

o/0019/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003762200

BY VOXY LTD

TO REGISTER THE TRADE MARK:



IN CLASS 25

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 435941

BY VO VEHICLES LTD

BACKGROUND AND PLEADINGS

1. On 5 March 2022, VOXY Ltd (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was published for opposition purposes on 27 May 2022. The applicant seeks registration for the following goods under the above application:

Class 25 Clothing; Clothes; Tops [clothing]; Sports clothing; Athletic clothing; Shorts [clothing]; Women's clothing.

2. The application was opposed in full by VO Vehicles Ltd (“the opponent”) on 30 August 2022 based upon sections 5(2)(b), 5(3), 5(4)(a), 3(6) and 5(4)(b) of the Trade Marks Act 1994 (“the Act”).

3. Under sections 5(2)(b) and 5(3), the opponent relies upon the following trade mark:

VO VOXI

UK registration no. UK00003696962

Filing date 18 September 2021.

Registration date 14 January 2022.

4. Under section 5(2)(b), the opponent relies upon all of the goods and services contained in Annex 1 to this decision. However, when claiming that there is a likelihood of confusion, the opponent states that this is on the basis that the parties’ class 25 clothing goods are identical and that the marks are “highly similar”.

5. Under section 5(3), the opponent claims that some of its goods and services, (contained in Annex 2 to this decision) have a reputation, specifically that its launched products have a reputation with the general public, and a reputation “with a large number of UK manufacturing partners and potential manufacturing partners, sub-contractors, funding bodies, government bodies and universities for products in R&D phase”. The opponent claims that the marks are remarkably similar and are used on

identical clothing, and thus the “marks can be and have already been confused and economic connection has been made, [and] this has caused reputation damage to the earlier mark”. The opponent also claims that they locally source materials and manufacturing in the UK, with higher quality goods, whereas the applicant does not support local UK sourced and grown materials and therefore this can cause reputational damage as the applicant makes “lower quality products”.

6. Under section 5(4)(a), the opponent relies upon the following signs:

- a) The **VO VOXI** sign which it claims to have used in London since 17 August 2012 for the goods and services contained in Annex 3 to this decision.
- b) The **VOXI** sign which it claims to have used in London since 17 August 2012 for the goods and services contained in Annex 4 to this decision.
- c) The following sign which it claims to have used in London since 21 August 2012 for the goods and services contained in Annex 5 to this decision:



- d) The following sign which it claims to have used in London since 21 August 2012 for the goods and services contained in Annex 5 to this decision:



7. The opponent claims that use of the applicant’s mark would be contrary to the law of passing off.

8. Under section 3(6), the opponent claims that the applicant has a pattern of acting in bad faith as “before copying the VO VOXI logo they copied VOXI by Vodafone’s logo in early 2021” and that “despite admitting to VO Vehicles that they knew they had infringed an existing companies logo artwork they posted the infringing artwork again on Instagram in August 2022 causing reputation damage to VO VOXI because people think VOXY is the clothing of VO VOXI”. The opponent also claims that the applicant “wilfully infringes more established companies trademarks and logos to gain internet presence and more trade to their new start-up” and that their behaviour constitutes a “pattern of bad faith” by “mimicking the VO VOXI trademark and logo to gain from the massive internet and internet traffic” they have worked for.

9. Under section 5(4)(b), the opponent relies on the 4 signs listed in paragraph 6 above (2 word signs and 2 logo signs). The opponent claims that these signs were created by Ms Marianne Bailey while working for the opponent in 2012. Ms Bailey is the Director and employee of the opponent, and the copyright of the signs were transferred from Ms Bailey to the opponent.

10. The applicant filed a counterstatement denying the claims made.

11. The opponent is unrepresented and the applicant is represented by Converse Law. Both parties filed evidence in chief and the applicant filed written submissions during the evidence rounds. Both parties also filed evidence in reply. While the opponent originally requested a hearing, the request was withdrawn, and it was agreed by the parties that the decision should be made on the papers. Therefore, both parties filed written submissions in lieu of a hearing. I have taken all of the evidence and the parties’ submissions into consideration in reaching my decision and will refer to them where necessary below.

12. 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.

EVIDENCE AND PRELIMINARY ISSUES

13. The opponent's evidence in chief consists of the witness statement of Marianne Bailey dated 6 October 2023. Ms Bailey is the Managing Director, Chief Executive Officer and Head Design Engineer of the opponent, a position which she has held since 2012. Ms Bailey's statement is accompanied by 108 exhibits (VOV1-VOV108).

14. The applicant's evidence in chief includes the witness statement of Alex Cattle dated 19 January 2024. Mr Cattle is the Managing Director of the applicant, a position which he has held since 11 January 2021. Mr Cattle's statement is accompanied by 65 exhibits (AC01-AC65).

15. The applicant's evidence in chief also includes the witness statement of Stephanie Bridet dated 18 January 2024. Ms Bridet is the Director of the applicant, a position which she has held since 11 January 2021. Her statement is not accompanied by any exhibits, but has been filed to state that she is in agreement with the facts and evidence presented in Mr Cattle's statement.

16. I note that Mr Cattle's witness statement has been filed showing the use of its mark, including screenshots of its website and social media. I have also been provided with sales and advertising figures. However, Mr Cattle has not provided any explanation as to why this evidence has been filed and what it has been filed to show. If it has been filed to demonstrate how the applicant's mark has been used in practice, I bear in mind that under section 5(2)(b), I have to carry out a notional assessment based upon the specifications before me and all the circumstances in which the mark applied for might be used if it were registered.¹ On this basis, the evidence does not assist the applicant. However, I bear in mind that this evidence may be material to assessing the relevant date under section 5(4)(a). I will therefore only assess and refer to the applicant's evidence at this section of my decision.

17. The opponent's evidence in reply consists of the witness statement of Ms Bailey dated 10 July 2024. Her statement is accompanied by 20 exhibits (VO109-VO129).

¹ *O2 Holdings Limited & Anor v Hutchison 3G UK Limited*, Case C-533/06, paragraph 66.

18. The applicant's evidence in reply consists of the witness statement of Mr Cattle dated 6 August 2024. His statement is not accompanied by any exhibits, but comments on, and refers to, Ms Bailey's evidence.

19. I note that both Ms Bailey's first and second witness statements also contain submissions; however, I do not consider it too onerous a task to separate the opinions of Ms Bailey from her statements of fact. Therefore, I will adopt a pragmatic approach, treating the submissions as legal arguments and/or opinions rather than factual statements, even though they are nevertheless conveyed in a witness statement accompanied by a statement of truth.

20. In the opponent's evidence in chief and submissions in lieu, they refer to opposition number 439372, in which VOXY Ltd is the opponent, and they are opposing a figurative mark registered by VO Vehicles Ltd. In its Form TM7 (exhibited in **VOV91**), VOXY Ltd has made submissions on the similarity between the opponent's signs contained in paragraphs 6(c) and (d) and the applicant's applied for mark, and the goods. On this basis, the opponent in these proceedings states that the applicant agrees that there will be confusion and thus this opposition should succeed. However, the applicant has made no submissions nor admitted any identity or similarity of the goods or the marks in these proceedings. I must make a notional assessment based on the evidence and submissions made by the parties in this opposition. Therefore, any reference to opposition number 439372 (and the submissions made in these proceedings) will not be taken into consideration.

DECISION

Section 5(2)(b)

21. Section 5(2)(b) 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.”

22. Due to its earlier filing date, the trade mark upon which the opponent relies qualifies as an earlier trade mark pursuant to section 6 of the Act. Whilst I note that in its Form TM8, the applicant has requested proof of use of the opponent’s earlier mark, it has not completed its registration process more than five years before the relevant date (the filing date of the applicant’s mark). Accordingly, the use provisions at section 6A of the Act do not apply. The opponent may rely on all of the goods and services it has identified without demonstrating that it has used the mark.

Section 5(2)(b) case law

23. In making this decision, I bear in mind the following principles gleaned from the decisions of the EU courts 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 C-120/04, *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 he has kept in his 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.

Comparison of goods

24. The applicant's goods are contained in paragraph 1 of this decision, and the opponent's goods are contained in Annex 1 to this decision.

25. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court ("GC") stated that:

"29. In addition, 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."

26. The terms "clothing" and "clothes" appear identically in both of the parties' specifications.

27. All of the applicant's remaining goods, that being "tops [clothing]", "sports clothing", "athletic clothing", "shorts [clothing]" and "women's clothing" fall within the broader category of "clothing" in the opponent's specification. The goods are identical on the principle outlined in *Merici*.

The average consumer and the nature of the purchasing act

28. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods. I must then determine the manner in which the goods are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The*

Partnership (Trading) Limited, U Wear Limited, J Fox Limited, [2014] EWHC 439 (Ch), Birss J (as he then was) described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The word “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

29. The average consumer for the goods will be members of the general public. The cost of purchase is likely to vary, and the goods will be purchased relatively frequently. However, various factors are still likely to be taken into consideration during the purchasing process, such as materials used, cut, aesthetic appearance and durability. Consequently, I consider that a medium degree of attention will be paid by the average consumer when selecting the goods.

30. The goods are likely to be obtained by self-selection from the shelves of a clothing retail outlet, online or catalogue equivalent. This means that visual considerations will be the most significant.² However, I do not discount that there will also be an aural component to the purchase, as advice may be sought from a sales assistant or representative.

Comparison of the trade marks

31. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant


² *New Look Limited v OHIM*, Joined cases T-117/03 to T-119/03 and T-171/03, paragraph 50.

components. The Court of Justice of the European Union (“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.”

32. It would be wrong, therefore, to artificially dissect the trade marks, although it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

33. The respective trade marks are shown below:

Opponent’s mark	Applicant’s mark
VO VOXI	

34. The opponent’s trade mark consists of the elements “VO VOXI”. I find that the overall impression lies in the combination of these elements.

35. The applicant’s mark consists of the stylised word “voxy” followed by a full stop, with the very small letters “TM” placed in the top right hand corner, all of which is presented in white, against a black rectangular background. While the “v” is presented in a highly stylised manner, with the left white diagonal line broken in half with a curved black line (which integrates into the black background), I consider that a significant proportion of average consumers will still read it as the letter “v”. The letters “TM” in

the top right hand corner of the mark simply denote to the consumer that the mark is a trade mark, and therefore, bearing in mind its meaning, very small size and position, I find that this device plays very little (if any) role in the overall impression. The word “voxy” clearly plays a greater role in the overall impression of the mark, with the stylisation, full stop, “TM” and background playing a slightly lesser role.

36. Before I proceed with the comparison, I bear in mind that there may be a small proportion of average consumers who will not read the highly stylised first letter of the applicant’s mark as the letter “v”. Nevertheless, I do not consider that this would amount to a significant proportion of average consumers. I will therefore proceed only considering the position for a significant proportion of consumers, which is also the opponent’s best case.

37. Visually, the second element of the opponent’s mark “VOXI”, and the “voxy” element of the applicant’s mark, overlaps in the beginning three letters. (V, O and X). This acts as a visual point of similarity. However, I note that the fourth letter of these elements differ (I vs y), and these letters are not visually similar. I also bear in mind that the opponent’s mark begins with an additional “VO” element, a position to which the average consumer usually pays more attention.³ Moreover, the letter “v” at the beginning of the applicant’s mark is highly stylised, it ends in a full stop, followed by the “TM” element, all of which is presented against the black rectangular background. These all act as visual points of difference. Therefore, I find that the marks are visually similar to between a low and medium degree.

38. Aurally, neither party has provided submissions on the pronunciation of the marks. I therefore find that the opponent’s mark is either likely to be pronounced as VOH-VOX-EE or VEE-OH VOX-EE. I find that the full stop and “TM” element at the end of the applicant’s mark will not be pronounced and therefore as a whole it will likely be pronounced as VOX-EE. I therefore find that the end of the marks are aurally identical. However, the beginning of the marks clearly differ, and thus I find that they are aurally similar to a medium degree.

³ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02

39. I also note that neither party has provided any submissions on the conceptual meaning of their marks, or how they would be perceived by the average consumer. I therefore find that both marks will be seen as being comprised of invented words which evoke no conceptual meaning. Consequently, as neither “VO VOXI” and “VOXY” conjure an immediate concept in the mind of consumers, they are conceptually neutral. I also note that the “TM” element in the applicant’s mark only denotes that it is a trade mark, and I do not consider that the stylisation, background or full stop in the applicant’s mark will contribute to its conceptual message.

Distinctive character of the earlier trade mark

40. 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 C108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, 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 promotion of 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).”

41. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it.

42. I will begin by assessing the inherent distinctive character of the opponent's "VO VOXI" mark.

43. As noted above, the opponent's "VO VOXI" mark will be seen as being comprised of invented words which evoke no conceptual meaning. On this basis, I find that the opponent's mark is inherently distinctive to a high degree.

44. I will now assess whether the evidence filed by the opponent is sufficient to demonstrate enhanced distinctiveness. The relevant market for assessing this is the UK market.

45. I bear in mind that I have found identity between the parties clothing goods based on the opponent's class 25 clothing terms. However, the majority of the opponent's evidence pertains to its VO VOXI solar taxi (a vehicle). The only evidence provided in relation to the opponent's clothing goods is a screenshot of its earlier mark on the UKIPO register which shows it was registered for class 25 clothing and class 35 retail services for clothing contained in **exhibits VOV20 to VOV23**. However, the fact that the opponent owns this mark which covers such goods and services does not, in itself, show use, or use on the goods or services.

46. When providing evidence of enhanced distinctive character, typically parties would be expected to provide evidence of turnover figures and invoices showing the sale of particular goods or services to customers geographically spread across the UK. I would also expect to see marketing figures and examples of advertising the goods or services in the UK. I have not been provided with any of this evidence, which is usually information which should be available and relatively easy to provide. However, I note that in **exhibit VOV73**, which shows the opponent's VO VOXI solar taxi on a red carpet in Savile Row on 15 June 2022, Ms Bailey states that "exhibiting on Savile Row was

to build and set the scene and tone for the VO VOXI clothing range in development". This means that after the relevant date of these proceedings (being 5 March 2022, the filing date of the application), the clothing range was still not available for sale. On this basis, the opponent's evidence is not sufficient to establish enhanced distinctiveness through use, as there has been no use of the opponent's mark on clothing goods before the relevant date.

Likelihood of confusion

47. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and vice versa. It is necessary for me to keep in mind the distinctive character of the earlier marks, the average consumer for the goods and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

48. The following factors must be considered to determine if a likelihood of confusion can be established:

- I have found the marks to be visually similar to between a low and medium degree.
- I have found the marks to be aurally similar to a medium degree.
- I have found the marks to be conceptually neutral.
- I have found the opponent's "VO VOXI" mark to be inherently distinctive to a high degree.

- I have identified the average consumer as members of the general public who will select the goods primarily by visual means, although I do not discount an aural component.
- I have concluded that a medium degree of attention will be paid during the purchasing process.
- I have found the parties' clothing goods to be identical.

49. Taking all of the factors listed in paragraph 48 into account, even bearing in mind the principle of imperfect recollection, I am satisfied that the parties' marks are unlikely to be mistakenly recalled as each other. Notwithstanding the high level of inherent distinctive character possessed by the opponent's mark, I do not consider that a consumer paying a medium degree of attention during the purchasing process will overlook the additional "VO" element at the beginning of the opponent's mark, a position which tends to make more of an impact than its ends. This is especially the case as I have found that the overall impression of the opponent's mark lies in the combination of the invented "VO" and "VOXI" elements, and the purchasing process for clothing goods is predominantly visual. Consequently, I do not consider there to be a likelihood of direct confusion.

50. It now falls to me to consider the likelihood of indirect confusion. Indirect confusion was described in the following terms by Iain Purvis Q.C. sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10:

"16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: "The later mark is different from the earlier mark, but also has something in common with it. Taking account of the

common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

(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).

(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)".

51. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor Q.C. (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that "a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion". Arnold LJ agreed, pointing out that there must be a "proper basis" for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.

52. Mr Purvis QC in *L.A Sugar Limited* sets out that there are three main categories of indirect confusion and that indirect confusion 'tends' to fall in one of them (paragraphs 16 & 17). I also bear in mind that the examples set out by Mr Purvis above are not exhaustive.

53. However, having noticed that the competing trade marks are different, I see no reason why the average consumer would assume that they come from the same or economically linked undertakings. I do not consider that the average consumer, paying a medium degree of attention during the purchasing process would think that the opponent's mark was connected with the applicant or vice versa, on the basis that they both share the letters V, O and X. To extract these letters from the marks would amount to dissection, when the consumer normally perceives a trade mark as a whole, and does not proceed to analyse its various details. The addition of the letters "VO" at the beginning of the opponent's mark and to change the letter "i" to "Y" at the end of the marks are neither logical or natural variants or brand extensions of each other. Even if the opponent's mark is brought to mind, this is mere association, not confusion: see *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, paragraph 81. Therefore, taking all of the above into account, I consider there is no likelihood of indirect confusion.

54. The opposition under section 5(2)(b) fails.

Section 5(3)

55. Section 5(3) of the Act states:

"5(3) A trade mark which –

(a) is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark."

56. Section 5(3A) of the Act states:

“Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier trade mark is protected.”

57. The relevant case law can be found in the following judgments of the CJEU: *General Motors Corp v Yplon SA* (Case C-375/97), *Intel Corporation Inc v CPM United Kingdom Ltd* (Case C-252/07), *Adidas Salomon AG v Fitnessworld Trading Ltd* (Case C-408/01), *L'Oréal SA & Ors v Bellure & Ors* (Case C-487/07), *Interflora Inc & Anor v Marks and Spencer plc & Anor* (Case C-323/09) and *Environmental Manufacturing LLP v OHIM* (Case C-383/12 P). The law appears to be as follows:

a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors*, paragraph 24.

(b) The trade mark for which protection is sought must be known by a significant part of that relevant public; *General Motors*, paragraph 26.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Saloman*, paragraph 29 and *Intel*, paragraph 63.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel*, paragraph 42.

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph 68; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

(f) The more immediately and strongly the earlier mark is brought to mind by the later mark, the greater the likelihood that use of the latter will take unfair advantage of, or will be detrimental to, the distinctive character or the repute of the earlier mark; *L'Oréal*, paragraph 44.

(g) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel*, paragraphs 76 and 77 and *Environmental Manufacturing*, paragraph 34.

(h) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel*, paragraph 74.

(i) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oréal v Bellure NV*, paragraph 40.

(j) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation; *Interflora*, paragraph 74, and the court's answer to question 1 in *L'Oréal*.

58. The conditions of section 5(3) are cumulative. Firstly, the opponent's and applicant's marks must be identical or similar, and I have discussed their level of similarity in paragraphs 34 to 39 above. Secondly, the opponent must show that its earlier mark has achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must have established that the level of reputation and the similarities between the marks will cause the public to make a link between them, in the sense of the opponent's mark being brought to mind by the later mark. Fourthly, assuming that the first, second and third conditions have been met, section 5(3) requires that one or more types of damage claimed will occur. It is unnecessary for the purposes of section 5(3) that the goods be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks. The relevant date for the assessment under section 5(3) is the date of application of the applicant's mark i.e. 5 March 2022.

Reputation

59. In *General Motors*, Case C-375/97, the CJEU held that:

“25. It cannot be inferred from either the letter or the spirit of Article 5(2) of the Directive that the trade mark must be known by a given percentage of the public so defined.

26. The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.

27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.

28. Territorially, the condition is fulfilled when, in the terms of Article 5(2) of the Directive, the trade mark has a reputation 'in the Member State'. In the absence of any definition of the Community provision in this respect, a trade mark cannot

be required to have a reputation 'throughout' the territory of the Member State. It is sufficient for it to exist in a substantial part of it."

60. In determining whether the opponent has demonstrated a reputation for the goods in issue, it is necessary for me to consider whether its mark will be known by a significant part of the public concerned with the goods. In reaching this decision, I must take all of the evidence into account including "the market share held by the trade mark, the intensity, geographical extent and duration of use, and the size of the investment made by the undertakings in promoting it."

61. Earlier in my decision, I found that the distinctive character of the opponent's mark had not been enhanced through use in relation to its class 25 clothing goods. I recognise that reputation is not the same as enhanced distinctive character, but the same factors are to be taken into account in both assessments. Moreover, as highlighted above, **exhibit VOV73** establishes that on 15 June 2022 (3 months after the relevant date) the opponent's clothing range was "in development" meaning that it was not available for sale. Therefore, the evidence is, for the reasons set out above in relation to enhanced distinctiveness, insufficient to establish a reputation in the UK for clothing goods.

62. I also find that for the same reasons as above, the evidence is insufficient to establish a reputation in the UK for the opponent's class 35 retail of clothing services.

63. The opponent also relies upon a wide range of goods and services contained in Annex 2 to this decision, for which it claims to have acquired goodwill. However, I note that all of the opponent's evidence pertains to the investment of its business in creating the prototype of the VO VOXI solar taxi. This is a circular vehicle which is described by Ms Bailey as an EPAC (being an Electric Pedal Assist Cycle), "which is commonly known as an e-bicycle or ebike, which is commonly considered a sports good as well as a vehicle". In the evidence, specifically **exhibit VOV40**, it is described as "a zero emission electric solar powered taxi". **Exhibits VOV2 to VOV6** also shows that the earliest drawings and 3D CAD rendering of this ebike/vehicle and its logo was back in 2012.

64. Ms Bailey has provided a timeline of the opponent's business between 2012 to 2021, which includes the following sales and funding presentations, and attendance of conferences and exhibitions:

1. Ms Bailey presented the 3D CAD of their VOXI vehicle to the Moulton Bicycle company in 2012, which resulted in them donating consultancy time and hardware to the VOXI project.⁴
2. Ms Bailey met with Mr Lees of Lynch Motor Company in 2012 to discuss her vehicle and a collaboration between the companies. Lynch Motor Company became a motor manufacturing partner, that donated 2 bespoke motors in 2018.⁵
3. On 28 August 2018, CENEX Niche Vehicle awarded funding to the opponent of over £52,000 for VO Vehicles to undertake the working prototype of VO VOXI.⁶ In September 2018, Ms Bailey was awarded a large competition winner's cheque at the CENEX LCV (Low Carbon Vehicles) which Ms Bailey claims was widely reported on.⁷ However, Ms Bailey does not provide any supporting statements or evidence to show how this event was "widely reported on".
4. In May 2019, Ms Bailey presented her solar taxi to Pashley Cycles. She also spoke about the brand offering an accompanying all-weather sports clothing range for its riders/customers. As a result of this presentation, Pashley pledged to be on the VO Advisory Panel for the production of the VO VOXI prototype 2019 and 2020 Niche Vehicle Network ("NVN") funding bids.⁸
5. On 10 April 2019, Ms Bailey presented and spoke about the VO VOXI solar taxi at the National Conference Centre.⁹

⁴ VOV9

⁵ VOV7

⁶ VOV10

⁷ VOV125

⁸ VOV14

⁹ VOV126

6. In July 2019, the opponent presented the VO VOXI to the NVN funding body to gain match funding for the Production Intent Prototype of VO VOXI and its accompanying clothing range.¹⁰ As a result of this presentation, VO Vehicles was awarded a £125,000 grant for the Production Intent Prototype of VO VOXI in 2019 and 2020. In the official grant letter contained in **exhibit VOV19**, it states that the project will start on 1 October 2020 and be completed by 30 June 2021.¹¹
7. At the CENEX LCV 2020 (which was held on the 18 and 19 November), Ms Bailey was awarded another large competition winner's cheque which Ms Bailey claims was widely reported on.¹² Again, Ms Bailey does not provide any supporting statements or example evidence to show how this event was "widely reported on".
8. Ms Bailey states that in December 2021, the NVN issued a press release on its website and brochures in regard to the VO VOXI Solar Taxi. I note that a screenshot of this is contained in **exhibit VOV41**. It simply describes what the VO VOXI Solar Taxi is, that being a lightweight city solar powered taxi for two people which embodies the best attributes of car and cycle travel, and is legally permitted to be used on cycle lanes. It also states that the project will develop the solar-roof for production which extends its range on average by 1/3 from 100 to 150 miles.
9. The VO VOXI was unveiled to the public at CENEX LCV on 22 and 23 September 2021 in Millbrook, Bedfordshire "where a record number of delegates attended totalling almost 5,000 general public and industry delegates all over the UK and some international visitors".¹³ Ms Bailey also confirms that there were more than 200 companies exhibiting new technologies and vehicles at this event. I also note that I have been provided with the following photo of the vehicle from set up the day before the exhibition:

¹⁰ **VOV18** and **17**

¹¹ **VOV19**

¹² **VOV127**

¹³ **VOV25**



65. As a result of the above exhibition, the VO VOXI Solar Taxi has a page dedicated to it on the NVN funding body website under “success stories 2020/21”.¹⁴ I note that the page uses the above photograph and states that “this production intent prototype will bring VO VOXI a step closer to production”. Ms Bailey confirms that the press release information was uploaded to the website in September 2021 and remains there to this date. She also states that the website has a large number of visitors each year to see the latest innovations,¹⁵ but she does not provide any figures to support this.

66. Ms Bailey has also provided a press release on the VO VOXI Solar Taxi that was released on 21 September 2021 by the opponent.¹⁶ The press release describes the product, and also states that there will be a VO VOXI taxi app. It also provides information on how to sign up to their mailing list to “stay in the loop”. She confirms that the press release was sent to CENEX LCV, the Mayor of London, OVO, Extreme Hangout, One Young World, London EV Show and Spark EV Excel London Show between September 2021 and March 2022.¹⁷ While Ms Bailey confirms that these entities released information on the VO VOXI Solar Taxi to the media and through their online social media channels, I have not been provided with any evidence of this.

¹⁴ VOV40

¹⁵ VOV39

¹⁶ VOV42

¹⁷ VOV42

67. However, I have been provided with evidence that the VO VOXI Solar Taxi was an exhibitor at the London EV Show (which is the largest EV show in the UK) held in London on 15 to 16 December 2021.¹⁸ The evidence shows that the artwork which was used on the website, brochures, app and the opponent's stand, all use the VO VOXI mark. Ms Bailey also states that 300 business cards were ordered for the London EV Show to be distributed,¹⁹ and confirms that 12 businesses that attended this show signed up to the waiting list to purchase fleets of more than 50 VO VOXI taxis at £30,000 each.²⁰ Albeit Ms Bailey does not confirm whether the waiting list represents a commitment to purchase or an expression of interest, she states that "assuming all 12 companies who signed up to buy the minimum pre-order of 50 vehicles each would earn the turnover of £18,000,000". On this basis, I find that it is reasonable to infer that the waiting list represents an expression of interest. Moreover, the companies that signed up to these sales were from the UK, Singapore, Malaysia, Spain, Cypress, UAE and Saudi Arabia. Ms Bailey also confirmed that over 3 days there were "more than 10,000 EV enthusiasts" that visited the show who "came from London, all over the UK and all over the world". Based on this evidence, it is therefore unclear how many UK companies were not only exposed to the opponent's goods but what proportion of its waiting list were UK companies too.

68. I note that Ms Bailey has provided evidence of her own LinkedIn account, including screenshots of her advertising the unveiling of the VO VOXI "production prototype Solar Taxi at CENEX LCV on 22nd- 23rd September to industry and general public".²¹ This post received 1,677 impressions; however, the screenshot itself is undated. Ms Bailey also posted a photograph of the Solar Taxi in September 2021 which received 11,688 impressions.²² The photograph is the same one contained in paragraph 64.9 above, and while the post itself refers to it as "VO VOXI solar taxi", there is nothing which tells the consumer where to purchase this item or when it is available for sale. At the CENEX LCV 2021, Ms Bailey was interviewed by a BBC news reporter David James which she re-posted on her LinkedIn profile.²³ While her post received 508

¹⁸ VOV66

¹⁹ VOV68

²⁰ VOV70

²¹ VOV44

²² VOV45

²³ VOV47

impressions, she states that Mr James' original post "had tens of thousands of impressions" and was broadcast on the BBC news. However, the only evidence to support this is an undated screenshot of Mr James' profile which shows he had over 500 connections and 2,2775 followers. Ms Bailey also did an interview with IET (The Institution of Engineering and Technology), the video of which was posted on their YouTube account on 7 October 2021. While this video shows the video had 1,486 views, the screenshot itself is undated. The same video was posted on VO VOXI's YouTube page, but again, this screenshot evidence is undated.²⁴ This video was nonetheless posted on Ms Baileys LinkedIn account; however, the screenshot evidence of this is also undated.²⁵ On the basis that all of the aforementioned screenshot evidence is undated, I am unable to determine whether all of the views, likes and impressions were made before the relevant date. Moreover, without any further evidence, I am unable to determine whether all of the views, likes and impressions were made by UK consumers or whether they pertain to users from across the globe.

69. The remaining LinkedIn evidence shows that Ms Bailey spoke at COP26 at the Extreme Adventure Sports Extreme Hangout, on a zero carbon transport panel, in November 2021.²⁶ Ms Bailey presented on the VO VOXI Solar Taxi, and confirms that she spoke in front of approximately 300 people and the session was live streamed to 10,564 people worldwide, with a playback of 4.72 million impressions and 544,000 views.²⁷ However, I have not been provided with any evidence to confirm what proportion of these impressions and views were generated by UK users.

70. In her second witness statement, at **exhibit VOV128**, Ms Bailey provides further YouTube video evidence that includes and makes reference to the VO VOXI solar taxi. Ms Bailey states that these videos were released in January 2022. However, as the screenshots are undated, I am unable to determine what proportion of subscribers, views and likes were generated by this video before the relevant date. I also am unable to determine how many views were from people located in the UK. Furthermore, the

²⁴ **VOV52**

²⁵ **VOV49**

²⁶ **VOV56** and **57**

²⁷ **VOV58** to **63**

YouTube video evidence included in **exhibit VOV129** is also undated and therefore does not assist the opponent for the same aforementioned reasons.

71. While Ms Bailey has also provided evidence that the opponent attended the Silverstone Race Circuit on 17 May 2022,²⁸ the Savile Row Red Carpet event on 15 and 16 June 2022²⁹ and the Spark EV Show in Excel in June 2022,³⁰ all of these events occurred after the relevant date, and therefore this evidence does not assist the opponent.

72. Lastly, in Ms Bailey's witness statement, she states the following on "advertising and marketing costs":

"Annual amounts spent on promoting VOXI/VO VOXI goods/services and goodwill generated to promote VOXI/VO VOXI before the date of application is estimated as follows: (figures are estimated because exact figure is difficult without getting a valuation of goodwill from every manufacturing partner, advisory panel member, exhibition organiser and supplier since 2011).

Most advertising from 2011- September 2021 was business-to-business direct sales to earn goodwill in the form of parts, labour and materials and gain reputation with the biggest cost involved being travel.

From September 2021- June 2022 it was mostly travel for Marianne Bailey and VO VOXI to get to exhibitions, website domain costs, website design, website hosting, business cards. The exhibition spaces were mostly given as goodwill after sending the VO VOXI one page press release (exhibit VOV42) [...]. Other marketing costs were the purchase of international domain names for the VO VOXI website purchased in 2018 and vovoxi.com purchased in 2021 and webhosting costs. The size of exhibition spaces we were given, a size suitable for VO VOXI are usually worth approximately £3,000 per exhibition with additional transport costs for VO VOXI and business cards.

²⁸ **VOV72**

²⁹ **VOV73 to 81**

³⁰ **VO83**

Advertising & Marketing

2011-2014	£7,200
2014-2017	£3,750
2018-June 2022	£18,500”

73. As noted above, Ms Bailey has purchased domain names as part of her advertising, including 14 domains which use the word “VOXI”.³¹ These pertain to the UK, USA, Netherlands, India, Switzerland, Spain and China. I have also been provided with screenshots of the opponent’s website (vovoxi.com) which went live on 21 September 2021.³² The screenshots of this website in **exhibits VOV28 to VOV32** shows a photo of the solar taxi next to the words “VO VOXI Solar Taxi”, which is described as being 100% powered by renewable energy, and “could help save the world from climate catastrophe”. There are options for customers to “register interest”, “donate” or sign up to their newsletter. However, there is no pricing of the goods provided, there is nothing mentioned about the opponent providing taxi services, nor any mention of clothing goods. I also note that there is not an option for customers to purchase the goods. While Ms Bailey has confirmed that between 21 September 2021 and 30 June 2022, the website had 1,733 visits from the UK,³³ considering the relevant goods and their markets (that being ebikes or vehicles, which I consider would be a large market), I find that these figures are negligible.

Preparations for use in trade

74. It is clear that the opponent’s above evidence pertains to the investment and the creation of its solar taxi prototype. Therefore the evidence provided is mainly the preparations made to secure customers and bring the goods to market, rather than the goods already being readily available.

75. In *Healey Sports Cars Switzerland Limited v Jensen Cars Limited* [2014] EWHC 24 (Pat), Mr Henry Carr Q.C. sitting as a Deputy Judge of the High Court stated that:

³¹ **VOV12**

³² **VOV26**

³³ **VOV64** and **65**

“26. I agree with the Hearing Officer that the question of whether goods are “about to be marketed” is to be decided in the context of the economic sector concerned, and that some goods will take longer to develop than others. I also agree that the press release and website, which were published a few days before expiry of the five year period and enabled no more than initial interest in a future development to be registered, did not show that the goods were about to be marketed.”

76. In this case, I am satisfied that the opponent had made preparations for use of its solar taxi vehicle goods. I firstly bear in mind that to create such a product would have an unusually long lead time between its creation and becoming available for sale. It is also clear that the opponent had a website that was visited by UK customers, the opponent has issued a press release on the solar taxi, and it has also been advertised by Ms Bailey on her LinkedIn page. The prototype was also discussed and unveiled at the CENEX LCV and the London EV Show in September and December 2021, both of which occurred in the UK. This even led to 12 businesses signing up to the waiting list to purchase more than 50 VO VOXI taxis at £30,000 each, which included a companies from the UK, Singapore, Malaysia, Spain, Cypress, UAE and Saudi Arabia. It is therefore clear that the opponent made preparations to secure customers for its solar taxi.

77. In regard to its vehicle rental and taxi services, while the solar taxi created by the opponent clearly has the capacity to act as a taxi (and thus could be used to provide taxi services), the evidence only shows the prototype of the taxi itself being brought to market. The waiting list evidence only pertains to the goods (the solar taxis), not taxi services. I do not have any evidence that the opponent has provided taxi services, and none of the website evidence or press release evidence shows that the opponent was planning to provide such services either. Therefore, I find that there is no tangible evidence before me which would amount to preparatory use of the taxi services.

78. In regard to the remaining goods and services contained in Annex 2 to this decision, including classes 6, 7, 9, 11, 12, 16, 21, 35, 39, 41 and 42, the opponent has not shown any evidence of use. The evidence does not show that the opponent has provided, for example, bicycle locks, vehicle batteries, bicycle lights, bicycle frames,

business cards, drinking bottles, advertising services, delivery services, sports and fitness services and vehicle design services, to third parties. On this basis, the opponent is unable to rely on these terms under section 5(3).

Is this enough for reputation?

79. From paragraphs 16 to 24 of her witness statement, Ms Bailey lists the funds which have been pledged or awarded to the opponent, under the headings “other goodwill, funding and reputation generated” from its VOXI mark. However, the amount of pledges or funding received is not the equivalent or parallel to the opponent having a reputation.

80. For a mark to have a reputation, **it means that it must be known by a significant proportion of the relevant public**. The relevant public in this instance, is not manufacturing partners, manufacturers or investors, they are those who are going to buy or use the vehicles. From the evidence provided, it appears that those who have signed up for the waiting list to purchase the solar taxis are all companies. The wording specifically used by Ms Bailey is that “*assuming* all 12 companies who signed up to buy the minimum pre-order of 50 vehicles each would earn the turnover of £18,000,000”. As noted above, I find that this wording seems to suggest that the companies have simply joined a waiting list that is an expression of interest (rather than an expected commitment), and therefore could result in potential sales, which are not guaranteed. Nevertheless, as the minimum pre-order purchase is 50 vehicles, I consider it is reasonable to infer that to purchase such a high volume would likely mean that the companies purchasing them will use them to offer taxi services and the taxi services will be offered to the general public. However, as the majority of the opponent’s evidence shows that the VO VOXI solar taxi was at a prototype stage, this means that the relevant public (that being the companies purchasing them and their subsequent taxi users, being the general public) were not being exposed to the goods. The only evidence which shows that the relevant public has been exposed to the opponent’s mark on vehicle goods is:

1. Its vovoxi.com website which Ms Bailey states had 1,733 visits from the UK between 21 September 2021 and 30 June 2022.

2. The unveiling of VO VOXI at the CENEX LVC on 22 and 23 September 2021.
3. The press release dated 21 September 2021, which was sent to CENEX LCV, the Mayor of London, OVO, Extreme Hangout, One Young World, London EV Show and Spark EV Excel London Show between September 2021 and March 2022. These entities released information on the VO VOXI Solar Taxi to the media and through their online social media.
4. 12 businesses signing up to the waiting list to purchase the solar taxis at the London EV Show in December 2021.
5. The LinkedIn and YouTube evidence.
6. The attendance of the Silverstone Race Circuit, the Savile Row Red Carpet event and Spark EV Show in Excel between May and June 2022.

81. However, as noted above, this evidence has a number of shortcomings, including:

1. The screenshot evidence provided of the opponent's website does not contain a lot of information about the opponent's solar taxi, and I have not been provided with the number of people from the UK who had signed up to the opponent's newsletter or waiting list to purchase the goods.
2. Whilst almost 5,000 people (the general public and industry delegates) attended CENEX LVC 2021, they were based in the UK and internationally. I have not been provided with a list of attendees, including a breakdown as to how many were from the UK or showed interest in the opponent's prototype. This evidence is therefore limited.
3. While a press release was sent to the companies referred to in paragraph 80.3 above, and Ms Bailey confirms that they also released this information on their social media, I have not been provided with any evidence of its release on social media, nor have I been provided with how many people in the UK were exposed to the subsequent release of information. I therefore am unable to determine how far-reaching the spread of this information was across the UK.
4. The 12 businesses who signed up for the waiting list at the London EV Show "were from the UK, Singapore, Malaysia, Spain, Cypress, UAE and Saudi

Arabia”. Therefore, no sales have actually been made, and I note that Ms Bailey has not provided me with any information as to how many UK companies signed up to the waiting list, and what signing up to the waiting list actually entailed.

5. The screenshots of the LinkedIn and YouTube evidence is undated and therefore I am unable to determine if all of the likes and views were from before the relevant date. Moreover, I have not been provided with any further evidence to confirm what proportion of the likes and views were from UK viewers.
6. The shows that were attended in May and June 2022 occurred after the relevant date and therefore do not assist the opponent.

82. Taking the above into account, I find that the evidence is not persuasive in showing that a significant part of the relevant public knew of the opponent’s earlier mark at the relevant date. The evidence is therefore insufficient to establish a reputation in the UK, and, consequently, the opposition based upon section 5(3) of the Act falls at the first hurdle.

Section 5(4)(a)

83. Section 5(4)(a) of the Act states as follows:

“5(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented –

a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

aa)...

b) ...

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of “an earlier right” in relation to the trade mark”.

84. Subsection (4A) of section 5 of the Act states:

“(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

85. In *Discount Outlet v Feel Good UK*, [2017] EWHC 1400 IPEC, Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the *Jif Lemon* case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56. In relation to deception, the court must assess whether “a substantial number” of the Claimants’ customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21).”

Relevant date

86. Whether there has been passing off must be judged at a particular point (or points) in time. In *Advanced Perimeter Systems Limited v Multisys Computers Limited*, BL O-410-11, Mr Daniel Alexander QC, sitting as the Appointed Person, considered the relevant date for the purposes of s.5(4)(a) of the Act and stated as follows:

“43. In *SWORDERS TM O-212-06* Mr Alan James acting for the Registrar well summarised the position in s.5(4)(a) proceedings as follows: ‘Strictly, the relevant date for assessing whether s.5(4)(a) applies is always the date of the application for registration or, if there is a priority date, that date: see Article 4 of Directive 89/104. However, where the applicant has used the mark before the date of the application it is necessary to consider what the position would have been at the date of the start of the behaviour complained about, and then to assess whether the position would have been any different at the later date when the application was made.’”

87. The prima facie relevant date is the date of the application in issue, that being 5 March 2022. However, it is also necessary to consider what the position would have been at the start of the behaviour complained about.

88. In *Smart Planet Technologies, Inc. v Rajinda Sharma*, Case BL O/304/20, Mr Thomas Mitcheson QC, sitting as the Appointed Person, pointed out that “the start of the behaviour complained about” is the date that the user of that mark committed the first external act about which the other party could have complained (if it knew about it) as an act of actual or threatened passing off. Typically, this will be the date when first offer was made to market the relevant goods or services under the mark. However, it could also be the date the first public facing indication was made that sales were proposed to be made under the mark in future.

89. The applicant has filed evidence to show that it has been trading under the VOXY name since April 2020. This evidence includes a Wayback Machine screenshot from the applicant’s website, voxyofficial.com, dated 2 July 2020, which shows use of the following sign:



90. The difference between the above sign and the applicant's mark is that it does not use the "TM" element, and the full stop has been removed. These differences are, in my view, immaterial. I also note that the word "VOXY" has been used in different typefaces (lower vs upper case), which I again consider to be an immaterial difference. The stylisation of the letter "V" of "VOXY" in the applicant's mark is not exactly replicated in the sign, but the letter "V" presented above the word "VOXY" in the sign above is stylised very similarly to the stylised "V" in the applicant's mark. Therefore, on the basis that both the applicant's sign and mark consist of the invented word "VOXY" (which is the part that plays the greatest role in the overall impression, and is clearly visible and continues to indicate origin), and the letter "V" is presented in both the sign and mark in a very similar and highly stylised manner, I shall proceed on the basis that the applicant has used the contested mark since 2 July 2020.

91. As a result of the above and bearing in mind the comments of Mr Alexander Q.C. in the case of *Advanced Perimeter Systems* (cited above), I will proceed to consider the position in respect of goodwill on 2 July 2020 ("the earlier relevant date"). In the event that goodwill exists, I will proceed to consider whether the position as at the filing date of the applicant's mark, being 5 March 2022 ("the later relevant date"), was any different. However, in the event that no goodwill existed as at the earlier relevant date, the opponent's claim will fail.

Goodwill

92. The House of Lords in *Inland Revenue Commissioners v Muller & Co's Margarine Ltd* [1901] AC 217 (HOL) provided the following guidance regarding goodwill:

"What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in customers. It is the one thing which distinguishes an old-established business from a new business at its first start."

93. In *South Cone Incorporated v Jack Bessant, Dominic Greensmith, Kenwyn House and Gary Stringer (a partnership)* [2002] RPC 19 (HC), Pumfrey J. stated:

“27. There is one major problem in assessing a passing off claim on paper, as will normally happen in the Registry. This is the cogency of the evidence of reputation and its extent. It seems to me that in any case in which this ground of opposition is raised the registrar is entitled to be presented with evidence which at least raises a prima facie case that the opponent's reputation extends to the goods comprised in the applicant's specification of goods. The requirements of the objection itself are considerably more stringent than the enquiry under s.11 of the 1938 Act (see *Smith Hayden & Co. Ltd's Application (OVAX)* (1946) 63 R.P.C. 97 as qualified by *BALI Trade Mark* [1969] R.P.C. 472). Thus the evidence will include evidence from the trade as to reputation; 54 evidence as to the manner in which the goods are traded or the services supplied; and so on.

28. Evidence of reputation comes primarily from the trade and the public, and will be supported by evidence of the extent of use. To be useful, the evidence must be directed to the relevant date. Once raised, the applicant must rebut the prima facie case. Obviously, he does not need to show that passing off will not occur, but he must produce sufficient cogent evidence to satisfy the hearing officer that it is not shown on the balance of probabilities that passing off will occur.”

94. However, in *Minimax GmbH & Co KG v Chubb Fire Limited* [2008] EWHC 1960 (Pat) Floyd J. (as he then was) stated that:

“[The above] observations are obviously intended as helpful guidelines as to the way in which a person relying on section 5(4)(a) can raise a case to be answered of passing off. I do not understand Pumfrey J to be laying down any absolute requirements as to the nature of evidence which needs to be filed in every case. The essential is that the evidence should show, at least prima facie, that the opponent's reputation extends to the goods comprised in the application in the applicant's specification of goods. It must also do so as of the relevant date, which is, at least in the first instance, the date of application.”

95. In regard to all of the opponent's goods and services contained in Annex 3 to this decision (apart from its vehicle goods), the opponent has not provided any evidence showing that the opponent has provided these goods and services to third parties. On this basis, the opponent is unable to rely on these terms under section 5(4)(a).

96. As noted above, the opponent had only made preparations to bring its vehicle goods to trade, that is to make preparations to secure customers and bring the goods to market, rather than the goods already being readily available. However, under section 5(4)(a), the opponent needs to show that they had the necessary goodwill in the sign relied upon at the earlier relevant date.

97. By 2 July 2020, the opponent had only presented to manufacturers and obtained investment into creating the solar taxi prototype. The opponent had not created the prototype nor had the opponent's website gone live.³⁴ More importantly, the opponent had not generated any pre-sales or sales, and the evidence prior to 2 July 2020 does not establish that the opponent had any UK customers. On this basis, I find that the opponent has failed to establish that they enjoyed any goodwill in their business at the earlier relevant date (which is the first public-facing use of the applicant's mark). Consequently, the opponent's reliance upon 5(4)(a) of the Act fails as, without goodwill, there can be no misrepresentation or damage.

98. The opposition under section 5(4)(a) fails.

Section 3(6)

99. Section 3(6) of the Act states:

“(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith.”

100. In *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36, Lord Kitchin summarised the general principles applicable to bad faith at [240] as follows:

³⁴ It went live on 21 September 2021, as supported by **exhibit VOV26**

“(i) [...]”

(ii) The date for assessing whether an application to register [a] trade mark was made in bad faith is the date the application for registration was made (*Lindt*, para 35).

(iii) Bad faith in this context is an autonomous concept of EU law which must be given a uniform interpretation [...], and must be interpreted in the context of Directive 89/104 in the same manner as in the context of Regulation 40/94 ([*Malaysia Dairy Industries Pte Ltd v Ankenævnet for Patenter og Varemaerker* (C-320/12) EU:C:2013:435 (“*Malaysia Dairy*”), para 29; [*Sky plc v SkyKick UK Ltd* (C-371/18) EU:C:2020:45 (“*Sky CJEU*”), para 73).

(iv) While, in accordance with its usual meaning in everyday language, the concept of bad faith presupposes the presence of a dishonest state of mind or intention, the concept must also be understood in the context of trade mark law, which involves the use of marks in the course of trade. Further, it must have regard to the objectives of the [...] law of trade marks, namely the establishment and functioning of [...] a system of undistorted competition in which each undertaking must, in order to attract and retain customers by the quality of its goods or services, be able to have registered as trade marks signs which enable consumers, without any possibility of confusion, to distinguish those goods or services from those which have a different origin (*Lindt*, para 45; [*Koton Mağazacılık Tekstil Sanayi ve Ticaret AS v European Union Intellectual Property Office (EUIPO)* (C-104/18) EU:C:2019:724 (“*Koton*”), para 45).

(v) Consequently, the objection will be made out where the proprietor made the application for registration, not with the aim of engaging fairly in competition but either (a) with the intention of undermining, in a manner inconsistent with honest practices, the interests of third parties; or (b) with the intention of obtaining, without even targeting a specific third party, an exclusive right for purposes other than those falling within the functions of a trade mark, and in particular the essential function of indicating origin (*Koton*, para 46; *Sky CJEU*, para 75).

(vi) The intention of the applicant is a subjective matter, but it must be capable of being established objectively by the competent administrative or judicial authorities having regard to the objective circumstances of the case (*[Hasbro Inc v EUIPO, Kreativni Dogaaji d.o.o. (intervening)* (Case T-663/19) EU:T:2021:211 (“*Hasbro*”)], paras 39 and 40; *Koton*, para 47).

(vii) The burden of proving that an application for a registered mark was made in bad faith lies on the party making the allegation. But where the circumstances of the case may lead to a rebuttal of the presumption of good faith, it is for the proprietor of the mark to explain and provide a plausible explanation of the objectives and commercial logic pursued by the application for registration (*Hasbro*, paras 42 and 43).

(viii) Whether the applicant was acting in bad faith must be the subject of an overall assessment, taking into account all of the factors relevant to the particular case (*Lindt*, para 37).

(ix) The applicant for a trade mark is not required to indicate or to know precisely when the application is filed or examined, the use that will be made of it (*Sky CJEU*, para 76; [*AS v Deutsches Patent-und Markenamt* (C-541/18) EU:C:2019:725], para 22).

(x) Nevertheless, the registration by an applicant of a mark without any intention to use it in relation to the goods and services covered by the registration may constitute bad faith where there is no rationale for the application in the light of the aims referred to in Regulation 40/94 and Directive 89/104 (*Sky CJEU*, para 77).

(xi) Such bad faith may, however, be established only where there are objective, relevant and consistent indicia tending to show that, when the application was filed, the applicant for registration had the intention either of undermining, in a manner inconsistent with honest practices, the interests of third parties, or of obtaining, without targeting a specific third party, an exclusive

right for purposes other than those falling within the functions of a trade mark (*Sky CJEU*, para 77).

(xii) It follows that the bad faith of the applicant cannot be presumed on the basis of a mere finding that, at the time of filing the application, the applicant had no economic activity corresponding to the goods and services referred to in the application (*Sky CJEU*, para 78).

(xiii) When the absence of an intention to use the mark in accordance with the essential functions of a trade mark concerns only certain goods or services referred to in the application for registration, that constitutes making the application in bad faith only in so far as it relates to those goods or services (*Sky CJEU*, para 81).

(xiv) If, at the end of the day, the court concludes that, despite formal observance of the relevant rules and conditions for obtaining registration, the purpose of the rules has not been achieved, and that there was an intention to take advantage of the rules by creating artificially the conditions laid down for obtaining the registration, this may amount to an abuse sufficient to find that the application was made in bad faith (see, for example, *Hasbro*, para 72).

(xv) Directive 89/104 does not preclude a provision of national law under which an applicant for registration must state that the mark is being used in relation to the goods or services in relation to which it is sought to register the mark, or that the applicant has a *bona fide* intention that it should be used, provided that infringement of such an obligation cannot constitute a ground for invalidity. It may, however, constitute evidence for the purposes of establishing possible bad faith on the part of the applicant when the application was filed (*Sky CJEU*, paras 86 and 87).”

101. According to *Alexander Trade Mark*, BL O/036/18, the key questions for determination in a claim of bad faith are:

(a) What, in concrete terms, was the objective that the applicant has been accused of pursuing?

(b) Was that an objective for the purposes of which the contested application could not be properly filed? and

(c) Was it established that the contested application was filed in pursuit of that objective?

102. It is also necessary to ascertain what the applicant knew at the relevant date: *Red Bull GmbH v Sun Mark Limited and Sea Air & Land Forwarding Limited* [2012] EWHC 1929 (Ch). Evidence about subsequent events may be relevant, if it casts light backwards on the position at the relevant date: *Hotel Cipriani SRL and others v Cipriani (Grosvenor Street) Limited and others*, [2009] RPC 9 (approved by the Court of Appeal in England and Wales: [2010] RPC 16).

103. The relevant date in this decision is 5 March 2022.

What, in concrete terms, was the objective that the applicant has been accused of pursuing?

104. As noted in paragraph 8 above, the opponent claims that the applicant has a pattern of acting in bad faith as “before copying the VO VOXI logo they copied VOXI by Vodafone’s logo in early 2021”. The opponent also claims that “despite admitting to VO Vehicles that they knew they had infringed an existing companies logo artwork they posted the infringing artwork again on Instagram in August 2022 causing reputation damage to VO VOXI because people think VOXY is the clothing brand of VO VOXI”. The opponent also claims that the applicant “wilfully infringed more established companies trademarks and logos to gain internet presence and more trade to their new start-up” and that their behaviour constitutes a “pattern of bath faith” by “mimicking the VO VOXI trademark and logo to gain from the massive internet and internet traffic” they have worked for. The opponent claims that the applicant is “trying to gain a trademark in order to oppose future VO VOXI logos and trademarks and use “voxyofficial.com” since 2021 to “fool customers”.

Was that objective for the purposes of which the contested mark could not be properly filed?

105. I bear in mind that the filing of a mark with the knowledge that the opponent owns it, in isolation, may not be compelling because mere knowledge of another party's use of a mark (either in the UK or elsewhere) does not establish bad faith.³⁵ The applicant may have also reasonably believed that it was entitled to apply to register the mark, e.g. where there had been honest concurrent use of the marks: *Hotel Cipriani*. However, the opponent's argument that this prior knowledge of its mark, in combination with its "infringement" of Vodafone's mark, which they believe constitutes as a pattern of malicious behaviour used to block another business' legitimate activities (such as the registration of future marks), could be the basis of a bad faith objection, if proven. Therefore, the key question is whether the opponent has satisfied the burden of proving the applicant's intention in filing the application.

Was it established that the contested mark was filed in pursuit of that objective?

106. The majority of the evidence contained in Ms Bailey's first witness statement does not actually show the applicant's intention. Ms Bailey has frequently commented and claimed that the use of the applicant's mark is to "profit from the reputation of VO VOXI in the cycle and sports world and the internet traffic associated" with the opponent.³⁶ However, the evidence simply shows use of the applicant's VOXY mark on clothing goods, on its app, Pinterest, Facebook or Instagram. For example, I note that **exhibit VOV101** contains a screenshot of the applicant's Green Quarter Zip which was posted on its Facebook page in April 2023. I note that alongside this, Ms Bailey states that the applicant "released a warm tracksuit in black like VO VOXI Solar Taxi that looks to people who haven't seen the VO VOXI clothing range yet to think it could be the promised VO VOXI clothing range. VOXY must not be allowed to register as they clearly intent to cause confusion with their clothing style next" [sic]. Again, this clearly does not show the intention of the applicant at the time of filing its mark, it simply

³⁵ *Malaysia Dairy Industries Pte Ltd v Ankenævnet for Patenter og Varemærker* Case C-320/12 and *Lindt, Koton* (paragraph 55).

³⁶ Submission made in **exhibit VOV97**

highlights that Ms Bailey believes that the parties marks are similar enough to cause confusion.

107. **Exhibit VOV102** contains screenshots of Mr Cattle and Ms Bridet's information from Companies House. Alongside this, Ms Bailey states that it shows that both the applicant's directors "live within walking distance" of her home.³⁷ On this basis, she states that "it is well known in the Battersea/Wandsworth and Chelsea areas of London that exciting revolutionary VO VOXI (previously called VOXI) would be launched in summer 2020 then postponed to 2021".

108. The witness statement of Ms Simonsen dated 27 September 2023 is contained in **exhibit 104**, and she confirms that she knows Ms Bailey as their children attend the same school and they attend the same church. Ms Simonsen states that Ms Bailey's project is well known in Chelsea and Battersea as she has "witnessed Marianne speaking about her VO VOXI project with a large number of people in the Battersea/Chelsea school and church community". Ms Simonsen also states that it was "widely known that Marianne was going to unveil the prototype of VO VOXI to the public in summer 2021". I bear in mind that this is the only witness statement that has been filed to support the claim that the VO VOXI project was widely known in the Chelsea and Battersea areas. I also note that I have not been provided any other supporting evidence that the residents of Battersea/Wandsworth and Chelsea would have known about this project just through the word-of-mouth of Ms Bailey.

109. Ms Bailey has also provided other evidence which pertains to Mr Cattle and Ms Bridet. Ms Bridet is listed as a legal advisor on LinkedIn³⁸ which Ms Bailey states means that "she should know not to pass off more established companies logos in order to gain internet traffic or at least she should know to do some more due diligence and research with a quick internet search before printing logos on clothing and trading". Whilst Ms Bailey provides such criticisms of Ms Bridet, I again do not consider that this shows anything in regard to the applicant's intention when it came to filing its mark. I also find that based on the evidence before me, the applicant's mark was in

³⁷ As supported by **exhibit VOV103**

³⁸ **VOV105**

the public domain before that of the opponent. The applicant's website was live on 2 July 2020, and the opponent's internet presence, including its website or story on the NVN funding body website, was not active until September 2021. The only people that knew of the opponent before 2021 appears to be its investors and manufacturers (and Ms Simonsen). Therefore, it is unclear how Ms Bailey can criticise Ms Bridet for not doing more due diligence on her internet searches when I have no evidence before me that VO VOXI was on the internet before the applicant.

110. In Ms Bailey's second witness statement, which is in response to the applicant's evidence, I note that again she makes submissions as to why she believes their actions are dishonest, but she files nothing to actually show what the applicant's intention was when filing for its trade mark. For example, in **exhibit VOV109**, she states that Mr Cattle is being dishonest in his witness statement. To support this, in **exhibit VOV109** she has provided an email from Mr Cattle to herself dated 22 August 2022, whereby Mr Cattle states that he created his logo on Canva because it was a simple one they could make without any graphic design skills. He does also admit that in 2020 they did create a very similar logo to Vodafone's VOXI mark. However, there is nothing within Mr Cattle's statement that seems to directly contradict these claims. I also note that based on both parties' evidence, the applicant changed their logo from the design which was similar to Vodafone's to the following logo around June/July 2020:³⁹



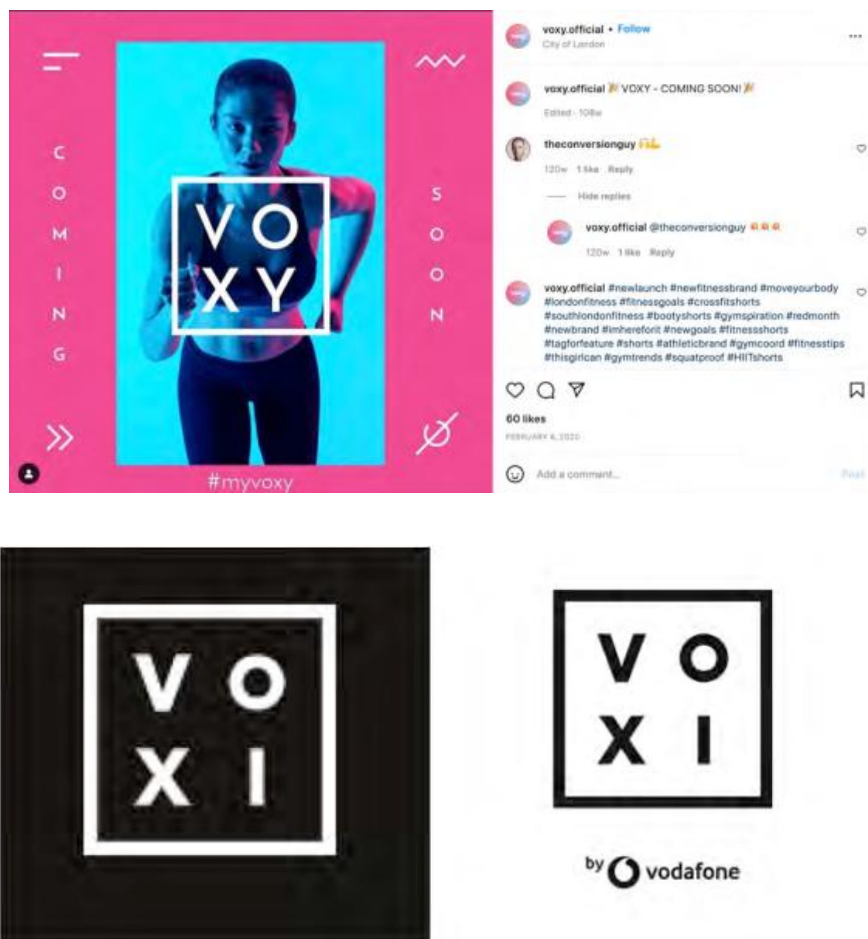
111. Ms Bailey also states that Mr Cattle is dishonest in his witness statement where he states that the Google search conducted only showed two brands with the name "Voxy", neither being the opponent or Vodafone.⁴⁰ While she states that he is being

³⁹ **AC03** and **VOV110**

⁴⁰ **VOV109**

dishonest with these statements, Ms Bailey has provided no rebuttal (or physical evidence) to support the allegations of Mr Cattle's dishonesty.

112. Ms Bailey's strongest evidence pertains to the similarity of the applicant's original mark, which was used on its Instagram in February 2020, which Mr Cattle does admit is similar to Vodafone's VOXY mark.⁴¹ I note that this evidence is provided in exhibits **VOV93** and **VOV94**, as follows:



113. The applicant stopped using this mark, specifically the box format, 2 to 3 months after the applicant's first public facing use of it. However, they did not stop using the word "VOXY", instead, they started using this word presented in a different format (as shown in paragraph 110 above). I bear in mind that when the applicant first used its applied for mark, this was before the first public facing use of the opponent's mark. On

⁴¹ **VOV109**

this basis, I do not consider that this evidence alone is strong enough to show or prove that the applicant had a dishonest intention, which formed a pattern of behaviour, when applying for its VOXY mark. I consider that it is reasonable to infer that the applicant simply changed the format of its mark to stop being similar to Vodafone's (all of which occurred before the applicant's first public facing use).

114. The opponent has not filed any other evidence as to the motivation of the applicant in filing the application. It is obviously wrong to expect the party bringing the claim to give direct evidence of the motivation of someone else, in this case the applicant,⁴² however, there is nothing before me to conclude that the mark was filed in order to intentionally cause confusion with another trader. I also bear in mind that an allegation of bad faith is a serious one, and the burden of proof is on the opponent. I therefore find that the opponent has failed to establish a prima facie case of bad faith. Taking all of the above into account, the application based upon section 3(6) of the Act is dismissed.

Section 5(4)(b)

115. Section 5(4)(b) of the Act states:

“(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented –

[...]

(b) by virtue of an earlier right other than those referred to in subsections (1) to (3) or paragraph (a) or (aa) above, in particular by virtue of the law of copyright or the law relating to industrial property rights.

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.”

⁴² *Maya Appliances Pvt. Ltd v Prapaharan Sivaratnam*, BL O/0052/25, paragraph 27

116. The law of copyright in the United Kingdom is governed by the Copyright, Designs and Patents Act 1988 (“CDPA”), and in accordance with this, I must assess the following questions:

1. Is the earlier mark a work that is capable of being protected by copyright?
2. Who is the owner of the work and when was it created?
3. Does the work meet the qualification criteria for copyright protection?
4. Would use of the contested mark constitute an infringement of any copyright?

Is the earlier mark a work capable of being protected by copyright?

117. Section 1 of the CDPA states that:

“Copyright is a property right which subsists in accordance with this Part in the following descriptions of work–

- (a) original literary, dramatic, musical or artistic works,
- (b) sound recordings, films or broadcasts, and
- (c) the typographical arrangement of published editions.”

118. Section 4 of the CDPA is as follows:

“(1) In this Part ‘artistic work’ means-

- (a) a graphic work, photograph, sculpture or collage, irrespective of artistic quality,
- (b) a work of architecture being a building or a model for a building, or
- (c) a work of artistic craftsmanship.

(2) In this Part –

[...]

graphic work’ includes –

- (a) any painting, drawing, diagram, map, chart or plan, and
- (b) any engraving, etching, lithograph, woodcut or similar work;

[...]"

119. Under section 5(4)(b), the opponent relies upon 4 alleged works, that being the words “**VO VOXI**” and “**VOXI**”, and the following two logos:



120. In *Griggs Group Ltd v Evans*, [2003] EWHC 2914 (Ch), Peter Prescott QC, as a deputy judge of the High Court, said:

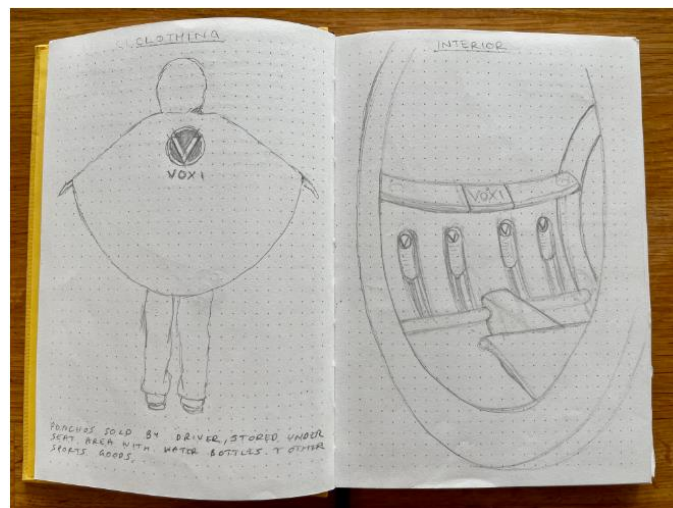
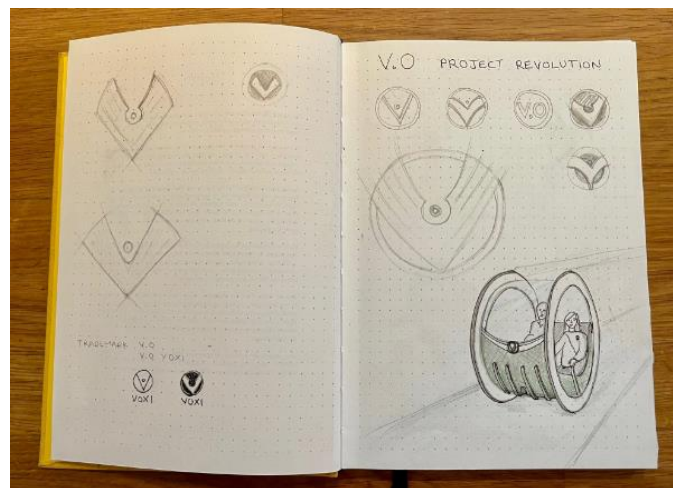
“17. Copyright law protects the skill and labour that has gone into the creation of an original work. A simple word or phrase, like ‘Dr Martens’, is not capable of being copyright, and for two reasons. First, it is not a ‘work’. Secondly, and in the ordinary way, its creation does not imply sufficient literary skill or labour. So no-one has ever had a copyright in the phrase ‘Dr Martens’, as such.

18. However, a drawing is capable of being a ‘work’. So if an artist uses his skills and labour to draw a word or phrase in a stylised way, as in the case of a logo, his drawing is capable of being an original work, protected by copyright law. Unauthorised persons are not entitled to copy it. This is so irrespective of whether the logo has ever been used by way of trade, and irrespective of whether it is known to any members of the public. Of course, the artist gets no copyright in the word or phrase, as such.”

121. In regard to “VOXI” and “VO VOXI”, these alleged works simply consist of a singular word, or two words, presented in standard typefaces, with no stylisation. Applying the case law cited above, I am not persuaded that they are artistic works under the CDPA. On this basis, the claim under section 5(4)(b) based upon the words “VO VOXI” and “VOXI” fails. However, in regard to the logos, I consider that the logo marks are graphic works capable of being protected by copyright. Therefore the opposition under section 5(4)(b) will only proceed for these two works.

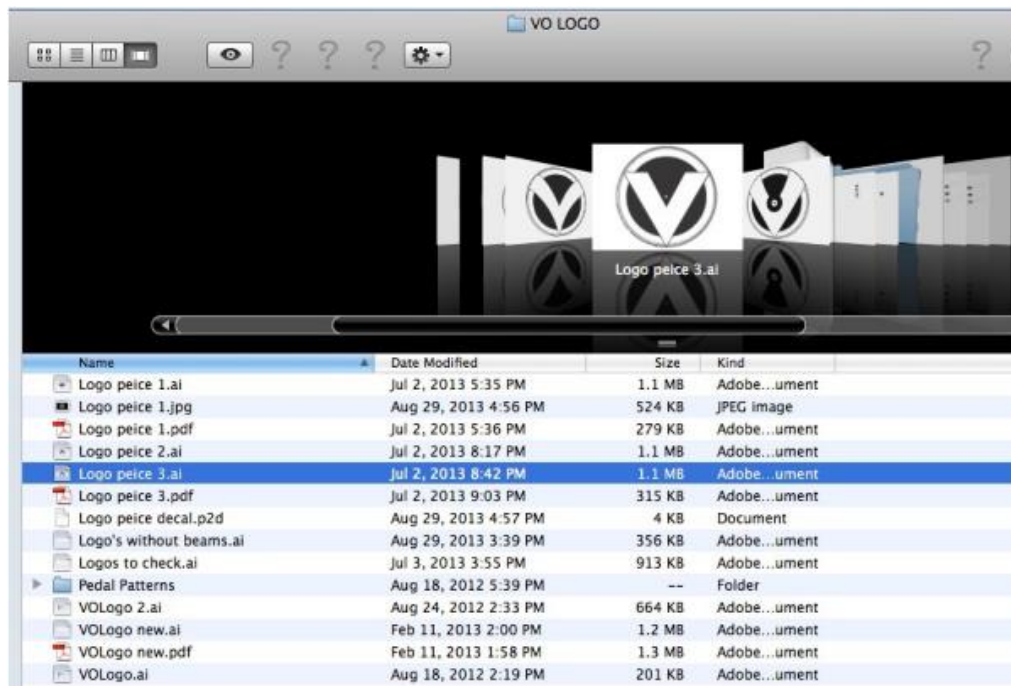
The creation and ownership of the work

122. Ms Bailey has provided evidence which pertains to the creation of the logos in the form of sketches made in her sketchbook which she states were made in 2012. These are contained in **exhibits VOV3** and **VOV4**, and they show the following sketches of logos and products affixed with them:



123. I note that the closest sketch to the logo marks relied upon is the logo sketched onto the cape in the above drawing contained in **exhibit VOV4**.

124. In **exhibit VOV5**, Ms Bailey has also provided screenshots of an illustrator file which was “last modified on 2 July 2013”, which clearly shows the following logo:



125. The above “logo piece” mirrors the device element in the logo marks relied upon by the opponent.

126. In paragraph 6 of her witness statement, Ms Bailey confirms that the opponent was incorporated on 25 January 2012, and she is the director of the opponent.⁴³ Ms Bailey does not provide a specific date as to when the sketches in her book were made in 2012. This is important on the basis that section 11(2) of the CDPA states that;

Where a literary, dramatic, musical or artistic work [or a film,] is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary.

⁴³ Exhibit VOV1

127. If the sketches were made after 25 January 2012, then the copyright would belong to the opponent. However, if the sketches were made before 25 January 2012, then the copyright would belong to Ms Bailey. I bear in mind that section 90 of the CDPA confirms that copyright is transmissible by assignment, and it must be in writing signed by or on behalf of the assignor. In the opponent's Form TM7, it states that *"the copyright is owned with all rights reserved by VO Vehicles Ltd by transfer of IP from Marianne Bailey to VO Vehicles Ltd"*. However, I have not been provided with any evidence such as a deed of assignment between Ms Bailey and the opponent. The absence of such a deed does not mean that the opponent's claim must fail but I must be satisfied on the evidence that the opponent is the author of the work.

128. For the sake of completeness, I note that in **exhibit VOV5**, Ms Bailey states that "exhibit VOV4 also shows the Aug 2012 design development file the chosen VO logo came from which also shows it's copyright since 2012 with all rights reserved". I note that this wording is not particularly clear, however, **exhibit VOV4** does clearly contain the photo of the sketchbook showing the cape with the logo mark. I also note that **exhibit VOV2** contains screenshots of a 3D CAD rendering of VOXI, which are dated 21 August 2012, which shows the following image which uses the figurative device from the logos:



129. In its Form TM7, the opponent states that "the original VO VOXI artwork architecture was created by British citizen Marianne Bailey while [...] working in the UK for VO Vehicles Ltd in 2012". I therefore find that, taking all of the above evidence

into account, including Ms Bailey's explanation of **exhibit VOV4**, which dates one of the sketch pages as being made in August 2012, the copyright was made when Ms Bailey was working as a director of the opponent. Therefore, by virtue of section 11(2) of the CDPA, her employer, that being the opponent, is the owner of the copyright.

Whether the work meets the qualification criteria for copyright protection

130. Section 153 of the CDPA states that copyright does not subsist in a work unless certain conditions are met. These are set out in the following sections of the Act and relate to the citizenship or residence of the author at the time the work was created or published, or the place where it was first published.

131. Section 154 of the CDPA states that:

(1) A work qualifies for copyright protection if the author was at the material time a qualifying person, that is—

(a) a British citizen, a British Dependent Territories citizen, a British National (Overseas), a British Overseas citizen, a British subject or a British protected person within the meaning of the British Nationality Act 1981 [...]

[...]

(4) The material time in relation to a literary, dramatic, musical or artistic work is—

(a) in the case of an unpublished work, when the work was made or, if the making of the work extended over a period, a substantial part of that period;

(b) in the case of a published work, when the work was first published or, if the author had died before that time, immediately before his death.

132. The works on which the opponent relies were not published in accordance with section 175 of the CDPA. Therefore, the material time is the date of creation of the work.

133. In its Form TM7, the opponent states that “the original VO VOXI artwork architecture was created by British citizen Marianne Bailey while living, domiciled and working in the UK for VO Vehicles Ltd in 2012”. The Companies House record contained in **exhibit VOV1** confirms that the opponent has a UK address, which Ms Bailey also confirms is her home address. I also note that none of this has not been disputed by the applicant.

Whether use of the mark would constitute an infringement of the copyright in the work

134. Section 16 of the CDPA is the relevant legislation and reads as follows:

“(1) The owner of the copyright in a work has, in accordance with the following provisions of this Chapter, the exclusive right to do the following acts in the United Kingdom –

(a) to copy the work (see section 17);

(b) to issue copies of the work to the public (see section 18);

(ba) to rent or lend the work to the public (see section 18A);

(c) to perform, show or play the work in public (see section 19);

(d) to communicate the work to the public (see section 20);

(e) to make an adaptation of the work or do any of the above in relation to an adaptation (see section 21);

and those acts are referred to in this Part as the ‘acts restricted by the copyright’.

(2) Copyright in a work is infringed by a person who without the licence of the copyright owner does, or authorises another to do, any of the acts restricted by the copyright.

(3) References in this Part to the doing of an act restricted by the copyright in a work are to the doing of it –

(a) in relation to the work as a whole or any substantial part of it, and

(b) either directly or indirectly;

and it is immaterial whether any intervening acts themselves infringe copyright.”

135. Section 17 of the CDPA provides that:

“(1) The copying of the work is an act restricted by the copyright in every description of copyright work; and references in this Part to copying and copies should be construed as follows.

(2) Copying in relation to a literary, dramatic, musical or artistic work means reproducing the work in any material form.

This includes storing the work in any medium by electronic means.

(3) In relation to an artistic work copying includes the making of a copy in three dimensions of a two-dimensional work and the making of a copy in two dimensions of a three-dimensional work.

[...]

(6) Copying in relation to any description of work includes the making of copies which are transient or are incidental to some other use of the work.”

136. In *Designers Guild Ltd v Russell Williams (Textiles) Ltd (t/a Washington DC)*, [2000] 1 WLR 2416, Lord Millett set out the approach to assessing whether artistic copyright has been infringed at [2425]-[2426]. He said:

“The first step in an action for infringement of artistic copyright is to identify those features of the defendant’s design which the plaintiff alleges to have been copied from the copyright work. The court undertakes a visual comparison of the two designs, noting the similarities and the differences. The purpose of the examination is not to see whether the overall appearance of the two designs is similar, but to judge whether the particular similarities relied on are sufficiently close, numerous or extensive to be more likely to be the result of copying than of coincidence. It is at this stage that similarities may be disregarded because they are too commonplace, unoriginal or consist of general ideas. If the plaintiff demonstrates sufficient similarity, not in the works as a whole but in the features which he alleges have been copied, and establishes that the defendant had prior access to the copyright work, the burden passes to the defendant to satisfy the judge that, despite the similarities, they did not result from copying.



[...]

Once the judge has found that the defendant’s design incorporates features taken from the copyright work, the question is whether what has been taken constitutes all or a substantial part of the copyright work. This is a matter of impression, for whether the part taken is substantial must be determined by its quality rather than its quantity. It depends upon its importance to the copyright work. It does not depend upon its importance to the defendant’s work, as I have already pointed out. The pirated part is considered on its own (see *Ladbroke (Football) Ltd v William Hill (Football) Ltd* [1964] 1 WLR 273, 293, per Lord Pearce) and its importance to the copyright work assessed. There is no need to look at the infringing work for this purpose.”

137. I also bear in mind that the editors of *Copinger and Skone James on Copyright*, 18th edition, explained (with footnotes omitted) that:

“7-53. The essential test is whether the defendant’s work has been produced by the substantial use of those features of the claimant’s work which, by reason of the knowledge, skill and labour employed in their production, constitute it an original copyright work. The test has been put in a number of similar ways. Has the infringer incorporated a substantial part of the independent skill, labour, etc. contributed by the original author in creating the copyright work? Has there been a substantial appropriation of the independent labours of the author? Has there been an appropriation of a part of the work on which a substantial part of the author’s skills and labour was expended? Has there been an ‘overborrowing’ of the skill, labour and judgment which went into the making of the claimant’s work? Has the defendant made a substantial use of those features of the claimant’s work in which copyright subsists?”

138. The copyright works and the contested mark is as follows:

Opponent’s Copyright Works	Applicant’s mark
	

139. The first copyright work consists of a device, being the letter “V” presented in a standard white capitalised typeface with a black outline, encompassed by a white circle with a black and dark blue outline. This is presented above the word “VOXI”

presented in a white standard typeface, all of which is presented on a black rectangular background. The second copyright work consists of a device, being the letter “V” presented in a standard white capitalised typeface with a black outline, encompassed by a white circle with a black outline. The device is presented above the word “VOXI” presented in a black standard typeface.

140. The applicant’s mark consists of the stylised word “voxy” followed by a full stop, with the very small letters “TM” placed in the top right hand corner, all of which is presented in white, against a black rectangular background. While the “v” is presented in a highly stylised manner, with the left white diagonal line broken in half with a curved black line (which integrates into the black background), I consider that a significant proportion of average consumers will still read it as the letter “v”. The letters “TM” in the top right hand corner of the mark simply denote to the consumer that the mark is a trade mark.

141. In regard to both of the opponent’s copyright protected works, it is my view that the design of the device is where a substantial part of the author’s labour would have been expended, which I note has no counterpart in the applicant’s mark. I find that, taking all of the above into account, there are significant differences between the copyright works and the applicant’s mark. These differences lead me to conclude that any similarities between the marks that exist, that being the letters V, O and X, (albeit the letter “v” is presented in a highly stylised manner in the applicant’s mark) are not sufficiently close, numerous or extensive. It is more likely that any similarities that exist are simply a coincidence. Therefore, the opposition fails under section 5(4)(b).

CONCLUSION

142. The opposition is unsuccessful, and the application may proceed to registration

COSTS

143. The applicant has been successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 1/2023. In the

circumstances, I award the applicant the sum of £1,600 as a contribution towards the costs of the proceedings. The sum is calculated as follows:

Considering the Notice of opposition and preparing a counterstatement	£300
Considering the opponent's evidence and filing evidence in chief and evidence in reply	£900
Filing written submissions in lieu	£400
Total	£1,600

144. I therefore order VO Vehicles Ltd to pay VOXY Ltd the sum of £1,600. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 14th day of January 2026

L FAYTER
For the Registrar

ANNEX 1

Class 6

Bicycle locks; Metal bicycle storage racks.

Class 7

Dynamos for bicycle; Joysticks being parts of machines, other than for game machines; Transmissions for air vehicles; Transmissions for water vehicles; Bicycle assembling machines; System control instruments (Mechanical -); System control instruments (Pneumatic -).

Class 9

Vehicle stereos; Vehicle batteries; Vehicle radios; Radios (Vehicle -); Subwoofers for vehicles; Vehicle control software; Amplifiers for vehicles; Mobile applications for booking taxis; Downloadable mobile applications for booking taxis; Crash helmets; Riding helmets; Helmets (Riding -); Drivers helmets; Helmets (Protective -); Motorcycle helmets; Safety helmets; Sports helmets; Helmet cameras; Skateboard helmets; Protective helmets; Bicycle helmets; Helmet camera mounts; Helmet communications systems; Protective sports helmets; Helmets for motorcyclists; Helmets for bicycles; Protective helmets for motorists; Sports (Protective helmets for -); Protection helmets for sports; Protective helmets for sports; Helmets (Protective -) for sports; Crash helmets for cyclists; Protective helmets for children; Helmets for use in sports; Protective helmets for motor cyclists; Protective face-shields for protective helmets; Sport bags adapted [shaped] to contain protective helmets; Illuminated advertisements; Illuminated advertising signs; Advertising signboards [luminous]; Advertising signboards [mechanical]; Electronic advertising displays; Computer software for advertising; Wearable smart phones; Wearable computers; Wearable smartphones; Wearable displays; Wearable monitors; Wearable computer peripherals; Wearable audio equipment; Wearable computer hardware; Wearable activity trackers; Wearable telecommunication apparatus; Wearable communications apparatus; Wearable portable media players; Wearable video display monitors; Wearable computer peripheral devices; Wearable digital electronic communication devices; Wearable communications devices in the form of wristwatches; Downloadable mobile applications for use with wearable computer devices; Mounting

fittings for radios; Computers for autonomous-driving vehicles; Computer programs to operate vehicles; Computer software to operate vehicles; On board computers for vehicles; Computer applications for vehicle navigation apparatus; Computer systems for automated vehicle control; Navigation apparatus for vehicles (on-board computers); Computer applications for automatic vehicle driving control; Computer applications for automated vehicle parking control; Recorded computer software for safe vehicle driving; Vehicles (Navigation apparatus for -) [on-board computers]; Computers; Computers and computer hardware; Computer programs for use in autonomous driving of vehicles; Computer programs for use in autonomous control of vehicles; Micro-computers; Computer interfaces; Computer hardware; Computer screens; Notebook computers; Computer motherboards; Stick computers; Hardware (Computer -); Computer monitors; Portable computers; Personal computers; Computer software; Computer programs; Computer daughterboards; Computer keypads; Quantum computers; Computer chips; Computer controllers; Process computers; Computer networks; Computer joysticks; Tablet computer; Computer peripherals; Mainframes [computers]; Computer mousepads; Computer servers; Tablet computers; Computer games; Computer modules; Mobile computers; Desktop computers; Palmtop computers; Computer databases; Computer systems; Handheld computers; Computer apparatus; Communications computers; Computer programmes; Computer shareware; Computer memories; Computer mainframes; Computer terminals; Computer cases; Computer programs for use in the autonomous navigation of vehicles; Computer programs for use in the assisted driving of vehicles; Computer software for accessing computer networks; Computer utility programs for computer maintenance; Computer software for testing vulnerability in computers and computer networks; Computer programs for connecting remotely to computers or computer networks; Games software; Computer hardware for games and gaming; Computer application software featuring games and gaming; Downloadable information relating to games and gaming; Downloadable electronic games; Computer game programs; Computer game programmes; Video game programs; Bicycle speedometers; Locks (electric) for bicycles; Joystick chargers; Joysticks adapted for smartphones; Joysticks for use with computers, other than for video games; Sirens for vehicles; Thermostats for vehicles; Cameras for vehicles; Speedometers for vehicles; Displays for vehicles; Batteries for vehicles; Radios for vehicles; Warning lamps for vehicles; Speed indicators for vehicles; Mileage recorders for vehicles; Rearview

cameras for vehicles; Accumulators, electric, for vehicles; Electronic keys for vehicles; Multimedia connectors for vehicles; Parking sensors for vehicles; Voice processing systems; Biometric voice recognition systems; Electronic control systems; Access control systems (Electric -); Personal computer application software for document control systems; Smart manufacturing system controls; Interactive computer systems; Computer operating systems; Biometric access control systems; Vehicle speed control systems; Access control systems (Automatic -); Voice processors; Voice recognisers; Voice synthesizers; Personal computer application software for managing document control systems; Cruise control systems for vehicles; Computer operating system software; Computer operating system programmes; Voice operated coders; Digital voice recorders; Voice command devices; Voice response equipment; Voice recognition software; Autonomous driving control systems for vehicles; Computer software for controlling amplifiers; Controlling software for computer printers; Computer applications for automotive control; Digital voice signal processors; Computer software for time control; Computer software to maintain and operate computer system; Computer software for use in computer access control; Computer software for the monitoring of computer systems; Global positioning system [GPS] computer software; Computer applications for automotive electronic control; Computer software for use in computer network access control; Integrated chip (IC) voice recorders; Computer software for system cleaning and optimization; Computer software for Global Positioning Systems (GPS); Utility programs for performing computer system diagnostics; Computer software for controlling self-service terminals; Computer applications for automated car parking control; Computers for managing control devices for aircraft; Computer software for the control of lighting; Computer applications for car automatic driving control; Computer hardware for the control of lighting; Process control digital controllers; Computer software for audibly controlling a computer and the operation thereof; Wireless controllers to remotely monitor and control the function and status of security systems; Electronic controllers; Electrical controllers; Thermal controls; Motion controllers; Remote control apparatus for controlling lighting; Programmable controllers; Pressure controls; Seat controls; Electrical controls; Electrical controlling devices; Electrical control apparatus; Speed controllers [electronic]; Electric control panels; Electricity control panels; Machine control software; Infrared remote controllers; Vehicle autonomous driving systems featuring interactive displays; Vehicle speed control apparatus; Temperature control

apparatus [thermostats] for vehicles; Aircraft landing guidance apparatus; Flight simulators for aircraft; Simulators for simulating the operation of aircraft; Gyroscopes; Stabilizing gyroscopes; Piezoelectric vibratory gyroscopes.

Class 11

Helmet lights; Wearable air purifiers; Wearable electric fans; Bicycle reflectors; Bicycle lamps; Bicycle lights; Bicycle dynamo lights; Directional lights for bicycles; Ventilators for vehicles; Vehicles (Lights for -); Defrosters for vehicles; Taillights for vehicles; Heaters for vehicles; Reflectors for vehicles; Lights for vehicles; Headlamps for vehicles; Lamps for vehicles; Headlights for vehicles; Heating installations for vehicles; Rear lights for vehicles; Lighting apparatus for vehicles; Lighting installations for vehicles.

Class 12

Vehicles; Vehicle cabs; Trains [vehicles]; Vehicle mirrors; Vehicle tires; Vehicle windscreens; Vehicle joysticks; Air vehicles; Rail vehicles; Railway vehicles; Tracked vehicles; Vehicle bumpers; Vehicle windows; Patrol vehicles; Utility vehicles; Container vehicles; Wheeled vehicles; Snow vehicles; Marine vehicles; Space vehicles; Vehicles (Space -); Towed vehicles; Vehicle bodies; Hoods (Vehicle -); Refrigerated vehicles; Vans [vehicles]; Motor vehicles; Trolleys [vehicles]; Scooters [vehicles]; Unmanned vehicles; Articulated vehicles; Seats (Vehicle -); Vehicle partitions; Trailers [vehicles]; Vehicle trailers; Mobility vehicles; Bodywork (Vehicle -); Land vehicles; Vehicle tyres; Vehicle hoods; Hybrid vehicles; Autonomous vehicles; Railbound vehicles; Electric vehicles; Vehicles (Electric -); Industrial vehicles; Vehicle sunroofs; Bumpers (Vehicle -); Automotive vehicles; Commercial vehicles; Amphibious vehicles; Vehicle seats; Vehicle seating; Water vehicles; Waterborne vehicles; Camping vehicles; Vehicle propellers; Vehicle doors; Vehicle chassis; Chassis (Vehicle -); Sleighs [vehicles]; Vehicle windshields; Vehicle wheels; Wheels (Vehicle -); Unmanned conveying vehicles; Sunroofs for vehicles; Sub-sea vehicles; Bumpers for vehicles; Vehicle roll bars; Vehicle suspension springs; Vehicle disc brakes; Fitted vehicle covers; Perambulator covers (Fitted -); Fitted motorcycle covers; Vehicle covers [fitted]; Fitted bicycle covers; Fitted vehicle seat covers; Fitted covers for vehicles; Bicycles; Bicycle rims; Bicycle tyres; Bicycle tires; Bicycle frames; Bicycle seats; Bicycle bells; Sports bicycles; Bicycle wheels; Motorised bicycles; Folding

bicycles; Children's bicycles; Pedal bicycles; Bicycle hubs; Bicycle handlebars; Bicycle sprockets; Bicycle horns; Bicycle carriers; Bicycle motors; Motorized bicycles; Bicycle stands; Collapsible bicycles; Bicycle pedals; Touring bicycles; Mountain bicycles; Bicycle chains; Tandem bicycles; Bicycle stabilisers; Racing bicycles; Bicycle cranks; Bicycle brakes; Delivery bicycles; Bicycle kickstands; Bicycle gears; Electric bicycles; Bicycle wheel hubs; Pedals for bicycles; Bicycle structural parts; Forks [bicycle parts]; Bicycle seat posts; Bicycle wheel rims; Tires for bicycles; Bicycle stands [kickstands]; Freewheels for bicycles; Engines for bicycles; Bicycle wheel spokes; Bags for bicycles; Cranks for bicycles; Spindles of bicycles; Gears for bicycles; Derailleurs for bicycles; Balance bicycles [vehicles]; Spokes of bicycles; Road racing bicycles; Chains [bicycle parts]; Brakes [bicycle parts]; Bicycle tires [tyres]; Wheels for bicycles; Motors for bicycles; Drivetrains for bicycles; Chainwheels for bicycles; Bells for bicycles; Children's bicycle seats; Hubs for bicycles; Bicycle handlebar grips; Sprockets [bicycle parts]; Bicycle saddle covers; Rims for bicycles; Bicycle trailers (riyakah); Brakes for bicycles; Frames for bicycles; Bicycle racks [carriers]; Saddles for bicycles; Kickstands for bicycles; Folding electric bicycles; Stands for bicycles, cycles [parts of bicycles, cycles]; Handle bars for bicycles; Chains for bicycles, cycles; Chain guards for bicycles; Direction signals for bicycles; Bicycle water bottle cages; Wheel rims for bicycles; Tires for bicycles, cycles; Frames for bicycles, cycles; Brake cables for bicycles; Roller chains for bicycles; Hubs for bicycle wheels; Wheel hubs for bicycles; Panniers adapted for bicycles; Drive trains [bicycle parts]; Handlebar grips for bicycles; Luggage carriers for bicycles; Luggage racks for bicycles; Covers for bicycle saddles; Saddle covers for bicycles; Tubeless tires for bicycles; Rims for bicycle wheels; Pumps for bicycle tires; Brake shoes [bicycle parts]; Shock absorbers for bicycles; Warning horns for bicycles; Wheels for bicycles, cycles; Bicycle racks for vehicles; Suspension systems for bicycles; Handlebars for bicycles, cycles; Gear wheels [bicycle parts]; Direction indicators for bicycles; Pumps for bicycles, cycles; Tricycles; Delivery tricycles; Carrier tricycles; Tricycles (Carrier -); Saddlebags adapted for tricycles; Airbags for vehicles; Suspensions for vehicles; Horns for vehicles; Skylights for vehicles; Upholstery for vehicles; Doors for vehicles; Spoilers for vehicles; Alarms for vehicles; Seating for vehicles; Seats for vehicles; Mirrors for vehicles; Chassis for vehicles; Racks for vehicles; Windshields for vehicles; Vehicle wheels (Hubs for -); Turn signals for vehicles; Indicators (Direction -) for vehicles; Braking systems for vehicles; Body panels for vehicles; Shafts for land vehicles; Monocoque structures for

vehicles; Skylights [windows] for vehicles; Hydraulic circuits for vehicles; Antitheft alarms for vehicles; Differentials for land vehicles; Roof boxes for vehicles; Bodywork parts for vehicles; Bodies for motor vehicles; Interior panels for vehicles; Hardtops [roofs] for vehicles; Tires for land vehicles; Scratch guards for vehicles; Alarm systems for vehicles; Seats for automotive vehicles; Seating for water vehicles; Air deflectors for vehicles; Covers for vehicle seats; Luggage nets for vehicles; Brakes for land vehicles; Shock absorbers for vehicles; Powertrains for land vehicles; Tires for vehicle wheels; Tyres for vehicle wheels; Windows for vehicle windshields; Engines for land vehicles; Brake calipers for vehicles; Scooters; Pedal scooters; Motor scooters; Mobility scooters; Water scooters; Motorized scooters; Electrically operated scooters; Scooters [for transportation]; Electrically powered scooters; Push scooters [vehicles]; Self-balancing scooters; Electrically-powered motor scooters; Baskets adapted for scooters; Non-motorized scooters [vehicles]; Electrically powered scooters [vehicles]; Self balancing electric scooters; Electric one wheel scooters; Self-balancing one-wheeled electric scooters; Self-balancing two-wheeled electric scooters; Motorized and non-motorized scooters for personal transportation; Motorised scooters for the disabled and those with mobility difficulties; Windproof covers adapted for electric bicycles; Bicycle saddles; Bicycle trailers; Bicycle pumps; Bicycle training wheels; Spokes for bicycles; Mudguards for bicycles; Spokes for bicycles, cycles; Spokes for bicycle wheels; Stability control systems for vehicles; Hydraulic control systems for vehicles; Traction control systems for vehicles; Pneumatic transmission control systems for vehicles; Off-road vehicles; Road vehicles [for transportation]; Land vehicle transmissions; Transmissions for land vehicles; Differential transmissions for land vehicles; Gear transmissions for land vehicles; Transmission shafts for land vehicles; Mechanical transmissions for land vehicles; Hydraulic transmissions for land vehicles; Power transmissions for land vehicles; Road bikes; Power transmission mechanisms for land vehicles; Driverless [autonomous] motor vehicles; Autonomous cars; Remote controlled vehicles; Remotely controlled land vehicle; Ships; Cargo ships; Aircraft; Pilotless aircraft; Ultralight aircraft; Electrically powered aircraft.

Class 14

Keyrings; Keyrings of common metal; Fancy keyrings of precious metals.

Class 16

Brochures; Printed brochures; Business cards; Post cards; Gift cards; Invitation cards; Note cards; Paper loyalty cards; Business forms.

Class 18

Suitcases; Motorized suitcases; Wheeled suitcases; Overnight suitcases; Small suitcases; Handles (Suitcase -); Roller suitcases; Suitcases, motorized, rideable; Suitcases with wheels; Trunks and suitcases; Carry-on suitcases; Suitcases with built-in shelves.

Class 21

Drinking bottles; Drinking bottles for sports; Bottles; Refrigerating bottles; Water bottles; Bottle pourers; Biodegradable bottles; Biobased bottles; Plastic bottles; Vacuum bottles; Reusable bottles; Glass bottles; Drinking glasses; Drinking cups; Drinks containers; Bottles (Refrigerating -); Bottle cradles; Drinking flasks; Drinking vessels; Drinking receptacles; Insulated vacuum bottles; Stands for bottles; Bottles, sold empty; Squeeze bottles, empty; Sports bottles [empty]; Aluminum water bottles; Drinking glass holders; Plastic water bottles; Insulated bottles [flasks].

Class 25

Clothing; Clothes; Wristbands [clothing]; Tops [clothing]; Knitted clothing; Oilskins [clothing]; Motorcyclists' clothing; Hoods [clothing]; Leisure clothing; Infant clothing; Children's clothing; Childrens' clothing; Sports clothing; Gloves [clothing]; Waterproof clothing; Plush clothing; Girls' clothing; Knitwear [clothing]; Cloth bibs; Cyclists' clothing; Playsuits [clothing]; Slipovers [clothing]; Jerseys [clothing]; Weatherproof clothing; Casual clothing; Denims [clothing]; Combinations [clothing]; Shorts [clothing]; Collars [clothing]; Babies' clothing; Ties [clothing]; Outer clothing; Cashmere clothing; Bandeaux [clothing]; Women's clothing; Bodies [clothing]; Embroidered clothing; Layettes [clothing]; Jackets [clothing]; Kerchiefs [clothing]; Maternity clothing; Thermal clothing; Belts [clothing]; Muffs [clothing]; Capes (clothing); Motorists' clothing; Boas [clothing]; Slips [clothing]; Wraps [clothing]; Shoes; Riding shoes; Work shoes; Golf shoes; Jogging shoes; Women's shoes; Sports shoes; Athletic shoes; Training shoes; Flat shoes; Platform shoes; Bowling shoes; Snowboard shoes; Basketball shoes; Cycling shoes; Running shoes; Walking shoes; Hiking shoes; Hockey shoes; Soccer shoes; Baseball shoes; Rubber shoes; Aqua shoes; Leisure shoes; Shoe straps; Baby

shoes; Gymnastic shoes; Dance shoes; Deck shoes; Mountaineering shoes; Football shoes; Infants' shoes; Shoe uppers; Shoe soles; Yoga shoes; Driving shoes; Roller shoes; Beach shoes; Tennis shoes; Athletics shoes; Sport shoes; Skiing shoes; Waterproof shoes; Slip-on shoes; Stiffeners for shoes; Spiked running shoes; Shoes for infants; Ballroom dancing shoes; Foot volleyball shoes; Knitted baby shoes; Hidden heel shoes; High-heeled shoes; Shoes for leisurewear; Esparto shoes or sandals; Sports headgear [other than helmets].

Class 28

Toy vehicles; Model vehicles; Helmets for dolls; Visors for toy helmets; Fitness steppers; Fitness exercise machines; Indoor fitness apparatus; Games; Game consoles; Games consoles; Gaming keypads; Sports games; Electronic games; Gaming machines; Exercise bicycles (Stationary -); Stationary exercise bicycles; Cycling machines [stationary]; Bicycles (Stationary exercise -); Rollers for stationary exercise bicycles; Exercise bicycles (Rollers for stationary -); Stationary exercise bicycles and rollers therefor; Toy bicycles; Tricycles [playthings]; Tricycles for infants [toys]; Tricycles for children for use as playthings; Joysticks for video games; Video game joysticks; Computer game joysticks ; Joysticks for video game machines; Joysticks being parts of video game consoles; Toy scooters; Scooters [toys]; Remote controlled scale model vehicles; Remote controlled toys in the form of vehicles; Model aircraft; Toy aircraft; Gyroscopes and flight stabilizers for model aircraft.

Class 35

Retail services in relation to vehicles; Taxi top advertising; Advertising; Advertising and advertisement services; Online advertising; Radio advertising; Cinema advertising; Advertising agencies; Online advertisements; Newspaper advertising; Television advertising; Advertising analysis; Classified advertising; Elevator advertising; Banner advertising; Advertising planning; Advertising consultation; Advertising research; Advertising copywriting; Response advertising; Advertising services; Recruitment advertising; Magazine advertising; Outdoor advertising; Advertising and marketing; Electronic billboard advertising; Cinematographic film advertising; Promotional advertising services; Press advertising services; Providing advertising services; Online advertising services; Direct mail advertising; Mail-order advertising; Direct market advertising; Political advertising services; Providing advertising space;

Creating advertising material; Mediation of advertising; Arrangement of advertising; Dissemination of advertisements; Advertisement hoarding rental; Rental of advertisement space and advertising material; Press advertising consultancy; Advertisements (Preparing of -); Updating advertising material; Graphic advertising services; Advertising agency services; Publicity and advertising; Preparation of advertisements; Advertising flyer distribution; Advertisements (Placing of -); Advertising and publicity; Compilation of advertisements; On-line advertising; Classified advertising services; Digital advertising services; Advertising research services; Advertising for others; Provision of advertising space; Advertising and marketing consultancy; Production of advertising matter; Production of radio advertisements; Promotional and advertising services; Distribution of advertising leaflets; Hire of advertising equipment; Advertising and publicity services; Promotion [advertising] of travel; Preparation of advertising material; Advertising via the Internet; Rental of advertising space; Consultancy relating to advertising; Consultations relating to advertising; Pay per click advertising; Scriptwriting for advertising purposes; Distribution of advertising samples; Distribution of advertising materials; Hire of advertising billboards; Hire of advertising hoardings; Advertisement billboards (Rental of -); Production of advertising material; Reproduction of advertising material; Advertising services for architects; Promotion [advertising] of business; Publication of advertising texts; Updating of advertising material; Hire of advertising aids; Rental of advertising matter; Direct mail advertising services; Preparation of advertising matter; Radio advertising and commercials; Preparation of advertising campaigns; Distribution of advertising material; Advertising matter (Dissemination of -); Design of advertising logos; Rental of advertisement hoardings; Advertising, including on-line advertising on a computer network; Advertising services of a radio and television advertising agency; Rental of advertising space on the Internet for employment advertising; Advertising services provided by a radio and television advertising agency; Production of advertising materials; Advertising and promotion services; Provision of advertising information; Advertising material (Updating of -); Publication of advertising literature; Distribution of advertising announcements; Radio and television advertising; Planning services for advertising; Rental of advertising material; Hiring of advertising materials; Promotion [advertising] of concerts; Market research for advertising; Production of advertising films; Advertising space (Rental of -); Negotiation of advertising contracts; Displaying advertisements for others;

Dissemination of advertising matter; Advertising material (Dissemination of -); Design of advertising brochures; Leasing of advertising billboards; Development of advertising concepts; Publication of advertising matter; Advertising and marketing services; Preparing advertisements for others; Advertising matter (Production of -); Retail services relating to jewelry; Retail services in relation to wearable computers; Unmanned retail store services relating to drink; Promotional services; Retail services in relation to games; Retail services in relation to bicycles; Publicity brochure distribution; Distribution of advertising brochures; Advertising in periodicals, brochures and newspapers; Dissemination of advertising material [leaflets, brochures and printed matter]; Dissemination of advertising material [leaflets, brochure and printed matter]; Distribution of flyers, brochures, printed matter and samples for advertising purposes; Dissemination of advertisements and of advertising material [flyers, brochures, leaflets and samples]; Distribution of publicity materials (flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales) whether cross border or not; Distribution of publicity materials, namely, flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales [whether crossborder or not]; Leasing of billboards; Leasing of advertising hoardings; Leasing of advertising space on pamphlets; Leasing of advertising space on trains; Systemization of information into computer databases; Computer databases (Systemization of information into -); Retail services relating to accumulators; Retail services relating to food; Retail services relating to clothing; Retail services for computer software; Retail services relating to batteries; Retail services connected with stationery; Retail services in relation to headgear; Retail services in relation to bags; Retail services in relation to lubricants; Online retail services relating to toys; Online retail services relating to luggage; Retail services in relation to smartwatches; Online retail services for downloadable digital music; Online retail services for downloadable ring tones; Mail order retail services for clothing accessories; Retail services in relation to clothing accessories; Retail services in relation to stationery supplies; Retail services in relation to computer software.

Class 37

Vehicle painting; Wash (Vehicle -); Lubrication (Vehicle -); Vehicle polishing; Vehicle detailing; Vehicle greasing; Vehicle washing; Vehicle maintenance; Maintenance (Vehicle -); Vehicle servicing; Vehicle lubrication; Greasing (Vehicle -); Vehicle

cleaning; Vehicle tuning; Polishing (Vehicle -); Vehicle fueling services; Overhaul of vehicles; Painting of vehicles; Hygienic cleaning [vehicles]; Vehicle washing services; Motor vehicle wash; Motor vehicle maintenance; Lubrication of vehicles; Motor vehicle repair; Automobile service station services; Repair of bicycles; Fuelling of aircraft.

Class 39

Vehicle recovery; Recovery (Vehicle -); Vehicle storage; Vehicle rental; Vehicle parking; Vehicle hire; Taxi transport; Taxi services; Transport of travellers by taxi; Arrangement of taxi transport; Taxi transport for people in wheelchairs; Providing taxi booking services via mobile applications; Vehicle routing by computer on data networks; Tracking of passenger vehicles by computer or via GPS; Transit services; Chauffeur services; Delivery services; Storage services; Parking services; Bicycle rental; Bicycle sharing services; Rental of bicycles; Rental of scooters for transportation purposes; Leasing of ships; Vehicle leasing services; Leasing of vehicles; Leasing of aircraft; Automobile vehicle leasing services; Leasing of motor vehicles; Leasing of cargo containers; Motor land vehicle leasing services; Rental of road vehicles; Towing of road vehicles; Rental of motor road vehicles; Road delivery of parcels; Hire of road transport; Transport of travellers by road; Collection of packages by road; Delivery of parcels by road; Transportation of goods by road; Transport of textiles by road; Transportation of parcels by road; Transportation of freight by road; Transportation of pharmaceuticals by road; Transportation of passengers by road; Road haulage services; Haulage services (Road -); Road transport services; Transport by road; Shipping; Ship transport; Ocean shipping; Transport by ship; Rental of ships; Aircraft rental; Hire of aircraft.

Class 41

Physical fitness tuition; Fitness club services; Physical fitness instruction; Keep-fit instruction; Conducting fitness classes; Fitness training services; Physical fitness centres; Physical fitness consultation; Aerial fitness instruction; Sports and fitness; Physical fitness training services; Tuition in physical fitness; Exercise and fitness classes; Health and fitness training; Sports and fitness services; Physical fitness centre services; Keep fit instruction services; Fitness and exercise instruction; Personal fitness training services; Game services; Gaming services; Rental of toy scooters.

Class 42

Vehicle design services; Design and development of computer software for vehicle simulation; Computer programming of computer games; Computer and computer software rental; Computer testing; Computer programming; Computer consultancy; Computer rental; Computer design; Computer hire; Rental (Computer -); Rental of computers and computer software; Computer hardware leasing; Leasing computer facilities; Leasing of computers; Leasing of computer programs; Leasing of computer software; Leasing of computer equipment; Leasing of computer apparatus; Leasing of computer hardware; Quality control relating to computer systems; Computer system analysis; Systems analysis (Computer -); Computer systems analysis; Design (Computer system -); Computer systems development; Computer systems design; Development of computer software for use with computer-controlled switching systems; Programming of electronic control systems; Design of computer systems; Computer system integration services; Development of computer systems; Providing virtual computer systems; Computer system design and development; Computer security system monitoring services; Configuration of computer systems and networks; Updating of memory banks of computer systems; Monitoring of computer systems to detect breakdowns; Aircraft design; Design of computer programs and software relating to aircraft.

ANNEX 2

Class 6

Bicycle locks.

Class 7

Joysticks being parts of machines, other than for game machines; Bicycle assembling machines.

Class 9

Wearable activity trackers; Computer programs to operate vehicles; Bicycle speedometers; vehicle batteries; mobile applications for booking taxis.

Class 11

Bicycle reflectors; Bicycle lamps; Bicycle lights; Directional lights for bicycles; Vehicles (Lights for -); Taillights for vehicles; Heaters for vehicles; Reflectors for vehicles; Lights for vehicles; Headlamps for vehicles; Lamps for vehicles; Headlights for vehicles; Heating installations for vehicles; Rear lights for vehicles; Lighting apparatus for vehicles; Lighting installations for vehicles.

Class 12

Vehicles; Bicycles; Bicycle rims; Bicycle tyres; Bicycle tires; Bicycle frames; Bicycle seats; Bicycle bells; Sports bicycles; Bicycle wheels; Motorised bicycles; Pedal bicycles; Bicycle hubs; Bicycle handlebars; Bicycle sprockets; Bicycle horns; Bicycle carriers; Bicycle motors; Motorized bicycles; Bicycle pedals; Bicycle chains; Tandem bicycles; Bicycle stabilisers; Racing bicycles; Bicycle cranks; Bicycle brakes; Delivery bicycles; Bicycle kickstands; Bicycle gears; Electric bicycles; Pedals for bicycles; Bicycle structural parts; Bicycle seat posts; Bicycle wheel rims; Tires for bicycles; Freewheels for bicycles; Engines for bicycles; Bicycle wheel spokes; Bags for bicycles; Cranks for bicycles; Spindles of bicycles; Gears for bicycles; Balance bicycles [vehicles]; Brakes [bicycle parts]; Bicycle tires [tyres]; Wheels for bicycles; Motors for bicycles; Drivetrains for bicycles; Bells for bicycles; Sprockets [bicycle parts]; Rims for bicycles; Brakes for bicycles; Frames for bicycles; Direction signals for bicycles;

Bicycle water bottle cages; Wheel rims for bicycles; Tires for bicycles, cycles; Frames for bicycles, cycles; Brake cables for bicycles; Drive trains [bicycle parts]; Luggage carriers for bicycles; Tubeless tires for bicycles; Rims for bicycle wheels; Shock absorbers for bicycles; Warning horns for bicycles; Wheels for bicycles, cycles; Suspension systems for bicycles; Gear wheels [bicycle parts]; Suspensions for vehicles; Skylights for vehicles; Upholstery for vehicles; Seating for vehicles; Seats for vehicles; Body panels for vehicles; Monocoque structures for vehicles; Covers for vehicle seats; Luggage nets for vehicles.

Class 16

Business cards; Post cards; Gift cards; Note cards; Business forms.

Class 21

Drinking bottles; Drinking bottles for sports.

Class 25

Clothing; Clothes; Tops [clothing]; Sports clothing; Waterproof clothing; Cyclists' clothing; Weatherproof clothing; Casual clothing; Combinations [clothing]; Shorts [clothing]; Outer clothing; Women's clothing; Jackets [clothing]; Thermal clothing; Capes (clothing).

Class 35

Retail services in relation to vehicles; Taxi top advertising; Advertising; Advertising and advertisement services; Online advertising; Radio advertising; Online advertisements; Newspaper advertising; Magazine advertising; Outdoor advertising; Advertising and marketing; Promotional advertising services; Press advertising services; Providing advertising services; Providing advertising space; Rental of advertisement space and advertising material; Advertisements (Placing of -); Advertising and publicity; Provision of advertising space; Production of radio advertisements; Promotional and advertising services; Advertising and publicity services; Advertising via the Internet; Rental of advertising space; Promotion [advertising] of business; Publication of advertising texts; Updating of advertising material; Direct mail advertising services; Radio advertising and commercials; Distribution of advertising material; Advertising, including on-line advertising on a computer network; Advertising and promotion

services; Provision of advertising information; Advertising material (Updating of -); Publication of advertising literature; Radio and television advertising; Advertising space (Rental of -); Displaying advertisements for others; Dissemination of advertising matter; Advertising material (Dissemination of -); Publication of advertising matter; Advertising and marketing services; Advertising matter (Production of -); Promotional services; Retail services in relation to bicycles; Publicity brochure distribution; Distribution of advertising brochures; Advertising in periodicals, brochures and newspapers; Dissemination of advertising material [leaflets, brochures and printed matter]; Dissemination of advertising material [leaflets, brochure and printed matter]; Distribution of flyers, brochures, printed matter and samples for advertising purposes; Dissemination of advertisements and of advertising material [flyers, brochures, leaflets and samples]; Distribution of publicity materials (flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales) whether cross border or not; Distribution of publicity materials, namely, flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales [whether crossborder or not]; Retail services relating to clothing; Retail services in relation to clothing accessories; Retail services relating to batteries.

Class 39

Vehicle rental; Bicycle rental; Bicycle sharing services; Rental of bicycles; Vehicle hire; Taxi transport; Taxi services; Transport of travellers by taxi; Arrangement of taxi transport; Providing taxi booking services via mobile applications; Tracking of passenger vehicles by computer or via GPS; Chauffeur services; Delivery services; Leasing of vehicles; Rental of road vehicles; ; Road delivery of parcels; Transportation of goods by road; Transportation of parcels by road; Transport of travellers by road; Transportation of passengers by road.

Class 41

Physical fitness tuition; Physical fitness instruction; Keep-fit instruction; Fitness training services; Physical fitness consultation; Sports and fitness services; Physical fitness training services; Tuition in physical fitness; Exercise and fitness classes; Health and fitness training; Sports and fitness services; Keep fit instruction services; Fitness and exercise instruction; Personal fitness training services; Game services.

Class 42

Vehicle design services; Programming of electronic control systems.

ANNEX 3

Class 6

Bicycle locks.

Class 7

Joysticks being parts of machines, other than for game machines; Bicycle assembling machines.

Class 9

Wearable activity trackers; Computer programs to operate vehicles; Bicycle speedometers; vehicle batteries; mobile applications for booking taxis.

Class 11

Bicycle reflectors; Bicycle lamps; Bicycle lights; Directional lights for bicycles; Vehicles (Lights for -); Taillights for vehicles; Heaters for vehicles; Reflectors for vehicles; Lights for vehicles; Headlamps for vehicles; Lamps for vehicles; Headlights for vehicles; Heating installations for vehicles; Rear lights for vehicles; Lighting apparatus for vehicles; Lighting installations for vehicles.

Class 12

Vehicles; Bicycles; Bicycle rims; Bicycle tyres; Bicycle tires; Bicycle frames; Bicycle seats; Bicycle bells; Sports bicycles; Bicycle wheels; Motorised bicycles; Pedal bicycles; Bicycle hubs; Bicycle handlebars; Bicycle sprockets; Bicycle horns; Bicycle carriers; Bicycle motors; Motorized bicycles; Bicycle pedals; Bicycle chains; Tandem bicycles; Bicycle stabilisers; Racing bicycles; Bicycle cranks; Bicycle brakes; Delivery bicycles; Bicycle kickstands; Bicycle gears; Electric bicycles; Pedals for bicycles; Bicycle structural parts; Bicycle seat posts; Bicycle wheel rims; Tires for bicycles; Freewheels for bicycles; Engines for bicycles; Bicycle wheel spokes; Bags for bicycles; Cranks for bicycles; Spindles of bicycles; Gears for bicycles; Balance bicycles [vehicles]; Brakes [bicycle parts]; Bicycle tires [tyres]; Wheels for bicycles; Motors for bicycles; Drivetrains for bicycles; Bells for bicycles; Sprockets [bicycle parts]; Rims for bicycles; Brakes for bicycles; Frames for bicycles; Direction signals for bicycles;

Bicycle water bottle cages; Wheel rims for bicycles; Tires for bicycles, cycles; Frames for bicycles, cycles; Brake cables for bicycles; Drive trains [bicycle parts]; Luggage carriers for bicycles; Tubeless tires for bicycles; Rims for bicycle wheels; Shock absorbers for bicycles; Warning horns for bicycles; Wheels for bicycles, cycles; Suspension systems for bicycles; Gear wheels [bicycle parts]; Suspensions for vehicles; Skylights for vehicles; Upholstery for vehicles; Seating for vehicles; Seats for vehicles; Body panels for vehicles; Monocoque structures for vehicles; Covers for vehicle seats; Luggage nets for vehicles.

Class 16

Business cards; Post cards; Gift cards; Note cards; Business forms.

Class 21

Drinking bottles; Drinking bottles for sports.

Class 25

Clothing; Clothes; Tops [clothing]; Sports clothing; Waterproof clothing; Cyclists' clothing; Weatherproof clothing; Casual clothing; Combinations [clothing]; Shorts [clothing]; Outer clothing; Women's clothing; Jackets [clothing]; Thermal clothing; Capes (clothing).

Class 35

Retail services in relation to vehicles; Taxi top advertising; Advertising; Advertising and advertisement services; Online advertising; Radio advertising; Online advertisements; Newspaper advertising; Magazine advertising; Outdoor advertising; Advertising and marketing; Promotional advertising services; Press advertising services; Providing advertising services; Providing advertising space; Rental of advertisement space and advertising material; Advertisements (Placing of -); Advertising and publicity; Provision of advertising space; Production of radio advertisements; Promotional and advertising services; Advertising and publicity services; Advertising via the Internet; Rental of advertising space; Promotion [advertising] of business; Publication of advertising texts; Updating of advertising material; Direct mail advertising services; Radio advertising and commercials; Distribution of advertising material; Advertising, including on-line advertising on a computer network; Advertising and promotion

services; Provision of advertising information; Advertising material (Updating of -); Publication of advertising literature; Radio and television advertising; Advertising space (Rental of -); Displaying advertisements for others; Dissemination of advertising matter; Advertising material (Dissemination of -); Publication of advertising matter; Advertising and marketing services; Advertising matter (Production of -); Promotional services; Retail services in relation to bicycles; Publicity brochure distribution; Distribution of advertising brochures; Advertising in periodicals, brochures and newspapers; Dissemination of advertising material [leaflets, brochures and printed matter]; Dissemination of advertising material [leaflets, brochure and printed matter]; Distribution of flyers, brochures, printed matter and samples for advertising purposes; Dissemination of advertisements and of advertising material [flyers, brochures, leaflets and samples]; Distribution of publicity materials (flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales) whether cross border or not; Distribution of publicity materials, namely, flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales [whether crossborder or not]; Retail services relating to clothing; Retail services in relation to clothing accessories; Retail services relating to batteries.

Class 39

Vehicle rental; Bicycle rental; Bicycle sharing services; Rental of bicycles; Vehicle hire; Taxi transport; Taxi services; Transport of travellers by taxi; Arrangement of taxi transport; Providing taxi booking services via mobile applications; Tracking of passenger vehicles by computer or via GPS; Chauffeur services; Delivery services; Leasing of vehicles; Rental of road vehicles; ; Road delivery of parcels; Transportation of goods by road; Transportation of parcels by road; Transport of travellers by road; Transportation of passengers by road.

Class 41

Physical fitness tuition; Physical fitness instruction; Keep-fit instruction; Fitness training services; Physical fitness consultation; Sports and fitness services; Physical fitness training services; Tuition in physical fitness; Exercise and fitness classes; Health and fitness training; Sports and fitness services; Keep fit instruction services; Fitness and exercise instruction; Personal fitness training services; Game services.

Class 42

Vehicle design services; Programming of electronic control systems.

ANNEX 4

Class 9

Wearable activity trackers; Computer programs to operate vehicles; Bicycle speedometers; vehicle batteries; mobile applications for booking taxis.

Class 12

Vehicles; Bicycles; Bicycle rims; Bicycle tyres; Bicycle tires; Bicycle frames; Bicycle seats; Bicycle bells; Sports bicycles; Bicycle wheels; Motorised bicycles; Pedal bicycles; Bicycle hubs; Bicycle handlebars; Bicycle sprockets; Bicycle horns; Bicycle carriers; Bicycle motors; Motorized bicycles; Bicycle pedals; Bicycle chains; Tandem bicycles; Bicycle stabilisers; Racing bicycles; Bicycle cranks; Bicycle brakes; Delivery bicycles; Bicycle kickstands; Bicycle gears; Electric bicycles; Pedals for bicycles; Bicycle structural parts; Bicycle seat posts; Bicycle wheel rims; Tires for bicycles; Freewheels for bicycles; Engines for bicycles; Bicycle wheel spokes; Bags for bicycles; Cranks for bicycles; Spindles of bicycles; Gears for bicycles; Balance bicycles [vehicles]; Brakes [bicycle parts]; Bicycle tires [tyres]; Wheels for bicycles; Motors for bicycles; Drivetrains for bicycles; Bells for bicycles; Sprockets [bicycle parts]; Rims for bicycles; Brakes for bicycles; Frames for bicycles; Direction signals for bicycles; Bicycle water bottle cages; Wheel rims for bicycles; Tires for bicycles, cycles; Frames for bicycles, cycles; Brake cables for bicycles; Drive trains [bicycle parts]; Luggage carriers for bicycles; Tubeless tires for bicycles; Rims for bicycle wheels; Shock absorbers for bicycles; Warning horns for bicycles; Wheels for bicycles, cycles; Suspension systems for bicycles; Gear wheels [bicycle parts]; Suspensions for vehicles; Skylights for vehicles; Upholstery for vehicles; Seating for vehicles; Seats for vehicles; Body panels for vehicles; Monocoque structures for vehicles; Covers for vehicle seats; Luggage nets for vehicles.

Class 16

Business cards; Post cards; Gift cards; Note cards; Business forms.

Class 25

Clothing; Clothes; Tops [clothing]; Sports clothing; Waterproof clothing; Cyclists' clothing; Weatherproof clothing; Casual clothing; Combinations [clothing]; Shorts

[clothing]; Outer clothing; Women's clothing; Jackets [clothing]; Thermal clothing; Capes (clothing).

Class 39

Vehicle rental; Bicycle rental; Bicycle sharing services; Rental of bicycles; Vehicle hire; Taxi transport; Taxi services; Transport of travellers by taxi; Arrangement of taxi transport; Providing taxi booking services via mobile applications; Tracking of passenger vehicles by computer or via GPS; Chauffeur services; Delivery services; Leasing of vehicles; Rental of road vehicles; ; Road delivery of parcels; Transportation of goods by road; Transportation of parcels by road; Transport of travellers by road; Transportation of passengers by road.

Class 42

Vehicle design services; Programming of electronic control systems.

ANNEX 5

Class 7

Joysticks being parts of machines.

Class 9

Wearable activity trackers; Computer programs to operate vehicles; Bicycle speedometers; vehicle batteries; mobile applications for booking taxis.

Class 11

Bicycle reflectors; Bicycle lamps; Bicycle lights; Directional lights for bicycles; Vehicles (Lights for -); Taillights for vehicles; Heaters for vehicles; Reflectors for vehicles; Lights for vehicles; Headlamps for vehicles; Lamps for vehicles; Headlights for vehicles; Heating installations for vehicles; Rear lights for vehicles; Lighting apparatus for vehicles; Lighting installations for vehicles.

Class 12

Vehicles; Bicycles; Bicycle rims; Bicycle tyres; Bicycle tires; Bicycle frames; Bicycle seats; Bicycle bells; Sports bicycles; Bicycle wheels; Motorised bicycles; Pedal bicycles; Bicycle hubs; Bicycle handlebars; Bicycle sprockets; Bicycle horns; Bicycle carriers; Bicycle motors; Motorized bicycles; Bicycle pedals; Bicycle chains; Tandem bicycles; Bicycle stabilisers; Racing bicycles; Bicycle cranks; Bicycle brakes; Delivery bicycles; Bicycle kickstands; Bicycle gears; Electric bicycles; Pedals for bicycles; Bicycle structural parts; Bicycle seat posts; Bicycle wheel rims; Tires for bicycles; Freewheels for bicycles; Engines for bicycles; Bicycle wheel spokes; Bags for bicycles; Cranks for bicycles; Spindles of bicycles; Gears for bicycles; Balance bicycles [vehicles]; Brakes [bicycle parts]; Bicycle tires [tyres]; Wheels for bicycles; Motors for bicycles; Drivetrains for bicycles; Bells for bicycles; Sprockets [bicycle parts]; Rims for bicycles; Brakes for bicycles; Frames for bicycles; Direction signals for bicycles; Bicycle water bottle cages; Wheel rims for bicycles; Tires for bicycles, cycles; Frames for bicycles, cycles; Brake cables for bicycles; Drive trains [bicycle parts]; Luggage carriers for bicycles; Tubeless tires for bicycles; Rims for bicycle wheels; Shock absorbers for bicycles; Warning horns for bicycles; Wheels for bicycles, cycles; Suspension systems for bicycles; Gear wheels [bicycle parts]; Suspensions for

vehicles; Skylights for vehicles; Upholstery for vehicles; Seating for vehicles; Seats for vehicles; Body panels for vehicles; Monocoque structures for vehicles; Covers for vehicle seats; Luggage nets for vehicles.

Class 16

Business cards; Post cards; Gift cards; Note cards; Business forms.

Class 21

Drinking bottles; Drinking bottles for sports.

Class 25

Clothing; Clothes; Tops [clothing]; Sports clothing; Waterproof clothing; Cyclists' clothing; Weatherproof clothing; Casual clothing; Combinations [clothing]; Shorts [clothing]; Outer clothing; Women's clothing; Jackets [clothing]; Thermal clothing; Capes (clothing).

Class 35

Retail services in relation to vehicles; Taxi top advertising; Advertising; Advertising and advertisement services; Online advertising; Radio advertising; Online advertisements; Newspaper advertising; Magazine advertising; Outdoor advertising; Advertising and marketing; Promotional advertising services; Press advertising services; Providing advertising services; Providing advertising space; Rental of advertisement space and advertising material; Advertisements (Placing of -); Advertising and publicity; Provision of advertising space; Production of radio advertisements; Promotional and advertising services; Advertising and publicity services; Advertising via the Internet; Rental of advertising space; Promotion [advertising] of business; Publication of advertising texts; Updating of advertising material; Direct mail advertising services; Radio advertising and commercials; Distribution of advertising material; Advertising, including on-line advertising on a computer network; Advertising and promotion services; Provision of advertising information; Advertising material (Updating of -); Publication of advertising literature; Radio and television advertising; Advertising space (Rental of -); Displaying advertisements for others; Dissemination of advertising matter; Advertising material (Dissemination of -); Publication of advertising matter; Advertising and marketing services; Advertising matter (Production of -); Promotional

services; Retail services in relation to bicycles; Publicity brochure distribution; Distribution of advertising brochures; Advertising in periodicals, brochures and newspapers; Dissemination of advertising material [leaflets, brochures and printed matter]; Dissemination of advertising material [leaflets, brochure and printed matter]; Distribution of flyers, brochures, printed matter and samples for advertising purposes; Dissemination of advertisements and of advertising material [flyers, brochures, leaflets and samples]; Distribution of publicity materials (flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales) whether cross border or not; Distribution of publicity materials, namely, flyers, prospectuses, brochures, samples, particularly for catalogue long distance sales [whether crossborder or not]; Retail services relating to clothing; Retail services in relation to clothing accessories; Retail services relating to batteries.

Class 39

Vehicle rental; Bicycle rental; Bicycle sharing services; Rental of bicycles; Vehicle hire; Taxi transport; Taxi services; Transport of travellers by taxi; Arrangement of taxi transport; Providing taxi booking services via mobile applications; Tracking of passenger vehicles by computer or via GPS; Chauffeur services; Delivery services; Leasing of vehicles; Rental of road vehicles; ; Road delivery of parcels; Transportation of goods by road; Transportation of parcels by road; Transport of travellers by road; Transportation of passengers by road.

Class 42

Vehicle design services; Programming of electronic control systems.