

**O-626-17**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF THE APPLICATION BY  
BEATRICE PERRY LIMITED  
UNDER NO. 3085982 FOR THE TRADE MARK**

**BEATRICE PERRY**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 404068 BY  
PLISSE S.P.A.**

## **The background and the pleadings**

1) On 14 December 2014 Beatrice Lillian Perry filed application no. 3085982 to register the following trade mark:

### **BEATRICE PERRY**

During the course of these proceedings Ms Perry assigned ownership of the mark to its present proprietor, Beatrice Perry Limited (“the Applicant”). The application was published for opposition purposes on 9 January 2015. Registration is sought for goods and services in Classes 18, 25 and 35, as shown in the **Annex** to this decision.

2) The application is opposed by Plisse S.p.A. (“the Opponent”) under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), for the purposes of which the Opponent relies upon EU trade mark (“EUTM”) registration no. 5435474 (“the earlier mark”) for the following mark:

### **BEATRICE.B**

3) The earlier mark was filed on the 02 November 2006, with a priority date of 19 July 2006, and completed its registration procedure on 29 October 2007. The significance of the above dates is that (1) the earlier mark relied on by the Opponent constitutes an earlier mark within the meaning of section 6 of the Act, and (2) it is subject to the proof of use conditions contained in section 6A of the Act, its registration procedure having been completed more than five years before the publication of the Applicant’s mark.

4) During the course of the present proceedings the Applicant instituted revocation proceedings at OHIM against the earlier mark, which resulted in an amendment of the earlier mark’s specification. As a result, the goods currently relied on by the Opponent for the purposes of this opposition are as follows:

**Class 18:** *Leather and imitations of leather and goods made of these materials not included in other classes, Namely fashion accessories.*

**Class 25:** *Clothing.*

5) The Opponent claims that because of similarity between the respective marks and identity or similarity between the respective goods there exists a likelihood of confusion. The Applicant filed a counterstatement, denying that there is sufficient similarity between the marks and the respective goods and services to give rise to a likelihood of confusion between the marks. It also put the Opponent to proof of use of the earlier mark in respect of the goods relied on. The period during which genuine use of the marks must be proved (“the relevant period”) is 10 January 2010 to 9 January 2015. The Opponent is represented by Mishcon de Reya LLP. The Applicant is represented by Forresters. During the evidence rounds both sides filed evidence, and the Opponent filed submissions. Neither side requested a hearing. Both sides filed written submissions in lieu of attendance at a hearing. I therefore give this decision after a careful review of all the papers before me.

### **The evidence**

#### **The Opponent’s evidence in chief: the witness statement of Mr Paolo Mason and the first witness statement of Ms Kathryn Cruse**

6) In a witness statement of December 2016 Paolo Mason states that he has been the Opponent’s CEO since 1988, and that goods corresponding to those of the Applicant’s specification in Classes 18 and 25 have been sold under the mark throughout the European Union during that time. He states that between January 2010 and December 2014 sales made under the BEATRICE.B trade mark in the European Union amounted to €14,706,272.00, and that in the UK they amounted to €372.309.45, the relevant figures for the UK being:

2010	€116,142.44
2011	€103,171.64

2012	€211,522.09
2013	€33,883.72
2015 <sup>1</sup>	€23,732.00

7) In order to show use of the earlier mark in the European Union Mr Mason appends exhibits containing invoices, price lists and advertisements in publications. Most of the latter, being foreign language magazines, are unlikely to have had a wide circulation in the UK. In a witness statement of 10 March 2017 Kathryn Cruse, a UK Chartered Trade Mark attorney with the Opponent's representatives, exhibits a print-out from Wikipedia to show that *MAXIM* magazine was devised and launched in the UK in 1995, has been based in New York since 1997, is available in 76 countries, and has a total circulation of over 928,000 as at 2017. I note, however, that it is published in 17 editions, that the article from *MAXIM* in the exhibit appended to Mr Mason's statement is in Italian, and that an English translation has been provided, so there is nothing to indicate that the article appeared in an English edition.

8) Single page advertisements to show use of the earlier mark, consisting of photographs with minimal text, are reproduced from what appear to be English-language publications: *self service magazine*, *Love*, and, possibly, a further indeterminate publication appearing on page 13 of Exhibit PM5). Only *Love* is marked "United Kingdom" in Mr Mason's statement, however, and I have no circulation details for any of these publications, or details of advertising spend in the UK. I note from the translation provided of an article which appeared in *Journal du Textile* dated 23-26 January 2015 that "*In Europe, the brand is already represented at Selfridge's in London and El Corte Ingles in Spain*", but have no further information on the extent or duration of the presence at *Selfridge's*.

#### **The Applicant's evidence: witness statement of Ms Beatrice Perry**

9) In a witness statement of 15 May 2017 Beatrice Lilian Perry states that she is the Creative Director of the Applicant, which was incorporated on 18 December 2014 in

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<sup>1</sup> In Mr Mason's witness statement the year is given as 2015, which is an obvious typographical error. It should clearly be 2014.

connection with the launch of the fashion label BEATRICE PERRY. She further states that:

- the Applicant has used the contested mark in connection with clothing and fashion accessories in the UK since at least September 2014;
- the goods are sold online via the brand's website at <http://lwww.beatriceperry.com>, and via temporary retail outlets, private sales events and pop-up stores around the United Kingdom;
- the Applicant's products are premium goods produced in small volumes in the United Kingdom;
- the Applicant does not sell its products via wholesale channels;
- and that the contested mark is primarily used in a distinctive font accompanied by a simple logo.

10) In Exhibits BP-2 to BP-7 Ms Perry provides materials showing use of the contested mark as described above, and extracts of social media pages showing the promotion of the BEATRICE PERRY brand. As of 26 April 2017, she says, the "beatriceperrylondon" Instagram profile has 632 followers, including fashion editors, stylists, photographers and other individuals directly involved in the fashion industry. She states that the Applicant mainly relies on word of mouth advertising and private events, and has also run six advertising campaigns via Facebook, and two campaigns via Google AdWords, as evidenced in Exhibit BP-5. Media coverage in Exhibit BP-6 comprises an extract from the webpage of Susannah Lipscomb reporting on her participation in an episode of *Antiques Road Show* wearing a coat by "Beatrice Perry London", and an article from *KCW Today*, describing itself as a "monthly intelligent newspaper and online content" distributed in the Kensington, Chelsea and Westminster area, in which a Beatrice Perry "Foundations" collection is mentioned.

11) Ms Perry asserts that "*The extensive use of the Mark in the United Kingdom without any consumers or media outlets associating the Mark with the Earlier Mark suggests that there can be no likelihood of consumer confusion between the respective marks*". In Exhibits BP-8 to BP-11 she also attaches materials to "*show that several other entities use the name BEATRICE in connection with clothing and*

*fashion-related goods and services in Classes 18, 25 and 35. Such instances demonstrate that several BEATRICE-formative marks co-exist on the marketplace of the United Kingdom and other territories covered by the Earlier Mark without any known instances of confusion, and that the Earlier Mark does not afford the Opponent with any exclusivity over the name BEATRICE for the goods covered by the Earlier Mark”.*

12) As evidence that BEATRICE is a common first name in the UK she attaches as Exhibit BP-12 materials to show that, according to the Office of National Statistics, BEATRICE was the 93rd most popular name in the birth registration ranking in England and Wales in 2015, and was the most popular name in birth announcements in the UK national newspaper *The Telegraph*.

**The Opponent’s evidence in reply: Ms Cruse’s second witness statement**

13) In a second witness statement of 27 July 2017 Kathryn Cruse points out that use of the Applicant’s trade mark often includes the use of a letter B alone, whether at the top left hand side of the tab of web browsers as per Exhibit KC1, or at the centre of the homepage of the website [www.beatriceperry.com](http://www.beatriceperry.com) itself; as per Exhibit KC2. In fact, the letter B in these cases is shown with dots on either side of it, as follows:



This is presumably the “logo” referred to by Ms Perry in her witness statement where she mentions use of the contested mark “*in a distinctive font accompanied by a simple logo*”. Ms Cruse also points out that the Opponent’s use of its trade mark on web browser tabs includes the letter B as a notable trade mark element, again on the top left hand side of tabs (as in Exhibit KC3) and as a main element on the homepage of the website [www.beatriceb.it](http://www.beatriceb.it) (as in Exhibit KC4). Ms Cruse says that many women named Beatrice have their name shortened to “Bee”, and that this can

be written with a simple B. In support of this proposition she attaches as Exhibit KC5 an entry in an online forum.

14) Ms Cruse asserts that the applicant and opponent's products are both aimed at those that earn from around £70K, exhibiting an article from the Guardian to show that this represents the top 5% consumer bracket, and providing examples showing prices of the Applicant's and Opponent's respective goods.

15) In exhibits KC10 to KC18 Ms Cruse provides documentation in support of her criticisms of the evidence provided by Ms Perry to support the latter's contention that "*several BEATRICE-formative marks co-exist on the marketplace of the United Kingdom and other territories covered by the Earlier Mark without any known instances of confusion*". I shall discuss this further when I come to make my assessment of the likelihood of confusion.

### **Section 5(2)(b)**

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

"5(2) A trade mark shall not be registered if because – [...]

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Proof of use**

18) In its notice of defence the Applicant requested the Opponent to provide proof of use of the earlier mark in respect of the goods relied on. In the interest of procedural economy for the purposes of my decision I shall assume that the Opponent has shown genuine use for the full range of goods relied upon.

### **Comparison of the goods**

19) Both competing specifications contain the term *clothing* and many of the contested goods in Class 25, for example, fall within the ambit of the Opponent's clothing, and are thus identical under the guidance in Case T- 133/05, *Gérard Meric v Office for Harmonisation in the Internal Market*. For reasons of procedural economy I shall not undertake a full comparison of the goods and services in the competing specifications. My assessment will proceed on the basis that the contested goods are identical to those covered by the earlier mark. If the opposition fails, even where the goods are identical, it follows that the opposition will also fail where the goods or services are only similar.

### **The average consumer and the purchasing process**

20) The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood

of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97*. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

21) The average consumer of the Opponent's goods in Classes 18 and 25 consists of the general public. The same is true of the Applicant's goods in Classes 18 and 25, and of its retailing services in Class 35 under the contested mark. Clothing and accessories are regular consumer purchases, not specialist goods. They are available in a range of prices and there may be a greater degree of care employed in the selection of more expensive clothes and accessories. Overall, however, consumers will normally pay an average degree of attention, neither higher nor lower than the norm, when selecting the goods, or an appropriate retail channel for purchase of the goods. The same is true of the Applicant's other services. The purchasing of all these goods and services is a predominantly visual process, so visual aspects of the marks take on more importance<sup>2</sup>, but there may be some scope for oral use of the mark, so aural aspects will not be overlooked in my comparison.

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<sup>2</sup> See in particular *New Look Limited v OHIM*, joined cases T-117/03 to T-119/03 and T-171/03 at paragraph 50.

## Comparison of the marks

22) It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

23) It would be wrong, therefore, to dissect the trade marks artificially, although, it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

24) The marks to be compared are shown below:

<b>The contested mark</b>	<b>The earlier mark</b>
<b>BEATRICE PERRY</b>	<b>BEATRICE.B</b>

The Applicant submits that the dominant and distinctive part of the contested mark is the surname PERRY, continuing:

*“19.... It is submitted that in the present case, the surname PERRY has a more distinctive character than the forename BEATRICE, taking into account of factors specific to the case and, in particular, the fact that the surname concerned is unusual and the forename is relatively common, which is likely to have an effect on the distinctive character of the respective constituent parts of the Application (following CJEU. 24 June 2010, Barbara Becker/OHIM Harman International Industries Inc., C-SI 109P, paragraph 36)....*

The Opponent submits:

*“... the trade marks both commence with the identical name BEATRICE.*

*In the UK, Beatrice is a recognised first name, but not one that was particularly common at the time the later mark was applied for. The remainder of the earlier trade mark relied upon, .B, can be seen to be a shortened version of the full name of the BEATRICE collection. That is, it could be seen as a middle initial, or surname initial, or simply a short stylisation of the name BEATRICE.*

25) In support of its contention that BEATRICE is a common name in the UK the Applicant filed evidence that BEATRICE was the 93rd most popular name in the birth registration ranking in England and Wales in 2015, and was the most popular name in birth announcements in the UK national newspaper *The Telegraph*. In reply, the Opponent makes the point that *“Trade Marks that include names tend to relate to the business owner, who is not a newly born baby, but generally an adult, and more often than not, a more mature one at that”*. The Applicant asserts that the surname PERRY is “unusual”, but provides no evidence of this. The Opponent too offers no evidence on how common or otherwise the surname PERRY is, but asserts that it is not the dominant element of the mark applied for. I think the true position, and one that is consistent with the evidence, is that, though both are quite familiar to the average consumer in the UK, neither the forename BEATRICE nor the surname PERRY will be seen by him or her as either particularly common or notably uncommon.

26) In making my comparison I also note the following observation of the General Court in Case T-559/13, *Giovanni Cosmetics Inc v OHIM*:

“The fact – emphasised by the applicant – that the element ‘giovanni’, which constitutes the earlier trade mark, appears before the element ‘galli’ in the mark applied for is not very significant: it is normal, when giving the names of persons, to indicate the first name followed by the surname. If great significance were to be ascribed to the fact that the first name appears first, that would mean that too much importance would be ascribed to that first name. It cannot however be asserted that, in the case of a trade mark consisting of a first name followed by a surname (neither of which is perceived as either common or rare), the public will normally ascribe greater importance to the first name than to the surname.”

27) The word BEATRICE in the contested mark will be seen by the average consumer in the UK as a female forename. The word PERRY may sometimes be used as male forename, but it will also be recognised as a familiar surname. The immediate impression which the words BEATRICE PERRY will make on the average consumer is that they form a complete personal name: forename followed by surname. Neither word dominates the other; together they form a unit identifying a particular individual. The distinctiveness of the contested mark lies in the name as a whole.

28) Similarly, the word BEATRICE in the earlier mark will be seen as a forename. The use of a full stop after BEATRICE is rather unusual, but has the effect of separating off the following B. This could presumably have been achieved by a simple gap, but the full stop is more visually emphatic. I consider that the most natural way for the average consumer to interpret a final, single B following a forename will be as an abbreviation, probably of a surname, but possibly, as the Opponent suggests, of a middle name or, less likely, of the name BEATRICE itself. The technically correct way to indicate an abbreviation is by a full stop after the letter in question, but the public is well used to seeing unorthodox punctuation in trade marks.

29) There is settled case law that the consumer normally attaches more importance to the beginnings of word marks. However, this is no more than a rule of thumb. Each case must be considered on its merits. My assessment must take account of the overall impression created by the mark<sup>3</sup>. Although BEATRICE is a clear and crucial component of the earlier mark, it does not dominate the mark on its own. The full stop and B, and the way in which they are run on at the end to form a continuous line, also make a substantial contribution to the overall impression of the mark; its distinctiveness lies in the mark as a whole.

30) The initial BEATRICE in both the competing marks contributes a substantial element of visual similarity to them. On the other hand, the contested mark is longer and consists of two distinct, roughly balanced words, one of which is absent from the earlier mark, whereas the much briefer final elements of the shorter earlier mark are run together with the initial BEATRICE to form one continuous line; this makes a substantial difference to the broad visual impression of the earlier mark. Overall, this results in a medium degree of visual similarity between the marks.

31) Both BEATRICE and PERRY are quite familiar names, and the consumer will find their pronunciation straightforward. BEATRICE will be pronounced identically in both marks, and contributes a substantial initial element of aural similarity to them. The bisyllabic PERRY (pronounced PE-REE) contrasts with the monosyllabic final B of the earlier mark (pronounced as the name of the letter: BEE) to contribute a substantial element of aural dissimilarity. Although the word BEATRICE will make the initial impact in both cases, the concluding PERRY/B contrast is also significant. Overall, there is at least a medium degree of aural similarity between the marks.

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<sup>3</sup> Cf. *Spa Monopole, compagnie fermière de Spa SA/NV v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-438/07*:

“23 Admittedly, the consumer normally attaches more importance to the first part of words (Joined Cases T-183/02 and T-184/02 *El Corte Inglés v OHIM – González Cabello and Iberia Líneas Aéreas de España (MUNDICOR)* [2004] ECR II-965, paragraph 81). However, that argument cannot hold in all cases (see judgment of 16 May 2007 in Case T-158/05 *Trek Bicycle v OHIM – Audi (ALL TREK)*, not published in the ECR, paragraph 70 and the case-law cited) and does not, in any event, cast doubt on the principle that the assessment of the similarity of marks must take account of the overall impression created by them.”

32) Neither of the competing marks have any conceptual content beyond the fact that they are both likely to be seen as consisting of names (the earlier mark including a probable abbreviation of a surname or, possibly, of a middle name or of the name BEATRICE itself). I shall have more to say about this when I come to make my global assessment of the likelihood of confusion. I also note the following observation of the General Court in Case T-559/13, *Giovanni Cosmetics Inc v OHIM*:

“In the present case, the degree of conceptual similarity between the signs at issue must be described as low because, although it is true that the marks at issue contain the same Italian first name, only one is capable of identifying a specific person by his full name.”

### **The distinctiveness of the earlier mark**

33) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark, on the basis either of inherent qualities or because of use made, the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97, the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *WindsurfingChiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested

by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

34) The Applicant submits:

*“23. The Applicant has submitted evidence that BEATRICE is a common English name, and also used and/or registered by numerous parties in the context of the goods and services covered by the Application (see Section 4 of the Witness Statement). Accordingly, given the number of BEATRICE-formative marks on the register and market for the goods and services, consumers will pay more attention to surnames or other distinctive elements than to first names when trying to distinguish between the origin of goods or services in the same field.*

*24. Furthermore, due to the name BEATRICE being a common English name which is used by multiple traders in the field of the goods and services covered by the Earlier Mark (as shown at Paragraph 4 of the Witness Statement), the distinctive character of the Earlier Mark must be considered to be low, in particular that the capacity of the name BEATRICE to distinguish goods and services from those of other undertakings is diminished due to the ubiquity of BEATRICE as a first name, and its usage by multiple undertakings on the UK market for the respective goods and services.....”*

35) The Opponent makes several criticisms of the Applicant’s evidence of use of the name BEATRICE in trade and/or in trade mark registrations by several other parties “in the context of the goods and services covered by the Application”. All the evidence in Exhibits BP-8 to BP-11 was downloaded in May 2017, making it awkward to determine what consumer exposure to the other respective marks may have been at the time when the contested mark was applied for. In some cases it is not shown that trade mark registrations have been, or are, used in trade, or how long

they have been so used. In some cases, the marks in question are used for goods other than those at issue in this case.

36) Where the enterprise concerned is based in the UK it is in some cases not clear how far the target markets overlap. In some cases it is not clear where the enterprise concerned is based. In those cases, or where the enterprise concerned is based elsewhere than in the UK, it is not generally clear whether, or to what extent, UK consumers have been specifically targeted. I agree that there is force in the Opponent's criticisms. Basically, it has not been established that the degree of consumer exposure to trade marks containing the word BEATRICE in the vast British market for clothing and fashion accessories has been sufficient to warrant the Applicant's contention that the capacity of the name BEATRICE to distinguish goods and services from those of other undertakings has been diminished through its use by other undertakings on the UK market for the relevant goods and services.

37) This also applies in large measure to Exhibit BP-10, in which Ms Perry provides examples of items "*which feature the name BEATRICE as a sub-brand, including several items sold via retail outlets in the UK*". Pages 45-53 of Exhibit BP-10 show the name BEATRICE being applied to a whole range of women's clothing – though supplied under what is clearly the primary brand "boohoo". Other examples show particular designs of individual items of clothing identified by the name BEATRICE used in connection with various primary brands. On encountering the name BEATRICE used in this way I do not consider that the average consumer will necessarily regard it as intended to function on its own as an indication of origin; rather, it will be seen as identifying that article for the purposes of placing orders, making enquiries, etc.

38) In the light of the considerations discussed above, I am unable to place any material weight on the Applicant's evidence in support of its contention that the distinctiveness of the word BEATRICE on the UK market for the goods in question has been diminished through its use by third parties.

39) The Opponent did not plead that the distinctiveness of the earlier mark had been enhanced by use, nor did it make any submission to this effect. It may nevertheless

be helpful to note that I consider that the UK turnover figures and the other evidence I have described in paragraphs 5 to 7 above fall well short of establishing that the distinctiveness of the earlier mark had been enhanced through use to any material degree among consumers in the UK when the Applicant's mark was applied for.

40) It therefore remains for me to consider the inherent distinctive character of the earlier mark. Having taken into account the evidence and submissions of the parties, I have found that the name Beatrice, though quite familiar to the average consumer in the UK, will be seen by him or her as neither particularly common nor notably uncommon. It does not describe the relevant goods and services, and has a normal degree of distinctiveness in relation to them. The full stop and final B also contribute something to the earlier mark's distinctiveness; but when I come to make my assessment of the likelihood of confusion I shall bear in mind that Mr Iain Purvis, Q.C., sitting as the Appointed Person, pointed out that the level of 'distinctive character' is only likely to increase the likelihood of confusion to the extent that it resides in the element(s) of the marks that are identical or similar<sup>4</sup>.

### **Likelihood of Confusion**

41) The Applicant submits:

*"It is clear from the evidence that the use of the respective marks BEATRICE PERRY and BEATRICE.B adopt very different styles and philosophies, and the respective products are sold at very different price points and using different channels. Details of the Applicant's goods and services are set out at Section 3 of the Witness Statement. Accordingly, consumers exposed to both marks will be aware that the goods and services provided under each mark clearly do not originate from the same or economically linked undertakings. While the primary comparison must be between the marks as filed/registered, the use of the marks should be taken into account as part of the global appreciation of a likelihood of confusion among the relevant public".*

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<sup>4</sup> See *Kurt Geiger v A-List Corporate Limited*, BL O-075-13 at paragraphs 38-39.

42) The Applicant's submission is misconceived. It is settled law that in assessing whether there is a likelihood of confusion it is the *inherent* nature of the goods of the specifications which I have to consider; current use and business strategy are irrelevant to this notional comparison (see *Devinlec Développement Innovation Leclerc SA v OHIM* Case T- 147/03). This is because they may change over time. As a result of changing use and business strategies, marks may be used to target the same consumers. Consequently, I am required to consider the likelihood of confusion "in all the circumstances in which the mark applied for might be used if it were to be registered" (See Case C-533/06, *O2 Holdings v Hutchison 3G UK* at paragraph 66).

43) I may add that, even assuming that the Applicant and Opponent currently target different markets in this case, it would not in any case be possible to consider on that basis limited specifications with the aim of avoiding a potential for confusion. In *Croom's Trade Mark Application* [2005] R.P.C. 2 Geoffrey Hobbs, Q.C., sitting as the Appointed Person, referred to a preclusion from limitation of "characteristics that may be present or absent without changing the nature, function or purpose of the specified goods", and in *Oska's Ltd's Trade Mark Application* [2005] R.P.C. 20 at [56] Mr Richard Arnold, Q.C. (as he then was) observed, when sitting as the Appointed Person, that he did not consider that it would be permissible to limit a specification by reference to the applicant's intended target market.

44) The Opponent submits:

*"5 Turning to the second element of the earlier trade mark, being the letter B; whilst the letter B is not present in the applicant's later mark, the words Bee, or Bea, or B are well known abbreviations for the name BEATRICE, and so it connects back to the first word. It is noted that, throughout this case the applicant has shown use of the later mark to include the letter B, for example on its Instagram Page, (see page 1 of Exhibit BP-4), on its Facebook page (see page 2 of Exhibit BP.4) and indeed on the applicant's website itself (see Exhibit KCl, and KC2). In comparison, the opponent uses, again a letter B in a stylised manner, at the top of tabs open on web browsers, such as that shown at Exhibit KC3, and in its look books, etc. It is important to bear in mind commercial use made of the applicant's mark, not just the*

*mark applied for, when deciding whether or not coexistence is likely to lead to confusion, including a likelihood of association. This matter will be discussed further below.*

*6 It cannot be denied that the word PERRY is not present in the earlier trade mark, but that does not mean that the existence of BEATRICE in both marks, and at the start of each mark, being the most prominent position of trade marks in general, is not sufficient for the later mark to be deemed highly similar to the earlier trade mark. PERRY will either be deemed a surname of the applicant, or a collaborator of the opponent, being as PERRY is also a boy's forename. It is not the dominant element of the mark applied for. We assert that this is especially relevant when bearing in mind the prominence of the letter B, which is being used by the applicant and the visual similarities in the marks. This is because, as stated at paragraph 53 of New Look Ltd vs Office for the Harmonization in the Internal Market (Trade Marks and Designs) joined cases T-117/03 to T-119/03 and T-171/03 the GC stated:*

*Generally in clothes shops customers can themselves either choose the clothes they wish to buy or be assisted by the sales staff. Whilst oral communication in respect of the product and the trade mark is not excluded, the choice of the item of clothing is generally made visually. Therefore the visual perception of the marks in question will generally take place prior to purchase. Accordingly, the visual aspects play a greater role in the assessment of the likelihood of confusion.*

*Conclusion: The later mark is highly similar to the earlier trade mark, and use of the later mark closes the already narrow gap between the later mark and the earlier trade mark.”*

45) In observing that “*it is important to bear in mind commercial use made of the applicant's mark, not just the mark applied for, when deciding whether or not coexistence is likely to lead to confusion*” the Opponent is inviting me to take into account in my assessment of the likelihood of confusion matter which does not form part of the contested mark as it appears in the application for registration. This submission is misconceived. My comparison must be made on the basis of notional

and fair use of the contested mark as it appears in the application for registration. The fact that (as described in paragraph 12 above) the Applicant may in some cases have routinely used a letter B in association with the contested mark is irrelevant to the comparison I have to make for the purposes of these opposition proceedings. In *J.W. Spear & Sons Ltd & others v. Zynga Inc* [2015] EWCA Civ 290, Floyd LJ observed:

“41 In *L’Oreal v Bellure* [2007] EWCA Civ 968; [2008] RPC 9, the question arose as to whether it was legitimate to take into account, in assessing the likelihood of confusion, certain imagery used by *L’Oreal*, the trade mark proprietor, in connection with its registered mark. The court held that it was not legitimate, when applying the global appreciation test, to take matter external to the mark into account. Jacob LJ, with whom Keene LJ and Blackburne J agreed, said at [110]:

"The test is, and must be, founded on the mark as registered, not material which forms no part of that. There is simply no warrant in the Directive for taking more than the registered mark into account. The global appreciation test does not amount to the proposition that once a registered mark is used in marketing, anything, extraneous to the mark used in marketing, comes in too – as though it formed part of the registered mark.”

46) In Case T-29/04, *Castellblanch SA v OHIM*, the General Court held as follows:

“56 The applicant considers that the comparison of the signs must be made bearing the earlier mark in mind as it is actually used and not how it was registered.

57 The applicant’s submission cannot be upheld. As the Board of Appeal rightly found, the comparison must be made between the signs as they were registered or as they appear in the trade mark application, regardless of whether they are used alone or together with other marks or mentions.”

47) Accordingly, my assessment of the likelihood of confusion will be made on the basis of a comparison of the competing marks as they appear in the register and the application for registration respectively.

48) In Exhibits BP-8 to BP-11 Ms Perry attaches materials to “*show that several other entities use the name BEATRICE in connection with clothing and fashion-related goods and services in Classes 18, 25 and 35. Such instances demonstrate that several BEATRICE-formative marks co-exist on the marketplace of the United Kingdom and other territories covered by the Earlier Mark without any known instances of confusion .....*” I have already discussed weaknesses in this evidence at paragraphs 35 to 37 above, when considering what weight to accord it in connection with the Applicant’s contention that use of the name BEATRICE by third parties had diminished its distinctiveness in relation to clothing and fashion goods. Much the same basic criticisms apply when appraising it as evidence of absence of actual confusion. Basically, it has not been shown that the degree of consumer exposure to third party trade marks containing the word BEATRICE on the vast British market for clothing and fashion accessories has been sufficient to demonstrate satisfactorily an absence of actual confusion. In *The European Limited v The Economist Newspaper Ltd* [1998] FSR 283 Millett LJ summed up the position as follows:

“Absence of evidence of actual confusion is rarely significant, especially in a trade mark case where it may be due to differences extraneous to the plaintiff’s registered trade mark.”

49) Ms Perry also contends in her witness statement that “*The extensive use of the [opposed] Mark in the United Kingdom without any consumers or media outlets associating the [opposed] Mark with the Earlier Mark suggests that there can be no likelihood of consumer confusion between the respective marks*”. The Applicant further submits, however, that in using their own respective marks the parties to these proceedings “*adopt very different styles and philosophies, and the respective products are sold at very different price points and using different channels*”. Under these circumstances and, in particular, given the relatively short period of time in which there has been any opportunity for consumers to be exposed to both the

competing marks, the evidence has not established that the degree of consumer exposure to both the competing trade marks in the UK market for clothing and fashion accessories has been sufficient to demonstrate satisfactorily an absence of actual confusion.

50) In the light of the considerations discussed above I am unable to give any material weight to the evidence submitted by the Applicant to support its contention that the Opponent's mark has coexisted on the market for the relevant goods with other marks containing the word BEATRICE, including the opposed mark and those of third parties, without giving rise to any actual confusion.

51) My assessment will proceed on the basis that the Opponent has shown genuine use for the full range of goods relied upon and that the contested goods are identical to those covered by the earlier mark. I have found that the average consumer of the goods and services of the Opponent's and Applicant's respective specifications in Classes 18, 25 and 35 consists of the general public and that, overall, an average degree of attention, neither higher nor lower than the norm, will be paid when selecting the goods or an appropriate retail channel for purchase of the goods. The purchasing process will be predominantly visual, though there may be some scope for oral use. I have found a medium degree of visual similarity and at least a medium degree of aural similarity between the competing marks. I have found that neither of the competing marks have any conceptual content beyond the fact that they are both likely to be seen as consisting of names (the earlier mark including a probable abbreviation of a surname or, possibly, of a middle name or of the name BEATRICE itself).

52) I have found that the name Beatrice has a normal degree of distinctiveness when used in relation to the relevant goods and services. I bear in mind that, although the full stop and final B also contribute something to the earlier mark's distinctiveness, the level of distinctive character is only likely to increase the likelihood of confusion to the extent that it resides in the element of the marks that is identical or similar, i.e. BEATRICE.

53) Bearing in mind my findings on the average consumer and the purchasing process, and given that the BEATRICE element of the earlier mark has a normal degree of inherent distinctiveness, I have come to the conclusion that even when the competing marks are used for identical goods, and even taking into account the effect of imperfect recollection, the differences between the contested mark and the earlier mark are sufficient to rule out a likelihood that the consumer will directly confuse them, i.e. mistake them for one another.

54) However, I must also consider the possibility of indirect confusion, and in this connection it is helpful to bear in mind the observations of Mr Iain Purvis QC, sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10 (“L.A. Sugar”), where he noted that:

“Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark” ”.

55) The Opponent submits that PERRY will either be deemed a surname of the Applicant or, since it can also be a male forename, a collaborator of the Opponent. If consumers encountered another enterprise producing clothing and fashion accessories under the mark PERRY, I suppose it is conceivable that some of them might see BEATRICE PERRY as a combination denoting a collaboration between two enterprises operating under the marks BEATRICE and PERRY respectively (although even in this case I think most consumers would still tend to see BEATRICE PERRY as the name of an individual). In the absence of any evidence that

consumers might be aware of another producer operating under the mark PERRY, however, I see no reason why they should conjecture the existence of such a party. The immediate impression which the words BEATRICE PERRY will make on the average consumer is that they form a complete personal name: forename followed by surname, together forming a unit identifying a particular individual.

56) The most natural way for the consumer to interpret BEATRICE.B will be as the forename BEATRICE followed by an abbreviation, probably of a name – whether a surname, another forename, or a reference back to BEATRICE. In any of these cases I struggle to see the mechanism whereby the presence of BEATRICE in both marks will lead the consumer to conclude that they belong to the same or economically linked undertakings. The opposed mark will be seen most naturally as the complete name of a particular individual, whereas the earlier mark will be seen as a forename followed by an abbreviation. The use of names is not unusual in the clothing and associated fashion industries. I have found no evidence that the name BEATRICE will strike the average consumer as notably uncommon. This being so, I consider that the average consumer will perceive the competing marks as being those of two producers or designers who happen to use the same forename. There is no room for that forename to play an independent distinctive role. Even where the goods are identical, the consumer will not infer an economic connection. As Mr Daniel Alexander, QC, sitting as the Appointed Person in Case O/303/17 *PIA HALLSTROM* put it:

“33. Moreover, if a trader choses a forename as a trade mark, the average consumer is not particularly likely to think that another trader who uses a full name incorporating that forename is thereby denoting goods or services from the first undertaking rather than those connected with someone else who happens to share that forename. That is a problem which arises as a result of a choice of mark which, precisely because it is a name which others either do or could reasonably wish to use to denote themselves, does not start high on the distinctiveness scale. Large-scale use of such a mark does not, as such, enhance its distinctiveness in a relevant way, namely so as to increase the likelihood of confusion (see above).”

57) I have found no likelihood that the competing marks will be confused, either directly or indirectly, even where the marks are used on identical goods. If there is no likelihood of confusion even where the goods are identical, it follows that there can be no likelihood of confusion where the goods or services are only similar. Accordingly, **the opposition fails in its entirety.**

### **Costs**

58) The Applicant has been successful and is entitled to a contribution towards its costs. Since the proceedings were commenced before 1 July 2016 the costs are to be awarded in accordance with the scale published in Tribunal Practice Notice 4/2007. I hereby order Plisse S.p.A. to pay Beatrice Perry Limited the sum of £1,500. This sum is calculated as follows:

Preparing a statement and considering the other side's statement	£300
Preparing evidence and considering the Opponent's evidence	£800
Preparing written submissions	£400

The above sum should be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 6<sup>th</sup> day of December 2017**

**Martin Boyle**

**For the Registrar,**

**The Comptroller-General**

# ANNEX

## Class 18

Athletics bags; Attaché cases; Attache cases made of leather; Back packs; Backpacks; Backpacks [rucksacks]; Bags; Bags [envelopes, pouches] for packaging of leather; Bags [envelopes, pouches] of leather, for packaging; Bags for clothes; Bags for sports; Bags for sports; Bags for umbrellas; Bags (Garment -) for travel; Bags made of leather; Bands of leather; Banknote holders; Barrel bags; Beach bags; Beach umbrellas; Beach umbrellas [beach parasols]; Beachbags; Beauty cases; Beauty cases [not fitted]; Belts (Leather shoulder -); Book bags; Boot bags; Boston bags; Boxes made of leather; Boxes of leather (Hat -); Boxes of leather or leather board; Boxes of vulcanised fibre; Briefcases; Briefcases and attache cases; Briefcases for documents; Briefcases [leather goods]; Briefcases [leatherware]; Briefcases made of leather; Canvas bags; Card cases [notecases]; Card holders; Carriers for suits, shirts and dresses; Carry-all bags; Carryalls; Carrying cases for documents; Carry-on bags; Cases, of leather or leatherboard; Casual bags; Chain mesh purses; Change purses; Change purses of precious metal; Cloth bags; Clutch bags; Clutch purses; Clutches [purses]; Coin holders; Coin purses; Coin purses not made of precious metal; Coin purses, not of precious metals; Cosmetic bags; Cosmetic bags [not fitted]; Cosmetic bags sold empty; Cosmetic cases sold empty; Cosmetic purses; Covers for parasols; Covers for umbrellas; Covers (Umbrella -); Credit card cases; Credit card cases [wallets]; Credit card holders; Credit card holders made of leather; Credit-card holders; Diplomatic bags; Document cases; Document suitcases; Driving licence cases; Duffel bags for travel; Duffel bags; Evening bags; Evening handbags; Evening purses; Flexible bags for garments; Flight bags; Folding briefcases; Folio cases; Garment bags; Garment bags for travel; Garment bags for travel made of leather; Garment carriers; Gladstone bags; Gym bags; Handbags; Handbags, purses and wallets; Holdalls; Jewelry rolls for travel; Kit bags; Knap sacks; Knapsacks; Knitted bags, not of precious metals; Laces (Leather -); Ladies handbags; Leather bags; Leather bags and wallets; Leather boxes; Leather briefcases; Leather cases; Leather credit card cases; Leather credit card holder; Leather credit card wallets; Leather or leather-board boxes; Leather pouches; Leather purses; Leather shopping bags; Leather straps; Leather thongs; Leather

wallets; Luggage; Luggage straps; Luggage tags; Luggage tags [leatherware]; Luggage trunks; Make-up bags; Make-up cases; Multi-purpose purses; Nightwear cases [overnight cases]; Overnight bags; Overnight cases; Overnight suitcases; Pochettes; Pocket wallets; Pocketbooks [handbags]; Portfolio cases [briefcases]; Portmanteaux; Pouches for holding make-up, keys and other personal items; Pouches of leather; Purses; Purses [leatherware]; Purses made of precious metal; Purses not made of precious metal; Purses [not of precious metal]; Purses, not of precious metal; Purses of precious metal; Roll bags; Satchels; Shoe bags; Shopping bags; Shopping bags made of skin; Shoulder bags; Small backpacks; Small clutch purses; Small purses; Small rucksacks; Small suitcases; Sports bags; Sports (Bags for -); Suit bags; Suit carriers; Suitcases; Textile shopping bags; Toiletry cases sold empty; Travel bags; Travel cases; Travel garment covers; Travel luggage; Traveling bags; Travelling bags; Travelling bags [leatherware]; Travelling bags made of leather; Travelling cases; Travelling cases of leather; Travelling handbags; Travelling sets; Travelling sets [leatherware]; Travelling trunks; Trunks; Trunks and travelling bags; Trunks [luggage]; Umbrella bags; Umbrella covers; Umbrellas; Umbrellas and parasols; Unfitted vanity cases; Valises; Vanity cases, not fitted; Vanity cases sold empty; Wallets; Wallets including card holders; Wallets, not of precious metal; Wallets [not of precious metal]; Wallets of precious metal; Wallets (Pocket -); Wallets with card compartments; Weekend bags; Wheeled bags.

## **Class 25**

Ankle boots; Ankle socks; Anoraks; Babushkas; Ballet shoes; Baseball caps; Bath robes; Bathing costumes for women; Bathing gowns; Bathing suit cover-ups; Bathing suits; Bathing wraps; Bathrobes; Beach clothes; Beach footwear; Beach hats; Beach robes; Beach shoes; Beach wraps; Beachwear; Beanies; Bed jackets; Bed socks; Belts [clothing]; Belts made of leather; Belts made out of cloth; Belts of textile; Berets; Bikinis; Blazers; Bloomers; Blouses; Blouson jackets; Blousons; Boas; Boas [clothing]; Boas [necklets]; Bodices; Bodices [lingerie]; Body linen [garments]; Boleros; Bonnets; Bonnets [headware]; Booties; Boots ;Bottoms [clothing]; Bras; Brassieres; Breeches; Breeches for wear; Bridal gowns; Bridal wear; Bridesmaid dresses; Bridesmaids wear; Briefs; Bustiers; Button down shirts; Caftans; Cagoules; Camiknickers; Camisoles; Canvas shoes; Capes; Caps [headwear]; Caps with

visors; Cardigans; Cashmere scarves; Casual clothing; Casual footwear; Casual jackets; Casual shirts; Casual trousers; Casualwear; Chemise tops; Chemises; Chemisettes; Cloaks; Clogs; Clothing ;Clothing, footwear, headgear; Clothing made of leather; Clothing of leather; Coats; Coats (Top -); Cocktail dresses; Collared shirts; Collars; Collars [clothing];Combinations [clothing];Corduroy trousers; Corselets; Corsets; Corsets [clothing, foundation garments]; Corsets [foundation clothing]; Corsets [underclothing]; Cotton coats; Cowls [clothing]; Cravates; Cravats; Crinolines; Cuffs; Culotte skirts; Culottes; Denim jackets; Denims [clothing]; Desert boots; Detachable collars; Down jackets; Drawers [clothing]; Dresses; Dresses for evening wear; Dressing gowns; Duffel coats; Dungarees; Espadrilles Esparto shoes or sandals; Esparto shoes or sandals; Evening coats; Evening dresses; Evening gowns; Evening wear; Fabric belts; Flip-flops; Footwear ; Footwear; Footwear [excluding orthopedic footwear]; Footwear for women; Footwear made of wood; Formal evening wear; Foundation garments; Gabardines; Gabardines [clothing]; Garter belts; Garters; Gilets; Girdles; Girdles [corsets]; Gloves; Gloves as clothing; Gloves [clothing]; Gloves for apparel; Gloves including those made of skin, hide or fur; Gowns; Gowns (Dressing -); Greatcoats; G-strings; Guernseys; Half-boots; Halter tops; Hats; Head bands; Head scarves; Head wear; Headbands; Headbands [clothing]; Headbands for clothing; Headdresses [veils];Headgear for wear; Headscarfs; Headscarves; Headshawls; Headsquares; Headwear; High-heeled shoes; Hooded pullovers; Hooded sweatshirts; Hooded tops; Hoods; Hoods [clothing]; Horse-riding boots; Hosiery; House coats; Housecoats; Jackets; Jackets [clothing];Jackets (Stuff -) [clothing]; Jeans; Jerkins; Jerseys; Jerseys [clothing]; Jodhpurs; Jogging bottoms; Jump Suits; Jumper dresses; Jumper suits; Jumpers; Jumpers [pullovers]; Jumpers [sweaters]; Kaftans; Kerchiefs [clothing]; Kilts; Knickerbockers; Knickers; Knit jackets; Knit shirts; Knitted gloves; Knitted underwear; Knitwear; Knitwear [clothing]; Lace boots; Ladies' boots; Ladies' footwear; Ladies' suits; Ladies' underwear; Leather belts [clothing]; Leather clothing; Leather (Clothing of -); Leather coats; Leather garments; Leather headwear; Leather jackets; Leather pants; Leather shoes; Leather slippers; Leather waistcoats; Leggings [leg warmers]; Leggings [trousers]; Leisure shoes; Leisure wear; Leisurewear; Leotards; Light-reflecting coats; Light-reflecting jackets; Linen (Body -) [garments]; Lingerie; Long jackets; Long sleeve pullovers; Long sleeved vests; Loungewear; Lounging robes; Lumberjackets; Mackintoshes; Maillots; Men's and

women's jackets, coats, trousers, vests; Millinery; Mittens; Mitts [clothing]; Moccasins; Neck scarves; Neckerchiefs; Neckties; Neckwear; Negligees; Night gowns; Nightcaps; Nightdresses; Nightgowns; Nighties; Nightshirts; Nightwear; One-piece suits; Open-necked shirts; Outerclothing; Overcoats; Pajamas (Am.); Pantie-girdles; Panties; Panties, shorts and briefs; Pants; Pantyhose; Pareos; Pareus; Parkas; Party hats [clothing]; Peaked headwear; Peignoirs; Pelisses; Petticoats; Pinafore dresses; Pinafores; Pique shirts; Plimsolls; Pocket kerchiefs; Pocket squares; Pocket squares [clothing]; Polo neck jumpers; Polo shirts; Ponchos; Pullovers; Pumps [footwear]; Pyjamas; Rain boots; Rain coats; Rain wear; Raincoats; Rainproof clothing; Rainwear; Ready-made clothing; Removable collars; Riding boots; Robes; Robes (Bath -); Roll necks [clothing]; Sandals; Sandals and beach shoes; Sarongs; Sashes for wear; Scarfs; Scarves; Shawls; Shawls and headscarves; Shawls and stoles; Sheepskin coats; Shell suits; Shift dresses; Shirt fronts; Shirt yokes; Shirts; Shirts and slips; Shirts for suits; Shoes ;Shoes for leisurewear; Short petticoats; Short sets [clothing]; Short trousers; Shorts; Shorts [clothing]; Short-sleeve shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shoulder scarves; Shoulder wraps; Shoulder wraps [clothing]; Shoulder wraps for clothing; Silk scarves; Silk ties; Skirt suits; Skirts; Skorts; Skull caps; Slacks; Sleeping garments; Sleepwear; Sleeved jackets; Sleeveless jackets; Sleeveless jerseys; Slip-on shoes; Slipovers; Slippers; Slippers made of leather; Slips; Slips [clothing]; Slips [undergarments]; Small hats; Smocks; Smoking jackets; Socks; Stockings; Stoles; Strapless bras; Stuff jackets [clothing]; Suede jackets; Suits; Suits (Bathing -); Suits made of leather; Suits of leather; Sun hats; Sun visors; Sun visors [headwear]; Suspender belts; Suspender belts for women; Swim suits; Swim wear for gentlemen and ladies; Swimming costumes; Swimming suits; Swimsuits; Swimwear; Tank tops; Tank-tops; Tartan kilts; Teddies; Teddies [undergarments]; Tee-shirts; Tennis dresses; Tennis pullovers; Tennis shirts; Tennis shoes; Tennis shorts; Tennis skirts; Tennis socks; Thongs; Tights; Top coats; Topcoats; Tops [clothing]; Trench coats; Trousers; Trousers of leather; Trousers shorts; T-shirts; Tunics; Turbans; Turtleneck pullovers; Turtleneck sweaters; Turtlenecks; Twin sets; Under garments; Under shirts; Underclothes; Underclothing; Underclothing for women; Undergarments; Underpants; Undershirts; Underskirts; Underwear; Unitards; Veils; Veils [clothing]; Vest tops; Vests; Visors; Visors [clothing]; Visors [hatmaking]; Waist belts; Waistcoats; Wearable garments and clothing, namely,

shirts; Weatherproof jackets; Wedding dresses; Wedding gowns; Wellington boots; Wellingtons; Winter boots; Women's foldable slippers; Women's shoes; Women's suits; Womens' underclothing; Womens' undergarments; Women's underwear; Wooden shoes; Woollen socks; Woollen tights; Woolly hats; Wraps [clothing]; Wristbands; Wristbands [clothing].

### **Class 35**

Retail services connected with the sale of clothing, clothing accessories, headgear, footwear, sportswear, leisurewear, swimwear, bags, handbags, wallets, purses, rucksacks, suitcases, attaché cases, haversacks, hat boxes, briefcases, belts, key cases, satchels, trunks, umbrellas; advertising; organisation, operation and supervision of loyalty and incentive schemes; information, consultancy and advisory services relating to the aforesaid, including such services provided on-line from a computer database or via the Internet.