted me in terms of reaching the conclusion that I did in my hearing report and in the end helped reinforce and fortify my appraisal. Ms Veitch thoroughly described the holder's intended business, and subsequent to the hearing she provided me with a link to a third-party website (cnet.com) that also describes the holder's business activities in detail. Ms Veitch also provided me with a link to the holder's video on YouTube which further clarifies the holder's intended commercial exploits:
- <https://www.cnet.com/pictures/take-a-look-at-wings-auto-loading-drone-delivery-system/13/>
 - https://www.youtube.com/watch?v=-tv6uEN_BiY
30. Having perused the website and video, to my mind, although I would have arrived at the same conclusion without this additional material based on dictionary definition alone, the additional material reinforces my decision to maintain the

section 3(1)(b) and (c) objections raised at examination stage. I provide below some images that may be useful:



31. The above images taken from the holder's website show the metal stand in question along with an image of a drone holding a winched package that has been automatically loaded by the metal stand.
32. In terms of the holder's argument that the goods (metal stands) are not "loading" *per se*, I concluded that this is a very fine distinction and not sufficient to conclude that those goods are not fundamental to the loading of the products onto the drone or from the stand. In my view, the goods allow for and facilitate the loading. What is critical here though is that I do not lose sight of the key legal rights afforded by protection in both classes 6 and 7 by focussing on the product itself and its elements, all of which seem in any event to be integral and interdependent in the delivery of goods. It is fair also to say that my decision has been fortified by the use of the terms on the third-party website referred to above:

Take a Look at Wing's Auto-Loading Drone Delivery System

Here's the system the Alphabet subsidiary uses to whisk groceries, tools, vitamins and other small packages from retailer to home.

Alphabet Wing Drone Autoloader

Wing marketing chief Jonathan Bass shows how a store employee hooks a package onto the autoloader to await drone pickup. The autoloader design, due to arrive later this year but now publicly revealed, is key to Wing's plan to expand drone deliveries to broader regional drone delivery networks.

Wing Delivery Drone Lowering Its Hook

A Wing delivery drone lowering its hook down to an autoloader to retrieve a package for delivery.

Alphabet Wing Delivery Drone Autoloader

Alphabet's Wing showed a drone sending down a hook to snag a package from this prototype autoloader. A human places the package on the autoloader but doesn't have to be there for the drone pickup.

Wing Delivery Drone Reeling in a Package

A Wing delivery drone reeling up a package it's hooked from an autoloader.

Alphabet Wing Delivery Drone 'Pill'

Wing delivery drones pick up packages with a lightweight hook called a "pill" after its shape. The rounded bottom stops the hook from re-grabbing a package after delivery. The triangular protrusion to the left helps orient it properly in the autoloader. Its hollow design, resembling a whiffle ball, keeps the hook trailing the drone after dropoff so it can be reeled in gradually without interfering with the propellers.

Alphabet Wing Drone Autoloader

Alphabet subsidiary Wing plans to start using drone autoloader stations later in 2023. The two diagonal bars channel the drone's tether to the right place then orient the hook to snag the package.

Alphabet Wing Drone Autoloader

Wing unveiled the final look for its drone delivery autoloader stations that retailers will be able to use to send packages to customers.

33. When considering all the instances above of 'autoloader', it seems to me that the mark could be seen very easily as a descriptive term. The goods may allow for the loading or delivery of packages onto a drone automatically. To me it shows how the terms easily fall into, and are easily suited to, descriptive use. Consequently, I believe that the goods are utilised for the purpose of automatically loading products onto drones i.e., an autoloader. For the purpose of clarity, whilst the holder may argue that the above internet extracts reported on by a third-party is trade mark use, I maintain that a fairer assessment would be somewhat ambivalent and it could conceivably be seen as describing a feature of the delivery system.
34. However, I must stress again that this additional material provided by Ms Veitch has not proven determinative and I would have arrived at my conclusion based only on dictionary meaning. It has however served to fortify or reinforce my primary appraisal.
35. In reaching my decision I have also taken guidance from the ruling of the CJEU, Case C191/01P *DOUBLEMINT OHIM v. Wm Wrigley Jr Co.* The Court stated that the test was not simply whether the sign had a descriptive use at the time of the application but also whether the sign '*could be used for such purposes*'. Importantly, this was to be determined not by whether the sign is capable of being understood by consumers as a designation of a characteristic of the goods/services necessarily but whether the sign was capable of being used by other traders to designate a characteristic of their goods or services. Here, both the rationale and the test prioritise the public interest.

36. Having given full consideration to the facts of the case, in my view, the words are not unusual, and consumers will simply expect the goods to have some involvement in the automated loading of items, which is in fact the case.
37. Therefore, absent education, I deem it likely that the relevant consumer will simply perceive the signs as a description of a characteristic of the goods in both classes 6 and 7.

Conclusion

38. The marks are considered in the *prima facie* case to be descriptive of the kind and intended purpose of the goods listed under the designations and subsequently fail under section 3(1)(c) of the Act.
39. As I have found that the marks in question are open to objection under section 3(1)(c) of the Act, it follows that they are also open to objection under section 3(1)(b). Anna Carboni, sitting as the Appointed Person in *COMBI STEAM* (O-363-09), summarised the leading case law in respect of this part of the Act:

It has been said that lack of distinctive character is the essence of any objection under section 3(1)(b), (c) or (d) of the Act and that, despite its position in the list, section 3(1)(b) performs “a residual or sweeping-up function”, backing up the other two provisions, which contain specific and characteristic examples of types of marks that lack distinctive character: Procter & Gamble Ltd’s Trade Mark Application [1999] RPC 673 (CA) per Robert Walker LJ at 679. If a trade mark is entirely descriptive of characteristics of goods or services (and thereby prohibited from registration under section 3(1)(c)), it will also be devoid of any distinctive character under section 3(1)(b): Koninklijke KPN Nederland BV v Benelux- Merkenbureau Case C-363/99 (POSTKANTOOR) [2004] ETMR 57 (ECJ) at [86].

40. It is clear from the above guidance that if a mark is entirely descriptive of characteristics of goods or services, it will also be devoid of any distinctive character under section 3(1)(b). As I have found that the mark in question is open to objection under section 3(1)(c) of the Act, it follows that it is also open to objection under section 3(1)(b) of the Act.
41. No separate objection had been raised under section 3(1)(b) and the finding of non-distinctiveness was the automatic consequence of the sign being considered to be descriptive. Therefore, I will give no separate rationale as regards the objection under section 3(1)(b) but will instead treat the two objections as co-extensive and based on the same rationale.

42. For the reasons given above, I consider the signs to be descriptive of the kind and intended purpose of the goods pursuant to section 3(1)(c) and, by inference, also devoid of any distinctive character. The UK designations are therefore refused under the terms of section 37(4) of the Act because they fail to qualify under section 3(1)(b) and 3(1)(c).

Dated this 14th day of August 2024

**Matthew Davies
For the Registrar
The Comptroller-General**