

O/836/21

TRADE MARKS ACT 1994

**IN THE MATTER OF INTERNATIONAL REGISTRATION NOS. 1272292 &
1399794**

IN THE NAME OF LIDL STIFTUNG & CO. KG FOR THE TRADE MARKS



IN CLASSES 4, 6, 7, 8, 9, 11, 12, 13, 14, 18, 20, 21, 22, 24, 25, 27, 28 & 34

&




IN CLASSES 4, 6, 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 20, 21, 22, 24, 26, 27, 28 & 34

AND

**CONSOLIDATED OPPOSITIONS THERETO UNDER NOS. 417059 & 417061
BY CARUSA, S.L.**

Background and pleadings

1. Lidl Stiftung & Co. KG (“the holder”) applied to protect the two International Trade Mark Registrations displayed on the cover page in the United Kingdom (“UK”) on the 18 March 2019. The marks were accepted and published in the Trade Marks Journal on 19 April 2019 in respect of a large range of goods as outlined within Annex A. The goods of concern in these proceedings are those applied for in class 25, which are set out within the table below:

Trade Mark	International Registration (“IR”) number	Relevant goods
 (“the contested logo mark”)	1272292	<i>Class 25: Clothing, footwear, gloves, headgear, all of the above exclusively for sports; boots for motorcycling, waterproof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; clothing, footwear and headgear for fishing; bath shoes, flip-flops; soles for footwear (also heated); shoe spikes; gaiters; snow boots.</i>
Crivit (“the contested word mark”)	1399794	<i>Class 25: Clothing, footwear, gloves [clothing], headgear, waist belts, all the aforesaid goods being solely for the sports sector; boots for motorcycling, shower proof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; rain boots; clothing, footwear and headgear for fishing; beachwear; bath slippers; flip-flops; insoles; shoe spikes; gaiters; heated insoles.</i>

2. Carusa, S.L. (“the opponent”) partially oppose the trade marks in respect of the goods filed in class 25 only on the basis of Section 5(2)(b) of the Trade Marks

Act 1994 (“the Act”). The oppositions are based on its two earlier International Trade Mark Registrations as detailed in the table below:

Trade mark	Territory	Registration number	Date of protection in the UK	Goods relied upon
CIVIT	UK	729691	22/09/2000	Class 25: Clothing articles for men, women and children, headgear and footwear.
LUÍS CIVIT	UK	729690	22/09/2000	Class 25: Clothing articles for men, women and children, headgear and footwear.

3. By virtue of their designation dates of 3 March 2000, the marks relied upon constitute earlier marks as defined in section 6 of the Act.
4. The opponent argues that the respective goods are identical or similar and that the marks are highly similar.
5. The holder filed a counterstatement denying the claims made and requesting that the opponent provides proof of use of its earlier trade marks relied upon.
6. Only the opponent filed evidence in these proceedings. This will be summarised to the extent that it is considered necessary. Both sides filed written submissions which will not be summarised but will be referred to as and where appropriate during this decision. No hearing was requested and so this decision is taken following a careful perusal of the papers.
7. The opponent is represented in these proceedings by Forresters IP LLP. The holder is represented by Urquhart-Dykes & Lord LLP.

8. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Act relied upon in these proceedings are derived from an EU Directive. That is why this decision continues to refer to EU trade mark law.

Evidence

9. The opponent filed its evidence by way of a witness statement in the name of Lluís Civit Ruiz, alongside nine exhibits, namely Exhibit LCR1 to Exhibit LCR9. Mr Ruiz is described in his witness statement as the “Administrator” for the opponent, and he confirms he has held that position since 1992. Mr Ruiz states that the opponent has used the marks in relation to the fashion sector and primarily in relation to women’s fashion wear in the UK since 1996.
10. Pages from the opponent’s website are provided at Exhibit LCR1. The website provided is from a Spanish URL, namely www.carusa.es, and is dated from 22 March 2021. The site shows images of a female model wearing a range of clothing, and the top of the page shows the mark CIVIT and LUIS CIVIT. In his witness statement Mr Ruiz states “[t]hese pages show use of the Marks and the type of fashionwear offered under the Marks”.¹
11. Mr Ruiz provides UK sales figures for the goods between 2014 and 2019. He states that the sales figures cannot be split between the two marks, which are both used for products sold within the “Civit Collection”.² The figures are given as below:

7. UK sales under the Marks in recent years are set out below:

Year	UK Sales Value EUR	UK Sales Value GBP
2014 – S/S14 + A/W15	757,132.21	636,245.90
2015 – S/S15 + A/W16	700,340.75	583,617.00
2016 – S/S16 + A/W17	763,712.60	636,617.00
2017 – S/S17 + A/W18	440,365.50	382,926.00
2018 – S/S18 + A/W19	515,578.80	458,394.00
2019 – S/S19 + A/W20	376,345.80	339,049.00

¹ See paragraph 3

² See paragraph 6

12. Mr Ruiz states that documents in support of the UK figures given are provided at Exhibit LCR2. These are not translated, but Mr Ruiz provides detail as to the codes used in the documents within his witness statement, to confirm the seasons and years the sales relate to. These documents provide what appear to be a long list of sales to retailers with locations listed including 'England' and 'South Wales'. Mr Ruiz explains that figures under "servicio" and "importe" represent the actual sales values for the season, which differ from the figures shown under "Ventas+Anul" which represent the ordered amount due to "...defects which made it impossible to deliver the entire order."
13. A list of entities that Mr Ruiz confirms are UK stockists of both CIVIT and LUIS CIVIT clothing is provided at Exhibit LCR3. Timeframes are not provided but various stockists can be matched a number of times to the other exhibits. By way of an example, stockists named as 'Ambers' and 'Martha V.' amongst others are shown both on the list at LCR3 and also on the sales documents at Exhibit LCR2 from 2014, 2015, 2016, 2017, 2018 and 2019, which also places these within the UK.
14. Exhibit LCR4 includes a selection of invoices, 14 of which are to UK addresses in England, Scotland, and Northern Ireland. The invoices are dated between 2 March 2015 and 11 March 2019. The delivery notes attached to each of the invoices names the 'collection' as CIVIT. Mr Ruiz also confirms in his witness statement that "[t]he items would have been marketed under the Luis Civit and the Civit marks." The exact goods referenced on each invoice is not clear as the documents do not appear to be in English. Images of articles of what appear to be women's clothing, with labels, hangers and plastic coverings reading CIVIT and LUIS CIVIT are shown at Exhibit LCR5.
15. Various images of catalogues are provided at Exhibit LCR6, including pages dated 'fall/winter 2018-2019', and 'spring-summer 2018'. These show images of females modelling clothing under the mark CIVIT and LUIS CIVIT. Mr Ruiz states the catalogues are given to "current and potential retailers".
16. Mr Ruiz explains that the opponent attended the "MODA Women trade fair at the NEC in Birmingham in 2017, 2018 and 2019". Invoices for the attendance

of these shows are provided at Exhibit LCR7, and images of the stands showing the marks are provided at Exhibit LCR8. It is not clear which year the images were taken.

17. Third party websites and publications referencing the mark CIVIT and LUIS CIVIT are provided at Exhibit LCR9. These are either dated by way of the screenshot only on 2 February 2021 or are not dated. Some of the pages provided show the marks CIVIT and LUIS CIVIT used in respect of a range of women's clothing on .co.uk websites, and for sale in GBP.

Proof of use

18. The holder requested that the opponent provide proof of use of its earlier mark. After the evidence rounds had closed, the holder filed detailed criticism of the opponent's evidence of use, commenting on the relevance of each exhibit in turn within its final written submissions. Amongst its criticism of the evidence, the holder states that information on invoices and delivery notices at Exhibit LCR4 does not match exactly, and the holder criticises the opponent for not providing an explanation of this. Whilst I accept there is a discrepancy between these, I note that both the invoices and the delivery notices have been provided and so the number of items delivered from the order can be considered accordingly within my assessment of the evidence as a whole. I also note that an explanation referencing discrepancies of a similar nature is provided by Mr Ruiz in respect of Exhibit LCR2, although I acknowledge this does not specifically relate to the discrepancies referred to by the holder. Finally, I note the holder opted not to file its observations and criticisms of the evidence within the evidence rounds, and the opponent was therefore not given the opportunity to respond to the criticisms. As such, whilst the holder's observations are noted, and whilst it will not be taken as fact that all of the sales of goods shown on the invoices were ultimately delivered to the UK, I do not find the discrepancies cast doubt on the evidence as a whole, or require me to dismiss the evidence at Exhibit LCR4 in its entirety. Instead, the discrepancies between what was shown on invoices to have been sold and what was ultimately delivered will be considered accordingly within my assessment.

Relevant statutory provision

19. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“(6)(1) In this Act an “earlier trade mark” means –

- (a) a registered trade mark, International trade mark (UK) or which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,

20. Section 6A of the Act provides as follows:

“(1) This section applies where

- (a) an application for registration of a trade mark has been published,
- (b) there is an earlier trade mark of a kind falling within section 6(1)(a), (b) or (ba) in relation to which the conditions set out in section 5(1), (2) or (3) obtain, and
- (c) the registration procedure for the earlier trade mark was completed before the start of the relevant period.

(1A) In this section “the relevant period” means the period of 5 years ending with the date of the application for registration mentioned in subsection (1)(a) or (where applicable) the date of the priority claimed for that application.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.

(3) The use conditions are met if –

(a) within the relevant period the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with his consent in relation to the goods or services for which it is registered, or

(b) the earlier trade mark has not been so used, but there are proper reasons for non- use.

(4) For these purposes -

(a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and

(b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(5) In relation to a European Union trade mark or international trade mark (EC), any reference in subsection (3) or (4) to the United Kingdom shall be construed as a reference to the European Community.

(5A) In relation to an international trade mark (EC) the reference in subsection (1)(c) to the completion of the registration procedure is to be construed as a reference to the publication by the European Union

Intellectual Property Office of the matters referred to in Article 190(2) of the European Union Trade Mark Regulation.

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.”

Proof of Use case law

21. In *Walton International Ltd & Anor v Verweij Fashion BV* [2018] EWHC 1608 (Ch) Arnold J summarised the law relating to genuine use as follows:

“114.....The CJEU³ has considered what amounts to “genuine use” of a trade mark in a series of cases: Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, *La Mer* (cited above), Case C-416/04 P *Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bundersvereinigung Kamaradschaft ‘Feldmarschall Radetsky’* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], [2013] ETMR 16, Case C-609/11 P *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], [2014] ETMR, Case C-141/13 P *Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089] and Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434], [2017] Bus LR 1795.

115. The principles established by these cases may be summarised as follows:

³ Court of Justice of the European Union

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Leno* at [29]; *Centrotherm* at [71]; *Reber* at [29].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Leno* at [29]; *Centrotherm* at [71]. Accordingly, affixing of a trade mark on goods as a label of quality is not genuine use unless it guarantees, additionally and simultaneously, to consumers that those goods come from a single undertaking under the control of which the goods are manufactured and which is responsible for their quality: *Gözze* at [43]-[51].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14] and [22]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to

create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71]; *Reber* at [29].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Leno* at [29]-[30], [56]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72] and [76]-[77]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

22. Section 100 of the Act states that:

“100. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

23. The holder applied to protect both of its International Trade Mark Registrations in the UK on the 18 March 2019, at which time the earlier marks had been registered for a period of over five years. As such, the burden is on the opponent to prove that the earlier marks have been put to genuine use within the relevant time period of 19 March 2014 – 18 March 2019 in respect of the relevant goods and in the territory of the UK.

24. At this stage, I note the holder concluded its summary of the opponent's evidence within its final submissions with the following statement:

Summary

27) The Opponent's evidence suggests that there were some sales of women's fashion clothing in the UK under the mark CIVIT or LUIS CIVIT, during the relevant period through a few independent women's boutique stores across the UK.

25. I find that within the statement above the holder has conceded that the evidence shows use of the earlier marks in relation to the sales of women fashion clothing across the UK and within the relevant time period. I accept this, and I agree that the evidence does not show any use of the marks that I can confidently attribute to the remaining goods relied upon, namely *Clothing articles for men [...] and children, headgear and footwear*. Whilst I note some women are pictured in coordinating hats and shoes within the evidence, it is not clear if these are goods sold under the marks, or if these are just shown to complete the look in the images provided. No separate sales figures have been provided in respect of these items, and the references under the pictures where these items are shown do not mention the same. It is not clear if these are goods sold by the opponent in the UK under the marks and if they are, to what extent. I therefore find no use of the earlier marks has been shown outside of *women's fashion clothing* as conceded by the holder.

26. Having considered the evidence filed in respect of both earlier marks, I note that the evidence filed in respect of the earlier mark CIVIT is roughly equal to the evidence of use in respect of the LUIS CIVIT mark, with the additional reference to sales under the CIVIT collection on the delivery notices provided at Exhibit LCR4. As I note the opponent has submitted its strongest case in this opposition falls under the earlier mark CIVIT within its written submissions, moving forward I will consider the evidence of use in relation to this earlier mark only. I therefore focus my attention on whether the use shown of the earlier mark CIVIT in respect of “women’s fashion clothing” should be considered to be genuine use for the purpose of this opposition.

27. The opponent’s evidence is not without its flaws. Firstly, I consider the figures provided by the opponent for sales under the “Civit collection” within the UK. The holder criticises the lack of breakdown provided with these figures, and states it is not clear what proportion of these figures may be attributed to each mark. I find this criticism to be somewhat valid, and a breakdown of the sales figures would have been of assistance in considering the genuine use of the marks. I consider the invoices, delivery notices and sales documents, and I note these do little to identify exactly which items were sold to each stockist.⁴ I also consider the webpages provided, and I accept these are not convincing in isolation as they are dated outside of the relevant period. I have also considered the additional images provided showing how the mark CIVIT is used in relation to the clothing items and note, again, that dates are not provided for many of these. I consider the brochures provided showing use of the mark in 2018, and I acknowledge that the territory within which these were distributed is not given.

28. That being said, it is not appropriate to consider each piece of evidence in isolation only, and I must consider the picture that the sum of the evidence creates. Whilst the sales figures under the ‘CIVIT collection’ are not split between the marks, the figures are not insubstantial, falling between

⁴ Translations of the documents have not been provided and so whilst the items appear to be individually listed, it is not clear to me what the listed items represent.

300,000GBP and 700,000GBP for each year within the relevant period, and they are provided alongside delivery notices to the UK that make reference sales under the 'CIVIT collection' dated within the relevant timeframe. In addition, I consider this alongside the brochures showing the use of the mark CIVIT for the goods within 2018, the additional images provided showing the mark used in relation to the goods, and the website pages showing at least a fairly even split of the use of the marks CIVIT and LUIS CIVIT in respect of various items of women's clothing. Despite the flaws in the individual pieces of the evidence provided, I find that when considering the evidence as a whole it is reasonable to assume that at least a significant portion of the sales figures provided from within the UK and within the relevant timeframe will have been generated by the sale of the various items of women's clothing under the CIVIT mark. When taken together with the documents listing the UK retailers and the transactions regarding the same, I consider that it shows that the sales were spread fairly consistently throughout the relevant time period and throughout the territory reaching England, Wales, Scotland and Northern Ireland.

29. Considering the sum of the evidence, I find the opponent has made real commercial use of the mark for the purpose of creating and maintaining a share of the market in the UK, and as such I find the use made by the opponent in respect its goods falling within the category of *Clothing articles for women* under the mark CIVIT to be genuine.

Fair specification

30. Now that I have established whether genuine use has been made of the mark, I must consider what a fair specification for the opponent should look like based on that use.

31. In *Euro Gida Sanayi Ve Ticaret Limited v Gima (UK) Limited*, BL O/345/10, Mr Geoffrey Hobbs Q.C. as the Appointed Person summed up the law as being:

“In the present state of the law, fair protection is to be achieved by identifying and defining not the particular examples of goods or services

for which there has been genuine use but the particular categories of goods or services they should realistically be taken to exemplify. For that purpose the terminology of the resulting specification should accord with the perceptions of the average consumer of the goods or services concerned.”

32. In *Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel Liverpool) & Ors* [2016] EWHC 3103 (Ch), the late Mr Justice Carr summed up the law relating to partial revocation as follows.

“iii) Where the trade mark proprietor has made genuine use of the mark in respect of some goods or services covered by the general wording of the specification, and not others, it is necessary for the court to arrive at a fair specification in the circumstance, which may require amendment; *Thomas Pink Ltd v Victoria's Secret UK Ltd* [2014] EWHC 2631 (Ch) ("Thomas Pink") at [52].

iv) In cases of partial revocation, pursuant to section 46(5) of the Trade Marks Act 1994, the question is how would the average consumer fairly describe the services in relation to which the trade mark has been used; *Thomas Pink* at [53].

v) It is not the task of the court to describe the use made by the trade mark proprietor in the narrowest possible terms unless that is what the average consumer would do. For example, in *Pan World Brands v Tripp Ltd* (Extreme Trade Mark) [2008] RPC 2 it was held that use in relation to holdalls justified a registration for luggage generally; *Thomas Pink* at [53].

vi) A trade mark proprietor should not be allowed to monopolise the use of a trade mark in relation to a general category of goods or services simply because he has used it in relation to a few. Conversely, a proprietor cannot reasonably be expected to use a mark in relation to all

possible variations of the particular goods or services covered by the registration. *Maier v Asos Plc* [2015] EWCA Civ 220 ("Asos") at [56] and [60].

vii) In some cases, it may be possible to identify subcategories of goods or services within a general term which are capable of being viewed independently. In such cases, use in relation to only one subcategory will not constitute use in relation to all other subcategories. On the other hand, protection must not be cut down to those precise goods or services in relation to which the mark has been used. This would be to strip the proprietor of protection for all goods or services which the average consumer would consider to belong to the same group or category as those for which the mark has been used and which are not in substance different from them; *Mundipharma AG v OHIM* (Case T-256/04) ECR II-449; EU:T:2007:46."

33. The holder has submitted that *clothing articles for women* is too broad for the opponent to rely on and has made reference to the use of the mark in respect of fashion clothing and occasion wear. I accept the holder's submissions that the opponent has shown use in relation to women's fashion clothing. However, I find the term 'fashion clothing' to be fairly difficult to define, and I note that fashion clothing may also be sports clothing or beachwear for example. To my mind, this is not an obvious subcategory of women's clothing, and I find it very unlikely that the consumer would identify the opponent's goods in this way. In addition, I find the evidence shows use of the mark in respect of clothing outside of what the consumer would consider to be 'occasion wear'. I note it is not appropriate to narrow the opponent's protection down only to the goods they shown use for, and that it is also not appropriate for the opponent to monopolise a general category of goods where they have only shown use of a few. However, in this instance, and with consideration to the case law, I find it likely that the consumer would fairly describe the range of goods offered by the opponent as women's clothing. I therefore find the use of the mark in respect of the various clothing items shown is sufficient for the opponent to enforce its goods *clothing articles for women* within this opposition.

Decision

Section 5(2)(b)

34. Section 5(2)(b) of the Act is 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”.

35. Section 5A of the Act is as follows:

“5A Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only.”

The Principles

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

The principles

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

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

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

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

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

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

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

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

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

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

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

Comparison of the goods

35. Section 60A of the Act provides:

“(1) For the purpose of this Act goods and services-

(a) are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification.

(b) are not to be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

(2) In subsection (1), the “Nice Classification” means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, which was last amended on 28 September 1975.”

36. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

37. In the judgment of the Court of Justice of European Union (“CJEU”) in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary”.

38. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the

General Court (“GC”) stated that goods may be considered “complementary” where:

“...there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking”.

39. The case law provides further guidance on how the wording of goods and services as registered and filed should be interpreted within the comparison. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

“... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of 'dessert sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”

40. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05, the GC stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 Institut

fur Lernsysteme v OHIM- Educational Services (ELS) [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark”.

41. The goods and services for comparison are outlined in the table below:

Earlier goods	Goods opposed
<p><i>Class 25: Clothing articles for women</i></p>	<p>IR no. 1272292</p> <p><i>Class 25: Clothing, footwear, gloves, headgear, all of the above exclusively for sports; boots for motorcycling, waterproof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; clothing, footwear and headgear for fishing; bath shoes, flip-flops; soles for footwear (also heated); shoe spikes; gaiters; snow boots.</i></p> <p>IR no. 1399794</p> <p><i>Class 25: Clothing, footwear, gloves [clothing], headgear, waist belts, all the aforesaid goods being solely for the sports sector; boots for motorcycling, shower proof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; rain boots; clothing, footwear and headgear for fishing; beachwear; bath slippers; flip-flops; insoles; shoe spikes; gaiters; heated insoles.</i></p>

42. The following goods filed by the holder fall within the opponent’s goods:

IR no. 1272292

Clothing, all of the above exclusively for sports; waterproof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; clothing, for fishing;

IR no. 1399794

Clothing, gloves [clothing], waist belts, all the aforesaid goods being solely for the sports sector; shower proof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; clothing for fishing; beachwear.

43. I therefore find the above goods to be identical to the opponent's goods within the meaning of *Meric*.

44. The below goods covered by the holder are all various types of footwear:

IR no. 1272292

Footwear, all of the above exclusively for sports; boots for motorcycling, footwear for fishing; bath shoes, flip-flops; snow boots.

IR no. 1399794

Footwear, all the aforesaid goods being solely for the sports sector; boots for motorcycling; rain boots; footwear for fishing; bath slippers; flip-flops.

45. I do not find these goods to be identical to the opponent's earlier goods as I do not find them to fall within the ordinary and natural meaning of the term. I find the nature of these goods covered by the holder will be different to that of the opponent's goods. However, the broader intended purpose, namely for wearing on the body for modesty, comfort, or protection from the elements will be shared, as will the intended user, although often only to the extent that all of these goods will be directed at the general public. I find the channels of trade will often be shared, and that the above goods are likely to be offered by the same entities as those offering the opponent's goods. I find the above goods covered by the holder to therefore be similar to the opponent's goods to a medium degree.

46. The below goods covered by the holder are all various types of headgear:

IR no. 1272292

headgear, all of the above exclusively for sports; headgear for fishing;

IR no. 1399794

*headgear, all the aforesaid goods being solely for the sports sector;
headgear for fishing*

47. As with the footwear above, again I find that headgear will often be provided by the same entities as those providing the opponent's goods, and I find that they will likely share trade channels. There is again an element of overlap in the intended purpose of the goods, with these being for the purpose of wearing on the body for warmth, comfort, or protection from the elements. I note the headgear above as covered by the holder is limited to that for the for fishing and for the sports sector, but I do not find this has an impact on the outcome of my findings, with headgear for sports and for fishing including articles such as hats for keeping the sun off the face or for keeping the head warm in both of these categories, which may also be worn for their aesthetics. There will be an overlap in the intended user of the goods, in the sense that they will all be aimed at the general public. Overall, I find these goods will be similar to a medium degree.

IR no. 1272292 & IR no. 1399794

gaiters;

48. The holder's goods above are, in my view, clothing articles worn on the lower leg to protect it from water or snow. I therefore find these goods to be identical to the opponent's goods in line with the principles in *Meric*. However, if I am wrong, I find the purpose of gaiters for being worn on the body to protect the wearer from the elements will be shared with the opponent's earlier goods. I also find it likely that entities offering gaiters may also offer clothing, and that often the trade channels will be shared. Users will be shared to the extent that these goods are all aimed at the general public. The goods will not be in

competition or complementary. If these goods are not identical, I find all of them will be similar to the opponent's earlier goods to a medium degree.

49. The below goods are all for use with footwear:

IR no. 1272292

soles for footwear (also heated); shoe spikes;

IR no. 1399794

insoles; shoe spikes; heated insoles;

50. It is possible these goods may be offered by the same entities as those offering the opponent's goods, but I find this to be unlikely. The intended purpose of the goods will differ to the opponent's clothing articles, with these being for the purpose of using with footwear to improve the fit, comfort or versatility of the same. The nature and the method of use of the goods will also differ. The goods will not be complementary in a trade mark sense, nor will they be in competition. Whilst I find it possible that the trade channels may be shared, as well as the users to the extent that the goods are aimed at the general public, I also find that if the goods are placed in the same shops it is unlikely they will be placed next to or near each other. Overall, I find the very general level of similarity between the users and trade channels is not sufficient to render these similar to the opponent's earlier goods.


Comparison of marks

51. 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 Court of Justice of the European Union stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, 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.”

52. 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.

53. Although the opposition has been based on two earlier marks, as mentioned previously, the opponent states that its strongest case rests with the earlier mark CIVIT. As I do not find it to create a disadvantage for the opponent, I will continue to consider the opposition based on this mark only at this stage. The respective trade marks are shown below:

Earlier trade mark	Contested trade marks
CIVIT	
	Crivit

54. The earlier mark is a single word made up of five letters. The overall impression resides in the mark as a whole, with no element appearing more dominant than the rest.

55. The contested logo mark is made up of the six letter word crivit written in a lower case italic font, with what appears to be a simple decorative triangle or banner device sitting on top, placed over the letters ‘cr’. The word crivit is the dominant element of the mark and plays the greatest role in the overall impression of the same. The decorative triangle device plays a lesser role, but it is not negligible. The use of the standard italic lowercase lettering plays, at best, a very minimal role in the overall impression of the mark.

56. The contested word mark comprises the six letter word CRIVIT in plain font. The overall impression resides in the mark as a whole.

Visual comparison

57. The earlier mark shares five of the six letters of the contested logo mark. The letter 'c' features at the beginning of both of the marks, and the letters 'ivit' feature in the same order at the end of both marks. The earlier mark is filed as a word mark meaning it can be used in both upper and lower case and in a range of standard fonts, and so the use of the italic lower case font in the contested logo mark does nothing to differentiate the marks visually. However, the use of the additional 'r' as the second letter in the contested logo mark, and the triangle device do help to differentiate the same. Considering the similarities and the differences between the marks, I find them to be visually similar to between a medium and high degree.

58. Again, the earlier mark shares five of the six letters of the contested word mark, with the 'c' featured at the beginning, and the letters 'ivit' in the same order at the end of the mark. The marks differ visually through the use of the additional letter 'r' as the second letter of the contested mark. As both marks are filed as word marks, both can be used in upper or lower case and so the different use of capitalisation of the letters as shown above does not help to differentiate the marks visually. Overall, I find the marks to be visually similar to a high degree.

Aural comparison

59. Neither the earlier mark nor the contested marks appear to be known English words, and as such there is no established way of pronouncing these. Nonetheless I find it likely that the earlier mark will be universally pronounced by the UK consumer as siv-it, and the later mark in both instances will be pronounced as kriv-it. Both the earlier and two later marks comprise two syllables, the first of which is similar and the second of which is identical. Overall I find the earlier mark and both contested marks to be aurally similar to between a medium and high degree.

Conceptual comparison

60. Conceptually, both parties have submitted that neither the earlier mark nor the contested marks have a meaning within the English language. I agree. I find the marks to be conceptually neutral.

Average consumer and the purchasing act

61. 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.

62. 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.”

63. All of the goods appear to be aimed at members of the general public, although I note these will also be aimed at a particular group of professional consumers for the purpose of stocking retail stores for example, in addition to some being aimed at professional sportspersons. All of the categories of goods will include those at the lower end of the scale price wise and those at the higher end. Whilst the prices may therefore vary considerably, I do not find this will increase the level of attention paid towards each category of goods as a whole. I find

there will be considerations made as to the quality, aesthetics (with the possible exception of innersoles, heated innersoles and shoe spikes where aesthetics may not be such a concern), practicality and usability of each of the goods. Overall I find the attention paid by the general public towards the categories of goods will be medium. In respect of the professional public, the increased responsibility and liability that comes with stocking a retail business and ensuring its success, in addition to the higher volumes of purchases means that the attention paid to the goods for these professionals will range from above medium to high. In addition, the suitability of the attire purchased by professional sportspersons may affect their performance and career, and so the attention paid by this ground of consumers will also range from above medium to high.

64. The goods covered by the marks will be primarily purchased visually, either via physical or online retail stores. However, I note the possibility for word of mouth recommendations, verbal assistance from retail staff, or in the case of the professional consumer, the possibility that orders may be placed over the phone. I cannot therefore completely discount the aural considerations.

Distinctive character of the earlier trade mark

65. 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).”

66. The earlier mark comprises what appears to be a made up word, namely CIVIT. Whilst I acknowledge from the evidence filed that this may also be a surname, I do not find that the UK consumer will recognise it as such. I therefore find that the earlier mark holds a high degree of inherent distinctiveness in respect of the goods.

67. The opponent has filed evidence of its use of the earlier mark in the UK as previously detailed. I note I have been provided with what appear to be reasonable sales figures for at least five years. However, whilst I have no details of the size of the UK market for the goods, it is my view this will be very large, and the opponent’s sales figures, even if considered in full, will only be a very small fraction of the market as a whole. I also have very limited details relating to the levels of press, advertising, and exposure in the UK market. Considering the evidence as a whole, I do not find it sufficient to show that the distinctive character of the earlier mark has been raised above its inherent level.

GLOBAL ASSESSMENT – Conclusions on Likelihood of Confusion

68. Prior to reaching a decision under Section 5(2)(b), I must first consider all relevant factors, including those as set out within the principles A-K at

paragraph 34 of this decision. I must view the likelihood of confusion through the eyes of the average consumer, 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 they have kept in their mind. I must consider the level of attention paid by the average consumer, and consider the impact of the visual, aural and conceptual similarities of the marks by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. I must consider that the level of distinctive character held by the earlier mark will have an impact on the likelihood of confusion. I must consider that the likelihood of confusion may be increased where the distinctive character held by the earlier mark is high and may be less likely where it is low. I must remember that the distinctive character of the earlier mark may be inherent, but that it may also be increased through use, and that the distinctiveness of the common elements is key.⁵ I must keep in mind that a lesser degree of similarity between the goods and services may be offset by a greater degree of similarity between the marks, and vice versa. I must also consider that both the degree of attention paid by the average consumer and how the goods or services are obtained will have a bearing on how likely the average consumer is to be confused.

69. I consider at this point that there are two types of confusion that I may find. The first type of confusion is direct confusion. This occurs where the average consumer mistakenly confuses one trade mark for another. The second is indirect confusion. This occurs where the average consumer notices the differences between the marks, but due to the similarities between the common elements, they believe that both products derive from the same or economically linked undertakings.⁶

⁵ See *Kurt Geiger v A-List Corporate Limited*, BL O-075-13, in which Mr Iain Purvis Q.C. 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.

⁶ *L.A. Sugar Limited v Back Beat Inc*, BL O/375/10

70. In *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, Mr James Mellor Q.C. (as he then was), as the Appointed Person, stressed that a finding of indirect confusion should not be made merely because the two marks share a common element. In this connection, he pointed out that it is not sufficient that a mark merely calls to mind another mark. This is mere association not indirect confusion.

The contested logo mark

71. I found the contested logo mark to be visually similar to the earlier mark to between a medium and high degree, to be aurally similar to between a medium and high degree, and I found the marks to be conceptually neutral. I found the goods to range from identical to dissimilar. I found the earlier mark to hold a high degree of distinctive character inherently, but that this hasn't been enhanced further through use. I found that the average consumer of the goods will be both members of the general public and the professional public, and that the general public will pay a medium level of attention in respect of the goods, with professionals paying an above medium level of attention or higher. I found the purchasing process will be primarily visual, although I found I cannot disregard the aural factors.

72. I consider there is no conceptual hook for the consumer to hold on to within either mark, which I note will make it more difficult for the consumer to notice and recall the differences between them. However, whilst the high degree of inherent distinctive character weighs in favour of confusion, and whilst I find the addition of the single letter 'r' within the mark will be easy for the consumer, particularly the general public paying a medium degree of attention, to forget or misremember, I find the differences between the marks by way of the triangle device is unlikely to go unnoticed or be forgotten. I therefore find no likelihood of direct confusion between the marks, even where there is identity between the goods.

73. However, as mentioned above I find it is likely that a significant portion of consumers will misremember or not notice the addition or omission of the letter

'r' within the wording of the marks. As these consumers would be likely to believe that the dominant and distinctive element of the marks is shared, it is my view these consumers would believe that the contested mark is simply a stylised version of the original mark, with the addition of the simple triangle device. I therefore find there will be a likelihood of indirect confusion, with these consumers believing the marks derive from the same economic undertaking in respect of all goods that I found to be similar. Where the goods are dissimilar, there can be no likelihood of confusion. I therefore find there is a likelihood of indirect confusion in respect of all of the goods other than those listed below:

Class 25: soles for footwear (also heated); shoe spikes;

The contested word mark

74. In respect of the contested word mark, I reached the same conclusions as outlined above, other than in respect of the visual similarity between the marks, which I found to be high. In respect of this mark, considering the consumers imperfect recollection, I again find it likely that a significant portion of consumers, particularly the general public, will not notice or will fail to recall the addition or the omission of the 'r' within the marks. As there is very little to differentiate the marks other than the letter 'r' that is likely to be forgotten, or to go unnoticed, with consideration to all of the relevant factors outlined, I find in this instance the consumer is likely to mistake one mark for the other in respect of all of the goods for which some similarity has been found.

75. Where the goods are dissimilar, there can be no likelihood of confusion. I therefore find a likelihood of direct confusion between these marks in respect of all goods other than those outlined below:

Class 25: insoles; shoe spikes; heated insoles

76. For the consumers who notice the addition of the 'r' in the later marks, I find no direct or indirect confusion will occur.

CIVIT

LUÍS CIVIT

Final Remarks

78. Both oppositions have been partially successful. Subject to a successful appeal, the UK designations of the two International Registrations will be refused in respect of the following goods:

IR no. 1272292

Class 25: Clothing, footwear, gloves, headgear, all of the above exclusively for sports; boots for motorcycling, waterproof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; clothing, footwear and headgear for fishing; bath shoes, flip-flops; gaiters; snow boots.

IR no. 1399794

Class 25: Clothing, footwear, gloves [clothing], headgear, waist belts, all the aforesaid goods being solely for the sports sector; boots for motorcycling, shower proof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; rain boots; clothing, footwear and headgear for fishing; beachwear; bath slippers; flip-flops; gaiters.

79. In addition to the goods which have not been opposed, the UK designations of the International Registrations will, subject to a successful appeal, proceed to registration for the following goods:

IR no. 1272292

Class 25: soles for footwear (also heated); shoe spikes;

COSTS

80. Both parties have achieved some success within these proceedings. However, the opponent has achieved considerably more success than the holder and is therefore entitled to a cost award. I have reduced the total award by 10% to account for the holder's partial success. A cost award of £1440 is calculated as follows:

Prior to consolidation

Official fees x 2	£100 x 2 = £200
Preparing and filing the TM7 and considering the TM8 and counterstatement x 2	£250 x 2 = £500

Post consolidation

Preparing and filing evidence	£600
Preparing and filing written submissions	£300
10% reduction for the success of the holder	-£160
Total	£1440

81. I therefore order Lidl Stiftung & Co. KG to pay Carusa, S.L. the sum of £1440. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 15th day of November 2021

Rosie Le Breton

For the Registrar

Annex A

UK Designation of International Registration no. 1272292

Specification of goods

Class 4: Cigarette lighter fuel.

Class 6: Metal bicycle locks, metal motorcycle locks.

Class 7: Net hauling machines (fishing); fittings for lifting nets for catching fish being parts of machines.

Class 8: Hand tools and implements (hand operated); cutlery, in particular scaling knives and fish slicing knives for anglers; pen knives; harpoons; camping cutlery; hand tools for repair and maintenance of bicycles.

Class 9: Protective motorcycle clothing, motorcycle crash helmets, protective gloves for motorcyclists, sunglasses; nautical apparatus; diving equipment included in this class, in particular wetsuits, diving masks, life jackets (inflatable or otherwise), diving snorkels, weights, diving weight belts, breathing apparatus for underwater swimming, compressed air tanks, controllers (regulators), marine depth finders, pressure measuring apparatus, compasses [measuring instruments], thermometers, ear plugs and nose clips for divers; clothing, gloves, footwear and headgear for diving; hip protection for anglers; underwater cameras; photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; frequency meters; global positioning system [GPS] apparatus; spectacles [optics]; sunglasses, ski goggles, swim goggles, safety goggles, anti-glare glasses; spectacle frames, spectacle lenses, spectacle cases, bicycle helmets, ski helmets and snowboard helmets; tachometers; bottom timers; climbing helmets; reflecting strips for wear; LEDs.

Class 11: Pocket torches, electric bicycle lights; lamps; snap light sticks; electric cooking utensils and refrigerating apparatus, apparatus for water supply and sanitary purposes, electric cool boxes; barbecues.

Class 12: Accessories and parts for vehicles of all kinds, in particular for motorcycles and trikes included in this class; bicycle accessories, in particular bicycle trailers, bags for bicycle parts; inner tubes for bicycles; boats and boat accessories, in particular boat trailers, boat bumpers, boat hooks, boat fenders; small wagons for children; hand carts; panniers for two-wheelers.

Class 13: Rifles.

Class 14: Clocks.

Class 18: Bags, pouches, bags, in particular sports bags, carrier bags and shoulder bags; rucksacks and backpacks, day packs; chest pouches; walking sticks, mountaineering sticks, sticks, trekking poles, saddlery, duffel bags and luggage bags, saddlebags, umbrellas.

Class 20: Chairs and beds for outdoor use, in particular beach chairs and beach bed, camping chairs and camping beds, bed chairs, mattresses for camping, camping furniture and camping tables; sleeping bags for camping; air mattresses for use when camping; inflatable cushions; baskets in the context of fishing baskets; seat cushions for anglers; bait jars, fishing rod racks, fishing stools; air mattresses; wooden chairs for anglers.

Class 21: Drinking bottles and drink containers for sport; non-electric portable cold boxes, food cooling devices, containing heat exchange fluids, for household purposes; pots, camping pots; bait mixing bowls; camping crockery, picnic crockery; containers for transporting and conserving liquids and food.

Class 22: Tents, awnings; fishing nets, lifting nets and fittings; sun sails; hammocks.

Class 24: Woven materials and textiles for the manufacture of and use as sun sails and awnings; bath linen; towels; sleeping bags (included in this class).

Class 25: Clothing, footwear, gloves, headgear, all of the above exclusively for sports; boots for motorcycling, waterproof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; clothing, footwear and headgear for fishing; bath shoes, flip-flops; soles for footwear (also heated); shoe spikes; gaiters; snow boots.

Class 27: Mats, in particular for gymnastics, mats for use in sporting activities, mats for travelling, trekking and camping, insulating matting.

Class 28: Games and playthings; gymnastic and sporting articles (included in this class); sportballs; badminton rackets, badminton nets; badminton accessories; squash rackets; squash accessories; tennis rackets; tennis accessories; golf clubs, golf balls; golf accessories; table tennis paddles; table tennis accessories; skis; skiing accessories; climbing harnesses; climbing accessories; surfing accessories; boxing gloves, punching bags; boxing accessories; baseball bats; baseball gloves; hockey sticks; hockey accessories; archery implements, bowstrings; archery accessories; sports and exercise equipment; trampolines; lines for fishing, rods for fishing and parts thereof; articles for anglers not included in other classes; fishing tackle, reels for fishing, gut for fishing, fish hooks, fishing leads, floats for fishing; fishing lures (excluding live bait); artificial flies, bait (artificial), spears for fishing rods; landing nets for fishing; animal decoys for fishing (artificial); artificial lures for use in fishing, creels [fishing traps], fishing gloves, harpoon guns (sporting articles); swimming jackets; containers and bags for fishing lines and fishing tackle; flippers; bags adapted for use with sporting equipment; petanque balls; dart boards and darts; articles for beach sports; stunt kites; inflatable islands and water tubes swimming pools [play articles]; swimming kick boards; body boards; sleds [sports articles]; skateboards, in-line skates; ice skates; protectors, in particular for the back, shoulders, elbows, knees and wrists (sporting articles); bags specially adapted for tennis equipment, badminton equipment and squash equipment; creels; non-motorized golf trolleys; non-motorized golf bag trolleys.

Class 34: Cigarette lighters; smokers firestones.

UK Designation of International Registration no. 1399794

Class 4: Petrol for lighters.

Class 6: Bicycle locks of metal; motorcycle locks of metal; metal karabiners.

Class 7: Fittings for lifting and lowering nets for catching fish, being parts of machines.

Class 8: Hand tools and implements (hand-operated); cutlery, in particular fish cleaning and fish filleting knives for anglers; pocket knives; harpoons; cutlery for camping; spears for fishing rods.

Class 9: Protective clothing for motorcyclists; protective helmets for motor cyclists; protective gloves for motorcyclists; sunglasses; nautical apparatus and instruments; divers' articles, namely wetsuits, divers' masks, life jackets (inflatable or not inflatable), diving snorkels, diving goggles, weights, divers' weight belts, breathing apparatus for underwater swimming, air tanks for divers, regulators, marine depth finders, manometers, directional compasses, thermometers, ear plugs for divers, nose clips, clothing, gloves for divers, footwear and headgear for diving; hip guards for anglers; underwater cameras; photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; frequency meters; pedometers; smartwatches; global positioning system [GPS] apparatus; cycle computers; portable computers for sporting purposes; spectacles [optics]; snow goggles; swim goggles; safety goggles; anti-glare glasses; spectacle frames; lenses for eyeglasses; spectacle cases; helmets for bicycles; helmets for skiing and snowboarding; tachometers; depth gauges; climbing helmets; safety products, namely, reflective safety bands to be worn on the body; light diodes.

Class 10: Compression garments; pulse meters; massage apparatus.

Class 11: Electric torches; bicycle lights; lighting lamps; snap lights; apparatus for cooking, refrigerating, water supply and sanitary purposes; coolers (electric); barbecues; ventilating fans.

Class 12: Accessories and parts for vehicles of all kinds, in particular for motorcycles and trikes, included in this class; small electrically driven vehicles; bike accessories,

in particular bicycle trailers, bags for bicycles, pumps for bicycles, assembly stands designed for bicycles; fittings and parts for bicycles in the form of repair kits; inner tubes for bicycles; boats and boat accessories; small wagons for children; carts; rubber tyre repair in the form of sprays.

Class 14: Chronoscopes.

Class 17: Caulking materials.

Class 18: Bags, pouches, in particular bags for sports, all purpose carrying bags and shoulder bags; bags [envelopes pouches] for packaging of leather; rucksacks and backpacks, day packs; neck pouches; walking sticks; alpenstocks; trekking poles; saddlery, whips, jockey sticks, lunge reins; clothing and apparel for animals, horse blankets, leggings for horses; backpacks; kit bags; stuff sacks; saddlebags; umbrellas.

Class 19: Pavilions made of non-metallic materials.

Class 20: Seats and beds for outdoor use, in particular beach chairs and beach loungers, camp chairs and camp beds, field cots, camping mattresses, camping furniture, camping tables; air mattresses for use when camping; inflatable seat cushions; baskets (fishing-), baskets in the context of fishing baskets; seat cushions for anglers; sleeves and containers for storage purposes; fishing seats; inflatable mattresses.

Class 21: Drinking bottles and containers; isothermic bags, coolers [non-electric containers], cold packs for chilling food and beverages; pots, camping pots; bait mixing bowls; tableware for camping; picnic crockery; containers for transporting and preserving liquids and foodstuffs; brushes, combs and cleaning instruments for grooming horses.

Class 22: Tents; tarpaulins; nets; fishing nets, lifting and lowering nets; sun canopies; beach shelters, hammocks; sacks; transport sacks; dip nets for fishing.

Class 24: Textiles and textile goods for manufacturing and for use as sun canopies and tarpaulins, bath linen; outdoor furniture coverings made from terry towelling; towels of textile; sleeping bags (included in this class); sleeping bags for camping.

Class 25: Clothing, footwear, gloves [clothing], headgear, waist belts, all the aforesaid goods being solely for the sports sector; boots for motorcycling, shower proof clothing, in particular weatherproof clothing for motorcyclists, motorcycle clothing; rain boots; clothing, footwear and headgear for fishing; beachwear; bath slippers; flip-flops; insoles; shoe spikes; gaiters; heated insoles.

Class 26: Hair bands.

Class 27: Mats, in particular for gymnastics, sports, travelling, trekking and camping purposes.

Class 28: Games; toys; gymnastic and sporting articles, included in class 28; balls; badminton racquets; badminton nets; badminton equipment; squash rackets; squash equipment; tennis rackets; tennis equipment; golf clubs; golf balls; golf accessories; table tennis paddles; table tennis equipment; skis; ski accessories; snowshoes; harness (climbers' -); climbing equipment; surfing accessories; boxing gloves; striking bags; equipment for boxing; baseball bats; baseball gloves; hockey sticks; equipment for hockey; archery implements (sporting articles); bowstrings; archery equipment; exercise and fitness equipment; trampolines; lines for fishing, fishing tackle, rods for fishing and parts therefor; fishing articles, not included in other classes; angling accessories, reels for fishing, lines for fishing, fish hooks, fishing weights, floats for fishing; fishing bait (other than live bait); artificial flies; bait [artificial]; bait jars; rod stands; landing nets for anglers; decoys for fishing; artificial lures for use in fishing, creels [fishing traps], fishing gloves, guns (harpoon -) [sports articles]; poles, in particular for fishing; swimming jackets; containers and bags for fishing and fishing accessories; flippers; bags adapted for carrying sports equipment; boules sets; dart boards and darts; sporting articles for the beach; stunt kites; inflatable swimming floats; swim rings; pools (swimming -) [play articles]; swimming pools; swimming kick boards; body boards; snow sleds; skateboards; in-line roller skates; ice skates; protectors, in particular for the back, shoulders, elbows, knees and wrists (sporting articles); golf equipment, namely golf trolleys; tennis equipment, namely tennis bags; badminton equipment, namely badminton bags; squash equipment, namely squash bags.

Class 34: Lighters; firestones for lighters for smokers.