O/0219/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003943333
BY XEROTECH LTD AND NOMAN AHMED SHAH
TO REGISTER THE TRADE MARK:

CallGPT

IN CLASSES 9 AND 42

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 443810 BY
OPENAI OPCO, LLC

BACKGROUND AND PLEADINGS

1. On 8 August 2023, XEROTECH LTD and Noman Ahmed Shah (jointly "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 25 August 2023 and protection is sought for the goods and services set out in Annex 1 to this decision.

2. On 25 October 2023, the application was opposed by OpenAI OpCo, LLC ("the opponent") based upon sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 ("the Act"). Under both grounds of opposition, the opponent relies upon the following marks:

CHATGPT
IR designating the UK no. 1719941
International registration date: 10 February 2023
Designation date: 10 February 2023
Date of protection granted in the UK: 8 June 2023
Priority date: 27 December 2022 (USA)
("the First Earlier Mark")

GPT
UKTM no. 3878459
Filing date: 15 February 2023
Registration date: 19 May 2023
Priority date: 27 December 2022 (USA)
("the Second Earlier Mark")

GPT-3
IR designating the UK no. 1585550
International registration date: 31 January 2021
Designation date: 31 January 2021
Date of protection granted in the UK: 11 November 2021
Priority date: 4 August 2020 (USA)
("the Third Earlier Mark")

GPT-4
UKTM no. 3888938
Filing date: 14 March 2023
Registration date: 9 June 2023
Priority date: 1 February 2023 (Trinidad and Tobago)
("the Fourth Earlier Mark")

GPT-5
UKTM no. 3938723
Filing date: 27 July 2023
Registration date: 15 December 2023
Priority date: 1 February 2023 (Trinidad and Tobago)
("the Fifth Earlier Mark")

(together "the earlier marks")

3. The opponent relies upon all goods and services for which the earlier marks are registered as set out in Annex 2 to this decision.

4. Under section 5(2)(b) of the Act, the opponent claims that the marks are similar, and the goods and services are similar, with the result that there is a likelihood of confusion. The opponent also claims to have a family of marks and that the applicant's mark will be viewed by the average consumer as being part of that family.

5. Under section 5(3) of the Act, the opponent claims that it has a reputation for all of the goods and services relied upon and that use of the applicant's mark would, without due cause, take unfair advantage of, and/or be detrimental to, the distinctive character and/or reputation of the earlier marks.

6. The applicant filed a counterstatement which denied the grounds of opposition as follows:

> "The Applicant categorically denies and disagrees with the claims made by the Opponent and requests proof of grounds set by the opponent in their statement of grounds."

7. Neither party requested a hearing, but both filed written submissions in lieu. This decision is taken following careful consideration of the papers on file.

REPRESENTATION

8. The applicant is unrepresented.

9. The opponent is represented by Morgan, Lewis & Bockius UK LLP, although was originally represented by STOBBS.

EVIDENCE AND SUBMISSIONS

10. The opponent filed evidence in chief in the form of the witness statement of Gideon Miles dated 20 May 2024, which is accompanied by 34 exhibits (Exhibits GM1 to GM34). Mr Miles is Associate General Counsel, Patents and Trademarks for the opponent, a position he has held since October 2023.

11. The applicant filed evidence in the form of the witness statement of Noman Ahmed Shah dated 8 July 2024, which is accompanied by 6 exhibits (Exhibits 1 to 6). Mr Shah is one of the joint applicants in these proceedings. This evidence was accompanied by a document entitled 'Counterstatement by the Applicant', which is effectively written submissions, dated 8 July 2024.

12. The opponent filed evidence in reply in the form of the witness statement of Harriet Berridge dated 23 October 2024, which is accompanied by 3 exhibits (HB1 to HB3). Ms Berridge is a Chartered Trade Mark Attorney at the previous representatives of the opponent.

13. Both the applicant and the opponent filed written submissions in lieu dated 8 January 2025.

RELEVANCE OF EU LAW

14. 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

15. Given their earlier priority dates, the trade marks upon which the opponent relies qualify as earlier trade marks pursuant to section 6 of the Act. As the earlier marks had not completed their registration process more than 5 years prior to the filing date of the application in issue, they are not subject to the use provisions in section 6A of the Act. Consequently, the opponent can rely upon all of the goods and services identified.

Section 5(2)(b)

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

> "5(2) A trade mark shall not be registered if because –
>
> (a)…
>
> (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected
>
> there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark."

17. Section 5A of the Act is as follows:

> "5A 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."

18. 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 marks

19. It is clear from *Sabel* 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 impression created by the trade marks, bearing in mind their distinctive and dominant 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."

20. 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.

21. The respective trade marks are shown below:

Opponent's trade marks	**Applicant's trade mark**
CHATGPT (the First Earlier Mark) GPT (the Second Earlier Mark) GPT-3 (the Third Earlier Mark) GPT-4 (the Fourth Earlier Mark) GPT-5 (the Fifth Earlier Mark)	CallGPT

Overall Impression

22. The applicant's mark consists of the word CALL, in title case, conjoined with the letters GPT. In my view, the overall impression of the mark lies in the combination of these elements.

23. The First Earlier Mark consists of the word CHAT, conjoined with the letters GPT. In my view, the overall impression of the mark lies in the combination of these elements.

24. The Second Earlier Mark consists of the letters GPT. There are no other elements to contribute to the overall impression, which resides in this letter combination.

25. The Third, Fourth and Fifth Earlier Marks consist of the letters GPT followed by a hyphen and a number (-3, -4 and -5, respectively). The letter combination GPT plays the greater role in the overall impression as the hyphen and number combination are likely to be recognised as representing a product or edition number.

Visual Comparison

26. The First Earlier Mark and the applicant's mark coincide in the first letter C and the last three letters, GPT, in the same positions. They also both share a letter A, albeit in different positions. Whilst these are visual similarities, there are visual differences created by the differing first words in each. I bear in mind that the beginnings of marks tend to have more of an impact than the ends, and so the fact that the differences appear in the first part of the mark will have more of an impact.[1] In my view, they are visually similar to between a medium and high degree.

27. The Second Earlier Mark is replicated as the last three letters of the applicant's mark. However, the word CALL in the applicant's mark is a point of visual difference, as it has no counterpart in the Second Earlier Mark. In my view, the marks are visually similar to a medium degree.

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

28. The same is true of the Third, Fourth and Fifth Earlier Marks, although the hyphen/numerical combination in each will be an additional point of difference. I find these marks to be visually similar to the applicant's mark to a slightly lower than medium degree.

Aural Comparison

29. The word CHAT in the First Earlier Mark and the word CALL in the applicant's mark will be given their ordinary English pronunciation. The letters GPT, will each be pronounced individually and will be identical in both. Although both marks start with the letter C, they are pronounced differently in each (being a CHH sound in the First Earlier Mark and KUH sound in the applicant's mark). In my view, the marks are aurally similar to a medium degree.

30. The letters GPT will be pronounced identically in both the Second Earlier Mark and the applicant's mark. However, the word CALL in the applicant's mark will be a point of aural difference. I find the marks to be aurally similar to a medium degree.

31. The same is true of the comparison with the Third, Fourth and Fifth Earlier Marks. However, the additional numerical in each will be a further point of aural difference (I do not consider that the hyphen will be articulated). Consequently, I find the marks to be aurally similar to a slightly lower than medium degree.

Conceptual Comparison

32. The letters GPT in each of the marks are unlikely to be attributed any meaning by the average consumer. Consequently, they are conceptually neutral. The word CALL in the applicant's mark is a dictionary word which will be given its ordinary meaning. The result of this is that the Second, Third, Fourth and Fifth Earlier Marks do not have a conceptual meaning, whereas the applicant's mark does. In my view, they are conceptually dissimilar.

33. The same is true of the presence of the letters GPT in the applicant's mark and the First Earlier Mark i.e. they are conceptually neutral. However, the word CALL in the applicant's mark and CHAT in the First Earlier Mark both convey an idea of communication, albeit in different forms (one being via the telephone and the other being an informal reference to verbal communication). Consequently, I find there to be a medium degree of conceptual similarity between the marks.

My Approach

34. As I have found that the First Earlier Mark represents the opponent's best case in terms of similarity, I will proceed on the basis of that mark only. I will return to the Second, Third, Fourth and Fifth Earlier Marks only if it is necessary to do so.

Distinctive character of the earlier mark

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

> "22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR 1-2779, 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 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)."

36. 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/services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctive character of a mark can be enhanced by virtue of the use that has been made of it.

Inherent Distinctiveness

37. I note that in its written submissions the applicant has pointed to the fact that there is another trade mark on the Register, in the same class, which contains the letters GPT. Whilst that might be the case, the mere existence of other trade marks on the Register is not decisive because I have no information regarding how that mark has been used in the marketplace (if at all).[2] This line of argument does not, therefore, assist the applicant. I note that the applicant has also filed evidence in the form of a list of websites which reference GPT.[3] However, copies of most of the actual websites have not been provided. I note that some of the weblinks themselves reference the term "generative pre-trained transformer".

38. In its written submissions in lieu, the applicant clarified that the purpose of this evidence is to show that "GPT" is a widely used descriptor for generative pre-trained transformers, and that consumers familiar with this sector are unlikely to associate those letters with the opponent alone. I do not consider that the applicant's evidence supports this position. This is because: 1) the only links that reference that term come from Wikipedia which is inherently unreliable as it can be edited by anyone, 2) I do not have any evidence of whether the average consumer (which would include members of the general public, not just business users) would understand the meaning of that term and 3) there is nothing in the weblinks to suggest that these are relevant to the

[2] *Zero Industry Srl v OHIM,* Case T-400/06
[3] Exhibit 3

UK (as opposed to other jurisdictions).[4] The latter problem is also true of the only documents that have been provided in full; these are two print outs of webpages, one from techtarget.com and one from salesforce.com.[5] The second of these appears to be a reference to a collaboration with the opponent and so cannot assist in demonstrating reduced distinctiveness of the letters GPT. The first of these does explain that GPT stands for generative pre-trained transformers, but again it is not clear how widely known this would be amongst average consumers in the UK. Taking all of this into account, I do not consider that the applicant's evidence proves that the opponent's mark (or any particular element of it) has a weakened or non-distinctive character.

39. With that in mind, the First Earlier Mark consists of the word CHAT, conjoined with the letters GPT. In my view, the word CHAT is somewhat allusive of natural language processing goods/services (which, for reasons that will become clear below are the goods/services upon which I will focus). The letters GPT have no meaning, but letter combinations/acronyms are not particularly distinctive. In my view, the mark overall is inherently distinctive to between a low and medium degree.

Enhanced Distinctiveness

40. I turn now to consider the opponent's evidence of use. In particular, I note the following:

a. The opponent launched CHATGPT, being chatbot software, on 30 November 2022. It was accessed by more than one million users within the five days of its launch, and was used by tens of millions of users within the first month. By 25 December 2022, more than 1.35million accounts had been created in the UK.[6]

b. Between 26 December 2022 and 28 February 2023, over 3.3million further accounts were created in the UK.

[4] The applicant was informed by letter on 29 July 2024 that the hearing officer would not be able to access any weblinks included in the evidence and the applicant confirmed by return that it was content to proceed on the evidence filed.
[5] Exhibit 4
[6] Exhibit GM17

c. In the month of December 2022, over 2.2million UK visitors accessed the opponent's website. Mr Miles states that it was most likely that these visitors would then go on to access the CHATGPT chatbot via that website.

d. In addition to being accessible online, the opponent launched a CHATGPT mobile application in May 2023. As of the date of Mr Miles' statement, this had over 99,000 user reviews from UK-based customers alone.

e. In July 2023, the application was released on the Google Play Store in the UK and received over 50million downloads in less than three months.

41. It seems overwhelmingly clear that the distinctiveness of the First Earlier Mark had been enhanced through use in relation to (at least) "downloadable computer programs and downloadable computer software for natural language processing, generation, understanding and analysis" in class 9 and "providing online non-downloadable software for natural language processing, generation, understanding and analysis" in class 42 to at least between a medium and high degree by the relevant date.

Comparison of goods and services

42. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

> "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."

43. 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.

44. In *Gérard Meric v Office for Harmonisation in the Internal Market,* Case T- 133/05, the General Court 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."

45. The full specifications to be compared can be found in Annexes 1 and 2 to this decision. However, I will focus upon those terms for which the opponent has the benefit of enhanced distinctive character for the purposes of my comparison. For the avoidance of doubt, whilst I note that the applicant has made submissions around the similarity (or dissimilarity as the case may be) of the goods/services actually offered by the parties, I must conduct a notional assessment based upon the specifications

for which the applicant's mark seeks protection and for which the First Earlier Mark is registered. As such, differences between the parties' actual offerings are not relevant.

Class 9

Software; Computer software; Computer software applications; Software applications; Plugin software; Downloadable computer software; Computer application software; Computer software programs; Downloadable software; Downloadable computer software applications; Computer software applications, downloadable; Computer programs [downloadable software]; Mobile software; Computer software [programmes]; Software for smartphones; Assistive software; Artificial intelligence software; Artificial intelligence software for analysis; Artificial intelligence and machine learning software; Interactive software based on artificial intelligence.

46. These terms are all types of software goods which could include software for the purposes of natural language processing. Consequently, I find them to be identical on the principle outlined in *Meric* to the opponent's goods.

47. The purpose of these goods also overlaps with the opponent's services. Whilst the method of use and nature will differ, I consider it likely that the same businesses that sell software goods of this nature are also likely to have an equivalent service offering. Consequently, there is an overlap in trade channels. Given the identical purpose, there will clearly be competition as the user might choose to buy the software or access it via the opponent's services. With that in mind, I find the goods and services to be similar to between a medium and high degree.

Multimedia software; Programming software; System software; Computer software platforms; Graphics software; Gaming software; Software suites; Publishing software; Embedded software; Intranet software; Downloadable computer utility software; Downloadable computer software for blockchain technology; Computer graphics software; Educational computer software; Music software; Utility software; Animation software; Computer game software; Game software.

48. These are all types of software goods, which have a different purpose to those of the opponent. The method of use and nature of the goods will overlap to the extent that they are all software goods. The users will plainly overlap. There will be an overlap in trade channels to the extent that all of these goods can be purchased from websites/retailers that sell software. There is no competition or complementarity.[7] Consequently, I find them to be similar to between a low and medium degree.

49. With regard to the opponent's services, there will be greater distance in terms of method of use and nature. Consequently, the similarity is at only a low degree.

Software development tools.

50. It seems to me that these are likely to include functionality for users of software to tailor it to their particular needs. This could apply to both software goods and software services. Consequently, I find there to be an overlap in trade channels and user with the opponent's goods and services. The method of use and nature is likely to differ, as will the purpose. However, there may be complementarity. In my view, the goods and services are similar to between a low and medium degree.

Artificial intelligence software for healthcare; Artificial intelligence software for vehicles; Artificial intelligence software for driverless cars; Software for the integration of artificial intelligence and machine learning in the field of Big Data.

51. These are all types of software goods which use artificial intelligence, but for differing purposes to those of the opponent's goods and services. There is an overlap in nature and method of use to the extent that both utilise artificial intelligence. However, the purpose differs. There will be an overlap in trade channels as the same businesses might sell artificial intelligence software for use in different settings/for different purposes. In my view, the goods and services are similar to a medium degree.

[7] *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06

Class 42

Development of computer hardware and software; Computer software development; Development of computer software; Computer software consultancy; Consultancy (Computer software -); Software engineering; Computer software consulting; Software authoring; Software development in the framework of software publishing; Design of computer software; Software design (Computer -); Computer software (Design of -); Computer software design; Computer software engineering; Software development; Development of software; Software design; Design of software; Configuration of computer software; Design and development of computer hardware and software.

52. These terms all include the design and development of goods which could relate to AI for the same purposes as the opponent's goods and services. As such, I find that there is an overlap in purpose, as both could have the end goal of facilitating the use of artificial intelligence software for natural language processing. The method of use and nature will clearly differ. However, the user will be the same. There may be competition as one could choose to purchase the opponent's goods and services or engage the services of designers/developers to create bespoke products. I find there to be a medium degree of similarity between the goods and services.

Computer software integration; Installation of computer software; Computer software (Installation of -); Update of computer software; Installation of software; Software installation; Updating of computer software.

53. These are all services concerned with the installation/integration of software with existing systems and ongoing updating of that software. These are services that you would expect to be provided by the same undertakings that offer the opponent's goods and services. Consequently, there is an overlap in trade channels and user. There is also complementarity. Consequently, I find the goods and services to be similar to a medium degree.

Software as a service [SaaS] featuring software for machine learning; Providing artificial intelligence computer programs on data networks; Software as a service [SaaS] featuring computer software platforms for artificial intelligence.

54. These services are broad enough to encompass the opponent's services. Consequently, they are identical on the principle outlined in *Meric*.

Computer software research; Artificial intelligence consultancy; Research in the field of artificial intelligence; Technology consultation in the field of artificial intelligence; Research in the field of artificial intelligence technology.

55. These services concern research and consultancy in, or including, the field of artificial intelligence. In my view, there is an overlap in trade channels and user with the opponent's goods and services as you might expect the same undertaking to provide all of these goods and services to the same users. There is no competition, as one is not an alternative for the other, and there is no complementarity as one is not important or indispensable for the other. The method of use and nature of the goods and services clearly differs, and they overlap in purpose only so far as they relate to AI. In my view, there is between a low and medium degree of similarity between the goods and services.

Platforms for artificial intelligence as software as a service [SaaS].

56. To my understanding, these are cloud-based systems which enable users to access AI capabilities over the internet, without needing to build, host or maintain the infrastructure themselves. Consequently, there is a clear overlap in purpose and user with the opponent's services. There is also overlap in nature, as these are both providing access to artificial intelligence as a service. In my view, these services are similar to at least a medium degree.

The average consumer and the nature of the purchasing act

57. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purposes 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 and services in question: *Lloyd Schuhfabrik Meyer,* Case C-342/97.

58. 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 and 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.

59. The average consumer for the goods and services will include members of the general public and business users. The goods and services are likely to vary in price and frequency of purchase. However, factors such as functionality, ease of use and reliability will be taken into account for the goods and factors such as functionality, reputation of service provider and reliability will be considered for the services. In my view, the average consumer is likely to pay a medium degree of attention when purchasing the goods and services, although there may be a slightly higher level of attention where purchases are being made for the user's business or there is a particularly high cost involved.

60. The goods and services are likely to be selected following perusal of signage at physical premises, on websites and on advertisements. Consequently, I consider that visual considerations will dominate the purchasing process. However, I do not discount an aural component to the purchase given that advice may be sought from retail assistants/representatives and word-of-mouth recommendations may play a part.

Likelihood of confusion

61. 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 them and the goods and services down to the responsible undertaking being the same or related. There is no scientific formula to apply in determining the 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 goods and services may be offset by a greater degree of similarity between the marks, and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the First Earlier Mark, the average consumer for the goods and services and the nature of the purchasing act. In doing so, I must be alive to the fact that the average consumer rarely has an 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.

62. I have found as follows:

a. The goods and services vary from being similar to a low degree to identical.

b. The average consumer includes members of the general public and business users, who will pay a medium (or slightly higher than medium) degree of attention during the purchasing process.

c. The purchasing process is predominantly visual, although I do not discount an aural component.

d. The marks are visually similar to between a medium and high degree and aurally and conceptually similar to a medium degree.

e. The First Earlier Mark is inherently distinctive to between a low and medium degree, which has been enhanced through use to (at least) between a medium and high degree in relation to the relevant goods/services.

63. Bearing in mind the similarities between the marks and the distinctiveness of the First Earlier Mark, I consider it likely that the marks will be mistakenly recalled or misremembered as each other, even where a higher degree of attention is being paid. This is particularly the case given that the average consumer tends to see what they expect to see. Consequently, when confronted with a similar mark for goods/services that are identical or similar to those for which the distinctiveness of the First Earlier Mark has been enhanced, the average consumer is likely to misremember one mark for the other.[8] I find there to be a likelihood of direct confusion for all of the goods and services for which the applicant seeks protection.

64. I will now consider whether there is a likelihood of indirect confusion. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

[8] *Kennedy Fried Chicken,* Case BL O/227/04

"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)".

65. If the differences between the words CALL and CHAT are recognised, I consider it likely that they will be perceived as logical and consistent with a brand extension as

per *LA Sugar*. This is because the change of the word CHAT for the word CALL is likely to be viewed as a reference to the goods/services moving from a typing functionality to a set up where there is a possibility for verbal communication. In my view, there is a likelihood of indirect confusion for all of the goods and services that I have found to be similar to those for which the opponent has enhanced distinctiveness. I am fortified in this finding by the fact that the applicant's evidence shows that the word CALL in its mark is, in fact, a reference to the 'call' functionality of its AI.

66. As I have found both a likelihood of direct and indirect confusion, I do not need to consider the opponent's 'family of marks' argument.

67. The opposition based upon section 5(2)(b) of the Act succeeds in its entirety.

Section 5(3)

68. 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 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."

69. 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."

70. The relevant case law can be found in the following judgments of the CJEU: *Case C-375/97, General Motors, Case 252/07, Intel, Case C-408/01, Adidas-Salomon, Case C-487/07, L'Oreal v Bellure and Case C-323/09, Marks and Spencer v Interflora*

and Case C383/12P, Environmental Manufacturing LLP v OHIM. 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) 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.*

(g) 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.*

(h) 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'Oreal v Bellure NV, paragraph 40.*

(i) 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 (*Marks and Spencer v Interflora, paragraph 74 and the court's answer to question 1 in L'Oreal v Bellure*).

71. The conditions of section 5(3) are cumulative. Firstly, the opponent must show that the First Earlier Mark and the applicant's mark are similar. Secondly, the opponent must show that the First Earlier Mark has achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must be 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 First Earlier Mark being brought to mind by the later mark. Finally, assuming the first three conditions have been met, section 5(3) requires that one or more of the types of damage will occur. It is unnecessary for the purposes of section 5(3) that the goods/services 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.

Similarity of the marks

72. I have already found the marks to be similar for the reasons given above.

Reputation

73. I bear in mind the guidance of the CJEU in *General Motors,* Case C-375/97. I have summarised what I consider to be the key factors from the opponent's evidence above. In addition to this, I note that the opponent's ChatGPT software has been covered in the UK press prior to the relevant date including articles in *The Guardian, The Times* and *The Telegraph*, which are national newspapers.[9] Whilst enhanced distinctiveness and reputation are different, the factors relevant to both assessments are the same. For the same reasons given above, I consider that the opponent had a strong reputation in the UK for goods/services listed at paragraph 41 at the relevant date.

Link

74. As I noted above, my assessment of whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are:

> The degree of similarity between the conflicting marks
>
> The marks are visually similar to between a medium and high degree, and aurally and conceptually similar to a medium degree.
>
> The nature of the goods or services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public

[9] Exhibit GM20

The goods and services vary from being similar to a low degree to identical.

I apply the same findings in relation to the relevant public and purchasing process as set out above.

The strength of the earlier mark's reputation

The First Earlier Mark had a strong reputation in the UK at the relevant date.

The degree of the earlier mark's distinctive character, whether inherent or acquired through use

The First Earlier Mark is inherently distinctive to between a low and medium degree, which has been enhanced through use to (at least) between a medium and high degree for the relevant goods/services.

Whether there is a likelihood of confusion

I have found there to be a likelihood of direct confusion and indirect confusion.

75. Taking into account all of these factors, particularly the strength of the opponent's reputation and the similarity of the marks, I consider that a link will be made in the mind of the relevant public in relation to all goods/services that I have found to be similar to those for which the opponent has a reputation.

Damage

76. I must now consider whether any type of damage pleaded will arise.

Unfair advantage

77. The opponent's case is pleaded as follows:

> "Use of the Contested Mark by the Applicants would take unfair advantage of the reputation that the Opponent has built in its brands, by obtaining an advantage in the eyes of consumers based on the positive reputation of the Opponent's brands and its significant investment in building this reputation. This would be unfair as the Opponent has built a reputation in its brands which the Applicants would have the benefit of, and consumers may purchase goods or services from the Applicants on the basis that the Earlier GPT marks are brought to mind. It is therefore submitted that when customers view the Contested Mark, the Earlier GPT Marks would be brought to mind in view of the nature and extent of the Opponent's reputation identified above, and this is the basis of the Opponent's claim for unfair advantage."

78. To the extent that the relevant public believe that the goods and services of the applicant are the goods and services of the opponent, there will plainly be unfair advantage. Further, the evidence shows that press coverage of the First Earlier Mark does so in the context of advancements in AI. Clearly, this reputation for being at the forefront of technological developments could transfer to the applicant and would be an image which the applicant would unfairly benefit from. In my view, unfair advantage is made out.

79. As I have found there to be unfair advantage, I do not need to consider the other pleaded heads of damage.

80. The opposition based upon section 5(3) of the Act succeeds in its entirety.

Fallback position

81. In its written submissions in lieu, the applicant has set out a fallback position that it would be prepared to add a limitation to its specification to exclude software/services for "general-purpose text-based language models". Whilst I have given consideration to whether this would overcome either ground of opposition, my view is that it would not. This is because the specifications of both parties would remain sufficiently similar meaning, when combined with the enhanced distinctiveness and/or reputation of the

First Earlier Mark, there would still be a likelihood of confusion or link/damage arising. Consequently, this would not put the applicant in any stronger position.

Final Remarks

82. As the opposition has succeeded in full based upon the First Earlier Mark, I do not need to consider the position in respect of the Second, Third, Fourth and Fifth Earlier Marks.

CONCLUSION

83. The opposition is successful and, subject to any successful appeal, the application is refused.

COSTS

84. The opponent 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 opponent the sum of **£2,000**, calculated as follows:

Preparing a Notice of opposition and considering the applicant's counterstatement	£400
Preparing evidence and considering the other side's evidence	£1,000
Written submissions in lieu	£400
Official fee	£200
Total	**£2,000**

85. I therefore order XEROTECH LTD and Noman Ahmed Shah to pay OpenAI OpCo, LLC the sum of **£2,000**. 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 16th day of March 2026

S WILSON
For the Registrar

ANNEX 1

Class 9

Software; Computer software; Multimedia software; Computer software applications; Programming software; Software applications; System software; Plugin software; Downloadable computer software; Computer application software; Computer software platforms; Computer software programs; Graphics software; Downloadable software; Downloadable computer software applications; Computer software applications, downloadable; Computer programs [downloadable software]; Gaming software; Software suites; Publishing software; Embedded software; Intranet software; Downloadable computer utility software; Downloadable computer software for blockchain technology; Computer graphics software; Software development tools; Mobile software; Educational computer software; Music software; Utility software; Computer software [programmes]; Software for smartphones; Animation software; Computer game software; Assistive software; Game software; Artificial intelligence software; Artificial intelligence software for analysis; Artificial intelligence software for healthcare; Artificial intelligence software for vehicles; Artificial intelligence and machine learning software; Artificial intelligence software for driverless cars; Interactive software based on artificial intelligence; Software for the integration of artificial intelligence and machine learning in the field of Big Data.

Class 42

Development of computer hardware and software; Computer software development; Development of computer software; Computer software integration; Computer software consultancy; Consultancy (Computer software -); Software engineering; Computer software consulting; Software authoring; Software development in the framework of software publishing; Design of computer software; Software design (Computer -);Computer software (Design of -); Computer software design; Computer software engineering; Software development; Development of software; Installation of computer software; Computer software (Installation of -); Update of computer software; Software design; Design of software; Installation of software; Software installation; Configuration of computer software; Design and development of computer hardware and software; Updating of computer software; Software as a service [SaaS] featuring software for machine learning; Computer software research; Artificial

intelligence consultancy; Research in the field of artificial intelligence; Technology consultation in the field of artificial intelligence; Research in the field of artificial intelligence technology; Platforms for artificial intelligence as software as a service [SaaS]; Providing artificial intelligence computer programs on data networks; Software as a service [SaaS] featuring computer software platforms for artificial intelligence.

ANNEX 2

The First Earlier Mark

Class 9

Downloadable computer programs and downloadable computer software for the artificial production of human speech and text; downloadable computer programs and downloadable computer software for natural language processing, generation, understanding and analysis; downloadable computer programs and downloadable computer software for machine-learning based language and speech processing software; downloadable computer chatbot software for simulating conversations; downloadable computer programs and downloadable computer software for creating and generating text.

Class 42

Providing online non-downloadable software for the artificial production of human speech and text; providing online non-downloadable software for natural language processing, generation, understanding and analysis; providing online non-downloadable software for machine-learning based language and speech processing software; providing online non-downloadable chatbot software for simulating conversations; providing online non-downloadable software for creating and generating text; research and development services in the field of artificial intelligence; research, design and development of computer programs and software.

The Second Earlier Mark

Class 9

Downloadable computer programs and downloadable computer software for using language models; downloadable computer programs and downloadable computer software for the artificial production of human speech and text; downloadable computer programs and downloadable computer software for natural language processing, generation, understanding and analysis; downloadable computer programs and downloadable computer software for machine-learning based language and speech processing software; downloadable computer programs and downloadable computer software for the translation of text or speech from one language to another; downloadable computer programs and downloadable computer

software for sharing datasets for the purpose of machine learning, predictive analytics, and building language models; downloadable computer programs and downloadable computer software for conversion of audio data files into text; downloadable computer programs and downloadable computer software for voice and speech recognition; downloadable computer programs and downloadable computer software for creating and generating text; downloadable computer programs and downloadable computer software for developing, running and analyzing algorithms that are able to learn to analyze, classify, and take actions in response to exposure to data; downloadable computer programs and downloadable computer software for developing and implementing artificial neural networks.

Class 42

Software as a service (SaaS) services, namely, providing online non-downloadable software for using language models; providing online non-downloadable software for the artificial production of human speech and text; providing online non-downloadable software for natural language processing, generation, understanding and analysis; providing online non-downloadable software for machine-learning based language and speech processing software; providing online non-downloadable software for the translation text or speech from one language to another; providing online non-downloadable software for sharing datasets for the purpose of machine learning, predictive analytics, and building language models; providing online non-downloadable software for conversion of audio data files into text; providing online non-downloadable software for software for voice and speech recognition; providing online non-downloadable software for creating and generating text; providing online non-downloadable software for developing, running and analyzing algorithms that are able to learn to analyze, classify, and take actions in response to exposure to data; providing online non-downloadable software for developing and implementing artificial neural networks; application service provider featuring application programming interface (API) software; research and development services in the field of artificial intelligence; research, design and development of computer programs and software.

The Third Earlier Mark

Class 42

Software as a service (Saas) services, namely, providing online non-downloadable software for using language models; providing online non-downloadable software for the artificial production of human speech; providing online non-downloadable software for natural language processing; providing online non-downloadable software for machine-learning based language and speech processing software; providing online non-downloadable software for the translation text or speech from one language to another; providing online non-downloadable software for sharing datasets for the purpose of machine learning, predictive analytics, and building language models; providing online non-downloadable software for conversion of audio data files into text; providing online non-downloadable software for software for voice and speech recognition.

The Fourth Earlier Mark

Class 9

Downloadable computer programs and downloadable computer software for using language models; downloadable computer programs and downloadable computer software for the artificial production of human speech and text; downloadable computer programs and downloadable computer software for natural language processing, generation, understanding and analysis; downloadable computer programs and downloadable computer software for machine-learning based language and speech processing software; downloadable computer programs and downloadable computer software for the translation of text or speech from one language to another; downloadable computer programs and downloadable computer software for sharing datasets for the purpose of machine learning, predictive analytics, and building language models; downloadable computer programs and downloadable computer software for conversion of audio data files into text; downloadable computer programs and downloadable computer software for voice and speech recognition; downloadable computer programs and downloadable computer software for creating and generating text; downloadable computer programs and downloadable computer software for developing, running and analyzing algorithms that are able to learn to analyze, classify, and take actions in response to exposure to data; downloadable computer programs and downloadable computer software for developing and implementing artificial neural networks.

Class 42

Software as a service (SaaS) services, namely, providing online non-downloadable software for using language models; providing online non-downloadable software for the artificial production of human speech and text; providing online non-downloadable software for natural language processing, generation, understanding and analysis; providing online non-downloadable software for machine-learning based language and speech processing software; providing online non-downloadable software for the translation text or speech from one language to another; providing online non-downloadable software for sharing datasets for the purpose of machine learning, predictive analytics, and building language models; providing online non-downloadable software for conversion of audio data files into text; providing online non-downloadable software for software for voice and speech recognition; providing online non-downloadable software for creating and generating text; providing online non-downloadable software for developing, running and analyzing algorithms that are able to learn to analyze, classify, and take actions in response to exposure to data; providing online non-downloadable software for developing and implementing artificial neural networks; application service provider featuring application programming interface (API) software; research and development services in the field of artificial intelligence; research, design and development of computer programs and software.

The Fifth Earlier Mark

Class 9

Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; mechanisms for coinoperated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers' masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus; computer software; computer software programs; computer software platforms; computer software development

tools; downloadable computer software; application software; interactive computer software; computer programs [downloadable software]; computer search engine software; apps; recorded computer software; software applications; mobile software applications; applications for smartphones and tablets; electronic publications; downloadable publications; Computer application software for streaming audio-visual media content via the internet; Software for processing images, graphics, audio, video and text; Computer databases; Electronic databases; Interactive database software; Database and file management software; Computer software for creating searchable databases of information and data; System software; Computer systems; Data processing systems; System and system support software, and firmware; Computer operating system software; Document management system software; Workflow management system software; Computer software downloadable from global computer networks; Computer software applications, downloadable; Computer software for database management; Computer software for business purposes; Computer software for wireless network communications; Computer software for application and database integration; Computer software for scanning images and documents; Downloadable computer software for the transmission of data and information; Downloadable computer software for the management of data; Computer software for use as an application programming interface (API); Downloadable computer software for use as an application programming interface (API); Downloadable digital files authenticated by nonfungible tokens [NFTs]; earphones; headphones; sunglasses; eyewear; laptop cases; mobile phone cases; mobile phone holders; DVDs; CDs; MP3 players; smart watches; smart bands; smart jewellery; spectacle cases and sunglasses; graphic art software; software for generating virtual images; downloadable software for use in electronically buying, selling, receiving, sending, storing, trading, and processing transactions to and related to digital art and collectibles, crypto-collectibles, nfts, application tokens, and digital currencies; downloadable software, namely non-fungible tokens; downloadable software for providing access to an online virtual environment; Downloadable computer programs and downloadable computer software for using language models; downloadable computer programs and downloadable computer software for the artificial production of human speech and text; downloadable computer programs and downloadable computer software for natural language processing, generation, understanding and analysis; downloadable computer programs and downloadable computer software for

machine-learning based language and speech processing software; downloadable computer programs and downloadable computer software for the translation of text or speech from one language to another; downloadable computer programs and downloadable computer software for sharing datasets for the purpose of machine learning, predictive analytics, and building language models; downloadable computer programs and downloadable computer software for conversion of audio data files into text; downloadable computer programs and downloadable computer software for voice and speech recognition; downloadable computer programs and downloadable computer software for creating and generating text; downloadable computer programs and downloadable computer software for developing, running and analyzing algorithms that are able to learn to analyze, classify, and take actions in response to exposure to data; downloadable computer programs and downloadable computer software for developing and implementing artificial neural networks; parts and fittings for all the aforesaid goods.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software; Technological research and development; Safety testing services relating to computer software; Certification of safety standards relating to computer software; Computer software research; Computer software integration; Software development services; Hosting services, software as a service, and rental of software; Development of interactive multimedia software; Providing online, non-downloadable software; Software as a service (SaaS) services, namely, providing online non-downloadable software for using language models; providing online non-downloadable software for the artificial production of human speech and text; providing online non-downloadable software for natural language processing, generation, understanding and analysis; providing online non-downloadable software for machine-learning based language and speech processing software; providing online non-downloadable software for the translation text or speech from one language to another; providing online non-downloadable software for sharing datasets for the purpose of machine learning, predictive analytics, and building language models; providing online non-downloadable software for conversion of audio data files into text; providing online

non-downloadable software for software for voice and speech recognition; providing online non-downloadable software for creating and generating text; providing online non-downloadable software for developing, running and analyzing algorithms that are able to learn to analyze, classify, and take actions in response to exposure to data; providing online non-downloadable software for developing and implementing artificial neural networks; application service provider featuring application programming interface (API) software; research and development services in the field of artificial intelligence; research, design and development of computer programs and software; Computer systems development; Computer system integration services; Development of computer systems; Development of computer platforms; Design and development of data storage systems; Design and development of data entry systems; Design and development of data processing systems; Design and development of electronic data security systems; Development of systems for the transmission of data; Cloud computing services; Cloud storage services for electronic files and data; Maintaining databases; Database design; Database design and development; data security services; minting of NFTs; web-based services related to blockchain-based non-fungible tokens (nfts), including for creating, providing information about, authentication, grading, valuation, selling, auctioning and trading nfts; platform as a service (paas) and software as a service (saas) featuring software platforms for use in electronically buying, selling, receiving, sending, storing, trading, and processing transactions to and related to digital art and collectibles, crypto-collectibles, nfts, application tokens, and digital currencies; technology services including artificial intelligence and learning technologies for digital art and collectibles, crypto-collectibles, nfts, application tokens, and digital currencies; design and development of virtual reality hardware and software; application service provider (ASP) services featuring software for use in virtual currency, digital currency, cryptocurrency, and digital asset exchange and transactions; information, advisory and consultancy services relating to the aforesaid.