

**O/0378/26**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO. 3870917**

**BY SPRINGBOARD APPLICATIONS LTD**

**TO REGISTER:**



**AS A TRADE MARK IN CLASSES 9 & 42**

**AND**

**IN THE MATTER OF THE OPPOSITION THERETO**

**UNDER NO. 441229 BY**

**O2 WORLDWIDE LIMITED**

## BACKGROUND AND PLEADINGS

1. On 24 January 2023, Springboard Applications Ltd (“the applicant”) applied to register the trade mark shown on the front cover of this decision in the United Kingdom in respect of the following goods and services:

### Class 9

*Supply chain management software; Logistics software; Inventory software; Business management software.*

### Class 42

*Design and development of computer software for supply chain management; Providing online non-downloadable software for use in supply chain management; Development of computer software for logistics, supply chain management and e-business portals; Design and development of computer software for logistics; Rental of software for inventory management; Design and development of software for inventory management; Programming of software for inventory management; Software as a service [SaaS] featuring computer software platforms for artificial intelligence.*

2. On 7 June 2023, the application was opposed by O2 Worldwide Limited (“the opponent”). The opposition is based on sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”) and concerns all the goods and services in the application. The opponent relies on the following marks and the specifications for the classes relied upon can be found in the Annex to this decision:

UKTM No. 3862223 (“the 223 mark”)



Filing date: 23 December 2022

Registration date: 12 May 2023

Registered for goods and services in Classes 9, 38 and 41.

UKTM No. 3587066 (“the 066 mark”)



Filing date: 7 January 2020<sup>1</sup>

Registration date: 1 October 2021

Relying on goods and services in Classes 9, 35, 36, 38, 41 & 42.

UKTM No. 3346463 (“the 463 mark”)

**O2**

Filing date: 18 October 2018

Registration date: 15 March 2019

Relying on goods and services in Classes 9, 35, 36, 38, 41 & 42.

3. All three marks qualify as earlier marks under section 6(1)(a) of the Act by virtue of their earlier filing dates. As all three marks were registered less than five years before the application date of the contested mark, the opponent is not required to prove that it has used the marks.

4. Under section 5(2)(b), the opponent is relying on the goods in Class 9 and the services in Class 42 and claims that these goods and services are identical or highly similar to the goods and services in the application. A glance at the Annex will show the reader that the lists of earlier goods and services are very long. The opponent asserted that the identity and similarity were clear and said it would not be particularising its claims on this point any further at this stage of the proceedings. Turning to the marks, it claims that they are highly similar. Consequently, it argues that

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<sup>1</sup> The application for this mark was filed on 29 January 2021 pursuant to Article 59 of the Withdrawal Agreement between the UK and the EU. This allowed parties with EU applications pending at IP completion day a period of nine months in which to file an application for a UK trade mark while retaining the EU filing date.

there is a likelihood of confusion on the part of the public, including a likelihood of association.

5. Under section 5(3), the opponent is relying on the goods in Class 9 and the services in Classes 35, 36, 38 and 41. It argues that the earlier marks have a “massive” reputation in relation to what it describes as “*its core telecommunication goods and services, entertainment, retail services, and financial services*”. It claims that this reputation is of “*a young, trendy, healthy, cool and high tech brand*”. The opponent argues that use of the contested mark would, without due cause, take advantage of the distinctive character or reputation of the earlier marks. The opponent submits that when consumers encounter the contested mark, the earlier marks would be brought to mind, and that this is enough to establish unfair advantage. Alternatively, the consumer would believe that the contested mark was another mark belonging to the opponent.

6. The opponent also claims that use of the contested mark could result in detriment to the distinctive character of the earlier marks, weakening their ability to identify the goods and services sold under the earlier marks as those of the opponent. It argues that this would be likely to result in change in the economic behaviour of the average consumer but, at the point of pleading its case, does not elaborate on how this would occur in practice.

7. Finally, the opponent claims that, if the quality of the goods and services were poor, this would result in detriment to the distinctive character or reputation of the opponent. The explanation given in the pleadings indicates that it is detriment to reputation that is being argued here. The opponent argues that

“10. This is because it could lead the Opponent’s consumers to have a negative or detrimental association with the Opponent’s Earlier Marks, when the Opponent has tried very hard, for example, amongst other qualities to provide a trendy and cool brand to its consumers (which gives a certain level of expectation to the quality of the goods and services provided by the Opponent).”

8. The applicant filed a defence and counterstatement denying the claims made under both grounds. In particular, it put the opponent to proof of the similarity of the marks and the identity and similarity of the goods and services.

## **EVIDENCE AND SUBMISSIONS**

9. The opponent's evidence comes from Carlos Gomez Bassy, O2 Brand lead at one of the Telefónica group of companies, which includes the opponent, O2 Worldwide. The opponent is the IP-holding entity that licenses the O2 brand to a group of companies including Telefónica S.A., the ultimate parent of the Telefónica group, and Telefónica UK Limited. Mr Gomez Bassy's witness statement is dated 29 January 2024 and is accompanied by 17 exhibits. His evidence goes to the reputation of the earlier marks and the claim to their enhanced distinctiveness.

10. The applicant's evidence comes from Ondrej Pribyl, the Technical Director of Springboard Applications, a position he has held since 2016. His witness statement is dated 14 June 2024 and is accompanied by 18 exhibits. It goes to the use of the contested mark and the alleged divergence between the two parties' brands. Mr Pribyl has also adduced examples of UK and EU registered trade marks which he claims have *"notable overlap with the opponent's trade marks"*.

11. The applicant also filed short written submissions on 3 September 2024.

## **HEARING AND REPRESENTATION**

12. The opponent requested a hearing, which took place by videolink on 14 July 2025. The opponent was represented by Julius Stobbs of Stobbs, while the applicant was represented by Mr Pribyl.

## **RELEVANCE OF EU LAW**

13. 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)

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

“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.”

15. 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 Pairs 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. The average consumer is deemed to be reasonably well informed and reasonably circumspect and observant, but someone who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them they have kept in their 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 greater degree of similarity between the marks and vice versa;

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

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

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

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

### ***Comparison of goods and services***

16. It is settled case law that I must make my comparison of the goods and services on the basis of all relevant factors. These include their nature, their purpose, their users and method of use, the trade channels through which they reach the market, and whether they are in competition with each other or are complementary: see *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-251/95, paragraph 23, and *British Sugar Plc v James Robertson & Sons Limited (TREAT Trade Mark)* [1996] RPC 281 at [296]. As the General Court (“GC”) said in *Boston Scientific Ltd v Office for*

*Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, goods and services are complementary when

“82. ... there is a 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.”

17. In his skeleton argument, Mr Stobbs gave me a table in which he set out the goods and services at issue, with those goods and services he considered to be identical marked in bold.<sup>2</sup> I have taken this into account in the comparison that follows. Before doing so, I want to deal with the submission made by Mr Pribyl for the applicant that the parties operate in different fields. A section 5(2)(b) claim is assessed on what is called a notional basis. This means that I must look at the terms that are in the contested specification and compare them with the terms in the earlier specifications. As the earlier marks are not subject to proof of use, I need to make my comparison on the basis of how the earlier marks could fairly be used. Whether the parties have operated in the same or different fields in the past is not relevant for this ground.

18. The Class 9 goods can be dealt with as a group, an approach permitted by the Appointed Person in *SEPARODE Trade Mark*, BL O-399-10, paragraph 5. The applicant's goods are *Supply chain management software; Logistics software; Inventory software; Business management software*. These are clearly all types of software. I consider that they are included in the broader term *Computer software* that is found in the specifications of all the earlier marks. As I have said in the previous paragraph, I must proceed on the basis that the earlier marks could be used for all types of computer software. Where goods (or services) covered by one party's mark are included in a broader term from the other party's specification, those goods (or services) are considered to be identical: see *Gérard Meric v OHIM*, Case T-133/05, paragraph 29. Consequently, I find that the contested goods are identical to the opponent's *Computer software*.

19. Turning now to Class 42, I find that the following services are identical per *Meric* to the opponent's *Design and development of computer hardware and software* which,

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<sup>2</sup> See paragraph 12.

like all the services I am going to use for the Class 42 comparisons, is included in the specifications of the 066 and 463 marks:

*Design and development of computer software for supply chain management; Development of computer software for logistics, supply chain management and e-business portals; Design and development of computer software for logistics, supply chain management and e-business portals; Design and development of computer software for logistics; Design and development of software for inventory management.*

20. The applicant's *Rental of software for inventory management* is included in the opponent's *Rental of computer software* and so the terms are identical per *Meric*.

21. The applicant's *Programming of software for inventory management* is included in the opponent's *Computer programming* and so the terms are identical per *Meric*.

22. The applicant's *Software as a service [SaaS] featuring computer software platforms for artificial intelligence* is included in the opponent's *Software as a service [SaaS] services* and so the terms are identical per *Meric*.

23. The remaining services are *Providing online non-downloadable software for use in supply chain management*. The software that is the subject of the opponent's *Software as a service [SaaS] services* could be for use in supply chain management and so I find that these services are identical per *Meric*.

### ***Average consumer and the purchasing process***

24. The average consumer is deemed to be reasonably well informed and reasonably circumspect: see *Hearst Holdings Inc & Anor v A.V.E.L.A. Inc & Ors*, [2014] EWHC 439 (Ch), paragraph 60. 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: see *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel BV*, Case C-342/97, paragraph 26.

25. In *Iconix Luxembourg Holdings*, 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:

“16. First, the average consumer is both a legal construct and a normative benchmark. They are a legal construct in that consumers who are ill-informed or careless and consumers with specialised knowledge or who are excessively careful are excluded from consideration. They are a normative benchmark in that they provide a standard which enables the courts to strike a balance between the various competing interests involved, including the interests of trade mark owners, their competitors and customers.

17. Secondly, the average consumer is neither a single hypothetical person nor some form of mathematical average, nor does assessment from the perspective of the average consumer involve a statistical test. They represent consumers who have a spectrum of attributes such as gender, age, ethnicity and social group. ... It follows that assessment from the perspective of the average consumer does not involve the imposition of a single meaning rule akin to that applied in defamation law (but not malicious falsehood). ... 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, then a finding of infringement may properly be made.

18. Thirdly, assessing from the perspective of the average consumer is designed 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. ...

19. Fourthly, the average consumer’s level of attention varies according to the category of goods or services in question.

20. Fifthly, 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.”

26. The contested goods and services mostly relate to software for logistics, supply chain and inventory management, and business management more generally. The

exception is *Software as a service [SaaS] featuring computer software platforms for artificial intelligence*. These services are all likely to be purchased by a business, with the *Software as a service [SaaS] featuring computer software platforms for artificial intelligence* also being purchased by organisations such as universities or research institutes. This is because I understand them to be software platforms that would allow users to develop, train and use artificial intelligence applications. Mr Stobbs submitted that the goods and services of both parties would be purchased by small businesses, as well as large ones.

27. The goods and services are not everyday purchases and they are, in my view, important, if not essential, for the efficient running of businesses supplying goods to wholesalers, retailers or even the end consumer, or for developing artificial intelligence tools. For these reasons, I consider that the average consumer will pay a fairly high degree of attention when choosing which goods or services to buy. Mr Stobbs submitted that small businesses would pay no more than a medium degree of attention.<sup>3</sup> I do not consider that there is any logical reason why the size of a business would determine the level of attention paid. It seems to me more probable that a fairly high degree of attention will be paid, if the task for which the software is used has a direct effect on the ability of the business to meet the needs of its customers.

28. The average consumer is likely to make their purchase after having viewed promotional material on the internet or in print, having browsed websites and app stores, seen reviews in the trade press or more general publications. It is therefore my view that the visual aspect of the marks will be the most important. However, the average consumer may also receive word-of-mouth recommendations, and so they may also hear the marks spoken.

### ***Comparison of marks***

29. It is clear from paragraph 23 of the judgment of the Court of Justice of the European Union (“CJEU”) in *SABEL BV v Puma AG*, Case C-251/95, that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the

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<sup>3</sup> Ibid.

marks, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo SA v OHIM* that:

“34. ... it is necessary to ascertain in each individual case, the overall impression made on the target public by the sign for which the 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.”

30. Artificial dissection of the marks would therefore be wrong, although it is necessary for me to take into account their distinctive and dominant components and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

31. The respective marks are shown below:

Contested mark	Earlier marks
	The 223 and 066 marks:   The 463 mark: 

#### *Overall impressions of the marks*

32. The 223 and 066 marks consist of a large upper-case letter O, followed by a subscript number 2, in a standard typeface. Both characters are indigo in colour. In my view, the mark is likely to be perceived as the chemical symbol for an oxygen molecule, and thus both characters form a unit. This unit makes the biggest contribution to the overall impression of the mark, with a smaller role played by the colour.

33. The 463 mark consists of two characters, an upper-case letter O and the number 2. This is a plain word mark. In *LA Superquimica v European Union Intellectual Property Office (EUIPO)*, Case T-24/17, the GC held that such marks protected the word or words contained in the mark which may be used in any form, colour or typeface: see paragraph 39 of that judgment. The overall impression of the mark rests in the combination of the two characters.

34. The contested mark is a composite mark, consisting of a verbal element and a device. The verbal element has three black lower-case letters – g, e and o – followed by the subscript number 2. To the left of the word is a shape outlined in green. It has a rounded top and tapers to a point at the bottom. In his skeleton, Mr Stobbs submitted that the average consumer would perceive the contested mark as “geO2”, i.e. as consisting of two separate elements. He argued that “... *the relevant public will remember the ‘O2’ element over the ‘ge’ element, and would likely disregard the additional word element*”.<sup>4</sup> At the hearing, he put forward an alternative interpretation, namely, that the average consumer would perceive the mark to be a combination of the prefix “geo” and “O2”.<sup>5</sup> In his view, “O2” was the distinctive element of the mark or, failing that, it played an independent distinctive role in the mark.

35. Mr Pribyl, for the applicant, submitted that the device would be seen as a “*green location pin icon*”. I agree that some consumers would see it in this way, particularly in the context of the goods and services in respect of which registration is sought. However, I consider that some consumers would perceive the device to be an abstract shape. He further submitted that “geo” is a common prefix, related to words such as geography, geolocation and geospatial, which are themselves linked to the purpose of the goods and services of the mark, “*the location being a key concept in supply chains and in logistics*”. Finally, he argued that the subscript 2 was meant to convey the message of evolution and improvements (as in “Mark 2”), but that the use of subscript played down its role in the impression of the mark.<sup>6</sup>

36. Mr Stobbs responded by submitting that Mr Pribyl had confirmed that “geo” and the device are non-distinctive for the applicant’s goods and services and that the only

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<sup>4</sup> Paragraph 17.

<sup>5</sup> Transcript, page 7.

<sup>6</sup> Ibid, page 21.

distinctive element of the mark is “O<sub>2</sub>”.<sup>7</sup> I disagree. The prefix “geo” does not describe the goods and services and I have found that some consumers would see the device as an abstract shape.

37. It is settled case law that the verbal elements of marks tend to be more distinctive than figurative elements, as the GC said in *Migros-Genossenschafts-Bund v EUIPO (CReMESPRESSO)*, Case T-68/17:

“52. In that regard, it should first of all be noted that, according to well-established case-law, in the case of a mark consisting of both word and figurative elements, the word elements must generally be regarded as more distinctive than the figurative elements, or even as dominant, since the relevant public will keep in mind the word elements to identify the mark concerned, the figurative elements being perceived more as decorative elements (see, to that effect, judgment of 6 December 2013, *Premiere Polish v OHIM – Donau Kanol (ECOFORCE)*, T-361/12, not published, EU:T:2013:630, paragraph 32 and the case-law cited).”

I consider this to be the case here. For some consumers, the device is simple and allusive of the purpose of the software and software-related services, although the degree of allusiveness is less for some of the goods and services covered by *Business management software* in Class 9 and *Software as a service [SaaS] featuring computer software platforms for artificial intelligence* in Class 42. For those consumers who do not find the device allusive, it is still simple.

38. I have already said that the average consumer views a mark as a whole and does not artificially dissect it. However, the courts have said that the average consumer will break down verbal signs into verbal elements which “*suggest a concrete meaning or which resemble words known to him*”: see *Usinor SA v OHIM*, Case T-189/05, paragraph 62. I also bear in mind that there is no “single meaning rule”, as explained by Arnold LJ in paragraph 17 of the extract from *Lidl v Tesco*, quoted in paragraph 25 above.

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<sup>7</sup> Ibid, pages 30-31.

39. I consider that the average consumer will identify the common prefix “geo” followed by the number 2. They will notice that this number is in subscript. In my view, the “geo” element makes the greatest contribution to the overall impression of the contested mark, with the device and the subscript 2 playing smaller, but not negligible, roles.

#### *Comparison with the 223 and 066 marks*

40. The two characters that make up the 223 and 066 marks are found at the end of the contested mark. In both parties’ marks, the numeral appears in subscript. The differences between the marks lie in the additional letters and device in the contested mark and the colours used in the respective marks. The average consumer tends to pay more attention to the beginning of words than to the end: see *El Corte Inglés, SA v OHIM*, Joined cases T-183/02 and T-184/02, paragraphs 81-83. Taking all these factors into account, I find that the marks are visually similar to a low to medium degree.

41. The 223 and 066 marks would be spoken as “OH-TOO”. Given my findings on the overall impression of the contested mark, I consider that it would be spoken as “GEE-OH-TOO”. It has one more syllable than the 223 and 066 marks and the second and third syllables are identical to the earlier marks. I find that the marks are aurally similar to a medium degree.

42. The 223 and 066 marks will be perceived as the chemical symbol for an oxygen molecule. In my view, the contested mark would bring to mind the concept of earth, land or place, all of which allude to the purpose of most of the goods and services for which registration is sought. I also take the view that a group of consumers will perceive that the contested mark contains a reference to oxygen, while another group will not. This second group will see the number 2, which could bring to mind the second in a series. For the first group, the marks are conceptually similar to a medium degree. For the second group, the marks are conceptually dissimilar.

#### *Comparison with the 463 mark*

43. The opponent’s 463 mark consists of two characters, the letter O and number 2. This mark is, as I have already noted, a word mark. In *Herno SPA v Miss Sparrow Limited (mr heron)*, BL O/954/22, Mr Iain Purvis KC, sitting as the Appointed Person, reviewed the law concerning the visual comparison of word marks and said at

paragraph 23 of his decision that “*it is not legitimate to perform a comparison between a word mark and a stylised word mark by considering specific ways in which the word might be presented*”. For this reason, I shall not conduct my comparison on the basis that the number 2 in the word mark appears in subscript. I find that the marks are visually similar to a low degree.

44. I find that the levels of aural and conceptual similarity are the same as those set out in paragraphs 41 and 42 above.

### ***Distinctive character of the earlier marks***

45. Distinctive character is a measure of how strongly a mark distinguishes the goods or services of one undertaking from those of others. The factors that I must take into account in assessing the level of distinctive character were set out by the CJEU in *Lloyd Schuhfabrik Meyer*:

“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).”

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

47. The earlier marks do not allude to the goods and services I found to be identical to the applicant’s goods and services. Mr Stobbs submitted that this meant that they have a high degree of inherent distinctive character. However, I do not consider that the

combination of a letter and a number is strikingly distinctive, as an invented word would be, but neither is it particularly weak. The colour and use of subscript in the 223 and 066 marks do not, to my mind, noticeably increase the inherent distinctive character of those marks. I find that the earlier marks have a medium degree of inherent distinctive character.

48. I shall now move on to assess whether this inherent distinctive character has been enhanced through use. The goods and services that are relevant here are *Computer software; Design and development of computer hardware and software; Rental of computer software; Computer programming; Software as a service [SaaS] services*. Mr Stobbs submitted that the reputation of the earlier marks was primarily in telecommunications goods and services, but that this business inherently involved the provision of software to consumers. He did, however, admit that the distinctive character of the earlier marks had not been enhanced for *Design and development of computer hardware and software*.<sup>8</sup>

49. In his witness statement, Mr Gomez Bassy states that the O2 brand was first used in the UK in 2002 and the O2 group of companies is made up of fixed and mobile telecommunications businesses in the UK and a number of EU Member States. I shall say more about the telecommunications services when I come to deal with the claim to reputation. For the present purposes, I focus on those goods and services I found to be identical to the contested goods and services.

50. Mr Stobbs drew my attention to paragraph 89 of this witness statement. Mr Gomez Bassy states that, "*The O2 brand has also acquired reputation in relation to a wide range of goods and services which continues to expand outside of its core telecommunications goods and services. My company is spending significant time, effort and money to continuously broaden its offering to the public.*" He then provides a table and I summarise what the evidence says about the relevant goods and services below:

a) O2 Wallet. Mr Gomez Bassy says, "*My company has created a mobile wallet, an NFC-powered mobile payment application allowing users from any UK mobile network to use their smartphone to access money loaded on to a prepaid visa*

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<sup>8</sup> Transcript, page 9.

card”.<sup>9</sup> However, on the previous page, it is stated that the finance goods and services were offered only between 2011 and 2014;

b) Music services. Mr Gomez Bassy says, *“In 2003, my Company launched Europe’s first mobile download service enabling customers to select, download and store the latest chart hit and popular music via their mobile handset onto a specially designed ‘O2 Digital Music Player’ (O<sub>2</sub> DMP) and my Company has continued to offer music services through various propositions such as O2 Tracks”*.<sup>10</sup> Later on, he says that the O2 Tracks service was closed in June 2016;

c) Venues. In 2008, the opponent signed a deal with the music promoter Live Nation to launch O2 Academy Venues across the UK.<sup>11</sup> Mr Gomez Bassy states that an app was created that gives users the latest information on gigs at these venues, along with clips and updates from performers. There is no further information on this app;

d) Priority apps. There appear to be two apps, one focusing on tickets, giving access to music, comedy and sports tickets 48 hours before they go on general release, and the other containing offers and deals from third parties. Exhibit CGB7 contains YouTube screenshots from advertisements promoting these apps. These date from 26 June 2015, 8 June 2016, 8 May 2018 and 4 July 2019. The O2 logo is shown on each of them. Viewing figures are given, but I presume that these reflect the number of views at the date the screenshots were captured;

e) Sports apps. Mr Gomez Bassy states that *“My Company has created apps and content to support fan engagement with the teams sponsored by my Company and other sports. Examples include O2 Matchday, an app providing information about England rugby games, O2 Touch a sports and fitness app ...”*.<sup>12</sup> The opponent sponsored Arsenal Football Club between 2002 and 2012, the England

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<sup>9</sup> Page 48.

<sup>10</sup> Page 49.

<sup>11</sup> In paragraph 81, it is stated that at the date of signature of the witness statement there were 20 O2 Academy venues in the UK. In the table in paragraph 89, there is a reference to 25 O2 Academy venues in 12 cities.

<sup>12</sup> Page 50.

Rugby Union teams since 1995 and the Movistar Tour de France cycling team from 2013;<sup>13</sup>

f) O2 Learn app. This offered access to a library of videos aimed at teachers and secondary school students. Mr Gomez Bassy says that it is no longer offered, but does not say when the app was last available.

g) TU GO: This was a mobile app that allowed customers to text, call and check voicemail over Wi-Fi. It closed in 2017;

h) O2 World Chat: Mr Gomez Bassy states that this app is “*an affordable alternative to international calls and is available all over the world*”. He does not say when it was available;<sup>14</sup>

i) O2 Travel: The opponent has gone into partnership with TripAdvisor to create an app giving users access to TripAdvisor City Guides and downloadable maps. There is no information on when this app was available.

j) O2 Just Call Me: The only information given here is that conference call services are accessible via an app.

k) My O2: This app allows customers to manage their mobile accounts. Mr Gomez Bassy does not say when it was available.

l) O2 Trains: This app allowed customers to check train times and book tickets. It is no longer available;

m) O2 Home: Mr Gomez Bassy says that the opponent “*offered a smart home service which allowed customers to monitor and control their home remotely, including locks, security cameras, smart plugs and smart thermostats*”. The app is no longer available.

n) O2 Internet of Things solutions: Mr Gomez Bassy lists a number of products such as smart metering, smart vehicle and connectivity solutions. He does not

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<sup>13</sup> Paragraphs 82-85.

<sup>14</sup> Page 51.

explicitly state that they include software, but it is likely that they do (or did), and does not give any dates for when the products were available.

51. While a large number of software applications has been listed, it is clear that some of these ceased being available a long time before the relevant date of 24 January 2023. For the others, there is no information on when they became available or how many times they have been downloaded. Apart from the Priority and Priority Tickets apps, there is also no information on how they have been promoted. The opponent has provided figures on advertising expenditure for the years 2016 to 2020.<sup>15</sup> They are large figures (£65.9 million in 2020), but they are global figures and so do not distinguish between individual goods and services. No figures are given for 2021 or 2022.

52. In his submissions at the hearing, Mr Stobbs submitted that the significant reputation of the earlier marks for telecommunications services and related goods “translate into secondary meaning and enhanced distinctive character from an acquired distinctive character point of view. We cite O2 Worldwide Limited v CX02.com (UK) Limited O/393/19 on that point, so reputation equals enhanced distinctive character.”<sup>16</sup> This case does not, however, deal with the proposition that a reputation for a particular good or service translates into enhanced distinctive character for a different good or service. In my view, the evidence does not show that the distinctive character of the earlier marks have been enhanced in relation to the goods and services listed in paragraph 48 above. I therefore find that the earlier marks have a medium degree of distinctive character for these goods and services.

### **Conclusions on likelihood of confusion**

53. Making an assessment of the likelihood of confusion is a matter of considering the relevant factors from the viewpoint of the average consumer of the goods and services at issue and determining whether they are likely to be confused. When doing this, I am required to bear in mind that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely on the imperfect picture of them that they have in their mind. This means that the global assessment emulates

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<sup>15</sup> Paragraph 46.

<sup>16</sup> Transcript, page 9.

what happens in the mind of the average consumer on encountering one mark with an imperfect recollection of the other. The courts have not said what weight should be attached to each of the factors or provided a formula that can be applied to any set of circumstances. Because this is a global assessment, there is some interdependence between the factors and so 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 or vice versa.

54. Two of the exhibits adduced by the applicant consist of queries asked of, and answers given by, the generative AI tools Google Gemini and Microsoft Copilot.<sup>17</sup> The question asked was: *“Is there a connection between geo2.com and O2?”* However, as already noted, I must view the question as to whether there is a likelihood of confusion between the marks from the perspective of the average consumer. The question is not whether there is a connection between the marks, but what the average consumer will think when coming across either of the marks. It is my task to decide on that point, applying the principles set out in the case law referred to in paragraph 15 and the case law I have already cited.

55. I am also not assisted by the applicant’s evidence of other marks containing the characters “O2”. There is no evidence that these marks are used on the market or the goods and services for which they are registered. In *Zero Industry Srl v OHIM*, Case T-400/06, the GC stated that:

“73. As regards the results of the research submitted by the applicant, according to which 93 Community trade marks are made up of or include the word ‘zero’, it should be pointed out that the Opposition Division found, in that regard, that ‘... there are no indications as to how many of such trade marks are effectively used in the market’. The applicant did not dispute that finding before the Board of Appeal but none the less reverted to the issue of that evidence in its application lodged at the Court. It must be found that the mere fact that a number of trade marks relating to the goods at issue contain the word ‘zero’ is not enough to establish that the distinctive character of that element has been weakened because of its frequent use

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<sup>17</sup> Exhibits OP14 and OP15.

in the field concerned (see, by analogy, Case T-135/04 *GfK v OHIM – BUS (Online Bus)* [2005] ECR II-4865, paragraph 68, and Case T-29/04 *Castellblanch v OHIM – Champagne Roederer (CRISTAL CASTELLBLANCH)* [2005] ECR II-5309, paragraph 71).”

56. There are two types of confusion: direct and indirect. In *L.A. Sugar Limited v Back Beat Inc*, BL O/375/10, Mr Iain Purvis QC, 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)."

57. In *Liverpool Gin Distillery Limited & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 2107, Arnold LJ said that:

"12. This is a helpful explanation of the concept of indirect confusion, which has frequently been cited subsequently, but as Mr Purvis made clear it was not intended to be an exhaustive definition.

13. As James Mellor QC sitting as the Appointed Person pointed out in *Cheeky Italian Ltd v Sutaria* (O/291/16) at [16] 'a finding of likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion'. Mr Mellor went on to say that, if there is no likelihood of direct confusion, 'one needs a reasonably special set of circumstances for a finding of a likelihood of indirect confusion'. I would prefer to say that there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion."

58. Mr Stobbs referred me to a number of decisions of this tribunal where a likelihood of confusion had been found. He acknowledged that they were not binding on me but suggested that, in the interests of legal certainty, the approach adopted in those decisions should be followed. These decisions are listed in the table below:

Mark 1	Mark 2	Decision Reference
O <sub>2</sub>		BL O/167/09
O <sub>2</sub>	VO <sub>2</sub> VO2	BL O/215/14
O <sub>2</sub>	Pure O <sub>2</sub>	BL O/278/14

Mark 1	Mark 2	Decision Reference
O <sub>2</sub>	Sea-O <sub>2</sub>	BL O/0597/23
007	DR. 007	BL O/461/18

59. It will be observed that some of these decisions are rather old, and in particular the first was issued before the Appointed Person gave his helpful guidance on direct and indirect confusion in *L.A. Sugar*. I note that in the first of these decisions the earlier marks used for the comparison were “O<sub>2</sub> XDA” and “O<sub>2</sub> active” and that the reasoning given under the global assessment is fairly short, merely referring to the interdependency principle and the perception of the average consumer that both parties’ marks are “O<sub>2</sub> marks”. This suggests that the hearing officer considered that “O<sub>2</sub>” played an independent distinctive role in the parties’ marks. I will return to this point later.

60. Turning now to the second of the decisions, I take the view that this is not on all fours with the instant case. This is because Mark 2 here consists of two letters and the numeral 2. I cannot see that this has any meaning, while I found that the average consumer would see the word prefix “geo” in the contested mark.

61. In BL O/278/14, the hearing officer found that the word “Pure” was laudatory. I also note that there is a clear separation between the two elements of Mark 2. The same clear separation of the elements can also be seen in Mark 2 in each of BL O/0597/23 and BL O/461/18. For these reasons, I find that these cases are also not on all fours with the instant case.

62. Earlier in this decision, I found that:

- a) The parties’ goods and services are identical;
- b) The average consumer is a business, of whatever size, who would pay a fairly high degree of attention during a largely visual purchasing process;
- c) The contested mark is visually similar to the 223 and 066 marks to a low to medium degree and aurally similar to a medium degree. For some consumers, the marks would have a medium degree of conceptual similarity, while the marks would be conceptually dissimilar for the other group of consumers;

d) The 463 mark and the contested mark are visually similar to a low degree, aurally similar to a medium degree, and conceptually similar to a medium degree or conceptually dissimilar; and

e) The earlier marks have a medium degree of inherent distinctive character for the goods and services at issue here and this has not been enhanced through use.

63. I consider that, notwithstanding the identity of the goods and services, the differences between the marks are such that they are not likely to be mistaken for each other. I will therefore go on to deal with the likelihood of indirect confusion.

64. At the hearing, Mr Stobbs submitted that the contested mark “*feels like a natural play on the earlier mark, a play or extension in the BRAT FACE/FAT FACE type scenario*”.<sup>18</sup> This argument is based on the average consumer perceiving “O<sub>2</sub>” to be the, or an, independent distinctive element of the contested mark. He also considered that the approach applied by the CJEU in *Medion AG v Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, applied. In *Whyte & Mackay Ltd v Origin Wine UK Ltd & Anor* [2015] EWHC 1271 (Ch), Arnold J (as he then was) considered the impact of the CJEU’s judgment in *Bimbo* on its earlier judgment in *Medion*. He said:

“18. The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

19. The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks – visually, aurally and conceptually – as a whole. In *Medion v Thomson* and subsequent case law, the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a

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<sup>18</sup> Transcript, page 12.

distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.

20. The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meaning of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).

21. The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”

65. This means that, even where a composite mark contains an independent distinctive element, it does not necessarily follow that there will be a likelihood of confusion. Mr Stobbs set out a scenario in which a small business owner was using the opponent’s telecommunications services and in which there is notional and fair use of the earlier marks for the goods and services I found to be identical. He submitted that this consumer would assume a connection between the marks as “*The O2 element has no business being there, has no relevance to the goods. Entirely distinctive.*”<sup>19</sup> The opponent is not, however, relying upon telecommunications services under this ground. I have assessed the extent to which the evidence shows that the distinctive character of the mark has been enhanced for the goods and services that are relied upon, and which I found to be identical, and found that the evidence fell short on this point. I do not consider that it is appropriate to bring in the opponent’s telecommunications services unless those services themselves are relied upon. This

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<sup>19</sup> Ibid, page 13.

hypothetical scenario does not assist the opponent under section 5(2)(b). I will come back to the telecommunications services when I consider the section 5(3) ground.

66. The *BRAT FACE/FAT FACE* example given by Mr Purvis and cited by Mr Stobbs involved a situation in which the earlier mark consists of several elements and one of these is changed in a way that was entirely logical and consistent with a brand extension. The earlier marks consist of a single element, and I see no evidence that the opponent has combined this mark with another word or prefix in a portmanteau sign. The 223 and 066 marks may, at the most, be brought to mind, but that is “*mere association*”, not confusion: see *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, paragraph 81.3. Even if “O<sub>2</sub>” is brought to mind, I do not consider that it plays an independent distinctive role in the contested mark. This is because the “O” forms part of the word “geo”, which I have already found would be identified by the average consumer.

67. The section 5(2)(b) ground fails.

### **Section 5(3)**

68. Section 5(3) of the Act is as follows:

“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 the repute of the earlier trade mark.”

69. The relevant case law can be found in the following judgments of the CJEU: *General Motors Corp v Yplon SA* (Case C-375/97), *Intel Corporation Inc v CPM United Kingdom Ltd* (Case C-252/07), *Adidas Salomon AG v Fitnessworld Trading Ltd* (Case C-408/01), *L’Oréal SA & Ors v Bellure & Ors* (Case C-487/07), *Interflora Inc & Anor v*

*Marks and Spencer plc & Anor* (Case C-323/09) and *Environmental Manufacturing LLP v OHIM* (Case C-383/12 P). The law appears to be as follows:

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

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

c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Salomon*, 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 and/or services, the extent of the overlap between the relevant consumers for those goods and/or 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 that there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph 68. Whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

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

g) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods and/or 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 and/or services for which the earlier mark is registered, or a serious risk that this will

happen in the future; *Intel*, paragraphs 76 and 77, and *Environmental Manufacturing*, paragraph 34.

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

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

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

### ***Reputation***

70. At the hearing, Mr Pribyl admitted that the earlier marks had a reputation for telecommunications services and entertainment.<sup>20</sup> While I am, of course, aware that the opponent is claiming reputation across a larger number of goods and services, I shall focus, at least in the first instance, on the telecommunications services. They are the ones covered most extensively in Mr Gomez Bassy's evidence and are likely to be closer to the contested goods and services than entertainment services. Mr Stobbs

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<sup>20</sup> Transcript, page 26.

also said at the hearing that “our reputation is predominantly in the telecoms goods and services space”.<sup>21</sup>

71. Mr Gomez Bassy’s evidence shows that the opponent is a very large operator in mobile telecommunications in the UK. At the end of paragraph 25, for example, he states that “I confirm that there was a customer base of 34.5 million by the end of 2019, and 36.2 million by the end of 2020.” No figures are given for 2021 or 2022. There is a potential discrepancy with the table shown in paragraph 23 which indicates that the opponent had 27.022 million active customers by the end of 2020. There is no explanation as to why these figures are different, but even the smaller ones are very significant. I have reproduced the full table below and it shows that active customer numbers have been very large for a long period of time:

<b>Date</b>	<b>Active customer numbers (millions)</b>
31 March 2002	11.084
31 March 2003	12.050
31 March 2004	13.3
31 March 2005	14.4
December 2005	15.9
December 2006	17.65
December 2007	18.452
December 2008	19.81
December 2009	21.89
December 2010	22.883
December 2011	23.030
December 2012	23.842
December 2013	23.903
December 2014	24.726
December 2015	25.019
December 2016	25.463
December 2017	25.004
December 2018	25.044
December 2019	25.821
December 2020	27.022

72. The table below shows service revenue.<sup>22</sup> Mr Gomez Bassy explains that these are not turnover figures, because the opponent’s parent company presents its financial information differently.<sup>23</sup>

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<sup>21</sup> Ibid, page 9.

<sup>22</sup> Paragraph 31.

<sup>23</sup> Paragraph 30.

Date	Service Revenue
31 December 2006	£6,265 million
31 December 2007	€6,790 million
31 December 2008	€7,052 million
31 December 2009	€6,512 million
31 December 2010	€7,201 million
31 December 2011	€6,926 million
31 December 2012	€7,042 million
31 December 2013	€6,692 million
31 December 2014	€7,062 million
31 December 2015	€7,837 million
31 December 2016	€6,861 million
31 December 2017	€6,540 million
31 December 2018	€6,790 million
31 December 2019	€6,866 million
31 December 2020	€6,570 million
31 December 2021	€5,799 million

73. Advertising expenditure was £60.175m in 2016, £64.907m in 2017, £65.076m in 2018, £55.597m in 2019 and £65.913m in 2020. Again, these are significant sums. The list of advertisements in paragraph 39 of the witness statement and the examples shown in Exhibit CGB7 show that the telecommunications services were the subject of the majority of these advertisements. In addition, the opponent has used the 463 mark in sponsoring the England Rugby Union team ever since the O2 brand was launched.<sup>24</sup> At this point, I note that the evidence shows little use of the 223 and 066 marks as registered, apart from their appearance on the shirts of England rugby players. However, I can accept that this sponsorship is longstanding and will have been seen by a significant proportion of the relevant public, which is the general public.

74. The opponent has been featured in lists of strongest brands, such as “Business Superbrands”, “Superbrands” and “Cool Brand Leaders” since around 2004 to what Mr Gomez Bassy describes as “*the relevant date*” of 7 October 2020.<sup>25</sup> He also provides a list of awards won, which does go up to 2022.<sup>26</sup>

75. I am satisfied that at the relevant date of 24 January 2023 the earlier marks had a very strong reputation for mobile telecommunications services. Mr Gomez Bassy

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<sup>24</sup> Paragraph 82.

<sup>25</sup> Paragraph 51.

<sup>26</sup> Paragraph 61.

states that this reputation is “*particularly notable in the 16-24 category*”.<sup>27</sup> The pleaded case is that the nature of this reputation is of “*a young, trendy, healthy, cool and high tech brand*”. At the hearing, Mr Stobbs also referred to the opponent’s “*reputation as a B-2-B brand*”, but this was not pleaded. I can see from the Mr Gomez Bassy’s witness statement that in 2020 the opponent won “Best Business Network” at the Mobile Industry Awards and in 2019 it had won “Best Network for UK Business” at the same awards and “Best Business Network” at the Mobile News Awards.<sup>28</sup> There is, however, no documentary evidence to show the reasons for the awards or indicate how influential they may have been.

76. Turning to the pleaded case, I note that Mr Gomez Bassy states that the opponent’s primary target market is the 16-34 age group. Brief information is given on various new brand strategies in 2008 and 2018. The difficulty I have with much of the opponent’s evidence is that it is quite old. While such evidence can be relevant, this needs to be as part of a wider picture. A mark’s reputation may change over time, both in nature and in size. Mr Gomez Bassy refers to awareness studies produced between 2002 and 2019 and gives very brief details of the percentage of respondents being aware of the opponent. He adduces a copy of the 2002 report in Exhibit CGB9 and says that “*copies of the other reports can also be provided if requested*”.<sup>29</sup> The onus is on the party giving the evidence to present what it wants the hearing officer to take into account. It is not satisfactory to require me to request copies of documents that might be relevant. While I have headline figures in the witness statement, and I note that these have not been challenged, the evidence adduced does not help me determine the nature of the reputation. The same applies with regards to the extracts from the Business Superbrands, Superbrands and Cool Brand Leaders publications referred to in paragraphs 52 to 56 of Mr Gomez Bassy’s witness statement. He says that “*A Superbrand has established the finest reputation in its field. It offers customers significant emotional and/or tangible advantages over its competitors, which customers want and recognise*”.<sup>30</sup> However, there is no recent evidence to show me the nature of this reputation. Exhibit CGB10 contains entries from the Superbrands publications, but the latest dates from 2013, nearly 10 years before the relevant date. The exhibits do

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<sup>27</sup> Paragraph 89, page 52.

<sup>28</sup> Paragraph 61.

<sup>29</sup> Paragraph 50.

<sup>30</sup> Paragraph 52.

not contain any extracts from Cool Brand Leaders, but Mr Gomez Bassy quotes the following in paragraph 56 of his witness statement:

“At launch in May 2002, it began its high-profile brand building campaign, using the visually striking oxygen bubbles in blue water image that has become its trade mark symbol. By the end of the launch phase, which involved advertising across TV, print and poster media supported by direct marketing, O<sub>2</sub> had become a well-known brand, achieving levels of recognition on a par with its rivals.”

77. Paragraph 61 contains a list of awards from 2004 to 2022. On the face of it, none of these suggests to me that the reputation of the earlier marks is that pleaded by the opponent.

78. I accept that mobile telecommunications services by their nature might be described as high-tech, but I am not satisfied that the evidence shows that, at the relevant date, the reputation was any more specific than this. I also consider that it does now show that the earlier marks had the reputation of “*a young, trendy, healthy, cool ... brand*”.

### ***Link***

79. In assessing whether the public will make the required mental link between the marks, I must take account of all relevant factors, which were identified by the CJEU at paragraph 42 of its judgment in *Intel*. I shall consider each of them in turn.

### ***The degree of similarity between the conflicting marks***

80. I adopt the findings I have made under section 5(2)(b). I find that the contested mark is visually similar to the 223 and 066 marks to a low to medium degree and aurally similar to a medium degree. The marks are either conceptually dissimilar or conceptually similar to a medium degree, depending on whether the consumer sees the contested mark as containing an “O2” element. With regard to the 463 mark, I find that the visual similarity between the marks is low, but the aural and conceptual similarity are the same as in the comparison with the other earlier marks.

*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*

81. The opponent's telecommunications services are used by both members of the general public and businesses or other organisations. The contested goods and services are used by businesses, both large and small. With the exception of the design and development services, the contested goods and services are ones that would be accessed by telecommunications services through some of the same devices, such as smartphones and computers. There is likely to be a degree of complementarity between telecommunications and software and related services generally. For example, telecommunications providers are likely to produce apps for their customers to enable them to manage their accounts. However, the contested goods and services all relate to specialist types of software. I have no evidence to suggest that telecommunications companies are likely to provide the kind of software and services in respect of which registration is sought. I find that the parties' goods and services are dissimilar, but if I am wrong in this any similarity is likely to be low. However, similarity of goods and services is not a requirement of section 5(3).

*The strength of the earlier mark's reputation*

82. I have found that the earlier mark has a very strong reputation and have commented on the nature of that reputation in paragraphs 75 to 78 above.

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

83. The earlier mark has a medium degree of inherent distinctive character for telecommunications services. On the basis of my findings on reputation, I consider that the earlier mark has a very high degree of factual distinctive character for these services.

*Whether there is a likelihood of confusion*

84. I found no likelihood of confusion under section 5(2)(b) despite the goods and services being identical. However, section 5(3) provides additional protection for those

marks with a reputation. It acknowledges that some marks are so highly distinctive and well-known that there is likely to be some confusion almost irrespective of the goods or services in relation to which they are used. The reputation and distinctive character of the earlier mark are factors that might point towards a likelihood of confusion. However, I do not consider that the marks are sufficiently similar for the average consumer, who is paying a relatively high degree of attention, to be confused.

### *Conclusions on link*

85. It does not follow from a finding of no likelihood of confusion that there is no link. The level of similarity required for the public to make a link between the marks for the purposes of this ground may be less than the level of similarity required to create a likelihood of confusion: see *Intra-Press SAS v OHIM*, Joined cases C-581/13 P and C-582/13 P, paragraph 72. In my view, the reputation and distinctive character of the earlier marks are so high that they would be brought to the mind of the public, if the contested mark were used for any of the goods and services in the application.

### **Damage**

86. Of the three heads of damage, I shall deal first with **unfair advantage**. This means that consumers are more likely to buy the goods and services of the contested mark than they would otherwise have been if they had not been reminded of the earlier marks. Unfair advantage can be taken of an earlier mark where there is no likelihood of confusion between it and the later mark. In these circumstances, the unfair advantage is usually the result of the transfer of the image of the earlier mark, or of the characteristics it projects, to the goods or services identified by the later mark.

87. In *L'Oréal*, Case C-487/07, the CJEU said:

“50. The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an advantage taken unfairly by that third party of the distinctive character or the repute of that mark where that party seeks by that use to ride on the coat-tails of the mark with a reputation 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.”

88. Earlier in the same case, the CJEU also said:

“41. As regards the concept of ‘taking unfair advantage of the distinctive character or the repute of the trade mark’, also referred to as ‘parasitism’ or ‘free-riding’, that concept relates not to the detriment caused to the mark but to the advantage taken by the third party as a result of the use of the identical or similar sign. It 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.”

89. Mr Stobbs referred me to the decision of the GC in *PJ Hungary Szolgáltató kft (PJ Hungary kft) v OHIM (PEPEQUILLO)*, Case T-508/08. The GC dealt with the question of unfair advantage in paragraphs 110ff. It said:

“111. It must be observed that the concept of the unfair advantage taken of the distinctive character or the repute of the earlier mark by the use without due cause of the mark applied for encompasses instances where there is a clear exploitation and ‘free-riding on the coat-tails’ of a famous trade mark or an attempt to trade upon its reputation. In other words, this concerns the risk that the image of the mark with a reputation or the characteristics which it projects will be transferred to the goods covered by the mark applied for, with the result that the marketing of those goods can be made easier by that association with the earlier mark with a reputation (see *VIPS*, paragraph 40, and the case-law cited).

...

114. Accordingly the risk that the use without due cause of the mark applied for takes unfair advantage of the distinctive character or the repute of the earlier trade mark continues to exist where the consumer, without necessarily confusing the commercial origin of the product or service in question, is attracted by the mark applied for itself and buys the product of

service covered by it on the ground that it bears that mark which is identical or similar to an earlier mark with a repute (*VIPS*, paragraph 42).”

90. Later case law makes it clear that any advantage must be unfair for the ground to be made out. Economic advantage on its own is not sufficient: see *Argos Limited v Argos Systems Inc* [2018] EWCA Civ 2211, paragraph 108. Unfair advantage may be inferred where the later trade mark would gain a commercial advantage from the transfer of the image of the earlier trade mark to the later mark: see *Claridges Hotel Limited v Claridge Candles Limited & Anor* (2019) EWHC 2003 (IPEC).

91. In his skeleton, Mr Stobbs submits that the advantage that will be gained by the applicant is the transfer of the image of “a cool, young and trendy brand”.<sup>31</sup> Even if I had found that the evidence showed me that the earlier marks had this reputation, I am not persuaded that these qualities that would give the applicant a particular advantage in selling its specialist software or software-related services. These are goods and services that are purchased for particular functions (logistics, supply chain management, inventory management, business management) that are important to businesses of all sizes. Customers are likely to be looking for goods and services that are user-friendly, flexible and reliable, rather than embodying a cool, young and trendy image. The opponent had also pleaded that the earlier marks had a reputation as a high-tech brand. Mobile telecommunications, software and software services are by their very nature at the high-tech end of the spectrum of goods and services. I did not find that the evidence was sufficiently specific to enable me to determine what image was claimed to be transferred to the applied-for goods and services. As I have already noted, Mr Stobbs also referred at the hearing to a reputation as a business-to-business provider. I have found that the evidence does not show me what the nature of this reputation might be, and so what image could transfer from the earlier marks to the contested mark. I do not find that there is unfair advantage, or a serious risk of such damage.

92. The opponent’s case on **detriment to reputation** is a hypothetical one, namely, that the quality of any goods or services supplied by the applicant is lower than the quality of the services of the opponent. In *Unite The Union v The Unite Group Plc*,

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<sup>31</sup> Paragraph 38.

BL O/219/13, Ms Anna Carboni, sitting as the Appointed Person, considered whether such an argument was sufficient for a successful claim of damage to reputation. She concluded that it was unlikely in an opposition case for such an argument to be relevant. I consider that the same situation applies here and dismiss this claim.

93. The final head of damage is **damage to distinctive character**. In *Environmental Manufacturing*, the CJEU said:

“34. According to the Court’s case-law, proof that the use of the later mark is, or would be, detrimental to the distinctive character of the earlier mark requires evidence of a change in the economic behaviour of the average consumer of the goods or services for which the earlier mark was registered, consequent on the use of the later mark, or a serious likelihood that such a change will occur in the future (*Intel Corporation*, paragraphs 77 and 81, and also paragraph 6 of the operative part of the judgment).

35. Admittedly, paragraph 77 of the *Intel Corporation* judgment, which begins with the words ‘[i]t follows that’, immediately follows the assessment of the weakening of the ability to identify and the dispersion of the identity of the earlier mark; it could thus be considered to be merely an explanation of the previous paragraph. However, the same wording, reproduced in paragraph 81, and in the operative part of that judgment, is autonomous. The fact that it appears in the operative part of the judgment makes its importance clear.

36. The wording of the above case-law is explicit. It follows that, without adducing evidence that that condition is met, the detriment or the risk of detriment to the distinctive character of the earlier mark provided for in Article 8(5) of Regulation No 207/2009 cannot be established.

37. The concept of ‘change in the economic behaviour of the average consumer’ lays down an objective condition. That change cannot be deduced solely from subjective elements such as consumers’ perceptions. The mere fact that consumers note the presence of a new sign similar to an earlier sign is not sufficient of itself to establish the existence of a detriment or a risk of detriment to the distinctive character of the earlier mark within

the meaning of Article 8(5) of Regulation No 207/2009, in as much as that similarity does not cause any confusion in their minds.

...

42. Admittedly, Regulation No. 207/2009 and the Court's case-law do not require evidence to be adduced of actual detriment, but also admit the serious risk of such detriment, allowing the use of logical deductions.

43. None the less, such deductions must not be the result of mere suppositions but, as the General Court itself noted at paragraph 52 of the judgment under appeal, in citing an earlier judgment of the General Court, must be founded on 'an analysis of the probabilities and by taking account of the normal practice in the relevant commercial sector as well as all the other circumstances of the case'."

94. In its pleadings, the opponent claims that use of the contested mark without due cause would result in change to the economic behaviour of the average consumer but, as I have already noted in paragraph 6 of this decision, it did not elaborate on how this would actually occur. No further details were given in the skeleton or at the hearing. In my view, the opposing marks are not sufficiently similar for there to be a serious risk of a change in the behaviour of the customers for the telecommunications services offered under the opponent's mark. I therefore dismiss this claim.

95. The opponent has not satisfied me that there is a serious risk of damage to the earlier mark.

96. I shall briefly consider here whether the section 5(3) claim would succeed if the opponent were relying on the Class 9 goods and Class 42 services that I found to be identical to the contested goods and services. In my view, the marks are not sufficiently similar for there to be a likelihood of confusion under section 5(3). My criticisms of the evidence on the nature of the reputation are equally relevant in the case of the Class 9 goods and Class 42 services, and my findings on damage in the above paragraphs apply here. I do not consider that any of the other goods or services in respect of which reputation is claimed would have put the opponent in any better a position. This is

because the evidence clearly shows that the goods or services with the biggest reputation are the telecommunications services.

97. The opposition fails under section 5(3).

## **OUTCOME**

98. The opposition has failed and, subject to a successful appeal, Application No 3870917 may proceed to registration.

## **COSTS**

99. The applicant has been successful and is entitled to a contribution to its costs. In order to maintain the status of this tribunal as a low-cost jurisdiction, awards of costs are contributory, rather than compensatory. For professionally represented parties, this means that costs are usually awarded from a scale. The applicant is an unrepresented party. Such parties tend to incur lower costs because they do not have to pay legal or other professional fees. The scale is not applied to them, because, if it were, they might receive costs in excess of what they may reasonably have incurred, which would undermine the contribution-not-compensation approach and the indemnity principle. The sum to be awarded is analogous to that set out in Part 46 of the Civil Procedure Rules. This is currently £24 per hour.

100. As the applicant is a litigant in person, the Registry sent it a proforma, inviting it to set out the number of hours spent on the various steps of the proceedings. The applicant completed the proforma with the following numbers of hours:

Notice of Defence: 12 hours 1 minute

Review of the Opponent's Responses: 1 hour 47 minutes

Preparing evidence: 7 hours 36 minutes.

Preparing written submission: 2 hours 6 minutes.

101. The longest period of time recorded is for completing the Notice of Defence. While 12 hours 1 minute may seem like a long time for the filing in of what is a relatively straightforward form, I accept that a litigant in person will need to do some research into trade mark oppositions and the grounds pleaded, in order to be able to complete that form. In addition, I bear in mind the fact that the specifications that the opponent

was relying on were extremely long and not particularised. Consequently, I consider that 12 hours 1 minute is a reasonable amount of time for this activity.

102. I consider that 1 hour 47 minutes is reasonable for reviewing the opponent's evidence and 2 hours 6 minutes reasonable for the preparation of written submissions. Some of the applicant's evidence was not relevant, particularly the AI-generated answers and the state of the register evidence. Therefore, I have reduced the time allowed for preparing evidence to 6 hours. I will also allow 3 hours for preparing for and attending the hearing. The total time is **24 hours 54 minutes**, which results in an award of **£597.60**.

103. I therefore order O2 Worldwide Limited to pay Springboard Applications Ltd the sum of £597.60. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

**Dated this 1st day of May 2026**

**Clare Boucher,  
For the Registrar,  
the Comptroller-General**

## **ANNEX**

### **Specifications of the Earlier Marks: Goods and Services Relied On**

#### **UKTM No. 3862223**

##### Class 9

Scientific, surveying, measuring, signalling, checking (supervision), life-saving apparatus and instruments none being goods relating to liquids or gases; nautical, photographic, cinematographic, optical, weighing, teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; computer hardware; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; computer games; computer game software; computer software applications, downloadable; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches; wearable technology, namely wearable communication apparatus, telecommunication apparatus, smart phones, watches, monitors, displays, computer hardware, activity trackers, audio equipment, video display monitors, digital electronic devices capable of providing access to the Internet; laptop computers; linear actuators [electric]; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; televisions; headphones; global positioning system [GPS] apparatus; satellite navigation devices; sensors none being goods related to liquids or gases; Internet of Things [IOT] electronic devices, sensors and gateways; computer hardware and software for use in and with Internet of Things [IOT] devices none being goods relating

to liquids or gases; computer software recorded onto CD Rom; SD-Cards (secure digital cards); smart meters; glasses; spectacle glasses; sunglasses; protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; downloadable electronic publications; downloadable image files; downloadable music files; mouse mats; magnets; mobile telephone covers; mobile telephone cases; hands free kits for phones; magnetic cards; encoded cards; mobile phone application software; software for telecommunication; software for the processing of financial transactions; electronic notice boards; electric batteries; battery chargers; security alarms; security cameras; security warning apparatus; security control apparatus; security surveillance apparatus; computer software for security purposes; computer software for insurance purposes; SIM cards; interactive touch screen terminals; aerials; alarms; electric cables; chemistry apparatus and instruments; recorded computer operating programs; computer peripheral devices; data processing apparatus; diagnostic apparatus, not for medical purposes; distance measuring apparatus; distance recording apparatus; downloadable ring tones for mobile phones; electronic tags for goods; eyepieces; goggles for sports; magnetic identity cards; intercommunications apparatus; loudspeakers; magnetic data media; mathematical instruments; modems; electric monitoring apparatus; television apparatus; testing apparatus not for medical purposes; telecommunication transmitters; mobile device management apparatus; software for mobile device management; middleware for management of software functions on electronic devices; computer virus software; computer antivirus software; smart home software; smart home devices, namely, smart doorbells, smart speakers, smart televisions, smart radios, smart alarms, smart security systems, smart video monitors, smart monitoring apparatus and instruments, smart telephones, smart meters, smart locks and padlocks, smart door locks; home automation devices; in-car entertainment systems; privacy protection software; printers; printer programmes, servers, sharers, cables, hubs and converters; photo printers; downloadable virtual goods, namely, digital art, photographs, videos, or audio recordings; downloadable digital artwork and images; downloadable software for providing access to, and related to, digital art and collectibles, crypto-collectibles, non-fungible tokens nfts, application tokens, and digital currencies; 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 for providing information, communications, and authentications for social media, digital art and collectibles, crypto-collectibles, nfts, application tokens, and digital currencies; downloadable software for downloading, receiving, sending, and storing software, data, links, video files, and image files from the internet; downloadable software for providing access to digital marketplaces and auctions; computer application software for blockchain-based platforms; parts and fittings for all the aforesaid goods.

### Class 38

Telecommunications; cable television broadcasting; cellular telephone communication; communications by computer terminals; communications by fiber [fibre] optic networks; communications by telephone; computer aided transmission of messages and images; electronic bulletin board services [telecommunications services]; electronic mail; facsimile transmission; information about telecommunication; message sending; paging services [radio, telephone or other means of electronic communication]; providing access to databases; providing internet chatrooms; providing telecommunication channels for teleshopping services; providing telecommunications connections to a global computer network; providing user access to global computer networks; radio broadcasting; rental of access time to global computer networks; rental of message sending apparatus; rental of modems; rental of telecommunication equipment; rental of telephones; satellite transmission; telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; television broadcasting; telex services; transmission of digital files; transmission of greeting cards online; transmission of telegrams; voice mail services; wire service; wireless broadcasting; telecommunications services; mobile telecommunications services; telecommunications portal services; access to content, websites and portals; telecommunications services provided via platforms and portals on the Internet and other media; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; wireless communication services; digital communication services; broadcasting services; television broadcasting services; broadcasting services relating to Internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; telecommunications

information provided via telecommunication networks; services of a network provider, namely rental and handling of access time to data networks and databases, in particular the Internet; communications services for accessing a database; leasing of access time to a computer database; providing access to computer databases; rental of access time to a computer database; operation of a network, being telecommunication services; providing electronic bulletin board services; providing access to weblogs; providing access to podcasts; chatroom services for social networking; providing online forums; forums for social networking; providing electronic telecommunication connections; routing and connecting services for telecommunications; rental of telecommunications equipment; providing access to computer databases in the fields of social networking, social introduction and dating; leasing of mobile phones; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; telematics services; information and advisory services relating to the aforesaid services provided over a telecommunications network.

#### Class 41

Education; providing of training; entertainment; sporting and cultural activities; academies [education]; amusement parks; amusements; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; arranging of beauty contests; booking of seats for shows; cinema presentations; club services [entertainment or education]’ coaching [training]; discotheque services; education information; educational examination; electronic desktop publishing; entertainer services; entertainment information; organisation of fashion shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; games equipment rental; health club services [health and fitness training]; holiday camp services [entertainment]; music-halls; news reporters services; organisation of shows [impresario services]; organisation of sports competitions; party planning [entertainment]; personal trainer services [fitness training]; physical education; practical training [demonstration ]; production of music; production of radio and

television programmes; production of shows; providing amusement arcade services; providing karaoke services; providing on-line electronic publications, not downloadable; providing sports facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; recording studio services; providing recreation facilities; sport camp services; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; tuition; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; education, training, entertainment, sporting and cultural activities information provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and television programming services provided by means of Internet protocol technology; provision of musical events; entertainment club services; discotheque services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, sporting and cultural events; provision of on-line computer games, rental of computer games programs; computer and video game amusement services; provision of information, news and commentary in the field of computer games; arranging, organising and conducting computer games competitions; publishing services; providing on-line electronic publications, not downloadable; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; arranging, organising and conducting of competitions, games and quizzes; arranging, organising and conducting of competitions, games and quizzes for entertainment, recreational, cultural and educational purposes; organisation of awards; career advisory services; conducting of phone-in competitions; booking agency services connected with the issue of tickets for entertainment events; employment training; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; music recordings, concerts, performances, productions, publishing, instruction, competition services and composition services; musical performances and entertainment; live music services, concerts, shows and performances; music library services; recording of music; music

entertainment services; music publishing and music recording services; music group services; tuition and teaching of music; music mixing services; music transcription services; musical performance, education and instruction services; musical composition for others; organisation of music concerts; entertainment services performed by musicians; consultancy on film and music production; rental of phonographic and music recordings; providing digital music [not downloadable] from the internet; ticket reservation and booking services for music concerts; education and training related to an online marketplace for the creation, display, sale, and transfer of non-fungible token (nft) artwork; education and training related to an online marketplace for buyers and sellers of nfts and crypto-collectibles; virtual reality arcade services; providing on-line non-downloadable images; provision of exhibitions via virtual reality and augmented reality; information and advisory services relating to the aforesaid services provided over a telecommunications network.

## **UKTM No. 3587066**

### Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; computer hardware; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; computer games; computer game software; computer software applications, downloadable; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches;

wearable technology, namely wearable communication apparatus, telecommunication apparatus, smart phones, watches, monitors, displays, computer hardware, activity trackers, audio equipment, video display monitors, wearable digital electronic devices capable of providing access to the Internet; laptop computers; linear actuators [electric]; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; televisions; headphones; global positioning system [GPS] apparatus; satellite navigation devices; sensors; IOT devices, namely computer hardware capable of Internet of Things [IOT] connectivity, sensors and gateways; computer hardware and software for use in and with Internet of Things [IOT] devices; computer software recorded onto CD Tom; SD-Cards (secure digital cards); smart meters; glasses; spectacle glasses; sunglasses; protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; videotapes; video tapes; video cassettes; video discs; CDs, DVDs; downloadable electronic publications; downloadable image files; downloadable music files; mouse mats; magnets; mobile telephone coves; mobile telephone cases; hands free kit for phones; magnetic cards; encoded cards; mobile phone application software; software for telecommunication; software for the processing of financial transactions; electronic notice boards; electric batteries; battery chargers; security alarms; security cameras; security warning apparatus; security control apparatus; security surveillance apparatus; computer software for security purposes; computer software for insurance purposes; SIM cards; interactive touch screen terminals; aerials; alarms; electric cables; chemistry apparatus and instruments; recorded computer operating programs; computer peripheral devices; data processing apparatus; diagnostic apparatus, not for medical purposes; distance measuring apparatus; distance recording apparatus; downloadable ring tones for mobile phones; electronic tags for goods; eyepieces; goggles for sports; magnetic identity cards; intercommunication apparatus; loudspeakers; magnetic data media; mathematical instruments; modems; electric monitoring apparatus; television apparatus; testing apparatus not for medical purposes; telecommunication transmitters; mobile device management apparatus; software for mobile device management; middleware for management of software functions on electronic devices; computer virus software; computer antivirus software;

smart home software and devices; home automation devices; in-car entertainment systems; privacy protection software; parts and fittings for all the aforesaid goods.

### Class 35

Advertising; business management; business administration; office functions; organisation, operation and supervision of loyalty and incentive schemes; retail services and online retail services connected with the sale of scientific, nautical, surveying photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus for recording, transmission or reproduction of sound or images; retail services and online retail services connected with the sale of magnetic data carriers, recording discs, compact discs, DVDs and other digital recording media, mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment, computer, computer software, fire-extinguishing apparatus, apparatus for the transmission of sound and image, telecommunications apparatus, mobile telecommunication apparatus, mobile telecommunications handsets; retail services and online retail services connected with the sale of digital telecommunication apparatus and instruments, digital tablets, computer hardware, computer application software, computer software downloadable from the Internet, recorded computer software, software applications, mobile software applications, downloadable applications for multimedia devices, computer games, computer game software, computer games programs, PDAs (Personal Digital Assistants); retail services and online retail services connected with the sale of pocket PCs, mobile telephones, laptop computers, telecommunications network apparatus, drivers software for telecommunications networks and for telecommunications apparatus, protective clothing, protective helmets, televisions, headphones, global positioning system [GPS] apparatus, satellite navigation devices, computer software recorded onto CD Rom, SD-Cards (secure digital cards), glasses, spectacle glasses, sunglasses; retail services and online retail services connected with the sale of protective glasses and cases therefor, contact lenses, cameras, camera lenses, MP3 players, audio tapes, audio cassettes, audio discs, audio-video tapes, audio-cassettes, audio-video discs, video tapes, video cassettes, video discs, CDs, DVDs, downloadable electronic publications, downloadable image files, downloadable music files, mouse mats,

magnets, mobile telephone covers, mobile telephone cases; retail services and online retail services connected with the sale of hands free kits for phones, magnetic cards, encoded cards, mobile phone application software, software for telecommunication, software for the processing of financial transactions, electronic notice boards, electric batteries, battery chargers, security alarms, security cameras, security warning apparatus, security control apparatus, security surveillance apparatus, computer software for security purposes; retail services and online retail services connected with the sale of computer software for insurance purposes, SIM cards, aerials, alarms, electric cables, chemistry apparatus and instruments, recorded computer operating programs, computer peripheral devices, data processing apparatus, diagnostic apparatus, not for medical purposes, distance measuring apparatus, distance recording apparatus, downloadable ring tones for mobile phones, electronic tags for goods; retail services and online retail services connected with the sale of electronic tags for goods, eyepieces, goggles for sports, magnetic identity cards, intercommunication apparatus, loudspeakers, magnetic data media, mathematical instruments, modems, electric monitoring apparatus, television apparatus, testing apparatus not for medical purposes, telecommunication transmitters, paper, cardboard, printed matter, photographs, stationery; retail services and online retail services connected with the sale of office requisites, instructional and teaching material, packaging material, educational equipment, writing implements, writing instruments, writing materials, books, catalogues, cards, instruction manuals, magazines, mail order catalogues, newspapers, pamphlets, periodical publications, calendars, diaries, labels, maps, printed publications, postcards, posters, printed tariffs, printed forms; retail services and online retail services connected with the clothing, footwear, headgear, household or kitchen utensils or containers, cookware, tableware, food cooking equipment, cutlery, cleaning articles, gardening articles, jewellery, horological and chronometric instruments, musical instruments, apparatus for lighting, textiles, household textile articles, furniture, furnishing, bags, luggage, toiletries, cosmetics, pharmaceutical preparations, cleaning preparations; retail services and online retail services connected with the sale of bags, luggage, games and playthings, gymnastic articles, sporting articles, sporting equipment, meat, fish, poultry, game, food, foodstuffs, confectionery, desserts, baked goods, delicatessen products, fruit, flowers, coffee, tea, cocoa, sugar, rice, beers, mineral waters, aerated waters and other non-alcoholic drinks, alcoholic beverages, matches, tobacco; retail

services and online retail services relating to interactive touch screen terminals, selfie sticks [hand-held monopods], smart rings, smartphones, smartwatches, automobile accessories, automobile parts, vehicles, fuels, building materials, metal hardware, electronic components, recorded content; business management of retail outlets; arranging subscriptions to telecommunications for others; compilation and systematisation of information into computer databases; compilation of statistics; cost price analysis; arranging of competitions for advertising purposes; recruitment services; employment recruitment; employment consultancy; employment agencies; providing employment information; providing employment information in connection with youth programme schemes; commercial administration of the licensing of the goods and services of others; commercial information and advice for consumers [consumer advice shop]; opinion polling; personnel recruitment; price comparison services; procurement services for others [purchasing goods and services for other businesses]; rental of advertising space; rental of advertising time on communication media; sales promotion for others; sponsorship search; negotiation of business contracts for others; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

### Class 36

Insurance; financial affairs; monetary affairs; real estate affairs; financial information and advice relating to tariffs; information and advice relating to finance and insurance; financial payment services; payment processing services; electronic payment services; automated payment services; payment collection agencies; processing of payment transactions via the Internet; money transfer services; electronic funds transfer services; bill payment services; Internet banking; mobile phone banking services; issuing of phone card services; issuing of vouchers and coupons; issuing tokens of value, namely gift cards; issuing of tokens of value in relation to customer loyalty schemes; sponsorship of sports, sports teams and sports events; insurance administration; insurance for telecommunication apparatus and instruments; insurance for mobile telecommunication apparatus and instruments; insurance for digital apparatus and instruments; insurance for digital tablets; insurance for computer software and hardware; travel insurance; vehicle insurance; home insurance;

charitable fund raising; credit card services; debit card services; debt collection agencies; financial sponsorship; repair costs evaluation [financial appraisal]; building leasing; financial evaluation [insurance, banking, real estate]; house agents; real estate management services relating to office premises; leasing of offices; property leasing; leasing of shopping premises; leasing of real estate; leasing of office space; real estate agencies; real estate appraisal; real estate management; rent collection; rental of offices [real estate]; renting of flats; stamp appraisal; financial leasing; property and building management services; estate management; leasing of mobile phones, computers and tablet computers; hire purchase financing; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

#### Class 38

Telecommunications; cable television broadcasting; cellular telephone communication; communications by computer terminals; communications by fiber [fibre] optic networks; communications by telephone; computer aided transmission of messages and images; electronic bulletin board services [telecommunications services]; electronic mail; facsimile transmission; information about telecommunication; message sending; paging services [radio, telephone or other means of electronic communication]; providing access to databases; providing internet chatrooms; providing telecommunication channels for teleshopping services; providing telecommunications connections to a global computer network; providing user access to global computer networks; radio broadcasting; rental of access time to global computer networks; rental of message sending apparatus; rental of modems; rental of telecommunication equipment; rental of telephones; satellite transmission; telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; television broadcasting; telex services; transmission of digital files; transmission of greeting cards online; transmission of telegrams; voice mail services; wire service; wireless broadcasting; telecommunications services; mobile telecommunications services; telecommunications portal services; access to content, websites and portals; providing access to platforms and portals on the Internet; provision of access to content,

websites and portals; telecommunication services provided via platforms and portals on the Internet and other media; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; wireless communication services; digital communication services; broadcasting services; television broadcasting services; broadcasting services relating to Internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; telecommunications information provided via telecommunication networks; services of a network provider, namely rental and handling of access time to a computer database, global computer networks and database servers; communications services for accessing a database; leasing of access time to a computer database; providing access to computer databases; rental of access time to a computer database; operation of a network, being telecommunication services; providing electronic bulletin board services; providing access to weblogs; providing access to podcasts; chatroom services for social networking; providing online forums; forums for social networking; providing electronic telecommunication connections; routing and connecting services for telecommunications; rental of telecommunications equipment; providing access to computer databases in the field of social networking, social introduction and dating; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; telematics services; information and advisory services relating to the aforesaid services provided over a telecommunications network; leasing of mobile phones.

#### Class 41

Education; providing of training; entertainment; sporting and cultural activities; academies [education]; amusement parks; amusements; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; arranging of beauty contests; booking of seats for shows; cinema presentations; club services [entertainment or education]; coaching [training]; discotheque services; education information; educational examination; electronic desktop publishing; entertainer services; entertainment information; organisation of

fashion shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; games equipment rental; health club services [health and fitness training]; holiday camp services [entertainment]; music-halls; news reporters services; organisation of shows [impresario services]; organisation of sports competitions; party planning [entertainment]; personal trainer services [fitness training]; physical education; practical training [demonstration]; production of music; production of radio and television programmes; production of shows; providing amusement arcade services; providing karaoke services; providing on-line electronic publications, not downloadable; providing sports facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; recording studio services; providing recreation facilities; sport camp services; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; tuition; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; education, training, entertainment, sporting and cultural activities information provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and programming services provided by means of Internet protocol technology; provision of musical events; entertainment club services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, sporting and cultural events; provision of on-line computer games; rental of computer games programs; computer and video games amusement services; provision of information, news and commentary in the field of computer games; arranging, organising and conducting games competitions; publishing services; arranging, organising and conducting of competitions, games and quizzes, arranging, organising and conducting of competitions, games and quizzes for entertainment, recreational, cultural and educational purposes; organisation of awards; career advisory services; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for entertainment events; employment training; information and advisory services relating to the aforesaid; information and advisory services relating

to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

#### Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; calibration [measuring]; cloud seeding; computer programming; computer rental; computer software consultancy; computer software design; updating of computer software; computer system analysis; computer system design; construction drafting; consultancy in the design and development of computer hardware; consultancy in the field of energy-saving; conversion of data or documents from physical to electronic media; creating and maintaining web sites for others; data conversion of computer programs and data [not physical conversion]; digitisation of documents [scanning]; duplication of computer programs; engineering; hosting computer sites [web sites]; industrial design; installation of computer software; scientific laboratory services; land surveying; maintenance of computer software; material testing; mechanical research; monitoring of computer systems by remote access; packaging design; technical project studies; providing search engines for the internet; provision of scientific information, advice and consultancy in relation to carbon offsetting; quality control; recovery of computer data; rental of computer software; rental of web servers; research and development for others; surveying; technical research; IT services; computer programming services; programming of data processing equipment; consultancy in the field of computer hardware; rental of computer hardware; application service provider (ASP); consultancy in the field of computer software; creating and maintaining blobs for others; expert advice and expert opinion relating to technology; rental of data processing apparatus and computers; technical services relating to projection and planning of equipment for telecommunications; monitoring of network systems in the field of telecommunications; technical support services relating to telecommunications and apparatus; data security services; data security services [firewalls]; research relating to security; computer security system monitoring services; maintenance of computer software relating to computer security and prevention of computer risks; updating of computer software relating to computer security and prevention of computer risks; IT security, protection

and restoration; internet security consultancy; programming of internet security programs; professional consultancy relating to computer security; consultancy in the field of security software; computer security threat analysis for protecting data; design and development of electronic data security systems; design and development of internet data security systems; computer virus protection services; unlocking of mobile phones; hosting of web portals; web portal design; software as a service {SAAS} services; consulting services in the field of software as a service [SaaS]; platform as a Service [PaaS]; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network; leasing of computers and tablet computers.

### **UKTM No. 3346463**

#### Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; aerials; alarms; apparatus for the transmission of sound and image; audio cassettes; audio discs; audio tapes; battery chargers; camera lenses; cameras; CDs, DVDs; chemistry apparatus and instruments; computer antivirus software privacy protection software; computer application software; computer game software; computer games; computer games programs; computer hardware; computer peripheral devices; computer software applications, downloadable; computer software downloadable from the Internet; computer software for insurance purposes; computer software for security purposes; computer software recorded onto CD Rom; computer virus software; contact lenses; data processing apparatus; diagnostic apparatus, not for medical purposes; digital tablets; digital telecommunication apparatus and instruments;

distance measuring apparatus; distance recording apparatus; downloadable electronic publications; downloadable image files; downloadable music files; downloadable ring tones for mobile phones; drivers software for telecommunications networks and for telecommunications apparatus; electric batteries; electric cables; electric monitoring apparatus; electronic notice boards; electronic tags for goods; encoded cards; eyepieces; glasses; global positioning system [GPS] apparatus; goggles for sports; hands free kits for phones; headphones; interactive touch screen terminals; intercommunication apparatus; laptop computers; loudspeakers; magnetic cards; magnetic data media; magnetic identity cards; magnets; mathematical instruments; middleware for management of software functions on electronic devices; mobile device management apparatus; mobile phone application software; mobile software applications, downloadable applications for multimedia devices; mobile telecommunication apparatus; mobile telecommunications handsets; mobile telephone cases; mobile telephone covers; mobile telephones; modems; mouse mats; MP3 players; PDAs (Personal Digital Assistants); pocket PCs; protective clothing; protective glasses and cases therefor; protective helmets; recorded computer operating programs; recorded computer software; satellite navigation devices; SD-Cards (secure digital cards); security alarms; security cameras; security control apparatus; security surveillance apparatus; security warning apparatus; selfie sticks [hand-held monopods]; SIM cards; smart rings; smartphones; smartwatches; software applications; software for mobile device management; software for telecommunication; software for the processing of financial transactions; spectacle glasses; sunglasses; tablet computers; telecommunication transmitters; telecommunications apparatus; telecommunications network apparatus; television apparatus; televisions; testing apparatus not for medical purposes; video cassettes; video discs; video tapes; parts and fittings for all the aforesaid goods.

### Class 35

Advertising; business management; business administration; office functions; organisation, operation and supervision of loyalty and incentive schemes; retail services and online retail services connected with the sale of scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or

controlling electricity, apparatus for recording, transmission or reproduction of sound or images; retail services and online retail services connected with the sale of magnetic data carriers, recording discs, compact discs, DVDs and other digital recording media, mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment, computers, computer software, fire-extinguishing apparatus, apparatus for the transmission of sound and image, telecommunications apparatus, mobile telecommunication apparatus, mobile telecommunications handsets; retail services and online retail services connected with the sale of digital telecommunication apparatus and instruments, digital tablets, computer hardware, computer application software, computer software downloadable from the Internet, recorded computer software, software applications, mobile software applications, downloadable applications for multimedia devices, computer games, computer game software, computer games programs, PDAs (Personal Digital Assistants); retail services and online retail services connected with the sale of pocket PCs, mobile telephones, laptop computers, telecommunications network apparatus, drivers software for telecommunications networks and for telecommunications apparatus, protective clothing, protective helmets, televisions, headphones, global positioning system [GPS] apparatus, satellite navigation devices, computer software recorded onto CD Rom, SD-Cards (secure digital cards), glasses, spectacle glasses, sunglasses; retail services and online retail services connected with the sale of protective glasses and cases therefor, contact lenses, cameras, camera lenses, MP3 players, audio tapes, audio cassettes, audio discs, audio-video tapes, audio-video cassettes, audio-video discs, video tapes, video cassettes, video discs, CDs, DVDs, downloadable electronic publications, downloadable image files, downloadable music files, mouse mats, magnets, mobile telephone covers, mobile telephone cases; retail services and online retail services connected with the sale of hands free kits for phones, magnetic cards, encoded cards, mobile phone application software, software for telecommunication, software for the processing of financial transactions, electronic notice boards, electric batteries, battery chargers, security alarms, security cameras, security warning apparatus, security control apparatus, security surveillance apparatus, computer software for security purposes; retail services and online retail services connected with the sale of computer software for insurance purposes, SIM cards, aerials, alarms, electric cables, chemistry apparatus and instruments, recorded computer operating programs, computer peripheral devices, data processing apparatus, diagnostic

apparatus, not for medical purposes, distance measuring apparatus, distance recording apparatus, downloadable ring tones for mobile phones, electronic tags for goods; retail services and online retail services connected with the sale of electronic tags for goods, eyepieces, goggles for sports, magnetic identity cards, intercommunication apparatus, loudspeakers, magnetic data media, mathematical instruments, modems, electric monitoring apparatus, television apparatus, testing apparatus not for medical purposes, telecommunication transmitters, paper, cardboard, printed matter, photographs, stationery; retail services and online retail services connected with the sale of office requisites, instructional and teaching material, packaging material, educational equipment, writing implements, writing instruments, writing materials, books, catalogues, cards, instruction manuals, magazines, mail order catalogues, newspapers, pamphlets, periodical publications, calendars, diaries, labels, maps, printed publications, postcards, posters, printed tariffs, printed forms; retail services and online retail services connected with the clothing, footwear, headgear, household or kitchen utensils and containers, cookware, tableware, food cooking equipment, cutlery, cleaning articles, gardening articles, jewellery, horological and chronometric instruments, musical instruments, apparatus for lighting, textiles, household textile articles, furniture, furnishing, bags, luggage, toiletries, cosmetics, pharmaceutical preparations, cleaning preparations; retail services and online retail services connected with the sale of bags, luggage, games and playthings, gymnastic articles, sporting articles, sporting equipment, meat, fish, poultry, game, food, foodstuffs, confectionery, desserts, baked goods, delicatessen products, fruit, flowers, coffee, tea, cocoa, sugar, rice, beers, mineral waters, aerated waters and other non-alcoholic drinks, alcoholic beverages, matches, tobacco; retail services and online retail services relating to interactive touch screen terminals, selfie sticks [hand-held monopods], smart rings, smartphones, smartwatches, automobile accessories, automobile parts, vehicles, fuels, building materials, metal hardware, electronic components, recorded content; business management of retail outlets; arranging subscriptions to telecommunications for others; compilation and systemisation of information into computer databases; compilation of statistics; cost price analysis; arranging of competitions for advertising purposes; recruitment services; employment recruitment; employment consultancy; employment agencies; providing employment information; providing employment information in connection with youth programme schemes; commercial administration of the licensing of the

goods and services of others; commercial information and advice for consumers [consumer advice shop]; opinion polling; personnel recruitment; price comparison services; procurement services for others [purchasing goods and services for other businesses]; rental of advertising space; rental of advertising time on communication media; sales promotion for others; sponsorship search; negotiation of business contracts for others; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

### Class 36

Insurance; financial affairs; monetary affairs; real estate affairs; financial information and advice relating to tariffs; information and advice relating to finance and insurance; financial payment services; payment processing services; electronic payment services; automated payment services; payment collection agencies; processing of payment transactions via the Internet; money transfer services; electronic funds transfer services; bill payment services; Internet banking; mobile phone banking services; issuing of vouchers and coupons; issuing tokens of value, namely gift cards; issuing of tokens of value in relation to customer loyalty schemes; sponsorship of sports, sports teams and sports events; insurance administration; insurance for telecommunication apparatus and instruments; insurance for mobile telecommunication apparatus and instruments; insurance for digital apparatus and instruments; insurance for digital tablets; insurance for computer software and hardware; travel insurance services; vehicle insurance services; home insurance services; charitable fund raising; credit card services; debit card services; debt collection agencies; financial sponsorship; repair costs evaluation [financial appraisal]; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

### Class 38

Telecommunications; cable television broadcasting; cellular telephone communication; communications by computer terminals; communications by fiber [fibre] optic networks; communications by telephone; computer aided transmission of

messages and images; electronic bulletin board services [telecommunications services]; electronic mail; facsimile transmission; information about telecommunication; message sending; paging services [radio, telephone or other means of electronic communication]; providing access to databases; providing internet chatrooms; providing telecommunication channels for teleshopping services; providing telecommunications connections to a global computer network; providing user access to global computer networks; radio broadcasting; rental of access time to global computer networks; rental of message sending apparatus; rental of modems; rental of telecommunication equipment; rental of telephones; satellite transmission; telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; television broadcasting; telex services; transmission of digital files; transmission of greeting cards online; transmission of telegrams; voice mail services; wire service; wireless broadcasting; telecommunications services; mobile telecommunications services; telecommunications portal services; access to content, websites and portals; providing access to platforms and portals on the Internet; provision of access to content, websites and portals; telecommunication services provided via platforms and portals on the Internet and other media; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; wireless communication services; digital communication services; broadcasting services; television broadcasting services; broadcasting services relating to Internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; telecommunications information provided via telecommunication networks; services of a network provider, namely rental and handling of access time to data networks and databases, in particular the Internet; communications services for accessing a database; leasing of access time to a computer database; providing access to computer databases; rental of access time to a computer database; operation of a network, being telecommunication services; providing electronic bulletin board services; providing access to weblogs; providing access to podcasts; chatroom services for social networking; providing online forums; forums for social networking; providing electronic telecommunication connections; routing and connecting services for telecommunications; rental of telecommunications equipment; providing access to computer databases in the fields of social networking, social introduction and dating;

information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

#### Class 41

Education; providing of training; entertainment; sporting and cultural activities; academies [education]; amusement parks; amusements; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; arranging of beauty contests; booking of seats for shows; cinema presentations; club services [entertainment or education]; coaching [training]; discotheque services; education information; educational examination; electronic desktop publishing; entertainer services; entertainment information; organisation of fashion shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; games equipment rental; health club services [health and fitness training]; holiday camp services [entertainment]; music-halls; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; personal trainer services [fitness training]; physical education; practical training [demonstration]; production of music; production of radio and television programmes; production of shows; providing amusement arcade services; providing karaoke services; providing on-line electronic publications, not downloadable; providing sports facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; recording studio services; providing recreation facilities; sport camp services; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; tuition; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; education, training, entertainment, sporting and cultural activities information provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and

television programming services provided by means of Internet protocol technology; provision of musical events; entertainment club services; discotheque services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, sporting and cultural events; provision of on-line computer games; rental of computer games programs; computer amusement services; provision of information, news and commentary in the field of computer games; arranging, organising and conducting computer game competitions; publishing services; providing on-line electronic publications, not downloadable; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; arranging, organising and conducting of competitions, games and quizzes; arranging, organising and conducting of competitions, games and quizzes for entertainment, recreational, cultural and educational purposes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for entertainment events; employment training; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

#### Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; calibration [measuring]; cloud seeding; computer programming; computer rental; computer software consultancy; computer software design; updating of computer software; computer system analysis; computer system design; construction drafting; consultancy in the design and development of computer hardware; consultancy in the field of energy-saving; conversion of data or documents from physical to electronic media; creating and maintaining web sites for others; data conversion of computer programs and data [not physical conversion]; digitization of documents [scanning]; duplication of computer programs; engineering; hosting computer sites [web sites]; industrial design; installation of computer software; scientific laboratory services; land surveying; maintenance of computer software;

material testing; mechanical research; monitoring of computer systems by remote access; packaging design; technical project studies; providing search engines for the internet; provision of scientific information, advice and consultancy in relation to carbon offsetting; quality control; recovery of computer data; rental of computer software; rental of web servers; research and development for others; surveying; technical research; it services; computer programming services; programming of data processing equipment; consultancy in the field of computer hardware; rental of computer hardware; application service provider (ASP); consultancy in the field of computer software; creating and maintaining blogs for others; expert advice and expert opinion relating to technology; rental of data processing apparatus and computers; technical services relating to projection and planning of equipment for telecommunications; product research services; weather forecasting; research in the field of telecommunication technology; monitoring of network systems in the field of telecommunications; technical support services relating to telecommunications and apparatus; data security services; data security services [firewalls]; research relating to security; computer security system monitoring services; maintenance of computer software relating to computer security and prevention of computer risks; updating of computer software relating to computer security and prevention of computer risks; IT security, protection and restoration; internet security consultancy; computer security system monitoring services; programming of internet security programs; professional consultancy relating to computer security; consultancy in the field of security software; computer security threat analysis for protecting data; design and development of electronic data security systems; design and development of internet data security systems; computer virus protection services; unlocking of mobile phones; hosting of web portals; web portal design; software as a service [SAAS] services; consulting services in the field of software as a service [SaaS]; platform as a Service [PaaS]; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.