

o/1120/24

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION

**IN THE MATTER OF THE DESIGNATION OF INTERNATIONAL REGISTRATION
NOS WO1677714 & WO1677715**

BY ANTEOTECH LTD

FOR PROTECTION OF THE FOLLOWING TRADE MARKS

IN THE UK IN CLASS 1:

AnteoX

AnteoLink

AND

IN THE MATTER OF OPPOSITIONS THERETO

UNDER NO. 438690 & 438691

BY BOREALIS AG

BACKGROUND

1. On 16 August 2024, I issued a decision in respect of the proceedings identified on the cover page above.

2. In paragraph 5, I referred to the holder's representative as "Ms Sylvia Tate of Maguire Boss". However, by way of an email dated 16 August 2024 from Ms Tate, it was brought to my attention that this should have read as "Ms Sylvie Tate of Maguire Boss".

3. In paragraph 1, I stated that the holder sought protection for both of their marks for the following goods:

Class 1: Battery fluid being acidulated water for recharging batteries; preparations for enhancing battery life being cross-linking agents for cross-linking in battery electrodes to enhance battery life; chemical preparations for use in the manufacture of surface coatings in relation to batteries; industrial chemicals for use in coating film; coating agents, other than paint being industrial chemicals; coating compositions, other than paint being industrial chemicals; coatings for the finishing of surfaces being water-based compounds for forming binders in battery electrodes; filler materials for coating compositions namely, being water-based compounds for forming binders in battery electrodes; raw materials for use as coatings namely, water-based compounds for forming binders in battery electrodes; none of the aforesaid being packaging or packaging materials or for the manufacture of packaging or packaging materials.

5. However, in the same email referred to above, Ms Tate also brought to my attention that the mark WO0000001677715 sought protection for a slightly different set of goods and services, as follows:

Class 1: Battery fluid being acidulated water for recharging batteries; preparations for enhancing battery life being cross-linking agents for cross-linking in battery electrodes to enhance battery life; chemical preparations for

use in the manufacture of surface coatings in relation to batteries; industrial chemicals for use in coating film; coating agents, other than paint being industrial chemicals; coating compositions, other than paint being industrial chemicals; coating materials made from synthetic resins being water-based compounds for forming binders in battery electrodes; coatings for the finishing of surfaces being water-based compounds for forming binders in battery electrodes; none of the aforesaid being packaging or packaging materials or for the manufacture of packaging or packaging materials.

6. As a result, the error in paragraph 1 of my decision carried onto the goods comparison, meaning I have not completed a comparison on the following term which appears in the above specification but not in the specification for WO0000001677714: *coating materials made from synthetic resins being water-based compounds for forming binders in battery electrodes* (“the remaining term”)

7. In light of the above, paragraph 1 of the decision should read as:

“1. International trade mark nos. 1677714 (‘the first contested mark’) and 1677715 (‘the second contested mark’) shown on the cover page of this decision were registered by AnteoTech Ltd (‘the holder’) with effect from 17 March 2022. The holder claims a priority date of 27 October 2021. The holder designated the UK as a territory in which it seeks to protect the contested marks under the terms of the Protocol to the Madrid Agreement on the same date. The holder seeks protection for the following goods:

WO0000001677714

Class 1: Battery fluid being acidulated water for recharging batteries; preparations for enhancing battery life being cross-linking agents for crosslinking in battery electrodes to enhance battery life; chemical preparations for use in the manufacture of surface coatings in relation to batteries; industrial chemicals for use in coating film; coating agents, other than paint being industrial chemicals; coating compositions, other than paint being industrial chemicals; coatings for the finishing of surfaces being water-based compounds

for forming binders in battery electrodes; filler materials for coating compositions namely, being water-based compounds for forming binders in battery electrodes; raw materials for use as coatings namely, water-based compounds for forming binders in battery electrodes; none of the aforesaid being packaging or packaging materials or for the manufacture of packaging or packaging materials.

WO0000001677715

Class 1: Battery fluid being acidulated water for recharging batteries; preparations for enhancing battery life being cross-linking agents for cross-linking in battery electrodes to enhance battery life; chemical preparations for use in the manufacture of surface coatings in relation to batteries; industrial chemicals for use in coating film; coating agents, other than paint being industrial chemicals; coating compositions, other than paint being industrial chemicals; coating materials made from synthetic resins being water-based compounds for forming binders in battery electrodes; coatings for the finishing of surfaces being water-based compounds for forming binders in battery electrodes; none of the aforesaid being packaging or packaging materials or for the manufacture of packaging or packaging materials.”

8. I consider that the remaining term ‘coating materials made from synthetic resins being water-based compounds for forming binders in battery electrodes’ can be grouped together with the services I have compared at paragraph 55 and therefore, paragraph 55 should read as:

“Coatings for the finishing of surfaces being water-based compounds for forming binders in battery electrodes; filler materials for coating compositions namely, being water-based compounds for forming binders in battery electrodes; raw materials for use as coatings namely, water-based compounds for forming binders in battery electrodes; coating materials made from synthetic resins being water-based compounds for forming binders in battery electrodes.

55. I do not find the opponent's submissions at the hearing that there is no reason why polyethylene should not be dispersed in waters to be persuasive (and I was not provided any evidence on this point). I do not believe there to be an overlap in nature and use between the above goods, which are intended to form binders in battery electrodes, and the opponent's. These goods of the holder are water based and not a type of plastic. There might be an overlap in purpose but I have not been provided with any evidence to show this and on its own, this is not enough to find similarity. I cannot see an overlap in user or trade channels. They are not complementary nor are they in competition. I therefore consider them to be dissimilar."

9. As a result, paragraphs 57 and 85 should read as:

"57. I have found no similarity for the following contested goods and therefore the oppositions fail in relation to them:

Class 1: Battery fluid being acidulated water for recharging batteries; preparations for enhancing battery life being cross-linking agents for cross-linking in battery electrodes to enhance battery life; coatings for the finishing of surfaces being water-based compounds for forming binders in battery electrodes; filler materials for coating compositions namely, being water-based compounds for forming binders in battery electrodes; raw materials for use as coatings namely, water-based compounds for forming binders in battery electrodes; coating materials made from synthetic resins being water-based compounds for forming binders in battery electrodes."

"85. The opposition has failed in relation to the following goods, subject to any appeal:

WO0000001677714:

Class 1: Battery fluid being acidulated water for recharging batteries; preparations for enhancing battering life being cross-linking agents for cross-linking in battery electrodes to enhance battery life; coatings for the finishing of surfaces being water-based compounds for forming binders in battery

electrodes; filler materials for coating compositions namely, being water-based compounds for forming binders in battery electrodes; raw materials for use as coatings namely, water-based compounds for forming binders in battery electrodes.

WO0000001677715:

Class 1: Battery fluid being acidulated water for recharging batteries; preparations for enhancing battering life being cross-linking agents for cross-linking in battery electrodes to enhance battery life; coating materials made from synthetic resins being water-based compounds for forming binders in battery electrodes; coatings for the finishing of surfaces being water-based compounds for forming binders in battery electrodes.”

11. These errors are plainly an irregularity in procedure and capable of being corrected under Rule 74 of the Trade Marks Rules 2008. Consequently, I give the parties notice that paragraphs 1, 5, 57 and 85 of the decision will be amended as stated above and apply as though they had appeared in the original version of the decision.

12. The appeal period in respect of these proceedings begins from the date of this supplementary decision.

Dated this 25th day of November 2024

L Nicholas
For the Registrar