

O/706/22

TRADE MARKS ACT 1994

**IN THE MATTER OF
TRADE MARK APPLICATION NO. UK3633381
IN THE NAME OF BYD COMPANY LIMITED
TO REGISTER AS A TRADE MARK**



IN CLASS 12

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NUMBER OP426402
BY YT INDUSTRIES GMBH**

BACKGROUND AND PLEADINGS

1. On 27 April 2021, BYD COMPANY LIMITED (“the applicant”) applied to register trade mark number UK3633381 for the mark shown on the cover page of this decision in the United Kingdom.¹ The application was accepted and published for opposition purposes on 25 June 2021, in respect of the following goods:

Class 12: *Cars; trucks; Vehicles for locomotion by land, air, water or rail; automobile tires; bicycles; motorcycles; cable cars; hand cars; boats; aeroplanes; electric vehicles; motors, electric, for land vehicles; vehicle wheel hubs; vehicle wheels; engines for land vehicles; brake pads for automobiles; gear boxes for land vehicles; steering wheels for vehicles; vehicle seats.*

2. The application is opposed by YT Industries GmbH (“the opponent”). The opposition was filed on 25 August 2021 and is based upon Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”).² The opposition is directed against all of the goods in the application. The opponent relies upon its UK designations of the following four International Registrations:

YT

International Registration No.: WO1269034

International Registration date: 04 November 2014

UK Date of Designation: 16 November 2016

Date protection granted in the UK: 10 August 2017

Protected for goods in Classes 9, 12, 18 and 28

Relying on all goods, as listed in Annex A at the end of this decision.

(The “034” Mark); and

¹ This case was filed pursuant to Article 59 of the Withdrawal Agreement between the United Kingdom and the European Union, based on European Union Trade Mark (“EUTM”) No. 018234335. The EU filing date was 05 May 2020.

² The grounds under sections 5(3) and 5(4)(a) as originally filed were withdrawn by the opponent in a letter to the Registry dated 24 January 2022. The opponent maintains its opposition under Section 5(2)(b) only.

YT

International Registration No.: WO1421879

International Registration date: 21 February 2018

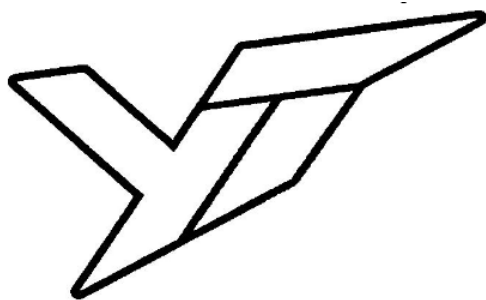
UK Date of Designation: 21 February 2018

Date protection granted in the UK: 22 February 2019

Protected for goods in Classes 9, 12, 18, 25 and 28

Relying on all goods, as listed in Annex A at the end of this decision.

(The "879" Mark); and



International Registration No.: WO1269035

International Registration date: 05 November 2014

UK Date of Designation: 16 November 2016

Date protection granted in the UK: 11 May 2017

Protected for goods in Classes 9, 12, 18, 25 and 28

Relying on all goods, as listed in Annex A at the end of this decision.

(The "035" Mark); and



International Registration No.: WO1409454

International Registration date: 18 October 2017

UK Date of Designation: 18 October 2017

Date protection granted in the UK: 25 October 2018

Protected for goods and services in Classes 9, 12, 18, 25, 28 and 37

Relying on all goods and services, as listed in Annex A at the end of this decision.

(The "454" Mark).

3. The opponent submits that the contested mark is highly similar to the registered marks, and the goods covered by the application are identical or highly similar to the goods covered by the earlier marks. It further submits that there is a clear likelihood of confusion on the part of the relevant public (including a likelihood of association), and as such, the application should be refused in its entirety under Section 5(2)(b) of the Act, and an award of costs be made in favour of the opponent.

4. The applicant filed a counterstatement denying the claims. It denies that there exists any likelihood of confusion on the part of the public due to any alleged similarity between its mark and the opponent's earlier marks, as well as the goods covered by the application and the opponent's marks.

5. Only the opponent filed written submissions, which will not be summarised, but will be referred to as and where appropriate during this decision, and only the opponent elected to file evidence. Neither party requested a hearing, therefore this decision is taken following careful consideration of the papers.

6. In these proceedings, the opponent is represented by Marks & Clerk LLP and the applicant is represented by Adamson Jones.

Evidence

7. The opponent's evidence comprises a witness statement, dated 24 January 2022, by Amy Dunn of Marks & Clerk LLP, being the appointed representative of the opponent. Ms Dunn adduces seven exhibits in support of the opposition, labelled **Exhibit 1 – Exhibit 7**, accordingly.

8. The main purpose of the evidence is to provide information from publicly available and independent sources on the use and perceived meaning of the prefix "E" in the UK.

9. I have read and considered all of the evidence and I will refer to the relevant parts at the appropriate points in the decision, to the extent I consider necessary.

10. I note that the opponent has filed written submissions which include Annex 1, being a copy of what is described as "the favourable Swiss decision in parallel opposition proceedings against CH TM application 746536". The document which comprises Annex 1 is written in German and a translation of the text into English has not been provided. Any evidence in a language other than English will not be considered as part of my decision.³ Further, I am not bound by the findings of other jurisdictions, and as such, I draw my own conclusions based on the evidence before me.

DECISION

11. Although the UK has left the European Union, 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 on in these proceedings are derived from an EU Directive. Therefore, this decision contains references to the trade mark case-law of the European courts.

³ See paragraph 32 of the decision of Professor Ruth Annand, sitting as the Appointed Person in *Pollini*, BL O/146/02.

12. The opposition is based upon section 5(2)(b) of the Act, which 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”.

13. 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) a European Union trade mark or international trade mark (EC) 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,

...”

14. Each of the trade marks upon which the opponent relies qualifies as an earlier trade mark under the above provisions. As the trade marks had not been protected for more than five years at the date the application was filed, they are not subject to the proof of use provisions contained in section 6A of the Act. The opponent is, therefore, entitled to rely upon them in relation to all of the goods and services indicated without having to prove that genuine use has been made of them.

Section 5(2)(b) –

15. I am guided by the following principles which 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 Office for Harmonisation in the Internal Market (Trade Marks and Designs) (“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:

(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 greater 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 to mind the earlier mark, 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.

Comparison of goods

16. Section 60A of the Act provides:

“(1) For the purposes 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 1979.”

17. I am therefore mindful of the fact that the appearance of respective goods and services in the same class is not sufficient in itself to find similarity between those goods and services, and that likewise, neither are goods and services to be automatically found to be dissimilar simply because they fall in a different class.

18. The goods and services of the opponent are listed under Annex A of this decision. I note that the Class 9 and Class 18 specifications are identical in all four of the opponent’s earlier marks, and the Class 25 specification, which is included in all but the “034 “ mark, is also identical in each. There are very slight differences between the Class 12 and Class 28 specifications of the four earlier marks, whilst only the “454“ mark is registered for services in Class 37.

19. Wherever possible, I will make my comparison between the contested goods and the goods that are common to all four of the opponent’s earlier marks. However, where necessary, I will make my comparison on individual goods or services relevant to a specific earlier mark against the applicant’s goods shown in the table below, making it clear to which of the earlier marks I am referring.

Applicant’s goods
<u>Class 12</u> <i>Cars; trucks; Vehicles for locomotion by land, air, water or rail; automobile tires; bicycles; motorcycles; cable cars; hand cars; boats; aeroplanes; electric vehicles; motors, electric, for land vehicles; vehicle wheel hubs; vehicle wheels; engines for land vehicles; brake pads for automobiles; gear boxes for land vehicles; steering wheels for vehicles; vehicle seats.</i>

20. In *Gérard Meric v OHIM*, Case T-133/05, the General Court (“GC”) stated that:

“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 für 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”.⁴

21. In *Canon*, Case C-39/97, the Court of Justice of the European Union (“CJEU”) stated 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”.⁵

22. Additionally, the factors for assessing similarity between goods and services identified in *British Sugar Plc v James Robertson & Sons Limited* (“*Treat*”) [1996] R.P.C. 281 include an assessment of the channels of trade of the respective goods or services.

23. 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 OHIM*, Case T-325/06, the GC stated that “complementary” means:

“...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

⁴ Paragraph 29

⁵ Paragraph 23

may think that the responsibility for those goods lies with the same undertaking".⁶

24. For the purposes of considering the issue of similarity of goods, it is permissible to consider groups of terms collectively where appropriate. In *Separode Trade Mark*, BL O-399-10, Mr Geoffrey Hobbs QC, sitting as the Appointed Person, said:

"The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision."⁷

25. While making my comparison, I bear in mind the comments of Floyd J. (as he then was) in *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch):

"... 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."⁸

⁶ Paragraph 82

⁷ Paragraph 5

⁸ Paragraph 12

26. I note that in its written submissions, the opponent has provided an in-depth comparison of the competing goods and services. I do not intend to reproduce those submissions here, however, I have taken them into consideration in making my own comparisons, which I will now set out as follows, grouping them together where this is appropriate, as per *Separode*:

27. The applicant's "*bicycles*" are identical to the opponent's "*Bicycles*".

28. I note the Collins Dictionary online definition of "vehicle" in British English to be "any conveyance in or by which people or objects are transported, esp one fitted with wheels".⁹ Consequently, I consider that the applicant's wider term "*Vehicles for locomotion by land, air, water or rail*" would encompass the opponent's "*Bicycles; motorized bicycles*", rendering them identical as per the principle outlined in *Meric*.

29. I consider that the applicant's broad term "*electric vehicles*" would encompass the opponent's "*motorized bicycles*" and as such they are identical as outlined in *Meric*.

30. As I have already found that vehicles would encompass bicycles, it stands to reason that, following the same principles, the applicant's "*vehicle wheel hubs*" are *Meric* identical to the opponent's "*bicycle hubs*", and that the applicant's "*vehicle wheels*" are *Meric* identical to the earlier "*bicycle wheels*".

31. Bearing in mind the guidance from *YouView* on the core meaning of words and phrases, to my mind, the average consumer would perceive the term "*vehicle seats*" as referring to seats within four wheeled vehicles such as cars, and would refer to the seat of a bicycle as a saddle, rather than a seat. However, I acknowledge that a proportion of consumers may also refer to bicycle saddles as seats, therefore, I find the contested broad term "*vehicle seats*" to cover the opponent's "*saddles for bicycles*", and as such, I find them to be identical as per *Meric*.

⁹ See <Vehicle definition and meaning | Collins English Dictionary (collinsdictionary.com)>, accessed 03 August 2022.

32. My understanding of the differences between the applicant's "*motorcycles*" and the opponent's "*motorized bicycles*" is that the former are liable for road tax and insurance and must be registered with the DVLA, whereas the same does not apply to the latter. Further, unlike motorcycles, motorized bikes are pedalled in the same way as a traditional, non-motorized bicycle, albeit assisted by an electric motor, whereas motorcycles are controlled by the throttle, meaning that the method of use differs between the two. That being said, they are similar in nature, both having two wheels, and with the basic purpose of transportation being the same for both types of vehicle. I also consider that the respective goods may be in competition with each other, with the user making an informed choice between the competing goods. Consequently, I find "*motorcycles*" to be similar to "*motorized bicycles*" to no more than a medium degree.

33. I consider that the average consumer would perceive the term "automobile" as referring to four wheeled vehicles and not to bicycles or motorized bicycles. While "*automobile tires*" are similar in physical nature and purpose to "*bicycle tyres*", i.e. they are made from the same materials, and both cover the wheel of the respective vehicle, the end users are different, and they are neither complementary to, nor in competition with, each other. I acknowledge that there will be an overlap in channels of trade and that it would not be unreasonable for the average consumer to expect that the goods were produced by the same or economically-linked undertakings. Therefore, I consider there to be no more than a medium degree of similarity between these goods.

34. I consider that "*motors, electric, for land vehicles*" would include the electric motors used to power the opponent's "*motorized bicycles*". In *Les Éditions Albert René v OHIM*, Case T-336/03, the GC found that:

"61... The mere fact that a particular good is used as a part, element or component of another does not suffice in itself to show that the finished goods containing those components are similar since, in particular, their nature, intended purpose and the customers for those goods may be completely different."

In view of the above, while there will be an overlap in users of the aforementioned competing goods, the use and physical nature of an electric motor cannot be said to be the same as for a fully assembled motorized bicycle. There is a degree of complementarity between the two inasmuch that without the motor itself, there would not be a motorized bicycle. However, in my view, the average consumer would not automatically expect “*motors, electric, for land vehicles*” to be provided by the same undertaking as “*motorized bicycles*”. Consequently, I consider the degree of overlap in users and complementarity to be insufficient to support a finding of similarity between the contested goods.

35. Whilst the fundamental purpose of the applicant’s “*Cars; trucks*” is transportation, being the same basic purpose as the opponent’s “*motorized bicycles*”, the respective methods of use are very different. The nature of the goods also differ inasmuch that a car or truck is designed to carry multiple passengers and commodities over long distances, whereas a motorized bicycle is designed to carry the rider, with limited facilities for cargo. There may be an overlap in users, with some consumers purchasing both a car and a motorized bicycle, dependant on personal circumstances and needs; however, I do not consider the respective goods to be in competition. To my mind, the channels of trade will also be different, and I consider that the average consumer would not expect the same undertaking to provide both “*Cars; trucks*” and “*motorized bicycles*”. Overall, I find the respective goods to be dissimilar.

36. The applicant’s “*cable cars*” have a very specific purpose, typically to travel up and down mountains while being pulled by a moving cable. I consider the market for “*cable cars*” to be niche, and quite different to the market for “*bicycles; motorized bicycles*”. Aside from the obvious purpose of transportation, I cannot agree with the opponent’s submissions that “*cable cars*” are similar to its “*bicycles; motorized bicycles*”, being different in nature and with different methods of use. The average consumer of each of these goods would not expect the same undertaking to provide both “*cable cars*” and “*bicycles; motorized bicycles*”. I find the respective goods to be dissimilar.

37. To my understanding, “*hand cars*” are light railway vehicles propelled by cranks or levers. I cannot agree with the opponent that they are similar to handcycles, which they submit would be encompassed within the broader terms “*bicycles; motorized*

bicycles” of its specification. A handcycle has three wheels rather than the two wheels of a bicycle, and is propelled by the hands rather than the legs. As in *YouView*, I consider that to class a handcycle as a bicycle would involve a straining of the language. This aside, even if I found handcycles were covered by the term bicycles, the contested “*hand cars*” are different in nature and purpose to the opponent’s “*bicycles; motorized bicycles*”. Hand cars would be provided by specialist manufacturers and the channels of trade, as well as the user, would be different to those of the opponent’s goods. I therefore find the respective goods to be dissimilar.

38. While the purpose of the applicant’s “*boats; aeroplanes*” would be transportation of people and/or cargo, I do not consider them akin to the earlier “*bicycles; motorized bicycles*”. The methods of use are different, with boats designed to travel across water and aeroplanes designed to travel by air, both being capable of transporting numerous passengers over long distances. Bicycles, on the other hand, are constructed to travel across land, and are largely designed to carry a single rider, rather than multiple passengers. The opponent submits that the respective goods are complimentary forms of transport, however, they are not complimentary in a trade mark sense, as per *Kurt Hesse*. The trade channels are different, the goods are not in competition with each other, and the average consumer would not expect the respective goods to originate from the same, or commercially linked undertakings. I find the respective goods to be dissimilar.

39. It is my understanding that an engine requires fuel, while a motorized bicycle utilises a motor which runs on a battery. I consider the applicant’s “*engines for land vehicles*” to have different users and uses to the opponent’s “*motorized bicycles*”, and in my view, the goods are incompatible, therefore I cannot agree with the opponent that the goods are complementary to one another. I do not consider that the average consumer would expect the respective goods to be provided by the same or economically linked undertakings. I therefore find that “*engines for land vehicles*” are dissimilar to “*motorized bicycles*”.

40. In my view, the braking system for four wheeled vehicles is different in nature and method of use to the brakes used on bicycles, with each being manufactured by a specialist provider in the appropriate field. Therefore, I consider the applicant’s “*brake*

pads for automobiles” to be dissimilar to the opponent’s *“brakes for bicycles or two-wheeled vehicles; brake shoes [bicycle parts]; brakes [bicycle parts];”*. Neither do I agree with the opponent’s submissions that the contested goods are complementary to its *“motorized bicycles”*, as the contested goods would not be fit for purpose in relation to the earlier *“motorized bicycles”*. Consequently, I find the goods to be dissimilar.

41. I do not consider that the average consumer of *“gear boxes for land vehicles”* to be the same as the consumer of the earlier *“bicycle gears; gear wheels [bicycle parts]; change-speed gears [bicycle parts]; gears for bicycles”*. The goods are different in nature and method of employ. I consider that the *“gear boxes for land vehicles”* would be manufactured by a different specialist manufacture to the specialist manufacturer of bicycle gears and I do not consider the applicant’s goods to be complementary to the earlier goods of the opponent. I therefore find the respective goods to be dissimilar.

42. The steering mechanism for four wheeled vehicles is different to the steering mechanism for bicycles and motorized bicycles, the latter being based on handlebars rather than being an actual wheel. While the general purpose of guiding the vehicle in an appropriate direction is common to both, the applicant’s *“steering wheels for vehicles”* is different in nature and method of use to the opponent’s *“steerer tubes [bicycle parts]”*, which to my understanding connect the handlebars to the fork blades. As the steering systems are incompatible, the contested goods cannot be complementary to the earlier *“bicycles; motorized bicycles”*, and I do not consider that the average consumer would expect the respective goods to be provided by the same or similar undertakings. Consequently, I find the goods to be dissimilar.

43. I note that the opponent submits that its *“Cleaning, repair and maintenance services for vehicles and bicycles”* registered under Class 37 of the “454” Mark would be considered complementary to the applicant’s goods, in particular goods such as *“Cars; trucks; Vehicles for locomotion by land, air, water or rail; bicycles; motorcycles; hand cars; boats; aeroplanes; electric vehicles.”* Vehicles require maintenance, and while I am less convinced about cleaning services, which in my view would be provided as a stand-alone service by independent providers, I consider that there would be

close links between main dealerships who would both sell the applicant's "*Cars; trucks; Vehicles for locomotion by land, air, water or rail; bicycles; motorcycles; electric vehicles*" and also offer after sales services such as repair and maintenance. I do not consider this to be the same for the applicant's "*hand cars; boats; aeroplanes*". I therefore find that, as outlined in *Boston Scientific*, there is a complementary relationship between "*Cars; trucks; Vehicles for locomotion by land, air, water or rail; bicycles; motorcycles; electric vehicles*" and "*repair and maintenance services for vehicles and bicycles*" which would lead the average consumer to believe that the goods and services are provided by the same, or economically linked undertakings. I therefore find that the goods and services are similar to a medium to high degree.

44. A degree of similarity between the goods is essential for there to be a finding of likelihood of confusion. In *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA, Lady Justice Arden stated that:

"49..... I do not find any threshold condition in the jurisprudence of the Court of Justice cited to us. Moreover I consider that no useful purpose is served by holding that there is some minimum threshold level of similarity that has to be shown. If there is no similarity at all, there is no likelihood of confusion to be considered. If there is some similarity, then the likelihood of confusion has to be considered but it is unnecessary to interpose a need to find a minimum level of similarity."

45. I therefore find there to be no likelihood of confusion for those goods which I found to be dissimilar.

The average consumer and the nature of the purchasing act

46. 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. (as he was then) described the average consumer in these terms:

"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 word “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median”.¹⁰

47. 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.

48. In its written submissions, the opponent submits that the goods in question are all vehicle related, and so the average consumer and end user of these goods would be the general public.

49. In my view, the average consumer for bicycles and motorized bicycles and their parts and fittings such as tyres, wheel hubs and wheels will be a member of the general public with an interest in cycling as a hobby or for use as a method of transport. They may also be a professional cyclist, or, particularly for the parts and fittings, a cycle repair service.

50. The goods are sold through a range of channels, including retail premises, catalogue stores and from cycling specialists, as well as online. Considered overall, the selection process will, in my view, be a predominantly visual one, although aural considerations will play their part as the consumer may seek advice from sales staff or other specialists. In a bricks-and-mortar store, the opportunity to ‘try for size’ may be an important part of the process of selecting a bicycle. The cost of the goods will range from inexpensive for parts such as tyres to moderately expensive/expensive for a fully assembled bicycle. The goods are likely to be bought infrequently by the general public or professional, although some parts and fittings may be renewed or upgraded more often than others. The cycle repair service will source parts and fittings on a regular basis. The purchase of each of the goods is likely to be based on the suitability of the functionality and performance of those goods, as well as, for some

¹⁰ Paragraph 60

consumers, the cost and the reputation of the brand. The more ardent cycling enthusiasts and the professional cyclist are likely to require a more bespoke product relative to their own exacting needs, and will pay a high level of attention to the purchasing act in order to meet these requirements, be that parts and fittings or the completed article. However, there will be other, less discerning consumers, with a more limited knowledge than the enthusiast or professional user, who are more likely to purchase products from a general supplier and who will pay a low to medium level of attention for tyres and the like and a medium level of attention for the most expensive items of goods, such as fully assembled bicycles.

51. Given the high initial expense and subsequent running costs, I consider the average consumer of the applicant's "*Cars; trucks*" would pay a high degree of attention to the predominantly visual selection process, with "*repair and maintenance services for vehicles and bicycles*" being included as part of the overall package or offered as a separate or add on service. Where the services are offered separately, the consumer will want to ensure that their initial purchase is well maintained by a reputable provider, although cost considerations will also come in to play. As such, a relatively high degree of attention will be paid to the selection of those services.

Comparison of marks


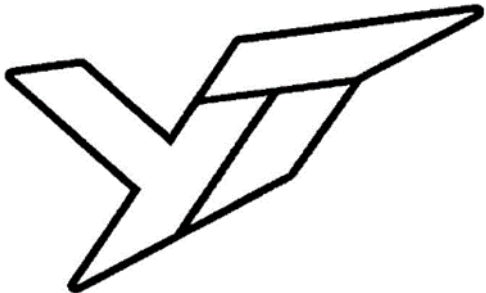
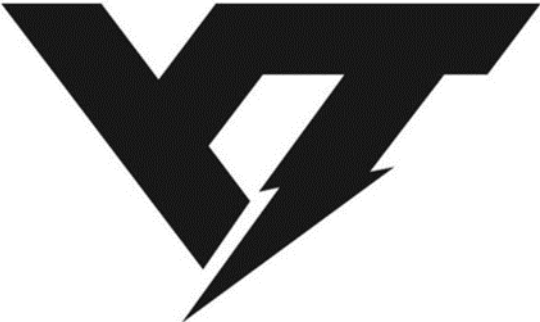
52. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo SA v OHIM* Case C-591/12P, 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.”¹¹

53. It would be wrong, therefore, to artificially dissect the trade marks, 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.

54. The respective trade marks to be compared are as follows:

Opponent’s trade marks	Applicant’s trade mark
<p>The “034” Mark and the “879” Mark</p> <p style="text-align: center;">YT</p>	
<p>The “035” Mark</p> 	
<p>The “454” Mark</p> 	

¹¹ Paragraph 34

55. The opponent submits that each of its earlier marks are visually and aurally highly similar to the applicant's mark. It further submits that the letter E and its stylised lightning bolt in the contested mark would be perceived as an entirely descriptive and non-distinctive element, the letter E being commonly used to indicate an electric product. Therefore, the letters YT of the applicant's mark are the dominant and distinctive element.

Overall impression

The "034" Mark and the "879" Mark

56. The opponent's marks are identical in that they each consist of the two letters "YT", presented in a standard font and capital letters without any other elements to contribute to the overall impression. The overall impression conveyed by each mark therefore rests in the combination of the letters.

The "035" Mark

57. The mark consists of the stylised letters "YT", which are double outlined in black capitals and set at an angle. The bottom of the letter Y slopes upwards from left to right and conjoins the letter T on the right hand side. The top bar of the letter T also intersects the top right fork of the letter Y. In spite of the stylisation, to my mind, the mark would instantly be perceived as the letters "YT", and as such, the overall impression of the mark rests in both the stylisation and combination of these letters.

The "454" Mark

58. The mark consists of a device comprising a linear double outline which is infilled in black, which the opponent describes as "a YT device, in which the vertical line of the letter T is stylised as a lightning bolt".¹² To my mind, when viewed *solus*, the stylisation of the sign does not immediately lend itself as being the letters YT, but rather an abstract shape. Neither am I convinced that the jagged triangular shape on

¹² See paragraph 22 of the opponent's submissions of 09 June 2022.

the bottom right of the mark, which is slightly offset from the portion of the line directly above it, would be instantly perceived as a lightning bolt. The overall impression of the mark rests in the device itself. However, I allow that there will be a proportion of consumers who will identify the mark as the letters YT with a lightning bolt attached to the bottom of the T element. To those consumers, the overall impression of the mark will rest in the stylised letters YT, with the lightning bolt element playing a lesser role.

The applicant's mark

59. The applicant's mark consists of the stylised letters "EYT", which are equally presented as an infilled double outline in black. While the letter "E" is made up of three parallel lines directly preceded by a depiction of a lightning bolt, which replaces the vertical line and is all but conjoined to the three lines, I consider that it would immediately be perceived as the letter E and a lightning bolt. The overall impression of the mark rests in the combined letters and lightning bolt device.

Visual comparison

The "034" Mark and the "879" Mark

60. Both the opponent's marks comprise the same two letter combination "YT" and as such, the marks are encompassed in their entirety within the applicant's mark, which comprises the three letter combination "EYT", with the additional lightning bolt attached to the letter E, as previously described. Considering the marks as a whole, I find there to be at least a medium degree of visual similarity between them.

The "035" Mark

61. The opponent's mark comprises the two letter combination "YT" which is presented in a stylised manner, as previously described. These two letters are the same as the last two letters of the applicant's three letter mark, the whole of which has the additional element of the lightning bolt forming the letter E at the start of the mark. Given the stylisation of the letters in the earlier mark, which to mind would immediately be seen

as the letters “YT”, I consider the competing marks to be visually similar to a medium degree.

The “454” Mark

62. I acknowledge that when viewed side by side, the earlier mark could be viewed as the letters YT with the vertical line of the letter T being construed as a lightning bolt. However, the average consumer rarely has the chance to make direct comparisons between the marks. In my view, it is more likely that consumers will see the opponent’s mark as an abstract shape. Consequently, I consider the marks to be visually dissimilar. To those consumers who identify the mark as the letters YT with a lightning bolt, considering the heavy stylisation of those letters, the competing marks are visually similar to no more than a medium degree.

Aural comparison

The “034” Mark, the “879” Mark and the “035” Mark.

63. All three of the opponent’s marks would be pronounced equally, as two letters, WHY-TEE. The lightning bolt device in the applicant’s mark would not be articulated, therefore the mark would be pronounced as three letters EE-WHY-TEE. I therefore find the competing marks to be aurally similar to a high degree.

The “454” Mark

64. Having found it likely that the average consumer will see the earlier mark as an abstract shape, it follows that it cannot be pronounced. In *Dosenbach-Ochsner AG Schuhe und Sport v OHIM*, Case T-424/10, the GC stated:

“45 The fact none the less remains that, contrary to what the applicant submits, a phonetic comparison is not relevant in the examination of the similarity of a figurative mark without word elements with another mark (see, to that effect, Joined Cases T-5/08 to T-7/08 *Nestlé v OHMI — Master Beverage Industries (Golden Eagle and Golden Eagle Deluxe)* [2010] ECR II-1177, paragraph 67).

46 A figurative mark without word elements cannot, by definition, be pronounced. At the very most, its visual or conceptual content can be described orally. Such a description, however, necessarily coincides with either the visual perception or the conceptual perception of the mark in question. Consequently, it is not necessary to examine separately the phonetic perception of a figurative mark lacking word elements and to compare it with the phonetic perception of other marks.

47 In those circumstances, and given that the contested mark is a figurative mark lacking word elements, it cannot be concluded there is either a phonetic similarity or a phonetic dissimilarity between that mark and the earlier marks.”

65. Consequently, I make no aural comparison of the competing marks where the earlier mark is perceived as an abstract shape. To those consumers who perceive the mark as the letters YT and a lightning bolt, the lightning bolt element will not be pronounced; however, the letters YT will be articulated as WHY-TEE, rendering it aurally similar to the contested mark to a high degree.

Conceptual comparison

66. For a conceptual message to be relevant, it must be capable of immediate grasp by the average consumer - Case C-361/04 P *Ruiz-Picasso and others v OHIM* [2006]¹³.

The “034” Mark, the “879” Mark and the “035” Mark.

67. The opponent has provided a witness statement and evidence by way of exhibits of some 94 pages to show the use and perceived meaning of the prefix “e”. The term “e-bike” is defined in Collins English Dictionary as “a bicycle that can be powered by electricity as well as by pedalling. E-bike is an abbreviation for ‘electronic bike’.”¹⁴ In

¹³ Paragraph 56.

¹⁴ See <E-bike definition and meaning | Collins English Dictionary (collinsdictionary.com)>, accessed 05 August 2022.

my view, a significant proportion of the relevant public would be aware of the meaning of the term in relation to the goods at issue. I also find that the lightning bolt attached to the letter E in the applicant's mark reinforces the message that the goods are an electric version. While acronyms and abbreviations may provide different meanings depending on the context in which they are used, the combined letters "YT" *solus* have no singular clear significance for the average UK consumer. In the applicant's mark, the letter "E" alludes to goods which are electric or electronic. As no conceptual comparison can be made of the common letters YT, and as the letter "E" plays no part in the opponent's earlier marks, overall, I consider the marks in their entirety to be conceptually neutral.

The "454" Mark

68. As considered earlier in this decision, I do not consider that the earlier mark would be perceived *prima facie* as either the letters "YT" or a lightning bolt, but as an abstract shape, and as such it has no concept. Therefore, in these circumstances, a conceptual comparison of the marks cannot be made. However, I also concede that a proportion of consumers may identify the earlier mark as the letters YT and a lightning bolt. To those consumers, the shared concept of the lightning bolt is likely to allude to the goods at issue being electric, and taking this into account, I find the competing marks to be conceptually similar to a low to medium degree.

Distinctive character of the earlier marks

69. The distinctive character of a trade mark can be appraised only, first, by reference to the goods in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91.

70. 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 *Windsurfing Chiemsee 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).”

71. Registered trade marks can possess varying degrees of inherent distinctive character, being low where they are allusive or suggestive of a character of the goods and services, whereas invented words usually have the highest degree of distinctive character. The distinctiveness of a mark can be enhanced by virtue of the use made of it. The opponent has not claimed that its mark has enhanced distinctiveness and no evidence of use has been filed. Therefore, I only have the inherent characteristics of the mark to consider.

The “034” mark and the “879” Mark

72. To the best of my knowledge, the combined letters YT in relation to the goods at issue have no particular meaning attached to them. Generally, a two letter combination is not appreciably distinctive, neither is it particularly weak in cases where there is no proven connection between those letters and the goods for which the mark is registered. Overall, I consider both the earlier marks to be inherently distinctive to a medium degree.

The “035” Mark

73. As considered earlier, the stylisation of the “035” mark is not particularly striking and does not detract from the sign being perceived as the letters YT. However, the stylisation cannot be ignored and does lend an extra layer of distinctive character to the plain letters YT. I therefore consider the mark to be inherently distinctive to at least a medium degree.

The “454” Mark

74. I consider that the majority of consumer’s will see the mark as an abstract image which does not allude to the goods at issue. I find the device as a whole to be relatively distinctive, although not to the very highest degree. As described previously, I further consider that a proportion of consumers will perceive the earlier mark as the letters “YT” and a lightning bolt, which alludes to the goods being electric. Although I consider that this would not be the case for the majority of consumers, nonetheless, I consider that the latter group to still be significant, and to these consumers, I consider the earlier mark to be inherently distinctive to at least a medium degree, and to a slightly lesser degree where the message of electric goods is understood.

Likelihood of confusion

75. There is no simple formula for determining whether there is a likelihood of confusion. It is clear that I must make a global assessment of the competing factors (*Sabel* at [22]), keeping in mind the interdependency between them i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa (*Canon* at [17]). I must consider the various factors from the perspective of the average consumer, bearing in mind that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he has retained in his mind (*Lloyd Schuhfabrik* at [26]).

76. There are two types of possible confusion: direct, where the average consumer mistakes one mark for the other, or indirect, where the average consumer recognises that the marks are different, but assumes that the goods and services are the responsibility of the same or connected undertakings. The distinction between these was explained by Mr Iain Purvis Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v Back Beat Inc*, Case BL-O/375/10. He said:

“16. 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.”

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as “LITE”, “EXPRESS”, “WORLDWIDE”, “MINI” etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (“FAT FACE” to “BRAT FACE” for example).”

77. The above are examples only which are intended to be illustrative of the general approach. These examples are not exhaustive but provide helpful focus.

78. Earlier in this decision, I found that:

- The contested goods range from identical to similar to at least a low degree to the opponent’s goods, with the exception of those goods considered in paragraphs 34 - 42 which I found to be dissimilar¹⁵;
- The level of attention of the general public as the average consumer will be low to medium when selecting goods such as bicycles, while the professional consumer or cycling enthusiast is likely to pay a high degree of attention to the selection process;
- For the applicant’s cars and trucks, the level of attention will be high during the purchasing process, while the linked repair and maintenance services offered by the opponent will also attract a relatively high level of attention;
- The selection process will be a predominantly visual one, although aural considerations will play their part;
- In relation to the earlier “034” Mark and the “879” Mark, the competing trade marks are visually similar to at least a medium degree, with the “035” Mark being visually similar to the contested mark to a medium degree, whilst all three earlier marks are aurally similar to the applicant’s mark to a high degree, and are conceptually neutral;

¹⁵ See paragraph 43 in relation to the similarity of the applicant’s “Cars; trucks; Vehicles for locomotion by land, air, water or rail; bicycles; motorcycles; hand cars; boats; aeroplanes; electric vehicles” in relation to the Class 37 services included in the opponent’s “454” Mark.

- In relation to the “454” Mark, the competing trade marks are visually dissimilar where the earlier mark is viewed as an abstract image, and to no more than a medium degree where it is seen as the letters “YT” with a lightning bolt. I made no aural comparison between the contested mark and the earlier mark as an abstract image, but found the marks to be aurally similar to a high degree where the opponent’s mark is articulated as “YT”. Where the earlier mark is seen as an abstract image, no conceptual comparison could be made, and where it is perceived as the letters “YT” with a lightning bolt, the competing marks are conceptually similar to a low to medium degree.
- The first two earlier marks are inherently distinctive to a medium degree, the “035” Mark is inherently distinctive to at least a medium degree, and the “454” Mark is considered distinctive to a relatively high degree when seen as an abstract image, and to at least a medium degree where it is seen as the letters YT, diminishing to a slightly lesser degree where the message of electric goods is understood.

79. While allowing that the average consumer is unlikely to see the marks side-by-side and will therefore be reliant on the imperfect picture of them they have kept in their mind, I consider it unlikely that they would mistake any of the earlier marks for the contested mark. In my view, the average consumer will notice and recall the differences between the marks. I do not consider there is any likelihood of direct confusion as the differences between the marks are too great for confusion to arise. I find this even where the respective goods are held to be identical, which offsets a lesser degree of similarity between the marks.

80. Taking into account the previously outlined guidance of Mr Iain Purvis Q.C. in *L.A. Sugar*, I will now consider whether there might be a likelihood of indirect confusion. 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.

81. Keeping in mind the global assessment of the competing factors in my decision, and the principle of interdependency between them, given the identity/similarity of goods and that the first three earlier marks are all “YT” marks which are encompassed in their entirety within the contested mark, notwithstanding the medium degree of distinctive character of the earlier marks, I consider that a significant proportion of consumers would assume that the addition of the stylised letter “E” with a lightning bolt would lead that consumer to believe that the applicant’s mark represents a sub-brand of the opponent’s mark which relates to electric versions of the goods at issue. I find that there is a likelihood of indirect confusion in relation to all the goods for which I found similarity with the goods covered by the opponent’s “034”, “879” and “035” marks.

82. In *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, Kitchin LJ considered the characteristics of the average consumer, where he stated that:

“34 This court considered the characteristics of the average consumer at some length in *Interflora Inc v Marks and Spencer plc* [2015] EWCA Civ 1403 , [2014] FSR 10 from [107] to [130]. The following general points emerge further to those set out above:

- i) the average consumer is a hypothetical person or, as he has been called, a legal construct; he is a person who has been created to strike the right balance between the various competing interests including, on the one hand, the need to protect consumers and, on the other hand, the promotion of free trade in an openly competitive market, and also to provide a standard, defined in EU law, which national courts may then apply;
- ii) the average consumer is not a statistical test; the national court must exercise its own judgment in accordance with the principle of proportionality and the principles explained by the Court of Justice to determine the perceptions of the average consumer in

any given case in the light of all the circumstances; the test provides the court with a perspective from which to assess the particular question it has to decide;

- iii) in a case involving ordinary goods and services, the court may be able to put itself in the position of the average consumer without requiring evidence from consumers, still less expert evidence or a consumer survey. In such a case, the judge can make up his or her own mind about the particular issue he or she has to decide in the absence of evidence and using his or her own common sense and experience of the world. A judge may nevertheless decide that it is necessary to have recourse to an expert's opinion or a survey for the purpose of assisting the court to come to a conclusion as to whether there is a likelihood of deception;
- iv) the issue of a trade mark's distinctiveness is intimately tied to the scope of the protection to which it is entitled. So, in assessing an allegation of infringement under Article 5(1)(b) of the Directive arising from the use of a similar sign, the court must take into account the distinctiveness of the trade mark, and there will be a greater likelihood of confusion where the trade mark has a highly distinctive character either per se or as a result of the use which has been made of it. It follows that the court must necessarily have regard to the impact of the accused sign on the proportion of consumers to whom the trade mark is particularly distinctive;
- v) if, having regard to the perceptions and expectations of the average consumer, the court concludes that a significant proportion of the relevant public is likely to be confused such as to warrant the intervention of the court then it may properly find infringement."

83. Turning to the "454" Mark, earlier in my decision I considered that while the majority of consumers would see the mark as an abstract image, there is another group of

consumers who will view the mark as the letters “YT” and a lightning bolt. While I consider this other group to be smaller than those who view the mark in the abstract, I consider that, as per *Comic Enterprises*, the proportion of such consumers is nonetheless significant. Consequently, I consider that my earlier findings on likelihood of indirect confusion for the goods for which I found similarity to also be the case in relation to the applicant’s “*Cars; trucks; Vehicles for locomotion by land, air, water or rail; bicycles; motorcycles; electric vehicles*” and the opponent’s “*repair and maintenance services for vehicles and bicycles*”.

84. The opposition under section 5(2)(b) succeeds in respect of the following goods:

Cars; trucks; Vehicles for locomotion by land, air, water or rail; automobile tires; bicycles; motorcycles; electric vehicles; vehicle wheel hubs; vehicle wheels; vehicle seats.

85. The opposition fails in respect of the remaining goods.

Conclusion

86. The opponent has been partially successful. Subject to any successful appeal, the application by BYD COMPANY LIMITED may proceed to registration in respect of the following goods:

Cable cars; hand cars; boats; aeroplanes; motors, electric, for land vehicles; engines for land vehicles; brake pads for automobiles; gear boxes for land vehicles; steering wheels for vehicles.

Costs

87. Both parties have enjoyed a share of success. Considering the balance of success is roughly equal, adopting a “rough and ready” approach to the matter, I have concluded that both parties should bear their own costs.

Dated this 19th day of August 2022

**Suzanne Hitchings
For the Registrar,
the Comptroller-General**

Annex A

Opponent's goods

WO1269034

Class 9:

Spectacles [optics]; sunglasses; sports glasses; protective helmets; protective helmets for sports; bicycle helmets; diving gloves; breathing apparatus for diving; diving suits; diving masks.

Class 12:

Bicycles; bicycle hubs; bicycle baskets; bicycle wheels; dress guards for bicycles; bicycle saddles; bicycle pedals; bicycle chains; bicycle pumps; bicycle carriers; bicycle frames; bicycle tyres; rims for wheels of bicycles; bicycle bags; bicycle stands; bicycle brakes; bicycle bells; bicycle spokes; bicycle trailers; bicycle bells; bicycle inner tubes; bicycle handlebars; luggage carriers for bicycles; covers for bicycle saddles; bicycle saddle bags; bicycle gears; bicycle/motorcycle stands; brakes for bicycles or two-wheeled vehicles; motorized bicycles; forks [bicycle parts]; steerer tubes [bicycle parts]; handle bar grips [bicycle parts]; disk wheels [bicycle parts]; drive trains [bicycle parts]; fork crown covers [bicycle parts]; drive chains [bicycle parts]; gear wheels [bicycle parts]; spokes [bicycle parts]; change-speed gears [bicycle parts]; handle bars [bicycle parts]; brake shoes [bicycle parts]; front fork joints [bicycle parts]; brakes [bicycle parts]; tubeless bicycle tyres; mud guards for bicycles; handle bar grips for bicycles; twist grips for bicycles; handle bars for bicycles; luggage bags for bicycles; luggage carriers for bicycles; saddles for bicycles; child carrying trailers for bicycles; brake levers for bicycles; chain guards for bicycles; seat posts for bicycles; training tyres for bicycles; kickstands for bicycles; tubes for bicycles; carrying racks for bicycles; frames for bicycles; gears for bicycles; front/rear derailleurs for bicycles; wheels for bicycles; foot straps for bicycles; saddle bags for bicycles; bottle holders for bicycles; water bottle holders for bicycles; water bottle cages for bicycles; metal bells for bicycles; shock absorbers for bicycles; saddle covers for bicycles; direction signals for bicycles; direction indicators for bicycles; training wheels for bicycles; racing bicycles; cranks for bicycles; spoke guards for bicycles; components of bicycles;

covers for bicycle pedals; grips for handle bars; cleats for bicycle pedals; repair kit for bicycle wheels consisting of patches for repairing inner tubes or tires; covers for bicycle saddles; bicycle carriers for vehicles; luggage carrying frames for bicycles; frames for luggage carriers of bicycles; bicycle and wheel supports [parts of bicycles, wheels]; splash guard [dirt traps] for bicycles; tubeless tyres for bicycles; acoustic warning systems for bicycles; acoustic warning devices for bicycles; chains [parts of bicycles]; covers for bicycle or motorcycle saddles; saddles for bicycles or motorcycles; stands as parts of bicycles; pumps for inflating bicycle tyres; air pumps for inflating bicycle tyres; bicycle carriers to be mounted on vehicles; tyre tubes [for motorized two-wheeled vehicles or bicycles]; fittings for bicycles for carrying beverages; fittings for bicycles for carrying luggage; air pumps for bicycles for inflating tyres; parachutes.

Class 18:

Sports bags; backpacks; backpacks for climbers; backpacks for cyclers; travel garment covers; bags with wheels.

Class 28:

Sleighs [sports articles]; games; fencing masks; tennis nets; swim fins; punching balls; inline roller skates; ice skating boots with skates attached; paragliders; paintball guns [sports articles]; harnesses for surfboards; bodyboards; exercisers [expanders]; gymnastic apparatus; masts for surfboards; climbing harnesses [sports articles]; leashes for surfboards; dumb-bells; shuttlecocks; golf clubs; ice skating boots with skates attached; sports rackets; skateboards; ski bindings; rollers for stationary exercise bicycles; fencing gloves; golf bags with or without wheels; bags, specially adapted for skis and snowboards; bows [archery]; elbow guards [sports articles]; snowboards; surfboards, archery implements; bob-sleighs; games, except for those adapted for use with external screens or monitors; athletic supporters; body-building apparatus; shin guards [sports articles]; sleighs; nets [sports articles]; hockey sticks; golf gloves; water skis; protective paddings [sports equipment]; weight lifting belts [sports articles]; fencing weapons; skis; fitness exercise machines; surfboards; ice skating boots; boxing gloves; roller skates; in-line skates; protectors [sports articles]; protectors for shoulders [sports articles]; protectors for elbows [sports articles]; knee

guards [sports articles]; stationary exercise bicycles; elbow guards for cycling [sports articles]; knee guards for cycling [sports articles].

WO1421879

Class 9:

Spectacles [optics]; sunglasses; sports glasses; protective helmets; protective helmets for sports; bicycle helmets; diving gloves; breathing apparatus for diving; diving suits; diving masks.

Class 12:

Bicycles; bicycle hubs; bicycle baskets; bicycle wheels; dress guards for bicycles; bicycle saddles; bicycle pedals; bicycle chains; bicycle pumps; bicycle carriers; bicycle frames; bicycle tyres; rims for wheels of bicycles; bicycle bags; bicycle stands; bicycle brakes; bicycle bells; bicycle spokes; bicycle trailers; bicycle inner tubes; bicycle handlebars; luggage carriers for bicycles; covers for bicycle saddles; bicycle saddle bags; bicycle gears; bicycle/motorcycle stands; brakes for bicycles or two wheeled vehicles; motorized bicycles; forks [bicycle parts]; steerer tubes [bicycle parts]; handle bar grips [bicycle parts]; disk wheels [bicycle parts]; drive trains [bicycle parts]; fork crown covers [bicycle parts]; drive chains [bicycle parts]; gear wheels [bicycle parts]; spokes [bicycle parts]; changespeed gears [bicycle parts]; handle bars [bicycle parts]; brake shoes [bicycle parts]; front fork joints [bicycle parts]; brakes [bicycle parts]; tubeless bicycle tyres; mud guards for bicycles; handle bar grips for bicycles; twist grips for bicycles; luggage bags for bicycles; child carrying trailers for bicycles; brake levers for bicycles; chain guards for bicycles; seat posts for bicycles; training tyres for bicycles; kickstands for bicycles; tubes for bicycles; carrying racks for bicycles; front/rear derailleurs for bicycles; foot straps for bicycles; bottle holders for bicycles; water bottle holders for bicycles; water bottle cages for bicycles; metal bells for bicycles; shock absorbers for bicycles; direction signals for bicycles; direction indicators for bicycles; training wheels for bicycles; racing bicycles; cranks for bicycles; spoke guards for bicycles; structural parts of bicycles; covers for bicycle pedals; grips for handle bars; cleats for bicycle pedals; repair outfits for inner tubes for bicycle tyres; bicycle carriers for vehicles; luggage carrying frames for bicycles; bicycle and wheel

supports [parts of bicycles, wheels]; splash guard [dirt traps] for bicycles; acoustic warning horns for bicycles; acoustic warning devices for bicycles; chains [parts of bicycles]; covers for bicycle or motorcycle saddles; saddles for bicycles or motorcycles; stands as parts of bicycles; pumps for inflating bicycle tyres; air pumps for inflating bicycle tyres; bicycle carriers to be mounted on vehicles; tyre tubes [for motorized two-wheeled vehicles or bicycles]; fittings for bicycles for carrying beverages; fittings for bicycles for carrying luggage.

Class 18:

Sports bags; backpacks; backpacks for climbers; backpacks for cyclists; travel garment covers; bags with wheels.

Class 25:

Belts [clothing]; jerseys; underwear; socks; slippers; headgear; bathing trunks; bandanas [neckerchiefs]; sports shoes; gloves [clothing]; stockings; sweaters; bathing suits; hats; knitwear; jackets; water skiing suits; pullovers; t-shirts; pants; trousers; stockings [sweat-absorbent]; parkas; cycle wear, namely cycling underwear, cycling socks; cycling trousers, cycling shoes, cycling gloves, cycling shirts, cycling jackets.

Class 28:

Sleighs [sports articles]; games; fencing masks; tennis nets; swim fins; punching balls; inline roller skates; ice skating boots with skates attached; paragliders; paintball guns [sports articles]; harnesses for surfboards; bodyboards; exercisers [expanders]; gymnastic apparatus; masts for surfboards; climbing harnesses [sports articles]; leashes for surfboards; dumb-bells; shuttlecocks; golf clubs; sports rackets; skateboards; ski bindings; rollers for stationary exercise bicycles; fencing gloves; golf bags with or without wheels; bags, specially adapted for skis and snowboards; bows [archery]; elbow guards [sports articles]; snowboards; surfboards, archery implements; bob-sleighs; games, except for those adapted for use with external screens or monitors; athletic supporters [sports articles]; body-building apparatus; shin guards [sports articles]; sleighs; nets [sports articles]; hockey sticks; golf gloves; water skis; protective paddings [sports equipment]; weight lifting belts [sports articles]; fencing weapons; skis; fitness exercise machines; ice skating boots; boxing gloves; roller skates; in-line skates; protectors [sports articles]; protectors for shoulders [sports

articles]; protectors for elbows [sports articles]; knee guards [sports articles]; stationary exercise bicycles; elbow guards for cycling [sports articles]; knee guards for cycling [sports articles].

WO1269035

Class 9:

Spectacles [optics]; sunglasses; sports glasses; protective helmets; protective helmets for sports; bicycle helmets; diving gloves; breathing apparatus for diving; diving suits; diving masks.

Class 12:

Bicycles; bicycle hubs; bicycle baskets; bicycle wheels; dress guards for bicycles; bicycle saddles; bicycle pedals; bicycle chains; bicycle pumps; bicycle carriers; bicycle frames; bicycle tyres; rims for wheels of bicycles; bicycle bags; bicycle stands; bicycle brakes; bicycle bells; bicycle spokes; bicycle trailers; bicycle bells; bicycle inner tubes; bicycle handlebars; luggage carriers for bicycles; covers for bicycle saddles; bicycle saddle bags; bicycle gears; bicycle/motorcycle stands; brakes for bicycles or two-wheeled vehicles; motorized bicycles; forks [bicycle parts]; steerer tubes [bicycle parts]; handle bar grips [bicycle parts]; disk wheels [bicycle parts]; drive trains [bicycle parts]; fork crown covers [bicycle parts]; drive chains [bicycle parts]; gear wheels [bicycle parts]; spokes [bicycle parts]; change-speed gears [bicycle parts]; handle bars [bicycle parts]; brake shoes [bicycle parts]; front fork joints [bicycle parts]; brakes [bicycle parts]; tubeless bicycle tyres; mud guards for bicycles; handle bar grips for bicycles; twist grips for bicycles; handle bars for bicycles; luggage bags for bicycles; luggage carriers for bicycles; saddles for bicycles; child carrying trailers for bicycles; brake levers for bicycles; chain guards for bicycles; seat posts for bicycles; training tyres for bicycles; kickstands for bicycles; tubes for bicycles; carrying racks for bicycles; frames for bicycles; gears for bicycles; front/rear derailleurs for bicycles; wheels for bicycles; foot straps for bicycles; saddle bags for bicycles; bottle holders for bicycles; water bottle holders for bicycles; water bottle cages for bicycles; metal bells for bicycles; shock absorbers for bicycles; saddle covers for bicycles; direction signals for bicycles; direction indicators for bicycles; training wheels for bicycles; racing bicycles; cranks for bicycles; spoke guards for bicycles; components of bicycles;

covers for bicycle pedals; grips for handle bars; cleats for bicycle pedals; repair kit for bicycle wheels consisting of patches for repairing inner tubes or tires; covers for bicycle saddles; bicycle carriers for vehicles; luggage carrying frames for bicycles; frames for luggage carriers of bicycles; bicycle and wheel supports [parts of bicycles, wheels]; splash guard [dirt traps] for bicycles; tubeless tyres for bicycles; acoustic warning systems for bicycles; acoustic warning devices for bicycles; chains [parts of bicycles]; covers for bicycle or motorcycle saddles; saddles for bicycles or motorcycles; stands as parts of bicycles; pumps for inflating bicycle tyres; air pumps for inflating bicycle tyres; bicycle carriers to be mounted on vehicles; tyre tubes [for motorized two-wheeled vehicles or bicycles]; fittings for bicycles for carrying beverages; fittings for bicycles for carrying luggage; air pumps for bicycles for inflating tyres; parachutes.

Class 18:

Sports bags; backpacks; backpacks for climbers; backpacks for cyclers; travel garment covers; bags with wheels.

Class 25:

Belts (clothing); jerseys; underwear; socks; slippers; headgear; bathing trunks; bandanas (neckerchiefs); sports shoes; gloves (clothing); stockings; sweaters; bathing suits; hats; knitwear; sport shoes; jackets; water skiing suits; pullovers; T-shirts; pants; trousers; stockings (sweat-absorbent); parkas; cycle wear, namely cycling underwear, cycling socks, cycling trousers, cycling shoes, cycling gloves, cycling shirts, cycling jackets.

Class 28:

Sleighs [sports articles]; games; fencing masks; tennis nets; swim fins; punching balls; inline roller skates; ice skating boots with skates attached; paragliders; paintball guns [sports articles]; harnesses for surfboards; bodyboards; exercisers [expanders]; gymnastic apparatus; masts for surfboards; climbing harnesses [sports articles]; leashes for surfboards; dumb-bells; shuttlecocks; golf clubs; ice skating boots with skates attached; sports rackets; skateboards; ski bindings; rollers for stationary exercise bicycles; fencing gloves; golf bags with or without wheels; bags, specially adapted for skis and snowboards; bows [archery]; elbow guards [sports articles];

snowboards; surfboards, archery implements; bob-sleighs; games, except for those adapted for use with external screens or monitors; athletic supporters; body-building apparatus; shin guards [sports articles]; sleighs; nets [sports articles]; hockey sticks; golf gloves; water skis; protective paddings [sports equipment]; weight lifting belts [sports articles]; fencing weapons; skis; fitness exercise machines; surfboards; ice skating boots; boxing gloves; roller skates; in-line skates; protectors [sports articles]; protectors for shoulders [sports articles]; protectors for elbows [sports articles]; knee guards [sports articles]; stationary exercise bicycles; elbow guards for cycling [sports articles]; knee guards for cycling [sports articles].

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Class 9:

Spectacles [optics]; sunglasses; sports glasses; protective helmets; protective helmets for sports; bicycle helmets; diving gloves; breathing apparatus for diving; diving suits; diving masks.

Class 12:

Bicycles; bicycle hubs; bicycle baskets; bicycle wheels; dress guards for bicycles; bicycle saddles; bicycle pedals; bicycle chains; bicycle pumps; bicycle carriers; bicycle frames; bicycle tyres; rims for wheels of bicycles; bicycle bags; bicycle brakes; bicycle bells; bicycle spokes; bicycle trailers; bicycle inner tubes; bicycle handlebars; luggage carriers for bicycles; bicycle saddle bags; bicycle gears; bicycle/motorcycle stands; brakes for bicycles or two-wheeled vehicles; motorized bicycles; forks [bicycle parts]; steering tubes [bicycle parts]; handlebar grips [bicycle parts]; disk wheels [bicycle parts]; drive trains [bicycle parts]; fork crown covers [bicycle parts]; drive chains [bicycle parts]; gear wheels [bicycle parts]; spokes [bicycle parts]; change-speed gears [bicycle parts]; handle bars [bicycle parts]; brake shoes [bicycle parts]; front fork joints [bicycle parts]; brakes [bicycle parts]; tubeless bicycle tyres; mud guards for bicycles; handle bar grips for bicycles; twist grips for bicycles; luggage bags for bicycles; child carrying trailers for bicycles; brake levers for bicycles; chain guards for bicycles; seat posts for bicycles; training tyres for bicycles; kickstands for bicycles; tubes for bicycles; carrying racks for bicycles; front/rear derailleurs for bicycles; foot straps for bicycles; bottle holders for bicycles; water bottle holders for bicycles; water bottle cages for bicycle; metal bells for bicycles; shock absorbers for bicycles; direction signals for

bicycles; direction indicators for bicycles; training wheels for bicycles; racing bicycles; cranks for bicycles; spoke guards for bicycles; components of bicycles; covers for bicycle pedals; grips for handle bars; cleats for bicycle pedals; repair kit for bicycle tyres; bicycle carriers for vehicles; luggage carrying frames for bicycles; bicycle and wheel supports [parts of bicycles, wheels]; splash guard [dirt traps] for bicycles; acoustic warning systems for bicycles; acoustic warning devices for bicycles; chains [parts of bicycles]; covers for bicycle or motorcycle saddles; saddles for bicycles or motorcycles; stands as parts of bicycles; bicycle carriers to be mounted on vehicles; tyre tubes [for motorized two-wheeled vehicles or bicycles]; fittings for bicycles for carrying beverages; fittings for bicycles for carrying luggage; air pumps for bicycles for inflating tyres.

Class 18:

Sports bags; backpacks; backpacks for climbers; backpacks for cyclists; travel garment covers; bags with wheels.

Class 25:

Belts [clothing]; jerseys; underwear; socks; slippers; headgear; bathing trunks; bandanas [neckerchiefs]; sports shoes; gloves [clothing]; stockings; sweaters; bathing suits; hats; knitwear; jackets; water skiing suits; pullovers; t-shirts; pants; trousers; stockings [sweat-absorbent]; parkas; cycle wear, namely cycling underwear, cycling socks; cycling trousers, cycling shoes, cycling gloves, cycling shirts, cycling jackets.

Class 28:

Sleighs [sports articles]; games; fencing masks; tennis nets; swim fins; punching balls; inline roller skates; ice skating boots with skates attached; paragliders; paintball guns [sports articles]; harnesses for surfboards; bodyboards; exercisers [expanders]; gymnastic apparatus; masks for surfboards; climbing harnesses [sports articles]; leashes for surfboards; dumb-bells; shuttlecocks; golf clubs; sports rackets; skateboards; ski bindings; rollers for stationary exercise bicycles; fencing gloves; golf bags with or without wheels; bags, specially adapted for skis and snowboards; bows [archery]; elbow guards [sports articles]; snowboards; surfboards, archery implements; bob-sleighs; games, except for those adapted for use with external screens or monitors; athletic supporters [sports articles]; body-building apparatus; shin

guards [sports articles]; sleighs; nets [sports articles]; hockey sticks; golf gloves; water skis; protective paddings [sports equipment]; weight lifting belts [sports articles]; fencing weapons; skis; fitness exercise machines; ice skating boots; boxing gloves; roller skates; in-line skates; protectors [sports articles]; protectors for shoulders [sports articles]; protectors for elbows [sports articles]; knee guards [sports articles]; stationary exercise bicycles; elbow guards for cycling [sports articles]; knee guards for cycling [sports articles].

Class 37:

Cleaning, repair and maintenance services for vehicles and bicycles.