

THE JOINT EXAMINATION BOARD

PAPER T4

ADVANCED UNITED KINGDOM
TRADE MARK SEARCHING

21ST NOVEMBER, 2001

10.00 a.m. – 12.30 p.m.

Please read the following instructions carefully. This is a **TWO and a HALF HOUR** Paper.

1. This paper consists of a single question for which there are **100** marks.
2. Where an issue permits of reasons being given for the conclusions reached, such reasons should be given.
3. In the appropriate boxes at the top of each sheet please enter the designation of the paper (T4) and your Examination number. Write on **one** side of the paper only using **BLACK** ink. You must **NOT** staple pages together. You must **NOT** state your name anywhere in the answers.
4. **NO** printed matter or other written material may be taken into the examination room.
5. Answers **MUST** be legible. If the examiners cannot read a candidate's answer no marks will be awarded.
6. **NO** writing whatsoever, including numbering of papers, is allowed prior to the commencement of the examination or after it has finished.
7. **At the end of the examination please double check that you have fully complied with instruction 3 before placing your answer in the envelope provided.**

This paper consists of 17 pages including this page

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21st November, 2001

10.00 a.m. – 12.30 p.m.

Your client is an organic farmer. Slowly his business has built up from organic farm produce in the early 1980s, to organically fed and naturally reared livestock, to various types of organic produce such as jams, vinegars, cider, pickles and preserves. From the start, all of his crops, livestock and produce have been sold under the name Blackwood Farm (which is used in conjunction with the slogan 'Natural foods in an un-natural world').

He is about to launch a range of traditional style biscuits aimed at the luxury/gift market, under the brand name ORGANIBIX. On the back of each package, the client intends to put the BLACKWOOD FARM name and the slogan in small print so as to take advantage of the good reputation he has built up in this mark.

The client has no existing trade mark registrations and is seeking your advice. In the first instance he has asked you to conduct UK trade mark searches for the following marks:

ORGANIBIX for biscuits

BLACKWOOD FARM for foods and drinks, livestock and plants.

NATURAL FOODS IN AN UN-NATURAL WORLD for foods and drinks


Searches have been conducted and are attached. Report these to your client in the form of a letter and advise him as to whether the marks are likely to be available for registration and use.

ORGANIBIX



Search Report

Goods searched: Biscuits in Class 30


MARK	PROPRIETORS	NUMBER (Register)	APPLICATION DATE (REGISTRATION DATE)	SPECIFICATION
HONABIX	Weetabix Limited	869286 (UK)	18 September 1964 (1 February 1966)	Class 30: Cereal preparations in biscuit form containing honey.
WEETABIX	Weetabix Limited	1002485 (UK)	28 November 1972 (15 October 1973)	Class 30: Whole-wheat biscuits (other than biscuits for animals).
FRUTIBIX	Weetabix Limited	1329989 (UK)	17 December 1987 (14 July 1989)	Class 30: Cereal preparations for human consumption, all including fruit, and included in Class 30.
BIOBIX	Clare Marriage and Michael Marriage (a partnership)	1420992 (UK)	12 April 1990 (6 March 1992)	Class 30: Flour and preparations, made from cereals; bread; pastry; pastries; confectionery; yeast; baking powder; ices; breakfast cereals; pasta; cakes and biscuits; all included in Class 30.
 <p><i>Registration of this mark shall give no right to the exclusive use of the word "organix".</i></p>	Organix Brands plc	B1458673 (UK)	19 March 1991 (31 July 1992)	Class 30: Tea, coffee, breakfast cereals, porridge oats, muesli; bread, biscuits, cakes, honey, rice, pasta, pasta products; all produced by organic methods; all included in Class 30.


CRUNCHIBIX	Weetabix Limited	1506435 (UK)	14 July 1992 (10 September 1993)	Class 30: Cereal preparations for human consumption; all included in Class 30.
CHOCOBIX	Weetabix Limited	1506437 (UK)	14 July 1992 (27 August 1993)	Class 30: Cereal preparations containing chocolate; all included in Class 30.
ORGANICO	SDF Trade and Promotions Limited	2127128 (UK)	18 March 1997 (17 October 1997)	Class 29: Preserved, dried and cooked fruits and vegetables, jellies, jams, fruit sauces, eggs, milk and milk products, edible oils and fats. Class 30: Pasta and pasta sauce, coffee, tea, sugar, rice, flour, pastry, confectionery, preparations made from cereals, sauces and condiments.
MINIBIX	Weetabix Limited	2136198 (UK)	18 June 1997 (4 December 1998)	Class 30: Cereal preparations for food for human consumption.
	C J Lane	2136784 (UK)	24 June 1997 (29 May 1998)	Class 30: Savoury biscuits, savoury snacks.
GOLDENBIX	Weetabix Limited	2141634 (UK)	8 August 1997 (30 January 1998)	Class 30: Cereal preparations for food for human consumption
BANANABIX	Weetabix Limited	2187312 (UK)	28 January 1999 (30 July 1999)	Class 30: Cereal preparations for food for human consumption.

<p>GOURMET ORGANIX</p>	<p>Gourmet Organix Limited</p>	<p>2189857 (UK)</p>	<p>30 January 1999 (17 September 1999)</p>	<p>Class 29: meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams and fruit sauces; eggs, milk and milk products; edible oils and fats; all of the aforesaid goods being organic or produced from goods being organic. Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago and artificial coffee, flour and preparations made from cereals, bread, pastry and confectionery, ices, honey and treacle, yeast and baking powder, salt and mustard, vinegar and sauces (condiments), spices, ice; all of the aforesaid goods being organic or produced from goods being organic. Class 31: organic produce in this class.</p>
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<p>ORGANIX</p>   <p><i>Proceeding because of distinctiveness acquired through use.</i></p> <p><i>Number in series: 3</i></p>	<p>Organix Brands plc</p>	<p>2203847 (UK)</p>	<p>23 July 1999 (27 October 2000)</p>	<p>Class 5: Infant's and invalid's foods. Class 29: Preserved, dried and fruit puree, vegetable puree; milk, skimmed milk; milk products, eggs and egg products and products containing eggs; cheese and cheese products, yogurt; jam; marmalades; fruit preserves; butter, margarine, vegetable oils; edible oils and fats, dairy products; products and preparations containing meat, fish, poultry and game; meat extracts, desserts, all included in Class 29. Class 30: Tea, coffee, breakfast cereals, porridge oats, muesli, preparations containing cereals; bread, biscuits, cakes, honey, rice, pasta, pasta products; desserts included in Class 30; salad dressings. Class 31: Fresh fruits and vegetables; cereals; malts; grains; seeds; nuts; foodstuffs for animals. Class 32: Mineral aerated water; non-alcoholic drinks; fruits and fruit juices; syrups and preparations all for making beverages.</p>
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	<p>Bonduelle</p>	<p>2266402 (UK)</p>	<p>5 April 2001 (pending)</p>	<p>Class 29: Meat, fish, poultry and game; canned or preserved meat, fish, poultry and game; meat, fish-, poultry- and game-based food products; charcuterie; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces and compotes; eggs, preserved eggs; milk and milk products; all of the aforementioned goods being organically produced or made from organic produce. Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery; edible ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces (condiments); spices, ice; all of the aforesaid goods being organically produced or made from organic produce. Class 31: Agricultural, horticultural and forestry products (none being prepared or processed); grains (seeds); live animals; fresh fruits and vegetables; natural plants and flowers; foodstuffs for animals; malt; all being organically produced or reared or made from organic produce.</p>
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	<p>Venture Foods (UK) Limited</p>	<p>2213076 (UK)</p>	<p>3 November 1999 (5 May 2000)</p>	<p>Class 29: Flavoured milk, margarine, custard, canned tomatoes, potato crisps. Class 30: Rice, pasta, croutons, chocolate confectionery, tomato ketchup, breakfast cereals.</p>
<p>BABY ORGANIX</p>	<p>Organix Brands plc</p>	<p>354746 (EC)</p>	<p>19 August 1996 (15 September 1998)</p>	<p>Class 5: Infants' and invalids' food. Class 29: Canned fruits, canned vegetables; fruit puree, vegetable puree; milk, skimmed milk; milk product; cheese and cheese products; yogurts; jams; marmalades; fruit preserves; margarine, vegetable oils, salad dressings; dried fruits. Class 30: Tea, coffee breakfast cereals, porridge oats, muesli; bread, biscuits, cakes, honey, rice, pasta, pasta products.</p>

	<p>Organix Brands plc</p>	<p>1278423 (EC)</p>	<p>13 August 1999 (advertised and opposed)</p>	<p>Class 5: Infant's and invalid's foods. Class 29: Preserved, dried and cooked fruits and vegetables; canned and bottled fruits and vegetables; fruit puree, vegetable puree; milk, skimmed milk; milk products, eggs and egg products and products containing eggs; cheese and cheese products, yogurt; jam; marmalades; fruit preserves; butter, margarine, vegetable oils; edible oils and fats, dairy products; salad dressings, desserts; all included in Class 29. Class 30: Tea, coffee, breakfast cereals, porridge oats, muesli, preparations containing cereals; bread, biscuits, cakes, honey, rice, pasta, pasta products; desserts included in Class 30. Class 31: Fresh fruits and vegetables; cereals; malts; grains; seeds; nuts; foodstuffs for animals. Class 32: Mineral aerated water, non-alcoholic drinks, fruit drinks and fruit juices; syrups and preparations all for making beverages.</p>
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<p>ORGANIX FAVOURITES</p>	<p>Organix Brands plc</p>	<p>1494541 (EC)</p>	<p>7 February 2000 (advertised and opposed)</p>	<p>Class 5: Infant's and invalid's foods. Class 29: Preserved, dried and cooked fruits and vegetables; canned and bottled fruits and vegetables; fruit puree, vegetable puree; milk, skimmed milk; milk products, eggs and egg products and products containing eggs; cheese and cheese products, yogurt; jam; marmalades; fruit preserves; butter, margarine, vegetable oils; edible oils and fats, dairy products; products and preparations containing meat, fish, poultry and game; meat extracts, desserts; all included in Class 29. Class 30: Tea, coffee, breakfast cereals, porridge oats, muesli, preparations containing cereals; bread, biscuits, cakes, honey, rice, pasta, pasta products; salad dressings; desserts included in Class 30. Class 31: Fresh fruits and vegetables; cereals; malts; grains; seeds; nut; foodstuffs for animals. Class 32: Mineral and aerated water; non-alcoholic drinks, fruit drinks and fruit juices; syrups and preparations all for making beverages.</p>
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	<p>Organix Brands plc</p>	<p>2192599 (EC)</p>	<p>26 April 2001 (pending)</p>	<p>Class 3: Soaps, shampoos, toilet soaps; dentifrices; skin care products included in this Class; non-medicated toilet preparations; non-medicated impregnated wipes; baby care products; babies creams (non-medicated). Class 5: Antiseptic wipes; impregnated medicated wipes; medicated shampoos, soaps, toiletries; baby care products (medicated); baby creams (medicated); vitamin and mineral preparations; pharmaceutical and medicinal preparations and substances. Class 29: Snack foods included in Class 29. Class 30: Snack foods included in Class 30.</p>
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Marks prefixed ORGAN- are common in Class 30, examples are shown above.

Marks suffixed -BIX are common in Class 30 (mostly belonging to Weetabix Limited), examples are shown above.

BLACKWOOD FARM

Search Report

Goods searched: Foods and drinks included in Classes 29, 30, 31, 32 and 33.

MARK	PROPRIETORS	NUMBER (Register)	APPLICATION DATE (REGISTRATION DATE)	SPECIFICATION
BACKWOODS FARM	Clifford Foods plc	1007748 (UK)	8 March 1973 (11 April 1976)	Class 29: Dairy products (for food) but not including butter, all for sale in England and Wales.
BLACK FARMWOOD	Aldi GmbH & Co KG	1438662 (UK)	31 August 1990 (6 December 1991)	Class 30: Farinaceous products for food for human consumption; flour; all included in Class 30.
	Black Forest GmbH	732444 (International Registration – Originating office is Germany)	14 February 2000 claiming Convention Priority from 6 December 1999 (pending)	Class 29: Meat, fish, poultry and game, jellies, jams, fruit sauces; edible oils. Class 30: Bread, pastry and confectionery, honey, salt, mustard, vinegar, sauces.
BLACK WOOD <i>Advertised before acceptance under Section 18(1) (proviso). Honest concurrent user claimed under Section 12(2) of the Trade Marks Act 1938.</i>	Bass Brewers IP BV <i>Registered Users</i>	1077424 (UK)	22 April 1977 (3 December 1979)	Class 32: Beer and lager.
BLACKTHORN	Matthew Clark Brands Limited	990486 (UK)	13 April 1972 (22 January 1973)	Class 33: Cider.


	Spirit Exports International Limited	B1307919 (UK)	22 April 1987 (27 December 1989)	Class 33: Scotch whisky included in Class 33.
BLACK BUSH	The "Old Bushmills" Distillery Co Ltd	1430984 (UK)	6 July 1990 (13 March 1992)	Class 33: Whiskey included in Class 33.
BLACK FOREST	Peterstaler Mineralquellen GmbH	2239481 (EC)	31 May 2001 (pending)	Class 32: Mineral water and other alcohol free drinks.
BLACKWOOD PARK	Mitchelton Wines Pty Ltd	598300 (EC)	7 August 1997 (30 March 1999)	Class 33: Wines.

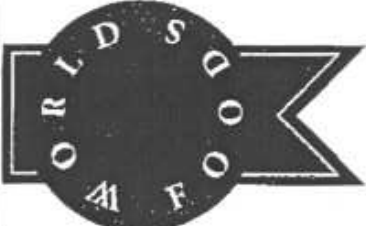

Marks prefixed BLACK- or suffixed -FARM are common in Classes 29, 30, 31, 32 and 33, examples are shown above.


NATURAL FOODS IN AN UN-NATURAL WORLD

Search Report

Goods searched: Foods and drinks included in Classes 29, 30, 31, 32 and 33.

MARK	PROPRIETORS	NUMBER (Register)	APPLICATION DATE (REGISTRATION DATE)	SPECIFICATION
<p>GRANOSE HOUSE OF NATURAL FOODS</p> <p><i>Registration of this mark shall give no right to the exclusive use of the words "HOUSE OF NATURAL FOODS".</i></p> 	Haldane Foods Ltd	B1158172 (UK)	22 July 1981 (16 May 1983)	Class 29: All goods in Class 29, all being natural products, but not including any meat or meat products.
	World Duty Free Europe Ltd	2186152 (UK)	12 January 1999 (22 October 1999)	<p>Class 29: Meat, fish, seafood, poultry and game, and food products made therefrom; meat extracts; preserved, dried, frosted, crystallised and cooked fruits and vegetables; prepared nuts; jellies; jams; dairy products; milk products; yoghurts; edible oils; preserves.</p> <p>Class 30: Coffee, tea, drinking chocolate, biscuits, cookies; confectionery; honey; mustard; vinegar; sauces; condiments; spices.</p> <p>Class 33: Alcoholic beverages (excluding beers); spirits; wines; liqueurs.</p>

	<p>Samworth Brothers Ltd t/a Ginsters</p>	<p>2211684 (UK)</p>	<p>18 October 1999 (9 June 2000)</p>	<p>Class 29: Meat, fish, poultry and game; products made from meat, fish, poultry and game; instant meals, prepared meals, chilled ready meals and ingredients for all the aforesaid goods; snack foods. Class 30: Pasties, pies, sausage rolls, flans, pastries and pastry products, puddings, snack foods, prepared meals, chilled ready meals, constituents of prepared meals and of chilled ready meals, snack foods, sandwiches.</p>
<p>NATURAL WORLD</p>	<p>Honeyrose Products Limited</p>	<p>B1166969 (UK)</p>	<p>23 December 1981 (27 August 1984)</p>	<p>Class 16: Packaging for foodstuffs, all included in Class 16. Class 17: Packaging; packing and insulating materials; sealing materials. Class 20: Bottles and containers for foods and drinks; all included in Class 20. Class 21: Bottles and containers for foods and drinks; all included in Class 21.</p>
	<p>Eurogerm</p>	<p>729000 (International Registration – Originating office is France)</p>	<p>21 February 2000 (registered)</p>	<p>Class 30: Flour and preparations made from cereals; bread, pastries, cakes, brioches, confectioneries; aromatic preparations for food; baking powder, yeast, namely bread improver.</p>

	<p>Percy Dalton (Holdings) Limited</p>	<p>976555 (EC)</p>	<p>4 November 1998 (17 April 2000)</p>	<p>Class 29: Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats; nuts, kernels, legumes, drupes, pods and peanuts, all being prepared or processed; salted foods; peanut butter; chocolate nut butter, crystallised, frosted, frozen and preserved fruit; corn snacks; potato snacks. Class 30: Coffee, artificial coffee; tea, cocoa, sugar, rice, tapioca, semolina, sago; flour and preparations made from cereals; corn flour, wheat flour, corn meal, oat meal, maize meal; noodles; bread, biscuits, pastry and confectionery; ices; honey; treacle; yeast, baking- powder; salt; mustard; vinegar; sauces; spices; carbohydrates; condiments; flavourings for beverages; flavourings in the form of concentrated and dehydrated sauces; flavourings made from fruits; food supplements; ice beverages; ice confectionery; ice cream products; starch for food; syrups; thickeners; thick shakes; snack foods; popcorn; peanut confectionery; spreads made from chocolate and from nuts or kernels, legumes, drupes, pods and peanuts. Class 31: Fresh fruits and vegetables, seeds, nuts, malt, kernels, legumes, drupes, pods, peanuts.</p>
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NATUR FOOD	SXXI Spain Export, SL	2161974 (EC)	4 April 2001 (pending)	Class 29: All goods in Class 29. Class 33: Alcoholic beverages.
BETTER FOOD, BETTER WORLD	Syngenta Participations AG	1781228 (EC)	28 July 2000 (advertised)	Class 5: Veterinary and sanitary preparations; disinfectants; preparations for destroying vermin; insecticides, fungicides, herbicides, nematocides, rodenticides, pesticides; mordants for seeds; insect growth regulators; agents protecting plants against plant pathogenes; preparations for activating the biological resistance of plants and seedlings against insects, bacteria, fungus disease, parasites and weeds. Class 31: Agricultural, horticultural and forestry products and grains (not included in other classes); plant seeds, plants, seedling plants and other plant or seedling parts for propagation; living animals; fresh fruits and vegetables; seeds, seedlings, natural plants and flowers; foodstuffs for animals, malt. Class 42: Scientific and industrial research; all in the field of agriculture, forestry, horticulture, viticulture, seed planting and animal nutrition.

Marks incorporating NATURAL or FOOD(S) or WORLD are common in classes 29, 30, 31, 32 and 33.

No marks incorporating –UNNATURAL- were located in classes 29, 30, 31,32 and 33.