

TRADE MARKS ORDINANCE (CAP. 559)

OPPOSITION TO TRADE MARK APPLICATION NO. 301332251

MARK : **TEXW****RLD**
CLASS(ES) : **35 & 41**
APPLICANT : **MESSE FRANKFURT EXHIBITION GMBH**
OPPONENT : **TEXWOOD LIMITED**

STATEMENT OF REASONS FOR DECISION

Background

1. On 27 April 2009, Messe Frankfurt Exhibition GmbH (the “Applicant”) applied to register the trade mark shown below (the “Subject Mark”) under the Trade Marks Ordinance (Cap.559) (the “Ordinance”):

TEXW**RLD**

in respect of the following services in Classes 35 and 41:

Class 35

Advertising; marketing research; telemarketing; personnel management consultancy, employment agencies; organization and conducting of trade fairs, exhibitions and special shows for commercial or advertising purposes; business management, particularly in respect of organizing and conducting trade fairs, exhibitions, special shows and selling events; presentation of business companies and their products and services, also via the Internet; sales promotion for others; merchandising (sales promotion); demonstration of goods for publicity purposes; arranging contacts between commercial partners in trade and industry, also via the Internet; rental of advertising space and advertising material; rental of booths for exhibitions and trade fairs; business management consultancy, particularly in respect of organizing

and conducting trade fairs, exhibitions, special shows and selling events; compilation and servicing of information in computer databases

Class 41

Education; providing of training; entertainment; sporting and cultural activities; consultancy services relating to education and training; vocational guidance; organization and conducting of exhibitions and special shows for cultural, educational or tuitional purposes; organization and conducting of instructional events, of congresses, seminars, conferences, symposia and workshops (education); arranging and conducting of colloquiums; production of shows; arranging of entertainment shows; organization and conducting of balls; organization and conducting of competitions (education and entertainment); presentation of live performances; musical performances (orchestra); party planning services (entertainment); seat reservation for entertainment events.

2. Particulars of the application were published on 21 August 2009. On 20 January 2010, Texwood Limited (the “Opponent”) filed a notice of opposition against the subject application together with a statement of grounds of opposition (the “Notice of Opposition”). The Applicant filed a counter statement (the “Counter Statement”) on 12 April 2010 in response to the Notice of Opposition.

3. The Opponent’s evidence consists of a statutory declaration made by Ms. Teresa Tam, the Executive Director of the Opponent, on 12 January 2012 (the “TT Declaration”) and a statutory declaration made by Mr. Herbert Tam, the Director of the Opponent, on 9 January 2014 (the “HT Declaration”).

4. The Applicant’s evidence consists of a statutory declaration made by Ms. Lui Yee Ha, Lillian, the Group Manager of Messe Frankfurt (H.K.) Ltd (a subsidiary of the Applicant), on 8 October 2012 (the “LL Declaration”).

5. The hearing for opposition took place before me on 15 May 2015, at which Ms. Peggy Cheung of Messrs. Jones Day appeared for the Opponent. The Applicant, which was represented by Messrs. Wenping & Co. in these proceedings, did not attend the hearing but filed written submissions on 8 May 2015 in support of the application. My decision was reserved at the end of the hearing.

Grounds of opposition

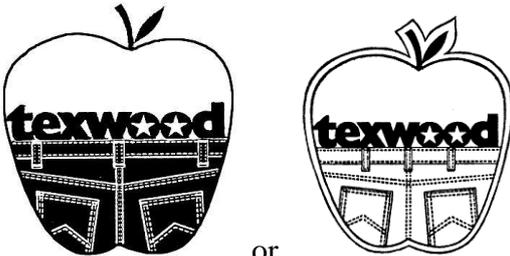
6. The grounds on which the Opponent opposes registration of the Subject Mark as pleaded in the Notice of Opposition are under sections 3(1), 11(1)(a), 11(4)(b), 11(5)(a), 11(5)(b), 12(1), 12(2), 12(3), 12(4) and 12(5) of the Ordinance. At the hearing, Ms. Cheung has confined her argument, sensibly in my view, to those under sections 12(3), 12(4) and 12(5)(a) only.

7. According to the Notice of Opposition, the Opponent is a corporation organized under the laws of Hong Kong which has been carrying on the business as a manufacturer and supplier of clothing, in particular jeans and sportswear, since its establishment in 1959.

8. The Opponent is the proprietor of a number of registered trade marks in Hong Kong comprising the word “TEXWOOD” (collectively, the “Opponent’s Marks”) which include, *inter alia*, the following:

(a) **TEXWOOD** (“Opponent’s Mark A”)

(b) **texwood** (“Opponent’s Mark B”)

(c)  or (“Opponent’s Mark C”)

9. The Opponent’s Marks were registered in respect of a wide spectrum of goods and services in Classes 14, 16, 18, 24, 25, 26 and 35, details of which are set out in Exhibit 1 of the Notice of Opposition and the **Schedule** of this decision. It was claimed that the Opponent’s Marks were adopted and have been used by the Opponent since its establishment.

10. The Opponent alleged that the Subject Mark is similar to the Opponent's Marks and the services for which the Subject Mark is applied are identical or similar to the goods and services covered by the Opponent's Marks, and hence the public will likely be confused between the respective marks and misled into the belief that the Applicant's services are connected to or associated with the Opponent. By reason of the similarity of the marks in question, the use of the Subject Mark would also take unfair advantage of or be detrimental to the distinctive character or reputation of the Opponent's Marks. It was alleged that the Opponent is entitled to prevent the use and registration of the Subject Mark in Hong Kong by virtue of the law of passing off.

Counter statement

11. In the Counter Statement, the Applicant denied all the grounds of opposition and required the Opponent to prove facts which were asserted in the Notice of Opposition. It was particularly denied that the Subject Mark is similar to any of the Opponent's Marks and the services of the Applicant are the same or similar to any of the Opponent's goods and services.

Evidence

The Opponent's evidence – TT Declaration

12. According to the TT Declaration, the Opponent and its predecessor commenced its business in 1959 as a manufacturer and supplier of clothing products, in particular denim jeans, denim wear and executive and smart casual wear. The Opponent is actively involved in the wholesaling and retailing of its goods, with stores now distributed in various shopping areas in Hong Kong including Causeway Bay, Mongkok and Tsuen Wan. The Opponent has also expanded its business into the mainland of China, and currently owns over 250 stores in the Greater China region including those in Hong Kong.

13. Ms. Tam deposes that "TEXWOOD" is the trade mark and trade name of the Opponent, which was adopted and has been used by the Opponent continuously since its establishment. The mark "TEXWOOD" has been used on its own and in combination with other marks of the Opponent, such as the apple device mark designed by the Opponent. All these marks are collectively referred to as the Opponent's Marks for the present purposes.

14. It is averred that the Opponent's Marks have been used in respect of a wide range of articles of clothing and accessories including suits, pants, trousers, underwear, knitwear, caps, belts and ties, also known as the "TEXWOOD Collection" of the Opponent. The Opponent's Marks are also said to be used on other non-clothing items such as bags, watches, stationary and printed matters. As to the manner in which the Opponent's Marks are used, Ms. Tam claims that the marks have been applied to the goods of the Opponent by means of printing or embroidering onto the goods themselves, and they also appear on the labels or hangtags of those goods, on the packages in which the goods are wrapped for sale, or on the invoices.

15. As far as promotion of the Opponent's Marks is concerned, Ms. Tam says that the goods bearing the Opponent's Marks are and have been marketed and advertised through the following means:

- (i) advertisements in newspapers and magazines
- (ii) Internet advertisements
- (iii) outdoor advertisements (e.g. on buses and bus stops)
- (iv) promotional activities
- (v) display of posters
- (vi) gift items (e.g. calendars and discount coupons)

16. In paragraph 14 of the TT Declaration, Ms. Tam sets out the yearly figures of the retail and wholesale of goods under the Opponent's Marks from 2003/04 to 2009/10. The annual amounts expended by the Opponent in advertising and promoting the goods under the Opponent's Marks from 2004/05 to 2010/11 are also set out in paragraph 17 of the TT Declaration. I do not propose to set out those numbers here but it suffices to say that they are considerable. Based on all of the above, Ms. Tam is of the view that the Opponent has established substantial goodwill and reputation in the Opponent's Marks which have become highly distinctive.

17. The following exhibits are produced and referred to in the TT Declaration to support the above factual assertions:

Exhibit No.	Description of exhibit
TT-1	A list of trade mark registrations and copies of certificates for registration of the Opponent's Marks in Hong Kong

TT-2	A list of trade mark registrations and copies of some of the trade mark certificates of the Opponent's Marks in various countries and regions around the world
TT-3	Copies of catalogues showing the goods bearing the Opponent's Marks between 1999 and 2009
TT-4	Copies of materials demonstrating the different manners in which the Opponent's Marks are used
TT-5	Copies of invoices evidencing sales of the goods bearing the Opponent's Marks from 2004 to 2010
TT-6	A list of styles of goods under the Opponent's Marks and the respective allocated lot numbers
TT-7	Copies of advertisements and promotional materials
TT-8	Copies of invoices showing the advertising and promotional expenses incurred by the Opponent

The Applicant's evidence – LL Declaration

18. In the LL Declaration, Ms. Lui gives a detailed account of the origin and development of the Subject Mark as well as the business background of the Applicant. The Applicant is a company situated in Frankfurt am Main, Germany. The mark "TEXWORLD" is the name of trade fair given by the Applicant and its predecessor.

19. In December 2001, the Applicant acquired a variant version of the Subject Mark, i.e. "TEXWORLD" from Mr. Daniel Rubinstein, who was the managing director of the company "A à Z EXPO" which organized the first TEXWORLD trade fair in October 1997. The Applicant first used the mark "TEXWORLD" in France as the name of trade fair in 2002. Since then, the following variants of the Subject Mark have been used in connection with the TEXWORLD exhibitions for textile industry organized by the Applicant:

- (a)  (used in February 2002)
- (b)  (used since February 2003)
- (c)  (used since September 2008)

20. According to Ms. Lui, the Applicant's TEXWORLD exhibitions were held twice a year in Paris and twice a year in New York since 2006. The TEXWORLD exhibitions have attracted exhibitors from all over the globe, and become one of the major international fashion and textile exhibitions in the world. She claims that there have been a significant number of exhibitors and trade visitors from Hong Kong joining the TEXWORLD exhibitions, including the Hong Kong Trade Development Council. In paragraphs 9 and 10 of the LL Declaration, Ms. Lui sets out the number of exhibitors and trade visitors from Hong Kong joining the TEXWORLD exhibitions annually for the years between 2002 and 2009. The worldwide annual advertising expenses for the promotion of the TEXWORLD exhibitions from 2002 to 2011 are also set out in paragraph 11 of the LL Declaration. In light of the foregoing, she considers that the Subject Mark is uniquely associated with the Applicant and is well known to the manufacturers and traders of textile, fabric and fashion industries in Hong Kong.

21. The following supporting documents are produced by the Applicant and referred to in the LL Declaration as exhibits:

Exhibit No.	Description of exhibit
LL-1	Printout of record of the Applicant's registration of the mark  "TEXWORLD" in France
LL-2	Copies of documents showing use of the variants of the Subject Mark in the year 1997
LL-3	A list of exhibitors having joined the TEXWORLD exhibitions from Hong Kong prior to the filing date of the subject application
LL-4	Copies of the official catalogues for exhibitions under the title "TEXWORLD"
LL-5	Samples of advertising materials for the TEXWORLD exhibitions
LL-6	Copies of the certificates of registration of the Subject Mark in various countries and regions around the world

The Opponent's evidence in reply – HT Declaration

22. The HT Declaration was filed by the Opponent as evidence in reply to the LL Declaration. The content of the HT Declaration consists mainly of comments, or more precisely, criticism on the quality of the Applicant's evidence which I do not purport to repeat here. The essential point that Mr. Tam tries to

make is that the TEXWORLD exhibitions were never held in Hong Kong and it has no reputation here. There are two pieces of exhibits referred to in the HT Declaration. Exhibit “HT-1” is a copy of the research conducted by the Hong Kong Trade Development Council on the Textiles Industry in Hong Kong. Exhibit “HT-2” contains copies of the Applicant's exhibits marked “LL-3” and “LL-4” which has been marked up to show the relevant part of the exhibitors which are textile manufacturers in Hong Kong. Both exhibits were tendered for the purpose of challenging the Applicant’s claim that the Subject Mark is well known in Hong Kong.

Opposition under section 12(3) of the Ordinance

23. Section 12(3) of the Ordinance states that:

“A trade mark shall not be registered if-

- (a) the trade mark is similar to an earlier trade mark;*
- (b) the goods or services for which the application for registration is made are identical or similar to those for which the earlier trade mark is protected; and*
- (c) the use of the trade mark in relation to those goods or services is likely to cause confusion on the part of the public.”*

24. Section 12(3) of the Ordinance essentially prohibits the registration of a trade mark which would be likely to cause confusion on the part of the public as a result of its being similar to an earlier trade mark and because it is to be registered in respect of goods or services the same as or similar to those for which the earlier trade mark is registered.

25. The term “earlier trade mark”, as referred to in section 12(3), is defined in section 5 of the Ordinance as follows:

“5(1) In this Ordinance, “earlier trade mark”, in relation to another trade mark, means –

- (a) a registered trade mark which has a date of application for registration earlier than that of the other trade mark, taking into account the priorities claimed in respect of each trade mark, if any*

(b)”

26. Ms. Cheung submits that all of the Opponent’s Marks are “earlier trade marks” in relation to the Subject Mark because each of them has a date of application for registration earlier than that of the Subject Mark. Throughout her submissions for section 12(3), she refer to those marks indiscriminately as the Opponent’s Marks and treated them as if they are the same marks and registered for the same sets of goods and services.

27. Whilst I accept that all the Opponent’s Marks (which I set out in the **Schedule** of this decision) meet the criteria of “earlier trade mark” under section 5(1)(a) of the Ordinance, it is clear that they do not share the same degree of similarity to the Subject Mark and the width of goods and services for which those marks registered are not all the same.

28. Amongst the Opponent’s Marks, the registrations of the Opponent’s Marks B and C have the broadest coverage of goods and services, and only these two marks are registered in respect of *services* (which is at the core of dispute) rather than *goods*. As between them, it is obvious that the Opponent’s Mark B, which consists solely of the word “texwood”, is much similar to the Subject Mark than the Opponent’s Mark C, in which the word “texwood” is embodied into a device of an apple, the lower part of which resembles the back of jeans. Having regard to their respective degree of similarities with the Subject Mark and the services at issue, I think it is fair to say that the strongest case of Opponent lies with the registration of the **Opponent’s Mark B** in Classes 14, 18, 25 and 35 (i.e. TM No.301261467), and if the Opponent cannot succeed on the basis of the Opponent’s Mark B, the rest of the Opponent Marks could not really stand a better chance of success for the purposes of establishing a likelihood of confusion. For these reasons, I will consider the Opponent’s case under section 12(3) below on the basis of the Opponent’s Mark B first.

29. The basic principles regarding the assessment of similarity between marks and the likelihood of confusion between them are set out in the cases of *Sabel BV v Puma AG* [1998] RPC 199, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel BV* [2000] FSR 77, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] RPC 117 and *Specsavers International Healthcare Ltd v Asda Stores Ltd* [2012] FSR 19 and adopted by the Court of Appeal in Hong Kong in *Tsit Wing (Hong Kong) Co Ltd and Others v TWG Tea Co Pte Ltd*

[2015]1 HKLRD 414. These principles are :

- (a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors.
- (b) The matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably observant and circumspect, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question.
- (c) The average consumer normally perceives a mark as a whole and does not proceed to analyse its various details.
- (d) The visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements.
- (e) Nevertheless, the overall impression conveyed to the public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components.
- (f) And beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark.
- (g) A lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa.
- (h) There is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has

been made of it.

- (i) Mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient.
- (j) The reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense.
- (k) If the association between the marks causes the public to wrongly believe that the respective goods [or services] come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of marks

30. The Subject Mark is constituted by an invented word “TEXWORLD”. The first three alphabets “TEX” are in bold print, whereas the letter “O” in the segment of “WORLD” is substituted by a device of the globe. Despite the said replacement, the Subject Mark can still be readily seen as “TEXWORLD”.

31. The Opponent’s Mark B comprises the invented word “texwood”. There is a certain degree of stylization in the two letters “o” of “texwood” in that each of the letter “o” is decorated by a star device inside it.

32. Ms. Cheung contends that the Subject Mark is visually and aurally similar to the Opponent’s Marks. The Subject Mark is prefixed by “TEX” which is identical to that of the Opponent’s Marks. Given that the first syllable of the Subject Mark and the Opponent’s Marks (i.e. “TEX”) are the same, and the aural similarity between the following parts “WOOD” and “WORLD”, the two marks are confusingly similar to each other phonetically.

33. On the other hand, the Applicant submits that “TEXWORLD” is visually and phonetically distinguishable from “TEXWOOD” for the reason that consumers in Hong Kong are generally conversant in English and should have no difficulties in distinguishing the word “WORLD” from the word “WOOD”. It is also the Applicant’s submission that none of the Opponent’s Marks contain a world device [*sic*] or the word “WORLD” as the Subject Mark does.

34. In my judgment, it is crystal clear that the Subject Mark is highly similar to the Opponent's Mark B from the visual and aural perspectives, although there is no conceptual similarity between them.

35. Visually, both marks are of more or less the same length (made up of seven and eight letters respectively) and they have five letters in common which appear in exactly the same sequence, including the beginnings ("TEXW-") and the ends ("-D"). The major difference between the Subject Mark and the Opponent's Mark B lies in the middle part of the marks and varying stylizations applied to their letters "O". These differences, however, are not sufficient to outweigh the high degree of similarities displayed by the marks as wholes and enable the average consumer to distinguish one mark from the other, bearing in mind that he rarely has the chance to make direct comparison between different marks but would only rely on the imperfect recollection kept in his mind. The other, more subtle, difference between them is that all letters in the Subject Mark appear in upper case whereas the letters in the Opponent's Mark B are in lower case, but it has been settled by case law that in assessing the likelihood of confusion, one must assume notional and fair use of the marks in question and that could include use in upper case, lower case or the combination of the two (*IDG Communications Ltd's Trade Mark Application* [2002] RPC 10). Viewing the Subject Mark and the Opponent's Mark B as wholes, I consider that the overall visual impressions created by them are very similar.

36. Turning to phonetical comparison, I agree with Ms. Cheung that the pronunciation of the Subject Mark is very close to that of the Opponent's Mark B. "TEXWORLD" and "texwood" are both two-syllable words and the stress of both words falls on their respective first syllable "TEX" which is exactly identical. The sound of their second syllable "WORLD" and "wood" are also very much alike, and they could indeed be easily confused by consumers who have a tendency to slur the terminations of words (*London Lubricants Ltd's Application* (1925) 42 RPC 264). The device elements of the respective marks are not pronounceable. Taking all these factors into consideration, I find that the two marks in question are substantially similar from the aural perspective.

37. In terms of conceptual comparison, both "TEXWORLD" and "texwood" are invented words which do not bear any readily known meanings or evoke any concepts in respect of the goods and services in question. Although it has been suggested by the Applicant that "TEX" is the abbreviation of textile,

in the absence of sufficient proof I do not consider that “TEX” is a recognized acronym for textile¹ and do not think that the relevant public will be able to grasp this meaning upon seeing this part of the Subject Mark. Thus, the position on conceptual similarity is neutral.

38. Taking into account the visual and aural similarities and differences between the Subject Mark and the Opponent’s Mark B as well as the overall impressions created by them, I am of the view that the two marks are highly similar to each other.

Comparison of goods and services

39. According to *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc (supra)*, in assessing the similarity of the goods or services concerned, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, *inter alia*, their nature, their intended purpose, their method of use and whether they are in competition with each other or are complementary.

40. It was also held in *British Sugar v James Robertson and Sons Ltd* [1996] RPC 281 that the following factors should be taken into account when considering the similarities between the goods or services:

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

¹ <http://www.acronymfinder.com/TEX.html>

41. Moreover, goods [and services] can be considered as identical when the goods [and services] designated by the trade mark application are included in a more general category designated by the earlier mark, or vice versa (*Meric v OHIM* [2006] ECR II-2737 (Case T-133/05)). Goods and services can be considered complementary if there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods and services lies with the same undertaking (*Boston Scientific Ltd v OHIM* (Case T-325/06)).

42. Referring to and applying the above principles to the present case, Ms. Cheung submits that:

(i) the applied-for services of “*advertising; rental of advertising space and advertising material; sales promotion for others; merchandising (sales promotion); demonstration of goods for publicity purposes; telemarketing*” in Class 35 are identical or similar to “*advertising and marketing services; demonstration of goods; advertising agencies services; dissemination of advertising matter; direct mail advertising; advertising and marketing services; promotions and exhibitions for advertising purposes; preparation and presentation of advertising matter; rental of advertising space*” covered by the registration of the Opponent’s Mark B in Class 35, because both sets of services have the nature of advertisement, and they are complementary to one another and in relation to the same area of services;

(ii) the applied-for service of “*marketing research*” in Class 35 is similar to and falls under the umbrella of “*advertising and marketing services*” which is covered by the Opponent’s Mark B in the same class;

(iii) the applied-for service of “*presentation of business companies and their products and services, also via the Internet*” in Class 35 has the same nature of “*demonstration of goods*” which is covered by the Opponent’s Mark B;

(iv) the applied-for services of “*personnel management consultancy, employment agencies; arranging contacts between commercial partners in trade and industry, also via the Internet; compilation and servicing of information in computer databases*” are also similar in nature to the registered services in Class 35 for the Opponent’s Mark B, namely

“advertising and marketing services” and “business appraisal, business management assistance; business management and organisation consulting”, as they are complementary to one another and in relation to the same area of services; and

(v) some of the applied-for services in Class 41 (e.g. production of shows, conducting of seminars etc.) are closely related to the above business-type services of the Opponent in Class 35 as they have similar purposes of marketing or public relations, and it is very often that the marks of manufacturers of clothing and textiles will appear in trade shows and fashion shows, so there is a similarity between the Applicant’s services in Class 41 and the Opponent’s goods in Class 25 as well.

43. As regards the applied-for services in Class 35, I share the view of Ms. Cheung that they overlap substantially with those services of the Opponent’s Mark B in Class 35 and should be considered as identical or similar with each other. Both sets of services are targeted at corporations or business users, and are seldom used by private individuals. The intended purposes of these services are to provide assistance or advice in relation to advertising, market research and business management so that the customers can promote or market their products more efficiently. These services could reach people in the trade through similar channels and can be regarded as value-added or complementary consultancy services to each other.

44. Taking a fair look of the respective specifications of services of the Subject Mark and the Opponent’s Mark B in Class 35 in accordance with their natural and ordinary meanings, my assessment is that those services of the Applicant set out in the left column below are identical or similar to the corresponding services covered by the Opponent’s registration set out in the right column below:

Applicant’s services in Class 35	Opponent’s services in Class 35
Advertising; telemarketing	advertising and marketing services; advertising agencies services; dissemination of advertising matter; direct mail advertising; on-line sales, advertising and marketing services
marketing research;	business research and marketing studies;

	business and market statistical information
personnel management consultancy, employment agencies;	personnel management consulting
business management consultancy, particularly in respect of organizing and conducting trade fairs, exhibitions, special shows and selling events; compilation and servicing of information in computer databases; business management, particularly in respect of organizing and conducting trade fairs, exhibitions, special shows and selling events;	business management assistance; business management and organisation consulting; industrial management assistance
organization and conducting of trade fairs, exhibitions and special shows for commercial or advertising purposes; presentation of business companies and their products and services, also via the Internet; sales promotion for others; merchandising (sales promotion); demonstration of goods for publicity purposes; arranging contacts between commercial partners in trade and industry, also via the Internet; rental of advertising space and advertising material; rental of booths for exhibitions and trade fairs	advertising and marketing services; demonstration of goods; distribution of sample; shop window dressing; organising displays; promotions and exhibitions for advertising purposes; arranging of publication of publicity texts; arranging of newspaper subscription for others; production, preparation and presentation of advertising matter; rental of advertising space

45. However, as far as the applied-for services in Class 41 are concerned, I am unconvinced by the Opponent’s submissions. The specifications of the Applicant’s services in Class 41 include a broad range of services and activities which are intended for people in all walks of life as opposed to those only for the business sector. Taking “*education, providing of training*” as an example, they may include all forms of education and training services ranging from pre-nursery schooling offered by kindergartens to university and college education services, from teaching of yoga exercises to training on how to drive a motor vehicle. The end users of these services are clearly not confined to

businesses and people in the trade, but members of the general public in Hong Kong who are interested in acquiring or enhancing their knowledge, skills or ability in different areas at different stages of their life. The functions of these services are also quite different from those of marketing or public relations as suggested by the Opponent. The same goes for “*consultancy services relating to education and training; vocational guidance; organization and conducting of exhibitions and special shows for cultural, educational or tuitional purposes; organization and conducting of instructional events, of congresses, seminars, conferences, symposia and workshops (education); arranging and conducting of colloquiums*”. In terms of nature, purposes, end users etc., all these services are not in any way similar to the Opponent’s services in Class 35.

46. As to the remaining services in Class 41, namely “*entertainment*”, “*sporting and cultural activities*” and “*production of shows; arranging of entertainment shows; organization and conducting of balls; organization and conducting of competitions (education and entertainment); presentation of live performances; musical performances (orchestra); party planning services (entertainment); seat reservation for entertainment events*”, their target customers are also not limited to corporate entities or business people, but rather the public at large. There is a marked difference between the purposes served by these activities (i.e. to provide amusement, entertainment or recreation to the audience) and those served by the trade-related services such as conducting of trade fairs under Class 35 (i.e. for advancement of commercial interest), and the two sets of services are not competitive or complementary with each other.

47. For these reasons, I do not find that the applied-for services in Class 41 are identical or similar to the Class 35 services registered by the Opponent’s Mark B. For the avoidance of any doubt, I have also compared the Applicant’s services in Class 41 with the broad range of goods registered by the Opponent’s Mark B in Classes 14, 18 and 25 and reach the conclusion that they are even much far away to the services in Class 41 than those in Class 35. Hence, the registration of the Opponent’s Mark B in those classes would not assist the Opponent any further.

48. In light of the above analysis, I find that the services applied-for by the Subject Mark in Class 35 (the “Class 35 Services”) are identical or similar to the services for which the Opponent’s Mark B is registered, but those in Class 41 (the “Class 41 Services”) are neither identical nor similar to the goods and

services for which the Opponent's Mark B is protected.

Distinctiveness of the earlier trade mark

49. There is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character either *per se* or because of the use that has been made of it (*Sabel BV v Puma AG* (supra)).

50. In determining the distinctive character of an earlier trade mark, I must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (*Windsurfing Chiemsee v Huber and Attenberger* [1999] ETMR 585; *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel BV* (supra)).

51. As discussed above, the Opponent's Mark B is a mark which consists of the word "texwood" with a certain degree of stylization in its letters "o". Given that "texwood" is an invented word which is meaningless, I consider that the Opponent's Mark B has a reasonably high level of inherent distinctiveness.

52. Turning to the issue of whether the distinctive character of the Opponent's Mark B has been enhanced through use, it is apparent from the Opponent's testimony and evidence of use (as outlined in paragraphs 12 to 17 above) that the whole business of the Opponent is, and has all along been, in the manufacture and trading of goods (especially articles of clothing) rather than provision of services. Having examined the Opponent's evidence in the round, I find, unsurprisingly, that the Opponent's Mark B (as well as the other Opponent's Marks) has been used mainly in relation to the clothing items marketed by the Opponent and not services. Following my discussion on the

comparison of goods and services above, it becomes clear however that what really matters for the present purposes is to assess the possibility of confusion when the Subject Mark is used in relation to the applied-for services in Class 35 and 41, and in that regard, it has never been suggested that any of the Opponent's Marks has been significantly used in respect of the relevant services in Class 35, such as advertising and marketing services, promotions and exhibitions for advertising purposes etc. For these reasons, I do not find the distinctive character of the Opponent's Mark B has been enhanced by the use made of it in respect of the relevant services, although I would in all fairness accept that there has been an extensive and considerable use of it in respect of articles of clothing.

Likelihood of confusion

53. The likelihood of confusion must be appreciated globally, taking account of all relevant factors. The matter must be judged through the eyes of the average consumer of the goods or services concerned who is deemed to be reasonably well informed and reasonably observant and circumspect.

54. As discussed in paragraphs 43 to 46 above, the relevant consumers of the Class 35 Services are people in the trade or business, whereas those of the Class 41 Services can include anyone in Hong Kong who is looking for such services. Given the nature and availability of the services in question, I do not think that the relevant consumers would exercise a particularly high degree of care and attention in the selection of such services.

55. I have compared the Subject Mark with the Opponent's Mark B from the visual, aural and conceptual perspectives and come to the conclusion that the two marks are highly similar in overall terms. I have also found that the Class 35 Services are identical or similar to the corresponding services covered by the Opponent's Mark B in Class 35, and that the Class 41 Services are quite distinct from the goods or services covered by the Opponent's Mark B. Taking all the above into account, I consider that:

- (a) when the Subject Mark is used in relation to the Class 35 Services, there is a likelihood of confusion in that the average consumer would be confused into believing that the respective services offered under the Subject Mark and the Opponent's Mark B come from the same or economically linked undertakings; and

(b) when the Subject Mark is used in relation to the Class 41 Services, there is **no** likelihood of confusion in that the average consumer would **not** be confused into believing that the respective services offered under the Subject Mark and the Opponent's Mark B come from the same or economically linked undertakings.

56. According to section 12(7) of the Ordinance, where the grounds for the refusal of registration exist in respect of only some of the goods or services for which the application for registration is made, the refusal shall apply to those goods or services only.

57. For the above reasons, I conclude that the ground of opposition under section 12(3) of the Ordinance is established in relation to the Class 35 Services, but it is not established in relation to the Class 41 Services.

Other Opponent's Marks

58. I have indicated my view in paragraph 28 above that the best case of the Opponent's Marks under section 12(3) should lie in the Opponent's Mark B. As it turns out, the Opponent has not fully succeeded its opposition under section 12(3) on the basis of the Opponent's Mark B, so it is prudent for me at this juncture to go through the Opponent's case again to see if he could establish a likelihood of confusion in relation to the Class 41 Services on the basis of the rest of the Opponent's Marks.

59. My conclusion is that he could not. As explained, the coverage of goods and services in the registration of the Opponent's Mark C is more or less the same as that of the Opponent's Mark B, but the presence of the apple device makes it even more dissimilar to the Subject Mark and actually reduces the possibility of confusion. For the Opponent's Mark A and the remaining Opponent's Marks, their registrations merely cover goods in Classes 14, 16, 18, 24 and 25 which are quite distant from the Class 41 Services so that they are likewise insufficient to enable me to hold that there is a likelihood of confusion. Hence, I confirm that my decision on section 12(3) remains the same as far as the other Opponent's Marks are concerned.

60. As the opposition has been successful in relation to the Class 35 Services, for the rest of my decision here in respect of the grounds of opposition under other sections, I will only consider and deal with the subject application as far as the Class 41 Services are concerned.

Opposition under section 12(4) of the Ordinance

61. The Opponent's case under section 12(4) is that each of the Opponent's Marks is a well-known trade mark in Hong Kong, and the use of the Subject Mark by the Applicant would take unfair advantage of, or be detrimental to, the distinctive character or repute of the Opponent's Marks.

62. Section 12(4) of the Ordinance provides:

“Subject to subsection (6), a trade mark which is –

(a) identical or similar to an earlier trade mark; and

(b) proposed to be registered for goods or services which are not identical or similar to those for which the earlier trade mark is protected,

shall not be registered if, or to the extent that, the earlier trade mark is entitled to protection under the Paris Convention as a well-known trade mark and the use of the later trade mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.”

63. In other words, for an opposition under section 12(4) of the Ordinance to succeed, the following elements must be established:

- (a) the applied-for mark is identical or similar to an earlier trade mark of the opponent;
- (b) the earlier trade mark is entitled to protection under the Paris Convention as a well-known trade mark; and
- (c) the use of the applied-for mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.

64. For the condition under paragraph 63(a) above to be satisfied, there must be a degree of similarity between the earlier mark and the applied-for mark such that the relevant section of the public establishes a link between them, even though it does not confuse them (*Adidas-Salomon AG v Fitnessworld Trading Ltd* [2004] ETMR 10). The existence of such a link must be appreciated globally, taking into account all relevant factors, including the degree of similarity between the marks at issue; the nature of the goods or services for which the marks at issue were registered, the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public; the strength of the earlier mark's reputation; the degree of the earlier mark's distinctive character, whether inherent or acquired through use; and the existence of likelihood of confusion on the part of the public (*Intel Corporation Inc. v CPM United Kingdom Ltd.* [2009] RPC 15).

65. I have already found that the Subject Mark is closely similar to the Opponent's Mark B. Accordingly, I am satisfied the relevant consumers would establish a link between the Subject Mark and the Opponent's Mark B, to say the least. The requirement under paragraph 63(a) above is satisfied.

66. For the requirement stated in paragraph 63(c) above, the proprietor of the earlier mark must adduce proof that the use of the later mark would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark (*Intel v CPM* (supra)). Detriment to and unfair advantage of distinctive character or repute has to be proved by real, as opposed to theoretical, evidence and cannot be merely assumed from the fact that the earlier mark has a substantial reputation (*Creditmaster Trade Mark* [2005] RPC 21). Section 12(4) does not have the sweeping effect of preventing the registration of a sign which is the same as or similar to a well-known earlier trade mark. It is also not intended to enable the owner of a well-known earlier trade mark to object as a matter of course to the registration or use of a sign which may remind people of his mark (*Premier Brands UK Ltd v Typhoon Europe Ltd* [2000] FSR 767).

67. In the present proceedings, no evidence has been submitted to show that use of the Subject Mark would take unfair advantage of, or be detrimental to, the distinctive character or repute of the Opponent's Marks. The evidence filed in these proceedings relates merely to the use, registration and reputation of the Opponent's Marks. In other words, the Opponent's claims of taking unfair advantage and detriment are nothing but bare assertions. It must follow that the

requirement referred to in paragraph 63(c) above is not satisfied.

68. As such, it is no longer necessary for me to make a finding on the requirement stated in paragraph 63(b), namely, whether or not any of the Opponent's Marks is entitled to protection under the Paris Convention as a well-known trade mark.

69. The opposition under section 12(4) of the Ordinance is not made out.

Opposition under section 12(5)(a) of the Ordinance

70. Section 12(5) of the Ordinance provides, *inter alia*, as follows:

“... a trade mark shall not be registered if, or to the extent that, its use in Hong Kong is liable to be prevented –

(a) by virtue of any rule of law protecting an unregistered trade mark or other sign used in the course of trade or business (in particular, by virtue of the law of passing off) ...”

71. The Opponent's case under section 12(5)(a) is that the Opponent has established substantial goodwill and reputation in connection with the Opponent's Marks in Hong Kong, and hence the use of the Subject Mark is liable to be prevented by virtue of the law of passing off in relation to the rights subsisting in the Opponent's Marks.

72. As explained by *Kerly's Law of Trade Marks and Trade Names*, 15th Edition, at paragraph 9-147, in deciding whether the registration of a mark is prohibited under this section, the correct approach is to consider a normal and fair use of the mark in question in respect of the goods or services the subject of the application and whether or not this would result in passing off. In this sense the test is different from that involved in a claim of passing off which would normally require a consideration of all circumstances of the defendant's trade. Thus, in the instant case, I have to consider whether a normal and fair use of the Subject Mark in respect of the Class 41 Services would amount to passing off.

73. A helpful summary of the elements of an action for passing off can be found in *Halsbury's Laws of Hong Kong Vol 15(2)* at paragraph 225.001.

The guidance takes account of speeches in the House of Lords in *Reckitt & Colman Products Ltd v Borden Inc* [1990] R.P.C. 341 and *Erven Warnink BV v J Townend & Sons (Hull) Ltd* [1979] A.C. 731 (which are also applied in the case of *Ping An Securities Ltd v 中國平安保險 (集團) 股份有限公司* [2009] 12 HKCFAR 808), and is as follows :

“The House of Lords has restated the necessary elements which a plaintiff has to establish in an action for passing off:

- (1) the plaintiff’s goods or services have acquired a *goodwill or reputation* in the market and are known by some distinguishing feature;
- (2) there is a *misrepresentation* by the defendant (whether or not intentional) leading or likely to lead the public to believe that goods or services offered by the defendant are goods or services of the plaintiff; and
- (3) the plaintiff has suffered or is likely to suffer *damage* by reason of the erroneous belief engendered by the defendant's misrepresentation.”

74. I refer to the second element above. It is obvious that the Opponent does not offer or engage in any services relating education, entertainment, cultural and sporting activities in Class 41. The nature, purpose, users and trade channels of the Class 41 Services are vastly different from the field of trade in which the Opponent operates, which is the clothing sector.

75. As the learned editors of *Kerly’s Law of Trade Marks and Trade Names*, 15th Edition stated at paragraphs 18-106 and 18-107 (below), there is a heavy burden on a claimant to prove misrepresentation where a defendant and a claimant operate in different fields of activities:

“There is no rule that the defendant must operate in the same field of activity as the claimant. However, this does not mean an examination of their respective fields of activity is irrelevant. The more remote the activities of the parties, the stronger the evidence needed to establish misrepresentation and the real likelihood of

damage that are prerequisites of a right of action in passing off. ... this is a question of fact to be determined in the circumstances of the particular case...

It may be said generally that establishing passing off by goods in which the claimant does not trade calls for special evidence to establish that the defendant's actions will induce the belief, if not that his goods are those of the claimant at least that his business is an extension of or somehow connected with that of the claimant, or his goods somehow approved or authorized by the claimant. Where the fields of activity of the parties are different, the burden of proving that the defendant causes real likelihood of damage to the claimant is a very heavy one..."

76. Here, the Opponent has not produced a single shred of evidence to demonstrate the existence of any misrepresentation or that the relevant section of the public would be misled into believing that the Class 41 Services offered by the Applicant are those supplied by the Opponent.

77. The second element under paragraph 73 is missing. There is thus no question of any damage flowing from any claimed misrepresentation.

78. That being the case, it is not necessary for me to deal with the first element provided in paragraph 73, i.e. the existence of goodwill or reputation in any of the Opponent's Marks.

79. The opposition under section 12(5)(a) as far as the Class 41 Services are concerned must be rejected.

Conclusion and costs

80. For the reasons stated above, I conclude that:

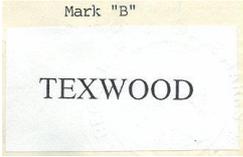
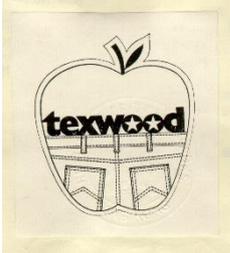
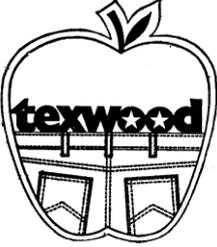
- (a) the opposition succeeds in respect of the Class 35 Services; and
- (b) the opposition fails in respect of the Class 41 Services.

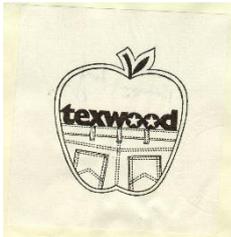
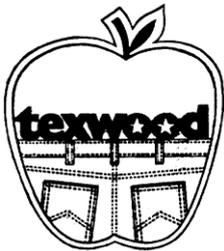
81. Both the Opponent and the Applicant have sought costs. As each side has achieved a measure of success, each should bear its own costs. I therefore make no order as to costs.

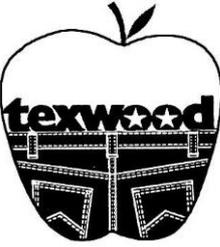
(Ryan Ng)
p. Registrar of Trade Marks
5 November 2015

Schedule

Details of the Opponent's Marks

Trade Mark No. and Trade Mark	Class(es)	Specification of Goods and/or Services
19600169 	25	<u>Class 25</u> knitted and non-knitted garments of all kinds.
19721678 	25	<u>Class 25</u> articles of clothing.
19730543 	25	<u>Class 25</u> garments.
19730869 	25	<u>Class 25</u> articles of clothing.
19750413 	16	<u>Class 16</u> paper and paper articles, cardboard and cardboard articles; printed matter, newspapers and periodicals, books; book-binding material; photographs; stationery, adhesive materials (stationery); artists' material and playing cards.
19750431 	25	<u>Class 25</u> clothing, including boots, shoes and slippers.

19750746 TEXWOOD	18	<u>Class 18</u> leather and imitations of leather, and articles made from these materials, and not included in other classes; skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
19750747 	18	<u>Class 18</u> leather and imitations of leather, and articles made from these materials, and not included in other classes; skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
19751224 TEXWOOD	25	<u>Class 25</u> clothing, including boots, shoes and slippers.
19751450 	25	<u>Class 25</u> boots, shoes and slippers.
19771223 TEXWOOD	26	<u>Class 26</u> lace and embroidery, ribands and braid; buttons, press buttons, hooks and eyes, pins and needles; artificial flowers.
19800141 	14	<u>Class 14</u> watches, clocks, and parts and fittings therefor, and other chronometric instruments.
19890686 TEXWOOD	16	<u>Class 16</u> paper, cardboard and goods made from these materials, not included in other classes; paper cards.

<p>19891646</p> 	<p>24</p>	<p><u>Class 24</u> woven labels.</p>
<p>19891647</p> <p>TEXWOOD</p>	<p>24</p>	<p><u>Class 24</u> woven labels.</p>
<p>301261458</p> 	<p>14, 18, 25, 35</p>	<p><u>Class 14</u> Horological and chronometric instruments; watches, wristwatches, pendant watches, pocket watches, jewellery watches, clocks; watch bands, bracelets, chains and straps; faces for watches; dials for watches; clock hands [clock and watch-making]; cases for watches, cases for clocks; precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; jewellery cases, jewellery boxes not of metal; parts and fittings for the aforesaid goods.</p> <p><u>Class 18</u> Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; handbags, trunks and travelling bags; carrying cases; garment bags; shoe bags; backpacks; sports bags; gym bags; knapsacks; rucksacks; shoulder bags; duffel bags; tote bags; shopping bags; bags for campers and climbers; school bags; belt bags; beach bags; luggage; luggage tags; valises; attaché cases; billfolds; pouches, wallets, purses; briefcases; lunch bags; fanny packs; waist bags; cosmetic bags and cases; toiletry bags and cases; key cases; clothing for pets; collars for animals; umbrellas, parasols and walking sticks; whips,</p>

	<p>harness and saddlery; all included in Class 18.</p> <p><u>Class 25</u> Clothing, footwear, headgear; jeans, riveted heavy weight denim jeans, trousers, bib overalls, shorts, dresses, pants, overalls, overcoats, shirts, T-shirts, vests, skirts, jackets, coats, sport coats, sports wear, sweaters, sweatshirts, sweatpants, outer shirts, slacks, underwear, undershirts, undervests, blazers, pullovers, suits, blouses, blouson, windbreakers, brassieres, briefs, gloves, scarves, scarfs, waistcoats, chemises, golf shirts, tank tops, jerseys, turtle-necks, warm-up suits, parkas, ponchos, swimwear, bikinis, swim trunks, rainwear, raincoats, wind resistant jackets, sleepwear, pyjamas, robes, lingerie, hats, caps, wool hats, visors, headbands, ear muffs, wristbands, bathrobes, boxer shorts, cloth bibs, ties, belts, stockings, socks, hosiery, sneakers, shoes, boots, beach shoes, slippers, sandals, suspenders.</p> <p><u>Class 35</u> Retail services, department store retailing services, supermarket retailing services, telephone, Internet and computerized online sales ordering services, ordering services provided at booth and commercial or advertising events in payable areas, at fairs, exhibitions, professional or public trade fairs for commercial or advertising purposes, ordering services provided at department stores, showrooms and retail stores, wholesaling services, retailing distributorship and on-line retailing in respect of eyewear, optical goods, goods in precious metals or coated therewith, jewellery, horological and chronometric instruments, precious stones, stationery, writing instruments, paper and paper</p>
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		<p>products, printed matter, gift wrapping materials and ribbons, goods made of leather and imitations of leather, animal skins, hides, bags, trunks and travelling bags, wallets, clothing for pets, collars for animals, umbrellas, parasols and walking sticks, textile and textile goods, clothing and fashion accessories, footwear, headgear; advertising and marketing services; advertising agencies services; dissemination of advertising matter; direct mail advertising; on-line sales, advertising and marketing services; demonstration of goods; distribution of sample; shop window dressing; organising displays; promotions and exhibitions for advertising purposes; business inquiries; business research and marketing studies; business and market statistical information; arranging of publication of publicity texts; arranging of newspaper subscription for others; business appraisal, business management assistance; business management and organisation consulting; import-export agencies; industrial management assistance; personnel management consulting; public relations; production, preparation and presentation of advertising matter; rental of advertising space; telephone answering services and message handling services; consultancy services relating to franchising; auctioneering; cost price analysis; compilation and rental of mailing lists; business investigation; provision of information, consultancy and advisory services for the aforesaid services.</p>
<p>301261467 texwood</p>	<p>14, 18, 25, 35</p>	<p><u>Class 14</u> Horological and chronometric instruments; watches, wristwatches, pendant watches, pocket watches, jewellery watches, clocks; watch bands, bracelets, chains and straps; faces for watches; dials for watches; clock hands [clock and</p>

	<p>watch-making]; cases for watches, cases for clocks; precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; jewellery cases, jewellery boxes not of metal; parts and fittings for the aforesaid goods.</p> <p><u>Class 18</u> Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; handbags, trunks and travelling bags; carrying cases; garment bags; shoe bags; backpacks; sports bags; gym bags; knapsacks; rucksacks; shoulder bags; duffel bags; tote bags; shopping bags; bags for campers and climbers; school bags; belt bags; beach bags; luggage; luggage tags; valises; attaché cases; billfolds; pouches, wallets, purses; briefcases; lunch bags; fanny packs; waist bags; cosmetic bags and cases; toiletry bags and cases; key cases; clothing for pets; collars for animals; umbrellas, parasols and walking sticks; whips, harness and saddlery; all included in Class 18.</p> <p><u>Class 25</u> Clothing, footwear, headgear; jeans, riveted heavy weight denim jeans, trousers, bib overalls, shorts, dresses, pants, overalls, overcoats, shirts, T-shirts, vests, skirts, jackets, coats, sport coats, sports wear, sweaters, sweatshirts, sweatpants, outer shirts, slacks, underwear, undershirts, undervests, blazers, pullovers, suits, blouses, blouson, windbreakers, brassieres, briefs, gloves, scarves, scarfs, waistcoats, chemises, golf shirts, tank tops, jerseys, turtle-necks, warm-up suits, parkas, ponchos, swimwear, bikinis, swim trunks, rainwear, raincoats, wind resistant jackets, sleepwear, pyjamas, robes, lingerie, hats, caps,</p>
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	<p>wool hats, visors, headbands, ear muffs, wristbands, bathrobes, boxer shorts, cloth bibs, ties, belts, stockings, socks, hosiery, sneakers, shoes, boots, beach shoes, slippers, sandals, suspenders.</p> <p><u>Class 35</u> Retail services, department store retailing services, supermarket retailing services, telephone, Internet and computerized online sales ordering services, ordering services provided at booth and commercial or advertising events in payable areas, at fairs, exhibitions, professional or public trade fairs for commercial or advertising purposes, ordering services provided at department stores, showrooms and retail stores, wholesaling services, retailing distributorship and on-line retailing in respect of eyewear, optical goods, goods in precious metals or coated therewith, jewellery, horological and chronometric instruments, precious stones, stationery, writing instruments, paper and paper products, printed matter, gift wrapping materials and ribbons, goods made of leather and imitations of leather, animal skins, hides, bags, trunks and travelling bags, wallets, clothing for pets, collars for animals, umbrellas, parasols and walking sticks, textile and textile goods, clothing and fashion accessories, footwear, headgear; advertising and marketing services; advertising agencies services; dissemination of advertising matter; direct mail advertising; on-line sales, advertising and marketing services; demonstration of goods; distribution of sample; shop window dressing; organising displays; promotions and exhibitions for advertising purposes; business inquiries; business research and marketing studies; business and market</p>
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		statistical information; arranging of publication of publicity texts; arranging of newspaper subscription for others; business appraisal, business management assistance; business management and organisation consulting; import-export agencies; industrial management assistance; personnel management consulting; public relations; production, preparation and presentation of advertising matter; rental of advertising space; telephone answering services and message handling services; consultancy services relating to franchising; auctioneering; cost price analysis; compilation and rental of mailing lists; business investigation; provision of information, consultancy and advisory services for the aforesaid services.
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