

o/0176/23

IN THE MATTER OF THE TRADE MARKS ACT 1994

IN THE MATTER OF TRADE MARK APPLICATION NO. 3592121 IN THE NAME OF BURTON'S FOODS LIMITED FOR THE TRADE MARK



IN CLASS 30

AND THE OPPOSITION THERETO UNDER NO. 425250 BY NOT GUILTY FOOD CO LIMITED

AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF HEATHER HARRISON (O/669/22) DATED 9 AUGUST 2022.

DECISION

Introduction

1. This is an appeal by Not Guilty Food Co Limited ("**Appellant**") from decision O/669/22 of Ms H. Harrison ("**Decision**") concerning the opposition by the Appellant to application number 3592121 ("**Application**") for the marks shown below, filed by Burton's Foods Limited ("**Respondent**") on 8 February 2021 in respect of the following goods and services:



Class 30: Biscuits; savoury biscuits; sweet biscuits; biscuits containing jam; biscuits containing a soft centre; biscuits containing chocolate; biscuits containing a flavoured centre; biscuits containing buttercream; chocolate biscuits, biscuits containing marshmallow; biscuits containing toffee; cookies; cookie bars; cookies containing chocolate; cookies covered in chocolate; preparations made from flour; rusks; bakery products; tarts; pastries; confectionery; shortbread; cakes; cupcakes; muffins; cake bars; chocolate; chocolate based products; snack biscuits; baked snack biscuits, cereal bars; desserts, puddings; food preparations for use in making desserts and puddings; dessert toppings, pudding toppings; preparations for making dessert and pudding toppings; trifle and preparations for making trifles.

2. The Appellant relied upon the following marks:

i) UK 3240120 The Skinny Food Co (“the ‘120 mark”)
Filing date: 28 June 2017; registration date: 3 November 2017
Registered for goods in classes 5, 29 and 30

(ii) UK 3444340 Skinny Food Co Skinny Dips (“the ‘340 mark”)
Filing date: 14 November 2019; registration date: 21 February 2021
Registered for goods in classes 29 and 30

3. Details of the goods in the specification of each mark are set out in the Annex.
4. The Appellant also relied upon the unregistered word sign THE SKINNY FOOD CO and the following figurative sign (“**Figurative Sign**”):



5. In the Decision, H. Harrison for the Registrar held that the opposition was unsuccessful, and that the Application should accordingly proceed to registration for all the goods in its specification.
6. On 6 September 2022 the Appellant filed a Notice to Appeal to the Appointed Person against the Decision under Section 76 of the Trade Marks Act 1994.

The Hearing Officer’s decision

7. The Hearing Officer held as follows (in summary, and insofar as is relevant to this appeal):
 - a. The average consumer of the Respondent’s goods is a member of the general public. Confectionery, chocolate, chocolate-based products and cereal bars may be purchased quickly and with little reflection, resulting in a low degree of attention on the part of the consumer. The remaining goods will be selected with a medium degree of attention. The purchasing process is likely to be mainly visual, but there may also be an aural component to the selection.
 - b. The word “skinny” has been in widespread use to mean something low-fat for some time. Accordingly, the distinctiveness of the ‘120 mark is in the combination of the elements. It has, inherently, only the minimum degree of distinctiveness required for registration, i.e. it is very low in distinctive character. The Appellant accepts that the ‘120 mark represents its best case, and accordingly the Hearing Officer’s findings in relation to the ‘340 mark are not reproduced in this decision.
 - c. There has been a small enhancement of the distinctiveness of the ‘120 mark in relation to syrups and sauces [condiments].
 - d. The Application and the ‘120 mark are visually and aurally similar to a reasonably high degree, and conceptually similar to a medium degree.
 - e. The comparison of the goods for the Application and the ‘120 mark is as follows:

Goods in Application	Similarity to goods in '120 mark
Biscuits; cookies; cookie bars; cookies containing chocolate; cookies covered in chocolate; preparations made from flour; pastries; confectionery; shortbread; muffins; chocolate; chocolate based products; puddings; sweet biscuits; biscuits containing chocolate; chocolate biscuits; biscuits containing marshmallow; biscuits containing toffee; snack biscuits; baked snack biscuits; bakery products; cakes; cake bars; tarts; trifle; desserts; cupcakes; food preparations for use in making desserts and puddings; dessert toppings, pudding toppings	Identical
Biscuits containing jam; biscuits containing a soft centre; biscuits containing a flavoured centre; biscuits containing buttercream; cereal bars	Highly similar
Savoury biscuits; preparations for making trifles	Similar to medium degree
Rusks; preparations for making dessert and pudding toppings	Similar to fairly low degree

- f. There is no likelihood of direct or indirect confusion between the Application and the '120 mark, notwithstanding the examples of alleged actual confusion relied upon by the Appellant.
- g. The Appellant has a reasonable level of goodwill in connection with its business in the provision of syrups and sauces [condiments], and a modest level of goodwill in relation to cookie mixes and low sugar food bars, in each case connected to both the Figurative Sign and to the underlying wording "The Skinny Food Co". However, there is no likelihood of a substantial number of the public being deceived.

Grounds of Appeal

8. In the Statement of Grounds of Appeal and its skeleton argument, the Appellant made six distinct criticisms of the Decision:
 - a. In practical terms in the comparison of the trade marks at issue the Hearing Officer artificially dissected the trade marks under consideration and did not consider the trade marks as a whole in their comparison;
 - b. The Hearing Officer did not follow the guidance of *Kurt Geiger v A-List Corporate Limited*, BL O/075/13 in asking "in what does the distinctive character of the earlier mark lie?" and importantly ignored the fact that the underlying construction or root of the distinctive character of the trade marks at issue was identical;
 - c. The Hearing Officer did not consider the issue of 'notional fair use' in the comparison of trade marks;
 - d. The Hearing Officer did not place sufficient weight on the evidence of confusion and analysed it incorrectly;

- e. In light of all of above and in particular (d) the Hearing Officer's analysis of the potential for 'indirect confusion' is contradicted by the evidence of confusion;
 - f. Due to the Hearing Officer's mis-analysis of the trade marks at issue, misrepresentation under the Section 5(4)(a) ground of Opposition should have been found and logically this should have led to a finding of damage or likely of damage.
9. The Appellant's representative, Mr Curtis, expanded upon the above at the hearing. Mr Tritton, Counsel for the Respondent, sought in his skeleton argument to uphold the Hearing Officer's decision, and again expanded upon this in the hearing. I set out below further details of the parties' arguments as are necessary to understand my overall conclusions.

Standard of review

10. The approach to be adopted in an appeal hearing has been laid down a number of times in case law, both in general terms (e.g. by the Supreme Court in *Actavis Group PTC v. ICOS Corporation* [2019] UKSC 1671) and specifically in relation to appeals before the Appointed Person (Daniel Alexander Q.C. sitting as the Appointed Person in *TT Education Ltd v Pie Corbett Consultancy Ltd* (O/017/17), approved by Arnold J in *Apple Inc. v Arcadia Trading Limited* [2017] EWHC 440 (Ch)). These cases establish the following principles:
- Appeals to the appointed person are by way of review, not re-hearing;
 - It is necessary for the appellant to satisfy the appeal tribunal that there was a distinct and material error of principle in the Hearing Officer's decision, or that the Hearing Officer was wrong;
 - In the case of conclusions on primary facts it is only in a rare case, such as where that conclusion was one for which there was no evidence in support, which was based on a misunderstanding of the evidence, or which no reasonable judge could have reached, that the Appointed Person should interfere with it;
 - In the case of a multifactorial assessment or evaluation, the Appointed Person should show a real reluctance, but not the very highest degree of reluctance, to interfere in the absence of a distinct and material error of principle. Special caution is required before overturning such decisions. In particular, where an Appointed Person has doubts as to whether the Registrar was right, he or she should consider with particular care whether the decision really was wrong or whether it is just not one which the appellate court would have made in a situation where reasonable people may differ as to the outcome of such a multifactorial evaluation;
 - Situations where the Registrar's decision will be treated as wrong encompass those in which a decision is (a) unsupportable, (b) simply wrong (c) where the view expressed by the Registrar is one about which the Appointed Person is doubtful but, on balance, concludes was wrong. It is not necessary for the degree of error to be 'clearly' or 'plainly' wrong to warrant appellate interference but mere doubt about the decision will not suffice;
 - The Appointed Person should not treat a decision as containing an error of principle simply because of a belief that the decision could have been better expressed. Appellate courts should not rush to find misdirections warranting reversal simply because they

might have reached a different conclusion on the facts or expressed themselves differently. Moreover, in evaluating the evidence the Appointed Person is entitled to assume, absent good reason to the contrary, that the Registrar has taken all of the evidence into account.

11. In addition to the above, Mr Iain Purvis QC sitting as the Appointed Person in *ROCHESTER Trade Mark*, BL O/049/17, made the following observations at paragraph 33:

“... the reluctance of the Appointed Person to interfere with a decision of a Hearing Officer on likelihood of confusion is quite high for at least the following reasons:

(i) The decision involves the consideration of a large number of factors, whose relative weight is not laid down by law but is a matter of judgment for the tribunal on the particular facts of each case

(ii) The legal test ‘likely to cause confusion amongst the average consumer’ is inherently imprecise, not least because the average consumer is not a real person

(iii) The Hearing Officer is an experienced and well-trained tribunal, who deals with far more cases on a day-to-day basis than the Appellate tribunal

(iv) The legal test involves a prediction as to how the public might react to the presence of two trade marks in ordinary use in trade. Any wise person who has practised in this field will have come to recognize that it is often very difficult to make such a prediction with confidence

Any sensible Appellate tribunal will therefore apply a healthy degree of self-doubt to its own opinion on the result of the legal test in any particular case.”

12. I shall bear all the above in mind when reviewing the Decision.

Discussion

13. As a preliminary point, during the hearing Counsel for the Respondent submitted that the appeal was advanced solely on the basis of error(s) of principle, and not on the basis that the Hearing Officer was wrong. The Appellant’s representative, on the other hand, contended that the appeal was advanced on both bases. Paragraph 2 of the Grounds of Appeal states “The Appellant submits that the Hearing Officer has made distinct and material errors of principle in the Decision”. Furthermore, paragraph 8 reads “The Appellant contends that the Hearing Officer made errors with regards six aspects of the Decision ...”. I believe it is clear from the above that the appeal is advanced solely on the basis of error(s) of principle, and that is the basis on which I shall determine this appeal.

14. Looking at the various alleged errors of principle in turn, my analysis is as follows.

- (a) **Hearing Officer artificially dissected the trade marks under consideration and did not consider the trade marks as a whole in their comparison**
- (b) **Hearing Officer failed to follow the guidance of *Kurt Geiger v A-List Corporate Limited*, and ignored the fact that the underlying construction or root of the distinctive character of the trade marks at issue was identical**

15. I shall consider the first two grounds together, as they are strongly related.

16. The Hearing Officer made the following findings as to the '120 mark and the Application respectively (my underlining):
- Paragraph 64: “none of the individual components of “The Skinny Food Co” is distinctive ... the distinctiveness of the earlier mark is in the combination of the elements”;
 - Paragraph 82: “The overall impression of the contested mark is dominated by the words “THE SKINNY COOKIE CO”. Although “SKINNY” is presented in a larger size, followed by “COOKIE CO”, with “THE” in the smallest font, it is a descriptive word and all four words will be read as a unit, with no single word dominating”.
17. Furthermore, at paragraph 79, she reminded herself that “The average consumer normally perceives a mark as a whole and does not proceed to analyse its various details”, and at paragraph 80 “It would be wrong, therefore, artificially to dissect the marks, although it is necessary to take into account the distinctive and dominant components of the marks”.
18. In paragraph 83, when comparing the marks, she said “I have already discussed the distinctiveness of the '120 mark. No one part of it is distinctive. The overall impression is contained in the phrase “The Skinny Food Co” as a whole, which will be seen as a unit indicating a particular company, without any single element of the mark being more distinctive or dominant”.
19. Finally, at paragraph 89, when determining likelihood of confusion, she again reminded herself of the need to carry out a global assessment of all relevant factors.
20. I am therefore unable to agree with the Appellant that the Hearing Officer fell into error by artificially dissecting the marks. On the contrary, it is abundantly clear that she not only had well in mind the need to consider them as a whole, but did in fact do so when carrying out her comparison.
21. With regard to *Kurt Geiger v A-List Corporate Limited*, BL O/075/13, it is true that the Hearing Officer did not expressly mention the case or the guidance contained therein. The Appellant relies on the following passages:
- “29. The Hearing Officer appeared to proceed on the basis that it was necessary to determine what were the ‘distinctive and dominant’ elements of the two marks before making any assessments of similarity and likelihood of confusion. Thus paragraphs 38 and 39 of her Decision were preceded by the heading ‘Dominant and distinctive components’. In paragraph 38 she considers the Boudoir by Disaya device. She ascertains that the words ‘BY DISAYA’ appear in bolder type (she might have added that they were in capitals), but concludes that the fainter word ‘Boudoir’ ‘constitutes the dominant distinctive element’ because of its ‘positioning above the words BY DISAYA and being in a larger font’. In paragraph 39 she proceeds with a similar analysis of the Shoe Boudoir London device and concludes that ‘the dominant distinctive element of the mark as a whole is the phrase ‘Shoe Boudoir’.*
- 30. I believe that this approach was wrong in principle. It is not necessary to identify one particular element of a mark as being its ‘distinctive and dominant element’. It is right of course that ‘in certain circumstances’ there may be such an element which dominates the overall impression of a mark (see the quote from Matratzen above), but that is very often not the case, and even if it is the case it does not absolve the tribunal from the obligation to consider the overall impression given by the marks as a whole.*

31. *The problem with forcing marks through an analysis such as that carried out by the Hearing Officer in paragraphs 38 and 39 is that it necessarily involves mentally dividing the mark into its component parts, thus losing the overall impression given by the combination of those parts and by the way in which they are combined. This is not the approach which the average consumer is deemed to take, nor the approach he or she would actually take in real life. When assessing likelihood of confusion, this approach is therefore likely to lead to error.*"

22. For the reasons set out in paragraphs 16-20 above, it is clear that Hearing Officer did not fall into the error identified in *Kurt Geiger* – she did “consider the overall impression given by the marks as a whole”, and did not lose “the overall impression given by the combination of those parts and by the way in which they are combined”.

23. As to the allegation that she ignored the fact that the underlying construction or root of the distinctive character of the trade marks at issue was identical, at paragraph 85 of the Decision she said:

“Both marks have the same grammatical construction and share three of their four words, i.e. “The Skinny [...] Co”, in the same order. They differ in their third word, “Food” or “COOKIE”, which do share the vowels “OO” but are otherwise quite different. There is some difference because of the stylisation of the contested mark. The marks are visually and aurally similar to a reasonably high degree.”

24. In my view, she did note the underlying construction of the marks, and the allegation that she ignored it is therefore untenable.

25. I accordingly reject the first two grounds of appeal.

(c) **The Hearing Officer did not consider the issue of ‘notional fair use’ in the comparison of trade marks**

26. The Ground is headed “notional fair use”, but the text of the Grounds at paragraph 16 contends that there is a contradiction between the following underlined sections of the Decision:

- Paragraph 82: “The overall impression of the contested mark is dominated by the words “THE SKINNY COOKIE CO”. Although “SKINNY” is presented in a larger size, followed by “COOKIE CO”, with “THE” in the smallest font, it is a descriptive word and all four words will be read as a unit, with no single word dominating. The particular presentation, namely the typeface, the position of the words and their size relative to one another, make a contribution. The lines above the words and under the word “CO” play a very weak role, even when in colour”.
- Paragraph 93: “There is also the matter of the stylisation of the contested mark. Whilst the figurative element is subordinate to the words, the specific presentation of the mark does play a role in the overall impression”.

27. During the hearing, the Appellant’s representative sought to advance an argument based on notional fair use. However, as no details of that argument were set out in the Grounds of Appeal or the Appellant’s skeleton argument, the Respondent had been unable to respond to any such argument. I shall accordingly confine the Appellant to its argument as set out in paragraph 16 of its Grounds of Appeal.

28. I am unable to detect any contradiction between the two passages cited at paragraph 26 above. Having noted the lines in the figurative mark, her conclusion was that they play a weak role, but she did not contend that they play no role in the overall impression of the Application. That is therefore consistent with the figurative element being subordinate to the words, but with the specific presentation playing a role in the overall impression. I reject this third ground of appeal.

(d) The Hearing Officer did not place sufficient weight on the evidence of confusion and analysed it incorrectly

29. In paragraph 93, the Hearing Officer decided that there was no inherent likelihood of confusion. At paragraph 96, she reminded herself that the Appellant had filed evidence of alleged actual confusion, and said “I must consider whether these disturb my initial conclusion that there is no likelihood of confusion”.

30. It is important to note that the assessment of likelihood of confusion is a multifactorial assessment, in which no individual factor necessarily outweighs the others. Just as it is not a necessary condition to identify actual instances of consumer confusion to establish a likelihood of confusion, pointing to actual instances of consumer confusion does not, in and of itself, prove that there is a likelihood of confusion. Ultimately, the Hearing Officer must determine whether the average consumer, who is reasonably circumspect and observant, would be likely to be confused. Instances of actual confusion may point towards such a likelihood, but may not if the Hearing Officer decides that they are not representative of a reasonably circumspect and observant average consumer.

31. Paragraph 17 of the Grounds of Appeal contend that the Hearing Officer “wrongly placed no weight on the examples of confusion”. That is clearly incorrect, as the Hearing Officer did analyse the examples, but decided that they did not dislodge her initial finding of lack of likelihood of confusion. Furthermore, the contention that she did not place “sufficient weight” on the evidence of confusion is, in reality, a contention that the Appellant disagrees with the Hearing Officer’s overall analysis of likelihood of confusion. Such a ground cannot provide a proper foundation for the Appointed Person to overturn the Decision, unless the Hearing Officer’s analysis was wrong. As explained at paragraph 13 above, the Grounds of Appeal do not contend that the Hearing Officer was wrong, and this is therefore not an argument that the Appellant can now pursue.

32. The Appellant also contends that the Hearing Officer’s analysis of the evidence of alleged actual confusion was incorrect. Of the five examples involving biscuits tagged with the @skinnyfoodco handle, the Hearing Officer noted that none is dated, which the Appellant criticises as irrelevant, as “there is no requirement for evidence of confusion to pre-date the application date of the proposed application. Indeed evidence of actual confusion post filing of an application is just as valid from before the date of application”. Whereas that is correct, I do not believe that that was the point the Hearing Officer was making, as she went on to say “one indicates it was posted 20h before the image was taken” (paragraph 96). In my view, the Hearing Officer was criticising the reliability and verifiability of the evidence, rather than whether it pre- or post-dated the Application.

33. The Appellant also contends that “The Hearing Officer was incorrect to presume that the consumers concerned were not reasonably circumspect or observant. There is no evidence that they were not”. I do not consider that that is a fair summary of the Hearing Officer’s analysis. Whether or not the alleged examples involved consumers who were reasonably circumspect or

observant is a matter for the Hearing Officer – she decided (paragraph 98) that on balance, after considering the examples, she was not satisfied that the consumers in question were reasonably circumspect or observant. She gave her reasons - for instance, in relation to one of the examples, she said “The “last minute dash” [referred to in the evidence] also suggests that a lower degree of attention was paid than might have been expected, though I acknowledge that the buyer was deliberately looking for the opponent’s goods and was still mistaken”.

34. Overall, having carefully considered the examples, the Hearing Officer concluded “The handful of examples are insufficient evidence of relevant confusion based on the similarity between the trade marks, as distinct from confusion arising from the common non-distinctive elements”. That, as part of a multifactorial assessment, is not a decision that can be challenged in this appeal. I therefore reject this fourth ground of appeal.

(e) In light of all of above and in particular (d) the Hearing Officer’s analysis of the potential for ‘indirect confusion’ is contradicted by the evidence of confusion;

35. The Respondent contends, in its skeleton argument, “This ground adds nothing to Ground 8(d)”. I agree. Arnold LJ provided a detailed exposition of the law relating to indirect confusion in *Liverpool Gin Distillery Limited v Sazerac Brands LLC*, [2021] EWCA Civ 1207, where he gave approval to Iain Purvis QC’s (sitting as the Appointed Person) approach in *LA Sugar Ltd v Back Beat Inc.* (O/375/10), in which he set out a non-exhaustive list of instances in which indirect confusion can be made out. Arnold LJ further approved James Mellor QC’s (sitting as the Appointed Person) statement in *Cheeky Italian Ltd v Sutaria* (O/219/16) at [16] that “a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion”. Overall, Arnold LJ held that “there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion”.

36. Having decided that the various factors relied upon by the Appellant did not give rise to a likelihood of direct confusion, the Hearing Officer at paragraph 99 was clearly of the view that those same factors did not give rise to a likelihood of indirect confusion either. There was no “proper basis” for a finding of a likelihood of indirect confusion – indeed she held the opposite, as she considered it “most unlikely that the consumer would recognise the differences between the marks at issue and think that the same company was using two different brands featuring different company names”.

(f) Due to the Hearing Officer’s mis-analysis of the trade marks at issue, misrepresentation under the Section 5(4)(a) ground of Opposition should have been found and logically this should have led to a finding of damage or likely of damage

37. This final ground can be dealt with shortly. Establishing a likelihood of misrepresentation under the law of passing off is more onerous than establishing a likelihood of confusion under trade mark law, as the former requires deception. Even where the goods were identical, the Hearing Officer decided that there was no likelihood of confusion, either direct or indirect. The more onerous requirement of a misrepresentation leading to a likelihood of deception is accordingly not made out on the same facts.

Conclusion

38. The appeal is dismissed, and the Application shall proceed to registration for all the goods in its specification.

Costs

39. Clearly, the Respondent has been the successful party in this appeal. I order that the Appellant should pay the Respondent £1,200 by way of costs of this appeal, comprising:

- Preparation of skeleton argument: £600
- Attendance at hearing: £600.

40. That is in addition to the £2,000 costs awarded to the Respondent by the Hearing Officer. The total costs award to the Respondent is accordingly £3,200.

Dr. Brian Whitehead

19 February 2023

Representation

Mr Lee Curtis of HGF Limited for the Opponent / Appellant

Mr Guy Tritton of Counsel for the Applicant / Respondent, instructed by Squire Patton Boggs (UK) LLP

APPENDIX

UK 3240120

Class 5: Nutritional supplements; dietetic foods for use in clinical nutrition; slimming pills. Dietary food supplements; nutritional supplements; mineral food-supplements; food-supplements based on vitamins; minerals and raw products from plants; health food supplements; vitamin preparations; dietetic foods and substances adapted for medical purposes; slimming aids; herbal supplements and herbal extracts; herbal beverages; detox beverages; meal replacement powders; nutritional drink mixes for use as a meal replacement; mineral supplements; nutritional powders; food supplements, tablets and capsules; carbohydrate supplements; amino acid supplements; dietetic and slimming substances; Protein Dietary supplements, for slimming purposes; dietetic sweetening syrup for slimming purposes.

Class 29: Meat, poultry: game, fish and seafood; products made principally of meat, poultry: game: fish or seafood; preserved: frozen: dried and cooked fruits and vegetables and food products prepared there from; salads: fruit salads: soup and soup preparations; processed nuts; spreads; dips; crisps; jellies: jams: eggs: milk and dairy products; butter; peanut butter; milk shakes; powdered milk; liquid food shakes; cheese and cheese products; edible oils and fats; preserves; pickles; prepared meals; nutrition food bars; products containing food supplements for sports nutrition purposes, whey proteins; milk, soya milk; vegetable protein foodstuff.

Class 30: Preparations made from cereals; flour; preparations made from flour; sandwiches; confectionery; confectionery bars; cookies; bread; pastry; ices; ice cream; preparations for making ices, ice cream, ice cream products and frozen confections; chocolate; products made or containing chocolate; flapjacks; shortbreads; honey and treacle; sugar; puddings; cheese cake; sauces; chutneys; tea products; all tea and coffee beverages; herbal infusions; herbal teas; Tea leaves; Tea mixtures; Tea essences; Tea extracts; Green tea; Herbal Teas; Herbal teas [infusions]; Tea-based beverages with fruit flavourings. Cocoa-based beverages; Flavourings, other than essential oils, for beverages; Coffee; Artificial coffee; Vegetal preparations for use as coffee substitutes; Coffee flavorings [flavourings]; Coffee based drinks; Cocoa; Cocoa products; Cocoa-based beverages; Cookies; Brownies; Muffins Candy; Buns; Petit-beurre biscuits; Candy; flavouring syrups; food flavourings; none of the aforesaid being popcorn or snack foods containing or consisting of popcorn.

UK 3444340

Class 29: Nutritional and dietary meal replacement beverages; meal replacement bars; foods and edible preparations; for use in reducing weight; water and milk-based products for food; water and milk based beverages; nutritionally balanced low-calorie meals and dishes; calorie-counted meals and dishes. Meat, poultry: game, fish and seafood; products made principally of meat, poultry: game: fish or seafood; preserved: frozen: dried and cooked fruits and vegetables and food products prepared there from; salads: fruit salads: soup and soup preparations; processed nuts; spreads; dips; crisps; jellies: jams: eggs: milk and dairy products; butter; peanut butter; milk shakes; powdered milk; liquid food shakes; cheese and cheese products; edible oils and fats; preserves; pickles; prepared meals; nutrition food bars; products containing food supplements for sports nutrition purposes, whey proteins; milk, soya milk; vegetable protein foodstuff.

Class 30: Preparations made from cereals; flour; preparations made from flour; sandwiches; confectionery; confectionery bars; cookies; bread; pastries; ices; ice cream; preparations for making

ices, ice cream, ice cream products and frozen confections; coffee and chocolate; products made or containing coffee and chocolate; flapjacks; shortbreads; honey and treacle; sugar; puddings; chocolate spreads; cheese cake; cooking sauces; zero calorie sauces; prepared meals, zero calorie dips, low calorie dips, low sugar dips, chutneys; tea products; all tea and coffee beverages; herbal infusions; herbal teas; Coffee; Artificial coffee; Vegetal preparations for use as coffee substitutes; Coffee flavourings; Coffee based drinks; Prepared coffee and coffee-based beverages; Coffee concentrates; Mixtures of coffee; Coffee [roasted, powdered, granulated, or in drinks]; Coffee based drinks; Coffee; Ground coffee; Ground coffee beans; Cappuccino. Coffee based beverages for nutritional and dietary purposes. Coffee with added vitamins, Cookies; Candy; Buns; Petit-beurre biscuits; Candy; flavouring syrups; food flavourings, Bakery goods; Beverages based on chocolate; Beverages based on coffee; Beverages based on tea; Beverages (Chocolate-based); Beverages (Cocoa-based); Beverages (Coffee-based); Beverages consisting principally of chocolate; Beverages consisting principally of cocoa; Beverages consisting principally of coffee; Beverages made from chocolate; Beverages made from cocoa; Beverages made from coffee; Beverages made of coffee; Beverages made of tea; Beverages with a coffee base; Beverages with coffee base; Biscuits; Breakfast cake; Breakfast cereals; Cake preparations; Cakes; Cereal-based snack food; Cereals; Chocolate Spread; Chocolate bars; Chocolate beverages; Chocolate cakes; Chocolate coffee; Chocolate covered cakes; Aerated beverages [with coffee, cocoa or chocolate base]; Aerated drinks [with coffee, cocoa or chocolate base]; Beverages (Coffee-based); Beverages based on coffee; Beverages based on coffee substitutes; Beverages consisting principally of coffee; Beverages made from coffee; Beverages made of coffee; Beverages with a coffee base; Beverages with coffee base; Caffeine-free coffee; Chocolate coffee; Flavoured coffee; Ground coffee; Ground coffee beans; Instant coffee; Mixtures of coffee; Mixtures of malt coffee with cocoa; Mixtures of malt coffee with coffee; Coffee (Unroasted); Coffee [roasted, powdered, granulated, or in drinks]; Coffee bags; Coffee based beverages; Coffee based drinks; Coffee based fillings; Coffee beans; Coffee beverages; Coffee beverages with milk; Coffee capsules; Coffee concentrates; Coffee drinks; Coffee essence.