



LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADE-MARKS

Citation: 2014 TMOB 55
Date of Decision: 2014-03-12

**IN THE MATTER OF AN OPPOSITION
by Bach Flower Remedies Limited to
application No. 1,440,449 for the trade-
mark PIT BULL RESCUE, in the name
of Hip Hop Beverage Corporation**

[1] Bach Flower Remedies Limited (the Opponent), opposes registration of the trade-mark PITT BULL RESCUE (the Mark), that is the subject of application No. 1,440,449 by Hip Hop Beverage Corporation (the Applicant).

[2] Filed on June 4, 2009, the application for the Mark is based on proposed use in Canada in association with the following wares:

Non-alcoholic beverages, namely, energy drinks, and powdered vitamin supplement and energy beverages; and energy bars.

[3] The Opponent alleges that: (i) the application does not conform to section 30(i) of the *Trade-marks Act*, RSC 1985, c T-13 (the Act); (ii) the Applicant is not the person entitled to registration of the Mark under sections 16(3)(a) of the Act; (iii) the Applicant is not the person entitled to registration of the Mark under section 16(3)(b) of the Act; (iv) the Mark is not registrable under section 12(1)(d) of the Act; and (v) the Mark is not distinctive under section 2 of the Act. The last four grounds of opposition turn on the likelihood of confusion between the

Mark and the Opponent's registered RESCUE REMEDY trade-marks (TMA300,348 and TMA455,863) and/or its RESCUE trade-mark application (app. No. 1,398,042).

The Record

[4] The statement of opposition was filed by the Opponent on September 14, 2010. It was denied by the Applicant by counter statement dated November 15, 2010.

[5] In support of its Opposition, the Opponent filed the affidavit of Elenita Anastacio, a trade-mark searcher employed by the agent for the Opponent, sworn March 15, 2011. In support of its application, the Applicant filed the affidavit of Susan Burkhardt, a clerk employed by the agent for the Applicant, sworn July 15, 2011, and the affidavit of Jane Buckingham, a trade-mark searcher also employed by the agent of the Applicant, sworn July 13, 2011. Both Ms. Burkhardt and Ms. Buckingham were cross-examined on their affidavits. The transcripts together with responses to undertakings form part of the record.

[6] During cross-examination, both affiants were asked for opinions that relate to the issue of confusion. However, the merit of the opposition is the issue to be decided by the Registrar from the evidence filed in the present proceeding; thus, the affiant's opinions on these matters will not be considered [see *British Drug Houses Ltd v Battle Pharmaceuticals* (1944), 4 CPR 48 at 53 and *Les Marchands Deco Inc v Society Chimique Laurentide Inc* (1984), 2 CPR (3d) 25 (TMOB)].

[7] The Opponent filed an additional affidavit of Elenita Anastacio as its reply evidence under section 43 of the *Trade-marks Regulations*, SOR/96-195 (the Regulations).

[8] While only the Applicant filed a written argument, the Opponent was the only party represented at an oral hearing.

Preliminary Issue

[9] The Applicant submits that Ms. Anastacio's second affidavit does not constitute proper reply evidence within the meaning of section 43 of the Regulations, on the basis that it concerns matters not confined to matters in reply. The Applicant submits that this evidence

should have been filed, if at all, as the Opponent's evidence in chief (section 41 of the Regulations) or pursuant to section 44 of the Regulations, and that the Opponent has not filed any evidence nor made any suggestion that this evidence was not available to it at the time it filed its evidence in chief. In any event, the Applicant submits that this evidence constitutes inadmissible hearsay and accordingly should be given no weight.

[10] In brief, Ms. Anastacio's second affidavit consists of the results of a search that she conducted of the Applicant's website. She attaches screen captures from the Applicant's website (Exhibit 2) depicting product labelling or promotion containing references to "Pit Bull Rescue". Certain images of the Mark show the word RESCUE in greater prominence relative to the words "pit bull".

[11] The Opponent submits that Ms. Anastacio's second affidavit is proper reply evidence, as it relates to the definition of "pit bull" as demonstrated through Ms. Burkhardt's affidavit (Exhibits A-C), filed as part of the Applicant's rule 42 evidence. I disagree. I consider this evidence to relate to the manner of use of the Mark, not the definition of the term PIT BULL as it relates to inherent distinctiveness. I have therefore disregarded this evidence, and as such, need not consider whether this evidence constitutes inadmissible hearsay.

[12] In any event, even if I were to consider the second Anastacio affidavit proper reply evidence and admissible, as will be seen in the assessment of confusion that follows, it would not have affected the final outcome of this decision.

The Parties' Respective Burden or Onus

[13] The Applicant bears the legal onus of establishing, on a balance of probabilities, that its application complies with the requirements of the Act. There is, however, an initial evidential burden on the Opponent to adduce sufficient admissible evidence from which it could reasonably be concluded that the facts alleged to support each ground of opposition exist [see *John Labatt Limited v The Molson Companies Limited* (1990), 30 CPR (3d) 293 (FCTD) at 298; *Dion Neckwear Ltd v Christian Dior, SA et al* (2002), 20 CPR (4th) 155 (FCA)].

Grounds of Opposition Summarily Dismissed

Section 30(i) ground of opposition

[14] Where an applicant has provided the statement required by section 30(i) of the Act, a section 30(i) ground should only succeed in exceptional cases such as where there is evidence of bad faith on the part of the applicant (see *Sapodilla Co Ltd v Bristol-Myers Co* (1974), 15 CPR (2d) 152 (TMOB) at 155). In the present case, the Applicant has provided the necessary statement and this is not an exceptional case; the section 30(i) ground is accordingly dismissed.

Non-entitlement ground under section 16(3)(a) of the Act

[15] In order to meet its initial burden under section 16(3)(a) of the Act, the Opponent must show that one or more of the trade-marks alleged in support of its ground of opposition based on section 16(3)(a) of the Act was used in Canada prior to the date of filing of the application for the Mark (June 4, 2009) and had not been abandoned at the date of advertisement of the application for the Mark (April 14, 2010) [section 16(5) of the Act].

[16] The Opponent has not filed any evidence showing use of its RESCUE REMEDY or RESCUE marks. Moreover, any reference to use in the Opponent's registrations or application is not sufficient to satisfy the Opponent's evidential burden under section 16(3)(a) of the Act [see *Roxxs, Inc v Edit-SRL* (2002), 23 CPR (4th) 265 (TMOB)].

[17] Based on the foregoing, the Opponent has failed to meet its evidential burden under section 16(3)(a) of the Act. Accordingly, this ground of opposition is dismissed.

Non-distinctiveness ground of opposition

[18] In order to meet its initial burden with respect to this ground, the Opponent must establish that at least one of its pleaded marks was known to some extent at least in Canada as of the filing date of the statement of opposition, namely, August 24, 2010 [see *Bojangles International LLC v Bojangles Café Ltd* (2006), 48 CPR (4th) 427 (FC) and *Motel 6, Inc v No 6 Motel Ltd* (1981), 56 CPR (2d) 44 (FCTD)]. As stated in *Bojangles* at para 34:

A mark must be known to some extent at least to negate the established significance of another mark, and its reputation in Canada should be substantial, significant or sufficient.

[19] As previously indicated, the Opponent has not filed any evidence of use of any of its marks. I am therefore not satisfied that the Opponent's evidence supports a finding that any of the Opponent's marks had developed a reputation in Canada. While the Opponent's registrations do contain a statement of use of the trade-marks or a claimed date of first use, the Registrar can only conclude *de minimus* use of those trade-marks [see *Entre Computer Centers, Inc v Global Upholstery Co* (1992), 40 CPR (3d) 427]. Consequently, the Opponent has not met its evidential burden and the ground of opposition based on non-distinctiveness is dismissed.

Analysis of Remaining Grounds of Opposition

[20] I will now turn to the analysis of the remaining two grounds of opposition, both of which turn on the likelihood of confusion between the parties' marks. I will begin with an assessment of the likelihood of confusion between the Mark and the Opponent's trade-mark RESCUE (application No. 1,398,042), as I consider it represents the best case scenario for the Opponent.

Non-entitlement ground under section 16(3)(b) of the Act

[21] In order to meet its initial burden under section 16(3)(b) of the Act, the Opponent must establish that its RESCUE application was filed (or deemed filed in Canada) prior to the deemed filing date of the Applicant's application (June 4, 2009), and was not abandoned at the date of advertisement of the application for the Mark (April 14, 2010) [section 16(4)].

[22] The Opponent filed as part of its evidence, search results from the Canadian Trade-marks Database of full particulars of its RESCUE application relied upon (Rule 41 evidence - Anastacio affidavit). The Registrar has the discretion to check the register in order to confirm the existence of registrations and applications relied upon by an opponent [see *Quaker Oats of Canada Ltd/La Compagnie Quaker Oats du Canada Ltée v Menu foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)]. I have exercised that discretion and confirm that the Opponent's application was deemed to be filed (priority filing date of November 29, 2007) prior to the filing date of the Applicant's application (namely, June 4, 2009), and remained pending as of that date.

[23] As the Opponent has satisfied its initial burden, the Applicant must therefore establish, on a balance of probabilities, that as of the filing date of the Applicant's application, namely, June 4, 2009 [re: 16(3)(b) ground], there was not a reasonable likelihood of confusion between its Mark and the Opponent's RESCUE trade-mark. I have attached the particulars of this trade-mark as Appendix A to my decision. While the Opponent's application includes a long list of wares, I consider the wares described as "energy drinks" most important to the issue of confusion in this case.

[24] The test for confusion is one of first impression and imperfect recollection. Section 6(2) of the Act indicates that the use of a trade-mark causes confusion with another trade-mark if the use of both trade-marks in the same area would be likely to lead to the inference that the wares or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the wares or services are of the same general class.

[25] In applying the test for confusion, the Registrar must have regard to all surrounding circumstances, including those specifically enumerated in section 6(5) of the Act, namely: a) the inherent distinctiveness of the trade-marks or trade-names and the extent to which they have become known; b) the length of time each has been in use; c) the nature of the wares, services or business; d) the nature of the trade; and e) the degree of resemblance between the trade-marks or trade-names in appearance or sound or in the ideas suggested by them. The above-noted criteria are not exhaustive and it is not necessary to give each one of them equal weight [see, in general, *Mattel, Inc v 3894207 Canada Inc* (2006), 49 CPR (4th) 321 (SCC); *Veuve Clicquot Ponsardin v Boutiques Cliquot Ltée* (2006), 49 CPR (4th) 401 (SCC); and *Masterpiece Inc v Alavida Lifestyles Inc* (2011), 92 CPR (4th) 361 (SCC)].

[26] In *Masterpiece*, the Supreme Court of Canada discussed the importance of section 6(5)(e) in conducting an analysis of the likelihood of confusion. Specifically, the Court noted that the degree of resemblance is the statutory factor that is often likely to have the greatest effect on the confusion analysis; the other factors become significant only once the marks are found to be identical or very similar.

Section 6(5)(a) – inherent distinctiveness and the extent to which the marks have become known

[27] The Opponent's trade-mark consists solely of the word RESCUE. The word RESCUE, as defined by the *Canadian Oxford Dictionary*, 2nd edition, means to "save or set free or bring away from attack, custody, danger, harm, or an unpleasant situation". Many of the Opponent's wares are homeopathic or medicinal in nature. Thus, the nature of the Opponent's wares is that they are remedies or treatments that provide relief, save or "rescue" the consumer from an ailment or condition. Specifically, with respect to the Opponent's energy drinks, the suggestive connotation is that the product will provide relief, save or "rescue" the consumer from low energy/fatigue.

[28] The Opponent's mark is made up of a word that is a common dictionary word and is suggestive of some of the wares to which it is associated; thus, the Opponent's trade-mark that is the subject of application no. 1,398,042 does not possess a high degree of inherent distinctiveness.

[29] The Applicant submits that its mark, PIT BULL RESCUE, is more inherently distinctive due to the inclusion of the "highly distinctive words "pit bull"." The Applicant filed evidence to show that the term PIT BULL refers to a breed of dog (Burkhardt affidavit). Furthermore, the Applicant submits that the term "pit bull" has no descriptive or suggestive connotation in respect of the Wares, as "pit bull" is commonly associated with a breed of dog, The Applicant submits that the word RESCUE when used in conjunction with the term PIT BULL as a whole, conjures up an idea of assisting or saving a dog (i.e. animal rescue), an "idea that bears no correlation to the Wares and is inherently distinctive."

[30] The Opponent cross-examined Ms. Burkhardt on her affidavit, and asked based on a review the materials attached to her affidavit (Google searches, dictionary definitions, and Wikipedia excerpts) and her own common knowledge whether she was aware of the aggressive nature of pit bulls. Ms. Burkhardt indicated that the Wikipedia excerpt attached to her affidavit indicates that pit bulls are strong dogs or police dogs and that she was aware that the breed had been banned in certain jurisdictions. Regardless of any of Ms. Burkhardt's responses, I note that the term "pit bull" is defined by the *Canadian Oxford Dictionary*, 2nd edition, as follows:

noun

- **1.** (in full **pit bull terrier**) a dog of an American variety of bull terrier, noted for its ferocity.

[31] As a trade-mark is not to be considered in isolation and must be perceived in connection with the wares to which it is associated [*Mitel Corporation v. Registrar of Trade Marks*, (1984) 79 CPR (2d) 202 (FCTD)], I find that the term “pit bull” suggests that the Applicant’s Wares are strong or powerful. As per the above-noted definition, characteristic of this breed is “its ferocity”. Given that the Applicant’s Wares have no relationship to animals or animal shelters, I find that the more likely impression of the Mark is that it is suggestive of a powerful “rescue” product, one that provides aggressive relief from low energy/fatigue.

[32] In view of the above, I find that both parties’ marks are not inherently strong. While the Applicant’s Mark also contains the term “pit bull”, given the suggestive connotation of this term in association with the Wares, I assess the inherent distinctiveness of the Applicant’s Mark to be only marginally greater.

[33] While a mark may acquire distinctiveness through use or promotion, in the present case, neither party has filed evidence of use of their respective marks.

Section 6(5)(b) – the length of time of use

[34] The Applicant has not filed any evidence of use of the Mark. Similarly, the Opponent has not filed any evidence of use of its RESCUE trade-mark (app. no. 1,398,042).

[35] As neither party has filed evidence of use of their respective marks, I find this factor does not favour either party.

Section 6(5)(c) and (d) – the nature of the wares and services and business or trade

[36] It is the Applicant’s statement of wares as defined in its application versus the Opponent’s claimed wares that govern my determination of this factor [see *Esprit International v Alcohol Countermeasure Systems Corp* (1997), 84 CPR (3d) 89 (TMOB)].

[37] The Applicant's Wares are "non-alcoholic beverages, namely, energy drinks, and powdered vitamin supplement and energy beverages; and energy bars". The Opponent's application contains wares that include beverages which may contain vitamins and be designed to provide the consumer with increased energy, but more specifically, the Opponent's application includes "energy drinks", which directly overlaps with the Applicant's Wares. The Opponent's remaining wares however, are markedly different from the Applicant's Wares (such as "meat, fish, poultry and game..." and "live animals" for example), to the extent that I find confusion unlikely.

[38] As there is no evidence of use of the parties' marks, given the similarity in the relevant wares of the parties, I presume the parties' channels of trade would also likely overlap. Accordingly, these factors favour the Opponent.

Section 6(5)(e) – degree of resemblance in appearance, when sounded, or in idea suggested

[39] When considering the degree of resemblance, the law is clear that the trade-marks must be considered in their totality; it is not correct to lay them side by side and compare and observe similarities or differences among the elements or components of the trade-marks. Furthermore, the Supreme Court has advised that the preferable approach when comparing marks is to begin by determining whether there is an aspect of the trade-mark that is particularly striking or unique [*Masterpiece, supra*]. For the reasons that follow, I find that there is a significant degree of resemblance between the two marks in appearance, sound and in the ideas suggested.

[40] The Applicant submits that the most striking or unique portion of its Mark is the term "pit bull". I disagree. I consider the most striking portion of the Mark to be the word RESCUE, given the suggestive nature of the term "pit bull" as discussed in the analysis under section 6(5)(a).

[41] The word RESCUE renders the marks similar in appearance, when sounded, and in idea suggested. The inclusion of "pit bull" in the Mark does not remove emphasis from "RESCUE" nor alter the idea suggested by "RESCUE" in any substantial way. The Applicant

has taken the Opponent's mark in its entirety and has simply added matter suggestive of the strength of its product. Accordingly, this factor favours the Opponent.

Surrounding Circumstances

State of the Register

[42] Evidence concerning the state of the Register is relevant only to the extent that inferences may be drawn concerning the state of the marketplace [see *Ports International Ltd v Dunlopo Ltd* (1992), 41 CPR (3d) 432 (TMOB); *Del Monte Corporation v Welch Foods Inc* (1992), 44 CPR (3d) 205 (FCTD)]. Furthermore, inferences concerning the state of the market may be drawn from this evidence only if a large number of relevant registrations are located [*Kellogg Salada Canada Inc v Maximum Nutrition Ltd* (1992), 43 CPR (3d) 349 (FCA)].

[43] The Applicant, through the affidavit of Ms. Buckingham, tendered state of the register evidence with respect to use of the word RESCUE. In this regard, Ms. Buckingham conducted a search of the Canadian Trade-marks Register for all active Canadian trade-mark applications and registrations which contain the element RESCUE, alone or in combination with other word or design elements, without restrictions to any particular wares or services. She attaches the results of her search as Exhibit A to her affidavit.

[44] Upon review of this evidence, I agree with the Opponent that the state of the register evidence is insufficient. In this regard, there are fewer than five relevant registrations that include the term RESCUE or phonetic equivalent thereof, in association with wares related to beverages, nutritional supplements, or energy beverages/bars.

[45] Consequently, as there are not a large number of relevant registrations, I am unable to draw any inferences concerning the state of the marketplace from the state of the register evidence filed.

File Wrapper

[46] The Applicant introduced as part of its evidence (Exhibit D of the Burkhardt affidavit), a certified copy of the Canadian Trade-marks Office complete file history for the Opponent's RESCUE trade-mark application No. 1,398,042.

[47] The Applicant points out that during the prosecution of the Opponent's RESCUE application, when faced with two citations of prior marks, the Opponent pointed to several third party marks on the Trade-marks Register which contain the word "rescue" or its phonetic equivalent. The agent for the Opponent argued in response to the Office Action, that because of the co-existence of these third party marks, the Opponent's RESCUE trade-mark was unlikely to be confused with the cited marks, and should be permitted to co-exist. The Applicant submits that it is incongruent and inconsistent for the Opponent to argue on the one hand that its RESCUE mark should be permitted to co-exist with other similarly composed RESCUE marks on the register where the respective goods overlap, and on the other hand argue that the Applicant's PIT BULL RESCUE mark would be confusing.

[48] However, the third party marks furnished by the Opponent were for the purpose of demonstrating coexistence of RESCUE marks (or phonetic and visual equivalents) in relation to food products generally, and not specifically in relation to the wares at issue in the present proceeding. Consequently, I do not consider the evidence to be relevant or probative. In any event, the state of the register has already been considered.

conclusion

[49] In conclusion, both parties' wares include energy drinks, which absent evidence to the contrary would be sold through the same channels of trade. The marks of the parties also share a high degree of resemblance, given that the Applicant has taken the Opponent's mark in its entirety. The word "pit bull" does not alter the resemblance between the trade-marks, having such a strong suggestive connotation. While I consider the marks of the parties to be relatively weak, the state of the register evidence did not permit any inference regarding common usage of the word RESCUE in the marketplace. Accordingly, when viewing the trade-marks in their totality, the average consumer, as a matter of first impression and imperfect recollection, would be just as likely, if not more likely, to perceive PIT BULL RESCUE energy drinks to be associated with the Opponent, as a more powerful variant or type of its RESCUE energy drinks

[see *Kist International Inc v Cobi Foods Inc* (1987), 14 CPR (3d) 540 (TMOB)]. Thus, I am not satisfied that the Applicant has discharged its burden of showing, on a balance of probabilities, that there is no reasonable likelihood of confusion between the Mark and the Opponent's RESCUE trade-mark application No. 1398,042.

[50] Having regard to the foregoing, the ground of opposition based on section 16(3)(b) is successful.

Section 12(1)(d) ground of opposition

[51] With respect to a ground of opposition based on section 12(1)(d) of the Act, an opponent's initial burden is met if one or more of the registrations upon which it relies are extant at the date of my decision.

[52] The Opponent filed as part of its evidence, search results from the Canadian Trade-marks Database of full particulars of each of the registrations relied upon (Rule 41 evidence - Anastacio affidavit). I confirm that the Opponent's registrations relied upon in support of the section 12(1)(d) ground of opposition remain in good standing [see *Quaker Oats, supra*].

[53] As the Opponent has satisfied its initial burden, the Applicant must therefore establish, on a balance of probabilities, that as of the date of my decision, there was not a reasonable likelihood of confusion between its Mark and the Opponent's RESCUE REMEDY trade-marks.

[54] The analysis for confusion under the ground of opposition based on section 12(1)(d) would not likely have resulted in the same conclusion as that under the section 16(3)(b) ground of opposition. Specifically, the degree of resemblance between the marks at issue is more substantial, to the extent that the balance of probabilities would favour the Applicant. That is, I consider the Applicant's PIT BULL RESCUE trade-mark and the Opponent's RESCUE REMEDY trade-marks to be sufficiently different as a whole, visually, when sounded, and in ideas suggested.

[55] Accordingly, the ground of opposition based upon section 12(1)(d) is dismissed.

Disposition

[56] Pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the application pursuant to section 38(8) of the Act.

Darlene Carreau
Chairperson
Trade-marks Opposition Board
Canadian Intellectual Property Office

APPENDIX “A”

<u>Application or Registration Number</u>	<u>Trade-mark</u>	<u>Wares</u>
TMA300,348	RESCUE REMEDY	Herbal beverage extracted from flowers.
TMA455,863	RESCUE REMEDY	Homeopathic and remedial preparations derived from flowers and plants.
App. No. 1,398,042	RESCUE	<p>(1) Homeopathic pharmaceutical preparation made from flower extracts for alleviating emotional and mental stress.</p> <p>(2) Herbal food beverage concentrate made from essences (not being in the nature of essential oils) extracted from plants and flowers.</p> <p>(3) Cleaning, scouring and polishing preparations and substances; non-medicated toilet preparations and substances; beauty preparations and substances; cosmetics; make-up; lip-stick and lip gloss; dentifrices; fragrances, scents and perfumery; toilet waters and eau de colognes; essential oils; massage oils; aromatherapy products; deodorants for personal use; anti-perspirants; sun-tanning and sun-screening preparations and substances; depilatory preparations and substances; powders, creams and lotions; nail polish; nail polish remover; soaps and shampoos; shaving and after-shave preparations; preparations and substances for the conditioning, care and appearance of the skin, body, face, eyes, hair, teeth, lips and nails; shower and bath preparations; bath oils and bath salts; talcum powder; moisturisers; pot pourri; incense; incense sticks; room and furniture fragrances and preparations and substances for perfuming rooms and furniture; non-medicated baby oils and baby creams; non-medicated wipes and wipes impregnated with cosmetic products; cotton wool for cosmetic purposes.</p>

		<p>(4) Pharmaceutical, medicinal, veterinary, homoeopathic, allopathic, remedial, dietetic and sanitary preparations and substances; vitamins and nutrients; food supplements; mineral supplements; medicated drinks and foodstuffs; medicated confectionery; disinfectants; antiseptics; dressings and materials for dressings; plasters and bandages; diagnostic preparations for medical purposes; flower remedies and flower essences; preparations and substances derived from plants and flowers for use in the treatment of emotional and psychological disorders and conditions; preparations for medicinal and remedial purposes being derived from plants and flowers.</p> <p>(5) Meat, fish, poultry and game; meat and fish products and extracts; preserved, frozen dried and cooked fruits, nuts and vegetables; compotes, jellies and jams; eggs and milk products; dairy products; cheese; edible oils and fats; olive oil; milk beverages; preparations of natural origin for use in making beverages; milk based beverages; food and beverages included in this class; foods and beverages prepared from the aforesaid goods not included in other classes.</p> <p>(6) Coffee, tea, instant coffee and tea, fortified coffee and tea, ground coffee; leaf tea; tea and coffee in liquid, concentrated and in preserved form; artificial coffee and tea; tisanes; herbal beverages and infusions; non-medicated infusions; aromatic preparations for making tisanes and non-medicated infusions; ingredients, flavourings and additives for beverages; dried and preserved herbs; cocoa, sugar, rice, tapioca, sago, flour and preparations made from cereals; bread and pastry; pasta and noodles; chocolate; chewing gum, confectionery, pastries; ices; honey, treacle; yeast; baking powders; salt, mustard, vinegar, sauces and spices; ice and ices; desserts; prepared meals; snack foods; foods and beverages included in this class; foods and</p>
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		<p>beverages prepared from the aforesaid goods not included in other classes.</p> <p>(7) Agricultural, horticultural and forestry products; malt; grains; live animals; fresh fruits and vegetables; herbs; seeds, natural plants and flowers; trees; shrubs; foods, beverages, infusions and tisanes for animals and pets; food additives and supplements for animals and pets; foods and beverages included in this class; foods and beverages prepared from the aforesaid goods not included in other classes.</p> <p>(8) Beers, ciders, mineral and aerated waters, non-alcoholic beverages; energy and tonic drinks; fruit drinks and fruit juices; tisanes; herbal beverages; non-alcoholic beverages infused with plants, flowers and herbs; non-alcoholic drinks prepared from infusions of plants, flowers and herbs; syrups and other preparations for making beverages.</p> <p>(9) Alcoholic beverages; wines; spirits; liqueurs; cocktails; alcoholic beverages infused with plants, flowers and herbs; alcoholic beverages prepared from infusions of plants, flowers and herbs.</p>
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