

O/0268/26

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO. UK00004049018  
BY CENTRO NACIONAL DE INTELIGENCIA  
TO REGISTER THE TRADE MARK:**



**IN CLASSES 9, 16, 28, 35, 38, 41 AND 42**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. OP000451114  
BY CICLOSPORT K.W. HOCHSCHORNER GMBH**

## BACKGROUND AND PLEADINGS

1. On 8 May 2024, CENTRO NACIONAL DE INTELIGENCIA (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the United Kingdom. The application was published for opposition purposes on 30 August 2024, and registration is sought for the following goods and services:

Class 9      Mobile apps; Smartphone software; Software; Interactive multimedia computer programs; Information technology and audio-visual, multimedia and photographic devices; Portable multimedia players; Wireless communication devices for the transmission of multimedia content; Interactive entertainment software; Interactive software; Interactive graphics screens; Publications in electronic format; Downloadable publications; Electronic publications; Downloadable video files; Downloadable image files; Downloadable music files; Downloadable videos; USB flash drives; Retail software.

Class 16     Printed periodicals in the field of tourism; Printed periodical publications; Printed publications; Advertising publications; Promotional publications; Magazine paper; Agendas; Printed flyers; Printed booklets; Printed calendars; Printed brochures; Guide books.

Class 28     Toys, games, playthings; Entertainment consoles; entertainment consoles comprising computer hardware and software for providing audio, video, and multimedia output; Sports equipment; Gymnastic and sporting articles not included in other classes.

Class 35     Sales promotion services; Publicity; business management services; Presentation of goods on communication media, for retail purposes; Demonstration of goods for promotional purposes; Business representative services; Business appraisals; Import-export agencies; Invoicing; Marketing;

Marketing research; Marketing studies; Opinion polling; Organization of exhibitions for commercial or advertising purposes; Assistance and advice regarding business organization; Assistance and advice regarding business management; Business management advice and assistance; Market research and market analysis; Market campaigns; Sales promotion.

Class 38      Transmission of news; Electronic news agency services; News agency; News agency services for telecommunications; Cable television broadcasting information; Mobile media services in the nature of electronic transmission of entertainment media content; Transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the Internet; Providing access to web sites on the internet; Web site forwarding services; Telecommunication of information (including web pages); Provision of access to web pages; Web casting services; Web conferencing services; Provision of telecommunications links to computer databases and websites on the Internet; Providing online forums; Providing access to online computer databases; Providing access to multimedia content online; Providing online facilities for real-time interaction with other computer users; Transfer of information and data via online services and the Internet; Providing an online interactive bulletin board; Information, consultancy and advisory services relating to telecommunications.

Class 41      Education; providing of training; entertainment; sporting and cultural activities; providing sports facilities; provision of online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; organisation of entertainment; organisation of sporting events; instruction services; training services; leisure services; advisory services

relating to entertainment; arranging conferences, seminars, symposiums or workshops; provision of radio programmes, television programmes, films, audio and/or visual material or motion pictures online (not downloadable); publication of printed media and recordings; production of shows; Providing museum facilities [presentation, exhibitions]; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current affairs, satellite, television and radio programmes, music, films, books and other printed matter, video games, computer games.

Class 42 Technical engineering; Technical studies; Technical design; Scientific research; Urban design; Urban planning; Architectural and urban planning services; Software development; Product development; Product research and development; Evaluation of product development; Expert advice relating to technology; IT consultancy, advisory and information services.

2. On 2 December 2024, the application was opposed in its entirety by Ciclosport K.W. Hochschorner GmbH (“the opponent”) under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). For the purposes of the opposition, the opponent relies upon the following trade mark and all the goods for which it is registered, as laid out below:

# CICLO

United Kingdom Trade Mark (“UKTM”) 902355337<sup>1</sup>

Filing Date: 28 August 2001

Registration Date: 19 September 2003

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<sup>1</sup> The opponent’s mark is a comparable mark based on an earlier EUTM. On 1 January 2021, comparable marks were automatically created in accordance with Article 54 of the Withdrawal Agreement between the UK and EU. They are now recorded on the UK register, have the same legal status as if they had been applied for and registered under UK law, and retain their original filing dates.

- Class 9 Spectacles, spectacle frames, spectacle lenses and spectacle cases; electronic measuring apparatus, measuring instruments, navigation apparatus and instruments, electronic clocks (measuring apparatus) for sports activities and sports equipment; sports and fitness software.
- Class 10 Electronic clocks for use in sports medicine.
- Class 12 Vehicles, bicycles and bicycle parts, bicycle frames; quick-clamping devices for bicycles, bicycle forks, handlebars and handlebar attachments for bicycles, gear systems, pedals; bicycle accessories, namely luggage racks, bicycle bags, bicycle pumps; motor vehicle roof racks.
- Class 25 Clothing, sportswear, footwear, soles for footwear, gloves, headgear, sports helmets, caps.
- Class 28 Sports equipment, fitness equipment, exercise equipment and weight-training equipment; athletic bags.

3. The opponent's mark qualifies as an earlier mark in accordance with section 6 of the Act. As it had been registered for more than five years prior to the filing date of the applicant's mark, it is, in principle, subject to the proof of use provisions set out in section 6A. In its counterstatement, the applicant was asked whether it required the opponent to provide proof of use. The applicant ticked the "No" box.<sup>2</sup> Consequently, the opponent may rely upon all of the goods for which the earlier mark is registered without having to demonstrate genuine use.

4. Under section 5(2)(b) of the Act, the opponent claims that the parties' marks are similar and the goods and services are identical or similar, and as such, there exists a likelihood of confusion. It submits that the dominant elements of

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<sup>2</sup> See question 7 of the applicant's Form TM8

the respective marks are identical, and that the average consumer is likely to perceive the “365” element and the device components of the applicant’s mark as a brand extension of the opponent’s earlier mark. The opponent further submits that its earlier mark enjoys at least an average degree of inherent distinctiveness.

5. In its counterstatement, the applicant denies the claims made. It submits that although the parties’ specifications both include goods in Classes 9 and 28, the respective goods differ in nature and characteristics, and have different relevant publics, advertising channels and commercialisation routes. The applicant further submits that although the marks share the element “CICLO”, the addition of “365”, together with its specific typography, colours, positioning and figurative elements, contributes to the distinctiveness of the applicant’s mark.
6. The opponent is represented by Wilson Gunn, and the applicant is represented by Iberpatent Patents & Trademarks. Neither party filed evidence. Neither party requested a hearing, and only the opponent filed submissions in lieu. 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. Sections 5(2)(b) and 5A of the Act state:

“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.

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.”

### Relevant law

9. 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 be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

### Comparison of the goods and services

10. The competing goods and services are as follows:

The opponent's goods	The applicant's goods and services
<p><u>Class 9</u> Spectacles, spectacle frames, spectacle lenses and spectacle cases; electronic measuring apparatus, measuring instruments, navigation apparatus and instruments, electronic clocks (measuring apparatus) for sports activities and sports equipment; sports and fitness software.</p>	<p><u>Class 9</u> Mobile apps; Smartphone software; Software; Interactive multimedia computer programs; Information technology and audio-visual, multimedia and photographic devices; Portable multimedia players; Wireless communication devices for the transmission of multimedia content; Interactive entertainment software; Interactive software; Interactive graphics screens; Publications in electronic format; Downloadable publications; Electronic publications; Downloadable video files; Downloadable image files; Downloadable music files; Downloadable videos; USB flash drives; Retail software.</p>
<p><u>Class 10</u> Electronic clocks for use in sports medicine.</p>	

<p><u>Class 12</u></p> <p>Vehicles, bicycles and bicycle parts, bicycle frames; quick-clamping devices for bicycles, bicycle forks, handlebars and handlebar attachments for bicycles, gear systems, pedals; bicycle accessories, namely luggage racks, bicycle bags, bicycle pumps; motor vehicle roof racks.</p>	
	<p><u>Class 16</u></p> <p>Printed periodicals in the field of tourism; Printed periodical publications; Printed publications; Advertising publications; Promotional publications; Magazine paper; Agendas; Printed flyers; Printed booklets; Printed calendars; Printed brochures; Guide books.</p>
<p><u>Class 25</u></p> <p>Clothing, sportswear, footwear, soles for footwear, gloves, headgear, sports helmets, caps.</p>	
<p><u>Class 28</u></p> <p>Sports equipment, fitness equipment, exercise equipment and weight-training equipment; athletic bags.</p>	<p><u>Class 28</u></p> <p>Toys, games, playthings; Entertainment consoles; entertainment consoles comprising computer hardware and software for providing audio, video, and multimedia output; Sports equipment; Gymnastic and sporting articles not included in other classes.</p>
	<p><u>Class 35</u></p> <p>Sales promotion services; Publicity; business management services; Presentation of goods on communication</p>

	<p>media, for retail purposes; Demonstration of goods for promotional purposes; Business representative services; Business appraisals; Import-export agencies; Invoicing; Marketing; Marketing research; Marketing studies; Opinion polling; Organization of exhibitions for commercial or advertising purposes; Assistance and advice regarding business organization; Assistance and advice regarding business management; Business management advice and assistance; Market research and market analysis; Market campaigns; Sales promotion.</p>
	<p><u>Class 38</u>  Transmission of news; Electronic news agency services; News agency; News agency services for telecommunications; Cable television broadcasting information; Mobile media services in the nature of electronic transmission of entertainment media content; Transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the Internet; Providing access to web sites on the internet; Web site forwarding services; Telecommunication of information (including web pages); Provision of access to web pages; Web casting services; Web conferencing services;</p>

	<p>Provision of telecommunications links to computer databases and websites on the Internet; Providing online forums; Providing access to online computer databases; Providing access to multimedia content online; Providing online facilities for real-time interaction with other computer users; Transfer of information and data via online services and the Internet; Providing an online interactive bulletin board; Information, consultancy and advisory services relating to telecommunications.</p>
	<p><u>Class 41</u>  Education; providing of training; entertainment; sporting and cultural activities; providing sports facilities; provision of online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; organisation of entertainment; organisation of sporting events; instruction services; training services; leisure services; advisory services relating to entertainment; arranging conferences, seminars, symposiums or workshops; provision of radio programmes, television programmes, films, audio and/or visual material or motion pictures online (not downloadable); publication of printed media and recordings; production of</p>

	shows; Providing museum facilities [presentation, exhibitions]; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current affairs, satellite, television and radio programmes, music, films, books and other printed matter, video games, computer games.
	<u>Class 42</u> Technical engineering; Technical studies; Technical design; Scientific research; Urban design; Urban planning; Architectural and urban planning services; Software development; Product development; Product research and development; Evaluation of product development; Expert advice relating to technology; IT consultancy, advisory and information services.

11. When making the comparison, all relevant factors relating to the goods and services should be taken into account. In the judgment of the Court of Justice of the European Union (“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.”

12. 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.

13. In *Gérard Meric v OHIM*, Case T- 133/05, the General Court (“GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM – Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark.”

14. In *Kurt Hesse v OHIM*,<sup>3</sup> the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v OHIM*,<sup>4</sup> the GC stated that “complementary” means:

“...there is close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking.”

15. In *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36, Lord Kitchin set out the proper approach to considering terms in specifications:

“365. [...] The correct approach, as a matter of principle, in considering a specification of services which is defined by terms which are not clear or precise, is to confine the terms used to the substance or core of their possible meanings: see, for example, *Reed Executive plc v Reed Business Information Ltd* [2004] EWCA Civ 159; [2004] RPC 40, at para 43. So too, if a specification of goods is defined by terms which are ambiguous, then it should be confined to those goods which are clearly covered. These principles are consistent with first, the requirement that the specifications of goods and services must be clear and precise so that others know what they can and cannot do; and secondly, general fairness because any ambiguity is the responsibility of the owner of the mark. If despite this, the words used are still unclear so that they cannot be interpreted, then it is permissible to disregard them. But, in my opinion, that will rarely be the case.”

16. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

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<sup>3</sup> Case C-50/15 P

<sup>4</sup> Case T-325/06

"... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of 'dessert sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

17. I bear in mind that it is permissible to group goods together for the purposes of assessment: *Separode Trade Mark*.<sup>5</sup>

"The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision."

18. Pursuant to section 60A of the Act, goods and services are not to be automatically regarded as being similar to each other on the ground that they appear in the same class, nor automatically regarded as dissimilar from each other on the ground that they appear in different classes.

### The opponent's comments

19. In its submissions in lieu, the opponent argues that there is some form of similarity to be found when comparing all of the applicant's goods and services

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<sup>5</sup> BL O/399/10

with its goods. However, I do not consider its arguments in respect of the applicant's Class 16, 35, 38, and 42 goods to be well founded. They take the form of making connections between generic goods such as printed publications and generic services such as advertising and saying that printed publications could feature its specific goods or that such goods need to be advertised. I consider these comparisons to be too tenuous to support a finding of similarity.

20. In respect of the applicant's Class 9 goods, the opponent argues that all of the software goods are identical or highly similar because "they are all computer programs designed for use on digital devices" and that downloadable publications and files are similar to its software "on account of their shared nature as downloadable electronic media and their functional interchangeability."

21. The opponent also asserts that the applicant's hardware "may be used in conjunction with software or measuring apparatus in the earlier registration, creating an overlap in intended use."

22. It concludes by saying that: "Overall, the class 9 goods share similarities in nature, purpose, method of use, distribution channels, and end-users, giving rise to a high degree of similarity in relation to the software and at least a medium degree of similarity in relation to the hardware."

23. In respect of the applicant's Class 28 goods, the opponent contends that:

"31. ... toys, games, playthings; entertainment consoles, are similar to at least a low degree. Sporting goods and toys often overlap in the marketplace (e.g. balls, skipping ropes, entry-level fitness equipment marketed as toys), and entertainment consoles may also serve gaming/fitness purposes comparable to sports and exercise equipment (e.g. interactive fitness games and virtual training).

32. The goods are all aimed at the general public, distributed through overlapping trade channels (sports retailers, general department stores, online platforms), and can be directed at the same end-users seeking leisure and recreational products.”

24. Regarding Class 41, the opponent asserts that:

54. These services are similar to the goods protected by the Registration across classes 9, 10, 12, 25 and 28. Education, training, and entertainment services may specifically concern bicycles and their accessories (Class 12), sports equipment (Class 28), clothing and protective sportswear (Class 25), sports and fitness software (Class 9), and electronic clocks for use in sports medicine (Class 10).

55. It is common for undertakings in the sporting and fitness sector to provide training, instruction, and entertainment services alongside their goods. For example, bicycle manufacturers and sports brands frequently organise events, publish training materials, provide online tutorials, and sponsor or host sporting competitions.”

25. Except in relation to the applicant’s sporting services, I again find the opponent’s arguments to be too tenuous.

#### The applicant’s comments

26. In its counterstatement, the applicant asserts that the opponent’s mark derives from the name of the opponent’s company which is a pioneer in the ebike and bicycle industry. It further states that:



- ii. THE TRADE MARK APPLICATION PRETENDS TO IDENTIFY A SOFTWARE (as well as other goods related to this software) that has been DEVELOPED BY AND FOR HELPING CENTRO NACIONAL DE INTELIGENCIA TO CARRY OUT THEIR MISSION AND COMPETENCES: PREVENT AND AVOID DANGERS, THREATS OR AGGRESSIONS AGAINST THE INDEPENDENCE AND INTEGRITY OF SPAIN

27. However, I must compare the respective goods and services on a notional basis, not on the basis of the specific goods and services that the organisations behind the marks currently trade in or intend to trade in.

### My analysis

#### Class 9

28. The applicant's "Software" is *Meric* identical to the opponent's "sports and fitness software".

29. I compare the applicant's "Mobile apps", "Smartphone software", "Interactive multimedia computer programs" and "Interactive software" with the opponent's "sports and fitness software". The former are all generic types of software that have properties which are shared with the latter specific software. Sports software can be deployed on mobile phones and can be interactive, but it can also be deployed on other devices and can be limited to presenting information in a static format. I find these goods to be of medium similarity.

30. I compare the applicant's "Interactive entertainment software" with the opponent's "sports and fitness software". Both are types of software and so share the same nature and method of use. While they have different purposes, they would both be sold to members of the public through common trade channels. They are not in competition, nor are they complementary. I find these goods to be of low similarity.

31. In comparing the applicant's "retail software" with the opponent's "sports and fitness software" I consider the fact that both are types of software to be too high a level of generality for a finding of similarity. To automatically make such a finding would be to offer too broad a level of protection for any and all types of software (software being a good that underpins so many disparate fields of activity). In this case, the goods have entirely different purposes – supporting the retailing of goods versus tracking sport and fitness activity. The former would be used by retailers whereas the latter would be used by members of the public and the trade channels would diverge. The goods are neither in competition, nor are they complementary. I find them to be dissimilar.
32. I compare the applicant's "Information technology and audio-visual, multimedia and photographic devices", "Portable multimedia players" and "Wireless communication devices for the transmission of multimedia content" with the opponent's "electronic measuring apparatus, measuring instruments, navigation apparatus and instruments, electronic clocks (measuring apparatus) for sports activities and sports equipment." The applicant's goods are forms of generic hardware such as laptops, tablet computers and smartphones on which multimedia content can be consumed or with which photographs can be taken. The opponent's goods are very specific ones which are used for measurement, including timekeeping, and navigation. Such goods would be used for tasks such as measuring distances in field sports such as the long jump, tracking location in sports such as sailing, and the timing of races. As such, the respective goods differ in terms of nature, purpose and method of use. Also, the trade channels differ markedly: the applicant's goods would be sold through electrical retailers and the opponent's goods would be sold through specialist outlets that cater to the organisers of sporting events. Furthermore, the goods are not in competition, nor are they complementary. I find them to be dissimilar.
33. The applicant's "Interactive graphics screens" are types of hardware that display information which can be interrogated and can be used for activities like training, advertising and purchasing tickets. These goods are dissimilar to the

opponent's measurement and navigation goods that are used for sports activities and sports equipment.

34. I make the same finding, that of dissimilarity, for the applicant's "USB flash drives".

35. I see no common ground between the applicant's "Publications in electronic format", "Downloadable publications" and "Electronic publications" and the opponent's Class 9 goods. They differ in terms of nature, purpose, method of use and trade channels. They are not in competition, nor are they complementary. The same applies to a comparison with the opponent's goods in Classes 10, 12, 25 and 28. These goods are dissimilar.

36. I make the same finding, that of dissimilarity, for the applicant's "Downloadable video files", "Downloadable image files", "Downloadable music files" and "Downloadable videos".

#### Class 16

37. As with my finding in respect of the applicant's Class 9 electronic publications, I see no common ground between the applicant's "Printed periodicals in the field of tourism", "Printed periodical publications", "Printed publications", "Advertising publications", "Promotional publications", "Magazine paper", "Agendas", "Printed flyers", "Printed booklets", "Printed calendars", "Printed brochures" and "Guide books" "Publications in electronic format", "Downloadable publications" and "Electronic publications" and the opponent's goods in Classes 9, 10, 12, 25 and 28. They differ in terms of nature, purpose, method of use and trade channels. They are not in competition, nor are they complementary. The goods are dissimilar.

#### Class 28

38. The applicant's "Sports equipment" is identical to the opponent's "sports equipment ..."

39. The applicant's "Gymnastic and sporting articles not included in other classes" are *Meric* identical to the opponent's "sports equipment, fitness equipment, exercise equipment and weight-training equipment".
40. I compare the applicant's "Toys, games, playthings" with the opponent's "sports equipment ...". The users of the respective goods only overlap to the extent that they are both used by members of the public. Their nature, method of use and purpose are different. Toys, games and playthings are typically used indoors, and sports equipment is generally used outdoors, the former being used principally for entertainment and the latter being used principally for exercise and the enjoyment of vigorous competition. The trade channels through which the goods reach the market are also different: toys, games and playthings are typically bought from toy shops, whereas sports equipment will typically be bought from sports shops. Where the goods are sold via more general retailers, they will be sold through different areas of such a shop or different parts of such a website. Moreover, the goods are clearly not in competition and are not complementary. I find these goods to be dissimilar.
41. I compare the applicant's "Entertainment consoles" and "entertainment consoles comprising computer hardware and software for providing audio, video, and multimedia output" with the opponent's "electronic measuring apparatus, measuring instruments, navigation apparatus and instruments, electronic clocks (measuring apparatus) for sports activities and sports equipment." The applicant's goods are consoles on which content can be consumed for the purposes of entertainment. The opponent's goods are very specific ones which are used for measurement, including timekeeping, and navigation. Such goods would be used for tasks such as measuring distances in field sports such as the long jump, tracking location in sports such as sailing, and the timing of races. As such, the respective goods differ in terms of nature, purpose and method of use. Also, the trade channels differ markedly: the applicant's goods would be sold through electrical retailers and the opponent's goods would be sold through specialist outlets that cater to the organisers of sporting events. Furthermore, the goods are not in competition, nor are they

complementary. I find them to be dissimilar. The same finding, that of dissimilarity, would apply to the opponent's "sports equipment ..." and indeed the rest of the opponent's goods in this class.

#### Class 35

42. I see nothing in common between the applicant's services and the opponent's goods. They differ in nature, purpose and method of use and would be sold through different trade channels. They are neither in competition, nor are they complementary. The services and the goods are dissimilar.

#### Class 38

43. I see nothing in common between the applicant's services and the opponent's goods. They differ in nature, purpose and method of use and would be sold through different trade channels. They are neither in competition, nor are they complementary. The services and the goods are dissimilar.

#### Class 41

44. I compare the applicant's "providing sports facilities" with the opponent's Class 28 "Sports equipment". While one is a service and the other is goods, they have the same broad purpose of the playing of sport, and the users of sports facilities are also users of sporting equipment. The service and the goods are not in competition, but the first limb of a finding of complementarity is established in that the latter is indispensable to the former - a sports facility cannot function without sports equipment. However, customers of sports facilities will probably not think that the responsibility for the equipment therein lies with the same undertaking. Overall, I find the services and the goods to be of a low level of similarity.

45. I compare the applicant's "organisation of sporting events" with the opponent's Class 9 "electronic measuring apparatus, measuring instruments, navigation apparatus and instruments, electronic clocks (measuring apparatus) for sports

activities ...”. While one is a service and the other is goods, they have the same broad sporting purpose, and people seeking to put on a sports event and people making use of measuring apparatus for sports activities are both likely to be sports enthusiasts. There could be competition between the service and the goods to the extent that a body may choose between purchasing the service which they would expect to include the provision of any measuring or navigational apparatus required, or purchasing such apparatus if they chose to put on the sporting event themselves. I find the services and the goods to be of a low level of similarity.

46. My finding of low similarity extends to the applicant’s “leisure services” (which encompasses the applicant’s “providing sports facilities”) and “sporting ... activities” (which encompasses the “organisation of sporting events”).

47. It would be a step too far to find similarity between the applicant’s “online provision of information and general encyclopaedic knowledge relating to ... sports ...” and the opponent’s Class 25 sportswear and Class 28 sports equipment. Other than being related to sport at a very high level, the applicant’s service entails the provision of information for passive consumption by a general audience whereas the opponent’s goods are used actively by those playing sport. The respective service and goods differ in nature, purpose and method of use and would be sold through different trade channels. They are neither in competition, nor are they complementary. The service and the goods are dissimilar.

48. The remaining services in this class have nothing in common with the opponent’s goods and are dissimilar.

#### Class 42

49. I see nothing in common between the applicant’s services and the opponent’s goods. They differ in nature, purpose and method of use and would be sold through different trade channels. They are neither in competition, nor are they complementary. The services and the goods are dissimilar.

50. As some degree of similarity between the goods is required for there to be a likelihood of confusion,<sup>6</sup> the opposition must fail in respect of the following of the applicant's goods and services:

Class 9 Information technology and audio-visual, multimedia and photographic devices; Portable multimedia players; Wireless communication devices for the transmission of multimedia content; Interactive graphics screens; Publications in electronic format; Downloadable publications; Electronic publications; Downloadable video files; Downloadable image files; Downloadable music files; Downloadable videos; USB flash drives; Retail software.

Class 16 Printed periodicals in the field of tourism; Printed periodical publications; Printed publications; Advertising publications; Promotional publications; Magazine paper; Agendas; Printed flyers; Printed booklets; Printed calendars; Printed brochures; Guide books.

Class 28 Toys, games, playthings; Entertainment consoles; entertainment consoles comprising computer hardware and software for providing audio, video, and multimedia output.

Class 35 Sales promotion services; Publicity; business management services; Presentation of goods on communication media, for retail purposes; Demonstration of goods for promotional purposes; Business representative services; Business appraisals; Import-export agencies; Invoicing; Marketing; Marketing research; Marketing studies; Opinion polling; Organization of exhibitions for commercial or advertising

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<sup>6</sup> *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

purposes; Assistance and advice regarding business organization; Assistance and advice regarding business management; Business management advice and assistance; Market research and market analysis; Market campaigns; Sales promotion.

Class 38      Transmission of news; Electronic news agency services; News agency; News agency services for telecommunications; Cable television broadcasting information; Mobile media services in the nature of electronic transmission of entertainment media content; Transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the Internet; Providing access to web sites on the internet; Web site forwarding services; Telecommunication of information (including web pages); Provision of access to web pages; Web casting services; Web conferencing services; Provision of telecommunications links to computer databases and websites on the Internet; Providing online forums; Providing access to online computer databases; Providing access to multimedia content online; Providing online facilities for real-time interaction with other computer users; Transfer of information and data via online services and the Internet; Providing an online interactive bulletin board; Information, consultancy and advisory services relating to telecommunications.

Class 41      Education; providing of training; entertainment; cultural activities; provision of online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; organisation of entertainment; instruction services; training services; advisory services relating to entertainment; arranging conferences, seminars, symposiums or workshops; provision of radio

programmes, television programmes, films, audio and/or visual material or motion pictures online (not downloadable); publication of printed media and recordings; production of shows; Providing museum facilities [presentation, exhibitions]; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current affairs, satellite, television and radio programmes, music, films, books and other printed matter, video games, computer games.

Class 42      Technical engineering; Technical studies; Technical design; Scientific research; Urban design; Urban planning; Architectural and urban planning services; Software development; Product development; Product research and development; Evaluation of product development; Expert advice relating to technology; IT consultancy, advisory and information services.

### **The average consumer and the purchasing act**

51. It is necessary for me to determine who the average consumer is for the goods and services in question. I must then determine the manner in which the goods and services are likely to be selected by the average consumer in the course of trade.

52. 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).

53. 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.

54. The typical consumer for the competing goods and services at issue will be an individual purchasing sports and fitness software, or sports equipment, or a user of sports facilities, or they will be a body wanting to have a sporting event organised for them.

55. In the case of the software, sports equipment and sports facilities, all of these goods will be assessed principally from a practical point of view to make sure that they meet the consumer's sporting requirements and are unlikely to be prohibitively expensive. Overall, the level of attention paid by the typical consumer will be of a medium level. Software will generally be purchased online where visual considerations will predominate and verbal interaction is unlikely. Sports equipment and sports facilities will initially be subject to visual scrutiny, but their purchase may also be subject to verbal enquiries.

56. Where a body is wanting to have a sporting event organised for them, this could involve considerable expense, but again practical considerations will be to the fore. Overall, the level of attention paid by the typical consumer will be of a medium level. Visual considerations and verbal factors will be equally important.

### **Comparison of the trade marks**


57. It is clear from *Sabel BV v. Puma AG*, Case C-251/95, that the average consumer normally perceives a trade mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo SA v OHIM*, Case C-591/12P, 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 relevant 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.”

58. 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 trade 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.

59. The respective trade marks are shown below:

The opponent's mark	The applicant's mark
<p>CICLO</p>	

The opponent's comments

60. The opponent, at paragraph 68 of its submissions in lieu, says that: "CICLO is distinctive in relation to the goods and services in question and has no inherent meaning or descriptive elements, a fact accepted by the Applicant on page 5 of their counterstatement." Indeed, the applicant does say the following: "The earlier trademark does not have a peculiar meaning for any of the goods claimed in classes 9, 10, 12, 25 and 28 from the perspective of the public in the relevant territory".

61. The opponent goes on to say, at paragraph 71, that: "The overall impression of the Later Mark is dominated by the word CICLO, which is identical to the Earlier Mark. The additional element, 365, will be perceived as secondary and descriptive, indicating continuity or year-round availability, rather than origin."

The applicant's comments

62. In its counterstatement, the applicant asserts that the opponent's mark derives from the name of the opponent's company which begins with the word

“CICLOSPORT”. However, I note that the name of the owner of the trade mark will not be known to the average consumer on encountering the mark and I must compare the marks on a notional basis.

63. The applicant goes on to say that its application:

“is made of combining the word "CICLO" with the number "365", both of them represented with peculiar characteristics, colours and typography as well as with specific figurative elements.

All these elements provides the trade mark application that is opposed with enough distinctiveness to be registered as a trade mark and eliminates likelihood of confusion and association with the prior trademark”.

#### My analysis

64. The opponent’s mark consists of the plain word “CICLO”, and the overall impression made by the mark resides in that word alone.

65. The applicant’s mark is a figurative mark featuring the word “CICLO” in pale blue block capitals above the slightly spaced-out numbers 3, 6 and 5 in amber, red and green respectively. The word and the numbers are surrounded by a broken circle in pale blue with a rightward facing arrowhead at the top of the broken circle. The whole is encapsulated by a dark green square. Although the mark contains colours and figurative elements, the word and the numbers are more dominant overall, the eye being drawn to what can be read. The word “CICLO”, which is bigger than the numbers, is the more dominant and distinctive of the two elements that can be read, the sequence “3 6 5” being laudatory of the all-year-round provision of a good or a service.

66. Visually, the opponent’s mark is the plain word “CICLO” which also features prominently in the applicant’s mark. However, the applicant’s mark also

contains the numbers 3, 6 and 5 and a number of stylistic elements. Overall, I find the marks to be a medium level of visual similarity.

67. Aurally, the marks are “SY-KLOW” versus “SY-KLOW THREE SIX FIVE”. They begin identically, but the applicant’s mark has numerical elements that will be pronounced. The marks are of a medium level of aural similarity.

68. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer. This is highlighted in numerous judgments of the GC and the CJEU including *Ruiz Picasso v OHIM* [2006] e.c.r.-I-643; [2006] E.T.M.R 29. The assessment must, therefore, be made from the point of view of the average consumer.

69. The shared prominent word “CICLO” will not evoke a particular concept for the average consumer and so is conceptually neutral. The applicant’s additional “3 6 5” element will call to mind the number of days in the year and is laudatory of the all-year-round provision of a good or a service. Overall, the marks differ only slightly conceptually due to the presence of the laudatory element in the applicant’s mark.

### **Distinctive character of the earlier mark**

70. The distinctive character of a trade mark can be measured only, first, by reference to the goods or services in respect of which registration is sought and, second, by reference to the way it is perceived by the relevant public. 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 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).”

71. 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 or 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. However, the opponent has not pleaded that the distinctiveness of its mark has been enhanced through use, nor has it filed any evidence to support such a finding. Consequently, I have only the inherent position to consider.

72. The applicant accepts that the earlier mark does not have any particular meaning in relation to the opponent’s goods. In the absence of any submissions or evidence to the contrary, I consider it to be an invented word. Noting that the opponent considers the earlier mark to enjoy at least an average degree of inherent distinctiveness, I find the earlier mark to be inherently distinctive to a high degree.

## Likelihood of confusion

73. 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. One such factor is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97). As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier trade mark, the average consumer for the goods and services, and the nature of the purchasing process. In doing so, I must be mindful of 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 they have retained in their mind.

74. 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 and services down to the responsible undertakings being the same or related.

75. Earlier in my decision I found that:

- Except where I have found them to be dissimilar, the parties' goods and services range from identical to being of a low level of similarity.
- The average consumer for the goods and services at issue is either an individual or a body that will pay a medium level of attention during the purchasing process. Software will generally be purchased online where visual considerations will predominate and verbal interaction is unlikely. Sports equipment and sports facilities will initially be subject to visual scrutiny, but their purchase may also be subject to verbal enquiries. Where the typical consumer is a body is wanting to have a sporting event

organised for them, visual considerations and verbal factors will be equally important.

- The marks are visually and aurally similar to a medium level. The marks differ only slightly conceptually due to the presence of the laudatory element in the applicant's mark.
- The earlier mark is inherently distinctive to a high degree.

76. The marks share the prominent identical verbal element "CICLO" which is inherently distinctive to a high degree. The additional numerical element "3 6 5" is simply laudatory of the all-year-round provision of a good or a service: such a laudatory element is commonplace and could easily be disregarded. The colours and the relatively unremarkable figurative elements could also be overlooked or mis-recalled as belonging to the opponent's mark. As such, I find that there is a likelihood of direct confusion even for those goods and services that I have found to be of a low level of similarity.

77. I will also consider the question of indirect confusion should I be wrong about the numerical and figurative elements in the applicant's mark such that the average consumer would notice and correctly attribute them.

78. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, Mr Iain Purvis QC, (as he then was) sitting 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 recognised 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).”

79. 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 Appeal. I recognise that a finding of indirect confusion should not be made merely because the competing marks share a common element. In this connection, it is not sufficient that a mark merely calls to mind another mark: this is mere association not indirect confusion.<sup>7</sup>

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<sup>7</sup> *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

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

81. All that being said, the applicant’s mark closely fits category (b) of the Purvis categories in that a laudatory element has been added to the “CICLO” mark. The average consumer would consider there to be a close connection between the marks such that those goods and services for which there is at least low similarity would be seen as coming from the same or economically-linked undertakings. They would see the addition of colours and relatively unremarkable figurative elements in the applicant’s mark as consistent with brand variation. On that basis, there is a likelihood of indirect confusion.

## **CONCLUSION**

82. Subject to appeal, the opposition has succeeded in relation to the following goods and services, for which the application is refused:

Class 9      Mobile apps; Smartphone software; Software; Interactive multimedia computer programs; Interactive entertainment software; Interactive software.

Class 28     Sports equipment; Gymnastic and sporting articles not included in other classes.

Class 41     Sporting activities; providing sports facilities; organisation of sporting events; leisure services.

83. The application will proceed to registration in respect of the following goods and services:

Class 9 Information technology and audio-visual, multimedia and photographic devices; Portable multimedia players; Wireless communication devices for the transmission of multimedia content; Interactive graphics screens; Publications in electronic format; Downloadable publications; Electronic publications; Downloadable video files; Downloadable image files; Downloadable music files; Downloadable videos; USB flash drives; Retail software.

Class 16 Printed periodicals in the field of tourism; Printed periodical publications; Printed publications; Advertising publications; Promotional publications; Magazine paper; Agendas; Printed flyers; Printed booklets; Printed calendars; Printed brochures; Guide books.

Class 28 Toys, games, playthings; Entertainment consoles; entertainment consoles comprising computer hardware and software for providing audio, video, and multimedia output.

Class 35 Sales promotion services; Publicity; business management services; Presentation of goods on communication media, for retail purposes; Demonstration of goods for promotional purposes; Business representative services; Business appraisals; Import-export agencies; Invoicing; Marketing; Marketing research; Marketing studies; Opinion polling; Organization of exhibitions for commercial or advertising purposes; Assistance and advice regarding business organization; Assistance and advice regarding business management; Business management advice and assistance; Market research and market analysis; Market campaigns; Sales promotion.

Class 38      Transmission of news; Electronic news agency services; News agency; News agency services for telecommunications; Cable television broadcasting information; Mobile media services in the nature of electronic transmission of entertainment media content; Transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the Internet; Providing access to web sites on the internet; Web site forwarding services; Telecommunication of information (including web pages); Provision of access to web pages; Web casting services; Web conferencing services; Provision of telecommunications links to computer databases and websites on the Internet; Providing online forums; Providing access to online computer databases; Providing access to multimedia content online; Providing online facilities for real-time interaction with other computer users; Transfer of information and data via online services and the Internet; Providing an online interactive bulletin board; Information, consultancy and advisory services relating to telecommunications.

Class 41      Education; providing of training; entertainment; cultural activities; provision of online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; organisation of entertainment; instruction services; training services; advisory services relating to entertainment; arranging conferences, seminars, symposiums or workshops; provision of radio programmes, television programmes, films, audio and/or visual material or motion pictures online (not downloadable); publication of printed media and recordings; production of shows; Providing museum facilities [presentation, exhibitions]; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current

affairs, satellite, television and radio programmes, music, films, books and other printed matter, video games, computer games.

Class 42 Technical engineering; Technical studies; Technical design; Scientific research; Urban design; Urban planning; Architectural and urban planning services; Software development; Product development; Product research and development; Evaluation of product development; Expert advice relating to technology; IT consultancy, advisory and information services.

## **COSTS**

84. The applicant has been the more successful of the two parties and is entitled to a proportionate contribution toward its costs, albeit there was no evidence filed in this case and the applicant did not file any submissions in lieu of a hearing, nor did it incur any official fees. The relevant scale is contained in Tribunal Practice Notice (“TPN”) 1/2023. In accordance with that TPN, I award costs to the applicant as follows:

Preparing a statement and considering the other side’s statement:	£250
<b>Total:</b>	<b>£250</b>

85. I hereby order Ciclosport K.W. Hochschorner GmbH to pay CENTRO NACIONAL DE INTELIGENCIA the sum of £250. This 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 final determination of the appeal proceedings.

**Dated this 27<sup>th</sup> day of March 2026**

**John Williams**  
**For the Registrar**