

BL O/0186/26

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF UK REGISTRATION NOS. 4057417 AND 4057462

IN THE NAME OF WIRELESS (US) INC

IN RESPECT OF THE FOLLOWING TRADE MARKS



IN CLASSES 9 AND 38

AND

OPPOSITIONS THERETO

UNDER NUMBERS 449677 AND 450852

BY SKY LIMITED

Background and pleadings

1. Wireless (US) Inc (“the applicant”) applied to register the following UK trade marks (“UKTM”):

UK4057462 (“the 462 Mark”)



Filing date: 29 May 2024

Publication date: 14 June 2024

For the following goods/services:

Class 9 Aerials; Antennas for telecommunications networks; Antennas for wireless communications apparatus; Telecommunication apparatus in the nature of wireless receivers; Wireless routers; Amplifiers for wireless communications; Wireless transmitters and receivers; Wireless network extenders; Devices for wireless radio transmission.

Class 38 Internet service provider [ISP] services; Providing access to the Internet; wireless communication services, namely, providing access to public venue wireless local area networks; Wireless broadband communication services; Providing multiple-user wireless access to the Internet; Providing multiple-user access to the Internet; Providing remote Internet access; Internet access provider services; Internet services providers (isps).

UK4057417 (“the 417 Mark”)



Filing date: 29 May 2024

Publication date: 16 August 2024

For the following goods/services:

Class 9 Aerials; Antennas for telecommunications networks; Antennas for wireless communications apparatus; Telecommunication apparatus in the nature of wireless receivers; Wireless routers; Amplifiers for wireless communications; Wireless transmitters and receivers; Wireless network extenders; Devices for wireless radio transmission.

Class 38 Internet service provider [ISP] services; Providing access to the Internet; wireless communication services, namely, providing access to public venue wireless local area networks; Wireless broadband communication services; Providing multiple-user wireless access to the Internet; Providing multiple-user access to the Internet; Providing remote Internet access; Internet access provider services; Internet services providers (isps).

2. On 16 September 2024, Sky Limited (“the opponent”) opposed the applications in full under Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies upon the following trade marks:

UK2525359 (“the 359 mark”)

SKY

Filing date: 2 September 2009

Registration date: 15 April 2022

Priority date: 2 March 2009

Goods/services relied upon: Class 9 and 38¹

UK2534537 (series of two) (“the 537 marks”)



Filing date: 2 December 2009

Registration date: 15 April 2022

Goods/services relied upon: Class 9 and 38²

UK3859806 (series of two) (“the 806 marks”)



Filing date: 15 December 2022

Registration date: 10 March 2023

Goods/services relied upon: Class 9 and 38³

¹ These are set out in Annex 1 of this decision.

² These are set out in Annex 2 of this decision.

³ These are set out in Annex 3 of this decision.

3. Under section 5(2)(b), the opponent claims that its marks are highly similar to the applicant's marks and that the competing goods/services are identical or similar, resulting in a likelihood of confusion, including a likelihood of association.

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

5. In accordance with section 6 of the Act, the marks relied upon by the opponent are considered earlier marks. The marks have not been registered for five years at the date of application for the contested marks and so, in accordance with section 6A of the Act, they are not subject to proof of use; the opponent may rely upon all the goods/services as identified.

6. The opponent is represented by Dentons UK and Middle East LLP. The applicant is represented by Sipara Limited. Neither side filed evidence in these proceedings. The opponent filed written submissions in lieu of a hearing on 18 August 2025, which will not be summarised but will be referred to as and where appropriate during this decision. No hearing was requested and so this decision is taken following a careful perusal of the papers.

Relevance of EU Law

7. 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.

Decision

Section 5(2)(b)

8. Section 5(2)(b) of the Act is as follows:

“5(2) A trade mark shall not be registered if because-

(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”.

9. Section 5A of the Act states as follows:

“Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only.”

Relevant law

10. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Paris Europe Inc & Anor*, [2025] UKSC 25:

(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, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite 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 greater 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; and

(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 and services

11. The competing goods/services are shown in paragraph 1 and Annexes 1, 2 and 3 of this decision. The goods/services in the applicant's marks are identical in both registrations. I will therefore proceed to make one comparison based on these terms, which will apply to both of the contested marks.

12. When making the comparison, all relevant factors relating to the goods/services in the specifications should be taken into account, as per *Canon*, where the CJEU stated at paragraph 23 of its judgement:

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

13. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

14. 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 fur 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.”

15. I bear in mind that it is permissible to group goods/services together for the purposes of the assessment⁴.

16. The opponent submits:

“24. The goods in class 9 covered by the Applications are identical and/or in the alternative highly similar to the class 9 goods covered by the Earlier Marks. Other than those goods which are clearly identical, the remaining goods are either highly similar or sufficiently similar, as they all are or relate to apparatus or hardware for, inter alia, telecommunication, communication, broadband, broadcast or streaming and related devices. As a result, they share the same intended purpose, coincide in their providers, trade channels and end users and are clearly in competition or in the alternative complementary to each other.

25. The goods in class 9 covered by the Applications are similar to the class 38 telecommunication services covered by the Earlier Marks in class 38 as all goods relate to hardware for telecommunication or broadband. As a result, they share the same intended purpose, coincide in their providers, trade channels and end users and are clearly complementary to each other as the class 9 goods facilitate the class 38 services and are often sold as part of a package for providing telecommunication services.

26. The services in class 38 covered by the Applications are identical and/or in the alternative highly similar to the class 38 services covered by the Earlier Marks in class 38. Other than those services which are clearly identical, the remaining services are either highly similar or sufficiently similar as they are or relate to telecommunication services, including broadband services. As a result, they share the same intended purpose, coincide in their providers, trade channels and end users and are clearly complementary to each other.

⁴ *Separode Trade Mark O/399/10*

27. The services in class 38 covered by the Applications are similar to the class 9 goods covered by the Earlier Marks as all services relate to apparatus or hardware for, inter alia, telecommunication, communication, broadband, broadcast or streaming and related device. As a result, they share the same intended purpose, coincide in their providers, trade channels and end users and are clearly complementary to each other”.

17. The applicant submits:

“8. The Opponent has expressed claims of similarity simply by reference to generic statements about the goods and services having *“the same nature, and/or purpose, being provided by the same entities, through the same trade channels to the same end consumers and being in competition or in the alternative complementary”*. However, the Opponent has applied this reasoning to an incredibly wide range of goods and services in the earlier marks (including goods such as *“cinematographic...apparatus and instruments”* and *“photographic...apparatus and instruments”*). This unclear pleading does not enable the Applicant to respond accurately or with certainty to the claims made, and for the time being therefore the Applicant denies the claims, and the Opponent is put to proof of those claims.

9. The Applicant also notes that the Opponent has not explained which goods and services are felt to be identical There is simply a generic claim that the goods/services are *“identical”* or *“in the alternative are highly similar”* and so this is unclear as to make it impossible for the Applicant to confirm or deny with any certainty or accuracy. Either the goods/services are identical on the facts, or they are not. The Applicant is placed in an impossible position in trying to respond to such a claim, so for the time being these claims are denied and the Opponent is put to proof of them.

10. The Applicant therefore denies the claims made by the Opponent in relation to the goods/services and puts the Opponent to the proof of these claims.”

18. The opponent also provides a comparison of goods/services by way of a table, in which it separates its goods/services into two categories and labels them ‘identical’ or

'similar' to the applicant's specification. Other than the very broad submissions (above) and the table, there is no explanation as to why any of the applicant's goods/services are similar or identical to the opponent's, nor have they identified any of their specific terms as the basis for such similarity.

19. I bear in mind the comments of Iain Purvis KC, sitting as the Appointed Person in *SmartX*⁵:

"[It] is for the Opponent to put forward the combinations of goods on which it relies for similarity (or identity). If it fails to identify a particular combination, it cannot expect the Hearing Officer to do the job for it. [This] would place an intolerable burden on Hearing Officers in cases of this nature in which there will be thousands of potential combinations of goods which could be relied on, and for each combination a slightly different argument for similarity could be made."

20. The opponent has not identified, either in its pleadings or in its subsequent submissions, which particular goods/services of its registrations are alleged to be similar/identical to which goods/services of the applicant's specification. As such, I will proceed to compare terms where I believe the similarity or identity is obvious.

Class 9

Aerials

21. The opponent's 359 mark includes the term *aerials* in class 9, which is self-evidently identical to the applicant's term, above.

Antennas for telecommunications networks; Antennas for wireless communications apparatus;

22. The opponent's 359 mark includes the term *antennae* in class 9, which is a wide term which encompasses the applicant's above terms on the principles outlined in *Meric*.

Wireless routers;

⁵ BL O/0911/24

23. The opponent's 537 marks include the term *wired and/or wireless computer network routers, modems, firewalls and/or bridges* in class 9. I consider this term to be wider than the applicant's above term and they are therefore identical on the principles outlined in *Meric*.

Amplifiers for wireless communications; Wireless transmitters and receivers; Wireless network extenders; Telecommunication apparatus in the nature of wireless receivers;

24. In the absence of specific submissions, I consider the applicant's above terms to be components in wireless communication systems which are used to transmit signals across various platforms. The opponent's 806 mark includes the term *ethernet hardware, adapters, cables, transceivers, switches and controllers* in class 9. I consider the opponent's term to be a wide one which would encompass the applicant's above terms and they are therefore identical on the principles outlined in *Meric*. If I am wrong about that, I consider that uses will overlap as the goods will be used for the same purpose (to transmit wireless signals), and users will also overlap. There will be an overlap in trade channels. I do not find competition, or complementarity, although the goods may be used in combination with each other⁶. I find the goods to be similar to a medium degree.

Devices for wireless radio transmission

25. The opponent's 806 mark includes the term *wireless local area network devices* in class 9. I consider this term to be wider than the applicant's above term and they are therefore identical on the principles outlined in *Meric*.

Class 38

Providing access to the Internet

26. The opponent's 806 mark also contains the term *providing access to the Internet* in class 38. These terms are self-evidently identical.

⁶ As per AP Ms Emma Himsworth's comments in in *Everest Dairies Limited v Everest Food Products Private Limited*, [23] O/0107/23 where she stated, "the question of whether goods are 'complementary' is to be distinguished from use in combination, where goods are merely used together, whether for choice or convenience."

Internet service provider [ISP] services; wireless communication services, namely, providing access to public venue wireless local area networks; Wireless broadband communication services; Providing multiple-user wireless access to the Internet; Providing multiple-user access to the Internet; Providing remote Internet access; Internet access provider services; Internet services providers (isps).

27. In the absence of submissions, I consider that all of the applicant's above terms relate to providing some form of internet access. The opponent's 806 mark contains the term *providing access to the Internet* in class 38. I find this to be a wider term than the applicant's above terms, and they are therefore identical on the principles outlined in *Meric*.

Average consumer and the purchasing act

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

29. In *Iconix Luxembourg Holdings SARL v Dream Paris Europe Inc & Anor*, [2025] UKSC 25, the Supreme Court approved the comments of Arnold LJ in *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor (Rev1)* [2024] EWCA Civ 262, where he pointed out that:

- (a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;
- (b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;
- (c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule and if, having regard to the perceptions and expectations of the average

consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;

(d) Assessment from the perspective of the average consumer is intended to facilitate adjudication of trade mark disputes by providing an objective criterion, by promoting consistency of assessment and by enabling courts and tribunals to determine such issues so far as possible without the need for evidence;

(e) The average consumer's level of attention varies according to the category of goods or services in question; and

(f) the average consumer rarely has the opportunity to make direct comparisons between trade marks (or between trade marks and signs) and must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

30. The average consumer of the goods/services at issue will be both the general public (such as those looking to purchase amplifiers or aerials) and businesses (those providing telecommunications or internet providers). The selection of such goods/services will largely be a visual process in traditional retail outlets or from websites online, however I do not ignore the potential for the marks to be spoken, for example, by sales assistants in a retail establishment or when making a purchase from a catalogue by telephone.

31. The average consumer will pay a medium degree of attention during the purchase of goods such as aerials and antennas, however, they are likely to pay a higher degree of attention when seeking services such as the provision of the internet, where speed and accessibility will be considered. In these instances, they will pay an above average level of attention (although not the highest). The professional consumer is likely to pay a slightly higher degree of attention and awareness in the selection of goods/services such as provision of internet services; however, this will not be the very highest level of attention.


Comparison of marks

32. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union 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.”

33. It would be wrong, therefore, to dissect the trade marks artificially, 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.

34. The respective trade marks are shown below:

Earlier trade marks	Contested trade marks
<p data-bbox="391 1541 592 1576"><u>The 359 mark</u></p> <p data-bbox="453 1615 529 1650">SKY</p> <p data-bbox="384 1715 600 1751"><u>The 537 marks</u></p>	<p data-bbox="997 1597 1198 1632"><u>The 462 Mark</u></p>  The logo for SKYFI consists of a stylized blue graphic on the left, resembling a network or a cluster of points connected by lines, with the letters 'SKYFI' in a bold, black, sans-serif font to its right.

 <p data-bbox="384 526 600 562"><u>The 806 marks</u></p> 	<p data-bbox="997 203 1198 235"><u>The 417 Mark</u></p> 
---	--

35. The applicant submits:

“The Applicant submits that the Application is sufficiently distinct from the Earlier Trade Marks, visually, aurally and conceptually. When considering as a whole, the Application and the Earlier Trade Marks can easily be distinguished from one another.

a. Visual Distinction

Graphical element: The Application incorporates an additional distinctive graphic device resembling an atomic structure, which is absent in the Earlier Trade Marks. This device (coupled with the addition of ‘NET’ significant differentiates it visually from any textual representation in the Earlier Trade Marks, particularly the 537 and 806 marks which merely consist of cloud-like text without any additional graphical features. The device in the Application is unusual, it consists of elements that have no clear relevance to the goods and services, or to the word SKYNET. The device in the

Application therefore plays a significant role in enabling the relevant consumer to easily distinguish the marks.

Colour Scheme: The use of a blue and black colour scheme in the Application, with heavily stylised black lettering used for the text and blue for the device element, further helps to distinguish the Application from the Earlier Trade Marks. This colour combination differs significantly to colours used in the Earlier Trade Marks, in particular the gradient colour used in the 806 Mark which transitions from yellow at the top left into orange, a deep magenta and finally into a rich blue to the right and bottom. The distinctiveness in colour usage aids in visual differentiation, making the Application more pronounced and recognisable.

Font and Text Style: The bold, stylised uppercase letters of the Application stand in contrast to the lowercase, airy and ethereal font used in the 537 and 806 marks. The elision between SKY and NET creates an unusual overall impression which does not rely on or focus upon the initial SKY element, and the component element hangs together well so as to create a strong unitary impression. The stylisation of the font in SKYNET is unusual and notable. This stylisation also helps to further distinguish the Application from the 359 mark which simply consists of block word letters. The strong, unusual and compact font of SKYNET portrays a modern and technological feel, whereas the soft and ethereal font used in the 537 and 806 Marks suggest a different, possibly non-technical theme.”

36. The opponent submits:

“16. The Opponent reiterates its contentions that the respective marks are highly similar overall, considering their visual, aural and conceptual similarities. It is clear that Earlier Trade Mark No. 2525359 consists of the plain word SKY and that SKY is the only verbal element of Earlier Trade Mark Nos. 2534537 and 3859806. It is equally clear that SKY is wholly contained within the Applications and is the first element of each of the marks applied for. Considering standard English grammar rules, the Opponent contends that the Applications will be read as two words, namely, SKY FI and SKY NET. Case

law also confirms that consumers tend to focus on, recall and remember the first element of a mark -- the Opponent contends this is especially the case in the Applications, considering SKY has no meaning in relation to the goods applied for but FI will be understood as referring to the internet and specifically WiFi, and NET will be immediately understood as an abbreviation for "internet". Both secondary elements - FI and NET- therefore describe or in the alternative, strongly allude to, the telecommunications and internet-related goods and services applied for.

17. Additionally, the blue lines and dots surrounding the S of SKY will be seen as decorative and do little (if anything) to distinguish the Applications from the Earlier Marks.

18. All things considered, there is no doubt that SKY is the inherently distinctive and dominant element of the mark, with FI and NET being non-distinctive and arguably descriptive and that the average consumer would read the Applications as two distinct words, 'Sky' and 'FI' or 'SKY' and 'NET' and to the extent the Applications reproduce the element SKY, they are visually, phonetically and conceptually similar to the Opponent's Earlier Marks to a very high degree. The Opponent contends that consumers will largely overlook or disregard the secondary terms FI and NET for the reasons set out above, as well as the decorative elements. Consumers will instead focus on SKY as the dominant and distinctive element because it plays an immediately noticeable, independent distinctive role within the Applications leading to a clear finding of similarity (as the court found in Medion).”

Overall comparison

37. The applicant's 462 mark comprises of the word SKYFI in a stylised black font. There is a device to the left-hand side of the mark which comprises of blue lines and dots which arc around the S and K at the beginning of the mark. The applicant submits that this resembles “an atomic structure”. Whilst I accept that some consumers may see this, I consider that a significant proportion of consumers will see the device as lines and dots and will therefore consider that it is purely decorative and will not attribute this meaning to it. Although the words in the mark are conjoined, they will be

readily identified as SKY and FI by the average consumer, with each playing an independent role. The word, SKY, is the dominant element of the mark.

38. The applicant's 417 mark comprises of the word SKYNET in a stylised black font. There is a device to the left-hand side of the mark which is identical to the device described in the 462 mark and will be viewed in the same way by the average consumer. The mark will be readily identified as comprising of the words SKY and NET by the average consumer, with each playing an independent role. The word, SKY, is the dominant element of the mark.

39. The opponent's 359 mark is a word-only mark consisting of the word, SKY. As there are no other elements to the mark, the overall impression resides in the word itself.

40. The opponent's 537 marks consist of the word, SKY, presented in a stylised font with the letters K and Y joined in one place. One mark in the stylised series is presented in a pale pink gradient, whereas the other mark in the series is presented in a pale blue gradient. The dominant element of the stylised mark is the textual component, with the stylisation playing a lesser role.

41. The opponent's 806 marks consist of the word, SKY, which is presented as per the 537 marks, however, one mark in the stylised series is in colour with shades of orange, red, pink, purple and blue; the other mark in the series is in greyscale. The dominant element of the stylised mark is the textual component, with the stylisation playing a lesser role.

Visual comparison

42. The competing marks are visually similar to the extent that they share the identical word, SKY. This comprises of the entirety of the opponent's marks and is the dominant element of the applicant's marks. I am mindful that consumers usually pay more attention to the beginning of marks⁷.

43. In respect of the 462 marks, there are also additional elements, which include the device, and the word, FI, which is conjoined with SKY, making the whole verbal

⁷ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, GC

element SKYFI, there being no counterpart in the earlier marks. In respect of the 417 mark, this contains the additional elements of the device and the word, NET, making the whole verbal element SKYNET.

44. Given these factors and weighing up the similarities against the differences, I consider that the applicant's marks and the 359 mark are visually similar to a medium degree. The same assessment applies to the applicant's mark and the opponent's 537/806 marks, save for the stylisation, which lowers the similarity to between a low and medium degree.

Aural comparison

45. As no pronouncement will be given to the device/stylisation, I will proceed to consider the applicant's marks at the same time for the purposes of the aural assessment. Aurally, the applicant's marks and the opponent's marks share the word SKY, which will be pronounced in the ordinary way, as the only component in the opponent's marks and the first component in the applicant's marks.

46. The opponent's marks are a single syllable, whereas the applicant's marks consist of two. The difference resides in the additional components, FI, in the applicant's 462 mark, which is likely to be pronounced, FAI, and NET in the 417 mark, which will be pronounced in the normal way. As a result of the common element, SKY, the applicant's marks are aurally similar to the opponent's marks to a medium degree.

Conceptual comparison

47. For a conceptual message to be relevant, it must be capable of immediate grasp by the average consumer⁸.

48. The applicant submits:

“The conceptual understanding of the Application, suggested by its atomic structure device, conveys themes of technology, innovation and connectivity. In contrast, the Earlier Trade Marks, particularly the 537 and 806 marks,

⁸ *Ruiz Picasso v OHIM* [2006] e.c.r.-I-643; [2006] E.T.M.R. 29

through its cloud-like text, suggest themes potentially related to the environment, softness or openness. These are distinctly different conceptual messages that cater to potentially different consumer bases”

49. The opponent submits:

“All things considered, there is no doubt that SKY is the inherently distinctive and dominant element of the mark, with FI and NET being non-distinctive and arguably descriptive and that the average consumer would read the Applications as two distinct words, 'Sky' and 'FI' or 'SKY' and 'NET' and to the extent the Applications reproduce the element SKY, they are visually, phonetically and conceptually similar to the Opponent's Earlier Marks to a very high degree. The Opponent contends that consumers will largely overlook or disregard the secondary terms FI and NET for the reasons set out above, as well as the decorative elements. Consumers will instead focus on SKY as the dominant and distinctive element because it plays an immediately noticeable, independent distinctive role within the Applications leading to a clear finding of similarity (as the court found in Medion).”

50. I note the opponent's submissions that SKY has no meaning in relation to the specification in either party's marks, but that FI and NET are allusive/descriptive of the applicant's goods/services.

51. The word SKY in the competing marks will be understood as a reference to the space above the earth. In respect of the 462 mark, I do not consider that FI in itself has an immediately graspable meaning, however, in the context of the goods/services at issue, it is my view that FI will be understood by the average consumer (or a significant proportion thereof) as an allusive reference to “WiFi” and being linked to connection to the internet. In the 417 mark, I accept that although the word has other definitions, NET will be understood by the average consumer (or a significant proportion thereof) as being related to the internet. It is my view that the words in the applicant's marks do not combine to form a unit, rather, the two elements of the words SKYFI and SKYNET retain their independence. In the circumstances, I find that SKY has no meaning in relation to either party's marks, and the word FI is likely to be

perceived as an allusive reference to the goods/services at issue and NET is likely to be perceived as a descriptive reference to the nature of the goods/services.

52. Whilst the applicant's marks include a device which comprises of blue lines and dots which arc around the S and K, I have found that a significant proportion of consumers will see this as purely decorative and will not attribute a meaning to this. Even if they were to view this as an atomic structure device, the applicant submits that this "conveys themes of technology, innovation and connectivity" and therefore I consider that this reinforces my findings above. The competing marks are conceptually similar in that they both refer to the space above the earth but differ insofar as the applicant's marks convey an additional concept. I find that the competing marks are conceptually similar to between a medium and high degree. This finding applies to all of the opponent's earlier marks.

Distinctive character of the earlier trade mark

53. In *Lloyd Schuhfabrik Meyer* the CJEU stated that:

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

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

commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

54. 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 services, 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. The opponent filed no evidence of use of its earlier marks and so I have only the inherent position to consider.

55. The opponent’s marks consist of the word SKY, either as word-only or presented in a stylised font. As discussed in the conceptual comparison, SKY has no meaning in relation to the goods/services relied upon. However, it is a common dictionary word referring to the space above the earth. I find the opponent’s word mark to have a medium degree of inherent distinctive character. The stylisation in the stylised marks does not materially alter the distinctiveness and so my finding applies equally to all earlier marks.

GLOBAL ASSESSMENT – Conclusions on Likelihood of Confusion

56. 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/services 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/services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent’s trade mark, the average consumer for the goods/services 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.

57. I remind myself that I made the following findings:

- The goods/services at issue range from being identical (either self-evidently or upon the principles outlined in *Meric*) to similar to a medium degree;
- I have identified that the average consumer will be members of the general public and businesses. Both will select the services by primarily visual means, although I do not discount an aural component;
- I have concluded that between a medium and high degree of attention will be paid during the purchasing process;
- The applicant's marks are visually similar to the 359 mark to a medium degree. The applicant's marks are visually similar to the 537 and 806 mark to between a low and medium degree;
- The marks are aurally similar to a medium degree;
- I have found the marks are conceptually similar to between a medium and high degree;
- I have found the earlier marks to be inherently distinctive to a medium degree;

58. I begin by considering a likelihood of direct confusion. The competing marks share the word, SKY. However, both of the contested marks include an identical device and the additional words, FI and NET respectively, which are conjoined with SKY. I bear in mind that the selection process of the goods/services is predominantly visual and that visual differences will be particularly important when considering direct confusion. In my view, the device, the stylisation and the additional words (albeit that I have found both FI and NET to be descriptive or allusive of the goods/services) will not be overlooked. When taking the marks as a whole, notwithstanding the principle of imperfect recollection, the marks will not be misremembered or mistakenly recalled as being the same. Consequently, I do not consider there to be a likelihood of direct confusion for either of the contested marks.

59. I will now move on to consider indirect confusion. In *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

“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).”

60. These three categories are not exhaustive; rather, they were intended to be illustrative of the general approach, as has been confirmed by the Court of Appeal⁹. I recognise that a finding of indirect confusion should not be made merely because the

⁹ *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207

competing marks share a common element. The Court of Appeal has also emphasised that, where there is no direct confusion, there must be a “proper basis” for finding indirect confusion.

61. When assessing indirect confusion, I have found that the common element, SKY, conveys an identical conceptual message which has no meaning in relation to either of the party’s marks. The additional device and wording in the contested marks, which I have found to be descriptive or allusive of the goods/services, are likely to be seen simply as an alternative mark being used by the same undertaking which is related to internet goods/services. Therefore, when considering the contested marks, and taking account of the common element in the context of the marks as a whole, the consumer is likely to conclude that it is another brand of the owner of the earlier marks. In my view, my current considerations have parallels to category (b) as identified within *LA Sugar*. As a result of this, I find a likelihood of indirect confusion. This applies to both of the contested marks.

COSTS

62. The opponent has been successful and is entitled to a contribution towards its costs in line with Tribunal Practice Note 1/2023. In the circumstances I award the opponent the sum of £1200.00 as a contribution towards the cost of the proceedings. I have applied some discount to the written submissions element of the award due to the repetition within the pleadings prior to the matters being consolidated. The sum is calculated as follows:

Filing two Notices of Opposition and considering the applicant’s counter statements	£500
Preparing written submissions (x2)	£500
Official fee (x2)	£200
Total:	£1200.00

63. I therefore order Wireless (US) Inc to pay Sky Limited the sum of £1200.00. The above sum should 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 5th day of March 2026

LA Bailey

For the Registrar

Annex 1

Class 9

~~Scientific, nautical, surveying, photographic~~¹⁰, cinematographic, optical, ~~weighing, measuring,~~ radio, television, sound recording, sound reproducing, telecommunications, ~~signalling, checking (supervision) and teaching~~ apparatus and instruments; amplifiers; wireless audio and/or audio visual devices; portable wireless audio and/or audio visual devices; television receivers including a decoder; radios; portable and/or hand-held electronic devices for receiving, playing and transmitting music, sounds, images, text, signals, information and code; aerials; antennae; hand held electrical telecommunications and/or communications and/or broadcast and/or transmission and/or decoding and/or image processing and/or audio visual instruments and apparatus; hand held electronic telecommunications and/or communications and/or broadcast and/or transmission and/or decoding and/or image processing and/or audio visual instruments and apparatus; parts and fittings for all the aforesaid goods; portable and/or hand held electronic devices for receiving, storing, playing and transmitting data, voice, multimedia, audio, visual, music, photographs, drawings, images, audiovisual, video, text, graphics or other data; Televisions; LCD and plasma screens; home cinema systems; speakers; radios; games controllers; wireless gaming controllers; wireless keypads; low noise blocks; satellite meters; encoded programs for computers and for data processing and telecommunications; telephones; mobile telephones; PDAs; telephone and radio modems; video recordings; portable or hand-held computers; DVD players; ~~computers; computer hardware; computer programs;~~ electronic computer games; electronic interactive computer games; ~~computer software;~~ network termination equipment; computer software and computer programs for distribution to, and for use by, viewers of a digital television channel for the viewing and purchase of goods and services; computer games software and computer quiz software; computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens; computer programs for interactive television and for interactive

¹⁰ Within their written submissions, the opponent submits that the terms which have been crossed through are no longer being relied upon

games and/or quizzes; electronic apparatus adapted for use with television receivers in playing games; games consoles; interactive video game devices comprised of computer hardware and software and accessories, namely game consoles, game controllers and software for operating game controllers; portable and/or hand-held electronic devices for interactive computer and video games; electronic publications; computer games; computer video games; video screens; video projectors; tapes, discs and wires, all being magnetic; cassettes and cartridges, all adapted for use with the aforesaid tapes; blank and pre-recorded audio and video cassettes, tapes and cartridges; compact discs; DVD discs; phonographic records; laser readable discs for recording sound or video; ROM cartridges, CD Roms, cards and discs, integrated circuit cards, memory carriers, recording media, all pre-recorded with computer video games and/or quizzes; encoded cards; radio and television signal antennae; interactive sound and/or audio recordings; music, video, sound and/or audio recordings (downloadable) provided from MP3 Internet websites; MP3 players, MP3 readers; portable audio and/or video file recorders and/or players; telephone ring tones (downloadable); adaptors; mobile telephones; parts and fittings for all the aforesaid goods.

Class 38

Telecommunications services over the Internet including but not limited to services provided using voice over Internet protocol (VOiP); loan of replacement telecommunications and communications apparatus and instruments in case of breakdown, loss or theft; hiring, rental and leasing of communications apparatus; providing access to telecommunications infrastructures for other operators; provision of information relating to or identifying telecommunications and communications apparatus and instruments; provision of telecommunications links to computer databases and websites on the Internet; telecommunications services dedicated to retailing goods and services through interactive communications with customers; professional consultancy and information and advisory services relating to all the aforesaid services; telecommunications information; rental, leasing or hire of communications equipment; remote data access services; internet portal services; web portal services; online telecommunications services relating to webcasting and podcasting including services provided over a global communications network; peer

to peer services; provision of access to online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; provision of access to online posters, photographs, pictures, articles, vouchers and tickets; advising or providing information in relation to the foregoing; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the Internet; Teletext services; unified messaging services; video conferencing services; video telephone services; provision of chat rooms; hire, leasing or rental of apparatus, instruments, installations or components for use in the provision of the aforementioned services; advisory, information and consultancy services relating to all the aforementioned; provision of location based services for telecommunications and communications apparatus and instruments; provision of wireless application protocol services including those utilising a secure communications channel; professional consultancy and information and advisory services relating to all the aforesaid services; e-sell through services, namely delivery by telecommunication of media content, including video and films, television programmes, computer games, music, images and ring tones provided by internet, telephone line, cable, wireless transmission, satellite or terrestrial broadcast service; e-mail, email notification and alert services; online instant messaging; provision of online conferencing, discussion groups, message boards and chat rooms; information relating to all the aforementioned services provided online from a computer database or via a helpline or the Internet.

Annex 2

Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, radio, television, sound recording, sound reproducing, telecommunications, signalling, checking (supervision) and teaching apparatus and instruments; electrical and electronic apparatus for use in the reception of satellite, terrestrial or cable broadcasts; television receivers including a decoder; settop boxes; digital set-top boxes; high definition set top boxes; set-top boxes for use in decoding and reception of satellite, terrestrial and cable broadcasts; apparatus for decoding encoded signals including set top boxes for television reception; set top box apparatus including a decoder and an interactive viewing guide; set top box apparatus including a decoder and a recorder for recording television and audio programmes; set top box apparatus including a decoder and a recorder programmable to transfer stored recordings to storage and also to delete the older recordings; satellite dishes; satellite meters; telephone and radio modems; television receivers including a decoder; set top boxes for use in decoding and reception of satellite, terrestrial cable and digital subscriber line (DSL), Internet or other electronic broadcasts; apparatus for decoding encoded signals; ~~computer hardware~~; computer hardware, apparatus and instruments all for transmitting, displaying, receiving, storing and searching electronic information; computer software and telecommunications apparatus to enable connection to databases and the Internet; radio and television signal antennae; music, sounds, videos, images, text and information provided by a telecommunications network, by on-line delivery and by way of the Internet and/or the world-wide web or other communications network; apparatus and instruments for the reception of radio and television broadcasts including the reception of cable, satellite and digital broadcasts; adaptors; aerials; antennae; amplifiers; electrical telecommunications and/or communications and/or broadcast and/or transmission and/or decoding and/or image processing and/or audio visual instruments and apparatus; electronic telecommunications and/or communications and/or broadcast and/or transmission and/or decoding and/or image processing and/or audio visual instruments and apparatus; electronic network equipment; electronic communication equipment; parts and fittings for all the aforesaid goods; Apparatus for recording television programmes;

apparatus for recording, transmission, reproduction or reception of sound, images or audio visual content; televisions; LCD and plasma screens; home cinema systems; amplifiers; speakers; radios; wireless audio and/or audio visual devices; portable wireless audio and/or audio visual devices; personal video recorder; low noise blocks; computer software to enable searching of data; encoded programs for computers and for data processing and telecommunications; telephones; mobile telephones; PDAs; recorded television and radio programmes; recorded programmes for broadcasting or other transmission on television, radio, mobile telephones, PDAs and on PCs; video recordings; multimedia apparatus and instruments; portable or hand-held computers; DVD players; ~~computers; computer programs;~~ electronic computer games; electronic interactive computer games; ~~computer software; computer software supplied from the Internet;~~ network termination equipment; wired and/or wireless computer network routers, modems, firewalls and/or bridges; computer software and computer programs for distribution to, and for use by, viewers of a digital television channel for the viewing and purchase of goods and services; computer games software and computer quiz software; computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens; computer programs for interactive television and for interactive games and/or quizzes; electronic apparatus adapted for use with television receivers in playing games; games consoles; interactive video game devices comprised of computer hardware and software and accessories, namely game consoles, game controllers and software for operating game controllers; portable and/or hand-held electronic devices for interactive computer and video games; portable and/or handheld electronic devices for receiving, playing and transmitting music, sounds, images, text, signals, information and code; electronic publications; computer games; computer video games; video screens; video projectors; tapes, discs and wires, all being magnetic; cassettes and cartridges, all adapted for use with the aforesaid tapes; blank and pre-recorded audio and video cassettes, tapes and cartridges; compact discs; DVD discs; phonographic records; laser readable discs for recording sound or video; ROM cartridges, CD Roms, cards and discs, integrated circuit cards, memory carriers, recording media, all pre-recorded with computer video games and/or quizzes; encoded cards; communication apparatus and instruments; telephone apparatus and equipment; parts and fittings for all the aforesaid goods.

Class 38

Telecommunications services; mobile and fixed telecommunications services; communications services; satellite, cellular and radio communication services; transmission and communication services; satellite, OTT, cable, DSL and broadband broadcasting and/or transmission of audio and/or audio visual programming; telecommunications services over the Internet including but not limited to services provided using voice over Internet protocol (VOiP); provision of access and/or connectivity to broadband networks whether fixed, portable or wireless; communication of information (including web pages), data by radio, telecommunications and by satellite; providing access to telecommunications infrastructures for other operators; hire, leasing or rental of apparatus, instruments, installations or components for use in the provision of the aforementioned services; advisory, information and consultancy services relating to all the aforementioned; communications services by satellite; telecommunication services relating to the Internet; telecommunication of information (including web pages); provision of location based services for telecommunications and communications apparatus and instruments; provision of wireless application protocol services including those utilising a secure communications channel; provision of information relating to or identifying telecommunications and communications apparatus and instruments; provision of telecommunications links to computer databases and websites on the Internet; enabling access to the Internet; Internet portal services; web portal services; provision of broadband services; providing access to Internet websites to mobile telephone users; Television and radio broadcasting; broadcasting and/or transmission of radio and/or television programmes and/or films; transmission of audio, video and/or audio visual programming (by any means); transmission of video films; broadcasting and transmission of television programmes and films to personal computers; broadcasting and communications by means of or aided by computer; transmission of audio, video and/or audio visual programming by Internet protocol (IPTV); transmission of text, messages, sound and/or pictures; telecommunication and/or communication and/or broadcast and/or transmission of audio visual content; telephone, mobile telephone, message collection and transmission, radio-paging, call diversion, answerphone and directory enquiry services; personal numbering services; teletext services; loan of replacement telecommunications and communications apparatus and instruments in

case of breakdown, loss or theft; computer aided transmission of messages and images; messaging services namely, sending, receiving and forwarding messages in the form of text, audio, graphic images or video or a combination of these formats; instant messaging; short message services (SMS); multimedia messaging services (MMS); hire, leasing or rental of apparatus, instruments, installations or components for use in the provision of the aforementioned services; advisory, information and consultancy services relating to all the aforementioned; online telecommunications services to enable the accessing and retrieving of data, files, e-mails, contacts, calendars, task lists, text messages, photos, music, audio, visual, audio visual, video, text, graphics, programs and other information via a computer or computer network or electronic device including services provided over a global communications network; online telecommunications services relating to webcasting and podcasting including services provided over a global communications network.

Annex 3

Class 9

Wireless local area network devices; hubs; routers; computer hardware; ethernet hardware, adapters, cables, transceivers, switches and controllers; Software for local area network and wide area network management; personal video recorders; ~~hardware; computer peripherals;~~ televisions; television apparatus; apparatus for recording, transmission or reproduction of sound or images; data processing equipment; speakers; soundbars; audio, visual and/or audio visual entertainment devices; set top boxes; audio, visual and/or audio visual content streaming devices; streaming sticks; remote controls for set top boxes, televisions, personal video recorders and/or audio, visual and/or audio visual content streaming and entertainment devices; remote controls for sound bars; microphones; cameras; security cameras; safety, security, protection and signalling devices; security surveillance devices; devices providing night vision; security alarms; alarm sensors; electronic light sensing devices; motion sensors; night vision sensors; humidity sensors; temperature sensors; sensors for privacy protection; window opening and closing detector sensors; door opening and closing detector sensors; sound warnings and alarms; electric door bells; door chimes; electronic and/or light and/or motion tracking sensor devices, cameras, projectors and microphones for movement, gesture, facial, and voice detection and recognition; smart watches; wearable activity trackers; games controllers; wearable peripherals for playing video games; home automation control devices for controlling home automation systems, home automated cooking and refrigeration appliances, heating, lighting, air conditioning, home security and home monitoring systems; room, office and/or venue automation control devices for controlling room, office and/or venue automation systems, heating, lighting, air conditioning, security and monitoring systems; hardware and software for providing firewall protection; hardware and software for providing protection from distributed denial of service attacks (DDoS); connecting cables for audio, visual and/or audio visual devices and wireless local area network devices; TV linking devices; 10 (input output) linking devices; USB dongles (wireless local area network adapters); power supply units; low noise blockers; micro filters; voice and gesture activated hardware for browsing, streaming, viewing, recording, storing and/or organising audio, visual

and/or audio visual content; apparatus for editing cinematographic film; apparatus for processing and editing audio, visual and/or audio visual content; software for room, office and/or venue automation control devices for controlling room, office and/or venue automation systems, heating, lighting, air conditioning, room, office and/or venue security and room, office and/or venue monitoring systems; anti-virus software; malicious code software; computer security software; viewing cards; DVDs; CDs; recorded audio, video and/or audio visual content; downloadable audio, video and/or audio visual content, including films, trailers, clips, television series, television programmes, documentaries, interviews, reviews, commentary and podcasts; downloadable image files containing artwork, text, audio, video and/or graphics relating to audio, visual and/or audio visual content; software for audio, visual and/or audio visual content user interfaces and/or electronic programme guides; software supplied as part of or in connection with any entertainment and/or training device or service; software supplied from the internet as part of or in connection with any entertainment and/or training device or service; electronic calendar software; software supplied as part of or in connection with any telecommunications device or service; software supplied from the internet as part of or in connection with any telecommunications device or service; software for use as an application programming interface (API) for use with audio, visual and/or audio visual content user interfaces and/or electronic programme guides; software for browsing, streaming, viewing, recording, storing and/or organising audio, visual and/or audio visual content; software for browsing, streaming, viewing and/or organising news and current affairs content; software for browsing, streaming, viewing and/or organising audio, visual and/or audio visual sports and/or esports (multi player video game competitions) content; software for wireless local area network connections; software for home automation control devices for controlling home automation systems, home automated cooking and refrigeration appliances, heating, lighting, air conditioning, home security and home monitoring systems; smart home software; software for use with safety, security, protection and signalling devices; software supplied as part of or in connection with a safety, security, protection or signalling service; software for use with sensors including alarm sensors, light sensors, motion sensors, night vision sensors, humidity sensors, temperature sensors and sensors for privacy protection; software for automated alarm setting; software enabling the transmission of automated emergency messages, and alerts and notifications; software for use with electric doorbells and

door chimes; software for the control of voice and gesture activated hardware for browsing, streaming, viewing, recording, storing and/or organising audio, visual and/or audio visual content; software for synchronising video and audio playback across multiple devices; software for screening, filtering and blocking of access to online content and for managing online security settings; software for screening and blocking access to online content; software for network and device security; software for recording, monitoring, storing, analysing and sharing data and providing feedback relating to personal fitness and performance in undertaking physical exercise; software for tracking posture whilst undertaking physical exercise; software for use in facilitating phone calls, video calls, voice over internet protocol (VOiP) calls, audio, visual and/or audio visual conferences, text messages, instant messages and web messages; software for social networking; software for creating, managing, and interacting with an online community including enabling users to participate in shared viewing of content, discussions, and polls, to give comments and receive feedback, and to engage in social networking; software for creating, accessing, collecting, editing, organising, commenting on, modifying, transmission, storage and sharing of audio, visual and/or audio visual content, data and information; software for providing location-based weather information and weather alerts; software for security and safety purposes; software for providing news and/or current affairs and/or sports news alerts; software for sending and receiving electronic message alerts, notifications and reminders; software for playing computer games; software for movement, gesture, facial and voice detection and recognition; software for night vision recognition; software for converting voice commands into machine-executable commands; virtual reality entertainment software; augmented reality entertainment software; mixed reality entertainment software; virtual reality training software; augmented reality training software; mixed reality training software; education software; virtual reality education software; augmented reality education software; software for accessing cloud computing services; software for use in modelling clothing, footwear, headgear and accessories in a virtual reality or augmented reality changing room; software for applying animation, filters and special effects to photographs and/or images; software for creating avatars for user profiles and for use in virtual reality, augmented reality and mixed reality environments; software for providing marketing insights and market analytics; software for planning, delivering, measuring and/or evaluating the effectiveness of advertising material and/or advertising campaigns; software for

providing the geographical location of wireless internet access points; software for online bingo, poker, roulette, card games, scratch card games, fruit machine games, slot machine games and jackpot games; software for bookmaking services; software for online bookmaking services; software for betting services; software for online sports, virtual sports and/or esports (multi-player video game competitions) betting services; electronic publications (downloadable); software supplied as part of or in connection with any broadband device or service; software supplied from the internet as part of or in connection with any broadband device or service; educational software; electronic publications, magazines, and guides; electronic publications (downloadable); electronic publications, magazines and newsletters regarding environmental protection, energy conservation and renewable energy; downloadable virtual goods, namely software featuring clothing, footwear, headwear, eyewear, bags, toys, games, playthings, sports apparatus and sports accessories for use online and in online virtual worlds.

Class 38

Telecommunication services; providing broadband services; providing access to the internet; providing wireless local area network services; providing wireless internet access services; providing internet access services via ethernet; providing telecommunications modification services of wireless local area networks; broadband back-up services, including via 4G technology and/or via 5G technology; providing local area network and wide area network management services; internet portal services; providing internet access facilities equipped with telecommunications equipment; provision of access and/or connectivity to broadband networks whether fixed, portable or wireless; information, advice and customer support services relating to all the aforesaid services; broadcasting services; providing audio, visual and/or audio visual content broadcasting services; providing audio, visual and/or audio visual content streaming services, including television, radio and music streaming services; internet protocol television services (IPTV); interactive television services; providing video on demand services; provision of access to news, sports, current affairs and environmental information; providing notification alerts via the internet; providing fixed line telephony services; providing call screening services; providing mobile telephony services; providing email services; providing an online electronic message board for

the transmission of messages; providing automated emergency messages, alerts and notifications; hosted voice services; providing software defined networking services (SDN); providing streaming of audio, visual and/or audio visual content relating to physical fitness, including streaming of physical exercise classes, workshops and seminars; computer services for accessing and retrieving audio, visual and/or audio-visual content data and information via a computer or computer network; providing on-line chat rooms and electronic bulletin board services; transmission of podcasts; providing access to platforms on the internet, including e-commerce platforms; voice over internet protocol (VOiP) call, phone call, video call, audio, visual and/or audio visual conference, text message, instant message and web message services; providing audio, video and/or audio visual conference communication services, including through camera; providing access to electronic and online databases for social networking; providing online community sharing of audio, visual and/or audio content, data and information among users including photo sharing and video sharing services; information, advice and customer support services relating to all the aforesaid services.