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Case No: IP-2017-000174

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**  
**INTELLECTUAL PROPERTY ENTERPRISE COURT**

Royal Courts of Justice, Rolls Building  
Fetter Lane, London, EC4A 1NL

Date: 29/01/2020

**Before :**

**HIS HONOUR JUDGE HACON**

**Between :**

<b>RESPONSE CLOTHING LIMITED</b>	<b><u>Claimant</u></b>
<b>- and -</b>	
<b>THE EDINBURGH WOOLLEN MILL LIMITED</b>	<b><u>Defendant</u></b>

**Michael Smith** (instructed by **Taylor's Solicitors LLP**) for the **Claimant**  
**Gwilym Harbottle** (instructed by **Gateley plc**) for the **Defendant**

Hearing dates: 3-4 December 2019

**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....  
**HIS HONOUR JUDGE HACON**

**Judge Hacon :**

**Introduction**

1. The claimant ('Response') is a company based in Oswaldtwistle, Lancashire. It designs and markets clothing. The defendant ('EWM') is a major retailer of clothing with about 400 stores in the UK.
2. For three seasons between December 2009 and 2012 Response supplied EWM with ladies tops made of a jacquard fabric of a design referred to in the evidence as a 'wave arrangement'. The distinctive feature of jacquard fabrics is that the design they display is woven into the fabric itself, rather than being stamped, printed, or embroidered on top of the fabric. In this instance the design consisted of multiple lines in a wave pattern.
3. In 2012 Response sought to increase the price of the tops. The new price was rejected by EWM. EWM then supplied a sample of Response's top or a swatch of Response's fabric to other garment suppliers, including a UK based company called Visage Limited ('Visage'), with an invitation to supply tops made from a similar fabric. Visage got the order. From 2012 to 2015 it supplied EWM with tops made from a jacquard fabric which I will call the 'Visage Fabric'.
4. In 2015 Response again changed suppliers, now sourcing similar tops from Vietan Industrial Production and Trading Joint Stock Company – Hai Phong Branch, a Vietnamese company referred to by the parties as 'Cingo' and from a manufacturer based in Dhaka, Bangladesh called 'Bengal Knittex'. I will refer to the fabrics used for those tops as the 'Cingo Fabric' and the 'Bengal Knittex Fabric' respectively.
5. Tops made from the Cingo Fabric were sold by EWM for one season only but those made from the Bengal Knittex Fabric have been sold ever since and are still in EWM's range.
6. Response claims that copyright subsists in its wave arrangement design, either as a graphic work or as a work of artistic craftsmanship and that it is the owner of that copyright. Response alleges that the Visage, Cingo and Bengal Knittex fabrics were infringing copies of the wave arrangement design and that EWM has infringed its copyright by the sale of tops made from the infringing fabrics, such sales being both primary and secondary acts of infringement.
7. Michael Smith appeared for Response, Gwilym Harbottle for EWM.

**Witnesses**

8. Response relied on two witnesses of fact. One was Faisal Patel, the sole director and shareholder of Response. He was a good witness, I believe doing his best to give honest and accurate answers. There was also a witness statement from Ray Park, President of GIN Textile Inc, a South Korean manufacturer of fabrics ('GIN Textile'). Mr Park did not attend at trial, but a Civil Evidence Act Notice was filed.

9. Three witnesses of fact attended on behalf of EWM. They were Jason Anderson, Managing Director of EWM, Jean Paul Chan, country manager of EWM responsible for Bangladesh and Alizon Blythe, senior ladieswear buyer for EWM. Mr Anderson and Mr Chan were both good witnesses. Ms Blythe was shown in cross-examination to be sometimes willing to make assertions about matters outside her knowledge. There were also witness statements from Chen Shen of China Ningbo International Co. Limited ('China Ningbo'), a fabric mill in China, and from Shen Qiang, Deputy Manager of Sinotex Corporation Limited, a clothing manufacturer in China. Mr Chen's and Mr Shen's witness statements were filed with Civil Evidence Act Notices.
10. Response's expert witness was Victor Herbert. Mr Herbert is, among other things, a designer and design consultant with considerable experience in the design of fabrics and fashion garments. Alexander MacLellan, EWM's expert, has over 40 years' experience in the design of textiles and has taught fashion at the Chelsea School of Art and The Royal College of Art and at fashion institutes in Italy. Both experts provided helpful answers to all the questions put to them.

### **Identifying the copyright work**

11. The Particulars of Claim did not specify with precision the nature of the copyright work relied on. Response's wave arrangement design was said to have been created by an employee of GIN Textile. There was a general assertion that fabric designs are graphic works and/or works of artistic craftsmanship.
12. In a reply to a Part 18 Request, Response repeated its assertion that the work was either a graphic work or a work of artistic craftsmanship, but added this:

"The Claimant understands that the work was created on the loom by the weaver and is therefore a product of craftsmanship. The narrative details of its creation are a matter of evidence and in any event, the Claimant has not been able to obtain further information from GIN Textile at this time for the reasons set out at length above."
13. That answer is consistent only with the copyright work being the first fabric created bearing the wave arrangement design. I will call this 'the Wave Fabric'. It emerged in evidence that in fact the Wave Fabric could not have been made on a loom because it is knitted, not weaved. It was made on a knitting machine, but this made no material difference to Response's case.
14. Notwithstanding the answer given to the Part 18 Request, Mr Smith maintained the case based on a graphic work. He argued that the Wave Fabric qualified as such.
15. A graphic work within the meaning of s.4(1)(a) of the Copyright, Designs and Patents Act 1988 ('the 1988 Act'), as defined in s.4(2):

“(2) *In this Part –*

...

*'graphic work' includes –*

(a) *any painting, drawing, diagram, map, chart or plan, and*

(b) *any engraving, etching, lithograph, woodcut or similar work;*”

16. It is true, as Mr Smith said, that the statute defines ‘graphic work’ to include the types of work listed and the list is therefore not exhaustive. It does not follow that the definition is endlessly flexible. All the examples of a graphic work set out in the subsection are created by the author making marks on a substrate to generate an image. I do not think that the definition of a graphic work can be stretched to include a fabric, whether made on a loom or a knitting machine.
17. The author of the Wave Fabric was never identified and there was no evidence as to what he or she did in creating it. In his supplemental report Mr MacLennan, EWM’s expert, speculated that the designer had first created a freehand drawing of the Wave Arrangement design. Mr Herbert, Response’s expert, said in cross-examination that the designer would not sketch a technical design such as that used on the Wave Fabric and that it would have been created first on the machine making the fabric.
18. In closing Mr Smith suggested, by way of an alternative argument, that the drawing was a copyright work on which Response could rely. A drawing is a graphic work but the notion of a drawing being the copyright work was not pleaded. I think that it unlikely that there ever was one. Response’s case must rest on the Wave Fabric being a work of artistic craftsmanship.

#### **How the Wave Fabric came to be created**

19. Mr Patel said in his witness statement that some time before April 2009 he conceived a number of designs, one of which was a wave pattern running through the fabric of a ladies jacquard top. Elsewhere in his statement Mr Patel referred to a design *idea*. The distinction is important, and I understand from the pleaded Reply dated 12 April 2018 to a Part 18 Request that it was no more than the idea of having waves of unspecified design within the fabric. Mr Patel’s answers in cross-examination were consistent with this.
20. In his witness statement Mr Patel said that his design idea was sent to Mr Park of GIN Textile. Communications were handled by an agent based in the UK, Barry Nathan. Mr Nathan did not give evidence. Mr Patel said that he was now retired and did not want to have anything to do with this litigation.
21. Mr Patel conceded that he did not know the manner in which his request was passed by Mr Nathan to GIN Textile and had no direct knowledge as to what GIN Textile did as a result, including whether GIN Textile copied anything when it created the Wave Fabric. Mr Patel thought at first that GIN Textile had taken about 6 weeks to create the Wave Fabric, but this seems to have been based on the period between sending the request and receiving the first sample. Mr Patel accepted in cross-examination that he did not know how much time within that 6 weeks had been taken by GIN Textile in creating the Wave Fabric.
22. The Wave Fabric, or more likely a copy of it, was received from GIN Textile and made up by Response into a ladies top. A photograph of the top was taken by Response on 6 April 2009, the date confirmed by a digital camera record. It is the photograph shown in Annex 1 to this judgment and is the earliest record available of the design of the Wave Fabric.

23. The evidence as to what GIN Textile did in creating the Wave Fabric came solely from Mr Park's witness statement, without the benefit of cross-examination. Mr Park said that he now resides in China and conducts business through a mill there. He confirmed that before April 2009 he had received a request from Mr Patel, transmitted by Mr Nathan, for the GIN Textile mill to experiment with a design idea. The experimental work done as a consequence was carried out by an employee of GIN Textile who was a South Korean citizen. Mr Park said that he could no longer recall the identity of the individual or contact them. The employee had taken Mr Patel's idea and created the fabric used to make up the top shown in the photograph in Annex 1. Mr Park said that the Wave Fabric was the original work of the employee and not copied from any other design.
24. I accept Mr Patel's evidence, as clarified by him in cross-examination. Leaving aside the assertion of originality for the moment, I was given no good reason to doubt what Mr Park said in his statement and I accept that evidence.

### **Whether copyright could subsist in the Wave Fabric**

25. It was common ground that GIN Textile produced the Wave Fabric. It was also not disputed by EWM that the photograph shown in Annex 1 provides an accurate representation of it.
26. The originality of the Wave Fabric was challenged. Before I turn to that, there is a preliminary issue of law, namely whether the Wave Fabric can in principle qualify as a work of artistic craftsmanship and therefore a work entitled to copyright protection.

### *The law*

27. The Statute of Anne of 1709 was the world's first copyright statute, although there had been some earlier common law giving rights to authors. The Statute was concerned with literary copyright. Since then, because Parliament has incrementally afforded copyright protection to other types of work, the law has become structured in the form of successive categories of copyright work. In the 300 years since the Statute of Anne a claimant has been required to show that his work falls within at least one of the categories identified for protection in the copyright statute of the day. In recent years, there may have developed a tension between the way this is approached in the 1988 Act and EU copyright directives which have entered into force.
28. Given my finding that there was no graphic work on which Response can rely, it was common ground that if Wave Fabric is not a work of artistic craftsmanship, the design knitted into it is not protected by any other provision of the 1988 Act.
29. I begin with s.1 of the Act which, so far as is relevant, provides:

*"1. (1) Copyright is property right which subsists in accordance with this Part in the following descriptions of work –*

*(a) original literary, dramatic, musical or artistic works,*

*(b) sound recordings, films or broadcasts, and*

(c) *the typographical arrangement of published editions.*

(2) *In this Part, ‘copyright work’ means a work of any of those descriptions in which copyright subsists.*

...”

30. The section is clear: a work is only capable of being a copyright work if it falls within one of the three descriptions set out under subsection (1). Section 4 sets out the categories of work which can qualify as an ‘artistic work’ under s.1(1)(a):

“4. (1) *In this Part ‘artistic work’ means –*

(a) *a graphic work, photograph, sculpture or collage, irrespective of artistic quality,*

(b) *a work of architecture being a building or a model for a building, or*

(c) *a work of artistic craftsmanship.”*

31. Protection for works of artistic craftsmanship was first provided in the Copyright Act 1911, but neither that Act nor the Copyright Act 1956 nor the 1988 Act give any indication as to what the term means.

32. The meaning was considered by the House of Lords in *George Hensher Ltd v Restawhile Upholstery (Lancs) Ltd* [1976] AC 64, a case concerned with a claim to a work of artistic craftsmanship under the 1956 Act. It is not a straightforward judgment, as has been acknowledged since. In *Lucasfilm Ltd v Ainsworth* [2011] UKSC 39; [2012] 1 AC 208 Lord Walker and Lord Collins (in a combined judgment with which Lord Phillips and Lady Hale agreed) concurred (at [29]) with Mann J’s assessment at first instance that it was difficult to identify the true principle of the judgment in *Hensher* and thus a meaning given to ‘artistic craftsmanship’ by the House of Lords. The Supreme Court in *Lucasfilm* was not required itself to reach a view on the meaning because after the first instance judgment the claimant no longer contended that its Imperial Stormtrooper helmets and armour, the articles in issue, were works of artistic craftsmanship.

33. The meaning was discussed by Mann J at first instance ([2008] EWHC 1878 (Ch); [2009] FSR 2). Having considered *Hensher*, he turned to a judgment from the New Zealand High Court:

“[131] In *Bonz Group (Pty) Ltd v Cooke* [1994] 3 N.Z.L.R. 216 the New Zealand High Court had to consider ‘artistic craftsmanship’ in the context of woollen sweaters. Tipping J. considered *Hensher* and other authorities and concluded that:

‘... [F]or a work to be regarded as one of artistic craftsmanship it must be possible fairly to say that the author was both a craftsman and an artist. A craftsman is a person who makes something in a skilful way and takes justified pride in their workmanship. An artist is a person

with creative ability who produces something which has aesthetic appeal.’

I find that helpful. Having said that, he was prepared to combine the artistry of the designer and the craftsmanship of the knitters and conclude that the sweaters fell within the description, rejecting authorities which tended to suggest that they had to be the same person. That seems to me to be a sensible approach, at least where there is a proper nexus between the two people.”

34. Mann J went on (at [133]-[135]) to find that the production helmets and armour required the activity of a craftsman to realise the vision of the creators of the Star War films in which they featured. They were therefore works of craftsmanship, but not artistic craftsmanship. Their purpose was not to appeal to the aesthetic, but rather to give a particular impression in a film.
35. In *Vermaat (t/a Cotton Productions) v Boncrest Ltd (No.1)* [2001] FSR 5 Evans-Lombe J had also agreed with the conclusion of Tipping J in *Bonz Group*, finding that a bedspread design was not sufficiently artistic to be a work of artistic craftsmanship, although he did not give a reason beyond saying that the designs may be pleasing to the eye but did not exhibit the necessary requirement of creativity.
36. Adopting Tipping J’s summary of what constitutes a work of artistic craftsmanship, I would have to decide whether the employee of GIN Textile who created the Wave Fabric was both (a) a craftsman in that he or she made the fabric in a skilful way, taking justified pride in his workmanship and (b) was an artist in that he or she used their creative ability to produce something which has aesthetic appeal.
37. Here I must assume that the Wave Fabric was original. If it was not original, copyright does not subsist anyway and the meaning of ‘artistic craftsmanship’ is academic. On that assumption, the evidence of the experts clearly suggests that it would have required skill and creativity to devise the Wave Fabric. EWM’s argument was that despite this, making the Wave Fabric was not ‘craftsmanship’ as correctly understood because it was made on a machine.
38. I do not understand Tipping J’s definition of a craftsman to require that the object created must invariably be made only by the hands of the craftsman without the help of a machine. I can illustrate my view on this by giving an example. A potter might be a putative craftsman. One can contemplate a spectrum of means of making pots: at one end a pot is made only using the hands of the potter, then using a foot-driven wheel, then using an electric wheel, through various further stages of development leading finally to a process at the other end of the spectrum which, although controlled and directed by the potter, is carried out by a high-technology machine so that the potter does not touch the clay or the pot until it is finished and fully decorated. It seems to me to be difficult to draw a line at any point on that spectrum beyond which the potter, however brilliantly creative, is no longer creating a work of craftsmanship.
39. Assuming that the employee of GIN Fabrics who made the Wave Fabric was a craftsman working in a skilful way, it would be an unusual individual who did not take justified pride in the workmanship involved.

40. The primary goal of this individual was presumably to make something that would be aesthetically pleasing to customers. I am not sure whether Tipping J's formulation has in mind the intention of the craftsman to make something aesthetically pleasing or rather whether the work is aesthetically pleasing to at least some people. Either way, I think it is likely that the criterion was satisfied in the present case. I know from Mr Patel's evidence that the top made from the Wave Fabric was a commercial success, so customers must have found it aesthetically pleasing.
41. I therefore think that it is possible to say that the Wave Fabric falls within the definition of a work of artistic craftsmanship stated in *Bonz Group* and approved by Mann J and Evans-Lombe J.
42. But there is a difficulty. My impression is that none of their Lordships in *Hensher* would have concluded that the Wave Fabric is a work of artistic craftsmanship had that been the issue before them. To explain why, I must say more about *Hensher*.
43. The work in question was the prototype of a popular suite of furniture. The respondents conceded that it was as work of craftsmanship. At least some of their Lordships appear to have doubted the wisdom of that concession and three of them expressed an obiter view as to the meaning of 'craftsmanship'. Lord Reid said (at p.77): 'A work of craftsmanship suggests to me a durable useful handmade object.' Viscount Dilhorne stated the view (at p.84) that a work of craftsmanship 'is something made by hand and not something mass produced', which I take also to exclude a work (such as that in issue in *Hensher*) made for subsequent mass reproduction. Lord Simon (at p.91) stated: "'Craftsmanship," particularly when considered in its historical context, implies a manifestation of pride in sound workmanship – a rejection of the shoddy, the meretricious, the facile.' There is no consistent definition, but the Wave Fabric falls outside at least those of Lord Reid and Viscount Dilhorne.
44. Before turning to what makes a work of craftsmanship artistic, it is to be noted that whereas s.4 of the 1988 Act makes artistic quality irrelevant to the assessment of whether a graphic work, photograph, sculpture or collage is an artistic work, there is no such removal of artistic merit from the assessment of a work of architecture or artistic craftsmanship. It might be said that in consequence artistic merit *is* relevant to the latter assessments. But, on one view anyway, artistic merit or quality can only ever be a subjective consideration. Parliament cannot have intended the assessment to depend on the chance of a particular court's artistic appreciation, or lack of it. The only alternative would be to have experts explain their own (presumably opposing) views. Yet even received views on artistic merit can change markedly over time and sometimes they change back again.
45. Views on the value of expert evidence were mixed in *Hensher* in the course of discussion as to the meaning of 'artistic'.
46. Lord Reid said:

"I think that by common usage it is proper for a person to say that in his opinion a thing has an artistic character if he gets pleasure or satisfaction or it may be uplift from contemplating it." (at p.78)



“It is I think of importance that the maker or designer of a thing should have intended that it should have an artistic appeal but I would not regard that as either necessary or conclusive.” (at p.78)

“In the present case I find no evidence at all that anyone regarded the appellants' furniture as artistic. The appellants' object was to produce something which would sell. It was, as one witness said, ‘a winner’ and they succeeded in their object. No doubt many customers bought the furniture because they thought it looked nice as well as being comfortable. But looking nice appears to me to fall considerably short of having artistic appeal. I can find no evidence that anyone felt or thought that the furniture was artistic in the sense which I have tried to explain.” (at p.79)

47. Lord Morris took the view that the assessment was largely objective:

“In deciding whether a work is one of artistic craftsmanship I consider that the work must be viewed and judged in a detached and objective way. The aim and purpose of its author may provide a pointer but the thing produced must itself be assessed without giving decisive weight to the author's scheme of things. Artistry may owe something to an inspiration not possessed by the most deft craftsman. But an effort to produce what is artistic may, if forced or conscious, for that very reason fail. Nor should undue emphasis be given to the priorities in the mind of a possible acquirer. A positive need to purchase an object or thing in order to put it to practical use may be the primary reason for its acquisition but this may be reinforced by a full appreciation of its artistic merits if they are possessed.

So I would say that the object under consideration must be judged as a thing in itself. Does it have the character or virtue of being artistic?” (at p.81)

48. Lord Morris also thought that there is value in expert evidence as to whether the object is artistic:

“I consider that as in all situations where a decision is required upon a question of fact the court must pay heed to the evidence that is adduced. Though it is a matter of individual opinion whether a work is or is not artistic there are many people who have special capabilities and qualifications for forming an opinion and whose testimony will command respect. In practice a court will not have difficulty in weighing their evidence and in deciding whether it clearly points to some conclusion. In cases where the court is able to see the work which is in question that will not warrant a decision on the basis of a spot opinion formed by the court itself but it will be a valuable aid to an appreciation of the evidence.” (at p.82)

49. Viscount Dilhorne saw little point in glossing the ordinary meaning of artistic beyond saying that no aesthetic assessment was involved (see above):

“The phrase ‘works of artistic craftsmanship’ is made up of words in ordinary use in the English language. Unless the context otherwise requires, they must be given their ordinary and natural meaning. I can find nothing in the context

to require that they should be given a different meaning from that.” (at pp.86-87)

“So, in my view, it is simply a question of fact whether a work is one of artistic craftsmanship. ...

This question of fact in relation to copyright is decided not by a jury but by a judge sitting alone. Evidence may be called with regard to it. Expert witnesses may testify. At the end of the day, it will be for the judge to decide whether it is established that the work is one of artistic craftsmanship. If that is not established, the claim to copyright on that ground will fail. I do not think that it suffices to show that some section of the public considers the work to be artistic, though that fact will be one for the judge to take into account, for the decision has to be made by the judge and cannot be delegated.” (at p.87)

50. Lord Simon also believed that the word ‘artistic’ must be given its ordinary meaning although he warned against divorcing it from the composite phrase ‘work or artistic craftsmanship’ which must be construed as a whole (at p.91). He continued (at pp.94-95):

“ ... whether the subject matter is or is not a work of artistic craftsmanship is a matter of evidence; and the most cogent evidence is likely to be from those who are either themselves acknowledged artist-craftsmen or concerned with the training of artist-craftsmen – in other words, expert evidence. In evaluating the evidence, the court will endeavour not to be tied to a particular metaphysics of art, partly because courts are not naturally fitted to weigh such matters, partly because Parliament can hardly have intended that the construction of its statutory phrase should turn on some recondite theory of aesthetics – though the court must, of course, in its task of statutory interpretation, take cognisance of the social-aesthetic situation which lies behind the enactment, nor can counsel be prevented from probing the reasons why a witness considers the subject matter to be or not to be a work of artistic craftsmanship. It is probably enough that common experience tells us that artists have vocationally an aim and impact which differ from those of the ordinary run of humankind. Given the craftsmanship, it is the presence of such aim and impact – what Stewart J. called ‘the intent of the creator and its result’ – which will determine that the work is one of artistic craftsmanship.”

51. Lord Kilbrandon thought that evidence of the intention of the craftsman will be what matters:

“The conscious intention of the craftsman will be the primary test of whether his product is artistic or not; the fact that many of us like looking at a piece of honest work, especially in the traditional trades, is not enough to make it a work of art.” (at p.97)

52. That still requires the court to decide whether the intended goal of the craftsman qualified as ‘artistic’ within the meaning of the statute. This was the judicial function of the court which could not be assisted by expert evidence:

“You will get no assistance, until you have exercised that judicial function, by asking the opinion of an expert; if he says ‘I regard that object as artistic’ the next question which must be asked in order to make his last answer intelligible is ‘What do you mean by artistic?’ That question is incompetent, because the answer would be irrelevant. Since the word is a word of common speech, it requires, and permits of, no interpretation by experts. It is for the judge to determine whether the object falls within the scope of the common meaning of the word.” (at p.97)

53. As I have said, the Wave Fabric is not a work of craftsmanship as that term was apparently understood by Lord Reid and Viscount Dilhorne. As to whether the Wave Fabric is artistic, my impression is that Lord Reid would have found that it falls short of having the requisite artistic appeal, as would Lord Morris. Lord Simon thought that the question of whether a work is artistic is a matter of evidence and that the most cogent evidence will come from experts. For Lord Kilbrandon, the conscious intention of the craftsman to make a work of art was the primary test.
54. I am therefore left with a view that on the hypothesis that in 1974 (when the judgment in *Hensher* was delivered) the House of Lords had been called upon to determine whether the Wave Fabric is a work of artistic craftsmanship, for differing reasons the answer would have been that it is not. But no binding principles of law can be deduced from the judgment in *Hensher* which compel me to the same conclusion now. Moreover, the summary definition of a work of artistic craftsmanship provided by Tipping J in *Bonz Group* has been approved twice in England at first instance and the Wave Fabric can be said to fall within that definition.
55. I turn to European Union law. Art.2 of Directive 2001/29/EC of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society provides, so far as is relevant:

“Article 2

*Reproduction right*

*Member States shall provide for the exclusive right to authorise or prohibit direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part:*

(a) *for authors, of their works;*”

56. Thus, the copyright law of a Member State must afford protection to authors of a ‘work’. In *Levola Hengelo BV v Smilde Foods BV* (Case C-310/17) EU:C:2018:899; [2019] ECDR 2, the CJEU was asked whether the taste of a cheese may be eligible for copyright protection. The Court ruled that it could not, but considered more generally what constitutes a work within the meaning of art.2:

“[33] ... arts 2–4 of Directive 2001/29 state that the Member States are to provide for a set of exclusive rights relating, in the case of authors, to their ‘works’, while art.5 sets out a series of exceptions and limitations to those rights. The directive makes no express reference to the laws of the Member States for the purpose of determining the meaning and scope of the concept of

a ‘work’. Accordingly, in view of the need for a uniform application of EU law and the principle of equality, that concept must normally be given an autonomous and uniform interpretation throughout the EU (see, to that effect, judgments of 16 July 2009, *Infopaq International A/S v Danske Dagblades Forening* (C-5/08) EU:C:2009:465; [27] and [28], and of 3 September 2014, *Deckmyn v Vandersteen* (C-201/13) EU:C:2014:2132, [14] and [15]).

...

[35] In that regard, two cumulative conditions must be satisfied for subject matter to be classified as a ‘work’ within the meaning of Directive 2001/29.

[36] First, the subject matter concerned must be original in the sense that it is the author’s own intellectual creation (judgment of 4 October 2011, *Football Association Premier League Ltd v QC Leisure* (C-403/08 and C-429/08) EU:C:2011:631, [97] and the case-law cited).

[37] Secondly, only something which is the expression of the author’s own intellectual creation may be classified as a ‘work’ within the meaning of Directive 2001/29 (see, to that effect, judgments of 16 July 2009, *Infopaq International* (C-5/08) EU:C:2009:465, [39], and of 4 October 2011, *Football Association Premier League*, [159]).

[38] It should be recalled in that regard that although the EU is not a party to the Berne Convention, it is nevertheless obliged, under art.1(4) of the WIPO Copyright Treaty, to which it is a party and which Directive 2001/29 is intended to implement, to comply with arts 1–21 of the Berne Convention (see, to that effect, judgments of 9 February 2012, *Luksan v van der Let* (C-277/10) EU:C:2012:65, [59] and the case-law cited, and of 26 April 2012, *DR v NCB - Nordisk Copyright Bureau* (C-510/10) EU:C:2012:244, [29]).

[39] Under art.2(1) of the Berne Convention, literary and artistic works include every production in the literary, scientific and artistic domain, whatever the mode or form of its expression may be. Moreover, in accordance with art.2 of the WIPO Copyright Treaty and art.9(2) of the Agreement on Trade-Related Aspects of Intellectual Property Rights, which is mentioned in [6] of this judgment and which also forms part of the EU legal order (see, to that effect, judgment of 15 March 2012, *Societa Consortile Fonografici (SCF) v Del Corso* (C-135/10) EU:C:2012:140, [39] and [40]), copyright protection may be granted to expressions, but not to ideas, procedures, methods of operation or mathematical concepts as such (see, to that effect, judgment of 2 May 2012, *SAS Institute Inc v World Programming Ltd* (C-406/10) EU:C:2012:259, [33]).”

57. In *Cofemel-Sociedade de Vesturário SA v G-Star Raw CV* (Case C-683/17) EU:C:2019:721 the claimant, G-Star, brought an action in Portugal for infringement of its copyright in the design of jeans, sweat-shirts and t-shirts. The defendant, Cofemel, argued that the designs were not eligible for protection. The Portuguese Supreme Court asked the CJEU whether the designs were eligible for protection on the same condition as any other artistic work, namely that they are the author’s own

intellectual creation, or whether eligibility for copyright protection in Portugal can be subject to the existence of a particular degree of aesthetic or artistic value.

58. The CJEU ruled that national law could not impose a requirement of aesthetic or artistic value. It reiterated the two conditions stated in *Levola* which must be satisfied for subject matter to be a ‘work’ within the meaning of art.2 of Directive 2001/29 and thereby eligible for protection under national copyright law. The Court expanded on the first of them in this way:

[30] As regards the first of those conditions, it follows from the Court’s settled case-law that, if a subject matter is to be capable of being regarded as original, it is both necessary and sufficient that the subject matter reflects the personality of its author, as an expression of his free and creative choices (see, to that effect, judgments of 1 December 2011, *Painer*, C-145/10, EU:C:2011:798, paragraphs 88, 89 and 94, and of 7 August 2018, *Renckhoff*, C-161/17, EU:C:2018:634, paragraph 14).

[31] On the other hand, when the realisation of a subject matter has been dictated by technical considerations, rules or other constraints, which have left no room for creative freedom, that subject matter cannot be regarded as possessing the originality required for it to constitute a work (see, to that effect, judgment of 1 March 2012, *Football Dataco and Others*, C-604/10, EU:C:2012:115, paragraph 39 and the case-law cited).”

59. I take the view that, subject to my being satisfied that the Wave Fabric is original in that its design was its author’s own intellectual creation, that design is a work within the meaning of art.2 of Directive 2001/29. If no sufficiently similar design existed before it was created, it must have been the expression of the author’s free and creative choices.
60. Mr Harbottle argued that this conclusion cannot be reached because there is no evidence from the author. I disagree. If the design of the Wave Fabric is original, I see no other realistic possibility than that the author, whoever he or she was, exercised their free and creative choices in devising that design. It follows that in principle the design is entitled to copyright protection if Directive 2001/29 is applied.
61. Pursuant to the *Marleasing* principle, I am required to interpret the 1988 Act, so far as is possible, in conformity with Directive 2001/29 and therefore in conformity with the way in which that Directive has been interpreted by the CJEU, see *Marleasing SA v La Comercial Internacional de Alimentación SA* (Case C-106/89) EU:C:1990:395; [1990] ECR I-4135.
62. Mr Harbottle accepted that if the Wave Fabric is not a work of artistic craftsmanship then its design is not protected by copyright (or even design right) under the 1988 Act. He submitted that Parliament was content to leave gaps in protection and pointed to *Lambretta Clothing Co. Ltd v Teddy Smith (UK) Ltd* [2004] EWCA Civ 886; [2005] RPC 88 as illustrating an example of that.
63. The issue I have to resolve is not whether Directive 2001/29 has the effect of removing all the gaps there may be in copyright protection available from a court at first instance for ‘works’ within the meaning of art.2 of the Directive, but whether it is

possible to interpret s.4(1)(c) of the 1988 Act in conformity with art.2 of Directive 2001/29 such that the Wave Fabric qualifies as a work of artistic craftsmanship and thereby its design becomes entitled to copyright protection. In my view it is, up to a point. Complete conformity with art.2, in particular as interpreted by the CJEU in *Cofemel*, would exclude any requirement that the Wave Fabric has aesthetic appeal and thus would be inconsistent with the definition of work of artistic craftsmanship stated in *Bonz Group*. I need not go that far since I have found on the facts that the Wave Fabric does have aesthetic appeal. This part of the definition in *Bonz Group* is satisfied whether or not, in law, it is required.

64. I will adopt the *Bonz Group* summary definition of a work of artistic craftsmanship with clarifications which I believe to be consistent with the definition: (i) it is possible for an author to make a work of artistic craftsmanship using a machine, (ii) aesthetic appeal can be of a nature which causes the work to appeal to potential customers and (iii) a work is not precluded from being a work of artistic craftsmanship solely because multiple copies of it are subsequently made and marketed. No binding English authority has been drawn to my attention which prevents me from construing s.4(1)(c) in that way. Accordingly, the Wave Fabric is a work of artistic craftsmanship.

### **Originality**

65. Mr Park said in his statement that the Wave Fabric was an original work and not copied from any other design, but it is not certain that he had direct knowledge of this. Neither is it certain what he had in mind by the term 'original'. There is less room for ambiguity in his assertion that the Wave Fabric was not copied from another design, but his source of that information is unknown. I can give Mr Park's statement only little weight.
66. The Wave Fabric was created in 2009. Up until the trial, EWM relied on a similar fabric supplied by China Ningbo International Cooperation Ltd, said to have been created in 2005. EWM argued that this was sufficiently similar to the Wave Fabric to deny the latter of originality. During cross-examination it emerged, by the consensus of the experts, that the China Ningbo Fabric was in fact a fabric made by Bengal Knitex, presumably after it had been approached by EWM.
67. Mr Harbottle submitted, rightly, that it was for Response to prove originality, not for EWM to disprove it. But the nature and extent of EWM's failed attempts to find a fabric pre-dating the Wave Fabric are nevertheless relevant. Mr Anderson confirmed that he had organised thorough inquiries, particularly in the Far East, to search out fabrics available earlier than 2009 and which were similar to the Wave Fabric. He also confirmed that no similar fabric had been found.
68. There was nothing in the evidence that cast any doubt on Mr Park's assertion that the Wave Fabric was not copied from another design. On the balance of probabilities I accept that it was not. That being so, it must follow that the Wave Fabric was the author's own intellectual creation, see *Levola* above, at [36]. I find that the Wave Fabric is original and that copyright subsists in it.

### **Ownership**

69. Response's claim to ownership of the copyright rested on a written assignment dated 23 June 2016 from GIN Textile to Response. In closing it was not disputed that the copyright, if it subsists and was owned by GIN Textile, was assigned to Response by that written agreement. I have discussed subsistence. The Wave Fabric was created by someone at GIN Textile and there was no reason to doubt Mr Park's assertion that the someone would have been an employee. That being so, the copyright was first owned by GIN Textile.

### **Copying**

70. There was considerable discussion of the fabrics by the experts, with particular attention to 'blisters', raised parts of fabric which create the wave pattern, on the 'ground' or flat areas of the fabric. This is putting it too simply because the experts identified different categories of blister and ground areas, but I need not explore the subtleties.
71. In cross-examination Mr Herbert no longer relied on large parts of his evidence which he described as being just part of his research, which he thought he should set out. The most compelling evidence he gave in support of his view that the Visage, Cingo and Bengal Knittex Fabrics had each been copied from the Wave Fabric were illustrations of each of those fabrics stretched by ring to reveal, more clearly, the wave patterns of each fabric. Annexes 2, 3, 4 and 5 to this judgment are respectively the Wave, Visage, Cingo and Bengal Knittex Fabrics. Annex 6 shows the China Ningbo Fabric (unfortunately photographed by Mr Herbert with the lines running in a horizontal direction).
72. It is significant that the so-called China Ningbo Fabric, which looks a little different to the other four, was a fabric on which, right up until the trial, EWM had intended to rely to show that the Wave Fabric is not original because of the alleged striking similarities between this fabric and the Wave Fabric.
73. Mr Herbert was satisfied on the basis of his images shown in the Annexes that each of the Visage, Cingo and Bengal Knittex Fabrics had been copied, directly or indirectly from the Wave Fabric. Mr MacLellan was cross-examined on these images. He accepted that the similarities in design features could not be a coincidence and conceded that there could have been copying.
74. In my view, the similarities are sufficient for me to infer that in each case there was direct or indirect copying of the Wave Fabric.

### **Copying in substantial part**

75. Mr Harbottle submitted that the law was not as it used to be when assessing whether any substantial part of a copyright work has been copied, within the meaning of s.16(3)(a) of the 1988 Act, because of Directive 2001/29 and judgments of the CJEU. It was now necessary to show that the alleged infringer has taken the author's intellectual creation, i.e. that part of the work which is original. He argued that Response had not identified the original part of the Wave Fabric and therefore could not establish infringement.

76. I accept Mr Harbottle’s submission as to the change in the law, but his argument presupposes that when the Wave Fabric was created, the employee of GIN Textile copied an earlier design to make part of the Wave Fabric, the remainder of which was the employee’s intellectual creation. This suggestion was not supported by evidence from either expert and I find it improbable. The design embodied in the Wave Fabric is of a nature such that it is likely to have been created by the employee as a unit of design which is repeated; if one had the patience it may be possible to spot the unit. There was discussion of this design approach by the experts. In other words, the design is of a nature which does not lend itself to the idea that some of it was copied and some of it was not.
77. The design of the Wave Fabric was not copied in every detail in any of the accused fabrics, but in each case it has been reproduced closely enough for a substantial part of the design of the Wave Fabric to have been copied. I am satisfied that in every case the intellectual creation of the unidentified GIN Textile employee was taken. The Visage, Cingo and Bengal Knittex Fabrics are all infringing copies of the Wave Fabric.

### **Primary infringement**

78. So far as is relevant, ss.16 and 18 as currently in force provide as follows (an earlier version of s.18 may strictly apply, but any difference does not matter):

**“16. *The acts restricted by copyright in a work***

(1) *The owner of the copyright in a work has, in accordance with the following provisions of this Chapter, the exclusive right to do the following acts in the United Kingdom —*

...

(b) *to issue copies of the work to the public (see section 18);*

...

**18. *Infringement by issue of copies to the public.***

(1) *The issue to the public of copies of the work is an act restricted by the copyright in every description of copyright work.*

(2) *References in this Part to the issue to the public of copies of a work are to the act of putting into circulation in the United Kingdom copies not previously put into circulation in the EEA by or with the consent of the copyright owner.*

(3) *References in this Part to the issue to the public of copies of a work do not include —*

(a) *any subsequent distribution, sale, hiring or loan of copies previously put into circulation (but see section 18A: infringement by rental or lending);*



[subsection (b) now deleted]

(4) *References in this Part to the issue of copies of a work include the issue of the original.”*

79. Response’s case on primary infringement rested on EWM having issued each of the Visage, Cingo and Bengal Knittex Fabrics to the public within the meaning of ss.16(1)(b) and 18 of the 1988 Act. In closing Mr Harbottle accepted that if the Cingo and Bengal Knittex Fabrics were infringing fabrics, EWM had infringed by issuing them to the public. I take this to be a concession that the sales by Cingo and Bengal Knittex to EWM took place outside the EEA, so that first sale of the infringing fabrics within the EEA and thus the issue of those fabrics to the public must have been by EWM.

80. Mr Harbottle submitted that this was not the case in respect of the Visage Fabric: Visage had issued its copies of the Wave Fabric to the public in the course of sales to EWM since those sales were the acts that had put the Visage copies of the Wave Fabric into circulation in the UK. It was irrelevant that the copies were then sold and thus made available to the public in the usual sense of the term by EWM.

81. This raises the question as to which transaction in a distribution chain for a product constitutes issuing that product to the public. Infringing copies of a copyright work may be manufactured by A, sold to wholesaler B, which sells on retailer C, which sells them to the public. By which sale is the product issued to the public?

82. Section 18 must be read in conformity with a number of EU Directives, all of which provide for a distribution right of copyright owners, broadly being the exclusive right of copyright owners to put the work and copies of it into public circulation. The applicable Directive depends on the nature of the copyright work. In the case of an artistic work it is Directive 2001/29. Art 4 provides:

***“Article 4***

(1) *Members States shall provide for authors, in respect of the original of their works or of copies thereof, the exclusive right to authorise or prohibit any form of distribution to the public by sale or otherwise.*

(2) *The distribution right shall not be exhausted within the Community in respect of the original or copies of the work, except where the first sale or other transfer of ownership in the Community of that object is made by the rightholder or with his consent.”*

83. Art.4(2) suggests that the considerations which arise in the context of the exhaustion of other IP rights, in particular trade marks, are relevant to the interpretation of art.4 and thus s.18 of the 1988 Act.

84. My attention was drawn to the judgment of HHJ Birss QC in *Abraham Moon & Sons Ltd v Thornber* [2012] EWPC 37; [2013] FSR 17. That case concerned copyright in a plaid fabric. The judge found that a fabric called ‘Spring Meadow’ was an infringing copy. Spring Meadow was woven by the fifth defendant, NB Fabrics Ltd, which supplied it to one of two companies, most probably Metropolis Interiors Ltd,

which then supplied the infringing fabric to a firm called ‘Art of the Loom’, either directly or via another company. The first four defendants were the partners in Art of the Loom, a retailer which sold the fabric to the public.

85. It was argued that Art of the Loom had not issued the infringing fabric to the public within the meaning of s.18; this had happened when the manufacturer, NB Fabrics, sold the fabric to Metropolis Interiors. Counsel drew an analogy with the judgment of the CJEU in *Peak Holding AB v Axolin-Elinor AB* (Case C-16/03) EU:C: 2004:759; [2005] ETMR 28:

“[123] Mr Turner submitted that it was clear that s.18 was not intended to be narrower than the concept of putting on the market in European trade law and he submitted that in *Peak Holding v Axolin* (C-16/03) had held that goods are placed on the market for the purposes of the EU’s law of exhaustion when they are sold to an independent undertaking. Thus the sale from NB Fabrics to Metropolis was the act of putting on the market.

[124] Ms Edwards-Stuart submitted that on the facts of this case, the entity which makes the copy available to the public is Art of the Loom and not either NB Fabrics or Metropolis. If NB Fabrics (or Metropolis) were themselves selling to the public then the matter would be different. Art of the Loom would be nothing more than another normal customer and their resale would not be caught by s.18 .

[125] I accept Ms Edwards-Stuart’s submission. It seems to me that the CJEU in *Peak Holding* were not considering a factual situation like this one. In this case, as a matter of reality, it is Art of the Loom which puts the Spring Meadow fabric on the market. Neither NB Fabrics nor Metropolis sell to anyone other than Art of the Loom (or another Thornber company). I do not know whether this is pursuant to a formal supply agreement or simply based on the tacit understanding of the parties to this arrangement but it is clear in my judgment that NB Fabrics and Metropolis are making and finishing this fabric for supply on to Art of the Loom and no one else. If the supply chain includes other entities related to the Thornber family as well, that makes no difference. The purpose of these arrangements with NB Fabrics and Metropolis is in order for Art of the Loom to sell the finished product on the open market. In my judgment Art of the Loom are putting into circulation on the market copies not previously put into circulation and are infringing under s.18.”

86. In *Peak Holding* the CJEU held:

“[40] A sale which allows the proprietor to realise the economic value of his trade mark exhausts the exclusive rights conferred by the Directive, more particularly the right to prohibit the acquiring third party from reselling the goods.

[41] On the other hand, where the proprietor imports his goods with a view to selling them in the EEA or offers them for sale in the EEA, he does not put them on the market within the meaning of article 7(1) of the Directive.

[42] Such acts do not transfer to third parties the right to dispose of the goods bearing the trade mark. They do not allow the proprietor to realise the economic value of the trade mark. Even after such acts, the proprietor retains his interest in maintaining complete control over the goods bearing his trade mark, in order in particular to ensure their quality.”

87. It seems to me that the sale of infringing fabric by Visage to EWM qualified as issuing that fabric to the public if, by that sale, Visage transferred to EWM the right to dispose of the fabric. The requirement in *Peak Holding* that the transaction must realise the economic value of the trade mark implies that in addition the disposal must have been to an independent party.
88. Those requirements were satisfied by Visage’s sale to EWM. Therefore Visage’s infringing fabric was issued to the public by that sale. It follows that there was no primary infringement by EWM consequent upon its sales of the Visage Fabric, made into tops, to the public.

### **Secondary Infringement**

89. Section 23 of the 1988 Act provides:

“23. *The copyright in a work is infringed by a person who, without the licence of the copyright owner –*

*(a) possesses in the course of business,*

*(b) sells or lets for hire, or offers or exposes for sale or hire,*

*(c) in the course of a business exhibits in public, or distributes, or*

*(d) distributes otherwise than in the course of business to such an extent as to affect prejudicially the owner of the copyright,*

*an article which is, and which he knows or has reason to believe is, an infringing copy of the work.”*

90. Secondary infringement in the present case turns on whether EWM had reason to believe that the Visage, Cingo and Bengal Knittex Fabrics were infringing copies of the Wave Fabric. In *L.A. Gear Inc v Hi-Tech Sports plc* [1992] FSR 121, Morritt J encapsulated his understanding of that test:

“...it seems to me that ‘reason to believe’ must involve the concept of knowledge of facts from which a reasonable man would arrive at the relevant belief. Facts from which a reasonable man might suspect the relevant conclusion cannot be enough. Moreover, as it seems to me, the phrase does connote the allowance of a period of time to enable the reasonable man to evaluate those facts so as to convert the facts into a reasonable belief.”

91. On appeal from Morritt J’s judgment (reported also at [1992] FSR 121, beginning at 132) this passage was quoted by Nourse LJ (with whom Staughton LJ and Sir Michael Kerr agreed) with clear approval (at pp.138-9).

92. In *ZYX Music GmbH v King* [1995] FSR 566 Lightman J said that the reasonable man must be such an individual in the defendant's position (at 578).
93. I must consider all the relevant facts known to EWM and decide whether, viewed objectively, a reasonable retailer in its position would have arrived at the belief that the Cingo and Bengal Knittex Fabrics, and most relevantly the Visage Fabric, were infringing copies. It will be enough if the facts would have led a reasonable person to believe that dealing in the copies would be in breach of a right in the nature of copyright held by some other person. Merely suspecting that this is the case will not be enough.
94. It was admitted by EWM in its Defence that when it stopped placing orders with Response for tops made from the Wave Fabric, it supplied a sample of a top made from the Wave Fabric to alternative suppliers, including Visage, along with a specification sheet. This was confirmed by Ms Blythe in her witness statement although she denied that EWM made any request that the Wave Fabric should be copied. A similar specification was subsequently supplied to Cingo and Bengal Knittex. Ms Blythe did not say that a fabric sample was given to these two manufacturers.
95. Ms Blythe emphasised that she was aware of intellectual property rights and that they should not be infringed. She also said this:
- “I did not regard the replacement of a garment in our range with another one which uses a fabric which is generally available on the market and is similar to but materially different from the original as wrong or inappropriate. It is standard or commercial practice.”
96. The difficulty with this assertion is that EWM, on the instructions of Mr Anderson, took some trouble to find other fabrics similar to the Wave Fabric and failed to do so. I have the impression that Ms Blythe's idea of a fabric that would be close enough to infringe copyright in the Wave Fabric was a fabric that was essentially identical.
97. Ms Blythe said that when Visage supplied a sample of the Visage Fabric it did not appear to her to represent a copy of the Wave Fabric. Similarly, the Cingo fabric was in Ms Blythe's view similar to the Wave Fabric but materially different. On the other hand, she said that the Bengal Knittex Fabric (and presumably also the Cingo Fabric) was sufficiently similar to Visage Fabric for EWM to transition from one to the other. I infer that the similarities between the Wave Fabric and the Visage Fabric were likewise sufficient for EWM transition from one to the other.
98. In cross-examination Ms Blythe conceded that, contrary to the impression given in her witness statement, she was not part of the sourcing team and had no direct knowledge of what the sourcing team had said or done in its dealings with suppliers of fabrics to EWM.
99. I must assume that when Ms Blythe and others at EWM inspected each of the Visage, Cingo and Bengal Knittex Fabric they noticed the similarities with the Wave Fabric that are illustrated in Annexes 2-5 of this judgment. It is certain that they were aware of no other fabric displaying such similarities. In closing Mr Harbottle argued that

they would not have stretched the fabrics, so the similarities would not have emerged. This implies a surprisingly cursory handling of the fabrics.

100. I think it is likely that when Visage was provided with a sample of the Wave Fabric and asked for something similar, Visage understood that something very similar was required. There is no direct evidence that Cingo and Bengal Knittex were provided with a sample by EWM, but Ms Blythe could not know because she was not part of the sourcing team. The similarities between the fabrics suggests to me that they were.
101. Given that each of Visage, Cingo and Bengal Knittex were probably invited to supply a fabric very similar to the Wave Fabric, it can have come as no surprise to EWM that this was what they got. I think it is likely that Ms Blythe and possibly others at EWM were either prepared to take the risk that EWM was infringing Response's rights, or alternatively they adopted such a narrow view of those rights that they believed there would be no infringement. But the test is not what Ms Blythe thought, it is what a reasonable person in her position would have thought.
102. In my view, the similarities between the Wave Fabric on the one hand and each of the Visage, Cingo and Bengal Knittex Fabrics on the other, would have been apparent to a reasonable person and would have led that person to believe that dealing in the latter fabrics would be in breach of rights likely to be held by Response. EWM's sales of the Visage, Cingo and Bengal Knittex Fabrics were all secondary infringements.

### **Conclusion**

103. EWM has infringed Response's copyright in the Wave Fabric by sales of the Visage, Cingo and Bengal Knittex Fabrics as made up into tops.

**ANNEX 1**  
**(WAVE FABRIC TOP)**



**ANNEX 2**  
**(WAVE FABRIC)**

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RESPONSE BACK STRETCH.jpg



RESPONSE FRONT STRETCHED.jpg

**ANNEX 3**  
**(VISAGE FABRIC)**



VIS BACK STRETCH.jpg



VIS FR .STRETCH JPG.JPG



**ANNEX 4**  
**(CINGO FABRIC)**

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CINGO BACKSTRETCHED.jpg



CINGO FR STRETCHED.jpg

**ANNEX 5**  
**(BENGAL KNITTEX FABRIC)**

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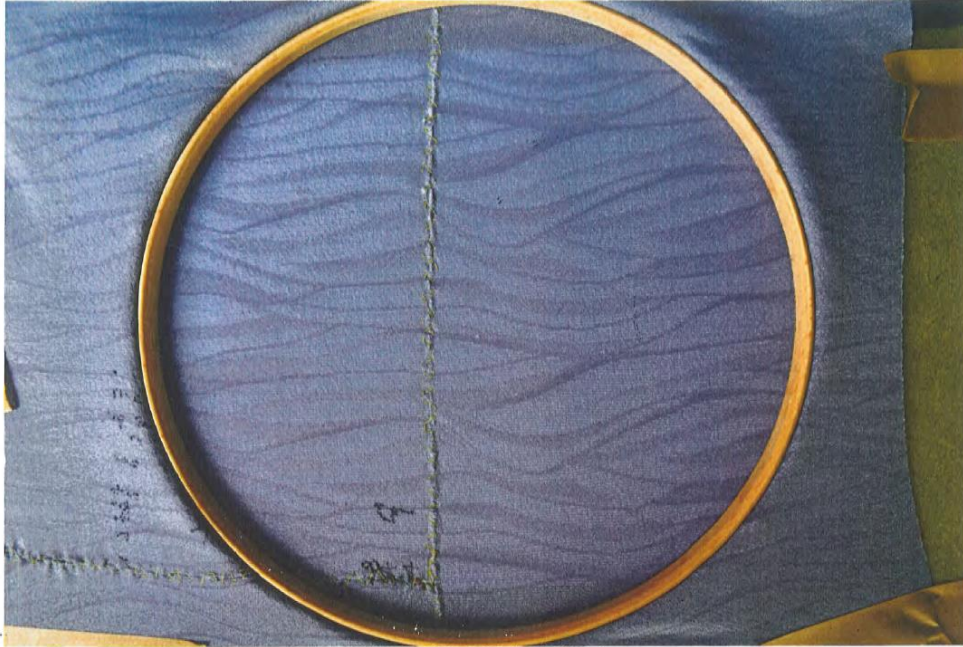
BK beige stretch back.jpg



BK FR BEIGE STRETCHED.jpg

**ANNEX 6**  
**((SO-CALLED) CHINA NINGBO FABRIC)**

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CN BACK STRETCHED.jpg



CN FRONT STRETCHED.jpg