

O/0702/24

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NUMBER UK00003839652
BY KINSLEY TECHNOLOGY CO., LIMITED
TO REGISTER THE FOLLOWING TRADE MARK:**

Dream Rite

IN CLASS 20

AND

**AN OPPOSITION THERETO UNDER NUMBER 438907
BY DREAMS LIMITED**

BACKGROUND AND PLEADINGS

1. On 17 October 2022, Kinsley Technology Co., Limited (“the applicant”) applied to register in the UK the trade mark shown on the cover page of this decision. The application was accepted and published for opposition purposes on 28 October 2022 and registration is sought for goods in Class 20.¹

2. On 30 January 2023, Dreams Limited (“the opponent”) opposed the application in full under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies upon the following three trade marks (“the earlier marks”):

(i) Trade mark number UK00917963494 (“the DREAMS mark”)²

Filing date: 1 October 2018

Registration date: 15 February 2019

Relying on goods and services in Classes 20, 24 and 35.³

Representation: DREAMS

(ii) Trade mark number UK00003453941 (“the DREAM BIGGER mark”)

Filing date: 24 December 2019

Registration date: 20 March 2020

Relying on all goods and services, in Classes 20, 24 and 35.⁴

Representation: DREAM BIGGER

(iii) Trade mark number UK00918169119 (“the DREAM COACH mark”)⁵

Filing date: 19 December 2019

Registration date: 22 May 2020

¹ These are listed in the goods comparison, at my paragraph 33.

² This mark is a comparable mark and so retains the filing date of the EU trade mark from which it was created. On the UK trade mark register, the corresponding EU trade mark to which this comparable mark responds is said to be subject to invalidation or revocation action. However, the opponent confirmed to the Tribunal on 6 December 2023 that the proceedings in the EUIPO had concluded and the EU trade mark (and, therefore, the comparable mark) remain registered and unaltered. The EUIPO register confirms the same.

³ These are listed in Annex 1 to this decision.

⁴ These are either listed in the goods comparison, at my paragraph 33, or in Annex 2 to this decision.

⁵ This mark is a comparable mark and so retains the filing date of the EU trade mark from which it was created.

Relying on all goods and services, in Classes 20, 24 and 35.⁶

Representation: DREAM COACH

3. Under section 5(2)(b), the opponent claims that its earlier marks are highly similar to the applicant's mark on the basis of the shared element 'dream' and that the parties' respective goods and services are similar, resulting in a likelihood of confusion.

4. Given their earlier filing dates, the opponent's marks are earlier marks in accordance with section 6(1) of the Act. Further, in accordance with section 6A of the Act, the earlier marks are not subject to proof of use and so the opponent may rely upon all the goods and services identified for the three earlier marks for the purposes of this opposition.

5. The applicant filed a defence and counterstatement denying a likelihood of confusion on the basis that neither the marks nor the goods and services are identical or similar.

6. The opponent is represented by Abion UK Limited and the applicant by Marcin Ociepka. Neither party filed evidence in these proceedings. Neither party requested a hearing and only the opponent filed written submissions in lieu. This decision is made following a careful consideration of all the papers before me.

DECISION

7. Sections 5(2)(b) and 5A of the Act are as follows:

"5. [...]

(2) A trade mark shall not be registered if because –

(a) [...]

⁶ These are listed in Annex 3 to this decision.

(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.

[...]

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.”

Relevant law

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

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 marks

9. It is clear from *Sabel* that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in *Bimbo*, that:

“...it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relevant 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.”

10. 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 trade 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.

11. The trade marks to be compared are as follows:

The opponent's marks	The applicant's mark
(i) DREAMS	Dream Rite
(ii) DREAM BIGGER	
(iii) DREAM COACH	

12. The opponent's DREAM mark comprises a single component, in which the overall impression solely resides. The opponent's DREAM BIGGER and DREAM COACH marks each comprise two word elements: in both marks, the two words hang together and contribute equally to the overall impression of the marks. The same applies to the applicant's mark, comprising the two words "Dream Rite". That the opponent's marks are presented in upper case and each word in the applicant's mark is capitalized does not affect the mark comparison since fair and notional use of a word mark extends to the use of any case.

(i) DREAMS

13. Visually, the marks coincide in the letters 'dream'; the entirety of the applicant's first word is contained, as the first five letters, in the opponent's DREAMS mark. The additional letter 'S' in the opponent's DREAMS mark, as well as the additional word "Rite" in the applicant's mark, create the visual difference. Overall, the marks are visually similar to a medium degree.

14. The opponent's DREAMS mark will be pronounced as the ordinary dictionary word 'dreams', as one syllable. The applicant's mark will be pronounced as two, one-syllable words, the first being the ordinary dictionary word 'dream' and the second being articulated as the ordinary dictionary word 'rite'. I consider there to be a medium degree of aural similarity between the marks.

15. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer. This is highlighted in numerous judgments of the General Court ("GC") and the CJEU including *Ruiz Picasso v OHIM*.⁷ The assessment must be made from the point of view of the average consumer.

16. The opponent's DREAMS mark will immediately conjure, in the mind of consumers, the plural of the noun 'dream', either being a series of events occurring in a person's mind during sleep, or aspirations/ambitions. In the applicant's mark, the word "Rite"

⁷ [2006] E.C.R.-I-643; [2006] E.T.M.R. 29.

will be seen as a misspelling of the ordinary dictionary word 'right' and will qualify the word "Dream". The most likely concept associated with this mark is a command 'to dream right', with 'dream' being used as a verb and 'right' meaning correct. The common element 'dream', despite being used as a noun in one mark and a verb in the other, has a highly similar concept, but I consider the marks overall to be conceptually similar to a medium degree.

(ii) DREAM BIGGER

17. Visually, the marks coincide in their first word, 'dream', which is identical. The marks contain different second words: "BIGGER" versus "Rite". Overall, the marks are visually similar to a medium degree.

18. The opponent's DREAM BIGGER mark will be pronounced as the two ordinary words it comprises, as three syllables. The applicant's mark will be pronounced as I have described in paragraph 14, above. I consider there to be a medium degree of aural similarity between the marks.

19. The concept associated with the applicant's mark is that which I have explained in paragraph 16, above. The concept associated with the opponent's DREAM BIGGER mark is also a command: 'to dream bigger'. Whilst 'bigger' and 'right' have different meanings and therefore qualify the word 'dream' differently, the fact that both marks mean 'to dream [in a certain way]', results in a highly similar concept. The DREAM BIGGER mark and the applicant's mark are conceptually highly similar.

(iii) DREAM COACH

20. Visually, the marks coincide in their first word, 'dream', which is identical. The marks contain different second words: "COACH" versus "Rite". Overall, the marks are visually similar to a medium degree.

21. The opponent's DREAM COACH mark will be pronounced as the two ordinary words it comprises, as two syllables. The applicant's mark will be pronounced as I

have described in paragraph 14, above. I consider there to be a medium degree of aural similarity between the marks.

22. The concept associated with the applicant's mark is that which I have explained in paragraph 16, above. The concept associated with the opponent's DREAM COACH mark is unlikely to be a command, but rather the idea of a coach (being someone who gives people training in a particular subject) helping someone to achieve their dreams (or aspirations), or perhaps, given the goods and services, helping people with their sleep. Overall, I consider the marks to be conceptually similar to a medium degree.

23. Having compared the applicant's mark with all three earlier marks, it is my view that the DREAM BIGGER mark is the opponent's best case for a finding of a likelihood of confusion. This is on the basis that they share a highly similar concept and are as equally visually and aurally similar to the applicant's mark as the remaining earlier marks. I will proceed with my decision on the basis of the DREAM BIGGER mark. If there is no likelihood of confusion with this mark, the remaining earlier marks do not improve the opponent's case.

Distinctive character of the earlier mark

24. In *Lloyd Schuhfabrik Meyer* 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).”

25. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods/services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it.

26. The opponent has filed no evidence of use and so I have only the inherent position to consider. The opponent’s DREAM BIGGER mark will be seen as a command, as described in paragraph 19, above. The word “DREAM” solus has an allusive nature for the goods and services for which the mark is registered. However, the words in the mark hang together to create a unitary meaning, which neither alludes to nor describes the goods and services. Overall, the mark has a medium degree of inherent distinctive character.

Comparison of goods

27. For reasons that will become apparent, I intend to address only the Class 20 goods relied upon by the opponent in this section; the remaining goods and services are listed in Annex 2 to this decision.

28. In comparing the respective specifications, all relevant factors should be considered, as per *Canon*, where the CJEU stated at paragraph 23 of its judgment:

“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.”

29. Additionally, the criteria identified in *British Sugar Plc v James Robertson & Sons Limited* (“*Treat*”) [1996] RPC 281 for assessing similarity between goods also include an assessment of the users and channels of trade of the respective goods.

30. Further, in *Kurt Hesse v OHIM*,⁸ 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*,⁹ 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 may think that the responsibility for those goods lies with the same undertaking.”

31. In *Gérard Meric v OHIM*, the GC confirmed that even if goods are not worded identically, they can still be considered identical if one term falls within the scope of another (or vice versa):¹⁰

“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 the trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM – Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or when the goods designated by the trade mark application are included in a more general category designated by the earlier mark.”

⁸ Case C-50/15 P.

⁹ Case T-325/06.

¹⁰ Case T-133/05.

32. I bear in mind that it is permissible to group goods together for the purposes of assessment: *Separode Trade Mark*.¹¹

“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.”

33. The competing goods are shown below:

The applicant's goods

Class 20 *Beds, bedding, mattresses, pillows and cushions; Stuffed pillows; Pillows.*

The opponent's goods (for the DREAM BIGGER mark)

Class 20 *Furniture; bedroom furniture; mirrors; beds; water beds; divans; bedsteads; headboards; bedding, other than bed linen; pillows; mattresses; open spring and pocket spring mattresses; memory foam and latex mattresses; futons; air cushions and air pillows; air mattresses; bed casters not of metal; bed fittings not of metal; chairs; armchairs; cabinets; chests of drawers; desks; footstools; cots and cradles; parts and fitting for all the aforesaid goods.*

34. The applicant's *beds, bedding, mattresses, pillows* have identically-worded goods in the opponent's Class 20 specification. These goods are identical.

¹¹ BL O/399/10.

35. The applicant's *stuffed pillows* are types of pillows and therefore fall within the broader category of *pillows* in the opponent's Class 20 specification. These goods are identical in line with *Meric*.

36. That leaves the applicant's *cushions*. These are similar to the opponent's *pillows*: they are both types of cloth bags filled with soft materials. Their physical nature is similar and their general purpose is to offer support and comfort. There is a slight difference in that pillows support the head or neck when sleeping whereas cushions support various parts of the body and provide comfort when sitting. They also tend to come in different shapes and sizes to one another. The users of the goods will overlap, as will the trade channels. The goods will be found in close proximity in homeware stores and in the same or adjacent aisles in supermarkets and department stores. However, given their specific purposes, cushions and pillows are unlikely to be in competition. Neither are they considered complementary. Overall, I find the goods similar to a high degree.

37. For the avoidance of doubt, there is no need to consider the opponent's Class 24 goods or Class 35 services, as they take the opponent's case no further.

The average consumer and the purchasing act

38. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods. I must then determine the manner in which the goods are likely to be selected by the average consumer. 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 word

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

39. The average consumer of the goods at issue is a member of the general public. Some of the goods are purchased fairly frequently and are inexpensive, such as bedding, pillows and cushions, for example; others are purchased infrequently and are more expensive, such as beds and mattresses. Whilst the level of attention will vary between the goods – more attention might be paid to a mattress than a cushion, for example – none of the goods are likely to attract more than a medium (or average) level of attention. The goods will be purchased with an eye for style and suitability, as well as comfort and so the purchase will be overwhelmingly visual, although I do not completely ignore the potential for an aural aspect to the purchasing process where retail assistants offer their assistance in stores.

Likelihood of confusion

40. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle, 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 vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's trade mark, the average consumer for the goods and the nature of the purchasing process. In doing so, I must be alive to the fact 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 that he has retained in his mind.

41. I have found the applicant's mark and the opponent's DREAM BIGGER mark to be visually and aurally similar to a medium degree and conceptually highly similar. I have found the DREAM BIGGER mark to have a medium degree of inherent distinctive

character. I have identified the average consumer to be a member of the general public who, paying no more than a medium degree of attention, selects the goods predominantly by visual means. I have found the goods to be either identical or similar to a high degree.

42. Confusion can be direct or indirect. The difference between these two types of confusion was explained in *L.A. Sugar Limited v By Back Beat Inc.*, BL O/375/10, where Iain Purvis QC (as he then was), sitting as the Appointed Person, explained that:

“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 recognised 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).”

43. I bear in mind that the applicant’s mark and the opponent’s DREAM BIGGER mark begin with the same word and that the beginning of marks tend to have more visual and aural impact than the ends.¹² However, that is not always the case. The marks at issue here each comprise two words which hang together to create a unitary meaning. As such, the average consumer is unlikely to overlook the second word in either of the marks. Whilst the marks’ respective meanings have high conceptual similarity on the basis that they will be understood to mean ‘to dream [in a certain way]’, the word that qualifies the word ‘dream’ in each mark is different. ‘Bigger’ and ‘rite’ (understood as ‘right’) are not interchangeable. On that basis, it is unlikely that the average consumer would mistakenly recall either word for the other. I also bear in mind that the purchasing process is predominantly visual and that the marks are visually similar to a medium degree. Nevertheless, the similarity lies in the first word alone. The second words, ones which will not be overlooked, are visually different. Whilst I am mindful of the identity or high similarity of the goods and of the interdependency principle, bearing in mind that direct confusion involves no process of reasoning, it is, in my view, unlikely that the average consumer will be directly confused.

44. In case I am wrong in my finding of direct confusion, I will now consider whether there is a likelihood of indirect confusion. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that “a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct

¹² *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02.

confusion". Arnold LJ agreed, pointing out that there must be a "proper basis" for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion. Finally, it is not sufficient that a mark merely calls to mind another mark; this is mere association, not indirect confusion.¹³

45. During the comparison of the marks, I explained that "DREAM BETTER" hangs together, as does "Dream Rite". As such, the consumer is unlikely to attribute any significance to the 'dream' element solus within either mark. Given that the words 'better' and 'rite' (understood as 'right') are not interchangeable, replacing one word for the other does not seem like a logical brand extension. Neither are they non-distinctive, as one might expect to find in a sub-brand. Further, the word 'dream', whether used in relation to beds and bedding goods, for example, or not, is not so distinctive that the average consumer would assume that only one undertaking would use it in a trade mark. There is no scenario, either falling into one of the categories identified in *L.A. Sugar* or otherwise, in which I consider the average consumer would notice the difference between the marks at issue and determine that they originate from the same or related undertakings. The average consumer would put the presence of the word 'dream' in two different trade marks used in relation to the goods at issue down to mere coincidence. There is no likelihood of indirect confusion.

46. For the avoidance of doubt, as explained at paragraph 37, neither the opponent's DREAMS mark nor its DREAM COACH mark would take its case any further.

CONCLUSION

47. The opposition has failed and the application may proceed to registration in full.

COSTS

48. The applicant has been successful and is entitled to a contribution towards their costs, in line with scale published in Tribunal Practice Notice ("TPN") 2/2016. There was no evidence in these proceedings and no hearing took place. Only the opponent

¹³ *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17.

filed written submissions in lieu of a hearing, the consideration of which is not a cost that is recoverable by the applicant in line with the TPN. The applicant paid no official fees in these proceedings. In the circumstances, I award the applicant the sum of £300 for considering the opponent's statement of grounds and preparing a counterstatement.

49. I therefore order Dreams Limited to pay Kinsley Technology Co., Limited the sum of £300. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.

Dated this 24th day of July 2024

MRS E FISHER

For the Registrar

Annex 1

Specification relied upon for trade mark number UK00917963494

Class 20: *Furniture; bedroom furniture; mirrors; beds; water beds; divans; bedsteads; headboards; bedding, other than bed linen; pillows; mattresses; open spring and pocket spring mattresses; memory foam and latex mattresses; futons; air cushions and air pillows; air mattresses; bed casters not of metal; bed fittings not of metal; chairs; armchairs; cabinets; chests of drawers; desks; footstools; cots and cradles; parts and fittings for all the aforesaid goods.*

Class 24: *Textiles; fabrics and textiles for beds and furniture; bed linen; duvets; bed covers; bed blankets, bed clothes; covers for duvets; mattress covers; covers for pillows and pillow cases; covers for cushions; bedspreads; covers for hot water bottles; furniture coverings of textile; quilts; parts and fittings for all the aforesaid goods.*

Class 35: *Retail services relating to the sale of bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, non-medicated soaps, perfumery, essential oils, non-medicated cosmetics, non-medicated hair lotions, scents, fragrances, oils for perfumes and scents, perfumeries, room scenting sprays, scented fabric refresher sprays, scented linen sprays, scented oils, scented room sprays, air fragrance preparations; Retail services relating to the sale of air fragrance reed diffusers, air fragrancing preparations, aromatics for fragrances, cleaning and fragrancing preparations, Cushions filled with fragrant substances, cushions impregnated with fragrant substances, fragrance for household purposes, fragrance preparations, fragrance refills for non-electric room fragrance dispensers, fragrance sachets, refills for electric room fragrance dispensers, room fragrances, room fragrancing products; Retail services relating to the sale of Scientific, measuring, checking (supervision), life-saving and teaching apparatus and instruments, data processing equipment, computer software, computer hardware, mobiles apps, downloadable software applications, wearable monitors, monitoring instruments, monitoring apparatus, other than for medical purposes, monitoring units [electric], electronic sensors, bio-sensors, movement sensors; Retail services relating to the sale of sensors for scientific use to be worn by a human to gather human biometric data, electronic tracking apparatus and instruments, wearable activity*

trackers, measuring apparatus and instruments, computer software in the field of tracking, monitoring and analysing of sleep, movement and heart rate, electronic devices for tracking, monitoring and analysing of sleep, movement and heart rate [other than for medical use]; Retail services relating to the sale of mobiles apps in the field of tracking, monitoring and analysing of sleep, movement and heart rate, downloadable software applications in the field of tracking, monitoring and analysing of sleep, movement and heart rate; Retail services relating to the sale of medical and surgical apparatus and instruments, namely medical devices for sensing, measuring, diagnostic and treatment purposes in the field of sleep including wearable medical devices to be worn while sleeping, Pulse rate monitors, medical devices for measuring sleep, precision sensors for medical use, sensor apparatus for medical use; Retail services relating to the sale of apparatus for lighting, lighting, light bulbs, lamps and light sources, lighting connected to alarm clocks, luminaires, controllable light sources and lighting apparatus, filters for lighting appliances; Retail services relating to the sale of horological and chronometric instruments, clocks, alarm clocks, electronic alarm clocks, alarm clocks which use light to wake-up users, alarm clocks with in-built lights; Retail services relating to the sale of furniture, bedroom furniture, mirrors, beds, water beds, divans, bedsteads, headboards, bedding, pillows, mattresses, open spring and pocket spring mattresses, memory foam and latex mattresses, futons, air cushions and air pillows, air mattresses, sleeping bags, bed casters not of metal, bed fittings not of metal, chairs, armchairs, cabinets, chests of drawers, desks, footstools, cots and cradles; Retail services relating to the sale of household or kitchen utensils and containers, articles for cleaning purposes, scent sprays [atomizers], air fragrancing apparatus, aerosol dispensers, not for medical purposes, perfume burners, perfume vaporizers, perfume sprayers, plug-in diffusers for mosquito repellents, plug-in diffusers for air fragrancing; Retail services relating to the sale of textiles, fabrics and textiles for beds and furniture, bed linen, duvets, bed covers, bed blankets, bed clothes, covers for duvets, mattress covers, covers for pillows and pillow cases, covers for cushions, bedspreads, covers for hot water bottles, pyjama cases, furniture coverings of textile, eiderdowns, quilts, parts and fittings for all the aforesaid goods; all the aforesaid provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; information, advisory and consultancy services relating to all of the aforesaid.

Annex 2

Specification relied upon for trade mark number UK00003453941

Class 20: *Furniture; bedroom furniture; mirrors; beds; water beds; divans; bedsteads; headboards; bedding, other than bed linen; pillows; mattresses; open spring and pocket spring mattresses; memory foam and latex mattresses; futons; air cushions and air pillows; air mattresses; bed casters not of metal; bed fittings not of metal; chairs; armchairs; cabinets; chests of drawers; desks; footstools; cots and cradles; parts and fittings for all the aforesaid goods.*

Class 24: *Textiles; fabrics and textiles for beds and furniture; bed linen; duvets; bed covers; bed blankets, bed clothes; covers for duvets; mattress covers; covers for pillows and pillow cases; covers for cushions; bedspreads; furniture coverings of textile; quilts; parts and fittings for all the aforesaid goods.*

Class 35: *Retail services connected with the sale of furniture, bedroom furniture, beds, water beds, sofa beds, divans, bedsteads, headboards, bedding, pillows, mattresses, open spring and pocket spring mattresses, memory foam and latex mattresses, futons, parts and fittings for all the aforesaid goods, all provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; retail services connected with the sale of air cushions and air pillows, air mattresses, sleeping bags, bed casters not of metal, bed fittings not of metal, chairs, armchairs, cabinets, chests of drawers, desks, footstools, cots and cradles, parts and fittings for all the aforesaid goods, all provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; retail services connected with the sale of textiles, fabrics and textiles for beds and furniture, bed linen, duvets, bed covers, bed blankets, covers for duvets, mattress covers, parts and fittings for all the aforesaid goods, all provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; retail services connected with the sale of covers for pillows and pillow cases, covers for cushions, bedspreads, furniture coverings of textile, eiderdowns, quilts, parts and fittings for all the aforesaid goods, all provided in a retail*

furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; information, advisory and consultancy services relating to all of the aforesaid.

Annex 3

Specification relied upon for trade mark number UK00918169119

Class 20: *Furniture; bedroom furniture; mirrors; beds; water beds; divans; bedsteads; headboards; bedding, other than bed linen; pillows; mattresses; open spring and pocket spring mattresses; memory foam and latex mattresses; futons; air cushions and air pillows; air mattresses; bed casters not of metal; bed fittings not of metal; chairs; armchairs; cabinets; chests of drawers; desks; footstools; cots and cradles; parts and fittings for all the aforesaid goods.*

Class 24: *Textiles; fabrics and textiles for beds and furniture; bed linen; duvets; bed covers; bed blankets, bed clothes; covers for duvets; mattress covers; covers for pillows and pillow cases; covers for cushions; bedspreads; furniture coverings of textile; quilts; parts and fittings for all the aforesaid goods.*

Class 35: *Retail services connected with the sale of furniture, bedroom furniture, beds, water beds, sofa beds, divans, bedsteads, headboards, bedding, pillows, mattresses, open spring and pocket spring mattresses, memory foam and latex mattresses, futons, parts and fittings for all the aforesaid goods, all provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; retail services connected with the sale of air cushions and air pillows, air mattresses, sleeping bags, bed casters not of metal, bed fittings not of metal, chairs, armchairs, cabinets, chests of drawers, desks, footstools, cots and cradles, parts and fittings for all the aforesaid goods, all provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; retail services connected with the sale of textiles, fabrics and textiles for beds and furniture, bed linen, duvets, bed covers, bed blankets, covers for duvets, mattress covers, parts and fittings for all the aforesaid goods, all provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; retail services connected with the sale of covers for pillows and pillow cases, covers for cushions, bedspreads, furniture coverings of textile,*

eiderdowns, quilts, parts and fittings for all the aforesaid goods, all provided in a retail furniture and bedding superstore, online via the Internet or other interactive electronic platforms, via mail order or catalogues or by means of telecommunications; information, advisory and consultancy services relating to all of the aforesaid.