

**BLO/280/20**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF  
TRADE MARK APPLICATION NO. 3416270  
BY BEARD MONSTERS LIMITED  
TO REGISTER AS A TRADE MARK:**

**Beard Monsters**

**IN CLASSES 3 & 21**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 418299  
BY TSL HOLDING B.V.**

## **BACKGROUND AND PLEADINGS**

1. On 24 July 2019, Beard Monsters Limited (“the applicant”) applied to register the trade mark **Beard Monsters**, under number 3416270 (“the application”). It was accepted and published in the Trade Marks Journal on 2 August 2019 for the following goods:

Class 3: Beard care products, Beard styling products, Hair care products, Hair styling products, shampoo.

Class 21: Brushes excluding paint brushes.

2. On 1 November 2019, TSL Holding B.V. (“the opponent”) filed a notice of opposition. The opposition is brought under Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) and is directed against all the goods of the application.

3. The opponent relies upon two European Union Trade Marks (“the earlier marks”), the relevant details of which are displayed below:

EU018099571 (“the 571 mark”)	EU018100455 (“the 455 mark”)
<p style="text-align: center;"><b>MONSTER CLIPPERS</b></p> <p>Filing date: 26 July 2019 Priority date: 29 January 2019 Word-only mark</p>	<p style="text-align: center;"><b>MONSTER</b> c l i p p e r s</p> <p>Filing date: 26 July 2019 Priority date: 29 January 2019 Figurative mark</p>

4. Neither of the earlier marks have completed their respective registration processes but have been applied for in respect of a range of goods and services in classes 3, 4, 8, 11, 18, 25, 26 and 35.<sup>1</sup> A full list of the goods and services for which the earlier

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<sup>1</sup> At the time of filing the notice of opposition, the opponent had also applied to protect the earlier marks in respect of Class 21. However, this class has since been removed from the specifications of the earlier marks.

marks have been applied for are included as an annex to this decision. The opponent relies upon the following goods and services for the purposes of the opposition:<sup>2</sup>

Class 3: Hair preparations and treatments; Soaps; Cologne; Toilet water; Shaving foam; Shaving gel; Shaving soap; Hair lotion; Dentifrices; Make-up kits; Hair treatment preparations; Hair glaze; Conditioning preparations for the hair; Hair dye; Hair creams; Shampoo; Hydrogen peroxide for use on the hair; Hair powder; Tints for the hair; Hair bleaching preparations; Hair bleaching preparations; Styling gels; Hair wax; Hair spray; Cosmetic preparations for body care; Nail polish; Nail varnish removers; Nail care preparations; Cosmetic nail care preparations; Toiletries; Deodorants and antiperspirants; Mouthwashes, not for medical purposes; Talcum powder, for toilet use; Talcum powder, for toilet use; Bath preparations; Cosmetic products for the shower; Shaving preparations; After-shave preparations; Aftershave moisturising cream; Pre-shave creams; Scented body spray; Skincare cosmetics; Perfumery; Essential oils; Beard oil.

Class 4: Lubricants; Spray-on lubricants; Lubricants in the nature of oils.

Class 8: Hand tools and implements (hand-operated); Hair cutting scissors; Scissors; Hair clippers for personal use, electric and non-electric; Shaving cases; Razors; Razor blades; Hair styling appliances; Hair cutting and removal implements; Electric beard trimmers; Mustache and beard trimmers; Electric ear hair trimmers; Electric nasal hair trimmers; Hand implements for hair curling; Non-electric hair straighteners, Curling tongs, Non electric; Hair straighteners.

Class 11: Hair driers [dryers]; Hood driers.

Class 25: Barber smocks; Aprons [clothing].

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<sup>2</sup> The opponent had originally intended to rely upon goods applied for in class 21 in addition to the goods and services listed. However, as class 21 is no longer included in the specifications of the earlier marks, it cannot be relied upon for the purposes of this opposition and will not be included in my assessment.

Class 26: Decorative articles for the hair; Hair fasteners; Non-electric hair rollers; Aluminum foil sheets for hair frosting; Toupees; Synthetic hair; Hair extensions; Human hair.

Class 35: Online retail store services relating to cosmetic and beauty products; Retail services in relation to beauty implements for humans; Retail services in relation to toiletries; Retail services in relation to hygienic implements for humans; Retailing in the field of hairdressing and hair care products; Wholesale services in relation to beauty implements for humans; Wholesale services in relation to hygienic implements for humans; Online wholesaling of cosmetic and beauty products; Wholesaling in the field of hairdressing and hair care products; Commercial intermediation services in the field of hairdressing and hair care products.

5. Although the earlier marks are not yet registered and have filing dates after that of the application, the earlier marks both claim a priority date of 29 January 2019 from the Benelux Office For Intellectual Property. Consequently, the opponent's marks are earlier marks, in accordance with Section 6 of the Act. However, as they have not been registered for five years or more at the filing date of the application, they are not subject to the proof of use requirements as per Section 6A of the Act.

6. The opponent contends that there is a high level of similarity between the competing trade marks as they share the word "monster(s)", which the opponent claims is the dominant and distinctive element of the marks. Moreover, the opponent argues that the goods of the application are identical or highly similar to the goods and services of the earlier marks. These factors, the opponent submits, will result in a likelihood of confusion.

7. The applicant filed a counterstatement denying the grounds of opposition. The applicant concedes that the respective goods are identical.<sup>3</sup> However, the applicant

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<sup>3</sup> The applicant's concession that the respective goods are identical was made when class 21 remained part of the earlier marks. As class 21 is no longer included within the specifications of the earlier marks, I will treat this concession as being made in relation to class 3 of the application only.

has disputed that the competing trade marks are similar; the applicant has argued that, when assessed as wholes, the marks have different conceptual identities which will lead consumers to perceive them differently. Notwithstanding its concession in respect of the contested goods, the applicant maintains that there is no likelihood of confusion.

8. Both parties have been professionally represented throughout these proceedings; the opponent by Bates Wells & Braithwaite London LLP and the applicant by Filemot Technology Law Ltd.

9. Neither of the parties have filed evidence but both filed submissions in lieu of an oral hearing. I do not intend to summarise these but will refer to them throughout this decision, as and where necessary. Both parties were given the option of a hearing but neither asked to be heard on this matter. Therefore, this decision is taken following a careful perusal of the papers, keeping all submissions in mind.

10. Before going any further into the merits of this opposition, it is necessary to clarify that the earlier marks relied upon by the opponent are, at the time of writing, both subject to ongoing oppositions themselves. Therefore, if the opponent is successful in respect of the current opposition, it will be necessary to suspend the implementation of the outcome of this opposition, pending the conclusion of the proceedings before the European Union Intellectual Property Office, in the event that the opponent's marks do not proceed to registration: see Section 6(2) of the Act for the definition of an earlier mark.

## **DECISION**

### **Section 5(2)(b): legislation and case law**

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

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

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

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

(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 goods and services**

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

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

(a) The respective uses of the respective goods or services;

(b) The respective users of the respective goods or services;

(c) The physical nature of the goods or acts of service;

(d) The respective trade channels through which the goods or services reach the market;

(e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;

(f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

15. Moreover, in *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

“... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. *Treat* was decided the way it was because the ordinary and natural, or core, meaning of 'dessert sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each



involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

16. In *Avnet Incorporated v Isoact Limited*, [1998] F.S.R. 16, Jacob J. (as he then was) stated that:

"In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase."

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

18. In *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as 'complementary' and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different, i.e. *chicken* against *transport services for chickens*. The purpose of examining whether there is a complementary relationship between goods/services is to assess whether the relevant public are liable to believe that responsibility for the goods/services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C. noted as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited* BL O/255/13:

“It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes.”

19. Whilst on the other hand:

“.....it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together.”

20. For the purposes of considering the issue of similarity of goods and services, it is permissible to consider groups of terms collectively where they are sufficiently comparable to be assessed in essentially the same way and for the same reasons (see *Albingia SA v Axis Bank Limited*, BL O/253/18, a decision of the Appointed Person, Professor Phillip Johnson, at paragraph 42).

21. The GC confirmed in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05, 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):

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut fur Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark”.

22. The parties are agreed that the goods in class 3 of the application are identical to those contained within the corresponding class of the earlier marks. Therefore, I see no merit in discussing class 3 of the application any further, though, the respective goods in this class are clearly identical, either self-evidently or under the principle outlined in *Meric*.

23. The remaining goods and services to be compared are:

<b>Opponent's goods</b>	<b>Applicant's goods</b>
<p data-bbox="193 302 796 1720">Class 3: Hair preparations and treatments; Soaps; Cologne; Toilet water; Shaving foam; Shaving gel; Shaving soap; Hair lotion; Dentifrices; Make-up kits; Hair treatment preparations; Hair glaze; Conditioning preparations for the hair; Hair dye; Hair creams; Shampoo; Hydrogen peroxide for use on the hair; Hair powder; Tints for the hair; Hair bleaching preparations; Hair bleaching preparations; Styling gels; Hair wax; Hair spray; Cosmetic preparations for body care; Nail polish; Nail varnish removers; Nail care preparations; Cosmetic nail care preparations; Toiletries; Deodorants and antiperspirants; Mouthwashes, not for medical purposes; Talcum powder, for toilet use; Talcum powder, for toilet use; Bath preparations; Cosmetic products for the shower; Shaving preparations; After-shave preparations; Aftershave moisturising cream; Pre-shave creams; Scented body spray; Skincare cosmetics; Perfumery; Essential oils; Beard oil.</p> <p data-bbox="193 1787 796 1883">Class 4: Lubricants; Spray-on lubricants; Lubricants in the nature of oils.</p>	<p data-bbox="798 302 1399 398">Class 21: Brushes excluding paint brushes.</p>

Class 8: Hand tools and implements (hand-operated); Hair cutting scissors; Scissors; Hair clippers for personal use, electric and non-electric; Shaving cases; Razors; Razor blades; Hair styling appliances; Hair cutting and removal implements; Electric beard trimmers; Mustache and beard trimmers; Electric ear hair trimmers; Electric nasal hair trimmers; Hand implements for hair curling; Non-electric hair straighteners, Curling tongs, Non electric; Hair straighteners.

Class 11: Hair driers [dryers]; Hood driers.

Class 25: Barber smocks; Aprons [clothing].

Class 26: Decorative articles for the hair; Hair fasteners; Non-electric hair rollers; Aluminum foil sheets for hair frosting; Toupees; Synthetic hair; Hair extensions; Human hair.

Class 35: Online retail store services relating to cosmetic and beauty products; Retail services in relation to beauty implements for humans; Retail services in relation to toiletries; Retail services in relation to hygienic implements for humans; Retailing in the

<p>field of hairdressing and hair care products; Wholesale services in relation to beauty implements for humans; Wholesale services in relation to hygienic implements for humans; Online wholesaling of cosmetic and beauty products; Wholesaling in the field of hairdressing and hair care products; Commercial intermediation services in the field of hairdressing and hair care products.</p>	
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24. *'Shaving cases; Razors; Razor blades; Electric beard trimmers; Mustache and beard trimmers'* in class 8 of the earlier marks are all tools or accessories for shaving. Given that these goods are all sufficiently comparable to be assessed in essentially the same way and for the same reasons, these goods can be grouped together for the purposes of the comparison. *'Brushes excluding paint brushes'* in class 21 of the application is a broad term which includes shaving brushes.

25. There is a closeness in the respective uses of the goods as they are all commonly used to maintain facial hair. As such, the users of the goods are likely to all be consumers seeking tools and accessories with which to maintain their (or another's) facial hair. I note that the physical natures of some of the goods are different; for instance, razor blades are normally sharp metal blades, while shaving brushes are typically handles from which extend soft or rigid bristles. However, the respective goods are likely to reach the market through the same distribution channels, whether that be through general retailers or more specialist outlets. The goods are all self-serve consumer products and, whilst it is not always the case, they will sometimes be found in a shared vicinity or on the same shelves; shaving brushes are often found in the same location as razors, shaving cases, beard trimmers and the like, within a more general shaving aisle or section. Moreover, is it not uncommon for the respective goods to be offered for sale together, as part of shaving kits. While there is no real competition between shaving brushes and the goods in class 8 of the earlier marks, the goods are often complementary. It is not unusual for consumers to use razors and

the like together with shaving brushes to achieve the desired outcome. There is a close connection between them in such a manner that will lead consumers to believe that responsibility for the goods lies with the same undertaking. In light of my findings above, I consider the goods in comparison similar to a medium degree.

26. In addition, or in the alternative, *'Hair cutting scissors; Scissors; Hair clippers for personal use, electric and non-electric; Hair styling appliances; Hair cutting and removal implements; Hand implements for hair curling; Non-electric hair straighteners, Curling tongs, Non electric; Hair straighteners'* in class 8 of the earlier marks are tools or implements for maintaining or styling hair. Therefore, these goods can be grouped together for the purposes of the comparison as they are all sufficiently comparable to be assessed in essentially the same way and for the same reasons. *'Brushes excluding paint brushes'* in class 21 of the application is a broad term which would include hair brushes.

27. The respective uses of the goods converge as they are all commonly used to maintain or style hair. It follows that the users are likely to be the same, namely, those seeking tools or implements with which to maintain or style their (or another's) hair. I accept that the physical nature of some of the goods differ; for example, scissors are ordinarily sharp metal tools which are capable of cutting, while hair brushes are usually implements consisting of a handle and a head with rigid or soft spokes. The way in which the respective goods reach the market are likely to be through the same distribution channels, whether that be through retailers or hair industry specialists. It is noted that the goods are all self-serve consumer items and that they are not always commonly found, or likely to be found, in a shared vicinity or on the same shelves. However, some of the goods of the earlier marks will often be found in the same location as hair brushes, within a more general hair care type aisle or section. Furthermore, these goods are sometimes included as part of hair care or styling kits and may be sold together. While the method of use of some of the respective goods may be different, there is a degree of competition between hair brushes and the goods of the earlier marks; consumers have the choice of using a simple brush for their hair care or a more sophisticated device. Moreover, it is not unusual for consumers to use devices for maintaining or styling their hair in combination with hair brushes to achieve

the desired outcome. Considering my findings above, I find the goods in comparison similar to a medium degree.

28. To my mind, the comparisons above based upon shaving brushes and hair brushes appear to represent the best case for the opponent, and comparisons with other types of brushes would not place the opponent in a better position.

### **The average consumer and the nature of the purchasing act**

29. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question (see *Lloyd Schuhfabrik Meyer*, Case C-342/97).

30. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

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

31. The contested goods in class 3 are available to the general public and are ordinary purchases comprising beard and hair care products. These types of goods would be used by consumers on a regular basis and, as such, they are likely to be relatively frequent purchases. While I accept that the cost of such goods may vary, on average they would not typically require a significant outlay. Given that the purchasing of these goods is likely to predominantly factor upon the consumer's desired result and the appropriateness of the product for the same, purchasing is likely to be more casual

than careful. Accordingly, it is not considered a dramatically important choice for the consumer. In my view, the purchasing process for these goods would typically be visual in nature; the goods are likely to be purchased after the consumer has perused the shelves in brick and mortar retail establishments or viewed information in brochures or on the internet. However, I do not discount aural considerations entirely as it is possible that consumers would purchase the goods on the basis of word of mouth recommendations. In light of the above, I find that the level of attention of the general public in respect of the contested goods in class 3 would be average.

32. The contested goods in class 21 are available to the general public and are ordinary purchases consisting of brushes for personal care. Due to their nature, these goods are likely to be relatively frequent purchases for maintaining or styling hair or facial hair. The cost of such goods may vary somewhat but, on average, they would not typically require a significant outlay. The purchasing of these goods is likely to be more casual than careful, factoring upon the appropriateness of the brush for the task or activity at hand above all else. For this reason, choice for the consumer is not considered to be dramatically important. In my view, the purchasing process for these goods would predominantly be visual in nature; the goods are likely to be purchased after the consumer has perused shelves in physical retail establishments or viewed information on the internet. However, I cannot discount aural considerations such as word of mouth recommendations. All things considered, I find that the level of attention of the general public in respect of these goods would be average.

### **Comparison of trade marks**


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



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

34. 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.

35. The respective trade marks are shown below:

Earlier trade marks	Applicant’s mark
MONSTER CLIPPERS	Beard Monsters
	

36. The opponent has argued that the word “Beard” in the contested mark is descriptive and non-distinctive when applied to the goods in the application and, as such, has contended that the dominant and distinctive element of the mark is the word “Monsters”. In respect of the earlier marks, the opponent has submitted that the word “clippers” is also descriptive and non-distinctive, resulting in the dominant and distinctive element of the marks being the word “MONSTER”. Basing its assessment on the words “Monsters” and “MONSTER” alone, the opponent has maintained that the competing trade marks are “visually and aurally closely similar and conceptually identical”. The opponent has contended that the word will be given the same meaning in the competing marks and that the pluralisation of the word “Monsters” in the application will not suffice to enable consumers to distinguish between the respective

undertakings. Moreover, the opponent has submitted that the presentation of the competing marks, namely, that the earlier marks are capitalised and the contested mark is presented in title case, does not diminish the visual, aural or conceptual similarities.

37. On the other hand, the applicant has denied that the competing trade marks are similar. In contrast to the opponent's view, the applicant has argued that consumers would not identify the word "MONSTER" as dominant and would, instead, perceive the competing trade marks as their respective wholes. Moreover, the applicant has submitted that consumers would perceive the competing marks in different ways, owing largely to divergent and independent conceptual messages. The applicant has argued that the words of the contested mark combine to provide a singular concept and the meaning of the individual words would not be separated from the totality and analysed by consumers. Conversely, the applicant has maintained that the earlier marks also provide a singular meaning, understood by consumers as a description of large clippers, or clippers which are used by large barbers.

38. The 571 mark consists of the words "MONSTER CLIPPERS" in word-only format with no other elements. The words "MONSTER" and "CLIPPERS" are two common, easily understood words in the English language. The particular formation of the words in the mark results in the word "MONSTER" characterising the word "CLIPPERS". The words form a unitary meaning and, as such, have a roughly equal impact; both words, together, co-dominate the overall impression of the mark.

39. The 455 mark is a figurative mark comprising the words "MONSTER clippers". The word "MONSTER" is presented in bold, albeit in a standard typeface, and is comparatively large when considering the mark as a whole. The presentation of the word adds a degree of emphasis to it. Below appears the word "clippers" presented in a standard typeface, though in a much lighter and smaller font. For this reason, it is possible that the word "MONSTER" will have more impact, though this is unlikely to be to any material extent. I consider that the formation of the words in the mark still results in the word "MONSTER" characterising the word "CLIPPERS". As with the 571 mark, this produces a unitary meaning with both words providing a roughly equal contribution. Together, both words co-dominate the overall impression of the mark.

40. The contested mark is a plain word mark consisting of the words “Beard Monsters” with no other elements. The words “Beard” and “Monsters” are two commonly understood words in the English language. The particular formation of the words in the mark results in the word “Beard” characterising the word “Monsters”. The words form a unitary meaning and, as such, have a roughly equal impact; both words, together, co-dominate the overall impression of the mark.

41. Visually, the competing marks are similar because they have a common seven-letter string “M-O-N-S-T-E-R” in the same order. This string is followed by a letter “S” in the contested mark but not in the earlier marks. This additional letter appears at the end of the contested mark and it is established that the attention of the consumer is usually directed at the beginning of trade marks. Therefore, I do not consider the inclusion of the letter “S” at the end of the application to be a significant visual variance. Furthermore, the 455 mark is a figurative mark and the contested mark is in word-only format. Nevertheless, the 455 mark is presented in a standard typeface and the registration of a word-only mark covers notional use in any standard typeface. As such, the way in which the words of the 455 mark are presented does not create any material difference between the competing marks. As previously explained, the consumer’s attention is usually directed towards the beginnings of marks and, therefore, differences at the beginnings of marks tend to have more impact. In light of this, an important point of difference between the marks is that the earlier marks begin with the word “MONSTER” while the application begins with the word “Beard”. While the competing marks share the common string “M-O-N-S-T-E-R”, this appears at the beginning of the earlier marks but at the end of the contested mark. A further divergence between the competing marks is that the earlier marks contain the word “CLIPPERS”; this word would not be entirely overlooked by consumers and has no counterpart in the application. Likewise, the application contains the word “Beard”, which co-dominates the contested mark but is not reproduced in the earlier marks. Bearing in mind my assessment of the overall impressions, I consider there to be a low to medium degree of visual similarity between the marks.

42. Aurally, the contested mark consists of a one-syllable word followed by a two-syllable word, i.e. (“BEARD-MON-STERS”). In respect of the earlier marks, I am not

entirely convinced that consumers would articulate the word “CLIPPERS” due to its allusive, if not descriptive, nature. If the word is pronounced, the mark will comprise a two-syllable word followed by another two-syllable word, i.e. (“MON-STER-CLIPPERS”). Although the competing marks share the identical syllable (“MON”) and similar syllable (“STER” / “STERS”), the syllables appear in different parts of the respective marks. Moreover, the remaining syllables of the competing trade marks are phonetically very different. Taking into account the overall impressions, I consider that the marks are aurally similar to a low to medium degree. If the word “CLIPPERS” is not articulated by consumers, the earlier marks will consist of a two-syllable word, i.e. (“MON-STER”). While the competing marks would have fewer differing syllables, the first syllable of the contested mark would still be very different from that of the earlier marks. Furthermore, the syllable (“BEARD”) would still have no counterpart in the earlier marks. In this eventuality, aural similarity between the competing trade marks would be increased, but to no more than a medium degree.

43. Conceptually, it is possible that consumers would understand the word “MONSTER” in the earlier marks to mean a large, ugly, and frightening imaginary creature.<sup>4</sup> However, I consider it more reasonable to find that the word will be understood by consumers as meaning a thing of extraordinary or daunting size.<sup>5</sup> This is due to the formation of the words in the marks and the resultant impression that the word is characterising the word “clippers”; therefore, in my view, consumers will perceive the word “MONSTER” to be a descriptor, immediately understanding the word to mean a thing of extraordinary size. The word “clippers” will generally be understood by consumers as instruments for cutting or trimming small pieces off things.<sup>6</sup> This will be perceived by consumers to be an allusive reference to these instruments, or a description of the goods offered by the applicant. The combination of these two meanings forms a singular concept, which will be understood as large instruments for cutting or trimming. In respect of the contested mark, the word “Beard” will be generally understood by consumers as meaning growth of hair on the chin and lower cheeks of a person’s face.<sup>7</sup> The word “Monsters” will be understood as meaning

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<sup>4</sup> <https://www.lexico.com/definition/monster>

<sup>5</sup> <https://www.lexico.com/definition/monster>

<sup>6</sup> <https://www.lexico.com/definition/clipper>

<sup>7</sup> <https://www.lexico.com/definition/beard>

large, ugly, and frightening imaginary creatures. The resultant combination conjures a conceptual identity of large, ugly, and frightening imaginary creatures with beards, or who dwell in beards. While I appreciate that the competing marks share the word “monster”, I do not accept the opponent’s assertion that the marks are conceptually identical: this word in the contested mark, to my mind, can only be referring to large, ugly, and frightening imaginary creatures, while in the earlier marks will be understood as a reference to the size of the clippers. Although the competing trade marks share this word, the earlier marks have a conceptual aspect which is not replicated in the contested mark, and vice versa. In my view, there is a perceptible difference in the conceptual messages provided by the competing trade marks. In consideration of my assessment of the overall impressions, I find the competing trade marks conceptually dissimilar. Where consumers do understand the word “MONSTER” in the earlier marks to mean a large, ugly, and frightening imaginary creature, this will result in some conceptual similarity between the competing marks but this is likely to be at a relatively low level.

### **Distinctive character of the earlier marks**

44. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

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

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).”

45. In *Kurt Geiger v A-List Corporate Limited*, BL O/075/13, Mr Iain Purvis Q.C. as the Appointed Person pointed out that the level of ‘distinctive character’ is only likely to increase the likelihood of confusion to the extent that it resides in the element(s) of the marks that are identical or similar. He said:

“38. The Hearing Officer cited *Sabel v Puma* at paragraph 50 of her decision for the proposition that ‘the more distinctive it is, either by inherent nature or by use, the greater the likelihood of confusion’. This is indeed what was said in *Sabel*. However, it is a far from complete statement which can lead to error if applied simplistically.

39. It is always important to bear in mind what it is about the earlier mark which gives it distinctive character. In particular, if distinctiveness is provided by an aspect of the mark which has no counterpart in the mark alleged to be confusingly similar, then the distinctiveness will not increase the likelihood of confusion at all. If anything it will reduce it.”

46. In other words, simply considering the level of distinctive character possessed by the earlier mark is not enough. It is important to ask ‘in what does the distinctive character of the earlier mark lie?’ Only after that has been done can a proper assessment of the likelihood of confusion be carried out.

47. While I have no submissions from the opponent regarding the overall distinctiveness of the earlier marks, the opponent has submitted that the distinctive element of the earlier marks is the word “MONSTER” and has accepted that the word “CLIPPERS” is non-distinctive. The applicant has suggested that the earlier marks are descriptive of large clippers, or goods to be used in conjunction with the same, implying

that the earlier marks lack distinctive character in respect of the goods for which they have been applied.

48. The respective registration processes for the earlier marks have not yet been completed and, as such, the opponent has not been required to provide proof of use. Neither the opponent nor the applicant have filed evidence in this matter. Consequently, I have only the inherent position to consider.

49. Registered trade marks possess varying degrees of inherent distinctive character. These range from the very low, such as those which are suggestive or allusive of the goods or services, to those with high inherent distinctive character, such as invented words. Dictionary words which do not allude to the goods or services will be somewhere in the middle.

50. The 571 mark consists of the words “MONSTER CLIPPERS” in word-only format. The words “MONSTER” and “CLIPPERS” are ordinary dictionary words which are easily understood in the English language. As outlined above, the word “MONSTER” would be understood by consumers to mean a thing of extraordinary or daunting size, while the word “CLIPPERS” will be understood by consumers to mean instruments for cutting or trimming small pieces off things. Due to their formation, the word “MONSTER” will be perceived as an adjective, characterising the word “CLIPPERS”. Together, the words will be perceived as alluding to, or directly describing, the size and kind of the cutting or trimming instruments. The words are co-dominant, and any distinctiveness of the mark largely rests with both words together. The above would also apply in respect of the 455 mark. Although the mark is figurative, it does not include any non-verbal elements and, consequently, any distinctive character of the mark lies in the words themselves. Moreover, the words are presented in a basic typeface and, therefore, its distinctiveness is not enhanced to any material degree by the font in which they are presented. In light of the above, I find that the earlier marks possess a low degree of inherent distinctive character.

## Likelihood of confusion

51. 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 earlier trade mark, the average consumer for the goods and services 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 they have retained in their mind.

52. 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.

53. In *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, the GC noted that the beginnings of word tend to have more visual and aural impact than the ends. The court stated:

“81. It is clear that visually the similarities between the word marks MUNDICOLOR and the mark applied for, MUNDICOR, are very pronounced. As was pointed out by the Board of Appeal, the only visual difference between the signs is in the additional letters ‘lo’ which characterise the earlier marks and which are, however, preceded in those marks by six letters placed in the same position as in the mark MUNDICOR and followed by the letter ‘r’, which is also the final letter of the mark applied for. Given that, as the Opposition Division and the Board of Appeal rightly held, the consumer normally attaches more importance to the first part of words, the presence of the same root ‘mundico’ in the opposing signs gives rise to a strong visual similarity, which is, moreover, reinforced by the presence of the letter ‘r’ at the end of the two signs. Given



those similarities, the applicant's argument based on the difference in length of the opposing signs is insufficient to dispel the existence of a strong visual similarity.

82. As regards aural characteristics, it should be noted first that all eight letters of the mark MUNDICOR are included in the MUNDICOLOR marks.

83. Second, the first two syllables of the opposing signs forming the prefix 'mundi' are the same. In that respect, it should again be emphasised that the attention of the consumer is usually directed to the beginning of the word. Those features make the sound very similar."

54. In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J. considered the impact of the CJEU's judgment in *Bimbo*, Case C-591/12P, on the court's earlier judgment in *Medion v Thomson*. The judge said:

"18 The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

19 The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks — visually, aurally and conceptually — as a whole. In *Medion v Thomson* and subsequent case law, the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.

20 The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).

21 The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”

55. In *The Picasso Estate v OHIM*, Case C-361/04 P, the CJEU found that:

“20. By stating in paragraph 56 of the judgment under appeal that, where the meaning of at least one of the two signs at issue is clear and specific so that it can be grasped immediately by the relevant public, the conceptual differences observed between those signs may counteract the visual and phonetic similarities between them, and by subsequently holding that that applies in the present case, the Court of First Instance did not in any way err in law.”

56. Earlier in this decision I concluded that:

- The goods in class 3 of the application are identical to those in class 3 of the earlier marks;
- The goods in class 21 of the application are similar to the goods listed in class 8 of the earlier marks to a medium degree;

- The average consumers of the goods at issue are likely to be members of the general public at large, whom would demonstrate an average level of attention during the purchasing act;
- The purchasing process for the respective goods and services would be predominantly visual in nature, though I have not discounted aural considerations;
- The overall impression of the earlier marks would be dominated by the words “MONSTER” and “CLIPPERS” in roughly equal measure;
- The overall impression of the contested mark would be dominated by the words “Beard” and “Monsters”, together and in equal measure;
- The competing trade marks are visually similar to a low to medium degree and conceptually dissimilar;
- Aural similarity will depend on whether consumers articulate the word “CLIPPERS” in the earlier marks, the marks being aurally similar to a low to medium degree where they do and to a medium degree where they do not;
- The earlier marks possess a low level of inherent distinctive character.

57. In its submissions, the opponent has referred to a prior decision of the Tribunal regarding the word “MONSTER”, *Monster Energy Company v Fokus Bilgisayar Sanayi ve Ticaret Limited Sirketi* (O/185/19), and has argued that the case demonstrates that a likelihood of confusion ought to be found in the present proceedings. The applicant, on the other hand, has also referred to a prior decision of the Tribunal, *Monster Energy Company v Chris Dominey & Christopher Timothy Lapham* (O/499/18), but has contended that the decision adds strength to its position that there is no likelihood of confusion. While I note the contents and findings of both decisions and appreciate that the competing marks in those proceedings did include the word “MONSTER” (or variations on the same), it suffices to say that I do not find these prior decisions

persuasive one way or the other. The marks at issue in those proceedings were different to the competing marks in the current proceedings, as were the goods and services. I do not consider it appropriate to derive my conclusion wholly from either prior decision. I have, instead, based my assessment on the relevant factors, the competing trade marks and goods and services at hand.

58. Returning to the present proceedings, I appreciate that some of the respective goods are identical and others are similar to a medium degree. I also accept that the level of attention paid by the average consumer during the purchasing act is likely to be no more than average and that the purchasing act is likely to be more casual than careful. However, I must bear in mind that the earlier marks possess a low level of distinctive character and I must be mindful of the low levels of visual and aural similarity, as well as the conceptual differences between the competing marks.

59. Although the competing marks contain the word “MONSTER”, there are differences between the marks which would not be overlooked by the average consumer during the purchasing process. I accept that the word “MONSTER” has a counterpart in the applicant’s mark. Moreover, I appreciate that the word “Beard” in the application could be considered descriptive when applied to goods relating to facial hair. Nevertheless, due to the ordering of the words and the overall formulation of the mark, I do not agree with the opponent’s submission that the word would be completely overlooked by consumers. An assessment on this basis would be inconsistent with recent case law: in *NH Hotel Group S.A. v Manhattan Loft Corporation Limited* (BL O/235/20), Mr Thomas Mitcheson QC, sitting as the Appointed Person, found that it would have been incorrect to ignore an element of the contested mark, despite it being descriptive, and that the Hearing Officer was correct to include it in the comparison as it still contributed to the overall impression of the mark. For this reason, I do not find favour with the opponent’s assertion that the comparison should focus only on the words “MONSTER” (in the earlier marks) and “Monsters” (in the contested mark). The word “Beard” in the contested mark combines with the word “Monsters” to form a unit with a singular meaning, which is lacking in the earlier marks. It would not be correct to artificially dissect the marks and I am not satisfied that consumers would proceed to do so in the manner suggested by the opponent. In my view, the contested mark in totality would be understood by consumers as a fanciful reference to large, ugly, and

frightening imaginary creatures with beards, or who dwell in beards. The earlier marks would also be perceived as a whole but, conversely, as an allusive reference or description of large cutting or trimming instruments. Given that the competing trade marks convey distinct messages, I am of the opinion that the marks will leave different impressions on the average consumer; for the marks in suit, it is considered that the conceptual distinctions will have a significant impact on the different ways in which the marks will be perceived. Moreover, the purchasing process for the goods at issue will be predominantly visual in nature and I have found the marks to be visually similar to a low to medium degree. Although the word "MONSTER" co-dominates the competing marks, it appears in different parts of the competing trade marks; the common element appears at the beginning of the earlier marks and the end of the contested mark. It is established that the attention of the consumer is usually directed towards the beginning of marks and, therefore, differences therein are likely to be more noticeable. With this in mind, I remind myself that the beginnings of the competing trade marks are very different. Additionally, the word "Beard" co-dominates the contested mark but has no counterpart in the earlier marks, while the word "clippers" co-dominates the earlier marks but is not replicated in the contested mark.

60. Taking all the above factors into account, the various differences between the competing trade marks previously identified are, in my view, likely to be sufficient to avoid the average consumer mistaking one trade mark for the other. Therefore, even when factoring in the imperfect recollection of the consumer and the interdependency principle, it follows that there will be no direct confusion. For the sake of completeness, my conclusion would be the same whether or not consumers articulate the word "CLIPPERS" in the earlier marks and whether or not there exists a low level of conceptual similarity because the other factors point in the applicant's favour. My conclusion would also be the same if the applicant's concession of identity applied to the full range of goods within the application because of the other factors in favour of the applicant.

61. That leaves indirect confusion to be considered. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, Mr Iain Purvis Q.C., 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 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.

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).”

62. In *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, Mr James Mellor Q.C., 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.

63. Applying the principles from the case law, due to the differences between the marks outlined above, I do not believe that the average consumer will assume the opponent and the applicant are economically linked undertakings on the basis of the competing trade marks. The differences between the marks are not conducive to a logical brand extension. I am unconvinced that the average consumer would assume a commercial association between the parties, or sponsorship on the part of the opponent, merely because of the shared word "MONSTER". I find it unlikely that the competing trade marks would be perceived in this manner. It is possible that the applicant's mark would bring to mind the earlier marks in the memory of the average consumer, though this would amount to nothing more than mere association. Therefore, in my view, there is no likelihood of indirect confusion.

## **CONCLUSION**

64. The opposition under Section 5(2)(b) of the Act has failed. Subject to any successful appeal, the application will become registered in the UK.

## **COSTS**

65. As the opposition has been unsuccessful, the applicant is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. The decision has been taken from the papers without an oral hearing. The applicant did not file evidence in these proceedings but did file written submissions in lieu of a hearing. In the circumstances I award the applicant the sum of **£500** as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Considering the opponent's statement and preparing a counterstatement	£200
Preparing written submissions in lieu of an oral hearing	£300
<b>Total</b>	<b>£500</b>

66. I therefore order TSL Holding B.V. to pay Beard Monsters Limited the sum of **£500**. The above sum should be paid within two months of the expiry of the appeal period or, if there is an unsuccessful appeal, within twenty-one days of the conclusion of the appeal proceedings.

**Dated this 14<sup>th</sup> day of May 2020**

**James Hopkins**  
**For the Registrar,**  
**The Comptroller General**



**ANNEX: FULL SPECIFICATIONS OF EARLIER MARKS EU018099571 & EU018100455**

Class 3: Hair preparations and treatments; Soaps; Cologne; Toilet water; Shaving foam; Shaving gel; Shaving soap; Hair lotion; Dentifrices; Make-up kits; Hair treatment preparations; Hair glaze; Conditioning preparations for the hair; Hair dye; Hair creams; Shampoo; Hydrogen peroxide for use on the hair; Hair powder; Tints for the hair; Hair bleaching preparations; Hair bleaching preparations; Styling gels; Hair wax; Hair spray; Cosmetic preparations for body care; Nail polish; Nail varnish removers; Nail care preparations; Cosmetic nail care preparations; Toiletries; Deodorants and antiperspirants; Mouthwashes, not for medical purposes; Talcum powder, for toilet use; Talcum powder, for toilet use; Bath preparations; Cosmetic products for the shower; Shaving preparations; After-shave preparations; Aftershave moisturising cream; Pre-shave creams; Scented body spray; Skincare cosmetics; Perfumery; Essential oils; Beard oil.

Class 4: Lubricants; Spray-on lubricants; Lubricants in the nature of oils.

Class 8: Hand tools and implements (hand-operated); Hair cutting scissors; Scissors; Manicure implements; Nippers; Pedicure implements; Hair clippers for personal use, electric and non-electric; Emery boards; Nail clippers; Shaving cases; Razors; Razor blades; Hair styling appliances; Hair cutting and removal implements; Manicure sets, electric; Electric beard trimmers; Mustache and beard trimmers; Electric ear hair trimmers; Electric nasal hair trimmers; Hand implements for hair curling; Non-electric curling irons; Non-electric hair straighteners; Hair straighteners.

Class 11: Hair driers [dryers]; Hood driers.

Class 18: Luggage, bags, wallets and other carriers; Handbags; Straps for handbags; Backpacks; Satchels; Suitcases; Wallets; Purses; Purses; Leather pouches; Cases of imitation leather.

Class 25: Barber smocks; Clothing; Footwear; Hats; Shawls; Aprons [clothing]; Belts [clothing]; Sweaters; Tee-shirts; Printed t-shirts; Hats; Woolly hats; Caps [headwear];

Visors; Headbands [clothing]; Caps [headwear]; Bandanas [neckerchiefs]; Sports caps; Sun visors.

Class 26: Decorative articles for the hair; Hair fasteners; Non-electric hair rollers; Aluminum foil sheets for hair frosting; Toupees; Synthetic hair; Hair extensions; Human hair.

Class 35: Advertising; Marketing services; Advertising; Sales promotion; Import and export services; Retail services in relation to hair products; Online retail store services relating to cosmetic and beauty products; Retail services in relation to beauty implements for humans; Retail services in relation to toiletries; Retail services in relation to hygienic implements for humans; Retailing in the field of hairdressing and hair care preparations, and of other commercial goods relating thereto; Wholesale services in relation to beauty implements for humans; Wholesale services in relation to hygienic implements for humans; Online wholesaling of cosmetic and beauty products; Wholesaling in the field of hairdressing and hair care preparations, and of other commercial goods relating thereto; Provision of an on-line marketplace for buyers and sellers of goods and services; Commercial intermediation services in the field of hairdressing and hair care products; Arranging of trade fairs and exhibitions for commercial and/or advertising purposes; Provision of commercial information; Public relations services; Advertising campaigns relating to trade fairs, exhibitions and congresses; Merchandising; Business management; Business administration; Office functions; The aforesaid services whether or not provided via the Internet; Merchandising; none of the aforementioned services being in connection with or relating to brushes, combs as well as tools for the combing, brushing and styling of beards, moustaches, goatees, side burns and eyebrows, other than clippers, trimmers and their attachments.