



World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001547225
Examiner: Chris Benney
Direct Telephone: +44(0)1633814598
Date: 09 March 2021

Intl Reg No: WO0000001547225
Mark: PURE BEAUTY LADY GODIVA (Figurative)
Holder: HISPALCO, S.A.
Class: 31

**Notification Of A Provisional Total Refusal Of Protection Based On An
Opposition By The United Kingdom Intellectual Property Office In
Accordance With Article 5 Of The Madrid Protocol**

I am writing to inform you that following receipt of an opposition to the above trade mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all goods and services of the International Registration.

Please find attached a copy of the Form TM7 'Notice of Opposition', which includes details of any marks referred to in the statement of case, which was received by the United Kingdom Trade Mark Registry. Copies of these documents have been sent to the holder informing them of this provisional refusal.

If the holder of the International Registration wishes to file a counterstatement, they must complete the form TM8 'Notice of defence and counterstatement', which is available at ipo.gov.uk/tmforms and **return it to this office** within **two months** of the date of this letter, which is **on or before 10 May 2021**. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a Form TM8 will result in the provisional refusal being upheld.

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the Form TM8 can be extended for a further seven months by the filing the Form TM9c 'Request for a cooling off period, which is available at ipo.gov.uk/tmforms

The Form TM8 should be received on or before the date requested above unless a cooling off period is entered into by the parties.

The holder of the International Registration must provide us with an address for correspondence in the United Kingdom, Gibraltar, the Isle of Man or the Channel Islands on a Form TM33 'Appointment or change of agent or contact address', which is available at ipo.gov.uk/tmforms within this two month period.

If one is not provided within this time the refusal will be made final.

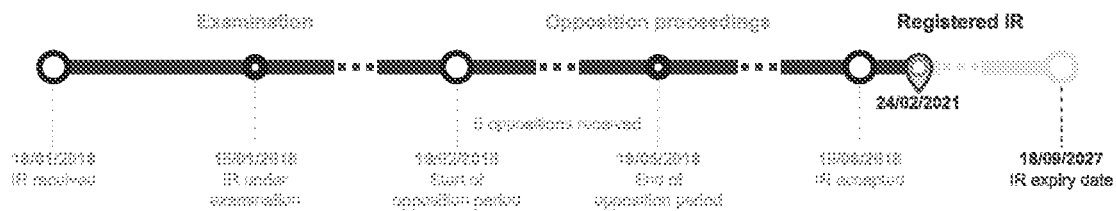
Yours faithfully

Chris Benney
Trade Marks Registry

EUTM file information

GODIVA
1385117

Timeline



Trade mark information

Name	GODIVA	Filing date	
Filing number	1385117	Registration date	18/09/2017
Basis	IR (Search on WIPO database)	Expiry date	18/09/2027
Date of receipt	18/01/2018	Designation date	18/09/2017
Type	Figurative	Filing language	English
Nature	Individual	Second language	German
Nice classes	30 (Nice Classification)	Application reference	
Vienna Classification	27.05.01 (Vienna Classification)	Trade mark status	IR accepted
		Acquired distinctiveness	No

Graphic representation

GODIVA

Goods and services

English (en)

30 Coffee, tea, cocoa and artificial coffee, confectionery, chocolate, biscuits, crackers, wafers, cakes.

Description

No data

Owners

GODIVA BELGIUM B.V./S.R.L.

ID	n/a	Country	BE - Belgium	
Organisation	n/a	State/county	n/a	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Private Limited Company	Town	n/a	
		Post code	n/a	
		Address	Veeartsenstra 42D B-1070 Anderlecht	Hidden. You can set your contact details to be publicly available via the User Area.
				Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

No data

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		IR	1385117	Processed	05/07/2018	
		IR	1385117	WIPO attachments	20/06/2018	
		IR	1385117	TRANGP	20/06/2018	
		IR	1385117	Processed	08/02/2018	
		IR	1385117	WIPO attachments	22/01/2018	
		IR	1385117	TRANGP	22/01/2018	
		IR	1385117	WIPO attachments	18/01/2018	
		IR	1385117	Birth	18/01/2018	
Showing 1 to 8 of 8 entries						

IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
2018/013	19/01/2018	M.1	IR_M_1
2018/115	20/06/2018	M.3.1	IR_M_3_1
Showing 1 to 2 of 2 entries			

Cancellation

No data

Recordals

No data

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data

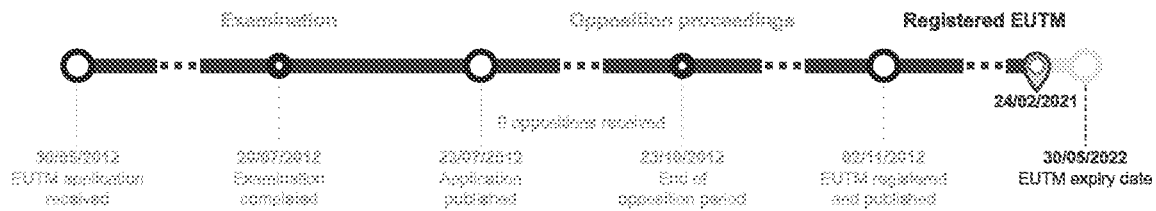
International Applications

No data

EUTM file information

GODIVA
010925303

Timeline



Trade mark information

Name	GODIVA	Filing date	30/05/2012
Filing number	010925303	Registration date	30/10/2012
Basis	EUTM	Expiry date	30/05/2022
Date of receipt	30/05/2012	Designation date	
Type	Word	Filing language	English
Nature	Individual	Second language	French
Nice classes	35, 43 (Nice Classification)	Application reference	LAB/CTM12-0742
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

35 Retail services related to food, confectionery and beverage products; advertising and publicity services in relation to gifts; advertising, promotional and publicity services, all employing gifts.

43 Restaurant, bar, coffee shop, café, catering and snack bar services; services for providing food and drink.

Description

No data

Owners

GODIVA BELGIUM B.V./S.R.L.

ID **516752** Country **BE - Belgium** Correspondence address

Organisation	GODIVA BELGIUM B.V./S.R.L.	State/country	n/a	GODIVA BELGIUM B.V./S.R.L. Veeartsenstraat 42 D B-1070 Anderlecht BÉLGICA	Hidden. You can set your contact details to be publicly available via the User Area.
		Town	Anderlecht		
Legal status	Legal entity	Post code	1070		
		Address	Veeartsenstra 42 D		Hidden. You can set your contact details to be publicly available via the User Area.
					Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

Württembergischer Rechtsanwälte

ID	95623	Country	DE - Germany	Correspondence address	
Organisation	n/a	State/country	n/a	Württembergischer Rechtsanwälte Maximiliansplatz 12b D-80333 München ALEMANIA	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Legal person	Town	München		
Type	Association	Post code	80333		
		Address	Maximilianspl 12b		Hidden. You can set your contact details to be publicly available via the User Area.
					Hidden. You can set your contact details to be publicly available via the User Area.

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Recordal	018112493	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	09/07/2020	
		Recordal	018112493	Application form and attachment	02/07/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	Application form and attachment	09/04/2020	
		Recordal	010860800	T725M - Registration of recordal C.2.2 / B.9.2	22/04/2016	
		Recordal	010860800	Application form and attachment	22/04/2016	
		EUTM	010925303	LSU01 — Information to proprietors of earlier trade mark registrations or applications (Article 43(7) EUTMR)	04/03/2014	
		EUTM	010925303	LSU01 — Information to proprietors of earlier trade mark registrations or applications (Article 43(7) EUTMR)	04/03/2014	
		Recordal	008064456	T724M - Registration of recordal (change of name and/or professional address of a representative)	17/12/2013	
Showing 1 to 10 of 18 entries						

IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
2012/138	23/07/2012	A.1	Applications published under Article 44 EUTMR (Article 39 EUTMR before 01/10/2017)
2012/162	27/08/2012	C.2.1	Representative - Change of name and professional address
2012/209	02/11/2012	B.2	Registrations with amendments since the application was published
2013/240	18/12/2013	C.2.1	Representative - Change of name and professional address
2013/240	18/12/2013	C.2.1	Representative - Change of name and professional address
2016/077	26/04/2016	C.2.2	Representative - Appointment / Replacement of representative
2020/071	15/04/2020	C.2.2	Representative - Appointment / Replacement of representative
2020/129	10/07/2020	C.1.3	Proprietor - Change of name and address
Showing 1 to 8 of 8 entries			

Cancellation

No data

Recordals

Bulletin number	Date	Section	Filing number	Title	Subtitle
2012/162	27/08/2012	C.2.1	006734233	Representative	Change of name and professional address
2013/240	18/12/2013	C.2.1	008064456	Representative	Change of name and professional address
2013/240	18/12/2013	C.2.1	008063276	Representative	Change of name and professional address
2016/077	26/04/2016	C.2.2	010860800	Representative	Appointment / Replacement of representative
2020/071	15/04/2020	C.2.2	017697668	Representative	Appointment / Replacement of representative
2020/129	10/07/2020	C.1.3	018112493	Proprietor	Change of name and address
Showing 1 to 6 of 6 entries					

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data

InternationalApplications

No data

[Skip to main content](#)

Intellectual Property Office

Trade mark number

UK00003347798

StatusRegistered

Overview

Trade mark

GODIVA

Dates

Filing date

23 October 2018

Date of entry in register

11 January 2019

Renewal date23 October 2028

Goods and services

Classes and terms

Class 35

Retail services related to food, confectionery and beverage products; advertising and publicity services in relation to gifts; advertising, promotional and publicity services, all employing gifts.

Class 43

Restaurant, bar, coffee shop, café, catering and snack bar services; services for providing food and drink.

Names and addresses

Owner(s) name

Godiva Belgium BVBA/SPRL

Wapenstilstandstraat 5 Rue de l'Armistice, Brussels, B-1081, Belgium

Country of Incorporation

Belgium

IPO representative name

Forresters IP LLP

Port of Liverpool Building, Pier Head, Liverpool, L3 1AF, United Kingdom

Publications

First advert

Journal

2018/044

Date of publication

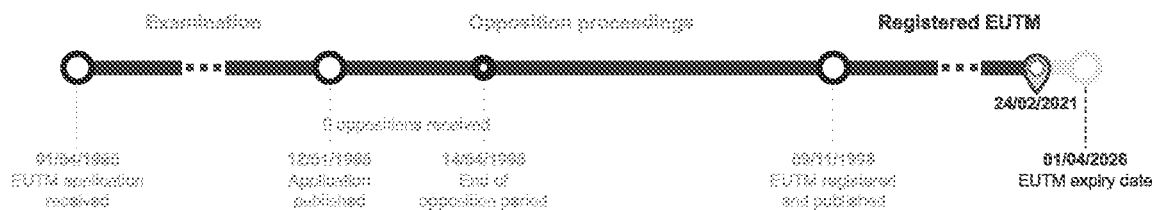
02 November 2018

Intellectual Property Office is an operating name of the Patent Office

EUTM file information

GODIVA
000184622

Timeline



Trade mark information

Name	GODIVA	Filing date	01/04/1996
Filing number	000184622	Registration date	25/09/1998
Basis	EUTM	Expiry date	01/04/2026
Date of receipt	01/04/1996	Designation date	
Type	Word	Filing language	Dutch
Nature	Individual	Second language	English
Nice classes	29, 30, 33 (Nice Classification)	Application reference	292340
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

29 Preserved, dried and cooked fruits; jellies, jams, milk products.

30 Coffee, tea, cocoa, sugar; chocolate products, biscuits, cakes, pastry and confectionery, ice; honey, treacle, sauces (except salad dressings).

33 Alcoholic beverages (except beer).

Description

No data

Owners

GODIVA BELGIUM B.V./S.R.L.

ID	516752	Country	BE - Belgium	Correspondence address	Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	GODIVA BELGIUM B.V./S.R.L.	State/county	n/a	GODIVA BELGIUM B.V./S.R.L.	
		Town	Anderlecht	Veeartsenstraat 42 D	
		Post code	1070	B-1070 Anderlecht	
Legal status	Legal entity	Address	Veeartsenstra 42 D	BÉLGICA	Hidden. You can set your contact details to be publicly available via the User Area.
					Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

Württembergischer Rechtsanwälte

ID	95623	Country	DE - Germany	Correspondence address	Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	n/a	State/county	n/a	Württembergischer Rechtsanwälte	
Legal status	Legal person	Town	München	Maximiliansplatz 12b	
Type	Association	Post code	80333	D-80333 München	
		Address	Maximilianspl 12b	ALEMANIA	Hidden. You can set your contact details to be publicly available via the User Area.
					Hidden. You can set your contact details to be publicly available via the User Area.

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Recordal	018331226	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	14/08/2020	
		Recordal	018331226	Application form and attachment	11/08/2020	
		Recordal	018331226	Letter to the EUIPO	11/08/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	Application form and attachment	09/04/2020	
		EUTM	000184622	LSU02 — Information to proprietors of earlier trade mark registrations or applications (Article 195(4) EUTMR)	24/01/2018	
		EUTM	000184622	LSU01 — Information to proprietors of earlier trade mark registrations or applications (Article 43(7) EUTMR)	09/01/2018	
		EUTM	000184622	LSU02 — Information to proprietors of earlier trade mark registrations or applications (Article 195(4) EUTMR)	11/10/2016	
		EUTM	000184622	LSU02 — Information to proprietors of earlier trade mark registrations or applications (Article 195(4) EUTMR)	11/10/2016	
Showing 1 to 10 of 83 entries						

IR transformation

No data

Seniority

Country	Filing number	Registration number	Priority date	Filing date	Registration date	International code	Status
Benelux		516642			26/05/1992	EU	ACCEPTED
Showing 1 to 1 of 1 entries							

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
1998/004	12/01/1998	A.1	Applications published under Article 44 EUTMR (Article 39 EUTMR before 01/10/2017)
1998/085	09/11/1998	B.2	Registrations with amendments since the application was published
2006/024	12/06/2006	D.1	Renewals
2007/043	20/08/2007	C.2.2	Representative - Appointment / Replacement of representative
2007/043	20/08/2007	C.2.1	Representative - Change of name and professional address
2007/045	27/08/2007	C.2.1	Representative - Change of name and professional address
2007/047	03/09/2007	C.2.2	Representative - Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	Representative - Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	Representative - Appointment / Replacement of representative
2009/004	02/02/2009	C.1.3	Proprietor - Change of name and address
Showing 1 to 10 of 16 entries			

Cancellation

No data

Recordals

Bulletin number	Date	Section	Filing number	Title	Subtitle
2006/024	12/06/2006	D.1	001441701	Renewal	Total Renewal
2007/043	20/08/2007	C.2.2	000723067	Representative	Appointment / Replacement of representative
2007/043	20/08/2007	C.2.1	001706756	Representative	Change of name and professional address
2007/045	27/08/2007	C.2.1	002285206	Representative	Change of name and professional address
2007/047	03/09/2007	C.2.2	001001026	Representative	Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	003478669	Representative	Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	003478933	Representative	Appointment / Replacement of representative

Bulletin number	Date	Section	Filing number	Title	Subtitle
2009/004	02/02/2009	C.1.3	003640722	Proprietor	Change of name and address
2009/005	09/02/2009	C.2.2	003657551	Representative	Appointment / Replacement of representative
2012/007	11/01/2012	C.2.2	006192671	Representative	Appointment / Replacement of representative
Showing 1 to 10 of 14 entries					

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

Title	Filing number	Status	Status date
Renewal	001441701	Trade mark renewed	12/06/2006
Renewal	010039603	Trade mark renewed	11/05/2016
Showing 1 to 2 of 2 entries			

Trade mark relations

No data

International Applications

No data



Form TM7

Notice of opposition and statement of grounds

Fee ☐ £100 Opposition based on Section 5(1) and/or 5(2) ONLY

☒ £200 Opposition based on, or including, any other grounds

Note: If you wish to oppose under Section 5(1) and/or 5(2) and one or more other grounds, the fee will be £200

Use this form to notify of an opposition to a trade mark application or international registration and to set out the grounds on which you are basing this opposition.

Do not use this form if you wish to file a Fast Track opposition under Section 5(1) and/or 5(2): use Form TM7F.

1. Trade mark number

Number of the trade mark you are opposing. If the opposition concerns an International Registration, help us identify the correct trade mark by adding "IR."

WO0000001547225

2. Full name of applicant/holder

Whose trade mark you are opposing.

HISPALCO, S.A.

3. Full name of opponent

GODIVA BELGIUM B.V./S.R.L

Address

If the address is not within the United Kingdom, Gibraltar or the Channel Islands you must have a representative in one of these regions and complete section 4 below.

Veeartsenstraat 42D

1070 Anderlecht

Belgium

Postcode

PLEASE NOTE: Publication of name and address and other information you provide. We publish the owner's name and address and other information you provide in our searchable records. You should provide a business or PO Box address if you do not want your home address published. I understand that name and address details and other information I provide will be published. ☐

If you are opposing on the basis of a comparable mark, please refer to TPN 2/2020 for information about the address for service that will apply to you.

Email address

Complete if you have no representative and would like us to correspond with you by email.

4. Representative name

If you have no representative, go to section 5.

TAYLOR WESSING LLP

Address

The address provided in this section must be within the United Kingdom, Gibraltar or the Channel Islands.

If you are opposing on the basis of a comparable mark, please refer to TPN 2/2020 for information about the address for service that will apply to you.

5 New Street Square

London

NOTE: We will communicate with the representative if this section has been completed.

Postcode EC4A 3TW

Email address

Complete if you would like us to correspond with you by email

trademarksfilinguk@taylorwessing.com

5. Related proceedings

If applicable, select location of any related proceedings and enter the case number allocated to the proceedings.

IPO Registry

UK Courts

EUIPO

Number B 003049379

6. Opposition notification date

If you have informed the applicant/holder of an intention to oppose the trade mark application, designation – enter the date you notified them.
[**See Note]

N/A

****Note:** An opposition launched without giving the applicant or holder a reasonable opportunity to withdraw the application, international designation or amendment may result in the opponent being ineligible for an award of costs.

7. Declaration

I believe that the facts stated in this form and the attached statement of grounds are true.

Signature

Taylor Wessing LLP

Name

(BLOCK CAPITALS)

TAYLOR WESSING LLP

Date

16 February 2021

8. Your reference

Complete if you would like us to quote this in communications with you, otherwise leave blank.

GOD26.U56-14

Contact details

Name, daytime telephone number of the person to contact in case of query.

Julia King
0207 300 4144

Number of sheets attached to this form

Checklist

Please make sure you have remembered to:

☐

Sign and date the form

Email your form to us:

Send your form, saved as a PDF to:

forms@ipo.gov.uk

For help saving your form as a PDF see:

<https://www.gov.uk/government/publications/how-to-file-documents-with-the-intellectual-property-office/how-to-file-documents-with-the-intellectual-property-office>

If you cannot email your form, post to:

Intellectual Property Office
Trade Marks Registry
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

Please tick on what grounds you are opposing the trade mark and continue to the relevant section(s)

☐

Opposition is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark.

> COMPLETE SECTION A

☐

Opposition is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION B

☐

Opposition is based on Section 5(4)(a): Where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier right. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION C

☐

Opposition is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade, or the application was made in bad faith.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION D

☐

Opposition is based on other grounds.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION E

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

EU Designation of IR 1385117

Type of mark

Please tick

<input type="checkbox"/>	UK	<input type="checkbox"/>	EUTM	<input checked="" type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☐

Yes

☒

No > GO TO Q4

Q3. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☐

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and for example why you consider the respective marks or goods and/or services to be similar.

Please see paragraphs 4 to 16 of the attached Statement of Grounds.

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

EU 10925303

Type of mark

Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>
<p>Retail services related to food, confectionery and beverage products; advertising and publicity services in relation to gifts; advertising, promotional and publicity services, all employing gifts.</p>	

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☒

Yes

☐

No > GO TO Q4

Q3. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☒

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and for example why you consider the respective marks or goods and/or services to be similar.

Please see paragraphs 4 to 16 of the attached Statement of Grounds.

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

UK00003347798

Type of mark

Please tick



UK

EUTM

International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☐

Yes

☒

No > GO TO Q4

Q3. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☐

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and for example why you consider the respective marks or goods and/or services to be similar.

Please see paragraphs 4 to 16 of the attached Statement of Grounds.

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

EU000184622

Type of mark Please tick	<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark
Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>
<p>Coffee, tea, cocoa, sugar; chocolate products, biscuits, cakes, pastry and confectionery, ice; honey, treacle, sauces (except salad dressings).</p>	

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☒

Yes

☐

No > GO TO Q4

Q3. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☒

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and for example why you consider the respective marks or goods and/or services to be similar.

Please see paragraphs 4 to 16 of the attached Statement of Grounds.

SECTION B: Opposition is based on section 5(3) of the Trade Marks Act on the basis of an earlier registered or pending trade mark, that is identical with or similar to an earlier mark which has a reputation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number Your trade mark	EU Designation of IR 1385117					
Type of mark Please tick	<input type="checkbox"/>	UK	<input type="checkbox"/>	EUTM	<input checked="" type="checkbox"/>	International

Representation of your trade mark
Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. For which goods or services covered by your earlier trade mark does it have a reputation?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. For which goods or services in the application (you are opposing) would use of the applicant's mark take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier trade mark?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q3. Is it claimed that the similarity between the reputed earlier trade mark and the later trade mark is such that the relevant public will believe that they are used by the same undertaking or think that there is an economic connection between the users of the trade marks?

☒

Yes

☐

No

Use this space to supply any further information

Please see paragraphs 17 to 19 of the attached Statement of Grounds.

QUESTIONS 4 TO 6 SHOULD BE ANSWERED IF THERE IS ANY OTHER BASIS FOR YOUR CLAIM OTHER THAN FOR YOUR ANSWER TO Q.3

Q4. Is there any other basis for your claim of unfair advantage? If so, please explain what the advantage would be to the holder of the later mark, and why it is unfair.

Please see paragraph 20 of the attached Statement of Grounds.

Q5. Is there any other basis for your claim of detriment to the reputation of the earlier mark? If so, please explain what the detriment would be and how it would occur.

Please see paragraph 21 of the attached Statement of Grounds.

Q6. Is there any other basis for your claim of detriment to the distinctive character of the earlier mark? If so, please explain what the detriment would be and how it would affect the economic behaviour of the relevant public.

Please see paragraphs 22 and 23 of the attached Statement of Grounds.

Q7. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

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Yes

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No > GO TO Q10

Q8. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

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Yes

☐

No > GO TO Q9b

Q9a. For which of the goods and services listed at Q1 is trade mark use being claimed?

	All goods and services
	Some goods and services (<i>please specify below, use a continuation sheet if necessary</i>)

> GO TO Q10

Q9b. Please state any proper reasons for non-use.

--

Q10. Use this space to give any further information to explain why you are opposing the application on this ground.

<p>Please see paragraphs 17 to 24 of the attached Statement of Grounds.</p>

SECTION B: Opposition is based on section 5(3) of the Trade Marks Act on the basis of an earlier registered or pending trade mark, that is identical with or similar to an earlier mark which has a reputation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number Your trade mark	EU 10925303
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Type of mark Please tick	<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. For which goods or services covered by your earlier trade mark does it have a reputation?

	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>
<p>Retail services related to food, confectionery and beverage products; advertising and publicity services in relation to gifts; advertising, promotional and publicity services, all employing gifts.</p>	

Q2. For which goods or services in the application (you are opposing) would use of the applicant's mark take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier trade mark?

<input checked="" type="checkbox"/>	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q3. Is it claimed that the similarity between the reputed earlier trade mark and the later trade mark is such that the relevant public will believe that they are used by the same undertaking or think that there is an economic connection between the users of the trade marks?

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Yes

☐

No

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Please see paragraphs 17 to 19 of the attached Statement of Grounds.

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Q4. Is there any other basis for your claim of unfair advantage? If so, please explain what the advantage would be to the holder of the later mark, and why it is unfair.

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Q5. Is there any other basis for your claim of detriment to the reputation of the earlier mark? If so, please explain what the detriment would be and how it would occur.

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Q7. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☒

Yes

☐

No > GO TO Q10

Q8. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☒

Yes

☐

No > GO TO Q9b

Q9a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (<i>please specify below, use a continuation sheet if necessary</i>)

> GO TO Q10

Q9b. Please state any proper reasons for non-use.

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Q10. Use this space to give any further information to explain why you are opposing the application on this ground.

Please see paragraphs 17 to 24 of the attached Statement of Grounds.
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SECTION B: Opposition is based on section 5(3) of the Trade Marks Act on the basis of an earlier registered or pending trade mark, that is identical with or similar to an earlier mark which has a reputation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number Your trade mark	UK00003347798
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Type of mark Please tick	<input checked="checked" type="checkbox"/>	UK	<input type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. For which goods or services covered by your earlier trade mark does it have a reputation?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. For which goods or services in the application (you are opposing) would use of the applicant's mark take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier trade mark?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q3. Is it claimed that the similarity between the reputed earlier trade mark and the later trade mark is such that the relevant public will believe that they are used by the same undertaking or think that there is an economic connection between the users of the trade marks?

☒

Yes

☐

No

Use this space to supply any further information

Please see paragraphs 17 to 19 of the attached Statement of Grounds.

QUESTIONS 4 TO 6 SHOULD BE ANSWERED IF THERE IS ANY OTHER BASIS FOR YOUR CLAIM OTHER THAN FOR YOUR ANSWER TO Q.3

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Please see paragraph 20 of the attached Statement of Grounds.

Q5. Is there any other basis for your claim of detriment to the reputation of the earlier mark? If so, please explain what the detriment would be and how it would occur.

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Q6. Is there any other basis for your claim of detriment to the distinctive character of the earlier mark? If so, please explain what the detriment would be and how it would affect the economic behaviour of the relevant public.

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Q7. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☐

Yes

☒

No > GO TO Q10

Q8. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☐

Yes

☐

No > GO TO Q9b

Q9a. For which of the goods and services listed at Q1 is trade mark use being claimed?

	All goods and services
	Some goods and services (<i>please specify below, use a continuation sheet if necessary</i>)

> GO TO Q10

Q9b. Please state any proper reasons for non-use.

--

Q10. Use this space to give any further information to explain why you are opposing the application on this ground.

Please see paragraphs 17 to 24 of the attached Statement of Grounds.
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SECTION B: Opposition is based on section 5(3) of the Trade Marks Act on the basis of an earlier registered or pending trade mark, that is identical with or similar to an earlier mark which has a reputation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number Your trade mark	EU 000184622
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Type of mark Please tick	<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

GODIVA

Q1. For which goods or services covered by your earlier trade mark does it have a reputation?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>
<p>Coffee, tea, cocoa, sugar; chocolate products, biscuits, cakes, pastry and confectionery, ice; honey, treacle, sauces (except salad dressings).</p>	

Q2. For which goods or services in the application (you are opposing) would use of the applicant's mark take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier trade mark?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q3. Is it claimed that the similarity between the reputed earlier trade mark and the later trade mark is such that the relevant public will believe that they are used by the same undertaking or think that there is an economic connection between the users of the trade marks?

☒

Yes

☐

No

Use this space to supply any further information

Please see paragraphs 17 to 19 of the attached Statement of Grounds.

QUESTIONS 4 TO 6 SHOULD BE ANSWERED IF THERE IS ANY OTHER BASIS FOR YOUR CLAIM OTHER THAN FOR YOUR ANSWER TO Q.3

Q4. Is there any other basis for your claim of unfair advantage? If so, please explain what the advantage would be to the holder of the later mark, and why it is unfair.

Please see paragraph 20 of the attached Statement of Grounds.

Q5. Is there any other basis for your claim of detriment to the reputation of the earlier mark? If so, please explain what the detriment would be and how it would occur.

Please see paragraph 21 of the attached Statement of Grounds.

Q6. Is there any other basis for your claim of detriment to the distinctive character of the earlier mark? If so, please explain what the detriment would be and how it would affect the economic behaviour of the relevant public.

Please see paragraphs 22 and 23 of the attached Statement of Grounds.

Q7. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☒

Yes

☐

No > GO TO Q10

Q8. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☒

Yes

☐

No > GO TO Q9b

Q9a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (<i>please specify below, use a continuation sheet if necessary</i>)

> GO TO Q10

Q9b. Please state any proper reasons for non-use.

--

Q10. Use this space to give any further information to explain why you are opposing the application on this ground.

Please see paragraphs 17 to 24 of the attached Statement of Grounds.
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UK TRADE MARKS ACT 1994

IN THE MATTER OF:

**UK Designation of International
Registration No. 1547225 in class 31
in the name of HISPALCO, S.A.**

- and -

**Opposition thereto by GODIVA
BELGIUM B.V./S.R.L.**


STATEMENT OF GROUNDS

BACKGROUND

1. GODIVA BELGIUM B.V./S.R.L. (the "**Opponent**") is the owner of the following UK and EU trade mark registrations (the "**Earlier Registrations**");

Territory	Number	Trade Mark (the " Earlier Mark ")	Classes	Filing Date
EU	EU Designation of IR 1385117	GODIVA	30	18 September 2017
EU	EU 10925303	GODIVA	35 & 43	30 May 2012
UK	UK00003347798	GODIVA	35 & 43	23 October 2018
EU	EU 000184622	GODIVA	29, 30 & 33	1 April 1996

2. HISPALCO, S.A. (the "**Applicant**") is the owner of the following UK Designation of an International Registration (the "**Contested Application**");

Territory	Number	Trade Mark (the " Contested Mark ")	Class	Filing Date
UK	1547225		31	18 May 2020 Designation date

3. The Opponent's Earlier Registrations predate the Contested Application. They therefore constitute "earlier trade marks" for the purposes of Section 6(1)(a) of the UK Trade Marks Act 1994 (as amended) (the "TMA").

OPPOSITION UNDER S5(2) TMA

Comparison of the marks

4. The Contested Mark is highly visually, phonetically and conceptually similar to the Earlier Mark.
5. The Contested Mark consists of a representation of a woman on a horse, combined with several words, the first two of which will be perceived by the average consumer as non-distinctive due to their laudatory content, and the fact that they are positioned vertically and in smaller font, unlike the remaining the words in the trade mark.
6. The words GO DIVA must be considered to be the dominant and distinctive elements of the Contested Mark. These words replicate the Earlier Mark in their entirety through their inclusion of the word GODIVA.
7. The words GO DIVA and GODIVA will be read and pronounced in highly similar ways, meaning that the Contested Mark is therefore highly visually and phonetically similar to the Earlier Mark.
8. The Contested Mark is also highly conceptually similar to the Earlier Mark through the inclusion of the words LADY GO DIVA, which will be understood as referring to either the figure from Anglo-Saxon history, or the secondary meaning acquired by the Opponent's reputed brand.

Comparison of the goods

9. The Contested Mark seeks protection in relation to "*fresh fruit and vegetables*" in class 31 (the "**Contested Goods**").
10. The Earlier Registrations cover, *inter alia*, "confectionery" in class 30 and "*retail services related to food, confectionery and beverage products*" in class 35 (the "**Earlier Goods and Services**").
11. The Contested Goods and the Earlier Goods and Services are sold through the same channels of trade, are bought in conjunction with one another by the same consumers and are bought to complement each other.
12. For these reasons, the Contested Goods, being complementary to confectionery, and being highly similar to the retail of the same food and confectionery products, must be held to be highly similar to the Earlier Goods and Services.

Global assessment of the likelihood of confusion

13. Both the Earlier Mark and the Contested Mark contain the dominant and distinctive word GODIVA, rendering them highly visually, phonetically and conceptually similar.
14. The relevant public of both the Contested Goods and the Earlier Goods and Services is an average consumer with a low to average degree of attention.
15. The Earlier Mark has been extensively used throughout the European Union and the United Kingdom, meaning that it possesses a high degree of enhanced distinctiveness.

16. In view of the above, it is clear that there is a likelihood of confusion on the part of the public between the Earlier Registrations and the Contested Application.

OPPOSITION UNDER S5(3) TMA

17. The Contested Mark is highly similar to the Earlier Mark.
18. The Earlier Mark has acquired a substantial reputation in the United Kingdom and throughout the European Union in relation to the goods and services for which reputation is claimed (the "**Reputed Goods and Services**"). This reputation is as a result of the significant promotion and use made of the Earlier Mark in relation to the Reputed Goods and Services in the United Kingdom and throughout the European Union.
19. Due to the high degree of similarity between the Contested Mark and the Earlier Mark, the enhanced level of distinctiveness and the extent of the significant reputation of the Earlier Mark in relation to the Reputed Goods and Services, as well the direct overlap between the relevant consumers of the Contested Goods and the Reputed Goods and Services, a mental link between the Contested Mark and the Earlier Mark will easily be made by the relevant public.
20. Use of the Contested Mark, being without due cause, would take unfair advantage of the Earlier Mark by free-riding on its distinctiveness and reputation. The Applicant will gain an advantage from the substantial reputation of the Earlier Mark because the Contested Mark will gain attention and marketability for its Contested Goods by riding on the coat-tails of the Earlier Mark and benefiting from the Opponent's marketing efforts. Furthermore, the strong reputation of the Earlier Mark will be transposed to the Contested Mark, meaning that the offering for sale of the Contested Goods will become easier for the Applicant. The advantage resulting from the use of a similar trade mark must be considered to be an advantage unfairly gained of the distinctive character and the huge repute of the Earlier Mark.
21. Use of the Contested Mark will cause detriment to the reputation of the Earlier Mark if the goods are of inferior quality, given that the relevant public is very likely to make a mental link between the Contested Mark and the Earlier Mark. This inferior quality is likely to have a negative impact on the image, prestige and huge reputation of the Opponent's Earlier Mark and its power of attraction will therefore be reduced.
22. Use of the Contested Mark will cause detriment to the distinctive character of the Earlier Mark because it will dilute its distinctiveness. The ability of the Earlier Mark to uniquely identify the Reputed Goods and Services would be weakened since use of a highly similar mark by a third party would lead to the dispersion of the captivation and the hold in the public mind of the reputed Earlier Mark.
23. The Earlier Mark, which at one-time aroused immediate association in the eyes of the relevant public, would no longer be capable of doing so. If the Contested Mark brings to mind the Earlier Mark in the eyes of the relevant public, the use of it will diminish the ability of the Earlier Mark to distinguish its goods. This is likely to lead to a change in the economic behaviour of the Opponent's customers.

Conclusion

24. In view of the above, it is clear that the Contested Mark is highly similar to the Earlier Mark, which has a reputation in the United Kingdom and the European Union in respect of the Reputed Goods and Services, and that the use of the Contested Mark, without due cause, would take unfair advantage of, and be detrimental to, the distinctive character and the repute of the Earlier Mark.

Requests

25. The Opponent therefore requests that the opposition is upheld in its entirety under sections 5(2)(b) and 5(3) of the TMA, that the Contested Mark is refused registration in respect of all goods for which protection is sought, and that an award of costs is made in favour of the Opponent.

Taylor Wessing LLP

Representative for the Opponent

16 February 2021