



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

Your Reference:
International Registration No:
WO0000001613195
Examiner: Chelsea Powell
Direct Telephone: +44(0)1633814304
Date: 01 June 2022

Intl Reg No: WO0000001613195
Mark: THE 1872 CLIPPER TEA CO.
Holder: NAVA 1872 PTE. LTD.
Class(es): 30

**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 of the goods and services of the International Registration.

Please find attached a copy of the 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, **01 August 2022**. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a 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 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 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 (which for the purpose of the Act includes the Isle of Man, the Channel Islands and Gibraltar) 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 If one is not provided within this time, the international registration will be treated as withdrawn in whole or part.

Yours faithfully

Chelsea Powell

Trade Marks Registry

[Skip to main content](#)

Intellectual Property Office

Trade mark number

UK00002285740

Status

Registered

Overview

Trade mark

CLIPPER

CLIPPER

CLIPPER

Mark details

Number of marks in series

3

Dates

Filing date

16 November 2001

Date of entry in register

08 August 2003

Renewal date

16 November 2031

Goods and services**Classes and terms**

Class 30

Tea and coffee; tea and coffee products; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; flavoured teas; instant coffee; ground coffee; coffee beans; chocolate beverages and cocoa beverages.

Names and addresses**Owner(s) name****Kallo Foods Limited**

2 River View, Meadows Business Park, Station Approach, Blackwater, Camberley, Surrey, GU17 9AB, United Kingdom

IPO representative name**Novagraaf UK**

3rd Floor, 77 Gracechurch Street, London, EC3V 0AS, United Kingdom

Publications**First advert****Journal**

6477

Date of publication

25 April 2003

Intellectual Property Office is an operating name of the Patent Office

[Skip to main content](#)

Intellectual Property Office

Trade mark number

UK0002499915A

Status

Registered

Overview

Trade mark

CLIPPER NATURAL, FAIR & DELICIOUS

Dates

Filing date

10 October 2008

Date of entry in register

05 June 2009

Renewal date

10 October 2028

Goods and services

Classes and terms

Class 11

Class 16

Class 18

Class 20

Class 21

Class 24

Class 25

Class 29

Class 30

Beverages, tea and coffee; tea and coffee products; coffee beans; coffee substitutes; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; white tea; flavoured teas; iced tea; tea substitutes; instant coffee; ground coffee; coffee beans; chocolate and cocoa-based beverages; confectionery; chocolate based products; oat based food and drinks; malt based food and drinks; ice cream; bread, biscuits, cakes, pastries, cookies; preparations for making the aforesaid goods; granola, sugar, sugar cubes and sticks; sauces, spices; flavourings, flavouring syrups, essences.

Class 35

Class 36

Class 43

Names and addresses

Owner(s) name

Kallo Foods Limited

2 River View, Meadows Business Park, Station Approach, Blackwater, Camberley, Surrey, GU17 9AB, United Kingdom

IPO representative name

Novagraaf UK

3rd Floor, 77 Gracechurch Street, London, EC3V 0AS, United Kingdom

Publications

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6779

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27 March 2009

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Dates

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10 October 2008

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Classes and terms

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Class 16

Class 18

Class 20

Class 21

Class 24

Class 25

Class 29

Class 30

Beverages, tea and coffee; tea and coffee products; coffee beans; coffee substitutes; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; white tea; flavoured teas; iced tea; tea substitutes; instant coffee; ground coffee; coffee beans; chocolate and cocoa-based beverages; confectionery; chocolate based products; oat based food and drinks; malt based food and drinks; ice cream; bread, biscuits, cakes, pastries, cookies; preparations for making the aforesaid goods; granola, sugar, sugar cubes and sticks; sauces, spices; flavourings, flavouring syrups, essences.

Class 35

Class 36

Class 43

Names and addresses

Owner(s) name

Kallo Foods Limited

2 River View, Meadows Business Park, Station Approach, Blackwater, Camberley, Surrey, GU17 9AB, United Kingdom

IPO representative name

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3rd Floor, 77 Gracechurch Street, London, EC3V 0AS, United Kingdom

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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"	WO0000001613195
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2. Full name of applicant/holder Whose trade mark you are opposing	NAVA 1872 PTE. LTD.
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3. Full name of opponent	Kallo Foods Limited
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Address

If the address is not within the United Kingdom, European Economic Area (EEA – which includes the European Union) or the Channel Islands you must have a representative in one of these regions and complete section 4 below

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.

2 River View, Meadows Business Park,	
Station Approach,	
Blackwater, Camberley,	
Surry	Postcode GU17 9AB

ADDITIONAL INFORMATION: It will no longer be possible for two (or more) parties to jointly oppose a trade mark based on earlier marks/rights that they each own, unless the parties jointly own the relevant earlier marks/rights. Separate oppositions will now be required. See section 38(2A) of the Act.

Email address

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

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4. Representative name If you have no representative, go to section 5.	Novagraaf UK
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Address

The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands.

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

3rd Floor,	
77 Gracechurch Street,	
London	
	Postcode EC3V 0AS

Email address

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

info.london@novagraaf.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

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

Novagraaf UK

Name

(BLOCK CAPITALS)

NOVAGRAAF UK

Date

28 April 2022

8. Your reference

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

1861333K/GB

Contact details

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

Novagraaf UK
02074690950

Number of sheets attached to this form

06

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

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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

00002285740

Type of mark

Please tick

<input 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.

CLIPPER

CLIPPER

CLIPPER

(series of three)

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 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 e.g. why you consider the respective marks or goods and/or services to be similar.

See the attached Statement of Grounds, paragraphs 6 to 10

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

0002499915A

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.

CLIPPER NATURAL, FAIR & DELICIOUS

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

	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>
<p>Class 30</p> <p>Beverages, tea and coffee; tea and coffee products; coffee beans; coffee substitutes; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; white tea; flavoured teas; iced tea; tea substitutes; instant coffee; ground coffee; coffee beans; chocolate and cocoa-based beverages; confectionery; chocolate based products; oat based food and drinks; malt based food and drinks; ice cream; bread, biscuits, cakes, pastries, cookies; preparations for making the aforesaid goods; granola, sugar, sugar cubes and sticks; sauces, spices; flavourings, flavouring syrups, essences.</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
	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
	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 e.g. why you consider the respective marks or goods and/or services to be similar.

<p>See the attached Statement of Grounds, paragraphs 6 to 10</p>
--

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

0002499915B

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.



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

	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>
<p>Class 30</p> <p>Beverages, tea and coffee; tea and coffee products; coffee beans; coffee substitutes; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; white tea; flavoured teas; iced tea; tea substitutes; instant coffee; ground coffee; coffee beans; chocolate and cocoa-based beverages; confectionery; chocolate based products; oat based food and drinks; malt based food and drinks; ice cream; bread, biscuits, cakes, pastries, cookies; preparations for making the aforesaid goods; granola, sugar, sugar cubes and sticks; sauces, spices; flavourings, flavouring syrups, essences.</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
	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 e.g. why you consider the respective marks or goods and/or services to be similar.

<p>See the attached Statement of Grounds, paragraphs 6 to 10</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

00002285740

Type of mark
Please tick

<input 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.

CLIPPER

CLIPPER

CLIPPER

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

<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. 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

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 12.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 13.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraphs 11 and 13.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 14.

Q7. STATEMENT OF USE PROVISION - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application 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 publication 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.

--

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

0002499915A

Type of mark

Please tick

<input 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.

CLIPPER NATURAL, FAIR & DELICIOUS

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 13.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraphs 11 and 13.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 14.

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

0002499915B

Type of mark

Please tick

<input 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.



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>
Class 30 Beverages, tea and coffee; tea and coffee products; coffee beans; coffee substitutes; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; white tea; flavoured teas; iced tea; tea substitutes; instant coffee; ground coffee; coffee beans; chocolate and cocoa-based beverages; confectionery; chocolate based products; oat based food and drinks; malt based food and drinks; ice cream; bread, biscuits, cakes, pastries, cookies; preparations for making the aforesaid goods; granola, sugar, sugar cubes and sticks; sauces, spices; flavourings, flavouring syrups, essences.	

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

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 12.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 13.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraphs 11 and 13.

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.

Yes, see attached Statement of Grounds paragraphs 11 to 14 and in particular paragraph 14.

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

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

ABOUT THE EARLIER UNREGISTERED TRADE MARK

Representation of your trade mark

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

CLIPPER

Q1. When and where was the earlier right first used in the UK?

Date used:

Enter date of first use

1984

Where used:

Enter name of city/region or specify 'throughout UK' if used nationally

Throughout UK

Q2. On which goods or services has the earlier right been used for?

Tea and coffee; tea and coffee products; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; flavoured teas; instant coffee; ground coffee; coffee beans; chocolate beverages and cocoa beverages.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q3. For which goods or services (of the application that you are opposing) do you consider that use of the applicant's mark would amount to passing off?

<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>

Q4. Why would use of the applicant's trade mark be contrary to law, particularly the law of passing off?

see attached Statement of Grounds, paragraphs 15 and 16.

TRADE MARKS ACT 1994

In the matter Trade Mark No. WO0000001613195 for **THE 1872 CLIPPER TEA CO.** (word mark) in the name of NAVA 1872 PTE. LTD. (the "**Applicant**")

- and -

Opposition thereto by Kallo Foods Limited ("**the Opponent**")

STATEMENT OF GROUNDS

1. The Application which is the subject of this present Opposition is for the following mark:-

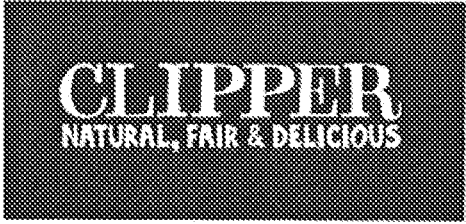
THE 1872 CLIPPER TEA CO.

(the "mark at issue") has a UK designation date of 13 August 2021, and a priority date of 17 February 2021, and has been published for opposition purposes in Journal No. 2022/014 on 08 April 2022 for the following goods:

Class 30: *Tea; chai tea; iced tea; black tea; fruit tea; green tea; white tea; ginger tea; oolong tea; ginseng tea; jasmine tea; rooibos tea; aromatic tea; packaged tea; rose hip tea; chamomile tea; earl grey tea; fermented tea; peppermint tea; tieguanyin tea; theine-free tea; tea bags, filled; Japanese green tea; tea leaves, processed; flowers or leaves for use as tea substitutes; herbal tea, other than for medicinal use.*


2. The Opponent is the proprietor of the following UK trade mark registrations:-

Trade Mark	Reg. No.	Classes & Goods
<p>CLIPPER</p> <p>CLIPPER</p> <p>CLIPPER</p> <p>(Series of three)</p>	00002285740	<p><u>Class 30</u></p> <p>Tea and coffee; tea and coffee products; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; flavoured teas; instant coffee; ground coffee; coffee beans; chocolate beverages and cocoa beverages.</p>
CLIPPER NATURAL, FAIR & DELICIOUS	0002499915A	<p><u>Class 30</u></p> <p>Beverages, tea and coffee; tea and coffee products; coffee beans; coffee substitutes; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; white tea; flavoured teas; iced tea; tea substitutes; instant coffee; ground coffee; coffee beans; chocolate and cocoa-based beverages; confectionery; chocolate based products; oat based food and drinks; malt based food and drinks; ice cream; bread, biscuits, cakes, pastries, cookies; preparations for making the aforesaid goods; granola, sugar, sugar cubes and sticks; sauces, spices; flavourings, flavouring syrups, essences.</p>

	0002499915B	<p><u>Class 30</u></p> <p>Beverages, tea and coffee; tea and coffee products; coffee beans; coffee substitutes; tea bags; fruit and herbal teas, fruit and herbal infusions; green tea; white tea; flavoured teas; iced tea; tea substitutes; instant coffee; ground coffee; coffee beans; chocolate and cocoa-based beverages; confectionery; chocolate based products; oat based food and drinks; malt based food and drinks; ice cream; bread, biscuits, cakes, pastries, cookies; preparations for making the aforesaid goods; granola, sugar, sugar cubes and sticks; sauces, spices; flavourings, flavouring syrups, essences.</p>
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3. The above listed registrations are each an earlier trade mark within the meaning of Section 6(1)(a) of the Trade Marks Act 1994 (the "Act").
4. The Opponent relies on the earlier trade marks as the grounds for refusal of registration of the mark at issue on the basis of Sections 5(2)(b) and 5(3) of the Act. The mark at issue is similar to the earlier trade marks and is to be registered for identical and similar goods. Consequently, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade marks. The earlier trade marks have a reputation in the United Kingdom and the use of the mark at issue without due cause would take unfair advantage of, or be detrimental to, the distinctive character and/or repute of the earlier trade marks.
5. The Opponent also relies on Section 5(4) of the Act on the basis that the earlier trade mark "CLIPPER" has been used in the United Kingdom since at least as early as 1984. The Opponent has acquired goodwill and/or a reputation in the market for their goods. The use of a similar mark by the Applicant (Holder) is a misrepresentation, leading or likely to lead the public to believe that the goods offered by the Applicant are the goods of the Opponent. As a result, the Opponent suffers, or is likely to suffer, damage by reason of the erroneous belief engendered by the Applicant's misrepresentation that the source of the Applicant's goods is the same as the source of those offered by the Opponent.

Section 5(2)(b)**6. Comparison of Marks**

Earlier Trade Marks	Opposed Trade Mark
<p>CLIPPER</p> <p>CLIPPER</p> <p>CLIPPER</p>	<p>THE 1872 CLIPPER TEA CO.</p>
<p>CLIPPER NATURAL, FAIR & DELICIOUS</p>	<p>THE 1872 CLIPPER TEA CO.</p>
	<p>THE 1872 CLIPPER TEA CO.</p>

7. The dominant distinctive element of the earlier trade marks is the word CLIPPER, which is identically contained in the mark at issue which also includes the word TEA, which describes the goods for which the Opponent's earlier trade marks are registered and enjoy reputation and goodwill. Accordingly, the marks under comparison are similar visually, aurally and conceptually to a medium to high degree.

8. Comparison of Goods

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

9. The mark at issue is proposed to be registered for a wide range of 'Teas' in Class 30 and consequently are identical and/or similar to the Class 30 goods, particularly 'Tea', protected under the earlier trade marks.
10. The marks are similar and cover identical and similar goods. There is therefore a likelihood of confusion, which includes the likelihood of association, on the part of the public.

Section 5(3)

11. The earlier trade marks are relied upon for the purposes of Section 5(3) of the Act. With the reputation acquired by the Opponent, particularly in relation to 'Tea', the use of the mark at issue, on and in relation to 'Tea' of kind, will seriously tarnish the reputation of the Opponent in the UK and the Opponent's ability to attract business will be diluted by the Applicant's use of its mark.
12. The similarity of the mark at issue to the earlier trade marks is such that the relevant public will believe that they are used by the same undertaking or that there is an economic connection between the respective users of the marks.
13. The Opponent has spent a number of years building up a significant reputation and goodwill in the earlier trade marks and the application for the mark at issue is an attempt at riding on the coat-tails of the reputable earlier trade marks. The mark at issue will benefit from the Opponent's investment in advertising and promotion of its earlier trade marks. As such, the mark at issue will enjoy a commercial advantage in the marketplace without having made the same investment as the Opponent.
14. The use of the mark at issue is likely to be confusing and would inevitably erode the distinctiveness of the earlier trade marks and therefore be detrimental to their distinctive character.

Section 5(4)

15. The mark "CLIPPER" has been used in the course of trade by the Opponent for many years and has as a result acquired substantial goodwill. The use of a highly similar mark by the Applicant (Holder) constitutes misrepresentation and there will therefore be consequential damage.
16. The use by the Applicant of the mark "CLIPPER" would create a false message that would lead consumers to believe that the Opponent endorsed, recommended or approved the products of the Applicant, which is not the case.

Summary

17. For the reasons stated above, the application should be refused in its entirety under the provisions of Section 5(2)(b), Section 5(3) and/or Section 5(4) on the basis of the Opponent's earlier rights and their earlier trade marks.

18. We request an award of costs be made in favour of the Opponent.

DATED this 28th day of April 2022

Novagraaf UK

For and on behalf of the Opponent
NOVAGRAAF UK

Subject : FORM TM7 - WO0000001613195 - 1861333K/GB

Received : 2022-04-29 11:00:40

From Address : info.london@novagraaf.com

To Address : Forms@ipo.gov.uk

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Please find attached a Form TM7.

Yours faithfully

Novagraaf UK

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