

OPPOSITION No B 3 147 945

Intergamma B.V., Storkstraat 2, 3833 LB Leusden, Netherlands (opponent), represented by **Bakker & Verkuijl B.V.**, Alexander Office Prinsenkade 9D, 4811 VB Breda, Netherlands (professional representative)

a g a i n s t

LLC "ArtOptima", Ulitsa 5-ya Kabelnaya, Dom 3, Korpus 1, 2 Etazh, 38 Kabinet, 111024 Moscow, Russia (holder), represented by **Foral Patent Law Offices**, Kaleju 14-7, 1050 Riga, Latvia (professional representative).

On 05/04/2023, the Opposition Division takes the following

DECISION:

1. Opposition No B 3 147 945 is partially upheld, namely for the following contested goods and services:

Class 6: All the contested goods in this class.

Class 7: All the contested goods in this class.

Class 8: All the contested goods in this class.

Class 9: All the contested goods in this class.

Class 14: *Retractable key chains; retractable key rings; chains [jewellery]; chains [jewelry]; watch chains.*

Class 16: All the contested goods in this class.

Class 17: All the contested goods in this class.

Class 20: *Covers for clothing [wardrobe]; shoe pegs, not of metal; curtain holders, not of textile material; holders of reels for thread; holders of reels for moulinet thread; bobbin thread holders; holders for bobbins and reels; pegs [pins], not of metal; dowels, not of metal; curtain tie-backs; curtain rings; hooks, not of metal, for clothes rails; coathooks, not of metal; wall hooks, not of metal; curtain hooks; clothes hooks, not of metal; bag hangers, not of metal; mannequins; tailors' dummies; dressmakers' dummies; embroidery frames; wooden embroidery frames; plastic embroidery frames; frames for batik; table frames; table frames with mount; table frames with stand; tapestry frames; floor frames; couch frames; embroidery and darning frames; rack for frames; picture frames; wooden frames; plastic frame; frame without glass; frame with glass.*

Class 22: All the contested goods in this class.

Class 23: All the contested goods in this class.

Class 24: All the contested goods in this class.

Class 26: All the contested goods in this class.

Class 35: All the contested services in this class.

Class 41: All the contested services in this class.

2. International registration No 1 573 475 is refused protection in respect of the European Union for all of the above goods and services. It may proceed for the remaining goods and services (including also the non-contested goods and services).
3. Each party bears its own costs.

REASONS

On 02/06/2021, the opponent filed an opposition against all the goods and services of international registration designating the European Union No 1 573 475 **GAMMA** (figurative mark). Following the IR holder's limitation of the list of goods and services and the opponent's limitations of the extent of the opposition, the opposition is currently directed only against some of the goods and services of the contested IR, namely against all the goods in Classes 6, 7, 8, 9, some of the goods in Class 14, all the goods in Classes 16, 17, 20, 22, 23, 24, some of the goods in Class 26, all the services in Class 35 and some of the services in Class 41. The opposition is based on Benelux trade mark registration No 1 029 170, 'GAMMA' (word mark). The opponent invoked Article 8(1)(a) and (b) EUTMR.

SUBSTANTIATION

According to Article 95(1) EUTMR, in proceedings before it the Office will examine the facts of its own motion; however, in proceedings relating to relative grounds for refusal of registration, the Office is restricted in this examination to the facts, evidence and arguments submitted by the parties and the relief sought.

It follows that the Office cannot take into account any alleged rights for which the opponent does not submit appropriate evidence.

According to Article 7(1) EUTMDR, the Office will give the opposing party the opportunity to submit the facts, evidence and arguments in support of its opposition or to complete any facts, evidence or arguments that have already been submitted together with the notice of opposition, within a time limit specified by the Office.

According to Article 7(2) EUTMDR, within the period referred to above, the opposing party must also file evidence of the existence, validity and scope of protection of its earlier mark or earlier right, as well as evidence proving its entitlement to file the opposition.

In particular, if the opposition is based on a registered trade mark that is not a European Union trade mark, the opposing party must submit a copy of the relevant registration certificate and, as the case may be, of the latest renewal certificate, showing that the term of protection of the trade mark extends beyond the time limit referred to in Article 7(1) EUTMDR and any extension thereof, or equivalent documents emanating from the administration by which the trade mark was registered — Article 7(2)(a)(ii) EUTMDR. Where the evidence concerning the registration of the trade mark is accessible online from a source recognised by the Office, the opposing party may provide such evidence by making reference to that source — Article 7(3) EUTMDR.

According to Article 7(4) EUTMDR, any filing, registration or renewal certificates or equivalent documents referred to in Article 7(2)(a), (d) or (e) EUTMDR, including evidence accessible online as referred to in Article 7(3) EUTMDR must be in the language of the proceedings or accompanied by a translation into that language. The translation must be submitted by the opposing party of its own motion within the time limit specified for submitting the original document.

According to Article 25(1) EUTMIR, when a translation of a document is to be filed, the translation must identify the document to which it refers and reproduce the structure and contents of the original document. Furthermore, according to the same provision, where a party has indicated that only parts of the document are relevant, the translation may be limited to those parts.

In the present case, the opponent provided the evidence via a reference to an online source (TMView) in the notice of opposition. TMView shows the original list of goods and services of the earlier mark in Dutch. Furthermore, the opponent submitted a print-out from the database of the Benelux office as an annex to its observations of 10/05/2022, in Dutch. No English translation (English being the language of the present proceedings) of the print-out was submitted by the opponent.

The notice of opposition contains an English translation of the list of goods and services in all the relevant classes of the earlier mark invoked by the opponent, save for Class 16. The opponent provided the following English list:

Class	Goods and services
14 (EN)	Time instruments; clocks, wall clocks, alarm clocks, table clocks, alarm clocks, watches.

Class	Goods and services
16 (EN)	Time instruments; clocks, wall clocks, alarm clocks, table clocks, alarm clocks, watches.

In view of the fact that the notice of opposition indicates the same goods for Classes 14 and 16, and upon comparing the original Dutch list of these two classes in TMView and in the print-out from the database of the Benelux office, it is clear that the translation of the list in Class 16 is erroneous. It follows that the opponent failed to submit an English translation of the goods in Class 16 of the earlier mark within the substantiation deadline.

In its observations of 10/05/2022, the opponent mentions some of the earlier mark's goods in Class 16 in English in its arguments on the comparison of goods and services. However, this does not amount to a translation of the list of goods in Class 16 because the opponent did not clearly and comprehensively list the goods in Class 16 on which the opposition is based. The translation of the list has to be on a stand-alone basis and cannot be assembled from fragments within the text of the submitted observations.

According to Article 7(5) EUTMDR, the Office will not take into account written submissions or documents, or parts thereof, that have not been submitted in or that have not been translated into the language of the proceedings, within the time limit set by the Office.

It follows that the evidence filed by the opponent in relation to the earlier mark's goods in Class 16 cannot be taken into account.

According to Article 8(1) and (7) EUTMDR, if until expiry of the period referred to in Article 7(1) EUTMDR, the opposing party has not proven the existence, validity and scope of protection

of its earlier mark or earlier right, as well as its entitlement to file the opposition, the opposition will be rejected as unfounded.

The opposition must therefore be rejected as unfounded, as far as it is based on the goods in Class 16 of the earlier trade mark.

LIMITATION OF THE EXTENT OF THE OPPOSITION IN CLASS 14

In its observations of 26/10/2022, the opponent submitted a second limitation of the extent of the opposition which is unclear and contradictory as regards the contested goods in Class 14. On the first page of its observations, the opponent clearly states in bold characters that 'this letter holds a further restriction of the opposition, see rows 1401 and 2651 below'. In the further text of the observations, 'row 1401' corresponds to *beads for making jewellery* (in Class 14) and the opponent clearly mentions that the opposition in respect of this product is withdrawn. (Row 2651 concerns other goods in Class 26). However, on the last page of its observations, under the headings 'In summary' and 'Conclusion', the opponent also states that '[the opposition] is withdrawn in respect of the goods in class 14' and 'consider the opposition withdrawn also in class 14', which might suggest that the opponent withdraws the opposition against all the goods in Class 14.

However, in the absence of further clarification, and in order to overcome the contradictory information contained in the opponent's observations of 26/10/2022, the Opposition Division considers that the opponent limited the extent of the opposition only by excluding *beads for making jewellery* in Class 14 and that the opposition is maintained against all the remaining goods in Class 14.

LIKELIHOOD OF CONFUSION — ARTICLE 8(1)(b) EUTMR

A likelihood of confusion exists if there is a risk that the public might believe that the goods or services in question, under the assumption that they bear the marks in question, come from the same undertaking or, as the case may be, from economically linked undertakings. Whether a likelihood of confusion exists depends on the appreciation in a global assessment of several factors, which are interdependent. These factors include the similarity of the signs, the similarity of the goods and services, the distinctiveness of the earlier mark, the distinctive and dominant elements of the conflicting signs, and the relevant public.

a) The goods and services

The goods and services on which the opposition is based are the following:

Class 4: *Lubricants; dust controlling compositions; fuels and illuminants; candles and wicks for lighting; fuels for barbecues, briquettes for barbecues, lighters for barbecues; patio torches; motor oil; silicone grease, lubricants in the form of spray (for bicycles), ball bearing grease; bicycle oil, sewing machine oil, penetrating oil, derailleur oil; lubricating grease, lubricating oil.*

Class 6: *Common metals and their alloys; building materials of metal; buildings, transportable, of metal; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; locks and keys, of metal; pipes and tubes of metal; safes [metal or non-metal]; metal mounting brackets, metal nails and screws; raw or semi-worked brass; copper and objects made from it, not included in other classes; fittings for pipes (metal connectors); discharge material, of metal; drain pipes of metal; metal ladders and stairs; doors, gates, windows and*

window coverings of metal; padlocks; safes [metal or non-metal]; burglar-proof strips of metal; insect screens of metal; metal gazebos; metal tool boxes; furniture fittings of metal, fastening materials of metal; metal plugs; wall decorations of metal, wall decorations of bronze; doorbells and chimes (non-electric); window shutters of metal, window shutters of metal for outdoors, window shutters with slats, of metal; partitions of metal; tent pegs of metal; bakery racks for bicycles of metal; flagpoles [structures] of metal; suspension hooks for bicycles, of metal; reels of metal for storing cables; metal brackets for wall mounting; supports, for raising beds, of metal; swimming pools [structures] of metal; bathtub grab bars of metal; jerrycans of metal; bicycle locks of metal; scaffolding of metal; rebar; plates, profiles, corner protectors, window sills, windows, doors, fly screens, window frames, skylights, banisters, stair gates, attic stairs, fences, garden fences and garden gates made of metal; wire solder, solder paste, metal solder wire; duckboards of metal; floors of metal; cashboxes [metal or non-metal]; latches of metal; shower channels of metal; wire mesh; bird mesh; wire nets and gauzes; bed and furniture raisers of metal; bathtub grab bars of metal; solder.

Class 7: Machine tools; motors, other than for land vehicles; agricultural and horticultural machines and implements (other than hand tools), transmission parts (except for vehicles); milling machines, drills, sanders, saws, planers, grinders, welding and soldering machines, electric soldering irons; electric staplers and nailers; machine tools with different functions ('multitools'); screwdrivers, electric; sandpaper (part of sanders); drill bits for machines; drilling hammers; saw blades for sawing machines; cutters for milling machines; generators; lawnmowers [machines]; electrical, hydraulic, motorized, pneumatic and mechanical tools; gas lamps (tools); dynamos; dynamos for bicycle lighting; lifts for use with bicycles; blow torches; floor polishers, polishers, vacuum cleaners, car vacuum cleaners, steam cleaners; devices for vacuuming liquids; tire inflators (air compressors); compressors; high pressure washers; cleaning devices; hot air guns, electric glue guns; electric food blenders; electric grass trimmers, shredders, chainsaws, hedge trimmers, leaf blowers, leaf clearers, scarifiers; robotic mowers; electric patio cleaners; winches, jacks, hydraulic jacks, scissor jacks, pot jacks; pneumatic grease guns; electric paint burners; tool bits for use in power operated hand tools; bits, drills and drill sets for drills; electrical hand tools; sandpaper, part of machines or tools; hydraulic accumulators being parts of machines; wire brushes for use in machines; power saws; blades for power saws; electric reciprocating saws; cordless drills; circular saws; power-operated jig saws; electric saw tables.

Class 8: Hand tools and implements [hand-operated]; hammers, screwdrivers, clamps, keys (hand tools), files, rasps, pliers, saws, planes, chisels, gouges, dowels, masonry and tile tools; stapling and nailing tools; cutlery; scissors; painting tools, namely filler and putty knives, scrapers, scrapers; garden tools; tool belts, holders and aprons; tool bags; saw blades; barbecue forks, barbecue tongs; rubber mallets; rubber hammers with herring pullers; hand tools and manually operated devices for cleaning bicycle chains; cross keys; scrapers for floors and walls (hand tools); wallpaper rolls, wallpaper pressure rollers, wallpaper spatulas, wallpaper glue rollers, wallpaper rulers, paint rulers, parting knives; wallpaper scissors; unclogging springs; squares [hand tools]; grease guns; spark plug wrenches, wheel wrenches; pipe cutters (hand tools), pipe benders; wire brushes [hand-operated tools]; hand tools for floors and laminate floors; hand tools for construction, repair and maintenance.

Class 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking [supervision], life-saving and teaching apparatus and instruments; spirit levels, tape measures; folding rules, distance meters, angle gauges, tire pressure gauges; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; radios; aerials; telephone equipment, telephones with answering machines, smartphones; multimedia devices; telephone socket outlets; feed-through plugs for telephony; curl cords for telephones; covers for mobile phones and

smartphones; in-ear headphones; magnetic data carriers, disc-shaped sound carriers, compact discs, dvds and other digital carriers; electronic publications, including downloadable, in the form of magazines; electronic publications, including downloadable, in the form of blogs; pre-recorded dvds and video tapes; calculators, data processing equipment and computers, laptop computers; computer software; apps (software); safety, security, protection and signalling devices; intercommunication apparatus; security cameras; burglar alarms, motion detectors; fire alarms; fire extinguishing apparatus; electric soldering tools and instruments not included in other classes; electrical installation material, namely switches, plugs, sockets, light dimmers, cord, fuses, vd wire, cable connectors, sockets, electrical conduits, cables, pipes, conduit ducts, junction boxes, flush-mounted boxes, connecting clamps, welding clamps, fittings, installation wire, cable boxes, ground cables, cable shoes, crown strips, earth wire, heat shrink tubing, circuit breakers, earth leakage switches, main switches, group boxes; electrical power extension cords; thermostats; control devices for air conditioning; protective places for sockets; batteries, electric accumulators; jump leads; protective work clothes, protective shoes, goggles; gloves for protection against accidents; safety vests; gas masks; stands, wall fixtures and supports for televisions; smoke detectors, carbon monoxide detectors, time switches, time switches; doorbells and chimes, electric; helmets for bicycles; bicycle computers; holders for telephones, bicycle computers and measuring equipment on bicycles; magnets; decorative magnets; magnetic tapes; audio cables, audio cables, video cables; scales for personal use; thermometers; vehicle breakdown warning triangles; barrier tape; digital weather stations; wireless weather stations; telephone wires; telecommunications cables; baby monitors; switchgear [electric]; computer plugs; phone plugs; charging cables; computer software for the control of lighting; articles of protective clothing for wear by motorcyclists for protection against accident or injury; helmets for motorcyclists; reflective safety vests; boots [protective footwear]; reflecting strips for wear; reflective clothing to prevent accidents; reflective articles for wear, for the prevention of accidents; electrical circuits; table sockets, wall sockets, cable sockets; magnifying glasses [optics]; decorative magnets.

Class 11: Lighting, heating, steam generating, cooking, cooling, drying, ventilation, air conditioning and water supply equipment and sanitary installations; wood stoves, decorative fireplaces, fireplaces; outdoor kitchens; mobile devices for cooking and baking; camping toilets; geysers, taps, fountain taps; basin taps, thermostatic taps, bath and shower taps; fittings (not included in other classes), burners; hot water boilers; bathtubs, shower trays, shower sets, washbasins, bidets, toilet bowls; toilet raisers; wallpaper steamers; cool boxes, electric; gas lamps; barbecues, barbecue starters, barbecue grills, barbecue appliances; covers for barbecues; decorative lighting for Christmas trees; shower cubicles, walls for shower cubicles; cool boxes, electric; lanterns, electric lanterns; vehicle lighting and lighting reflectors; toilet seats, lids for toilet seats; car lights, bicycle lights; incandescent lamps, led lamps; air freshener plug-ins; night lamps; motorcycle lamps; energy-saving lamps, halogen lamps; reservoirs for (built-in) toilets; electric torches; incandescent light bulbs; energy-saving lamps; halogen light bulbs.

Class 14: Time instruments; clocks, wall clocks, alarm clocks, table clocks, alarm clocks, watches.

Class 17: Rubber, gutta-percha, gummy, mica; semi-processed plastic products; packing, stopping and insulating materials; kitten; acrylic sealant, silicone sealant, glazing sealant; flexible hoses, not of metal; flexible hoses, not of metal; garden hoses; insulating gloves; rubber or plastic valve hose; adhesive tape, strips, tape, tapes and films; fiberglass tape, duct tape, thread tape, aluminum tape; double-sided adhesive tape other than for office or household use; corner protectors of rubber; foil for sealing or insulation.

Class 18: Leather and imitations of leather; suitcases and travel bags, bags, handbags, laptop bags, briefcases, tool bags (empty); wallets, driver's license wallets, cases, key cases, leather

key rings; animal skins; umbrellas, umbrellas and walking sticks; patio umbrellas; whips and saddlers were; saddlebags, saddlebags with repair kits; handlebar bags with card holders; card wallets [leatherware]; prepared hides and animal coats.

Class 20: Furniture, mirrors, picture frames; frames for garden furniture; statues, statuettes and works of art, ornaments and decorations made of materials such as wood, bone, plaster, wax, plaster or plastic, included in this class; pasting tables; kitchen units (kitchen furniture), worktops; lawn furniture; bathroom furniture; storage furniture and storage cupboards; mounting brackets, not of metal; padlocks, other than electronic, not of metal; ladders and movable steps, non-metallic; household ladders; baby gates; transportable beds; mattresses; pillows; seats; beach chairs; tables; wardrobes; sofas; cases (non-metallic -) for tools; work benches; reels for garden hoses; garden hose holders; party ornaments of plastic; curtain rods, curtain rails; table legs; cupboards, chests of drawers; wall racks, racks (shelving); furniture fittings, not of metal; coat hooks, coat hooks, hooks for clothes rails, clothes hangers, clothes racks (furniture) and clothes hooks; plugs [dowels], not of metal; tent pegs, not of metal; camping tables, camping beds, camping furniture; non-metal crates for bicycles; decorative baskets made of rattan, rattan, bamboo, rope, cork, wood, wicker, willow and plastic; storing boxes, not of metal; indoor window blinds [furniture]; bathtub grab bars, not of metal; shower curtain hooks; shower curtain rods; jerrycans, not of metal; vats, not of metal; corner cap components, not of metal; work surfaces; latches, not of metal; stools; fitted furniture; plastic medication containers for commercial use; bed and furniture boosters, not of metal; bathtub grab bars, not of metal.

Class 21: Household or kitchen utensils and containers (not of precious metal or coated therewith); crockery, not of precious metal; butlers' trays; combs and sponges; brushes; wallpaper brushes; cleaning articles; cleaning cloth; wash gloves; chamois leather for cleaning; steelwool; unworked or semi-worked glass [except glass used in building]; glassware, porcelain and earthenware not included in other classes; coolers [non-electric containers]; cooking pot sets; pedal bins; drying racks for laundry; sprinklers, brushes, nozzles and tips for garden hoses; watering cans; gardening gloves; gloves for household purposes; water bottles; vases, bottle vases, flower pots, candle stands, candle holders, candlesticks; glasses and glasses for candles; tea light holders, of glass, wood or ceramic; pitchers, cloches, lanterns; toilet brushes; water closet brush holders; toilet paper holders; towel hooks (bathroom accessories); towel rings, towel racks, soap dispensers, soap boxes, soap tumblers, soap holders; oil cans, pitchers, funnels; buckets, sinks; cooking utensils for barbecues; baking trays (cast iron); laundry baskets, window wipers; telescopic window cleaners.

Class 22: Rope, twine, nets, tents, party tents, tarpaulins, tarpaulins, tarpaulins, bags (not included in other classes); bags for debris and construction waste disposal; padding materials, not of rubber, plastics, paper or cardboard; raw fibrous textile; tow ropes for automobiles; hammocks; groundsheet for tents; ground cloth for tents; storm band sets for tents; windshields; ropes for tents; devices in form of elasticated rope for securing goods on vehicles.

Class 24: Textiles and substitutes for textiles; bath, bed and table textiles; throws; table covers; lap rugs; duvet covers, sheets, fitted sheets, pillowcases; bed pads; doilies of textile; pillow shams; covers, of textile, for furniture; grand foulards, towels, beach towels, washcloths; curtains; curtains; blinds with horizontal slats; vertical slats; blinds; pleated curtains, pleated blinds; roman blinds, intermediate blinds; window furnishing fabrics; window covering products made of textile material; wall decorations of textile; flags, bicycle flags; covers for saddles and baskets, of textile; shower curtains, door curtains; moving blankets.

Class 25: Clothing, footwear, headgear; work clothes and work shoes; cycling clothing and cycling shoes; rain ponchos, rain jackets, rain pants, thermal shirts, thermal pants, thermal

socks; gloves, ski gloves, cycling gloves, motorcycle gloves; motorcycle clothing of leather, motorcycle boots

Class 26: Artificial flowers, bouquets of artificial flowers, artificial fruit, flowers and vegetables; artificial Christmas wreaths and garlands with integrated lighting; pleated tape for curtains, textile ribbons; silk flowers and silk ribbons; beads and artificial flowers for bicycle spokes (decoration); artificial plants, other than Christmas trees; shoe laces.

Class 27: Carpets, floor mats, mats, stair mats, bath and toilet mats, linoleum and other floor coverings; non-textile wall coverings; tent carpet; wallpaper, wallpaper of vinyl, textile or plastic and other wall coverings, as far as included in this class; non-woven wallpaper, fiberglass wallpaper; non-textile wallpaper; artificial turf.

Class 35: Advertising and business; wholesale and retail services in the field of chemical products for agricultural, horticultural and forestry purposes (except fungicides and agents for the destruction of weeds and vermin, natural manure and fertilizers, plant food, potting soil, organic potting soil, sealants, fire extinguishing agents, hardening and soldering preparations for metals, adhesives for industrial purposes and for building and construction, wallpaper paste, adhesives for wallpaper paper, glass fiber adhesive, tile adhesive, wood glue, strippers and other products for removing wallpaper, liquids for water tanks for chemical toilets, tire sealant, silicone spray, coolants, antifreeze, means for defrosting vehicle windows and door locks, battery water, polyester in the form of paste for filling cracks, cracks and holes in surfaces, solder, moisture displacers, moisture absorbing compositions; wholesale and retail services in the field of paints, varnishes, lacquers, antirust and wood preservatives, dyes, stains, natural resins as raw materials, metals in foil and powder form for painters, decorators, printers and artists, thinners for paint and coatings, coatings (paints), paint substances and coatings for filling cracks, holes and cracks in surfaces, primers in the form of paint, latex paint; wholesale and retail services in the field of bleaches and other detergents, cleaning, polishing, degreasing and abrasive products, soaps, perfumery, cosmetics, dentifrices, potpourri, home fragrances, polishes and cleaning products for vehicles and bicycles, windscreen washer fluid, sandpaper, cleaning preparations, hand cleaner; wholesale and retail services in the field of lubricants, products for absorbing, spraying and binding dust, fuels and illuminants, candles, wicks, fuels for barbecues, briquettes for barbecues, lighters for barbecues, garden torches, motor oil, silicone grease, lubricants in the form of spray, ball bearing grease, bicycle oil, sewing machine oil, penetrating oil, derailleur oil, lubricating grease, lubricating oil; wholesale and retail services in the field of disinfectants, pest control agents, fungicides and weed killers, disinfectants for chemical toilets, deodorants, air fresheners, first aid kits, first aid kits, plasters and bandages, fungicides and agents to destroy weeds and vermin, petroleum jelly, burn sets, consisting of medical products for the treatment of burns; wholesale and retail services in the field of base metals and their alloys, building materials of metal, movable structures of metal, non-electrical metal cables and wires, locksmiths of metal and small hardware, locks and keys, of metal, metal pipes, safes, fixing brackets of metal, nails and screws of metal, raw or semi-worked brass, copper and articles made therefrom, not included in other classes, fittings for pipes, drainage materials, of metal, drainage pipes of metal, metal ladders and stairs, doors, portals, windows and window fittings of metal, padlocks, safes, anti-burglary strips of metal, fly screens of metal, garden sheds of metal, toolboxes of metal, furniture fittings of metal, fasteners of metal, metal plugs, wall decorations of metal, wall decorations of bronze, doorbells and chimes, window shutters of metal, window shutters of metal for outdoors, window shutter and with slats, of metal, partitions of metal, tent pegs, of metal, bakery racks for bicycles of metal, flagpoles of metal, suspension hooks for bicycles, of metal, reels of metal for storing cables, metal brackets for fixing to the wall, supports, for raising beds, of metal, metal swimming pools, bath handles, of metal, canisters of metal, bicycle locks, scaffolding of metal, reinforcing bars, plates, profiles, corner protectors, window sills, windows, doors, mosquito nets, window frames, skylights, stair railings, stair gates, attic stairs, fences, garden

fences and garden gates of metal, wire solder, solder paste, solder wire of metal, decking of metal, floors of metal, money boxes of metal, door handles of metal, shower drains of metal, chicken wire, bird netting, wire netting and wire mesh, bed and furniture boosters of metal, bath handles, of metal; wholesale and retail services in the field of machine tools, engines, agricultural and horticultural machinery and equipment, transmission parts, milling machines, drills, sanders, saws, planers, grinders, welding and soldering machines, electric soldering irons, electric staplers and nailers, machine tools with various functions, electric screwdrivers, sandpaper, drills for drills, rotary hammers, saw blades for sawing machines, cutters for milling machines, generators, lawn mowers, electric, hydraulic, motorized, pneumatic and mechanical tools, gas lamps, alternators, dynamos for bicycle lighting, elevators for use with bicycles, gas burners, floor polishers, polishers, vacuum cleaners, car vacuum cleaners, steam cleaners, devices for vacuuming liquids, tire inflators, compressors, high-pressure cleaners, cleaning devices, hot air guns, electric glue guns, kitchen machines, electric grass trimmers, shredders, chainsaws, hedge trimmers, leaf blowers, leaf clearers, scarifiers, robotic mowers, electric patio cleaners, winches, jacks, hydraulic jacks, scissor jacks, pot jacks, pneumatic grease guns, electric paint burners, bits for use in electric hand tools, bits, drills and drill sets, electric hand tools, sandpaper, part of machines or tools, hydraulic accumulators as machine parts, wire brushes for use in machines, electric saws, saw blades for electric saws, electric reciprocating saws, cordless drills, circular saws, electric jigsaws, electric saw tables; wholesale and retail services in the field of hand tools and instruments, hand operated, hammers, screwdrivers, clamps, wrenches, files, rasps, pliers, saws, planes, chisels, gouges, dowels, masonry and tile tools, non- and nailing tools, cutlery, forks and spoons, scissors, painting tools, namely filler and putty knives, scrapers, scrapers, garden tools, tool belts, holders and aprons, tool bags, saw blades, barbecue forks, barbecue tongs, rubber hammers, rubber hammers with herring pullers, hand tools and manually operated devices for cleaning bicycle chains, cross wrenches, scrapers for floors and walls, wallpaper rolls, wallpaper pressure rollers, wallpaper spatulas, wallpaper glue rollers, wallpaper rulers, paint rulers, parting knives, wallpaper scissors, unclogging springs, set squares, grease guns, spark plug wrenches, wheel wrenches, wire wrenches, steel wrenches, toolbox bites for floors and laminate floors, hand tools for construction, repair and maintenance; wholesale and retail services in the field of scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, monitoring, emergency and educational equipment and instruments, spirit levels, tape measures, folding rules, range finders, angle gauges, tire pressure gauges, apparatus and instruments for the conduction, distribution, conversion, storage, regulation and control of electrical power, apparatus for recording, transmission and reproduction of sound or images, radios, antennas, telephone equipment, telephones with answering machines, smartphones, multimedia devices, telephone sockets, feed-through plugs for telephony, coiled cords for telephones, covers for mobile telephones and smartphones, earphones, magnetic data carriers, disc-shaped sound carriers, compact discs, DVDs and other digital carriers, electronic publications, also downloadable, in the form of magazines, electronic publications, including downloadable, in the form of blogs, pre-recorded DVDs and videotapes, calculators, data processing equipment and computers, laptop computers, software, apps, safety, security, surveillance and signaling devices, intercoms, security cameras, burglar alarms, motion detectors, fire detectors, fire extinguishers, electric soldering tools and instruments not included in other classes; wholesale and retail services in the field of electrical installation material, namely switches, plugs, sockets, light dimmers, cord, fuses, Vd wire, cable connectors, sockets, electrical conduits, cables, pipes, ducts, junction boxes, flush-mounted boxes, connection clamps, welding clamps, fittings, installation wire, junction boxes, ground cables, cable lugs, crown strips, earth wire, heat shrink tubing, circuit breakers, earth leakage switches, main switches, group boxes, extension cords, thermostats, control devices for air conditioning, protective places for sockets, batteries, electric batteries, jumper cables, protective work clothing, protective shoes, protective glasses, gloves for protection against accidents, safety vests, gas masks, stands, wall fixtures and supports for televisions, smoke detectors, carbon monoxide detectors, time switches, time switches, doorbells and chimes, electric, bicycle helmets, bicycle computers, holders for telephones,

bicycle computers and measuring equipment on bicycles, magnets, decorative magnets, magnetic tape, audio cables, video cables, personal scales, thermometers, warning triangles, barrier tape, digital weather stations, wireless weather stations, telephone cables, communication cables, baby monitors, electrical switching equipment, computer plugs, telephone plugs, charging cables, lighting control software, decorative magnets, motorcycle protective clothing for protection against accident or injury, motorcycle helmets, reflective safety vests, boots, reflective strips for clothing, reflective clothing for accident prevention, reflective articles, to be carried by persons to prevent accidents, electrical circuits, table sockets, wall sockets, cable sockets, magnifiers; wholesale and retail services in the field of walkers, crutches for the disabled, orthopedic aids and aids to promote mobility, standing aids, orthopedic aids for picking up objects; wholesale and retail services in the field of lighting, heating, steam generating, cooking, cooling, drying, ventilation, air conditioning and water supply equipment and sanitary installations, wood stoves, decorative fireplaces, open fireplaces, outdoor kitchens, mobile appliances for cooking and bins, camping toilets, geysers, faucets, basin faucets, basin faucets, thermostatic faucets, bath and shower faucets, fittings, burners, water heaters, bathtubs, shower trays, shower sets, washbasins, bidets, toilet bowls, toilet raisers, wallpaper steamers, electric coolers, gas lamps, barbecues, barbecue starters, barbecue grills, barbecue appliances, covers for barbecues, decorative lights for Christmas trees, shower stalls, walls for shower stalls, cool boxes, electric, lanterns, electric lanterns, lighting and lighting reflectors for vehicles, toilet seats, toilet seat covers, car lamps, bicycle lights, light bulbs, LED lamps, air fresheners, night lamps, motorcycle lamp and, energy-saving lamps, halogen lamps, reservoirs for toilets, flashlights, incandescent lamps, energy-saving lamps, halogen lamps; wholesale and retail services in the field of means of transport, bicycles, garden hose reel carts, wheelbarrows, trailers, means of land, air or water transport, parts and components for means of transport, children's seats for use in vehicles, bicycle carriers, windscreen wipers, windscreen wiper blades, bicycle trailers, bicycle chains, bicycle brakes, brake squeeze sets and shift levers for bicycles, handles, horns for bicycles, seat posts for bicycles, fenders for bicycles, stands for bicycles, stands for bicycle repair, fenders, dress guards for bicycles, bells, bicycle pedals, brake pads for bicycles, bicycle handlebars, repair and repair material for bicycle tires, bottle cages for bicycles, bicycle tires, inner tubes, outer tires, bicycle pumps, bicycle wheels, side wheels for bicycles, children's bicycles, tricycles, bicycle racks, bicycle saddles, bicycle bags, bicycle baskets, caravan mirrors, blind spot mirrors, car covers, roof covers for cars, roof racks, mounting feet for roof racks, snow chains, wheelchairs, mobility scooters, canoes, hand trucks, car seat covers promoting mobility; wholesale and retail services in the field of timekeeping instruments, clocks, wall clocks, alarm clocks, table clocks, alarm clocks, watches; wholesale and retail services in the field of paper, cardboard, printed matter, magazines, books, DIY books, book binders, photographs, stationery, adhesives for stationery or household use, adhesive tapes for packaging, artists' materials, brushes, paint rollers and paint brushes, glue brushes, typewriters and office supplies, teaching and teaching materials, plastic materials for packaging, not included in other classes, block letters, printing blocks, wallpaper books, wallpaper templates, paper tablecloths, napkins and place mats, toilet paper, tissues, kitchen towels, paper party decorations, paper boxes, moving boxes cardboard packaging, packaging material, viscose film for packaging, waterproof film for packaging, paper bags and bags for packaging, plastic bags for packaging, polypropylene film for packaging, bubble film for packaging, posters, pictures and paintings, framed or not, paintings on canvas, stickers, wall stickers, door stickers, numbers and letters with adhesive coating, adhesive tape for packaging, double-sided adhesive tape for household or office use, staplers; wholesale and retail services in the field of rubber, gutta-percha, gum, mica, semi-machined plastic products, sealing, gasket and insulation material, sealants, acrylic sealant, silicone sealant, glazing sealant, non-metallic flexible pipes, hoses, garden hoses, insulating gloves, rubber or plastic valve hose, adhesive tape, strips, tape, tapes and films, fiberglass tape, duct tape, thread tape, aluminum tape, double-sided adhesive tape other than for office or household use, rubber corner protectors, foil for sealing or insulation; wholesale and retail services in leather and imitation leather, suitcases and travel bags, bags, handbags, laptop bags, briefcases, tool

bags, wallets, driver's license wallets, cases, key cases, leather key rings, animal hides, umbrellas, umbrellas and walking sticks, garden umbrellas, whips and saddlers wares, saddlebags, saddlebags with repair kits, handlebar bags with card holders, card holders, prepared hides and animal skins; wholesale and retail services in the field of building and construction materials and elements, not of metal, including in sheet form, building blocks, rigid pipes, not of metal, for construction, asphalt, pitch and bitumen, transportable structures, not of metal, monuments, natural and artificial stone, cement, lime, mortar, plaster, building plaster, plasterboard, decorative plasters, cement plugs, stairs, floor and wall tiles, as well as wall coverings, wood, sawn or otherwise processed, window glass, doors, window shutters, non-metal, shutters, mosquito nets, window frames, wooden garden sheds, mainly non-metal garden sheds, skirting boards, laminate floors, PVC floors, wooden floors, sub-floors, vinyl covering for laying floors, lanterns of stone, not of metal, flagpoles not made of metal, partitions, construction profiles, corner protectors for plasterboard, window sills, windows, doors, skylights, window frames, mosquito nets, banisters, stair profiles, attic stairs, not of metal, coatings, fences, garden gates and garden fences, not of metal, garden tiles, decking, not of metal, decking boards, not of metal, windows for building purposes, glass for building purposes, floors, not of metal; wholesale and retail services in the field of furniture, mirrors, frames, frames for garden furniture, statues, figurines and works of art, ornaments and decorations made of materials such as wood, bone, plaster, wax, plaster or plastic, included in this class, wallpaper tables, kitchen units, counter tops, garden furniture, bathroom furniture, storage furniture and storage cabinets, mounting brackets, padlocks, ladders and movable stairs, household ladders, stair gates, beds, mattresses, cushions, chairs, beach chairs, tables, wardrobes, couches, tool boxes, workbenches, reels for garden hoses, garden hose holders, plastic party decorations, curtain rods, curtain rails, table legs, cabinets, chests of drawers, wall racks, shelves, furniture fittings, coat hooks, clothes rail hooks, clothes hangers, clothes racks and clothes hooks, plugs, tent pegs, camping tables, camping beds, camping furniture, bicycle crates, decorative baskets, storage boxes, roller blinds, bath grips, hooks for shower curtains, shower curtain rods, canisters, tubs, corner protectors, countertops, door handles, stools, built-in furniture, plastic medicine boxes for commercial use, bed and furniture raisers, bath grab bars; wholesale and retail services in the field of utensils and crockery, crockery, trays, combs and sponges, brushes, wallpaper brushes, cleaning material, cleaning cloth, washing gloves, chamois, steel wool, raw or semi-worked glass, glass, porcelain and earthenware, cool boxes, cookware sets, pedal bins, laundry racks, sprinklers, brushes, nozzles and tips for garden hoses, watering cans, gardening gloves, household gloves, water bottles, vases, bottle vases, flower pots, candle holders, candle holders, candlesticks, glasses and glasses for candles, tea light holders, of glass, wood or ceramics, pitchers, cloches, lanterns, cool boxes, toilet brushes, toilet brush holders, toilet roll holders, towel hooks, towel rings, towel holders, soap dispensers, soap boxes, soap tumblers, soap holders, oil jugs, pitchers, funnels, buckets, sinks, cooking utensils for barbecues, baking trays, laundry baskets, window wipers, window wipers with telescopic handle; wholesale and retail services in the field of rope, twine, nets, tents, party tents, tarpaulins, tarpaulins, tarpaulins, sacks, debris and construction waste disposal bags, filling material, raw fibrous textile materials, tow ropes, hammocks, groundsheet, ground cloth, storm band sets, windbreaks, tent rope, elastic bungee cords; wholesale and retail services in the field of textiles and textile substitutes, bath, bed and table textiles, bedspreads, tablecloths, throws, duvet covers, sheets, fitted sheets, pillowcases, mattress protectors, mats, cushion covers, covers, grand foulards, towels, beach towels, washcloths, curtains, net curtains, blinds with horizontal slats, vertical slats, sun blinds, pleated curtains, pleated blinds, roman blinds, intermediate blinds, window coverings, window coverings products, wall decorations, flags, bicycle flags, covers for saddles and baskets, of textile, shower curtains, door curtains; wholesale and retail services in the field of clothing, footwear, headgear, work clothes and work shoes, cycling clothing and cycling shoes, rain ponchos, rain jackets, rain pants, thermal shirts, thermal trousers, thermal socks, gloves, ski gloves, cycling gloves, motorcycle gloves, leather clothing for motorcyclists, boots for motorcyclists; wholesale and retail services in the field of artificial flowers, bouquets of artificial flowers, artificial fruit, flowers and vegetables,

artificial Christmas wreaths and garlands with integrated lighting, pleated band for curtains, decorative ribbons of textile, silk flowers and silk ribbons, beads and artificial flowers for bicycle spokes, artificial plants, shoelaces; wholesale and retail services in the field of carpets, floor mats, mats, stair mats, bath and toilet mats, linoleum and other floor coverings, wall coverings, not of textile material, tent carpet, wallpaper, vinyl, textile or plastic wallpaper and other wall coverings, non-woven wallpaper, fiberglass wallpaper, wallpaper, not of textile material, artificial grass; wholesale and retail services in the field of games, toys, playing cards, playground equipment, swings, slides, playhouses, play tents, sandboxes and climbing equipment, gymnastic and sports equipment, football goals, badminton sets, kites, trampolines, water guns, inflatable swimming pools, decorations and trinkets for Christmas trees, stands for Christmas trees, Christmas trees made of plastic, artificial snow for Christmas trees, glitter foil for decorating Christmas trees, fitness equipment for indoor use; wholesale and retail services in the field of confectionery and pastry, confectionery, chewing gum, chocolate, biscuits and biscuits, coffee, tea, cocoa; wholesale and retail services in the field of agricultural, horticultural and forestry products and seeds, fresh fruits and vegetables, seeds, live plants and trees, foodstuffs for animals, Christmas trees, telephone cards.

Class 41: Courses and workshops in the field of DIY, interior design and interior styling, home furnishing, garden design, landscaping, and the use and combination of colors and paints; publishing books, DIY books, magazines and other printed matter, including a long electronic journey; producing and presenting radio and television programs; video production; writing services for blogs; multimedia publisher of magazines, newspapers and other printed matter; publishing and publishing electronic books and magazines on the Internet.

The contested goods and services are, after the IR holder's limitation of 23/09/2021 and the opponent's limitations of the scope of the opposition of 10/05/2022 and 26/10/2022, the following:

Class 6: Bolt snaps of metal for bags; letters and numerals of common metal, except type; coat hanging chains; fur coat hanging chains; packaging containers of metal; rivets of metal; box fasteners of metal; bungs of metal; plugs of metal; latches of metal; buckles of common metal [hardware]; copper rings; containers of metal [storage, transport]; hooks of metal for clothes rails; bag hangers of metal; clothes hooks of metal; aluminium wire; iron wire; wire of common metal; wire of common metal alloys, except fuse wire; steel wire; springs [metal hardware].

Class 7: Hemming machines; braiding machines; cutting machines; stitching machines; looms; beating machines; packing machines; molding machines; moulding machines; carding machines; sewing machines; labellers [machines]; mills [machines]; blades [parts of machines]; glue guns, electric; pedal drives for sewing machines; spinning wheels; tambours for embroidery machines; knives [parts of machines]; blade holders [parts of machines]; loom shafts; gears for weaving looms; belts for machines.

Class 8: Wick trimmers [scissors]; shears; scissors; scissors for cutting fabrics; household shears; scissors for thread trimming; thread snips; sewing scissors; embroidery scissors; tailors' shears; pinking shears; scissors for children; pinking shears for children; scissors with ruler; scissors with ruler for children; manicure scissors; hairdressing scissors; thinning shears; utility scissors; stropping instruments; screwdrivers, non-electric; drill holders [hand tools]; tweezers; reverse action tweezers; guns [hand tools]; guns, hand-operated, for the extrusion of mastics; tongs; pincers; nippers; shoe awls; shoe awls with hook; universal awls.

Class 9: Reflective bracelets for the prevention of accidents; reflective articles for wear, for the prevention of accidents; measuring tapes; adhesive measuring tapes; rulers [measuring instruments]; square rulers for measuring; slide-rules; optical lenses; magnifying glasses [optics]; thread counters; magnifying glasses [optics] clip-on; magnifying glasses [optics] clip-

on with lightning; magnifying glasses foldable; magnifying glasses with moulding; magnifying glasses with stand; sewing magnifying glasses; magnifying glasses for hobby, sewing and handwork; magnets; decorative magnets; magnets-horseshoes; mouse [computer peripheral]; protective masks; rules [measuring instruments]; carpenters' rules; dressmakers' measures; set of sewing magnifying glasses; set of magnifying glasses for hobby, sewing and handwork; appliances for measuring the thickness of leather; apparatus for measuring the thickness of skins; counters; meters; row counter [hand knitting]; row counter electronic [hand knitting]; revolution counters; tailors' rulers; sewing rulers; knitting gauge; rulers for patchwork; flat magnifying glasses for reading; needle magnets.

Class 14: Anchors [clock- and watchmaking]; barrels [clock- and watchmaking]; retractable key chains; retractable key rings; pendulums [clock- and watchmaking]; watch springs; chains [jewellery]; chains [jewelry]; watch chains; dials [clock- and watchmaking].

Class 16: Sewing patterns; etching needles; tracing needles for drawing purposes; periodicals; tracing paper; tracing cloth; tracing patterns; French curves; tailor' stencils; French stencils; flexible stencils; square rulers for drawing; universal rulers; drawing rulers; washable markers; double-sided markers washable; self-disappearing markers; self-disappearing markers with corrector; mats for cutting; rotating mats for cutting; folding mats for cutting; cutting mats; tailor's chalk; powder tailor's chalk; tailor's wax chalk; tailor's sublimating chalk; tailor's chalk with a sharpener; spray chalk; cords for bookbinding; bookbinding cords; paper knives [letter openers]; desk mats.

Class 17: Reflective tapes; tapes with reflective stripe.

Class 20: Covers for clothing [wardrobe]; shoe pegs, not of metal; curtain holders, not of textile material; holders of reels for thread; holders of reels for moulinet thread; bobbin thread holders; holders for bobbins and reels; pegs [pins], not of metal; dowels, not of metal; curtain tie-backs; curtain rings; hooks, not of metal, for clothes rails; coathooks, not of metal; wall hooks, not of metal; curtain hooks; clothes hooks, not of metal; bag hangers, not of metal; mannequins; tailors' dummies; dressmakers' dummies; straw edgings; embroidery frames; wooden embroidery frames; plastic embroidery frames; frames for batik; table frames; table frames with mount; table frames with stand; tapestry frames; floor frames; couch frames; embroidery and darning frames; rack for frames; picture frames; wooden frames; plastic frame; frame without glass; frame with glass.

Class 22: String; twine made of paper; packing string; wadding for padding and stuffing upholstery; packing rope; ropes; seaweed for stuffing; carbon fibres for textile use; carbon fibers for textile use; esparto grass; coconut fiber; coconut fibre; plastic fibres for textile use; plastic fibers for textile use; ramie fibre; ramie fiber; textile fibers; textile fibres; felting fiber [felting]; viscose fiber for felting [felting]; horsehair; jute; wax ends; ropes, not of metal; kapok; cocoons; raw linen [flax]; wrapping or binding bands, not of metal; linters; liber; padding materials, not of rubber, plastics, paper or cardboard; stuffing, not of rubber, plastics, paper or cardboard; synthetic padding materials, not of rubber, plastics, paper or cardboard; packing [cushioning, stuffing] materials, not of rubber, plastics, paper or cardboard; bags [envelopes, pouches] of textile, for packaging; set of wool for felting [felting]; twine for nets; thread, not of metal, for wrapping or binding; bindings, not of metal; sawdust; straw wrappers for bottles; bottle envelopes of straw; packing, of straw, for bottles; tow; cotton tow; silk flock; hemp fibres; feathers for bedding; feathers for bedding; animal hair; down [feathers]; eiderdown; raffia; hemp bands; fleece wool; nets; sisal; straw for stuffing upholstery; wood shavings; raw fibrous textile; network; grasses for upholstering; cotton waste [flock] for padding and stuffing; schappe [raw silk waste]; silk waste; wool flock; raw cotton; raw silk; carded wool; camel hair; flock [stuffing]; felting wool [felting]; merino wool for felting [felting]; natural wool for felting [felting]; natural semi-fine wool for felting [felting]; upholstery wool [stuffing]; wood wool; combed wool; raw or treated wool; shorn wool; cords for hanging pictures; non-woven

cushioning material used when sewing clothes to enhance the details of the cut; non-woven cushioning material used when sewing clothes to enhance the details of the cut, color; non-woven cushioning material used when sewing clothes to enhance the details of the cut, non-adhesive; non-woven cushioning material used when sewing clothes to enhance the details of the cut, non-adhesive water-soluble; non-woven cushioning material used when sewing clothes to enhance the details of the cut, adhesive; non-woven cushioning material used when sewing clothes to enhance the details of the cut, double-sided adhesive; non-woven cushioning material used when sewing clothes to enhance the details of the cut, solid adhesive; non-woven cushioning material used when sewing clothes to enhance the details of the cut, adhesive glue; non-woven cushioning material used when sewing clothes to enhance the details of the cut, adhesive for patchwork [patchwork]; non-woven cushioning material used when sewing clothes to enhance the details of the cut, non-adhesive for patchwork [patchwork]; non-woven cushioning material used when sewing clothes to enhance the details of the cut, thread-piercing adhesive point; non-woven cushioning material used when sewing clothes to enhance the details of the cut, for embroidery; non-woven cushioning material used when sewing clothes to enhance the details of the cut detachable for embroidery; non-woven cushioning material used when sewing clothes to enhance the details of the cut, self-adhesive; non-woven cushioning material used when sewing clothes to enhance the details of the cut, water-soluble for creativity.

Class 23: Thread of metal for embroidery; embroidery thread and yarn; jute thread and yarn; coir thread and yarn; rayon thread and yarn; threads of plastic materials for textile use; fiberglass thread for textile use; fibreglass thread for textile use; nylon thread and yarn; linen thread and yarn; hemp thread and yarn; rubber thread for textile use; cotton thread and yarn; sewing thread and yarn; cotton sewing thread and yarn; sewing threads and yarn made of synthetic materials; silk thread and yarn; woollen thread and yarn; darning thread and yarn; elastic thread and yarn for textile use; elastic beadwork threads; elastic beadwork threads made of polyurethane; thread; yarn; mouline thread and yarn; metallic mouline thread and yarn; mottled mouline thread and yarn; spandex thread and yarn; braided spandex thread and yarn; set of embroidery threads; set of mouline threads; spun thread and yarn; spun cotton; spun silk; spun wool; worsted; chenille yarn.

Class 24: Frieze [cloth]; banners of textile or plastic; velvet; household linen; diapered linen; buckram; fustian; dimity; felt; bunting of textile or plastic; gauze [cloth]; damask; jersey [fabric]; table runners, not of paper; drugget; doublerin; shirt's doublerin; woolen doublerin; knitted doublerin; elastic doublerin; elastic double-stitched doublerin; spotted elastic woolen doublerin; solid woolen doublerin; spotted woolen doublerin; spotted knitted doublerin; spotted elastic woolen doublerin for leather; zephyr [cloth]; blanks from fabric for painting; canvas for tapestry or embroidery; canvas for tapestry of embroidery, water soluble; cotton canvas for embroidery; synthetic fiber embroidery canvas; canvas for embroidery from mixed fibers; printed canvas; canvas for embroidery with printed beads; canvas for embroidery with printed ribbons; bolting cloth; crepe [fabric]; crepon; marabouts [cloth]; furniture coverings of textile; fabrics for textile use; wall hangings of textile; tapestry [wall hangings], of textile; non-woven textile fabrics; plastic material [substitute for fabrics]; textile material; tablemats of textile; moleskin [fabric]; muslin fabric; kits comprised of fabrics; kits comprised of fabrics for creativity; sets of fleece fabrics for creativity; sets of satin fabrics for creativity; sets of silk fabrics for creativity; organza; brocades; linings [textile]; curtain holders of textile material; hemp cloth; gummed cloth, other than for stationery purposes; cloth; door curtains; calico; oilcloth for use as tablecloths; tablecloths, not of paper; billiard cloth; taffeta [cloth]; ticks [mattress covers]; tick [linen]; lingerie fabric; blouse fabrics; natural fabrics; synthetic fabrics; mixed fabrics; fabrics for batik; felting fabrics [felting]; mesh fabrics for wet felting; jute fabric; fabric for footwear; fabric for bags; awning fabrics; ramie fabric; esparto fabric; rayon fabric; fiberglass fabrics, for textile use; fibreglass fabrics for textile use; adhesive fabric for application by heat; linen cloth; upholstery fabrics; hemp fabric; lining fabric for footwear; traced cloth for embroidery; traced cloths for embroidery; finishing fabrics; metallized finishing fabrics; chenille

fabric; printed calico cloth; knitted fabric; cotton fabrics; silk fabrics for printing patterns; woollen cloth; woollen fabric; curtain fabrics; elastic woven material; fabric; fabric of imitation animal skins; haircloth [sackcloth]; tulle; flags of textile or plastic; flannel [fabric]; trellis [cloth]; covers for cushions; cheviots [cloth]; silk [cloth]; labels of textile.

Class 26: Appliqués [haberdashery]; haberdashery bows; fringes; mica spangles; sequins for needlework; shoe eyelets; brooches [clothing accessories]; hat pins, other than jewellery; hatpins, other than jewelry; pins, other than jewelry; safety pins; decorative safety pins; pins English in artificial gold; pins English in artificial silver; curved pins English; beads, other than for making jewelry; beads, other than for making jewellery; loops for clothing; velcro textile fasteners; velcro textile fasteners, double-sided; velcro textile fasteners with sticky layer; velcro elastic fasteners; velcro fasteners with adjustable tightening torque; wreaths of artificial flowers; artificial Christmas wreaths; artificial Christmas wreaths incorporating lights; lace for edgings; artificial garlands; artificial Christmas garlands; artificial Christmas garlands incorporating lights; expanding bands for holding sleeves; frills [lacework]; trouser clips for cyclists; fabric clamps; metal clamps for fabrics; scale clamps for fabrics; heat adhesive patches for repairing textile articles; blouse fasteners; dress body fasteners; shoe fasteners; fastenings for clothing; fastenings for suspenders; fastenings for braces; belt clasps; hook and pile fastening tapes; hook and pile fastening tapes doublesided; hook and pile fastening tapes with a sticky layer; elastic hook and pile fastening tapes; hook and pile fastening tapes with adjustable torque; zippers; zip fasteners; slide fasteners [zippers]; zippers for bags; zip fasteners for bags; metal zippers; plastic zippers; detachable zippers; rolled zippers; zippers with two locks; fasteners for bras; lace trimmings; passementerie; embroidery; fancy goods [embroidery]; heat adhesive patches for decoration of textile articles [haberdashery]; edgings for clothing; braids; gold embroidery; silver embroidery; decorative edgings; satin edgings; tassels [haberdashery]; fabric fixation clips; clips for suspenders; snap fasteners; metal fastener clasp; plastic fastener clasp; magnetic snap clasp; sewing snap clasp; components for zippers; sewing boxes; yarn boxes; boxes for strass; boxes for bobbin; needlework baskets; false hems; laces; mesh laces; haberdashery ribbons; orsage ribbons; glued corsage ribbons; hot glue tapes for bottom processing and bonding parts of textile products; hot glue tapes on paper for processing the bottom and bonding parts of textile products; ribbons and bows for presets packing non-paper; award ribbons; technical tapes for making clothes; belting ribbons; trouser ribbons; elastic ribbons; linen elastic ribbons; hatbands; hat bands; cringle; letters for marking linen; numerals for marking linen; numerals or letters for marking linen; monogram tabs for embroidery kits, including embroidery with threads, ribbons, beads, sequins; needlework kits; skirt flounces; stops for zippers; stops for zippers, not of precious metal; upper stops for zippers; lower stops for zippers; spangles for clothing; spangles for clothing on threads; spangles for clothing in bulk; feathers [clothing accessories]; birds' feathers [clothing accessories]; ostrich feathers [clothing accessories]; eyelets for clothing; picot [lace]; whalebones for corsets; corset busks; brassards; arm bands [clothing accessories]; tapes for curtain headings; shoulder pads for clothing; buckles [clothing accessories]; double-slot buckles [clothing accessories]; buckle locks [clothing accessories]; buckles for bags; shoe buckles; buttons; wooden buttons; kids buttons; buttons on the leg; metallic buttons; plastic buttons; buttons with holes; eyelet buttons; fabric tight buttons; buttons for tying; buttons for scarves; buttons-extensions; ornamental novelty badges [buttons]; artificial plants, other than Christmas trees; rosettes [haberdashery]; frills for clothing; decorative frills for clothing; chenille [passementerie]; cords for trimming; band for decoration with strass; braid for finishing clothes metallized; braid for finishing clothes metallized with strass; thermo appliques [haberdashery]; thermo appliques from strass; sequin mesh decals; shoe trimmings; trimmings for clothing; hat trimmings; festoons [embroidery]; artificial fruit; artificial flowers; shoe laces; spiral shoe laces; waxed shoe laces; cords for clothing; woollen laces; decorative laces; metalized decorative laces; leather decorative laces; winding decorative laces; wicker decorative laces; elastic decorative laces; silicone laces for stiffening and weighting.

Class 35: *Demonstration of stationery, goods for creativity, including art, goods for artists and designers, goods for needlework, goods for hobbies; organization of commercial and exhibition events in the scope of creativity, including artistic creation, needlework, hobby, for advertising purposes; organization of trade fairs in the scope of creativity, including artistic creation, needlework, hobbies, for commercial or advertising purposes; presentation of stationery, goods for creativity, including art, goods for artists and designers, goods for needlework, goods for hobbies, on all media for retail sale; Wholesale and retail sale of tools, utensils and materials for artists and for designers; Wholesale and retail sale of tools, utensils and materials for needlework; Wholesale and retail sale of sewing supplies, namely zippers, threads, fabrics, adhesives, fillers, decorative bands, production bands, cords, buttons, scissor, english pins, needles for pinning, hand needles, pads and cushions for needles, chalk, pencils, pens, and markers for cutting , spare leads and correctors, sewing tools and kits, patterns and cardboard for patterns, rulers and tape measures, thread coils and bobbins, tracing paper, coordinate paper, cuffs, awl, knives, compasses and cutting tools, accessories for sewing and needlework, mats for cutting, darning plugs , thimbles, needle threaders, rippers, copiers , holders for threads and sewing tools, fixing clips, spare blades, rulers, patchwork templates, brushes, pads and peeling machines, organizers, pencil cases, bags, plastic sheets, sharpeners, sewing kits, lamps and magnifying glasses, containers and boxes for sewing accessories, sets of boxes and tubes, boxes and modules, sprayers, mannequins, stands, tripods, hoops, metal and plastic fittings, clothes fittings, linen fittings, bag fittings, curtain fittings, chains and holders, clamps, caps, blocks, rivets and burrs, eyelets, hooks, locks, claps, hoops, sewing machines, overlockers, sewing machine accessories, needles for domestic and industrial sewing machines, sewing machine feet , lamps for sewing machines, sewing machine bobbins, sewing machine straps, sewing machine oil, sewing machine accessories; Wholesale and retail sale of knitting supplies, namely hooks, knitting needles, pompom making implements, organizers, pencil cases for needlework and knitting, knitting needles, marking rings, kumihimo disc, row counters, knitting thimbles, bottoms and valves, tatting shuttles and bobbins, knitting rings, sock blockers, pins, spinning spindles, knitting forks, knitting and weaving tools, yarn containers; Wholesale and retail sale of beading supplies, namely beading needles, beading line, beading wire, weaving wire, rubber, beading spinner, beads; Wholesale and retail sale of decorations and ornaments, namely sewed-on decorations, self-sticking, thermal stickers and transfers, sewed-on toys, appliques and patches, textile and decorative ornaments, flowers, sew-on collars; Wholesale and retail sale of supplies for creative activities, namely tweezers, felt, sets of glass, brushes-pads and needles for felting (take); Wholesale and retail sale of embroidery supplies, namely canvas, floss thread, metallic thread, decorative thread; Wholesale and retail sale of boxes for needlework, wholesale and retail sale of frames, wholesale and retail sale of braiding wire.*

Class 41: *Videotaping; publication of books; education information; recreation information; videotape editing; production of radio and television programmes; practical training [demonstration]; practical training in the field of hobbies, creativity, needlework [demonstration]; arranging and conducting of workshops [training]; arranging and conducting of workshops in the field of hobbies, creativity, needlework; providing online videos, not downloadable; providing online electronic publications, not downloadable; online publication of electronic books and journals; publication of texts, other than publicity texts; writing of texts; teaching; educational services; instruction services; photography.*

An interpretation of the wording of the list of goods and services is required to determine the scope of protection of these goods and services.

The term 'namely', used in the holder's and the opponent's list of goods and services to show the relationship of individual goods and services to a broader category, is exclusive and restricts the scope of protection only to the goods and services specifically listed.

As a preliminary remark, it is to be noted that according to Article 33(7) EUTMR, goods or services are not regarded as being similar to or dissimilar from each other on the ground that they appear in the same or different classes under the Nice Classification.

The relevant factors relating to the comparison of the goods or services include, inter alia, the nature and purpose of the goods or services, the distribution channels, the sales outlets, the producers, the method of use and whether they are in competition or complementary.

Contested goods in Class 6

The contested *aluminium wire; iron wire; wire of common metal; wire of common metal alloys, except fuse wire; steel wire* are included in the broad category of the opponent's *non-electric cables and wires of common metal* in Class 6. Therefore, they are identical.

The contested *bolt snaps of metal for bags; letters and numerals of common metal, except type; coat hanging chains; fur coat hanging chains; rivets of metal; box fasteners of metal; bungs of metal; plugs of metal; latches of metal; buckles of common metal [hardware]; copper rings; hooks of metal for clothes rails; bag hangers of metal; clothes hooks of metal; springs [metal hardware]* are at least similar to the opponent's *ironmongery, small items of metal hardware* in Class 6 as they coincide, at least, in their nature, relevant consumers, distribution channels and usual commercial origin.

The contested *packaging containers of metal; containers of metal [storage, transport]* are at least similar to the opponent's *metal tool boxes* in Class 6 as they coincide, at least, in their nature, relevant consumers, distribution channels and usual commercial origin.

Contested goods in Class 7

The contested *hemming machines; braiding machines; cutting machines; stitching machines; looms; beating machines; packing machines; molding machines; moulding machines; carding machines; sewing machines; labellers [machines]; mills [machines]; glue guns, electric* are at least similar to the opponent's broad category of *machine tools* in Class 7 as they coincide, at least, in their purpose, relevant consumers, distribution channels and usual commercial origin.

The contested *blades [parts of machines]; pedal drives for sewing machines; spinning wheels; tambours for embroidery machines; knives [parts of machines]; blade holders [parts of machines]; loom shafts; gears for weaving looms; belts for machines* are at least similar to a low degree to the opponent's *machine tools* in Class 7 as they coincide, at least, in relevant consumers, distribution channels and usual commercial origin. Moreover, they can also be complementary.

Contested goods in Class 8

The contested *wick trimmers [scissors]; shears; scissors; scissors for cutting fabrics; household shears; scissors for thread trimming; thread snips; sewing scissors; embroidery scissors; tailors' shears; pinking shears; scissors for children; pinking shears for children; scissors with ruler; scissors with ruler for children; manicure scissors; hairdressing scissors; thinning shears; utility scissors; stropping instruments; screwdrivers, non-electric; drill holders [hand tools]; tweezers; reverse action tweezers; guns [hand tools]; guns, hand-operated, for the extrusion of mastics; tongs; pincers; nippers; shoe awls; shoe awls with hook; universal awls* are included in the broad category of the opponent's *hand tools and implements [hand-operated]*. Therefore, they are identical.

Contested goods in Class 9

The contested *reflective bracelets for the prevention of accidents; reflective articles for wear, for the prevention of accidents; protective masks* are included in the broad categories of, or overlap with, the opponent's *safety, security, protection [...] devices or life-saving [...] apparatus and instruments* in Class 9. Therefore, they are identical.

The contested *measuring tapes; adhesive measuring tapes; rulers [measuring instruments]; square rulers for measuring; slide-rules; thread counters; rules [measuring instruments]; carpenters' rules; dressmakers' measures; appliances for measuring the thickness of leather; apparatus for measuring the thickness of skins; counters; meters; row counter [hand knitting]; row counter electronic [hand knitting]; revolution counters; tailors' rulers; sewing rulers; knitting gauge; rulers for patchwork* are included in the broad category of the opponent's *measuring apparatus and instruments* in Class 9. Therefore, they are identical.

The contested *optical lenses; magnifying glasses [optics]; magnifying glasses [optics] clip-on; magnifying glasses [optics] clip-on with lightning; magnifying glasses foldable; magnifying glasses with moulding; magnifying glasses with stand; sewing magnifying glasses; magnifying glasses for hobby, sewing and handwork; set of sewing magnifying glasses; set of magnifying glasses for hobby, sewing and handwork; flat magnifying glasses for reading* are included in the broad category of the opponent's *optical apparatus and instruments* in Class 9. Therefore, they are identical.

Magnets are identically contained in both lists of goods in Class 9.

The contested *decorative magnets; magnets-horseshoes; needle magnets* are included in the broad category of the opponent's *magnets* in Class 9. Therefore, they are identical.

The contested *mouse [computer peripheral]* is included in the broad category of the opponent's *data processing equipment* in Class 9. Therefore, they are identical.

Contested goods in Class 14

The contested *chains [jewellery]; chains [jewelry]* are highly similar to the opponent's *time instruments* in Class 14 as they have the same nature. They usually coincide in producer, relevant public and distribution channels.

The contested *watch chains* are highly similar to the opponent's *watches* in Class 14 as they usually coincide in producer, relevant public and distribution channels. Moreover, they are complementary.

The contested *retractable key chains; retractable key rings* are similar to the opponent's *leather key rings* in Class 18. This is because they are all accessories for holding keys (although made from a different material) and, therefore, have the same or similar purpose of use. Moreover, they coincide in relevant consumers and distribution channels and are in competition.

Contrary to the opponent's arguments, the contested *anchors [clock- and watchmaking]; barrels [clock- and watchmaking]; pendulums [clock- and watchmaking]; watch springs; dials [clock- and watchmaking]* are considered dissimilar to the opponent's *time instruments; clocks, wall clocks, alarm clocks, table clocks, alarm clocks, watches* in Class 14. This is because the contested goods are parts of clocks and watches that would only be used by a professional public whereas the opponent's goods target the public at large. Therefore, the goods are different in purpose, use and distribution channels. Moreover, the aforesaid contested goods are also dissimilar to all the remaining opponent's goods and services in other classes, since they have nothing relevant in common that could justify finding a level of similarity between them. This includes also the opponent's *wholesale and retail services in the field of*

timekeeping instruments, clocks, wall clocks, alarm clocks, table clocks, alarm clocks, watches in Class 35 because the contested goods are dissimilar to the goods being sold in wholesale and retail.

Contested goods in Class 16

It has been found above that the earlier trade mark had not been substantiated as regards the goods in Class 16. Therefore, the contested goods in Class 16 cannot be compared with the opponent's goods in the same class but must be compared with other opponent's goods and services, such as the opponent's retail services in Class 35.

Retail services concerning the sale of specific goods are similar to an average degree to these specific goods. Although the nature, purpose and method of use of these goods and services are not the same, they are similar because they are complementary and the services are generally offered in the same places where the goods are offered for sale. Furthermore, they target the same public.

There is a low degree of similarity between the retail services concerning specific goods and other goods which are either highly similar or similar to those specific ones. This is because of the close connection between them on the market from consumers' perspective. Consumers are used to a variety of highly similar or similar goods being brought together and offered for sale in the same specialised shops or in the same sections of department stores or supermarkets. Furthermore, they are of interest to the same consumers.

A low degree of similarity between the goods sold at retail and the other goods may be sufficient to find a low degree of similarity with the retail services provided that the goods involved are commonly offered for sale in the same specialised shops or in the same sections of department stores or supermarkets, belong to the same market sector and, therefore, are of interest to the same consumers.

Based on the above considerations, the following applies:

The contested *sewing patterns* (which are typically printed on paper) and *periodicals* are similar to the opponent's *retail services in the field of [...] printed matter* in Class 35 because the contested goods are included in, or overlap with, the broad category of *printed matter* and are, therefore, identical with them.

The contested *paper knives [letter openers]; desk mats* are similar to the opponent's *retail services in the field of [...] stationery* in Class 35 because the contested goods are included in, or overlap with, the broad category of *stationery* and are, therefore, identical with it.

The contested *etching needles; tracing needles for drawing purposes; tracing paper; tracing cloth; tracing patterns; French curves; tailor's stencils; French stencils; flexible stencils; square rulers for drawing; universal rulers; drawing rulers; washable markers; double-sided markers washable; self-disappearing markers; self-disappearing markers with corrector; mats for cutting; rotating mats for cutting; folding mats for cutting; cutting mats; tailor's chalk; powder tailor's chalk; tailor's wax chalk; tailor's sublimating chalk; tailor's chalk with a sharpener; spray chalk* are various types of arts, crafts and designer's equipment. As such, they are considered at least similar to a low degree to the opponent's *retail services in the field of [...] artists' materials* in Class 35. This is because the aforesaid contested goods are at least similar to a low degree to the opponent's *artists' materials* as they have a similar purpose and coincide in the relevant public and distribution channels.

The contested *cords for bookbinding; bookbinding cords* are considered similar to a low degree to the opponent's *retail services in the field of [...] stationery* in Class 35. This is

because the aforesaid contested goods are highly similar to the opponent's *stationery* as they have the same purpose and nature. Furthermore, they usually coincide in producer and distribution channels.

Contested goods in Class 17

The contested *reflective tapes; tapes with reflective stripe* are included in, or overlap with, the opponent's *adhesive tape, strips, tape, tapes* in Class 17. Therefore, they are identical.

Contested goods in Class 20

Picture frames are identically contained in both lists of goods in Class 20.

The contested *wooden frames; plastic frame; frame without glass; frame with glass* overlap with the opponent's *picture frames or frames for garden furniture*. Consequently, they are identical.

The contested *covers for clothing [wardrobe]; shoe pegs, not of metal; curtain holders, not of textile material; pegs [pins], not of metal; dowels, not of metal; curtain tie-backs; curtain rings; hooks, not of metal, for clothes rails; coathooks, not of metal; wall hooks, not of metal; curtain hooks; clothes hooks, not of metal; bag hangers, not of metal; table frames; table frames with mount; table frames with stand; tapestry frames; floor frames; couch frames; rack for frames* are at least similar to a low degree to the opponent's *furniture* in Class 20 because all these goods form part of furniture or furnishings for homes or interiors and coincide, at least, in the relevant public, distribution channels and usual producer. Some of them also have the same or similar purpose of use.

The same applies to the contested *holders of reels for thread; holders of reels for moulinet thread; bobbin thread holders; holders for bobbins and reels*. These are at least similar to a low degree to the opponent's *furniture* in Class 20 because the contested holders can take the form of pieces or furniture or stands used in interiors to organize and stock thread and bobbins. The goods coincide, at least, in the relevant public, distribution channels and usual producer. Some of them may also have the same or similar purpose of use.

The contested *mannequins; tailors' dummies; dressmakers' dummies* are life-size models of a person used to display clothes. They are considered similar to a low degree to the opponent's *machine tools* in Class 7 which encompass sewing machines. The goods compared target the same specialised public and also coincide in distribution channels. Furthermore, broadly speaking, they also coincide in their general purpose, namely dressmaking.

The contested *embroidery frames; wooden embroidery frames; plastic embroidery frames; frames for batik; embroidery and darning frames* are frames used for crafts activities, namely embroidery, batik and darning. These frames are considered at least similar to a low degree to the opponent's *textiles and substitutes for textiles* in Class 24 which cover goods such as canvas and traced cloth for embroidery, and *kits comprised of fabrics for creativity*. As such, the goods compared can be sold together as a kit. They coincide in the relevant public, distribution channels and usual producer. Moreover, they are complementary.

The contested *straw edgings* are used in landscaping as edgings for lawns, flower beds etc.. They are highly specialised products with a very specific nature and purpose of use that are dissimilar to all the opponent's goods and services, since they have nothing relevant in common that could justify finding a level of similarity between them.

The opponent claims, without however providing any specific arguments, that the contested *straw edgings* are similar to the opponent's *rope, twine* in Class 22. *Straw edgings* are bulk straws used in landscaping as edgings for lawns, flower beds etc. *Rope* and *twine* are long cords or strings used for a number of purposes, e.g. tying, fixing, hanging etc. Consequently, the nature, purpose and method of use of the goods compared are totally different. It follows that the goods do not coincide in relevant public, distribution channels and usual commercial origin either and they are not in competition. Consequently, and in the absence of any specific arguments from the opponent's side, its claim must be dismissed.

Contested goods in Class 22

The contested goods in this class are, in essence, various types of ropes, twine, fibres, padding and stuffing material. As such, all the contested goods in this class are at least similar to a low degree to the opponent's *rope, twine, padding materials, not of rubber, plastics, paper or cardboard; raw fibrous textile* in Class 22. The goods coincide, at least, in the relevant public, distribution channels and usual producer. Some of them may also have the same or similar purpose of use.

Contested goods in Class 23

The contested goods in Class 23 are, in essence, various types of threads and yarns. All the contested goods in this class are considered similar to a low degree to the opponent's *textiles and substitutes for textiles* in Class 24. Yarns and threads are fine cords of twisted fibers used in sewing and weaving. They are necessarily used together with textiles (i.e. fabrics) to sew textile products. To this extent these goods are complementary. For the same reason, these goods might be purchased at the same sales outlets and are addressed at the same relevant public.

Contested goods in Class 24

The contested list of goods in this class contains a wide array of various textiles and substitutes for textiles, namely *frieze [cloth]; velvet; diapered linen; buckram; fustian; dimity; felt; gauze [cloth]; damask; jersey [fabric]; drugget; doublerin; shirt's doublerin; woolen doublerin; knitted doublerin; elastic doublerin; elastic double-stitched doublerin; spotted elastic woolen doublerin; solid woolen doublerin; spotted woolen doublerin; spotted knitted doublerin; spotted elastic woolen doublerin for leather; zephyr [cloth]; blanks from fabric for painting; canvas for tapestry or embroidery; canvas for tapestry of embroidery, water soluble; cotton canvas for embroidery; synthetic fiber embroidery canvas; canvas for embroidery from mixed fibers; printed canvas; canvas for embroidery with printed beads; canvas for embroidery with printed ribbons; bolting cloth; crepe [fabric]; crepon; marabouts [cloth]; fabrics for textile use; non-woven textile fabrics; plastic material [substitute for fabrics]; textile material; moleskin [fabric]; muslin fabric; kits comprised of fabrics; kits comprised of fabrics for creativity; sets of fleece fabrics for creativity; sets of satin fabrics for creativity; sets of silk fabrics for creativity; organza; brocades; linings [textile]; hemp cloth; gummed cloth, other than for stationery purposes; cloth; calico; billiard cloth; taffeta [cloth]; lingerie fabric; blouse fabrics; natural fabrics; synthetic fabrics; mixed fabrics; fabrics for batik; felting fabrics [felting]; mesh fabrics for wet felting; jute fabric; fabric for footwear; fabric for bags; awning fabrics; ramie fabric; esparto fabric; rayon fabric; fiberglass fabrics, for textile use; fibreglass fabrics for textile use; adhesive fabric for application by heat; linen cloth; upholstery fabrics; hemp fabric; lining fabric for footwear; traced cloth for embroidery; traced cloths for embroidery; finishing fabrics; metallized finishing fabrics; chenille fabric; printed calico cloth; knitted fabric; cotton fabrics; silk fabrics for printing patterns; woollen cloth; woollen fabric; curtain fabrics; elastic woven material; fabric; fabric of imitation animal skins; haircloth [sackcloth]; tulle; flannel [fabric]; trellis [cloth]; chevriots [cloth]; silk [cloth]. As such all these contested goods are included in the broad categories of, or*

overlap with, the opponent's *textiles and substitutes for textiles* in Class 24. Therefore, they are identical.

The contested *flags of textile or plastic* are included in the broad category of the opponent's *flags* in Class 24. Therefore, they are identical.

The contested *household linen; table runners, not of paper; furniture coverings of textile; tablemats of textile; oilcloth for use as tablecloths; tablecloths, not of paper; ticks [mattress covers]; tick [linen]; covers for cushions* are included in the broad categories of, or overlap with, the opponent's *bath, bed and table textiles* in Class 24. Therefore, they are identical.

The contested *wall hangings of textile; tapestry [wall hangings], of textile* are included in the broad category of the opponent's *wall decorations of textile* in Class 24. Therefore, they are identical.

The contested *door curtains* are included in the broad category of the opponent's *curtains* in Class 24. Therefore, they are identical.

The contested *banners of textile or plastic; bunting of textile or plastic* are highly similar to the opponent's *flags* in Class 24. They have the same or similar nature, purpose and method of use. They also coincide in the relevant public, distribution channels and usual commercial origin.

The contested *curtain holders of textile material* are considered similar to the opponent's *curtains* in Class 24. This is because they are complementary and coincide in the relevant public, distribution channels and usual commercial origin.

The contested *labels of textile* are considered similar to a low degree to the opponent's *textile ribbons; silk ribbons* in Class 26. They coincide in their nature (small pieces of textile), relevant public and distribution channels.

Contested goods in Class 26

The contested goods in this class encompass, in essence, (i) various haberdashery and dressmaking products and decorative articles for clothing, footwear and headgear (ii) artificial flowers, wreaths and the like and (iii) *trouser clips for cyclists*.

The first group of contested products (haberdashery, dressmaking goods and decorative articles for clothing, footwear and headgear) includes the following contested goods: *appliqués [haberdashery]; haberdashery bows; fringes; mica spangles; sequins for needlework; shoe eyelets; brooches [clothing accessories]; hat pins, other than jewellery; hatpins, other than jewelry; pins, other than jewelry; safety pins; decorative safety pins; pins English in artificial gold; pins English in artificial silver; curved pins English; beads, other than for making jewelry; beads, other than for making jewellery; loops for clothing; velcro textile fasteners; velcro textile fasteners, double-sided; velcro textile fasteners with sticky layer; velcro elastic fasteners; velcro fasteners with adjustable tightening torque; lace for edgings; expanding bands for holding sleeves; frills [lacework]; fabric clamps; metal clamps for fabrics; scale clamps for fabrics; heat adhesive patches for repairing textile articles; blouse fasteners; dress body fasteners; shoe fasteners; fastenings for clothing; fastenings for suspenders; fastenings for braces; belt clasps; hook and pile fastening tapes; hook and pile fastening tapes doublesided; hook and pile fastening tapes with a sticky layer; elastic hook and pile fastening tapes; hook and pile fastening tapes with adjustable torque; zippers; zip fasteners; slide fasteners [zippers]; zippers for bags; zip fasteners for bags; metal zippers; plastic zippers; detachable zippers; rolled zippers; zippers with two locks; fasteners for bras; lace trimmings;*

passementerie; embroidery; fancy goods [embroidery]; heat adhesive patches for decoration of textile articles [haberdashery]; edgings for clothing; braids; gold embroidery; silver embroidery; decorative edgings; satin edgings; tassels [haberdashery]; fabric fixation clips; clips for suspenders; snap fasteners; metal fastener clasp; plastic fastener clasp; magnetic snap clasp; sewing snap clasp; components for zippers; sewing boxes; yarn boxes; boxes for strass; boxes for bobbin; needlework baskets; false hems; laces; mesh laces; haberdashery ribbons; corsage ribbons; glued corsage ribbons; hot glue tapes for bottom processing and bonding parts of textile products; hot glue tapes on paper for processing the bottom and bonding parts of textile products; ribbons and bows for presets packing non-paper; award ribbons; technical tapes for making clothes; belting ribbons; trouser ribbons; elastic ribbons; linen elastic ribbons; hatbands; hat bands; cringle; letters for marking linen; numerals for marking linen; numerals or letters for marking linen; monogram tabs for embroidery kits, including embroidery with threads, ribbons, beads, sequins; needlework kits; skirt flounces; stops for zippers; stops for zippers, not of precious metal; upper stops for zippers; lower stops for zippers; spangles for clothing; spangles for clothing on threads; spangles for clothing in bulk; feathers [clothing accessories]; birds' feathers [clothing accessories]; ostrich feathers [clothing accessories]; eyelets for clothing; picot [lace]; whalebones for corsets; corset busks; brassards; arm bands [clothing accessories]; tapes for curtain headings; shoulder pads for clothing; buckles [clothing accessories]; double-slot buckles [clothing accessories]; buckle locks [clothing accessories]; buckles for bags; shoe buckles; buttons; wooden buttons; kids buttons; buttons on the leg; metallic buttons; plastic buttons; buttons with holes; eyelet buttons; fabric tight buttons; buttons for tying; buttons for scarves; buttons-extensions; ornamental novelty badges [buttons]; rosettes [haberdashery]; frills for clothing; decorative frills for clothing; chenille [passementerie]; cords for trimming; band for decoration with strass; braid for finishing clothes metallized; braid for finishing clothes metallized with strass; thermo appliques [haberdashery]; thermo appliques from strass; sequin mesh decals; shoe trimmings; trimmings for clothing; hat trimmings; festoons [embroidery]; shoe laces; spiral shoe laces; waxed shoe laces; cords for clothing; woollen laces; decorative laces; metalized decorative laces; leather decorative laces; winding decorative laces; wicker decorative laces; elastic decorative laces; silicone laces for stiffening and weighting.

These contested goods are considered at least similar to a low degree to the opponent's *textile ribbons, silk ribbons* in Class 26 which are also used as decorative or functional items for fashion products. As such, the goods compared coincide, at least, in the relevant public and distribution channels. Those of the contested goods that concern footwear are also at least similar to a low degree to the opponent's *shoe laces* in Class 26 for the same reasons as mentioned above.

The contested *wreaths of artificial flowers; artificial Christmas wreaths; artificial Christmas wreaths incorporating lights; artificial garlands; artificial Christmas garlands; artificial Christmas garlands incorporating lights; artificial plants, other than Christmas trees; artificial fruit; artificial flowers* are at least similar to the opponent's *artificial flowers* in Class 26 as they have the same purpose. They also usually coincide in producer, relevant public and distribution channels.

The contested *trouser clips for cyclists* are similar to a low degree to the opponent's *beads and artificial flowers for bicycle spokes (decoration)* in Class 26 as they coincide in the relevant public (cyclists) and distribution channels.

Contested services in Class 35

The contested *demonstration of stationery, goods for creativity, including art, goods for artists and designers, goods for needlework, goods for hobbies; organization of commercial and exhibition events in the scope of creativity, including artistic creation, needlework, hobby, for advertising purposes; organization of trade fairs in the scope of creativity, including artistic*

creation, needlework, hobbies, for commercial or advertising purposes; presentation of stationery, goods for creativity, including art, goods for artists and designers, goods for needlework, goods for hobbies, on all media for retail sale are at least similar to the opponent's advertising in Class 35 as they have the same purpose. Furthermore, they usually coincide at least in provider and relevant public.

The remaining contested services are, in essence, wholesale and retail sale of goods for arts and crafts, designers, sewing or decorations. These services are: *Wholesale and retail sale of tools, utensils and materials for artists and for designers; Wholesale and retail sale of tools, utensils and materials for needlework; Wholesale and retail sale of sewing supplies, namely zippers, threads, fabrics, adhesives, fillers, decorative bands, production bands, cords, buttons, scissor, English pins, needles for pinning, hand needles, pads and cushions for needles, chalk, pencils, pens, and markers for cutting, spare leads and correctors, sewing tools and kits, patterns and cardboard for patterns, rulers and tape measures, thread coils and bobbins, tracing paper, coordinate paper, cuffs, awl, knives, compasses and cutting tools, accessories for sewing and needlework, mats for cutting, darning plugs, thimbles, needle threaders, rippers, copiers, holders for threads and sewing tools, fixing clips, spare blades, rulers, patchwork templates, brushes, pads and peeling machines, organizers, pencil cases, bags, plastic sheets, sharpeners, sewing kits, lamps and magnifying glasses, containers and boxes for sewing accessories, sets of boxes and tubes, boxes and modules, sprayers, mannequins, stands, tripods, hoops, metal and plastic fittings, clothes fittings, linen fittings, bag fittings, curtain fittings, chains and holders, clamps, caps, blocks, rivets and burrs, eyelets, hooks, locks, claps, hoops, sewing machines, overlockers, sewing machine accessories, needles for domestic and industrial sewing machines, sewing machine feet, lamps for sewing machines, sewing machine bobbins, sewing machine straps, sewing machine oil, sewing machine accessories; Wholesale and retail sale of knitting supplies, namely hooks, knitting needles, pompom making implements, organizers, pencil cases for needlework and knitting, knitting needles, marking rings, kumihimo disc, row counters, knitting thimbles, bottoms and valves, tatting shuttles and bobbins, knitting rings, sock blockers, pins, spinning spindles, knitting forks, knitting and weaving tools, yarn containers; Wholesale and retail sale of beading supplies, namely beading needles, beading line, beading wire, weaving wire, rubber, beading spinner, beads; Wholesale and retail sale of decorations and ornaments, namely sewed-on decorations, self-sticking, thermal stickers and transfers, sewed-on toys, appliques and patches, textile and decorative ornaments, flowers, sew-on collars; Wholesale and retail sale of supplies for creative activities, namely tweezers, felt, sets of glass, brushes-pads and needles for felting (take); Wholesale and retail sale of embroidery supplies, namely canvas, floss thread, metallic thread, decorative thread; Wholesale and retail sale of boxes for needlework, wholesale and retail sale of frames, wholesale and retail sale of braiding wire.*

Retail services of specific goods and retail services of other goods have the same nature as both are retail services, the same purpose of allowing consumers to conveniently satisfy different shopping needs, and the same method of use. Similarity is found between those retail services where the specific goods concerned are commonly retailed together in the same outlets and they target the same public. However, the degree of similarity between retail of specific goods on the one hand and retail of other goods on the other hand may vary depending on the proximity of the retailed goods and the particularities of the respective market sectors. The same considerations apply also to wholesale service.

Consequently, the contested wholesale and retail services mentioned above are considered at least similar to a low degree to the opponent's retail and wholesale services in Class 35 in roughly the same fields, such as *wholesale and retail services in the field of [...] artists' materials, decorative ribbons of textile, silk ribbons* as the goods are commonly sold together in the same outlets and they target the same public.

Contested services in Class 41

The contested *publication of books; publication of texts, other than publicity texts* overlap to a large extent with the opponent's *publishing books, DIY books, magazines and other printed matter* in Class 41 and are, therefore, identical.

The contested *online publication of electronic books and journals* overlaps to a large extent with the opponent's *publishing electronic books and magazines on the Internet* in Class 41 and is, therefore, identical.

The contested *production of radio and television programmes* and the opponent's *producing [...] radio and television programs* in Class 41 are synonymous and are, therefore, identical.

The contested *writing of texts* includes, as a broader category, the opponent's *writing services for blogs*. Since the Opposition Division cannot dissect *ex officio* the broad category of the contested services, they are considered identical to the opponent's services.

The contested *education information; practical training [demonstration]; practical training in the field of hobbies, creativity, needlework [demonstration]; arranging and conducting of workshops [training]; arranging and conducting of workshops in the field of hobbies, creativity, needlework; teaching; educational services; instruction services* are at least similar to the opponent's *courses and workshops in the field of DIY, interior design and interior styling, home furnishing, garden design, landscaping, and the use and combination of colors and paints* in Class 41. This is because all these services concern education/training/teaching and thus at least have the same or similar nature, purpose and method of use. They also coincide in provider, relevant public and distribution channels.

The contested *providing online videos, not downloadable; providing online electronic publications, not downloadable* are similar to the opponent's *publishing electronic books and magazines on the Internet* in Class 41 as they have the same or similar nature and purpose of use and coincide in provider, relevant public and distribution channels.

The contested *recreation information* (which includes, inter alia, information on radio and television programs) and the opponent's *producing and presenting radio and television programs* in Class 41 both fall in the entertainment field and coincide in provider, relevant public and distribution channels. Consequently, they are considered similar.

The contested *videotaping; videotape editing; photography* are at least similar to a low degree to the opponent's *video production* in Class 41. These services at least have a similar nature and purpose as they all concern recording and creating of visual images. They also usually coincide in provider, relevant public and distribution channels.

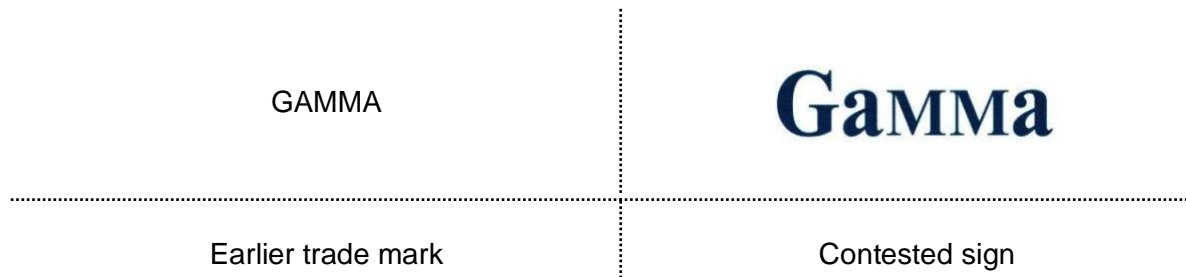
b) Relevant public — degree of attention

The average consumer of the category of products concerned is deemed to be reasonably well informed and reasonably observant and circumspect. It should also be borne in mind that the average consumer's degree of attention is likely to vary according to the category of goods or services in question.

In the present case, the goods and services found to be identical or similar (to varying degrees) target the public at large and business customers with specific professional knowledge or expertise.

The degree of attention may vary from average to high, depending on the specialised nature of the goods/services, the frequency of purchase and their price.

c) The signs



The relevant territory is Benelux.

The global appreciation of the visual, aural or conceptual similarity of the marks in question must be based on the overall impression given by the marks, bearing in mind, in particular, their distinctive and dominant components (11/11/1997, C-251/95, Sabèl, EU:C:1997:528, § 23).

The marks coincide in the letters/sounds 'GAMMA', the only differences being the irregular capitalisation of the letters 'MM' in the contested sign and the font and colour used (which are relatively common and have only a limited impact on the impression created by the contested sign). 'GAMMA' designates a well-known letter of the Greek alphabet which will be understood so by the relevant public in the Benelux countries.

Consequently, the marks are **visually** similar to a very high degree. **Aurally** and **conceptually**, the marks are identical. It follows that the overall impressions created by the marks are similar to a very high degree.

d) Distinctiveness of the earlier mark

The distinctiveness of the earlier mark is one of the factors to be taken into account in the global assessment of likelihood of confusion.

According to the opponent, the earlier mark has been extensively used and enjoys an enhanced scope of protection. However, for reasons of procedural economy, the evidence filed by the opponent to prove this claim does not have to be assessed in the present case (see below in 'Global assessment').

Consequently, the assessment of the distinctiveness of the earlier mark will rest on its distinctiveness per se. In the present case, the earlier trade mark has no meaning for any of the goods and services in question from the perspective of the public in the relevant territory. Therefore, the distinctiveness of the earlier mark must be seen as normal.

e) Global assessment, other arguments and conclusion

The marks are similar to a very high degree overall and the goods and services are partly identical or similar (to varying degrees) and partly dissimilar.

The earlier trade mark's inherent distinctiveness is average. The level of attention of the relevant public, being composed of the public at large and professionals, will vary from average to high.

Evaluating likelihood of confusion implies some interdependence between the relevant factors and, in particular, a similarity between the marks and between the goods or services. Therefore, a lesser degree of similarity between goods and services may be offset by a greater degree of similarity between the marks and vice versa (29/09/1998, C-39/97, Canon, EU:C:1998:442, § 17). In the present case, the very high degree of similarity of the marks outweighs the low degree of similarity of some of the goods and services.

Considering all the above, the Opposition Division finds that there is a likelihood of confusion on the part of the public and therefore the opposition is partly well founded on the basis of the opponent's Benelux trade mark registration.

It follows from the above that the contested trade mark must be rejected for the goods and services found to be identical or similar (to varying degrees) to those of the earlier trade mark.

The rest of the contested goods and services are dissimilar. As the identity or similarity of goods and services is a necessary condition for the application of Article 8(1)(b) EUTMR, the opposition based on this Article and directed at these goods and services cannot be successful.

Since the opposition is partially successful on the basis of the inherent distinctiveness of the earlier mark, there is no need to assess the enhanced degree of distinctiveness of the opponent's mark due to its extensive use as claimed by the opponent and in relation to identical and similar goods and services. The result would be the same even if the earlier mark enjoyed an enhanced degree of distinctiveness.

Likewise, there is no need to assess the claimed enhanced degree of distinctiveness of the opponent's mark in relation to dissimilar goods and services, as the similarity of goods and services is a *sine qua non* for there to be likelihood of confusion. The result would be the same even if the earlier mark enjoyed an enhanced degree of distinctiveness.

For the sake of completeness, it must be mentioned that the opposition must also fail insofar as based on grounds under Article 8(1)(a) EUTMR and directed against the remaining goods and services because these goods and services are obviously not identical.

COSTS

According to Article 109(1) EUTMR, the losing party in opposition proceedings must bear the fees and costs incurred by the other party. According to Article 109(3) EUTMR, where each party succeeds on some heads and fails on others, or if reasons of equity so dictate, the Opposition Division will decide a different apportionment of costs.

Since the opposition is successful for only some of the contested goods and services, both parties have succeeded on some heads and failed on others. Consequently, each party has to bear its own costs.



The Opposition Division

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DELGADO

Vít MAHELKA

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According to Article 67 EUTMR, any party adversely affected by this decision has a right to appeal against this decision. According to Article 68 EUTMR, notice of appeal must be filed in writing at the Office within two months of the date of notification of this decision. It must be filed in the language of the proceedings in which the decision subject to appeal was taken. Furthermore, a written statement of the grounds for appeal must be filed within four months of the same date. The notice of appeal will be deemed to have been filed only when the appeal fee of EUR 720 has been paid.