

O/1013/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003966292

BY OSCARTECH UK LTD

TO REGISTER THE FOLLOWING TRADE MARK:

OscarTech UK

IN CLASSES 5 AND 10

AND

IN THE MATTER OF OPPOSITION THERETO UNDER NO. 445570

BY ORTHOFIX S.R.L.

Background and Pleadings

1. On 11 October 2023, OscarTech UK Ltd ('the Applicant') filed an application to register the following trade mark ('the Contested Mark'):

OscarTech UK

(Word mark)

2. The application was published for opposition purposes in the Trade Marks Journal on 27 October 2023. Registration is sought in respect of the following goods:

Class 5:

Medical and surgical dressings; Surgical bandages; Dressings (Surgical -); Surgical dressings; Surgical plasters; Surgical glues; Surgical tape; Surgical dyes; Surgical spirits; Surgical cements; Anesthetics for surgical use; Bone cement for surgical and orthopaedic purposes; Implants (Surgical -) [living tissues]; Bone cement for surgical and orthopedic purposes; Tissues for surgical use; Materials for surgical casts.

Class 10:

Medical and surgical laparoscopes; Surgical sutures; Surgical forceps; Surgical instruments for use in orthopedic surgery; Medical and surgical catheters; Surgical retractors; Surgical instruments for use in spinal surgery; Surgical bougies; Surgical catgut; Surgical staplers; Dressing forceps [for surgical use]; Surgical splints; Splints, surgical; Surgical perforators; Prostheses for surgical treatment; Surgical instruments; Surgical scissors; Surgical gowns; Surgical drapes; Surgical gloves; Surgical masks; Surgical mesh; Surgical staples; Surgical knives; Surgical needles; Surgical pliers; Sponges (Surgical -); Surgical sponges; Cutlery [surgical]; Surgical cutlery; Surgical blades; Surgical drills; Surgical skin staplers; Surgical robots; Surgical saws; Surgical examination drapes; Surgical catguts; Surgical amputaters; Surgical probes; Surgical clips; Clips, surgical; Surgical cutting instruments; Shears [surgical instruments]; Compressors [surgical]; Plaster for medical or surgical purposes; Cardiac vascular prosthesis for surgical protheses; Surgical headlamps; Catheters for

surgical use; Cardiac valves for surgical prostheses; Surgical raspatories; Surgical lamps; Blunt curettes [for surgical use]; Catgut for surgical purposes; Grafts for surgical use; Staplers for surgical purposes; Artificial surgical implants; Medical instruments for percutaneous tracheostomy; Surgical caps; Endoscopes for surgical use; Surgical thread; Thread, surgical; Plates in the nature of orthopaedic surgical implants; Surgical mirrors; Hammers for medical or surgical use; Catgut for surgical use; Incision foils for surgical use; Surgical and wound treating equipment; Ureteral stents being surgical support; Surgical apparatus and instruments; Surgical instruments and apparatus; Plates in the nature of orthopaedic surgical instruments; Bandages [supportive] for surgical purposes; Corsetry for surgical purposes; Gowns for surgical use; Surgical bypass devices; Electric scalpels [for surgical purposes]; Surgical devices and instruments; Surgical apparatus and instruments for medical use; Medical apparatus for use in cardiac surgery; Splints for surgical use; Sterile sheets, surgical; Surgical apparatus and instruments for dental use; Surgical tubing for wound drainage; Needles for surgical purposes; Inflation syringes for medical or surgical use; Tweezers for surgical use; Suture materials for surgical use; Surgical apparatus and instruments for veterinary use; Compressing screws in the nature of orthopaedic surgical implants; Compressing screws in the nature of orthopaedic surgical instruments; Knives for surgical purposes; Lasers for surgical use; Intraocular lenses for surgical implantation; Intraocular prostheses [lenses] for surgical implantation; Prostheses (Intraocular -) [lenses] for surgical implantation; Lenses [intraocular prostheses] for surgical implantation; Armboards [surgical splints]; Cutlery for surgical purposes; Lenses [intraocular prosthesis] for surgical implantation; Tubes for surgical purposes; Lag screws in the nature of orthopaedic surgical implants; Sterile clothing for surgical use; Staples for surgical use; Surgical implants [artificial materials]; Surgical breathing masks; Pads (Abdominal -) for surgical use; Ophthalmic microsurgical knives; Transplant sutures for use in surgery; Knives for surgical use; Ultrasonic diagnostic instruments for surgical use; Lag screws in the nature of orthopaedic surgical instruments; Electronic endoscopes for surgical use; Saws for surgical purposes.

3. On 29 January 2024, the application was opposed by ORTHOFIX S.r.l. ('the Opponent') based on section 5(2)(b) of the Trade Marks Act 1994 ('the Act').¹ The opposition is directed against the application in its entirety. The Opponent relies upon the following two earlier registrations; each relied upon in its entirety to attack the whole of the application:

Earlier mark i):

UK00905056437*

OSCAR

(Word mark)

Filing date: 18 April 2006

Date of entry in Register: 29 May 2007

Seniority details:

Seniority claimed from International Application ('IA') 1555098

Filing date: 30 November 1993

Country: United Kingdom

*This registration is a comparable mark pursuant to Article 54 of the Withdrawal Agreement, based on EUTM 005056437, which was registered prior to the withdrawal of the UK from the European Union. This EUTM is, in turn, based upon IA 1555098.

Registered for the following goods and services:

Class 9:

Scientific apparatus and instruments; electrical and electronic apparatus and instruments; electrical and electronic control systems for controlling medical and surgical apparatus and instruments; apparatus for generating and transmitting ultrasound; data processing equipment; computers; parts and fittings for all the

¹ Section 5(4)(a) of the Act was initially pleaded in addition to the section 5(2)(b) ground, but it was subsequently withdrawn. The opposition, therefore, proceeds on the basis of the section 5(2)(b) ground only.

aforesaid goods; computer programs; none of the aforementioned goods being for or in relation to maps, mapping, surveying or road centre alignment.

Class 10:

Surgical, medical, veterinary and dental apparatus and instruments; ultrasonically-vibratable surgical instruments; surgical instruments for use in orthopaedic surgery; orthopaedic prostheses; ultrasonically-vibratable tools for use in removing cement during joint prosthesis revision; parts and fittings for all the aforesaid goods.

Class 44:

Medical, surgical, veterinary and dental services; rental of medical, surgical, veterinary and dental apparatus and instruments; consultancy services relating to all the aforesaid services; provision of advice and information relating to all the aforesaid services.

Earlier mark ii):

International Registration ('IR'): WO0000001588717



(Figurative mark)

Date of protection of the IR in the UK: 9 December 2021

Designation date: 5 November 2021

Office of origin: Italy

International registration date: 5 November 2020

Priority details:

Priority date: 30 October 2020

Priority country: Italy

Trade mark from which priority claimed: 302020000094579

Registered for the following goods:

Class 10:

Surgical, medical and dental apparatus and instruments; ultrasonically-vibratable surgical instruments; surgical instruments for use in orthopaedic surgery; orthopaedic articles; orthopedic prostheses; ultrasonically-vibratable tools for use in removing cement during joint prosthesis revision; ultrasonically vibratable surgical instruments for soft tissue resection, resection and cutting of bones, resection and cutting of soft tissues; parts and fittings for all the aforesaid goods.

4. The Opponent claims that the parties' marks are highly similar and their respective goods and services identical/similar, leading to a likelihood of confusion.
5. The Applicant filed a Defence and Counterstatement in which it denies the claim against it in its entirety.
6. The Opponent is represented by HGF Limited; the Applicant represents itself.
7. During the evidence rounds, the Opponent filed evidence and the Applicant filed written submissions. A hearing was granted at the request of the Opponent. Both parties filed Skeleton Arguments in advance of the hearing.

EVIDENCE

8. The Opponent's evidence comes from Mr Lee Curtis, of the Opponent's representative. Mr Curtis' Witness Statement is dated 30 September 2024 and is accompanied by four exhibits: LMC1 – LMC4.
9. I confirm that I have read all of the evidence and written submissions, to which I will refer to the extent that they are relevant.

HEARING

10. A hearing took place before me, via video conference, on 23 September 2025. Mr Lee Curtis, of HGF Limited, attended for the Opponent. Mr Adnan Shabbir attended on behalf of the Applicant company. I will not repeat the parties' Skeleton Arguments or oral submissions here, but will refer to them, as appropriate, in my decision.

RELEVANCE OF EU LAW

11. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.
12. The following decision has been made after careful consideration of the papers before me, and the parties' oral submissions.

DECISION

Earlier marks

13. In accordance with section 6A of the Act, the Opponent's marks are earlier marks by virtue of their respective filing/seniority and priority dates, all of which² precede the filing date of the contested application.

A note on the matter of proof of use

14. Section 6A of the Act provides that, in opposition proceedings, where the date on which the registration procedure of the earlier mark was completed more than 5 years prior to the filing/designation date (or priority date) of the Contested Mark, the Opponent may be required to prove use of the earlier mark.³ In the instant case, section 6A is engaged in respect of earlier mark i) because it had been registered for more than five years at the date on which the contested application was filed. However, the Applicant has not requested evidence of proof of use of the earlier mark. The Opponent is, therefore, entitled to rely upon all of the goods/services that it seeks to rely upon.

Section 5(2)(b) opposition

² For each earlier mark, both their filing dates and their seniority/priority dates precede the filing date of the contested application.

³ Regulation 4 of The Trade Marks (Earlier Trade Marks) Regulations 2008 provides that section 6A of the Act also applies for International Registrations.

Relevant legislation

15. Section 5(2)(b) of the Act reads as follows:

‘5(2) A trade mark shall not be registered if because –

(a)...

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.’

Relevant case law

16. The following principles are derived from the decisions of the Court of Justice of the European Union (‘CJEU’) in *Sabel BV v Puma AG*, Case C-251/95; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97; *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97; *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98; *Matratzen Concord GmbH v OHIM*, Case C-3/03; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C120/04; *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P; and *Bimbo SA v OHIM*, Case C-591/12P:

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the

imperfect picture of them they have kept in their mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

A note on fair and notional use

17. It is appropriate at this point to note the following strands of argument running through the Applicant's case, both in its counterstatement and oral submissions:

- i. The Applicant has emphasised that 'OscarTech UK' is a distribution company, rather than a manufacturer;⁴
- ii. Numerous references have been made to the Applicant as a well-established company operating within the healthcare sector in the UK marketplace for a very long time;⁵
- iii. Mr Shabbir sought to make a distinction between the Opponent's mark 'Oscar Pro' as the name of a particular product sold by the Opponent, and the Applicant's mark 'OscarTech UK' as the name of the Applicant company which operates as a distributor.

18. Whilst these points are noted, for the following reasons at [19] to [20], these are not factors that may feed into my assessment of whether there is a likelihood of confusion between the parties' marks.

19. I am required to make the assessment of the likelihood of confusion notionally and objectively based on the Opponent's goods/services, as registered, and the Applicant's goods, in respect of which registration is sought, in accordance with the relevant case law. That assessment requires that I must not take into account the actual way that either party has used their marks in the marketplace or the kinds of goods/services in respect of which those marks have been used thus far. Further, I must consider all of the circumstances in which the mark for which registration is sought might be used should it become registered⁶. In this connection, in *Devinlec Développement Innovation Leclerc SA v OHIM*, Case C-171/06P, the CJEU stated:

⁴ Applicant's Counterstatement, page 4, under heading 'Goods and Services'.

⁵ As above, page 3.

⁶ As per *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C- 533/06, [66].

'59. As regards the fact that the particular circumstances in which the goods in question were marketed were not taken into account, the Court of First Instance was fully entitled to hold that, since these may vary in time and depending on the wishes of the proprietors of the opposing marks, it is inappropriate to take those circumstances into account in the prospective analysis of the likelihood of confusion between those marks.'

20. The way in which the parties might be using their marks presently in the UK marketplace is, therefore, not relevant to my assessment.

Comparison of goods and services

21. Section 60A of the Act provides:

(1) 'For the purpose of this Act goods and services-

(a) are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification.

(b) are not to be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

(2) In subsection (1), the 'Nice Classification' means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, which was last amended on 28 September 1975.'

22. In making an assessment between the competing goods and services, I bear in mind the decision of the General Court ('GC') in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05:

'29. ... the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM-Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the

goods designated by the trade mark application are included in a more general category designated by the earlier mark’.

23. The CJEU in *Canon*, Case C-39/97, stipulates that all relevant factors relating to the parties’ goods and services must be taken into account:

‘[23] In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary’.

24. Goods or services will be found to be in a competitive relationship only where one is substitutable for the other.⁷ In *Boston Scientific Ltd v OHIM*, Case T-325/06, the GC described ‘complementary’ in the following terms: ‘[...] there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking’.⁸ In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods.

25. Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281⁹, identified the following factors for assessing similarity of the respective goods and services:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;

⁷ *Lidl Stiftung & Co KG v EUIPO*, Case T-549/14.

⁸ Paragraph 82.

⁹ *British Sugar Plc v James Robertson & Sons Ltd* [1996] R. P. C. 281, pp 296-297.

(d) The respective trade channels through which the goods or services reach the market;

(e) In the case of self-serve consumer items, where in practice they are respectively found, or likely to be found, in supermarkets and, in particular, whether they are, or are likely to be, found on the same or different shelves;

(f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

26. Goods (or services) may be grouped together for the purposes of assessment, as Geoffrey Hobbs QC (as he then was), sitting as the Appointed Person, said in *Separode Trade Mark*, at [5]:¹⁰

‘[...] The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision.’

27. Case law establishes that ‘... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise’ but “Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”¹¹

28. The goods and services to be compared are set out at Annexe 1 to this decision.

¹⁰ BLO/399/10.

¹¹ *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch).

Class 5

29. Mr Curtis has argued that the Applicant's class 5 goods are highly similar to the Opponent's class 10 goods (both earlier marks) on the basis that they have similar uses and purposes, share trade channels and are complementary.¹² The Opponent has filed evidence in support of this argument, which can be summarised as follows:

Exhibit LMC1 - comprises screenshots of three webpages from the website of the Applicant company 'OscarTech UK', accessed 29 September 2024. I note that the 'menu' in the top toolbar lists, inter alia: Products; Surgical Instruments; Procedure Packs; and Wound Care. Text on the home page notes the Applicant's expertise in 'medical devices, surgical instruments, testing equipment, and consumables'. Product listings are shown for adhesive dressings and various models of forceps.

Exhibit LMC2 – comprises screenshots from the website of www.careshop.co.uk, including two 'Wayback'¹³ prints dated 26 August 2023 and 10 December 2023. A further two pages were accessed on 29 September 2024.

- The 'menu' on the left-hand side of each page lists, inter alia, the following categories:

Patient Care; Gloves; Infection Control; Contenance Care; Dementia Care; Housekeeping; Cleaning Chemicals; Furniture & Equipment; Medical Consumables; Medical Equipment; Medical Surgical.

- A page from the 'Medical Surgical' category lists the following sub-categories of products:

Emergency; First Aid; Pre Surgical; Surgical Instruments; Skin Closures.

- Product listings are shown for:

¹² Opponent's Skeleton Argument, [15].

¹³ 'The Wayback Machine' is a web-page archiving service.

Folding Ambulance Chair; Sterowash Eyewash Pads; various forceps; and a foot dresser¹⁴

- A page from the 'Medical Consumables' category lists the following sub-categories of products:

IV & Injection; Diagnostics Consumables; Wound Management; Bandages & First Aid; Gynaecology; Minor Operations

- Product listings are shown for, inter alia: Instrapac Minor Operations Pack; Drip Stand; Sterowash Eyewash Pads; First Aid Kit; and four other products that I am unable to identify.

Exhibit LMC3 – comprises screenshots from website of 'Primary Care Supplies'. An extract, accessed 29 September 2024, show search results for the term 'dressings', which include the following products: Dressings Trolleys; 'Cooltherm burn' dressings; various 'Ambulance' dressings; Compressed Dressings.

- The 'menu' on the left-hand side of each page lists, inter alia: Accident & Emergency; Resuscitation; Aspirators & Suction Equipment; Defibrillators; Tourniquets; Airways & ET Tubes. A page headed 'Medical Equipment' features two products listings: 'ABPM Monitors' and 'Integrated Spirometry'. Whilst I have not been provided with any information as to precisely what these items are, I accept that they are items of medical equipment.
- A page headed 'Dressings & Wounds Care' features product listings for various bandages.

Exhibit LMC4 – comprises extracts from the website of www.newtonsupplies.co.uk, all but one dated 29 September 2024.

- A page showing search results for the term 'Dressing' included product listings for: 'Advacare Low Adherent Dressings'; 'No9 Large Flow

¹⁴ This resembles a foot file used to remove dead skin.

Wrapped Dressing'; No8 Medium Flow Wrapped Dressing'; a box of alcohol sachets; and a first aid kit.

- A page headed 'Equipment' features product listings for, inter alia: Commode; Air Filtration Unit; Patient Lifter; and Pressure Relieving Mattresses.
- Another page headed 'Shop here for high quality medical and cleaning supplies' includes, inter alia, the 'categories': Airway Management; Care Products; 'Clinell-Gama' Healthcare; Consumables; Covid 19 Test & Related Products; Dental Products; Econatural; Endoscopy; Equipment; General Hygiene & Cleaning Products; Janitorial; Laboratory Consumables; Paper Products; Protective Wear; Trauma Consumables; Veterinary Products.

30. Mr Curtis made a broad submission on the relevance of this evidence, which can be summarised as follows:

The evidence seeks to demonstrate that:

- i. there are other undertakings besides the Applicant that sell goods from class 5 as well as class 10;
- ii. the parties' respective goods in classes 5 and 10 have similar uses and purposes, and they share trade channels;
- iii. the respective goods are complementary; the example given in oral submission that 'a bandage potentially could be sold alongside surgical implements because they are used by the same people'.

31. Mr Curtis further submitted that comparison of each of the contested class 5 terms against the broad class 10 term '*Surgical, medical and dental apparatus and instruments*' (present in the specification for both earlier marks) represented the Opponent's strongest case. I, therefore, proceed to conduct my comparison on this basis.

32. The Oxford English Dictionary includes the following definition of 'apparatus':

‘The equipment, materials, or mechanisms used for a specific purpose or activity [...]’¹⁵

I, therefore, consider the Opponent’s term to include the equipment, materials and instruments specifically for use in a surgical, medical or dental context.

Contested goods: *Medical and surgical dressings; Dressings (Surgical -); Surgical dressings; Surgical plasters*

33. The Applicant’s class 5 goods are, essentially, coverings that are applied to wounds for the purposes of keeping the wound clean, absorbing drainage, preventing infection and promoting healing. It is appropriate to note at this point that class 10, to which the Opponent’s goods (noted above at [31]) belong, specifically excludes ‘medical dressings [...] for example, plasters, bandages and gauze for dressings [...]’.¹⁶ Class 10 does, however, include ‘support bandages’ and ‘orthopaedic bandages’, which I understand to be bandages that provide physical support, stability or pressure to a part of the body rather than being applied to a wound. I consider that the Opponent’s broad (Class 10) term *Surgical, medical and dental apparatus and instruments* encompasses support/orthopaedic bandages, as well as vast array of tools and equipment used to perform surgical, medical or dental procedures. I find that the Applicant’s dressings and the Opponent’s support/orthopaedic bandages will overlap in purpose to the broad extent that both can be said to promote healing in some way; albeit, as noted, their specific purposes will be different. Their methods of use will overlap to the extent that both goods will be applied to the body in some way, although they will function differently. I find that users will overlap; both will be used predominantly by medical professionals, but some may be purchased by the general public. I find that trade channels will overlap. I note that the Opponent’s evidence demonstrates that both dressings and bandages can be sold by the same outlet, and that they can appear in the same ‘category’ of products. Their physical natures may be somewhat similar in that both dressings and support bandages are typically flat and flexible pieces of material. I do not consider the parties’ goods to be in competition, neither being substitutable for the other. As to the matter of complementarity, although an

¹⁵ Oxford English Dictionary (Online), accessed 9 October 2025, at 13:46 GMT.

¹⁶ WIPO Nice Classification, Edition 12-2015.

average consumer may presume both surgical dressings and support/orthopaedic bandages to be sold under the same brand, I do not consider either to be particularly important or useful to the other. Taking into consideration other goods encompassed by the Opponent's broad term (e.g. surgical instruments); whilst surgical dressings will typically be used during or after surgery involving surgical tools/instruments, I do not consider that the average consumer would typically presume that the same undertaking was responsible for both wound dressings and surgical tools/instruments. All things considered, I find a medium level of similarity between the parties' goods.

Contested goods: *Surgical bandages*

34. I note that Class 5 of the Nice Classification system explicitly excludes 'support bandages and orthopaedic bandages'.¹⁷ Following my finding, above at [33], that the Opponent's Class 10 term will include support/orthopaedic bandages, I will compare the Applicant's Surgical bandages to the Opponent's support and orthopaedic bandages. Although both goods share the broad purpose of promoting healing, their specific functions differ; surgical bandages (Class 5) will be used on wounds whereas *support* and *orthopaedic bandages* will be used for pressure, support or stability. Methods of use will be similar, both goods being wrapped around a part of the body. Users will overlap, both goods being used by professionals in medical/surgical settings, as well as by some members of the general public. Trade channels will be shared. The goods will have a similar appearance, both being types of bandage. Given the different specific functions of the competing types of bandage, I do not consider them to be substitutes for one another. I do not find complementarity, either; neither being particularly important or useful for the other. Taking into consideration other goods encompassed by the Opponent's broad term (e.g. surgical instruments); whilst surgical bandages will typically be used during or after surgery involving surgical tools/instruments, I do not consider that the average consumer would readily presume that the same brand was responsible for both wound dressings and surgical tools/instruments. All things considered, I find the parties' goods to be similar to a medium to high degree.

¹⁷ WIPO Nice Classification, Edition 12-2015.

Contested terms: *Surgical cements; Bone cement for surgical and orthopaedic purposes; Bone cement for surgical and orthopedic purposes*

35. The Applicant's goods are preparations used for the surgical repair of bone. The Opponent's *Surgical, medical and dental apparatus and instruments* are tools or items of equipment used in surgical, medical or dental procedures. Although both parties' goods have the general purpose of treating medical conditions, their specific purposes and methods of use are different. Users will overlap to the extent that both will be purchased by healthcare professionals. Although some general consumers might purchase goods encompassed by the Opponent's broad term, the Applicant's bone cements will be purchased exclusively by professionals. I consider that both parties' goods may be *sold through the same outlets* (e.g. medical suppliers); although, I do not consider that they would typically be made *by the same undertaking*. The goods will differ in their physical nature; a bone cement being a preparation versus the Opponent's instruments or pieces of equipment. I do not find the parties' goods to be competitive, neither being substitutable for the other. I do not find complementarity, either; I consider that an average consumer would unlikely presume both goods to originate from the same undertaking. I find a low level of similarity between the goods.

Contested goods: *Surgical glues*

36. To my mind, the Applicant's goods are used by medical professionals to close wounds. The parties' goods will, therefore, have different specific purposes. Users will overlap in the manner described above at [35]. Trade channels will likely overlap; for example, both parties' offerings being sold by medical suppliers. The goods will have different physical natures; one being a preparation (i.e. a substance) and the other being an instrument or piece of equipment. My comments on competition and complementarity, above at [35], also apply here. I find a low level of similarity between the goods.

Contested goods: *Surgical tape*

37. It is my understanding that surgical tape is used to secure, inter alia, bandages, dressings, intravenous drips and drains in place. To the extent that the Opponent's *Surgical, medical and dental apparatus and instruments* encompasses articles such as, drips, needles, drains and other medical tubing, both parties' goods will

be used when dealing with wounds or the intravenous administration of medical preparations, though their specific functions will differ. Users will overlap; both being purchased by healthcare professionals. That said, items such as drips and drains will be purchased exclusively by professionals, whereas surgical tape will also be purchased by members of the general public. Both goods may be sold via the same outlets (e.g. medical suppliers), although I do not consider it typical for both to be produced by the same brand. The Goods will differ in physical nature in that given that goods encompassed by the Opponent's term will likely be very different in physical appearance. I do not find the goods to be in a competitive relationship, neither being substitutable for the other. Although surgical tape will be important and useful to secure the Opponent's goods (e.g. drips, needles, drains, tubing), I do not consider that the average consumer would presume both parties' goods to derive from the same undertaking. I find a low level of similarity between the goods.

Contested goods: *Surgical dyes*

38. It is my understanding that surgical dyes are used in medical imaging with x-ray machines and other scanning devices (e.g. Medical Resonance Imaging (MRI) scanners) to highlight areas of tissue for diagnostic reasons. Scanning machines will be encompassed by the Opponent's *Surgical, medical and dental apparatus and instruments*. Both parties' goods will, therefore, be used for diagnostic reasons, although their specific functions will be different. User overlap will be total; both goods being purchased exclusively by healthcare professionals. Trade channels will overlap; both being sold via medical suppliers. However, I do not consider it typical for both goods to be produced by same brand. The goods will differ in terms of their physical natures; the Applicant's goods being preparations or substances as opposed to the Opponent's tools/items of equipment. There is no competition between the goods, neither being substitutable for the other. Although surgical dyes will undoubtedly be important when scanning patients using the Opponent's equipment, I consider that the average consumer would unlikely presume both parties' offerings to derive from the same undertaking. All things considered, I find a low level of similarity.

Contested goods: *Surgical spirits*

39. In my experience as an ordinary member of the general public, surgical spirits are preparations containing alcohol which are used as disinfectants. In medical settings, they are used for disinfecting skin before procedures (before injections, for example). They are also used by the general public to clean household items. As already noted, the Opponent's broad term *Surgical, medical and dental apparatus and instruments* will include needles and various other instruments and equipment to perform medical procedures. The respective goods will, therefore, overlap in purpose to the broad extent that both will be used in medical procedures, although their specific functions will differ. Methods of use will also differ. Users will overlap; both goods will be purchased by healthcare professionals. Surgical spirits will also be purchased by the general public. Trade channels may also be shared; both goods being sold via medical suppliers, for example. The respective goods will differ in physical nature: a preparation in liquid form versus an instrument or item of equipment. The respective goods are not in competition, neither being substitutable for the other. I do not find complementarity, either. Although surgical spirit is useful/important when using medical instruments, in my view, the average consumer would unlikely presume both to derive from the same undertaking. I find a low level of similarity between the goods.

Contested goods: *Anesthetics for surgical use*

40. The contested goods are pharmaceutical preparations used to numb and/or sedate a patient while they undergo medical procedures. These are highly specialised goods purchased exclusively by healthcare professionals. Although both parties' goods will be used in medical settings, their core purposes are very different. Users of the parties' respective goods will overlap. Trade channels will overlap; both goods being sold by medical suppliers. Methods of use will differ. The goods will be very different in terms of their physical natures: a pharmaceutical preparation versus an instrument or item of equipment. There is no competitive relationship between the goods. I do not find complementarity, either. Although anaesthetics are, in many cases, crucial for most surgical procedures to be performed, the average consumer would unlikely presume both to originate from the same undertaking. In the light of the foregoing, I find the parties' goods to have a low level of similarity.

Contested goods: *Implants (Surgical -) [living tissues]*

41. I note that Class 10 of the Nice Classification System explicitly excludes 'surgical implants comprised of living tissue'. Class 10 does, however, include 'artificial skin for surgical purposes', which, to my mind, is encompassed by the Opponent's broad term *Surgical, medical and dental apparatus and instruments*. I consider that the purpose of the Applicant's 'living tissue' implants in Class 5 is to replace or repair a tissue within the body; for example, skin grafting in situations where skin has been lost through injury or surgery. It is my understanding that skin grafts can be performed using either living tissue or artificial skin. Although 'living' skin to be grafted is often taken from elsewhere on the patient's body, it is, to my mind, conceivable that this is not always the case. I find that the parties' goods will overlap in purpose, given that both can be used for skin grafts. Users will overlap. As to trade channel overlap, it is my view that 'living tissue' products are highly specialised goods which would likely be provided only by specialist and highly regulated suppliers. Whilst I consider it possible for a medical supplier to offer both artificial skin (encompassed by the Opponent's broad term 'surgical [...] apparatus') as well as products classed as living tissues, I am of the view that this would unlikely be typical. The competing goods will coincide in physical nature to the extent that both must possess properties that render them ideal for skin grafts, although the fact that one is living tissue whilst the other is artificial material, to my mind, amounts to a significant physical difference. I consider the goods to be competitive in certain instances; there may be a medical need that can be met by either of the goods. I do not find complementarity; neither good being useful or important for the other. I find no more than a medium level of similarity between the goods.

Contested goods: *Tissues for surgical use*

42. In the absence of any submissions on this point, I consider the contested term to refer to tissues in the sense of 'paper' tissues, rather than biological matter. My interpretation is supported by the fact that the Nice Classification System notes 'tissues impregnated with pharmaceutical preparations' as an example of goods within Class 5. The contested goods are likely to be sterile tissues, perhaps impregnated with an antiseptic preparation, used to clean wounds or surgical sites.

Although both parties' goods will be used during medical or surgical procedures, their specific functions will differ. Users will overlap; both will be purchased by healthcare professionals. Trade channels will be shared. The goods will differ in terms of their physical nature; tissues versus medical instruments and equipment. The respective goods are not in a competitive relationship. I do not find complementarity, either. I consider that the average consumer would unlikely presume both to originate from the same undertaking. All things considered, I find the goods to have a low level of similarity.

Contested goods: *Materials for surgical casts.*

43. It is my understanding that surgical casts include 'plaster' casts that are used to protect and stabilise bone fractures and other injuries while they heal. Materials for such articles will, therefore, likely include the plaster and materials that are wrapped around the injury. The Opponent's broad term *Surgical, medical and dental apparatus and instruments* will include orthopaedic and support bandages. I find that the respective goods will overlap in purpose somewhat; both intended to provide stability and support to an injured part of the body. Where their purposes diverge is in their specific functions; plaster being used for bone fractures whilst support bandages are unlikely to be used in this way. Methods of use will differ; plaster and the wrappings for surgical casts will need to be made wet in order to set, whereas support bandages are simply applied to the body part without such a process being employed. Both goods will be purchased by healthcare professionals. Trade channels will likely overlap. The goods will differ somewhat in terms of their physical nature. It is conceivable that there may be competition in certain instances; there may be certain injuries for which either a plaster cast or a support/orthopaedic bandage may be appropriate. I do not find complementarity, neither good being particularly important or useful for the other. I find a low to medium level of similarity between the goods.

Class 10

44. During the hearing, Mr Curtis retreated from his initial argument that all of the Applicant's terms were identical to the Opponent's broad term *Surgical, medical*

*and dental apparatus and instruments,*¹⁸ and submitted that some of the contested goods were 'highly similar' rather than identical. Mr Curtis now argues that the following goods are 'highly similar' to those of the Opponent, and that they are complementary because 'they are used together':

Surgical gowns; Surgical drapes; Surgical gloves; Surgical masks; Surgical examination drapes; Plaster for medical or surgical purposes; Surgical caps; Gowns for surgical use; Sterile sheets, surgical; Sterile clothing for surgical use; Pads (Abdominal -) for surgical use

Contested goods: *Surgical gowns; Gowns for surgical use; Sterile clothing for surgical use; Surgical caps; Surgical masks; Surgical gloves*

45. I find that the Applicant's goods are worn by medical professionals while performing medical procedures. Their purpose is to protect both the patient and professional from infection during medical procedures. In my view, these goods are not ordinarily described as 'apparatus' or 'instruments', but rather as protective equipment. Both parties' goods will be used in the same medical settings, although their specific functions and methods of use will be different. Users will necessarily overlap; both being used by healthcare professionals. Trade channels may overlap; both being sold by medical suppliers. The parties' goods will likely differ in physical appearance. There is no competition between the respective goods, neither being substitutable for the other. I do not find complementarity, either. Although both medical apparatus/instruments and the surgical caps and clothing will be used in the same context and at the same time, I find that the average consumer would unlikely presume surgical clothing/masks and medical instruments/apparatus to be produced by the same brand. I find a low level of similarity between the parties' goods.

Contested goods: *Surgical drapes; Surgical examination drapes; Sterile sheets, surgical*

46. I consider the above contested goods to be more or less synonymous. Put simply, they are sterile sheets that are used during surgical procedures to keep the patient

¹⁸ Opponent's Skeleton Argument, [15].

and operating area sterile during the procedure. For reasons analogous to those above at [45], I find a low level of similarity between the parties' goods.

Contested goods: *Plaster for medical or surgical purposes*;

47. It is my view that the Applicant's 'plaster' is to be understood as the preparation used to make casts which are applied to injured areas of the body, particularly limbs. I consider this good, so construed, to be proper to Class 5 of the Nice Classification System, rather than Class 10. Although Class 10 does include 'plaster bandages for orthopaedic purposes', which is given as an example of goods, my view is that the use of the word 'plaster' in the singular in the contested term points towards it being the Class 5 preparation rather than plaster bandages. I have already compared the Applicant's class 5 term *Materials for surgical casts* to the Opponent's *Surgical, medical and dental apparatus and instruments*, above at [43], and found the respective goods to have a low to medium level of similarity. For analogous reasons, I come to the same conclusion here and find the parties' goods to be similar to a low to medium degree.

Contested goods: *Pads (Abdominal -) for surgical use*

48. 'Abdominal pads' are listed as a good covered by Class 10 in the Nice Classification System. I note that Class 10 also explicitly excludes 'medical dressings [...], for example bandages and gauze for dressings'. It seems likely, therefore, that abdominal pads perform some surgical function other than to dress wounds. In the absence of Mr Curtis' argument that the contested goods are highly similar, I would have found them to be encompassed by the Opponent's broad term *Surgical, medical and dental apparatus and instruments* and, therefore, identical according to the principle in *Meric*. However, it is not open to me to 'improve' the Opponent's case. I, therefore, find the parties' goods to be highly similar.

49. Bearing in mind my finding above at [32], I find the following contested goods to be encompassed by the Opponent's broad term *Surgical, medical and dental apparatus and instruments*, present in both earlier specifications. The parties' goods are, therefore, identical according to the principle in *Meric*:

Contested goods:
Class 10:

Medical and surgical laparoscopes; Surgical sutures; Surgical forceps; Surgical instruments for use in orthopedic surgery; Medical and surgical catheters; Surgical retractors; Surgical instruments for use in spinal surgery; Surgical bougies¹⁹; Surgical catgut;²⁰ Surgical staplers; Dressing forceps [for surgical use]; Surgical splints; Splints, surgical; Surgical perforators; Prostheses for surgical treatment; Surgical instruments; Surgical scissors; ; Surgical mesh; Surgical staples; Surgical knives; Surgical needles; Surgical pliers; Sponges (Surgical -); Surgical sponges; Cutlery [surgical]; Surgical cutlery; Surgical blades; Surgical drills; Surgical skin staplers; Surgical robots; Surgical saws; Surgical catguts; Surgical amputaters; Surgical probes; Surgical clips; Clips, surgical; Surgical cutting instruments; Shears [surgical instruments]; Compressors [surgical]; Cardiac vascular prosthesis for surgical prostheses; Surgical headlamps; Catheters for surgical use; Cardiac valves for surgical prostheses; Surgical raspatories; Surgical lamps; Blunt curettes [for surgical use]; Catgut for surgical purposes; Grafts for surgical use; Staplers for surgical purposes; Artificial surgical implants; Medical instruments for percutaneous tracheostomy; Endoscopes for surgical use; Surgical thread; Thread, surgical; Plates in the nature of orthopaedic surgical implants; Surgical mirrors; Hammers for medical or surgical use; Catgut for surgical use; Incision foils for surgical use; Surgical and wound treating equipment; Ureteral stents being surgical support; Surgical apparatus and instruments; Surgical instruments and apparatus; Plates in the nature of orthopaedic surgical instruments; Bandages [supportive] for surgical purposes; Corsetry for surgical purposes; Surgical bypass devices; Electric scalpels [for surgical purposes]; Surgical devices and instruments; Surgical apparatus and instruments for medical use; Medical apparatus for use in cardiac surgery; Splints for surgical use; Surgical apparatus and instruments for dental use; Surgical tubing for wound drainage; Needles for surgical purposes; Inflation syringes for medical or surgical use; Tweezers for surgical use; Suture materials for surgical use; Surgical apparatus and instruments for veterinary use; Compressing screws in the nature of orthopaedic surgical implants; Compressing

¹⁹ A 'bougie' is a surgical instrument which is introduced into body passages in order to dilate them, Collins English Dictionary (online), accessed 14 October at 15:14 GMT.

²⁰ 'Catgut' is a strong cord, made from the dried intestines of animals, which is sterilised for use in surgical procedures, Collins English Dictionary (online), accessed 14 October at 15:16 GMT.

screws in the nature of orthopaedic surgical instruments; Knives for surgical purposes; Lasers for surgical use; Intraocular lenses for surgical implantation; Intraocular prostheses [lenses] for surgical implantation; Prostheses (Intraocular -) [lenses] for surgical implantation; Lenses [intraocular prostheses] for surgical implantation; Armboards [surgical splints]; Cutlery for surgical purposes; Lenses [intraocular prosthesis] for surgical implantation; Tubes for surgical purposes; Lag screws in the nature of orthopaedic surgical implants; Staples for surgical use; Surgical implants [artificial materials]; Surgical breathing masks; Ophthalmic microsurgical knives; Transplant sutures for use in surgery; Knives for surgical use; Ultrasonic diagnostic instruments for surgical use; Lag screws in the nature of orthopaedic surgical instruments; Electronic endoscopes for surgical use; Saws for surgical purposes.

Average consumer and the purchasing act

50. The average consumer is deemed to be reasonably well-informed and reasonably observant and circumspect. The word 'average' denotes that the person is typical. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97*.

51. Mr Curtis has argued that the average consumer of the relevant goods will comprise both specialist medical consumers and general public.²¹ He argued that the professional consumer may pay a higher level of attention during the purchasing act, whilst the general consumer would pay an 'average' level of attention.²²

52. Mr Shabbir, for the Applicant, has argued that the relevant consumers in this case are 'medical professionals and procurement officers, not the general public'.²³ Mr

²¹ Opponent's Skeleton Argument, [16].

²² As above.

²³ Applicant's Skeleton Argument, [6.19].

Shabbir argued that ‘these buyers exercise a high degree of attention when selecting the products, as confirmed in *Castellblanch v OHIM* (Case T-29/04).²⁴

53. I note, at this point, that *Castellblanch* is not an appropriate authority to rely upon in support of the argument advanced by the Applicant, because it did not concern medical professionals. This will be addressed later in this decision at [103].

54. During the hearing, Mr Shabbir sought to detail the specific procurement processes, consultations and evaluations that take place when purchasing medical equipment, with particular reference to the NHS. However, in the absence of any evidence and/or written submissions having been filed to foreshadow and support these oral submissions, I am unable to take them into account in my assessment of the likelihood of confusion.

55. All of the class 5 and 10 goods at stake are intended for medical or surgical use. For the majority of the goods, the average consumer will be predominantly professionals in the field of healthcare. For certain of the goods, i.e. plasters/dressings, bandages, medical tape and surgical spirit, the average consumer will include members of the general public.

56. I will deal with the more specialist goods, purchased predominantly by the professional public, first. I bear in mind the case of *Olimp Laboratories sp. z o.o. v EUIPO*,²⁵ in which the GC considered the average consumer of pharmaceutical and medical products in class 5, and the level of attention paid when selecting them. The GC said:

‘39 Where the goods in question are medicinal or pharmaceutical products, the relevant public is composed of medical professionals, on the one hand, and patients, as end users of those goods, on the other (see judgment of 15 December 2010, *Novartis v OHIM – Sanochemia Pharmazeutika (TOLPOSAN)*, T-331/09, EU:T:2010:520, paragraph 21 and the case-law cited; judgment of 5 October 2017, *Forest Pharma v EUIPO – Ipsen Pharma (COLINEB)*, T-36/17, not published, EU:T:2017:690, paragraph 49).

²⁴ As above, [6.20].

²⁵ Case T-817/19, EU:T2021:41.

40 Moreover, it is apparent from case-law that, first, medical professionals display a high degree of attentiveness when prescribing medicinal products and, second, with regard to end consumers, in cases where pharmaceutical products are sold without prescription, it must be assumed that those goods will be of concern to consumers, who are deemed to be reasonably well informed and reasonably observant and circumspect where those goods affect their state of health, and that these consumers are less likely to confuse different versions of such goods. Furthermore, even assuming that a medical prescription is mandatory, consumers are likely to demonstrate a high level of attentiveness upon prescription of the goods at issue in the light of the fact that those goods are pharmaceutical products. Thus, medicinal products, whether or not issued on prescription, can be regarded as receiving a heightened level of attentiveness on the part of consumers who are normally well informed and reasonably observant and circumspect (see judgment of 15 December 2010, *TOLPOSAN*, T-331/09, EU:T:2010:520, paragraph 26 and the case-law cited).

41 [...]

42 In the present case, having regard to the nature of the goods concerned, namely medical or pharmaceutical products in Class 5, the Board of Appeal acted correctly in finding in paragraphs 18 to 21 of the contested decision – which, moreover, is not disputed by the applicant – that, in essence, the relevant public was made up of medical professionals and pharmacists and consumers belonging to the general public with a higher than average degree of attentiveness.'

57. Although the above case refers to medicinal goods in class 5, I consider that a comparably high level of attention would likely be paid by professionals when selecting the class 10 goods in the instant case.

Class 5:

Surgical glues; Surgical dyes; Surgical cements; Anesthetics for surgical use; Bone cement for surgical and orthopaedic purposes; Implants (Surgical -) [living tissues];

Bone cement for surgical and orthopedic purposes; Tissues for surgical use; Materials for surgical casts.

58. I find that the average consumer of the goods enumerated above will be healthcare professionals. The goods are specialised; the 'living tissue' goods highly so. The purchasing act will likely be primary visual with the goods selected from the websites and catalogues of medical suppliers. There will likely be an aural aspect to the purchasing process in many instances, but particularly in the case of the more highly specialised goods. I consider that these goods would be purchased with a high level of attention (in some cases, very high) given the importance of healthcare and the 'high stakes' inherent in the medical/surgical fields.

Medical and surgical dressings; Surgical bandages; Dressings (Surgical -); Surgical dressings; Surgical plasters; Surgical tape; Surgical spirits

59. The goods listed above will, to my mind, include goods purchased by a number of general consumers, as well as medical professionals. For professionals and general consumers alike, I find that the purchasing process will be primarily visual. For the professional purchaser, the goods will likely be ordered in bulk, via the supplier's website or catalogue. The general consumer, on the other hand, will make purchases from physical shops (e.g. pharmacies) and their online equivalents. I find that both types of consumer will likely pay at least a medium level of attention when making their purchases.

Class 10


60. The relevant class 10 goods are very specialised. The majority will be purchased exclusively by healthcare or veterinary professionals, in the manner described above at [58], and with a high level of attention. I find that surgical masks, surgical gloves and support bandages will also be purchased by a number of general consumers, in the manner described above at [59]. To my mind, the general consumer will likely pay a lower level of attention than the professional; perhaps no more than medium. Professionals may pay a level of attention in the medium to high range.

Comparison of the marks

61. It is clear from *Sabel BV v Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

‘...it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.’

62. The marks to be compared are:

Opponent's marks:	Applicant's mark:
<p>i) UK00905056437</p> <p>OSCAR</p> <p>ii) WO0000001588717</p> 	<p>OscarTech UK</p>

Overall impression of the marks

Opponent's marks:

63. i) OSCAR (word mark)

The first of the earlier marks is a word mark²⁶ comprising the single word 'Oscar'. I find that the overall impression resides solely in the single word of which the mark consists.

64.ii) 'Oscar Pro' (figurative mark)

The second earlier mark is a figurative mark comprising two text elements, 'OSCAR' and 'PRO' with areas of stylisation in each. Both words are rendered in the same typeface which might be described as being generally 'square' in style. The 'OSCAR' element has visual immediacy due to its positioning and size relative to the much smaller 'PRO' element. The 'PRO' element is presented underneath the 'R' character of 'OSCAR'. There is some mild stylisation to the characters 'S', 'C' and 'A' in the word 'OSCAR' such that: the 'tail ends' of the 'S'; the top 'line' of the 'C'; and the horizontal 'bar' of the 'A', are elongated and tapered to points. The inside space of the 'C' contains a group of small circles in solid black, and of various sizes, that might be said to resemble bubbles. The 'O' of 'PRO' has a black infill, save for a white triangular section to the left of the character. Overall, the stylisation is fairly subtle. I find that the overall impression resides in the mark as a whole; with the 'OSCAR' element being the more dominant element and the 'PRO' element playing a lesser role.

Applicant's mark:

65. The Applicant's mark is a word mark comprising the elements 'OscarTech' and 'UK'. I find that the 'OscarTech' element will be seen as a combination of 'Oscar'

²⁶ In *LA Superquimica v EUIPO*, Case T-24/17, at paragraph [39] it was held that:

'[...] it should be noted that a word mark is a mark consisting entirely of letters, words or groups of words, without any specific figurative element. The protection which results from registration of a word mark thus relates to the word mentioned in the application for registration and not the specific figurative or stylistic aspects which that mark might have. As a result, the font in which the word sign might be presented must not be taken into account. It follows that a word mark may be used in any form, in any colour or font type (see judgment of 28 June 2017, *Josel v EUIPO — Nationale-Nederlanden Nederland (NN)*, T-333/15, not published, EU:T:2017:444, paragraphs 37 and 38 and the case-law cited).'

and 'Tech'. In this regard, I have borne in mind the case of *Usinor SA v OHIM*²⁷ in which the GC said:

'62. [...] it must be noted that while the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details (Lloyd Schuhfabrik Meyer, paragraph 25), he will nevertheless, perceiving a verbal sign, break it down into verbal elements which, for him, suggest a concrete meaning or which resemble words known to him (Case T-356/02 Vitakraft-Werke Wührmann v OHIM – Krafft (VITAKRAFT) [2004] ECR II-3445, paragraph 51, and Case T-256/04 Mundipharma v OHIM – Altana Pharma (RESPICUR) [2007] ECR II-0000, paragraph 57).'

I find that both 'OscarTech' and 'UK' will play some role within the mark. 'UK' will be seen as the least distinctive element; given its abbreviation for 'United Kingdom' and its ubiquity in a trade mark context. That said, I do not regard the 'UK' element as negligible; because, to my mind, its presence will nevertheless be registered visually by a significant proportion of average consumers. The 'OscarTech' element will play the greater visual role; albeit 'Oscar' will likely be seen as the more distinctive portion of the word, with the 'Tech' portion seen as somewhat allusive or descriptive of the offerings under the mark.

Visual comparison

66. The Opponent has argued that the parties' marks are 'phonetically, conceptually and visually similar'.²⁸

67. The Applicant has argued that the competing marks can be distinguished by their structure and that the presence of the 'Tech' and 'UK' elements of the Contested Mark 'materially alter the overall impression'.²⁹ Mr Shabbir's argument that the Opponent's mark denoted a product, whereas the Applicant's mark denoted a company, has been addressed above at [17] to [20].

Comparison of the Contested Mark to earlier mark i):

²⁷ Case T-189/05.

²⁸ Opponent's Skeleton Argument, [11].

²⁹ Applicant's Skeleton Argument, [3.10].

68. Both marks are word marks, with the entirety of the Opponent's mark 'Oscar' being incorporated within the first element of the Contested Mark. The points of visual difference are:

- the presence of the 'Tech' element, forming the second portion of 'OscarTech' in the Contested Mark, which has no counterpart in the Opponent's mark;
- the presence of the 'UK' element in the Contested Mark, which has no counterpart in the Opponent's mark.

I find that the difference in lengths of the marks will be perceived by the average consumer, given that the earlier mark is relatively short in comparison. Overall, I consider the parties' marks to have a medium level of visual similarity.

Comparison of the Contested Mark to earlier mark ii):

69. The Opponent's mark is figurative, whereas the Contested Mark is a word mark. Normal and fair use of the Contested Mark would, to my mind, allow for it to be presented in a similarly 'square' typeface to that in the Opponent's mark. I consider the relevant points of visual difference between the marks to be:

- the presence of the 'PRO' element in the Opponent's mark, which is absent from the Contested Mark;
- the presence of the shading/triangular void within the 'O' character of the Opponent's mark, which has no counterpart in the in Contested Mark.
- the presence of the 'bubbles' detail within the 'C' character of the Opponent's mark, which has no counterpart in the in Contested Mark;

I find the marks to have a level of visual similarity within the medium range.

Aural comparison

70. The Opponent's marks will be articulated in the normal way: 'OSS-CUH' (word mark); and 'OSS-CUH PROE'. The Contested Mark will be articulated 'OSS-CUH-TEK YOO-KAY'.

Comparison of the Contested Mark to earlier mark i):

71. The 'OSCAR' element will be articulated in the same way in either party's mark. The aural differences reside in the third and fourth syllables of the Contested Mark. I consider it likely that a significant proportion of average consumers may neglect to articulate the final 'UK' element of the Contested Mark. For this group of average consumers, the marks will differ in length by just one syllable, i.e. the 'TEK' sound at the end of the Contested Mark. In this instance, I find the marks to be aurally similar to a medium degree.

72. Where the Contested Mark is articulated in full, the marks will be more aurally distant: 'OSS-CUH' versus 'OSS-CUH-TEK YOO-KAY'. In this case, I find a low level of aural similarity.

Comparison of the Contested Mark to earlier mark ii):

73. Where the average consumer neglects to articulate the 'UK' element of the Contested Mark, both parties' marks will be three syllables in length: 'OSS-CUH PROE' versus 'OSS-CUH-TEK'. In this case, I find the marks to be similar to a degree approaching high but still within the medium range.

74. Where the Contested Mark is articulated in full, the marks will be more aurally distant: 'OSS-CUH PROE' versus 'OSS-CUH-TEK YOO-KAY'. In this case, I find a low level of aural similarity.

Conceptual comparison

75. The parties are in agreement that the 'OSCAR' element, in either party's mark, will be understood as the given name. The Opponent submits that it acknowledges the 'structural differences' in the competing marks (i.e. the 'Tech', 'UK' and 'Pro' elements) but argues that, in either party's mark(s), it is 'OSCAR' that plays the dominant and distinctive role.

76. I agree that the Opponent's 'OSCAR' mark will be understood as the given name, which is fairly common in the UK.

77. Whilst I have addressed Mr Shabbir's argument that 'OscarTech' denotes a company whilst 'Oscar Pro' might be seen as a product,³⁰ in the context of notional

³⁰ Applicant's Skeleton Argument, [3.11].

and fair use, I now consider whether such a distinction might be perceived conceptually.

78. Turning now to the Opponent's figurative mark 'Oscar Pro', my view is that the 'Pro' element will likely be understood as a shorthand way of saying 'professional'. I find that the mark, as a whole, will evoke the idea of brand, perhaps named after a person 'Oscar', which provides goods of a 'professional' grade, i.e. perhaps of a superior quality and/or specialist in nature. I do not consider that the stylistic elements (i.e. the 'bubbles' device and shading/triangular void) contribute anything particularly meaningful to the mark in terms of concept; mainly because it is not entirely clear what, if anything, these features are intended to denote.

79. As to the Contested Mark, I find that the 'Tech' element will be familiar to the average consumer as short-hand for 'technology'. 'Technology', broadly speaking, concerns the application of knowledge to practical matters, e.g. applying science to solve a particular problem/complete a task. It is my understanding that the shortened form of the word, 'Tech', is, also, often treated as an umbrella term for digital technology and the average consumer is more likely to derive that concept from the mark. I have noted that 'UK' will be seen simply as an abbreviation of the United Kingdom. To my mind, the Contested Mark, as a whole, will convey the message of a company named after a person called Oscar, whose offerings relate to scientific, technical or digital goods. The UK element will be seen simply as an indication that the company was founded in, or operates within, the United Kingdom.

80. In the light of the foregoing, I find the Contested Mark to have a level of conceptual similarity, to either of the Opponent's earlier marks, of medium.

Distinctive character of the earlier marks

81. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97, the CJEU stated that:

'22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an

overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)'.

82. Registered trade marks possess varying degrees of inherent distinctive character. Where a mark is suggestive or allusive of a characteristic of the goods or services, it tends to be low. Inherent distinctive character may range up to a high level for marks which consist of invented words with no allusive qualities.

83. The Opponent has conceded that the evidence adduced does not support a finding that either of the earlier marks enjoys an enhanced level of distinctive character. I, therefore, have only the inherent position to consider.

84. The element 'Oscar' neither describes nor alludes to the relevant goods in respect of which each of the earlier marks stands registered. However, it is my view that given names are not particularly high in distinctiveness, either. I find that the 'Pro' element will be seen as alluding to the fact that the goods sold under the mark might be aimed at a professional customer and/or that the goods are of a superior quality or specialist nature.

A note on 'State of the Register' evidence

85. Mr Shabbir has enumerated nine UK trade marks said to be present on the UK Register and argued that ‘the coexistence of these marks demonstrates that customers are accustomed to distinguishing between different ‘OSCAR’ trade marks, even in the same classes’.³¹

86. In this regard, I bear in mind the case of *Zero Industry Srl v OHIM*³² in which the GC stated that:

‘73. As regards the results of the research submitted by the applicant, according to which 93 Community trade marks are made up of or include the word ‘zero’, it should be pointed out that the Opposition Division found, in that regard, that ‘... there are no indications as to how many of such trade marks are effectively used in the market’. The applicant did not dispute that finding before the Board of Appeal but none the less reverted to the issue of that evidence in its application lodged at the Court. It must be found that the mere fact that a number of trade marks relating to the goods at issue contain the word ‘zero’ is not enough to establish that the distinctive character of that element has been weakened because of its frequent use in the field concerned (see, by analogy, Case T-135/04 *GfK v OHIM – BUS(Online Bus)* [2005] ECR II-4865, paragraph 68, and Case T-29/04 *Castellblanch v OHIM – Champagne Roederer (CRISTAL CASTELLBLANCH)* [2005] ECR II-5309, paragraph 71).’

87. I also note the Court of Appeal’s (‘CA’) judgment in *Lifestyle Equities CV & Ors v Royal County of Berkshire Polo Club Ltd & Ors*³³ in which it was held that evidence that a number of traders, in the same market, using the same or similar signs, may result in the distinctive character of a trade mark being assessed as weaker than would otherwise have been the case.

88. I note that the Applicant has not produced any further detail beyond the nine UK trade mark numbers cited. Based on this list alone, it is not possible to determine:

- the forms of the marks to which the registration numbers relate;
- the ‘registration status’ of each mark (i.e. which of them are still registered);

³¹ Applicant’s Skeleton Argument, [4].

³² Case T-400/06.

³³ [2024] EWCA Civ 814.

- of those registrations that are ‘live’, the goods/services in respect of which they stand registered;
- the total number of ‘Oscar’ marks currently in use within the UK market, and the extent of such use.

89. It was open to a party to file evidence to demonstrate the above points. However, the Applicant has elected not to file such evidence. The Registrar is not obliged to consult the Register to seek answers to the points set out above.

90. Mr Shabbir’s submission on the state of the register is, therefore, of little assistance in this case.

91. In the light of the foregoing, I find that the mark comprising ‘Oscar’, solus, will have a ‘normal’ or ‘average’ level of inherent distinctive character. I find that the mark ‘Oscar Pro’ will enjoy a slightly lower level of inherent distinctive character than ‘Oscar’, solus, although it is likely still within the ‘normal’ or ‘average’ range.

Likelihood of confusion

92. Confusion can be direct or indirect. Mr Iain Purvis Q. C., (as he then was) as the Appointed Person, explained the difference in the decision of *L.A. Sugar Limited v By Back Beat Inc*³⁴. Direct confusion occurs when one mark is mistaken for another. In *Lloyd Schuhfabrik*³⁵, the CJEU recognised that the average consumer rarely encounters the two marks side by side but must rely on the imperfect picture of them that they have kept in mind. Direct confusion can therefore occur by imperfect recollection when the average consumer sees the later mark but mistakenly matches it to the imperfect image of the earlier mark in their ‘mind’s eye’. Indirect confusion occurs when the average consumer recognises that the competing marks are not the same in some respect, but the similarities between them, combined with the goods/services at issue, leads them to conclude that the goods/services are the responsibility of the same or an economically linked undertaking.

³⁴ Case BL O/375/10 at [16].

³⁵ *Lloyd Schuhfabrik Meyer and Co GmbH v Klijsen Handel BV* (C-34297) at [26].

93. I must keep in mind that a global assessment is required taking into account all of the relevant factors, including the principles a) – k) set out above at [16]. When considering all relevant factors ‘in the round’, I must bear in mind that a greater degree of similarity between goods/services *may* be offset by a lesser degree of similarity between the marks, and vice versa.

A note on the absence of confusion within the marketplace

94. Before I proceed to make my assessment of likelihood of confusion, it is appropriate to address the Applicant’s submission on the absence of evidence of confusion within the marketplace. I bear in mind the judgment of the CA in the case of *Roger Maier and Another v ASOS*³⁶ in which it was held that, while evidence of actual confusion within the marketplace may be powerful evidence that the competing marks are such that confusion is likely, it is not necessarily the case that, conversely, the absence of confusion indicates that there is no such likelihood of confusion. The CA pointed out that:

‘the reason for the absence of confusion may be that the mark has only been used to a limited extent or in relation to only some of the goods or services for which it is registered’.³⁷

My assessment of likelihood of confusion

95. I have found all of the Applicant’s goods to have some level of similarity with those of the Opponent; ranging from ‘identical’ to ‘low’. I have found the Contested Mark to have a medium level of visual similarity to each of the two earlier marks. A significant proportion of average consumers may neglect to articulate the ‘UK’ present in the Contested Mark, in which case the parties’ marks will be aurally similar to a medium degree. Conceptually speaking, the marks have been found to be similar to a medium degree, with the conceptual overlap residing in the shared element ‘Oscar’. My view is that the net effect of the differences that I have identified is sufficient to prevent one party’s mark being mistaken or mis-remembered as that of the other, even where the goods are identical. The purchasing process will be primarily visual. Given the medical/pharmaceutical

³⁶ [2015] EWCA Civ 220, per Kitchen L.J., [80].

³⁷ As above.

nature of the goods and the fact that they will be purchased predominantly (and, in some cases, exclusively) by healthcare professionals, the level of attention paid will often be high. Even the lowest level of attention paid during the purchasing act will be at least medium. The 'Tech' portion of the 'OscarTech' element within the Contested Mark will, in my view, not go unnoticed by the average consumer, given its combination with 'Oscar' to form a continuous 'string'. In the light of the foregoing, I find that there is no likelihood of direct confusion.

96. However, for the reasons that follow, I do find a likelihood of indirect confusion.

97. In the case of *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said the following at [16]:

'a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion'. Mr Mellor went on to say that, if there is no likelihood of direct confusion, 'one needs a reasonably special set of circumstances for a finding of a likelihood of indirect confusion'.

98. Arnold LJ emphasised that 'there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion'.³⁸

99. In *L.A. Sugar Limited v Back Beat Inc*³⁹ Mr Iain Purvis Q. C. (as he then was), as the Appointed Person, explained that:

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right ('26 RED TESCO' would no doubt be such a case).

³⁸ *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207.

³⁹ Case BL O/375/10

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as 'LITE', 'EXPRESS', 'WORLDWIDE', 'MINI' etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension ('FAT FACE' to 'BRAT FACE' for example).

100. I remind myself that a finding of a likelihood of indirect confusion should not be made merely because the competing marks share a common element.⁴⁰ I also bear in mind that the above-mentioned categories are not intended to be exhaustive.

101. Mr Curtis has submitted that the instant case falls within the second of Mr Purvis' categories outlined above at [99]. I agree. The common element in the parties' marks is 'Oscar'. I have found 'Oscar' to enjoy a 'normal' or 'average' level of inherent distinctive character within each of the earlier marks. The Opponent's mark comprising 'Oscar', solus, is wholly incorporated within the Contested Mark. Although 'Oscar' has been combined with the element 'Tech', I find that this structure does nothing to disturb the distinctive character enjoyed by 'Oscar' as a solitary element. It is important to note that, whilst the levels of similarity along the three planes of comparison have been found to be only medium, the points of distinction that have been identified reside in the *non-distinctive* elements of the parties' marks. Given that, but for the presence of 'UK', 'Tech' and 'Pro', the marks would be identical (earlier mark i) and more-or-less identical (earlier mark ii), I consider that there would be a likelihood of confusion in respect of all of the Applicant's goods, even those that I have found to have a very low level of similarity. Taking all relevant matters into account, it is my view that a significant

⁴⁰ Case BL O/547/17, [81.4].

proportion of average consumers, upon seeing either party's marks may presume them to relate to the same or economically related undertakings. For example, it is conceivable that 'OscarTech UK' might be seen as a line of products with, say, particular technical applications (i.e. the 'Tech' line) under the overarching 'Oscar' brand. I find that there is a likelihood of indirect confusion between the Contested Mark and the Opponent's earlier 'Oscar' word mark.

Conclusion

102. The opposition has succeeded in its entirety. Subject to a successful appeal, application UK00003966292 is refused in its entirety.

A note on the use of AI applications and case preparation

103. Before I proceed to deal with the matter of costs, it is appropriate to comment briefly on a final matter. Following the filing of the Applicant's Skeleton Argument, Mr Curtis requested copies of two decisions referenced therein, namely:⁴¹ IONTECH v TECNION (BL O/375/10); and EUROPREMIER v PREMIER (BL O/185/02). The reason for the request was that the former case appeared to be a reference to a Patent decision, and the numerical reference in the latter relates to a case unrelated to 'EUROPREMIER or PREMIER'.

104. I have already noted the inappropriate citation of the case of *Castellblanch* at [53].

105. I further note that Mr Shabbir has cited the case of *Ruiz-Picasso v OHIM*, Case T-185/02 as authority supporting his argument that 'common given name[s] are] inherently less distinctive than invented marks'.⁴²

106. In the event, Mr Shabbir withdrew the Applicant's reliance upon the two case references highlighted by Mr Curtis. Mr Shabbir explained in the hearing that, he had used an AI tool to help him prepare for the hearing.

107. On the matter of the use of AI in legal research, it is appropriate to note that Mr Phillip Johnson, sitting as the Appointed Person in his recent decision BL O/0559/25, underlined the risks associated with AI tools; in particular, the fictitious case references that can be generated; and incorrect authorities cited in support

⁴¹ Opponent's email correspondence of 19 September 2025; Applicant's Skeleton Argument,

⁴² Opponent Skeleton Argument, [4.12].

of legal arguments. Mr Johnson made it clear that even litigants-in-person have a duty not to mislead the court [or tribunal] and, in observing that duty, they are urged to be alert to the risks associated with the use of 'ChatGPT' and the like.

Costs

108. The Opponent is the successful party and is, therefore, entitled to a contribution to its costs based upon the scale published in Tribunal Practice Notice 1/2023, calculated as follows:

Official filing fee for Notice of Opposition	£200
Preparation of the Notice of Opposition and Statement of Grounds	£250
Preparation of evidence	£300
Preparation for and attendance at a hearing	£500
Total:	£1,250

109. I have awarded sums below the minimum scale in respect of preparation of evidence, and preparation/attendance at the hearing. The amount of evidence filed was scant; the hearing was relatively short; and the issues at stake not particularly complex. I, therefore, consider £300 and £500, respectively, to be appropriate sums for these two heads of costs.

110. I, therefore, order OscarTech UK Ltd to pay to ORTHOFIX S.r.l. the sum of £1,250. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 30th day of October

N. Rhea Morris

For the Registrar

Annexe 1 – Goods and Services to be compared

Opponent's marks:	Applicant's mark:
<p data-bbox="193 327 794 416">i) UK00905056437 OSCAR</p> <p data-bbox="193 490 794 1240">Class 9: <i>Scientific apparatus and instruments; electrical and electronic apparatus and instruments; electrical and electronic control systems for controlling medical and surgical apparatus and instruments; apparatus for generating and transmitting ultrasound; data processing equipment; computers; parts and fittings for all the aforesaid goods; computer programs; none of the aforementioned goods being for or in relation to maps, mapping, surveying or road centre alignment.</i></p> <p data-bbox="193 1314 794 1841">Class 10: <i>Surgical, medical, veterinary and dental apparatus and instruments; ultrasonically-vibratable surgical instruments; surgical instruments for use in orthopaedic surgery; orthopaedic prostheses; ultrasonically-vibratable tools for use in removing cement during joint prosthesis revision; parts and fittings for all the aforesaid goods.</i></p> <p data-bbox="193 1915 794 1960">Class 44:</p>	<p data-bbox="798 327 1399 416">UK00003966292 OscarTech UK</p> <p data-bbox="798 490 1399 1128">Class 5: <i>Medical and surgical dressings; Surgical bandages; Dressings (Surgical -); Surgical dressings; Surgical plasters; Surgical glues; Surgical tape; Surgical dyes; Surgical spirits; Surgical cements; Anesthetics for surgical use; Bone cement for surgical and orthopaedic purposes; Implants (Surgical -) [living tissues]; Bone cement for surgical and orthopedic purposes; Tissues for surgical use; Materials for surgical casts.</i></p> <p data-bbox="798 1202 1399 1960">Class 10: <i>Medical and surgical laparoscopes; Surgical sutures; Surgical forceps; Surgical instruments for use in orthopedic surgery; Medical and surgical catheters; Surgical retractors; Surgical instruments for use in spinal surgery; Surgical bougies; Surgical catgut; Surgical staplers; Dressing forceps [for surgical use]; Surgical splints; Splints, surgical; Surgical perforators; Prostheses for surgical treatment; Surgical instruments; Surgical scissors; Surgical gowns; Surgical drapes;</i></p>

Medical, surgical, veterinary and dental services; rental of medical, surgical, veterinary and dental apparatus and instruments; consultancy services relating to all the aforesaid services; provision of advice and information relating to all the aforesaid services.

ii) WO0000001588717



Class 10:

Surgical, medical and dental apparatus and instruments; ultrasonically-vibratable surgical instruments; surgical instruments for use in orthopaedic surgery; orthopaedic articles; orthopedic prostheses; ultrasonically-vibratable tools for use in removing cement during joint prosthesis revision; ultrasonically vibratable surgical instruments for soft tissue resection, resection and cutting of bones, resection and cutting of soft tissues; parts and fittings for all the aforesaid goods.

Surgical gloves; Surgical masks; Surgical mesh; Surgical staples; Surgical knives; Surgical needles; Surgical pliers; Sponges (Surgical -); Surgical sponges; Cutlery [surgical]; Surgical cutlery; Surgical blades; Surgical drills; Surgical skin staplers; Surgical robots; Surgical saws; Surgical examination drapes; Surgical catguts; Surgical amputaters; Surgical probes; Surgical clips; Clips, surgical; Surgical cutting instruments; Shears [surgical instruments]; Compressors [surgical]; Plaster for medical or surgical purposes; Cardiac vascular prosthesis for surgical prostheses; Surgical headlamps; Catheters for surgical use; Cardiac valves for surgical prostheses; Surgical raspatories; Surgical lamps; Blunt curettes [for surgical use]; Catgut for surgical purposes; Grafts for surgical use; Staplers for surgical purposes; Artificial surgical implants; Medical instruments for percutaneous tracheostomy; Surgical caps; Endoscopes for surgical use; Surgical thread; Thread, surgical; Plates in the nature of orthopaedic surgical implants; Surgical mirrors; Hammers for medical or surgical use; Catgut for surgical use; Incision foils for surgical use; Surgical and wound treating equipment; Ureteral stents being surgical support; Surgical

	<p> <i>apparatus and instruments; Surgical instruments and apparatus; Plates in the nature of orthopaedic surgical instruments; Bandages [supportive] for surgical purposes; Corsetry for surgical purposes; Gowns for surgical use; Surgical bypass devices; Electric scalpels [for surgical purposes]; Surgical devices and instruments; Surgical apparatus and instruments for medical use; Medical apparatus for use in cardiac surgery; Splints for surgical use; Sterile sheets, surgical; Surgical apparatus and instruments for dental use; Surgical tubing for wound drainage; Needles for surgical purposes; Inflation syringes for medical or surgical use; Tweezers for surgical use; Suture materials for surgical use; Surgical apparatus and instruments for veterinary use; Compressing screws in the nature of orthopaedic surgical implants; Compressing screws in the nature of orthopaedic surgical instruments; Knives for surgical purposes; Lasers for surgical use; Intraocular lenses for surgical implantation; Intraocular prostheses [lenses] for surgical implantation; Prostheses (Intraocular -) [lenses] for surgical implantation; Lenses [intraocular prostheses] for surgical implantation; Armboards [surgical splints]; Cutlery for surgical purposes;</i> </p>
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	<p><i>Lenses [intraocular prosthesis] for surgical implantation; Tubes for surgical purposes; Lag screws in the nature of orthopaedic surgical implants; Sterile clothing for surgical use; Staples for surgical use; Surgical implants [artificial materials]; Surgical breathing masks; Pads (Abdominal -) for surgical use; Ophthalmic microsurgical knives; Transplant sutures for use in surgery; Knives for surgical use; Ultrasonic diagnostic instruments for surgical use; Lag screws in the nature of orthopaedic surgical instruments; Electronic endoscopes for surgical use; Saws for surgical purposes.</i></p>
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