

O/0446/26

CONSOLIDATED PROCEEDINGS

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION NO. UK00003876090 IN THE
NAME OF NICKEY GOWER FOR THE TRADE MARKS:**

THE MASTERS

MASTERS

(SERIES OF TWO)

IN CLASSES 5, 9, 10, 18, 25, 28, 35, 38, 41 & 42

**AND AN OPPOSITION THERETO UNDER NO. 442145 BY AUGUSTA NATIONAL,
INC.**

AND

**IN THE MATTER OF REGISTRATION NOS. UK00001459919, UK00001459737,
UK00001460764, UK00001460759, UK00910088839, UK00909635475,
UK00801076679 & UK00801076672 IN THE NAME OF AUGUSTA NATIONAL,
INC.**

**AND APPLICATIONS FOR REVOCATION ON THE GROUNDS
OF NON-USE UNDER NOS. 506830, 506831, 506832, 506833, 506834, 506835,
506836 & 506837 BY NICKEY GOWER**

BACKGROUND AND PLEADINGS

1. This decision involves cross-proceedings between Nickey Gower (“NG”) and Augusta National, Inc. (“ANI”). I will summarise the relevant proceedings below.

ANI’s opposition

2. On 8 February 2023, NG applied to register ‘THE MASTERS’ and ‘MASTERS’ as a series of trade marks under number 3876090 in the UK (“NG’s application”). NG’s application was published for opposition purposes on 28 April 2023, and registration is sought for the goods and services listed in Annex 1 of this decision.¹
3. NG’s application was opposed by ANI on 26 July 2023. The opposition is based on sections 5(2)(a), 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”). The section 5(2) and 5(3) grounds are reliant upon the following trade mark:

MASTERS

UK registration no. 801076672²

Filing date 27 December 2010; registration date 27 August 2014

Registered for goods and services in classes 9, 14, 16, 18, 21, 24, 29, 30, 38, 41 & 43, being those set out in Annex 2 of this decision.

4. Under section 5(2) grounds, ANI opposes only some goods and services of NG’s application (being those set out in Annex 3 of this decision) and relies only on those goods and services in classes 9, 14, 18, 38 and 41 of its own mark. In respect of the section 5(2)(a) ground, ANI claims that the marks at issue are identical and that NG’s goods and services are similar to its own. As for the section 5(2)(b) ground, ANI’s position is that if the marks are not deemed identical then they are still similar

¹ It is noted that an amendment to this specification was made on 17 September 2024. Following this, the Tribunal wrote to ANI on 19 September 2024 to enquire as to whether the opposition was to be maintained following the amendment. On 27 September 2024, ANI confirmed that the opposition was maintained.

² ANI’s mark is a comparable mark based on an earlier IR designating the EU. On 1 January 2021, in accordance with Article 54 of the Withdrawal Agreement between the UK and the European Union, the UK IPO created comparable UK trade marks for all right holders with existing IRs designating the EU. These comparable marks enjoy the same filing and registration dates as their European counterparts.

and cover identical and/or similar goods and services. Under both grounds, ANI's position is that there exists a likelihood of confusion.

5. Under the section 5(3) ground, ANI opposes all of NG's goods and services and it is claimed that ANI enjoys a reputation in respect of all of the goods and services for which its mark is registered. ANI claims that the reputation of its own mark, together with the similarity of the marks and identity/similarity of the goods and services at issue will result in the relevant public believing that the marks in NG's application emanate from ANI or are economically linked to it. It is claimed that this link will result in the existence of an unfair advantage in favour of NG as well as detriment to the repute and/or distinctive character of ANI's earlier mark.
6. Lastly, under the section 5(4)(a) ground, ANI relies on the unregistered sign 'MASTERS' which it claims to have used throughout the UK since as early as 1967 in respect of "golf and golf tournaments". It is claimed that ANI's use of its sign has resulted in the existence of protectable goodwill in ANI's business and use of the marks in NG's application would cause a misrepresentation that his products emanate from ANI. It is claimed that this would cause damage.
7. NG filed a counterstatement denying the claims against him and, in doing so, also requested that ANI provide proof of use for its earlier mark.

NG's revocation actions

8. As well as being the proprietor of the mark discussed at paragraph 3 above (which, for the purposes of the revocation actions will be referred to as "ANI's first mark"), ANI is the proprietor of the following trade marks:

MASTERS TOURNAMENT

UK registration no. 801076679

Filing date 28 December 2010; registration date 3 July 2014

("ANI's second mark");



UK registration no. 1459919

Filing date 27 March 1991; registration date 7 June 1996.

("ANI's third mark");

MASTERS
AUGUSTA USA

UK registration no. 1459737

Filing date 27 March 1991; registration date 7 June 1996.

("ANI's fourth mark");



UK registration no. 1460764

Filing date 9 April 1991; registration date 7 June 1996

("ANI's fifth mark");

MASTERS
AUGUSTA USA

UK registration no. 1460759

Filing date 9 April 1991; registration date 7 June 1996.

("ANI's sixth mark");



UK registration no. 910088839

Filing date 31 December 2010; registration date 17 June 2011

("ANI's seventh mark"); and



UK registration no. 909635475

Filing date 31 December 2010; registration date 30 January 2015

("ANI's eighth mark").

9. The goods and services in respect of ANI's second through eighth marks are set out in Annex 4 of this decision.

10. ANI's second, seventh and eighth marks are comparable marks based on earlier EUTMS or earlier IRs designating the EU. I have set out the position with respect of IRs designating the EU above. The same position clearly applies insofar as ANI's marks are based on IRs designating the EU. However, the same position also applies to EUTMs. Therefore, all of ANI's comparable marks enjoy the same filing and registration dates as their European counterparts.

11. On 21 and 22 December 2023, NG applied to revoke all of ANI's marks for reasons of non-use under either section 46(1)(a) of the Act only or both sections 46(1)(a)

and 46(1)(b). NG is seeking to revoke ANI's marks on the basis that they have not been used over a range of different five-year periods, being the following:³

Mark	Periods of alleged non-use	Date of revocation
ANI's first mark	(a) 28/08/2014 to 27/08/2019	28/08/2019
ANI's second mark	(a) 04/07/2014 to 03/07/2019	04/07/2019
ANI's third, fourth, fifth and sixth marks	(a) 08/06/1996 to 07/06/2001 (b) 21/12/2018 to 20/12/2023	08/06/2001 21/12/2023
ANI's seventh mark	(a) 18/06/2011 to 17/06/2016 (b) 18/06/2016 to 17/06/2021	18/06/2018 18/06/2021
ANI's eighth mark	(a) 31/01/2015 to 30/01/2020	31/01/2020

12. ANI filed counterstatements in respect of the revocation actions wherein it claimed to have used its marks during all of the relevant periods.

13. Upon the filing of ANI's counterstatements, the Tribunal consolidated these proceedings in accordance with the power granted to the Registrar under Rule 62(1)(g) of the Trade Marks Rules 2008. This was communicated to the parties via written correspondence on 8 May 2024.

14. Only ANI filed evidence in these proceedings. A hearing took place before me on 26 February 2026, by video conference. ANI was represented by Mr Michael Hicks, as instructed by Haseltine Lake Kempner LLP, who have represented ANI throughout these proceedings. NG was represented by Professor Phillip Johnson, as instructed by Trade Mark Wizards Limited, who have represented NG throughout these proceedings.

15. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The

³ For ease of reference in the table provided, the periods of alleged non-use have been separated into categories (a) and (b), with (a) reflecting the period relating to the section 46(1)(a) grounds and (b) reflecting the period relating to the section 46(1)(b) ground. Where no category (b) exists, the revocation against the respective mark is based on section 46(1)(a) only.

provisions of the Act relied on in these proceedings are derived from an EU Directive. This is why this decision continues to make reference to the trade mark case law of EU courts.

EVIDENCE

16. ANI's evidence came in the form of two witness statements, both in the name of Casey Coffman. The first statement is dated 8 July 2024 and the second is dated 12 September 2024. Ms Coffman is the Chief Commercial and Content Officer of ANI, a position she has held since 2013. In respect of her exhibits, the first statement is accompanied by 17 exhibits, labelled CC1 to CC17, and the second is accompanied by one, labelled CC1. For the purpose of this decision, I will refer to exhibit CC1 of the second statement as 2CC1. This evidence was adduced in order to demonstrate that ANI has genuinely used its marks during the relevant periods (being those relevant for the revocations and proof of use under the opposition).

17. I will refer to points from the evidence where necessary.

MY APPROACH

18. ANI's opposition is reliant upon a mark that is subject to a revocation application by NG. Given that the revocation date sought by NG against that mark precedes the relevant date for the opposition, any success of the revocation (be that full or partial) will have a direct impact on the opposition. For example, if the revocation succeeds in full, ANI's first mark will be revoked from 28 August 2019 meaning that it will not constitute an earlier mark for the purposes of the opposition. In such circumstances, the opposition will fall away. Alternatively, if the revocation fails (or is only partially successful), ANI's first mark will remain a valid earlier mark for the purpose of the opposition, meaning that the opposition will proceed. As a result, I consider it necessary to consider the revocations first.

19. In respect of the revocations, I note that prior to the hearing in this matter, ANI surrendered its third through eighth marks in full. Further, in its skeleton argument filed prior to the hearing, ANI confirmed (at paragraph 9) that it would not resist NG's revocation actions in respect of those marks. As a result, NG's revocation actions in respect of those marks succeed in full. I will discuss this in further detail at the conclusion of my assessment of the revocation actions.

DECISION

THE APPLICATIONS FOR REVOCATION

Section 46(1)

20. Section 46 of the Act states:

“46. - (1) The registration of a trade mark may be revoked on any of the following grounds-

(a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;

(b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;

(c) [...]

(d) [...]

(2) For the purpose of subsection (1) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive

character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as is referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) [...]

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from-

(a) the date of the application for revocation, or

(b) if the registrar or court is satisfied that the grounds for revocation existed at an earlier date, that date”.

21. Given that ANI's first and second marks are comparable marks, paragraph 8 of part 1, schedule 2A is relevant. It reads:

“8.— Non-use as defence in infringement proceedings and revocation of registration of a comparable trade mark (EU)

(1) Sections 11A and 46 apply in relation to a comparable trade mark (EU), subject to the modifications set out below.

(2) Where the period of five years referred to in sections 11A(3)(a) and 46(1)(a) or (b) (the "five-year period") has expired before [IP completion day]—

(a) the references in sections 11A(3) and (insofar as they relate to use of a trade mark) 46 to a trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in sections 11A and 46 to the United Kingdom include the European Union.

(3) Where [IP completion day] falls within the five-year period, in respect of that part of the five-year period which falls before [IP completion day]—

(a) the references in sections 11A(3) and (insofar as they relate to use of a trade mark) 46 to a trade mark, are to be treated as references to the corresponding EUTM; and

(b) the references in sections 11A and 46 to the United Kingdom include the European Union”.

22. Section 100 is also relevant, which reads:

“If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

23. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 *P Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bunderversvereinigung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at

[36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or

just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

24. Proven use of a mark which fails to establish that “the commercial exploitation of the mark is real” because the use would not be “viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services protected by the mark”⁴ is not, therefore, genuine use.

25. I remind myself that the relevant periods for the present application are 28 August 2014 to 27 August 2019 in respect of ANI’s first mark and 4 July 2014 to 3 July 2019 in respect of its second. While these relevant periods differ slightly, they overlap for the most part.

26. In its skeleton argument, at paragraph 10, ANI set out that it only sought to defend the goods and services set out below. As a result, ANI’s marks are to be revoked

⁴ *Jumpman*, Case BL O/222/16

with effect from 28 August 2019 (for its first mark) and 4 July 2019 (for its second) in respect of the remaining goods and services.

Class 9

Computer game software for entertainment purposes pertaining to the game of golf and golf tournaments; video game programs pertaining to the game of golf and golf tournaments; prerecorded video tapes pertaining to the game of golf and golf tournaments; interactive game software and interactive video games pertaining to the game of golf and golf tournaments; downloadable electronic games via the internet pertaining to the game of golf and golf tournament.

Class 16⁵

Books, souvenir programs, journals, and manuals pertaining to golf, sporting events, golf tournaments, and golf entertainment; posters and prints pertaining to the game of golf or golf tournaments or golf courses.

Class 38

Broadcasting golf events on television, radio, the internet, digital communications networks, and cable; computer-aided electronic transmission and electronic delivery of voice, data, images, and messages in the field of golf, golfing events, golf tournaments, and golf entertainment via computer networks, interactive television, and the internet.

Class 41

Entertainment in the nature of golf tournaments; entertainment services, namely, providing temporary use of non-downloadable interactive games, non-downloadable electronic games, non-downloadable computer games, and non-downloadable video games pertaining to the game of golf and golf tournaments; providing news and information about golf and golf events; providing a web site featuring news and information about golf and golf events; publishing of non-downloadable electronic online publications pertaining to the game of golf and

⁵ The class 16 goods, as acknowledged by ANI in its skeleton argument, are only applicable to ANI's first mark

golf tournaments; electronic games services provided by means of the internet pertaining to the game of golf and golf tournaments.

Evidence of use

27. ANI's evidence begins with a discussion regarding the history of its business. ANI owns and operates an exclusive golf and country club based in Augusta, Georgia in the USA. The MASTERS TOURNAMENT (usually referred to as 'THE MASTERS') has been hosted at Augusta National Golf Course since 1934. The tournament is one of the four major championships in professional golf. It is claimed to be one of the world's greatest and most prestigious golf tournaments and it has been broadcast in the UK since the 1960s. Further information of the history of the tournament is provided via a printout of ANI's website.⁶ While noted, I see no merit in discussing this further at this point as it does not pertain to use of the marks in the UK during the relevant period but merely confirms the existence of a historical tournament.

28. In terms of the UK broadcast of the MASTERS event, ANI confirms that it has been in partnership with the BBC since 1967. During this time, it is confirmed that the BBC broadcast the event live on TV and online. In addition, it is confirmed that the BBC has broadcast selected live coverage on both television and radio. Lastly, ANI refers to a partnership with Sky Sports. Broadcast agreements between ANI and both Sky and BBC for the years 2016 to 2023 are provided.⁷

29. Viewer ratings for the broadcasts of BBC and Sky Sports are provided for the years 2014 to 2018. I do not intend to reproduce these in their entirety but note that each year attracted an average audience of over 1 million UK viewers throughout the duration of the tournament. In addition, the total number of unique viewers who tuned into the tournament for these years ranges from 5.8 million to 6.9 million.

⁶ CC1

⁷ CC2

30. In addition to the above, figures from 2019 to 2021 are provided for viewer ratings on BBC2, Sky Sports Golf and Sky Sports Main Event. Given that the tournament takes place in April of each year,⁸ the 2019 figures fall within the relevant period. However, the 2020 and 2021 figures do not. That being said, I refer to section 46(3) of the Act (reproduced above) which sets out that a mark shall not be revoked if the use resumed after the expiry of the five-year period but prior to the three months prior to the application for revocation. As such, evidence from after the relevant period may still be of assistance here in defending the revocation action (so long as it is genuine, of course). Between 2019 and 2021, THE MASTERS attracted a total of 3.3 million viewers on BBC, 3 million on Sky Sports Golf and 1.9 million on Sky Sports Main Event.

31. German figures are provided and these show that, on Sky Deutschland between 2014 and 2019, THE MASTERS had from 51,000 to 104,000 viewers per year tune into the live broadcast via the Sky Go app.

32. The evidence goes on to discuss advertising efforts that are claimed to have been undertaken by ANI. It is claimed that ANI invested a significant amount financially in promoting and advertising its goods and services in the UK but no actual information or figures are provided in support of this. In respect of this point, ANI's evidence refers to brands such as Rolex, Mercedes Benz, Delta Airlines and UPS. While there is evidence provided regarding the UPS media plan for 2022 and 2023, the figures within it are redacted. The narrative evidence does refer to impressions in the range of 50 to 60 million a year for this campaign but there is nothing before me to suggest the actual nature of this campaign. For example, it is not clear whether its purpose was to advertise UPS or whether it actually promotes THE MASTERS event. Given that the plan provided is UPS's plan, it would suggest to me the former. The same issue applies with the Delta Airlines investment plans⁹ in that the introduction page of the same sets out that the aim of the campaign is the drive a connection between Delta and golf, to help raised the Delta brand metrics

⁸ As confirmed by the press coverage provided at CC16

⁹ CC5

and capitalise on the buzz surrounding THE MASTERS. This would suggest efforts to actual drive sales of Delta flights.

33. While on the topic of advertising, ANI has provided around 60 pages of adverts and articles demonstrating the partnership between THE MASTERS and Mercedes-Benz and Rolex.¹⁰ This evidence includes articles regarding the partnerships as well as excerpts from Rolex's plans for advertising during the tournament. In addition, evidence is provided of plans and advertisements in respect of Delta's advertising attempts in the UK.¹¹

34. While the evidence of these third parties' campaigns and advertising efforts is noted, there is nothing before me to confirm whether any spend in relation to the same was incurred by ANI or whether it was the case that the expense came from these third party brands paying ANI to use THE MASTERS branding in order to promote its own goods. I appreciate that this evidence points to partnerships between these brands and ANI's tournament. However, it does not appear to me to equate to actual advertising efforts undertaken by ANI. Instead, the evidence all appears to be promotional materials used to generate sales of Mercedes-Benz vehicles, Rolex watches and Delta flights by capitalising on an association with the Masters Tournament.¹² I accept that these companies looking to promote their marks via ANI's tournament may very well indicate that the Masters Tournament is successful in itself. While this may be factor in favour of genuine use, my assessment must still take into account the other requirements of use in the relevant territory for the relevant goods and services.

35. ANI's evidence moves to discuss specific goods and services that it claims to offer. The first set of goods relates to video games. ANI confirms that it entered into partnership with EA Sports to include the August National Golf Course in the PGA Tour golf video game. Various images of the game and screenshots taken from

¹⁰ CC6

¹¹ CC7

¹² While this would allude to some form of knowledge across the UK consumer base of 'THE MASTERS' or 'THE MASTERS TOURNAMENT', the issue at hand here is whether there has been genuine use, not whether 'THE MASTERS' is known.

websites discussing the same are provided in evidence.¹³ The evidence makes reference to the iteration of the game that was called 'Tiger Woods PGA Tour'. However, this game was released between 1999 and 2013 so is prior to both relevant periods at issue here. There is, however, reference to the 2014 and 2015 versions of the 'PGA Tour' game that were released in 2013 and 2014, respectively. After the release of this game, the series ceased for a number of years before being relaunched in 2021. A version of the game titled 'PGA TOUR: ROAD TO THE MASTERS' was released in 2023 on Microsoft Windows, PlayStation 5 and XBOX Series X/S. Information regarding the agreement for this is provided via an article from Polygon dated 7 April 2021.¹⁴

36. On the topic of video games, Ms Coffman's second witness statement seeks to introduce sales figures for these goods. It is confirmed that the UK sales of the 'Tiger Woods PGA Tour 14' game between 2013 and 2017 was in the range of 150,000 to 200,000 units. Further, the game 'PGA TOUR: ROAD TO THE MASTERS' sold 100,000 to 150,000 copies between 2023 and 2024. This narrative evidence is supported by a letter from Ben Ramsour, of EA (the parent company of EA Sports).¹⁵ The figures appear to be broken down in the letter but this is redacted so I have no way to determine how the figures can be apportioned to the relevant periods or the period leading up to three months before the revocation applications were made.¹⁶ This is an issue here because the relevant periods begin in July/August 2014 and given that the 2014 version of the game was released in 2013, it is reasonable to suggest that a proportion of sales would have come prior to July/August 2014. Further, the 'ROAD TO THE MASTERS' game was released in May 2023 and the three month period on which the provision of section 46(3) of the Act kicks in would have been in September 2023. Without a breakdown, it is not possible for me to determine how many sales occurred prior to or after that date. In short, this evidence is noted but the lack of breakdown prevents me from being able to accurately apportion the sales to the relevant periods or timeframes. As such, I consider that this evidence is insufficiently solid.

¹³ CC8

¹⁴ CC9

¹⁵ 2CC1

¹⁶ Being relevant to the provisions of section 46(3) of the Act.

37. The evidence turns to ANI's website and app. Dealing with the website first, it is confirmed that 'MASTERS.COM' was launched in 1996 and initially only included news, a leaderboard, player profiles and images of the course. Since then, the website has developed to include features such as live streaming, high definition content and more. It is not confirmed at what point in the history of the website that these various features were introduced or whether they were features that were available to UK users. I make the latter point because it is my understanding that live streaming online is often restricted across different jurisdictions and, on this point, I have no evidence to confirm whether UK users could also stream via the website.

38. Turning to the app, the narrative evidence explains that it was created in partnership with IBM in 2009. It is confirmed that the app is available via the Apple Store and the Google Play Store. In support of this point, undated screenshots taken of the app available for download on these stores are provided.¹⁷ The description of the app on both pages make reference to the 2023 tournament but the Google Play printout confirms that the app was updated on 8 January 2024, indicating that this printout was obtained after that date. While no such information is available in respect of the Apple Store printout, I have nothing to suggest anything different so will proceed on the basis that it was also obtained after this date.¹⁸ I raise this point here because the printouts show screenshots of the app but given what I have said above, I am not willing to conclude that the images show the app during the relevant time.

39. In respect of the features of the app, it is stated that fans, anywhere in the world, can create a personalised group of players and watch every shot from said players. It is not confirmed at this point whether such a feature is a live broadcast or simply the provision of video highlights. The narrative evidence does go on to state that the app provides comprehensive coverage of the tournament and includes a live simulcast of the tournament's coverage. Again, it is not confirmed when the live

¹⁷ CC13

¹⁸ If this was not the case then I would expect evidence to the contrary to have been provided. It was not.

simulcast was introduced to the app. That being said, I do note that the evidence confirms, by way of an article dated 13 April 2023 from the publication 'AXIOS', that the app, at that point, had the live broadcast feature.¹⁹ Therefore, I am willing to accept that the broadcast features existed on the app in 2023. While that may be the case, the evidence in respect of any broadcast via the app is minimal and I have nothing to show what the broadcast looks like on the app, whether it is advertised as being provided by IBM or ANI and, finally, whether the live broadcast is something that UK users are permitted to access. I make the latter point because as discussed above, it is my understanding that jurisdictional rights issues may dictate that live broadcast features are not available in certain locations. Again, the minimal nature of the evidence provided is such that I have no way determine this issue. Further features are discussed in an undated article.²⁰ While noted, the article includes the tags 'en-us' and 'english (u.s.)'. Therefore, it is not clear if the features discussed were available prior to September 2023 or in the UK.

40. ANI has provided evidence in respect of the download figures and website visits by UK users. The evidence confirms that between 2019 and 2023, there were in the region of one million UK users per year. While noted, the downloads and visits are provided as one collective figure and no breakdown has been provided so as to allow me to determine what proportion can be apportioned to the app and what can be apportioned to the website.

41. In respect of printed materials in class 16, ANI has provided a printout from its imagery and publications store that feature printed goods such as framed prints and journals.²¹ It is claimed in the narrative evidence that from 2022 to March 2024, ANI sold thousands of dollars' worth of items through this store to consumers in the UK. Firstly, the reference to 'thousands of dollars' is extremely vague. Secondly, there is no breakdown as to how the sales can be accurately apportioned to journals and prints, or other class 16 goods. Lastly, no information is given with regard to when the sales took place. For example, any sales post-

¹⁹ CC12

²⁰ CC11

²¹ CC17

September 2023 are not relevant to these proceedings and given that the figures cover up until March 2024, I am unable to determine how many goods were sold within the relevant periods.

42. Lastly in respect to different types of goods offered, the evidence goes on to discuss the sale of goods to UK visitors to the Masters Tournament at Augusta National Golf Course. There is no confirmation as to how many UK customers attended the Masters Tournament on an annual basis and, in any event, I am not convinced that goods bought by UK visitors in the USA and then shipped back to the UK constitutes a genuine attempt to create or preserve a market share in the UK for such goods. In any event, the goods discussed here are in classes 18, 25 and 28, which are no longer at issue here since ANI has only sought to defend goods and services in classes 9, 16, 38 and 41. Such evidence is, therefore, of no assistance here.

43. Social media evidence is provided, with reference to ANI's Facebook, Instagram, Threads, TikTok, X (formerly known as Twitter), Snapchat and YouTube. I do not intend to discuss these in full but note that each account, as of 5 July 2024, ranged from around 370,000 to 1.9 million followers/subscribers. In addition, however, I note that the Facebook account has 14.2 million 'likes'. Screenshots of these accounts are provided.²² This evidence is noted but the international nature of these accounts means that it is not possible to determine how many followers/subscribers were from the UK. Further, there is nothing to suggest what the follower/subscriber figures were during the relevant period or in the period leading up to September 2023. At the hearing, Mr Hicks argued that it was remarkable to suggest that these accounts did not attract substantial visits from the UK. I appreciate that some of these followers/subscribers would have been from the UK but I am unable to determine how much and, on this point, I remind myself that it was for ANI to accurately provide the relevant information and findings of genuine use are not to be based on mere suppositions.

²² CC15

44. ANI has provided 13 press articles wherein THE MASTERS has been discussed.²³

These range from 8 April 2012 and 13 April 2022. I do not intend to discuss them in any detail but note that they come from nationwide publications such as BBC Sport and The Guardian, as well as other golf related publications. The articles mostly discuss the events of the tournament itself so pertain to sports news coverage. One article discusses Sky Sports's new exclusive licence with ANI in 2019 and another sets out the way in which to watch the 2019 tournament.

Assessment of the evidence

45. Before moving to assess the evidence before me, I consider it necessary to discuss the case of *Awareness Limited v Plymouth City Council*, Case BL O/236/13, wherein Mr Daniel Alexander Q.C., sitting as the Appointed Person, stated that:

“22. The burden lies on the registered proprietor to prove use..... However, it is not strictly necessary to exhibit any particular kind of documentation, but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal (which in many cases will be the Hearing Officer in the first instance) comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said, the public.”

And further at paragraph 28:

²³ CC16

“28. I can understand the rationale for the evidence being as it was but suggest that, for the future, if a broad class, such as “tuition services”, is sought to be defended on the basis of narrow use within the category (such as for classes of a particular kind) the evidence should not state that the mark has been used in relation to “tuition services” even by compendious reference to the trade mark specification. The evidence should make it clear, with precision, what specific use there has been and explain why, if the use has only been narrow, why a broader category is nonetheless appropriate for the specification. Broad statements purporting to verify use over a wide range by reference to the wording of a trade mark specification when supportable only in respect of a much narrower range should be critically considered in any draft evidence proposed to be submitted.”

46. I also refer to the case of *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd*, Case BL O/404/13, wherein Mr Geoffrey Hobbs Q.C., sitting as the Appointed Person, stated that:

“21. The assessment of a witness statement for probative value necessarily focuses upon its sufficiency for the purpose of satisfying the decision taker with regard to whatever it is that falls to be determined, on the balance of probabilities, in the particular context of the case at hand. As Mann J. observed in *Matsushita Electric Industrial Co. v. Comptroller- General of Patents* [2008] EWHC 2071 (Pat); [2008] R.P.C. 35:

[24] As I have said, the act of being satisfied is a matter of judgment. Forming a judgment requires the weighing of evidence and other factors. The evidence required in any particular case where satisfaction is required depends on the nature of the inquiry and the nature and purpose of the decision which is to be made. For example, where a tribunal has to be satisfied as to the age of a person, it may sometimes be sufficient for that person to assert in a form or otherwise what his or her age is, or what their date of birth is; in others, more formal proof in the form of, for example, a birth certificate will be required. It

all depends who is asking the question, why they are asking the question, and what is going to be done with the answer when it is given. There can be no universal rule as to what level of evidence has to be provided in order to satisfy a decision-making body about that of which that body has to be satisfied.

22. When it comes to proof of use for the purpose of determining the extent (if any) to which the protection conferred by registration of a trade mark can legitimately be maintained, the decision taker must form a view as to what the evidence does and just as importantly what it does not ‘show’ (per Section 100 of the Act) with regard to the actuality of use in relation to goods or services covered by the registration. The evidence in question can properly be assessed for sufficiency (or the lack of it) by reference to the specificity (or lack of it) with which it addresses the actuality of use.”

47. Lastly, I refer to the case of *Eros Bodyglide* (O/0984/25), namely paragraphs 26 and 27, wherein Professor Phillip Johnson, sitting as the Appointed Person, set out that where global sales figures are provided for multiple goods sold under one trade mark, this is not going to be evidence of use for any of those goods.

48. Turning to my assessment of the evidence, I accept that ‘THE MASTERS’ and ‘THE MASTERS TOURNAMENT’ are associated with a prestigious golf tournament that takes place annually in Augusta, Georgia in the USA. This is not something that is in dispute by NG either as Professor Johnson commented to similar effect in his skeleton argument (see paragraph 20). That being said, the issue I have to consider here is whether the marks at issue have been put to genuine use by ANI (or with its consent) in the UK for the purpose of creating or preserving a market share in respect of the goods and services at issue. ANI argues that it has used its marks in respect of the defended goods and services whereas NG argues that it has not.²⁴ Both parties made extensive submissions on the issue of genuine use at the hearing and while I do not intend to reproduce those

²⁴ That being said, NG has made a concession as to use for one term in class 41, which I will discuss below.

in full here, I can confirm that I have taken their comments into consideration in determining the present assessment.

49. An assessment of the evidence is to be based on the evidence as a whole. In the present case, however, the goods and services for which use has been claimed are disparate from one another. For example, use in respect of broadcasting services has no impact on use for video games, and vice versa. Further, at the hearing, the parties took a similar approach in actively seeking to discuss the different groupings of goods and services separately. Therefore, while keeping in mind that I must take all of the evidence before me into account, I will assess the evidence separately insofar as it pertains to different groups of goods or services. I will begin with what was the dominant talking point at the hearing, being ANI's claim to have used its marks on broadcast services in class 38.

Class 38

50. It is accepted that 'THE MASTERS TOURNAMENT' was broadcast in the UK during the relevant period and prior to September 2023 by both BBC and Sky Sports. On this point, NG accepts that these broadcasts attracted healthy viewing figures. However, NG's position is that there is no evidence that any signal was transmitted by ANI to the UK or the EU and that, instead, the services are actually provided by Sky or the BBC.

51. At the hearing, Mr Hicks took me through the agreements between ANI and the BBC and Sky in detail. While this is noted, I do not see how the existence of such agreement, or their requirements on the broadcaster to take certain steps or show certain things a prescribed number of times during a broadcast, demonstrate that ANI actually uses its marks in the UK. My understanding of the television broadcast is that while the signal is coming from the property owned by ANI (being Augusta National Golf Course), it is Sky or the BBC that are actively offering the broadcast services in the UK. It is also my understanding that when it comes to the broadcasting of such events, there are two users for the service of 'broadcasting'. Firstly, it is the undertaking that is looking to have their event broadcast that will

seek the services of a broadcast company to broadcast said event. Secondly, it is the person(s) looking to watch the event. In such circumstances, I consider that ANI is a user of the services in line with the first description above, as opposed to its provider.

52. In respect of how the tournament is shown on TV, I am of the view that the use of 'THE MASTERS' or 'THE MASTERS TOURNAMENT' on the broadcasts will be viewed merely as an indicator of the name of the tournament that they are watching as opposed to an indication that those brandings are responsible for the actual broadcast service. To further illustrate this point, I understand that Sky requires its users to pay a subscription fee to gain access to its Sky Sports channels in order to watch sports broadcasts. Regardless of any agreement between ANI and Sky for the permission to broadcast such an event, the actual service being provided is by Sky and the end consumer will be aware of that.

53. In addition to the above, I consider that the evidence before me is simply too imprecise so as to allow me to get a full understanding of how ANI can be said to be the party offering the broadcasting services. On this point, and using the Sky Sports broadcast for example, it is my understanding that during golf tournaments, the commentators will be those provided by Sky Sports and, further, during gaps in play, the broadcast will feature segments from within Sky Sports' broadcast studio. I appreciate that I have no evidence before me on this point and my understanding on this point is not something that is so notorious that I can take judicial notice of it.²⁵ However, I have no evidence to the contrary so as to suggest that it is ANI that provides the commentators or whether the broadcast cuts to ANI's studio. As it is the burden on the owner of a mark to prove use, I consider it reasonable to conclude that there is nothing sufficiently solid before me to demonstrate the nature of the broadcast and whether the person watching the event would see it as an ANI broadcast, as opposed to a Sky Sports one.

²⁵ See *Chorkee Ltd v Cherokee Inc.*, Case BL O/048/08

54. An aspect of ANI's class 38 services relates to services being provided online. Insofar as this relates to the Sky Sports and BBC broadcasts (which I understand are not only broadcast on terrestrial, cable or satellite TV but also provide live streaming via the internet), I consider that the above findings apply here and, as such, I find that ANI has not provided genuine use for the same. However, I do note that ANI's app is described as offering live coverage of the tournament. On the face of it, this could be said to be online broadcasting services. That being said, I consider that the evidence surrounding the app is vague and imprecise. My reasons for this are as follows:

- a. The evidence regarding the level of UK users that have downloaded the app is not separated from the website visits. As such, I have no way to breakdown what proportion of this figure downloaded the app or how many simply visited 'MASTERS.COM' for an update on tee times, weather delays or to view the leaderboard.
- b. The details regarding the features of the app are vague and there is nothing before me to suggest when the app introduced live streaming which limits the impact of the 2019 to 2022 figures (on the basis that 2023 appears to be the first year for which I have evidence to confirm its presence).
- c. The evidence before me suggests that from 2020 onwards, Sky was the exclusive live broadcasters of the Masters in the UK. This is confirmed via the press coverage I have discussed above.²⁶ To me, the reference to exclusive rights implies that the app cannot be used to stream live coverage of the tournament in the UK. Further, these articles make no reference to the app being an option for UK consumers to watch the tournament live. Lastly in respect of this point, it is my understanding that live broadcast rights are territorial in nature so the availability of a live stream in one jurisdiction may not necessarily be the case elsewhere. I make this point not because it is something I can take judicial notice of but because it is a reasonable inference to make in light of the lack of precision in ANI's evidence. In short, I have

²⁶ See the articles at pages 259 and 260 (at CC16) which confirm as such.

nothing before me in evidence that sufficiently points to the app being used by UK users to watch the event live.

- d. Even if the broadcast of the tournament was available to UK users at any point since 2014, there are no images to show how it appears. Given that the app is made in partnership with IBM, I consider it reasonable to suggest that the broadcast may be provided by IBM as opposed to ANI. Again, there is no evidence before me to confirm that, to the contrary, ANI was the clear provider of any broadcast service.

55. Taking all of the above into account, I am simply not satisfied that the evidence before me surrounding the broadcast of the Masters tournament is sufficiently solid so as to allow me to conclude that it was a service that ANI provided in the UK. As a result, I find that ANI has failed to provide genuine use for such services. For the avoidance of doubt, I find that this applies to all of the class 38 services in that they are, essentially, varying terms of broadcast services.

Class 9

56. The class 9 goods of ANI relate solely to computer games. The evidence in respect of this point covers a game released in 2014 and one released in 2023. Firstly, I am not convinced that the games discussed in ANI's evidence (being 'PGA Tour 2015' and 'PGA Tour: Road to the Masters') can be said to be use of ANI's marks to the point that they demonstrate an attempt by ANI to create or preserve a market share for video games in the UK. The 2015 version of the game allows users to play the Masters tournament but this is merely a feature in the game and in no way an attempt to create or preserve a market share for video games by ANI. As for the game 'PGA Tour: Road to the Masters', I consider that this will be viewed as a descriptive subtitle that will indicate to users that they can play the 'PGA Tour' video game and, in doing so, battle with other players in order to qualify for the Masters tournament. This is not independent use of 'MASTERS' that denotes origin to the point that it can be said to create or preserve a market share for video games but is merely a descriptive subtitle informing consumers of a gameplay feature offered. In any event, even if the appearance of ANI's tournament and course in

these games was acceptable and attributable as being use by ANI, the sales figures associated with these games are vague and imprecise and, for the reasons I have discussed above, I consider that they are insufficiently solid in order to allow me to conclude that there has been genuine use of ANI's marks in respect of the same.

Class 16

57. I accept that the evidence makes reference to the fact that ANI sold 'thousands of dollars' worth of goods in class 16 between 2022 and April 2024. However, as I have set out above, this is vague as it is not precisely confirmed the total volume of sales, neither is it broken down by way of category of good and, lastly, it is not confirmed how many sales came prior to September 2023. The evidence on this point is, therefore, insufficiently solid and without anything further, I fail to see how such a vague statement without any supporting evidence can be said to be sufficient to give rise to a finding that ANI has genuinely used its marks in respect of such goods.

Class 41

58. The services in this class relate to the provision of entertainment in the nature of golf tournaments, those that relate to non-downloadable computer games and provision of news. I will deal with these groupings of services separately.

Entertainment services, namely, providing temporary use of non-downloadable interactive games, non-downloadable electronic games, non-downloadable computer games, and non-downloadable video games pertaining to the game of golf and golf tournaments; electronic games services provided by means of the internet pertaining to the game of golf and golf tournaments.

59. Dealing with the computer game related services first, my primary issue is the fact that the games are provided by EA Sports as opposed to ANI. Further, the use of 'MASTERS' or 'MASTERS TOURNAMENT' in those games is not, in my view,

trade mark use. In any event, the evidence before me relates to a game that is provided on a disc or a downloadable item of software. The games do not appear to be software as a service and I have nothing before me to suggest otherwise. As such, I find that ANI has failed to provide any evidence that it has genuinely used its marks in respect of those services

Entertainment in the nature of golf tournaments.

60. In respect of this term, NG accepted at the hearing that ANI puts on a golf tournament in the USA and that said tournament attracts a healthy viewership in the UK. I agree with this point as it is something that is clearly borne out in the evidence of viewership figures from Sky, the BBC and Sky Deutschland. The issue here, however, is that the golf tournament is provided in the USA, not the UK. That being said, I remind myself that the General Court (GC”), in the case of *Standard International Management LLC v EUIPO*, T-768/20, considered whether a trade mark had been used in the EU despite the fact that the services themselves (hotels and ancillary services) were provided in the USA. In that case, the evidence showed use directed at consumers in the EU, including but not limited to advertisements and promotional campaigns, a bookings portal accessible to EU customers via the applicant’s website and figures issued by Google Analytics software concerning traffic on the applicant’s website. There was also evidence of reservations made directly by customers and through travel agencies situated in the EU, and of invoices addressed to customers resident in the EU. The GC stated:

“33 In the present case, in the first instance, it is necessary to examine the assessment that, since the services covered by the contested mark are, in any event, provided outside the territory of the European Union, the evidence relating to those services cannot be relevant for the purposes of establishing genuine use of that mark.

34 In that regard, first, it must be held that the Board of Appeal erred in finding that the contested mark could not immediately be put to genuine use in the European Union, because the applicant’s hotel and ancillary services are

provided in the United States. As the parties note, the Board of Appeal erred in not distinguishing between the place of those provisions of services and the place of use of the mark. Only the latter is relevant to examination of the genuine use of an EU trade mark.

35 As, in essence, the applicant is claiming, the use of a trade mark is demonstrated by multiple types of acts and those relevant for the purposes of establishing its genuine use cannot be limited solely to the acts of provision of the goods or services it covers. In particular, it is apparent from Article 9(3)(b) and (e) of Regulation 2017/1001 that, under the conditions set out in paragraph 2 thereof, the proprietor of an EU trade mark may prohibit a third party from using a sign in the course of trade in order to offer goods, put them on the market or stock them for those purposes under the sign, or from offering or supplying services under the sign, as well as from using the sign on business papers and in advertising. Taking account of the acts of use of a trade mark recognised by Regulation 2017/1001, such as the acts of advertising and of offering for sale, on which the applicant is relying in the present case, those acts are therefore relevant for the purposes of establishing genuine use of the contested mark in so far as they occur in the relevant territory.

[...]

37 However, it cannot be inferred from that case-law that, given the fact that the services at issue are provided outside the relevant territory of the European Union, the acts of use of the contested mark seeking to promote and to offer for sale such services are necessarily taking place outside that territory.

38 As is apparent from the case-law [...], it is sufficient to state that there is genuine use of a trade mark where that mark is used in accordance with its essential function, which is to guarantee the identity of the origin of the goods and services for which it has been registered, in order to create or preserve an outlet for those goods or services. Even if the applicant were to supply goods or services outside the European Union, it is conceivable that the applicant would

make use of that mark in order to create or preserve an outlet for those goods and services in the European Union.

[...]

40 Therefore, as the parties submit, the Court must hold that the Board of Appeal's finding by which it excluded all the evidence concerning the applicant's hotel and ancillary services in the United States was based on a false premiss."

61. The above case was decided after the end of the transition period, meaning that it is not binding. However, it is persuasive and sets out principles that I consider appropriate to apply here. I take this approach because while the advertising evidence leaves a lot to be desired (as it pertains to efforts by third parties to advertise their goods and services) it is clear to me that ANI has made an effort to create or preserve a market share for the provision of entertainment via its golf tournament in the UK. Evidence on this point comes via broadcast arrangements with Sky and the BBC, both of which have garnered a healthy level of viewership over the relevant period, and thereafter. Clearly, the provision of this tournament in such a manner constitutes an entertainment service as the UK end user will be watching it for such purpose. As a result, I am content to conclude that ANI has genuinely used both of its marks in respect of this service during the relevant periods.²⁷

Providing news and information about golf and golf events; providing a web site featuring news and information about golf and golf events.

62. NG has made a concession in respect of the first term listed above, albeit on a limited basis in that it applies to the term "providing news and information about golf and golf events by way of a downloadable app". As confirmed at the hearing, the concession applies solely to ANI's second mark. While the term for which use

²⁷ For the avoidance of doubt, in making the above findings in respect of the class 38 services, I gave due consideration as to whether this approach could apply. Ultimately, I deemed that it did not as, for reasons set out above, the class 38 services are those provided by BBC and Sky and the consumer would plainly see them in this way.

was conceded is “providing news and information about golf and golf events by way of a downloadable app”, I consider that this is too restrictive and would, in my view, strip ANI protection of services that are not, in essence, different from the services shown in evidence.²⁸ I say this because, in addition to the app, ANI provides a website with information about the Masters Tournament. While I have my issues with the evidence on this point, I do not consider that they prevent me from finding that ANI should be granted use for the same. This is on the basis that the figures provided cover both the app and website so the reference to a million users per year can apply broadly to both of these terms. This means then that not only should the term at issue, being “providing news and information about golf and golf events”, be granted in full, but that there is also use for “providing a web site featuring news and information about golf and golf events”.

63. As above, the concession applies to the second mark only. It was argued that the app being called ‘THE MASTERS TOURNAMENT’ meant that there was no use of ‘MASTERS’. While I appreciate that the app is shown in evidence as being called ‘THE MASTERS TOURNAMENT’, I consider that the appearance of the word ‘MASTERS’ within the title to be sufficient for me to find that use should be granted for the first mark also. I say this because use of a variant mark may be acceptable use as registered if said mark is used as part of a composite mark and it continues to be perceived as being indicative of the origin of the services at issue.²⁹ Therefore, I consider that use of ‘THE MASTERS TOURNAMENT’ is use of ANI’s first mark as registered. Alternatively, if this is incorrect, then I do not consider that the addition of the words ‘THE’ or ‘TOURNAMENT’ alter the distinctive character of ANI’s first mark. This is on the basis that ‘TOURNAMENT’ is descriptive of a competitive tournament to determine a winner so will not be attributed any trade mark significance, thereby keeping ‘MASTERS’ as the dominant element.

²⁸ *Merck KGaA v Merck Sharp & Dohme Corp & Ors* [2017] EWCA Civ 1834

²⁹ *Colloseum Holdings AG v Levi Strauss & Co.*, Case C-12/12

Publishing of non-downloadable electronic online publications pertaining to the game of golf and golf tournaments.

64. While ANI clearly operates its own website, the evidence before me does not cover anything that can be said to equate to the offering of publishing services of any kind. I, therefore, find that there is no genuine use in respect of the above.

Conclusion of the revocations

65. In light of everything I have said above, I find that ANI's marks are to be revoked in full (with effect from the earliest dates sought, being 28 August 2019 for the first mark and 4 July 2019 for the second), save for the following services:

Class 41: Entertainment in the nature of golf tournaments; providing news and information about golf and golf events; providing a web site featuring news and information about golf and golf events.

66. Whilst the revocation against ANI's first mark succeeds in respect of most of the goods and services for which it is registered, ANI's opposition will still proceed but only in reliance upon those services listed immediately above.

THE OPPOSITION

67. For the purposes of the opposition, I will refer to ANI's first mark simply as 'ANI's mark'.

Proof of use

68. ANI's mark is relevant to the opposition as it constitutes an earlier mark in accordance with section 6 of the Act. As I have set out above, NG requested that ANI provide proof of use for the mark relied upon in the opposition. While I appreciate that the relevant period for the issue of genuine use under the opposition (being 9 February 2018 to 8 February 2023) is different to that which

was relevant to the revocation (being 28 August 2014 to 27 August 2019), I am of the view that the findings reached above under the revocation apply here. This is on the basis that the services that survived the revocation did so on the basis that they were also used after the relevant period, during the intervening period between 28 August 2019 and September 2023. For example, during this time, the evidence covers viewership figures for ANI's tournament and visitor/download figures for the website/app. As such, I will proceed that the outcome of genuine use under the opposition is identical to the issue of genuine use under the revocation action.

Sections 5(2): legislation and case law

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

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

(a) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected, or

(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 or association with the earlier trade mark.”

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

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

71. The following standard summary of the principles applicable to the assessment of the likelihood of confusion (under section 5(2) of the Act) 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, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may

retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

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

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

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

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

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

Identity of the marks

72. It is a prerequisite of section 5(2)(a) of the Act that the marks at issue be identical. The second mark in NG's application is plainly identical to ANI's first mark. As for the first mark in NG's application, it consists of the words 'THE MASTERS', meaning that it differs with ANI's mark due to the inclusion of the word 'THE'. On this point, I refer to the case of *S.A. Société LTJ Diffusion v. Sadas Vertbaudet SA*, Case C-291/00, the Court of Justice of the European Union ("CJEU") held that:

"54... a sign is identical with the trade mark where it reproduces, without any modification or addition, all the elements constituting the trade mark or where, viewed as a whole, it contains differences so insignificant that they may go unnoticed by an average consumer."

73. I am of the view that the word 'THE', from a trade mark perspective, is something that is so insignificant that it does not impact the consumers' impression of the mark. As a result, despite the inclusion of the word 'THE', I find that these marks are also identical. I will, therefore, proceed to consider the section 5(2)(a) ground only but will, if necessary, discuss the section 5(2)(b) ground further at the conclusion of this section of my decision.

Comparison of goods and services

74. NG's goods and services are set out at Annex 3 of this decision whereas ANI's services are "entertainment in the nature of golf tournaments", "providing news and information about golf and golf events" and "providing a web site featuring news and information about golf and golf events".

75. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

"Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary".

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

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;

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

77. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the GC stated that:

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

78. In its skeleton argument, when discussing the goods and services at issue, ANI referred to the present ground only in respect of all goods and services in classes 9, 38, 41 and some services in class 42. At the hearing, Mr Hicks made arguments in respect of the goods and services comparison but did so on the basis of the entirety of ANI’s mark’s specification. As that specification has been significantly limited, those submissions are, for the most part, no longer relevant. In making my assessment below, I will refrain from discussing each and every point made and will only do so where I deem it relevant. For the avoidance of doubt, I have taken both parties’ full submissions into account in making the following comparison.

79. Given the length of NG's specification, I will refrain from addressing each and every term at issue. Instead, where I deem it appropriate, I will address various groupings of the goods and services together.³⁰ I consider this appropriate because to address each term would result in an unnecessarily long decision. Further, the reasons for this approach will become evident during the course of my comparison.

80. It is noted that various classes of goods and services in NG's specification include a limitation preventing them being used in relation to pharmaceuticals or the field of pharmaceuticals. While these limitations have not been included by ANI in its opposition of the goods and services targeted under the section 5(2) grounds, they are still relevant to the specification at issue. That being said, they have no impact in the present case (be that under the present grounds or section 5(3)) due to the fact that ANI's specification does not expressly cover goods or services that can be said to relate to pharmaceuticals.

Class 9

Downloadable publications;³¹ electronic publications; publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites).

81. The goods above can, in my view, be reasonably said to cover publications that include news pertaining to golf and golf tournaments. While not identical with the provision of services relating to news and information, I do consider them to be similar. In this context, I consider that the ultimate purpose of both the goods and the services is to provide news on golf and golf tournaments. Further, I consider it reasonable to suggest that a provider of news services for said topic is likely to provide downloadable publications covering the same, meaning that there is an overlap in trade channels. I also consider that the users will overlap as someone looking for news about golf is likely to download publications covering the same or will access ANI's services. Lastly, the goods and services are not complementary

³⁰ This is permissible in accordance with *Separate Trade Mark* (BL O/399/10)

³¹ Which appears twice

but could be in competition as a user may look to obtain news via different methods, be that a downloadable publication or via a service. Overall, I consider that despite the goods and services differing in nature and method of use, the aforementioned overlaps are sufficient to give rise to a finding that they are similar to a medium degree.

82. Looking at the remaining class 9 goods in NG's specification, I am of the view that they are plainly dissimilar to ANI's services. I say this because NG's goods are either items of software, apps or physical computing devices. I appreciate that ANI's evidence demonstrates that it has an app. However, a downloadable app is not a term within its specification so this is not relevant here. Considering NG's class 9 goods generally, the software/app goods may relate to golf but this alone is not, in my view, sufficient to warrant a finding of similarity between them. On this point, I refer to the case of *Unicorn Studio Inc v Veronese* [2024] EWHC 1098 (Ch) wherein Mr Iain Purvis K.C., sitting as deputy High Court judge, set out at paragraph 24 of his judgement that:

“[A]ny finding of similarity in the end requires the exercise of common sense and requires the hearing officer to stand back and consider the overall question. It strikes me that here the hearing officer was engaging essentially in a box-ticking exercise, asking how many of the factors identified in *TREAT* or in *Canon* could be said to have been satisfied. Had the hearing officer stood back and considered the overall question of similarity, I believe she would have considered and certainly ought to have considered that the idea that figurines and works of art were similar to electric lamps, chandeliers or mirrors was nonsensical and it hardly needed a careful consideration of the *Canon* or *TREAT* factors to come to that conclusion. I therefore agree with the appellant that this category of goods should have been found dissimilar, and certainly it could not have reasonably been found similar to more than 'a very low degree'.”

83. While the above case involved a comparison of entirely different goods than those that are at issue here, I am of the view that the same principle applies. Taking a step back and considering NG's class 9 goods against ANI's provision of

entertainment by way of golf tournaments and news/information (about golf or a golf tournament) services, I consider that a finding of similarity offers far too broad a scope of protection to such goods or services. For example, a downloadable app can be used to book golf tee times but this is in no way similar to the provision of a golf tournament for entertainment purposes. To me, a suggestion of similarity between such services is non-sensical and, again, offers far too broad a scope of protection that, in my view, is wholly unsupportable. As a result, I find that the remaining class 9 goods of NG are dissimilar to ANI's services.

Class 35

Retail, online retail and wholesale services in relation to the sale of downloadable publications, electronic publications, publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites).

84. These services relate to the retail of the same goods that I have discussed at paragraph 81 above. While those goods were similar to a medium degree with ANI's services, that does not necessarily mean that they are similar to the retail services of the same. Plainly, these services differ in nature and method of use. There is no overlap in purpose as the aim of the above services is to retail goods to the end consumers. That being said, I find that the trade channels do overlap to a degree in that an undertaking that offer retail services for downloadable publications (that can include publications relating to golf and golf tournaments) is also likely to offer services for the provision of news and information relating to golf and golf tournaments. Lastly, the users may overlap on the basis that someone looking to buy downloadable publications covering golf content is also likely to look for news and information for the same via ANI's services. As a result, I find that these services are similar to a low degree.

85. The remaining services opposed under this class in the present ground includes services such as "online subscription services for the purpose of allowing individuals to subscribe and access content uploaded by members of the service

for online adult entertainment services” and retail services relate to products such as ‘computer software for scanning, detecting, and removing viruses, worms, Trojan horses, adware, spyware, and other malware’ and ‘electronic educational teaching games’. Such services have no connection to ANI’s services and even if they can be said to cover the retail of goods that relate to golf (be coin-operated arcade video game machines that may be golf games), the distance between the services is just too great and, following the principles set out in *Veronese* (cited above), there is no sufficient justification to find that any of the relevant factors overlap to any meaningful degree. I, therefore, find that the remaining services are all dissimilar.

Class 38

News agency services.

86. The above service is not, in my understanding, for the provision of news to the end user (as is the case with ANI’s news related services) but is, instead, a service provided by an agency to news organisations and businesses. As far as I am aware, a news agency is an undertaking that will collate news reports and sell them to organisations such as newspapers. Of course, the news agency service could provide a news report about a golf event but I do not consider that this alone is sufficient to give rise to a finding that these services are similar. Ultimately, they have different natures, method of use and user. In respect of trade channels, I have nothing before me in evidence to suggest that it is common in the trade for news agency services to also provide news directly and without it, I am not willing to conclude that there is any material overlap here. I appreciate that the purposes may overlap in that the end goal of the services is to provide news to the end user but this alone is insufficient to warrant a finding of similarity. As such, I find them to be dissimilar.

87. Turning to the remaining services under class 38 in NG’s specification, I note that they cover wide ranging terms such as computer aided transmission services, data bank interconnection services, photo sharing services, broadcast services, data

transmissions and providing access to computer database on the global computer network, amongst others. Even if such services could be said to reasonably cover golf, I do not consider this sufficient to give rise to a finding that they are similar to ANI's services.³² Firstly, I have nothing before me to suggest that there is any material overlap in any of the relevant factors and, given the varying nature of the services, I consider it reasonable to suggest that ANI should have provided sufficient submissions as to why they were similar, not simply because they can relate to golf. Given everything I have said above, it will come as no surprise that I consider making a finding of similarity on this basis is unsupported and without anything further, I am not willing to find them similar. As a result, I find that all class 38 services of NG are dissimilar.

Class 41

Provision of news online.

88. I consider that the former term listed above is identical on the principle outlined in *Meric* with both of ANI's terms. NG's term is sufficiently broad to cover the provision of news and information pertaining to golf and also the provision of a web site featuring news and information about golf and golf events. As such, I find that these services are identical under the principle outlined in *Meric*.

Providing online electronic publications (not downloadable).

89. While my assessment at paragraph 81 related to goods, I am of the view that similar findings to those provided at that point are equally applicable here. As a result, I find that the first term listed above is similar to a medium degree with ANI's services.

³² For the avoidance of doubt, I say this whilst acknowledging that a golf tournament for entertainment will be broadcast on television. In my view, the subject of the broadcast service does not automatically give rise to a finding of similarity and, in the present case, I consider that the relevant factors all differ or overlap to such a fleeting degree that they do not give rise to a material finding of similarity.

Information relating to lifestyle, fashion and beauty services provided online from a computer database or the Internet.

90. I see no reason why there would exist any material degree of similarity between the above services and those of ANI. I say this even bearing in mind that ANI's services relate to the provision of information, albeit in respect of golf content. In my view, if it was simply the case that any service for the provision of information, regardless of the topic, was capable of being similar to one another despite the distance between the topics, this would offer far too broad a scope of protection for such services. In the circumstances, I consider that despite the fact that both parties' services relate to information, the purpose, trade channels and users all differ. In respect of the latter two points (trade channels and user), I do wish to say that while some larger news organisations will provide news covering all types of topics (fashion and beauty, and sport) that will both be sought by some of the same users, I have nothing before me to suggest that any overlaps here are common in the trade. Therefore, I find that any overlap here is fleeting and insufficient to warrant a finding of similarity. As a result, I find that these services are dissimilar.

Entertainment.

91. ANI's mark is registered for the term "entertainment in the nature of golf tournaments". NG's above service is sufficiently broad so as to cover the first of ANI's terms listed above, meaning that these services are identical under the principle outlined in *Meric*.

Film production; production of video recordings, sound recordings, DVDs, CDs, CD-ROMs, video and audio tapes; production of television and radio programmes; audio production; video production; audio and video recording services; photographer services; music recording studio services.

92. The above services are not services for the provision of entertainment. Instead, they are a range of services that relate to production, recording or photography. As such, I find that the nature, method of use and purpose of these services all differ

from ANI's services. I appreciate that all of these productions could ultimately result in the topic of the film, audio or photograph being golf but this does not necessarily mean that they are similar. I accept that an undertaking that provides entertainment in the form of a golf tournament may release DVDs and videos relating to the tournament. However, I have nothing before me to suggest that it is common in the trade for those providers to be involved with the actual production of the same. Of course there are bound to be some examples where this does occur but I have nothing before me to suggest how common this approach is. In my view, it is reasonable to expect evidence on this point to be provided as, in the alternative, it can also be suggested that production of this nature is commonly outsourced to a third party production company. As for user, the above services will be sought by professional undertakings looking for production of various forms of media whereas ANI's services are likely to be sought by members of the public looking to be entertained. As a result, I find that they are dissimilar.

Publishing by electronic means.

93. While I appreciate that ANI's services include the provision of news and information insofar as it relates to golf, this is not, as far as I am aware, a publication service. The user of the above service will be a professional user looking to have a publication published electronically, such as an e-book whereas the user of ANI's services will be members of the general public seeking news and information on golf. The nature, method of use and purpose of these services also differ and, as a result, I find that they are dissimilar.

Recreation and services.

94. While worded as 'recreation and services', I consider the above term to cover 'recreation services' at large. This can cover any type of service used for the purpose of leisure. In the context of the current decision, I consider that recreation services can cover the provision of a golf course to allow users to access it to play golf. This alone does not render the services automatically similar because recreation is not the same as an entertainment service but I do consider that the

best comparator here is ANI's "entertainment in the nature of golf tournaments". The nature, method of use and purposes all differ on the basis that NG's term is a recreation service that users will obtain by attending a course for the purposes of playing whereas ANI's term is an entertainment service that allows users to watch a golf tournament for the purpose of being entertained. That being said, there is a degree of overlap in trade channels between these services as the owner of a golf course (that provides recreational golf) is also likely to organise tournaments that people can attend to watch for entertainment purposes. In addition, I accept that a user of recreation services would also watch or participate in a golf tournament. In my view, the nature of these overlaps is such that they are sufficient to give rise to a finding that there exists a low degree of similarity between these services.

Education; providing of training; providing of coaching; providing of instruction.

95. Given that the provider of "entertainment in the nature of golf tournaments" can include an undertaking that operates a golf club, I consider it to be the best comparator of the above services. In considering the above services, I am of the view that they are all sufficiently broad enough to cover education, training, coaching or instruction on how to play golf. Clearly, such services differ in nature, method of use and purpose. However, each of the above services can include the provision of golf lessons which, as far as I am aware, are commonly provided by the same undertaking that operates a golf course. As I have explained above, the operator of a golf course is the same undertaking that provided golf tournaments which can be for entertainment. As such, I find that there is a degree of overlap in respect of trade channels. Turning to user, I am of the view that someone who attends golf courses to watch tournament is also likely to be someone who plays golf and, subsequently, is the user of golf instruction lessons. Taking all of this into account, I find that these services are similar to a low degree.

Information advisory and consultancy services relating to all of the aforesaid services.

96. All of the services in class 41 of NG's specification are covered by the above term. Plainly, if the services themselves are dissimilar, then I find that the above service

insofar as it pertains to those services is also dissimilar. However, where the services are identical or similar, I find that the advisory and consultancy services are similar to the same on the basis that they would be provided by the same undertakings and sought by the same user. As a result, for those identical and similar services (regardless of the degree of similarity), I find that the above term is similar to a low degree with ANI's services.

Class 42

97. The class 42 services of NG all cover design and development of software. I see no reason why these would be similar to ANI's services. In short, I do not consider that any of the services can reasonably be said to relate to golf or golf tournaments but even if they could, this alone does not render them similar. Therefore, given the differences in nature, method of use, purpose, trade channels and user, I find that these services are dissimilar.

Conclusion of the goods comparison

98. In order for there to be a likelihood of confusion under section 5(2) of the Act, there must be at least some degree of similarity between the goods and services at issue. As a result, and in light of my findings above, ANI's opposition under the present ground may only proceed in respect of the following goods and services:

Class 9: Downloadable publications; electronic publications; publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites).

Class 35: Retail, online retail and wholesale services in relation to the sale of downloadable publications, electronic publications, publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites).

Class 41: Entertainment; provision of news online; information, providing online electronic publications (not downloadable); recreation and services; education; providing of training; providing of coaching; providing of instruction; information, advisory and consultancy services relating to all of the aforesaid services.

99. The section 5(2)(a) ground, therefore, fails against all of the remaining goods and services of NG.

The average consumer and the nature of the purchasing act

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

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

(a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;

(b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;

(c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule

and if, having regard to the perceptions and expectations of the average consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;

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

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

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

102. The average consumer for the goods and services at issue is likely to be a member of general public at large, including those with a particular interest in golf. The specific entertainment service of ANI, for example, is likely to be viewed on television or online. These services will be selected after the consumers sees advertisement for them in print, on television or online. For the other goods and services, these will be found online from the providers directly or third party news/information resources. They will be selected after the consumer views them on a list on a website or from results of an online search engine. Given that the services at issue also include those provided at physical retailers and at in-person golf events, I cannot discount the fact that the consumer will obtain them at physical locations either. In this context, the services will be selected after the consumer views signage on a high street or advertisements such as billboards, for example. Regardless of the goods or services at issue, the selection process will primarily be visual but I do not discount the aural component which may involve from word-of-mouth recommendations.

103. I consider that consumers of the goods and services at issue are likely to access them with a relatively high degree of frequency. As for their costs, I consider that these will range from relatively inexpensive goods such as downloadable publications to more expensive services that are obtained via a recurring subscription. In respect of the level of attention paid, I find that consumers will pay close attention to the reliability of the source of the news/information and will also consider the ease of which it is accessed. For the entertainment services, I note that they are sufficiently broad so as to cover any form of entertainment meaning that the consumer will consider factors such as content, identity of the provider (such as the director or production company, for example) and reviews. Regardless of what is being selected, I find that the level of attention paid across the board will generally be medium.

Distinctive character of ANI's mark

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

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

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

of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

105. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of marks can be enhanced through use, and I note that ANI claims that its mark benefits from an enhanced degree of distinctiveness. While I will consider this point below, I will first assess the inherent position.

106. ANI’s mark is a word only mark consisting solely of the word ‘MASTERS’. At the hearing, Professor Johnson on behalf of NG argued that the term ‘MASTERS’ has a low level of distinctiveness because of its variety of meanings. These meanings include, in the context of sport, elite or age restricted events such as the Snooker Masters and ATP Tennis Masters. In the context of sexual activity, it is used as a reference to domination (i.e. a master and a mistress). Further, it is claimed that ‘MASTERS’ is often used to suggest a Masters degree, a master of an activity (being someone who is highly skilled at said activity) and a reference to a dog and its master. In considering these meanings suggested by NG, I accept that they would mostly be known to different proportions of consumers in the UK. On this point, I consider that a significant proportion of consumers, namely those who watch sports, will be aware of a series of tournaments across different sports called ‘MASTERS’. Given that ANI’s services specifically relate to golf, it is this meaning that predominantly applies here. While I do not consider such a meaning to be outright descriptive, it is somewhat allusive to the elite nature of the tournaments so will only be inherently distinctive to between a low and medium degree.

107. I turn now to the position in respect of enhanced distinctive character. Firstly, I do not consider that the evidence is sufficient to warrant a finding that ANI’s mark

benefits from an enhanced distinctive character in respect of its news related services. While the evidence in respect of such services was sufficient to demonstrate genuine use, I remind myself that the requirement for a finding of an enhanced distinctive character is considerably more onerous than that of genuine use. I say this on the basis that use need not be quantitatively significant in order for it to be genuine, whereas distinctive character is a measure of how strongly the mark identifies the goods/services of a single undertaking. It follows that a finding of an enhanced degree of distinctive character requires use at such a level that is capable of pointing to the fact that a proportion of consumers would identify the services as originating from a particular undertaking. I do not consider this to be the case here meaning that there exists no enhanced distinctiveness in respect of these services. As such, the inherent position applies.

108. The above being said, I am of the view that ANI's Masters Tournament is a well-known American golf tournament amongst a significant proportion of consumers. I also accept that this is commonly referred to as 'The Masters'. As I have discussed above, the evidence demonstrates that ANI's golf tournament has, since 2014, attracted millions of viewers per year via its the broadcast by Sky and the BBC. Further, while no evidence is provided of viewing figures before 2014, the evidence does confirm that it has been shown in the UK since the 1960s, thereby hinting at longstanding use. In other regards, I appreciate that the evidence is not so compelling as, for example, the advertising evidence points towards efforts by third parties as opposed to efforts by ANI. That being said, it is clear to me that the Masters tournament is well known amongst UK consumers and despite only being provided once a year in the USA, the UK viewership figures are sufficient to warrant a finding that ANI's mark benefits from an enhanced degree of distinctiveness for its entertainment services. In my view, the evidence is not at such a level that extends the distinctiveness to outright high, especially considering the inherent starting point. Overall, I find that ANI's mark has been enhanced, for this services, to a higher than medium (but not outright high) degree.

Likelihood of confusion

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

110. The marks at issue have been found to be identical. I have found the goods and services at issue to be identical or similar to varying degrees, including low. The average consumer base is formed of members of the general public who will select the goods and services via primarily visual means (though not discounting an aural component) whilst paying a medium degree of attention. I concluded that ANI's mark benefits from between a low and medium degree of distinctive character in respect of its news/information services but, for its entertainment service, it has been enhanced to a higher than medium (but not high) degree.

111. Taking all of the above factors into account, I am satisfied that the average consumer would mistake the marks at issue for one another, regardless of whether the earlier mark is viewed as having only between a low and medium degree of distinctiveness or higher than medium. In respect of the former finding, I remind myself that a weaker distinctive character does not preclude a likelihood of

confusion.³³ I find that this is particularly the case given the identity of the marks. I am, therefore, satisfied that there will be a likelihood of direct confusion between the marks in NG's application and ANI's mark under section 5(2)(a) of the Act.

112. Even if it were the case that I was incorrect to deem the first mark in NG's application as being identical to ANI's mark, there would still exist a likelihood of direct confusion between it and ANI's mark in accordance with section 5(2)(b) of the Act. This is on the basis that NG's mark would still be very highly similar from a visual, aural and conceptual perspective. Further, the word 'THE' has such little impact from a trade mark perspective, the average consumer is unlikely to pin their recollection of the mark on its inclusion. Instead, they will affix said recollection solely on the word 'MASTERS'.

113. The present ground succeeds only in respect of those goods and services listed at paragraph 98 above. It fails in respect of all of the other goods and services in NG's application. I will now proceed to consider the remaining grounds of opposition.

Section 5(3)

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

"5(3) A trade mark which –

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

³³ See *L'Oréal SA v OHIM*, Case C-235/05 P

115. The relevant case law can be found in the following judgments of the CJEU: *Case C-375/97, General Motors, Case 252/07, Intel, Case C-408/01, Adidas-Salomon, Case C-487/07, L'Oreal v Bellure, Case C-323/09, Marks and Spencer v Interflora, Case C383/12P, Environmental Manufacturing LLP v OHIM*. The law appears to be as follows:

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

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

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas 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/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel*, paragraph 42

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

(f) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a

change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; Intel, paragraphs 76 and 77 and Environmental Manufacturing, paragraph 34.

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

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

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

116. The conditions of section 5(3) are cumulative. Firstly, ANI must show that the marks are similar. Secondly, ANI must show that its mark has achieved a level of knowledge/reputation amongst a significant part of the public throughout the relevant territory. Thirdly, it must be established that the level of reputation and the similarities between the parties' marks will cause the public to make a link between

them, in the sense of the earlier mark being brought to mind by the application. Finally, assuming the first three conditions have been met, section 5(3) requires that one or more of the types of damage will occur. It is unnecessary for the purposes of section 5(3) that the goods and services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks.

Reputation

117. Before proceeding to consider the present ground, I remind myself that ANI seeks to oppose all goods and services for which NG's application seeks registration. Further, I also remind myself that the issue of proof of use is as relevant to section 5(3) as it is to section 5(2) and given that NG requested proof of use for ANI's earlier mark, the findings in respect of that point are equally applicable here. As such, the present ground is limited to a reliance upon the following services only:

Class 41: Entertainment in the nature of golf tournaments; providing news and information about golf and golf events; providing a web site featuring news and information about golf and golf events.

118. Whilst reputation and enhanced distinctiveness are different, the factors relevant to both are the same. Therefore, following a similar approach to that reached in respect of an enhanced distinctiveness above, I find that ANI's mark does not benefit from a reputation in respect of its news/information services. However, the evidence in respect of the entertainment service is, for the same reasons given at paragraph 108 above, sufficient to warrant a finding that ANI's mark enjoys a reputation in respect of the same. While the provision of the golf tournament as a form of entertainment is longstanding, the viewership figures are not overly significant so as to warrant an outright strong reputation. However, I consider that the level of reputation still sits at a relatively strong level.

Link

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

The degree of similarity between the conflicting marks.

120. The marks in NG's application are identical to ANI's mark. In the event this is incorrect insofar as it applies to NG's first mark, they are very highly similar.

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.

121. As above, the specification attacked under the present ground is NG's specification in its entirety. Where the reputed service of ANI formed the basis of my goods and services comparison under the section 5(2) grounds, those same findings apply here. This means that under the present ground, the reputed service is identical to the applied-for "entertainment" and similar to a low degree with "recreation and services", "education", "providing of training", "providing of coaching" and "providing of instruction". Further, the reputed service was also found to be similar to a low degree to the information, advisory and consultancy services of the aforementioned services of NG. However, the findings I made in respect of the goods and services that were identical or similar to ANI's news/information services are not applicable here because those services are no longer at issue due to the fact that no reputation can be attached to them. That being said, I am of the view that ANI's reputed service is similar to those remaining goods and services that were found to be similar to ANI's news/information services. These are as follows:

Class 9: Downloadable publications; electronic publications; publications in electronic form supplied on-line from a database or from

facilities provided on the Internet or other networks (including web-sites).

Class 35: Retail, online retail and wholesale services in relation to the sale of downloadable publications, electronic publications, publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites).

Class 41: Provision of news online; information, providing online electronic publications (not downloadable); information, advisory and consultancy services relating to all of the aforesaid services.

122. My reason for this finding is that the provider of ANI's golf entertainment services is, in my view, also likely to provide the above goods and services to the same user. This gives rise to overlaps in trade channels and user and, in my view, warrants a finding that these goods and services are similar to a low degree with ANI's service. Even if this is incorrect, I consider that there is a degree of closeness between them.³⁴

123. I turn now to all remaining goods and services of NG's specification. In short, I find that these goods and services are dissimilar to ANI's reputed service. While that may be the case, I have set out above that dissimilar goods/services are not necessarily fatal to section 5(3) grounds. In considering the degree of closeness, I note that the remaining goods and services are very wide ranging. To put it simply, I have some difficulty here in that ANI has only sought to break them down into vague groupings whilst making the allegation that they can all relate to golf. This is not particularly helpful as it covers a range of broad submissions and it is noted that NG's goods and services include preparations for enhancing libido in class 5, sex toys in class 10 and leather floggers in class 18, to name just a few examples. Clearly such goods cannot reasonably be said to relate to golf. While the user of

³⁴ For the avoidance of doubt, even if it can be said that I was wrong to find similarity between those services discussed at paragraph 121 above, the finding regarding a degree of closeness applies to those services also.

such goods may indeed watch a golf tournament for entertainment purposes, the contexts of use are so vastly different that I am unwilling to find that there exists a degree of closeness between them. Again, I have nothing sufficiently helpful before me to assist me in breaking down the vast specification of ANI.

124. All of this being said, looking at NG's specification at large, it does include goods in classes 25 and 28 and services in class 35 that could realistically be said to cover golf related goods and services and, in the context of ANI's reputed service, would suggest a degree of closeness in that the user will be the same and will select the different goods and services of NG and the reputed service of ANI in the context of playing or watching golf. As such, I do consider that there is a degree of closeness between them. Again, I have no substantial submissions on this point so it has been left to me to draw out what I consider to be the goods and services that are sufficiently close. Rather than go through each term individually, I will simply list what goods and services I consider that could be said to be used whilst playing golf or those that could realistically be said to be merchandising goods/services that could cover products sold in connection with a golf tournament. Those goods and services are as follows:

Class 25

Clothing; clothing for men and women; athletic clothing; casual clothing; children's clothing; articles of clothing; tops; bottoms; belts; gloves including those made of skin; waterproof clothing; cardigans; knitwear; polo neck jumper; tanktops; coats; pants; sweat pants; lounge pants; dress pants; stretch pants; roll necks; woollen clothing; silk clothing; handwarmers; windproof clothing; rainproof clothing; waterproof clothing; ready-made clothing; hoods; pullovers; shirts; polo shirts; button down shirts; ponchos; skirts; slacks; sweaters; sweat shirts; tee-shirts; polo shirts; casual shirts; collared shirts; dress shirts; turtleneck shirts; woven shirts; sports shirts; short-sleeved or long-sleeved t-shirts; sports shirts with short sleeves; moisture-wicking sports shirts; short-sleeved t-shirts; long-sleeved shirts; shirts and slips; sport shirts; t-shirts; short-sleeve shirts; short-sleeved shirts; printed t-shirts; open-necked shirts; tennis

skirts; pleated skirts; waterproof clothing; trousers; leggings; casual trousers; corduroy trousers; over-trousers; short trousers; hosiery; gloves and mittens; scarves; belts; waist belts; gloves; leather belts; footwear; shoes; sports shoes; athletic shoes; cleats for attachment to sports shoes; flat shoes; shoes for leisurewear; slip-on shoes; sport shoes; sports shoes; leisure shoes; footwear for men and women; footwear for men; footwear for women; inner socks for footwear; leisure footwear; sneakers [footwear]; sneakers; trainers; trainers; socks; hosiery; headgear; scarves; head scarves; ear muffs; namely hats; beanies; caps; headbands; children's headwear; balaclavas; earbands; fashion hats; head sweatbands; headbands; headbands against sweating; hoods; knitted caps; muffs; rain hats; sports caps; thermal headgear; woolly hats.

Class 28

Sporting articles; balls for games; balls for play; balls for playing games; electronic targets for games and sports; nets for sporting ball games; nets for ball games; sports games.

Class 35

Retail, online retail and wholesale services in relation to the sale of clothing; clothing for men and women; athletic clothing; casual clothing; children's clothing; articles of clothing; tops; bottoms; belts; gloves including those made of skin; waterproof clothing; cardigans; knitwear; polo neck jumper; tanktops; coats; pants; sweat pants; lounge pants; dress pants; stretch pants; roll necks; woollen clothing; silk clothing; handwarmers; windproof clothing; rainproof clothing; waterproof clothing; ready-made clothing; hoods; pullovers; shirts; polo shirts; button down shirts; ponchos; skirts; slacks; sweaters; sweat shirts; tee-shirts; polo shirts; casual shirts; collared shirts; dress shirts; turtleneck shirts; woven shirts; sports shirts; short-sleeved or long-sleeved t-shirts; sports shirts with short sleeves; moisture-wicking sports shirts; short-sleeved t-shirts; long-sleeved shirts; shirts and slips; sport shirts; t-shirts; short-sleeve shirts; short-sleeved shirts; printed t-shirts; open-necked shirts; tennis skirts; pleated

skirts; waterproof clothing; trousers; leggings; casual trousers; corduroy trousers; over-trousers; short trousers; hosiery; gloves and mittens; scarves; belts; waist belts; gloves; leather belts; footwear; shoes; sports shoes; athletic shoes; cleats for attachment to sports shoes; flat shoes; shoes for leisurewear; slip-on shoes; sport shoes; sports shoes; leisure shoes; footwear for men and women; footwear for men; footwear for women; inner socks for footwear; leisure footwear; sneakers [footwear]; sneakers; trainers; trainers; socks; hosiery; headgear; scarves; head scarves; ear muffs; namely hats; beanies; caps; headbands; children's headwear; balaclavas; earbands; fashion hats; head sweatbands; headbands; headbands against sweating; hoods; knitted caps; muffs; rain hats; sports caps; thermal headgear; woolly hats, sporting articles, balls for games, balls for play, balls for playing games, ball nets, electronic targets for games and sports, nets for sporting ball games, nets for ball games, sports games, equipment for games, sporting articles, sporting equipment, sporting balls, sports equipment for games; none of the aforesaid services relating to the sale of software, data, software for data analysis, databases and electronic publications in relation to pharmaceuticals or in the field of pharmaceuticals.

125. For the avoidance of doubt, I do not consider that there is any degree of closeness between ANI's reputed service and any of the remaining goods and services in NG's specification.

The strength of the earlier mark's reputation

126. ANI's mark enjoys a relatively strong reputation.

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

127. The inherent distinctiveness of ANI's mark sits between a low and medium degree. However, due to the use made of it in respect of the reputed service, I

have found that this has been enhanced to a higher than medium (but not outright high) degree.

Whether there is a likelihood of confusion

128. I have found there to be a likelihood of direct confusion between the marks in relation to some of the contested goods and services.

Conclusion on link

129. I am now required to determine whether, in this particular case, the relevant public would bring ANI's mark to mind when confronted with the marks in NG's application, thereby creating the necessary link. Taking into account all the above factors, I consider that a link would be made between the identical (or very highly similar) marks in respect of the goods and services that are identical, similar or share a degree of closeness. In respect of the latter point, I appreciate that the degree of closeness is not overly pronounced but, in my view, the relative strength of ANI's reputation for its identical (or very highly similar) mark will result in a link being made. It is my view that a member of the relevant public who is aware of ANI's reputation will, when viewing a downloadable publication or accessing online news that can reasonably cover a golf publication or news pertaining to golf, believe them to originate from the same undertaking that organises the reputed Masters golf tournament. In addition, that same member of the public will, when purchasing clothing that can reasonably be said to be merchandising goods or items worn whilst playing golf (or the retail services pertaining to the same), again knowing of ANI's reputation, believe them to be linked in the same way discussed above.

130. In respect of the remaining goods and services, ANI's argument is that there would be a link simply because they could be said to relate to golf. An example of this was an argument from Mr Hicks that if NG's sex toy packaging had golf imagery on it then it would be a problem. The same argument was made in respect of judo gear branded 'Masters'. I fail to see any realistic scenario where a sex toy or a judo

Gi would have golf imagery and, even if they did, the context of the goods is so disparate from ANI's actual service that I see no reason why the consumer would believe them to be linked. For the avoidance of doubt, this same finding applies to all remaining goods and services that I have found to be dissimilar and where no degree of closeness exists.

131. Taking all of the above into account, the present ground proceeds in respect of those goods and services discussed at paragraph 121 and those listed at paragraph 124. It fails in respect of all other goods and services.

Damage

132. ANI has pleaded that use of the marks in NG's application would take unfair advantage of the reputation of its marks, that it would, without due cause, prove to be detrimental to the reputation of ANI and the distinctive character of its mark. I will deal with each head of damage in turn below.

Unfair Advantage

133. I bear in mind that unfair advantage has no effect on the consumers of the ANI's mark's service. In *Jack Wills Limited v House of Fraser (Stores) Limited* [2014] EWHC 110 (Ch) Arnold J. considered the earlier case law and concluded that:

"80. The arguments in the present case give rise to two questions with regard to taking unfair advantage. The first concerns the relevance of the defendant's intention. It is clear both from the wording of Article 5(2) of the Directive and Article 9(1)(c) of the Regulation and from the case law of the Court of Justice interpreting these provisions that this aspect of the legislation is directed at a particular form of unfair competition. It is also clear from the case law both of the Court of Justice and of the Court of Appeal that the defendant's conduct is most likely to be regarded as unfair where he intends to benefit from the reputation and goodwill of the trade mark. In my judgment, however, there is nothing in the case law to preclude the court from concluding in an appropriate

case that the use of a sign the objective effect of which is to enable the defendant to benefit from the reputation and goodwill of the trade mark amounts to unfair advantage even if it is not proved that the defendant subjectively intended to exploit that reputation and goodwill.”

134. I have found above that ANI has demonstrated that its marks have obtained a relatively strong reputation for “entertainment in the nature of golf tournaments”. This is, in my view, the sort of reputation that would result in NG benefiting from an enhanced level of recognition due to the link between the marks in the minds of the relevant public. In my view, the identical use of ‘MASTERS’ (which carries a relatively strong reputation) when used on goods or services that are identical, similar or share a degree of closeness with ANI’s reputed service is sufficient to result in an unfair advantage being taken of the ANI’s reputation. NG, by using the word ‘MASTERS’ on those goods and services would achieve instant familiarity in the eyes of average consumers, thereby securing a commercial advantage and benefitting from ANI’s reputation without paying financial compensation. Such commercial advantage would not exist but for the relatively strong reputation of ANI’s reputation. Therefore, I find it likely that the marks in NG’s application would take unfair advantage of ANI’s mark.

135. As damage is made out on the basis of unfair advantage, I do not consider it necessary to go on to consider ANI’s other heads of damage. I will now move to consider the section 5(4)(a) ground.

Section 5(4)(a)

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

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

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

aa)...

b) ...

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

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

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

138. Under the present ground, ANI relies on the sign ‘MASTERS’ and claims to have used it for “golf and golf tournaments” in the UK since 1967. As I have set out above, the evidence pertains to a golf tournament that takes place in America. It is clear that the tournament is known to consumers in the UK thanks to it being broadcast here (being services provided by Sky or BBC, as opposed to ANI itself). Further, said event has achieved a consistently healthy viewership since 2014. However, ANI relies on the term “golf and golf tournaments”. In my view, this is a service that allows for the playing of golf or participation in a tournament. I do not consider this an entertainment service in the way covered by the term in ANI’s mark that I found to enjoy a reputation. As such, I do not consider that any goodwill vests in such service. Therefore, my primary finding is that the present ground fails.

139. Even if I am wrong on this point and ANI’s service could be said to be an entertainment service then it would, plainly, enjoy a strong protectable level of goodwill (based on everything I have said about this service above). However, I do

not consider that it assists ANI's position. This is on the basis that any success under the present ground will not, in my view, extend beyond the success of the section 5(2) grounds above. I say this because in *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, Kitchin LJ set out that it was doubtful whether the difference between the legal tests for likelihood of confusion and misrepresentation will (all other factors being equal) produce different outcomes. As ANI's sign is identical to the mark relied upon under the 5(2) grounds, I am of the view that this principle applies here. As such, I am satisfied that a finding of misrepresentation (and subsequently, damage) in this scenario would follow the outcome of the 5(2) grounds. For the avoidance of doubt, I do not consider that the success of the present ground would extend beyond that outcome because while ANI may enjoy a strong level of protectable goodwill, the remaining goods and services at issue in NG's specification are related to different fields of business than ANI's service and, in the present case, ANI has not satisfied the heavy burden of proving a misrepresentation across differing fields of activity.³⁵

140. My primary finding is that the section 5(4)(a) ground fails. However, even if it were to succeed based on what I have said above, it would only achieve the same success as the section 5(2) grounds.

FINAL REMARKS

141. At the hearing, Mr Hicks provided a limitation for NG's goods and services that he deemed would remove ANI's concern for the purposes of the opposition. The limitation provided was to include a term at the end of each class of goods or services setting out that they were not for use in the game of golf or pertaining to the game of golf, golf tournaments or other golf events. Professor Johnson rejected the inclusion of this limitation. I confirmed that if I deemed it appropriate, I would consider the powers afforded to me under Tribunal Practice Notice 1/2012 which allows me to introduce a 'save for' provision so long as it overcame the objection. Having done so, I do not consider that the proposed limitation is appropriate. I do

³⁵ See *Harrods Limited v Harrodian School Limited* [1996] RPC 697 (CA), Millet L.J.

not intend to go through the entirety of the specification at this point but, for example, refer to NG's term of 'entertainment'. Introducing a limitation that excludes it from relating to golf means that it could still relate to another sport and would not escape an overlap in nature or purpose (being a service aimed at entertaining the user) and neither would it remove any overlap in trade channels or user on the basis that the same undertakings may provide entertainment across several different sports that would be watched by the same group of consumers. Further, the introduction of such a term to clothing is, in my view, non-sensical as while an item of clothing may not be strictly provided for the purpose of playing golf, it may still realistically be used for such a purpose meaning that the limitation would have no real effect.

142. As a result, I do not consider ANI's proposed limitation is appropriate in the circumstances.

CONCLUSION

143. The outcome of this decision is that ANI's first and second marks have survived the revocation actions against them but only in respect of the following services:

Class 41: Entertainment in the nature of golf tournaments; providing news and information about golf and golf events; providing a web site featuring news and information about golf and golf events.

144. The remaining goods and services in these marks' specifications are revoked on the grounds of non-use. The effective revocation date of ANI's first mark is 28 August 2019 and, for its second mark, is 4 July 2019.

145. As for the third through eighth marks, the defence in respect of the same was abandoned meaning that they are revoked in full. The effective revocation dates are 8 June 2001 for the third through sixth marks, 18 June 2018 for the seventh mark and 31 January 2020 for the eighth mark.

146. In respect of the opposition, it has succeeded in part but only in respect of some goods and services. The outcome of this decision is that NG's application is refused registration for the following goods and services:

Class 9: Downloadable publications; electronic publications; publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites).

Class 25: Clothing; clothing for men and women; athletic clothing; casual clothing; children's clothing; articles of clothing; tops; bottoms; belts; gloves including those made of skin; waterproof clothing; cardigans; knitwear; polo neck jumper; tanktops; coats; pants; sweat pants; lounge pants; dress pants; stretch pants; roll necks; woollen clothing; silk clothing; handwarmers; windproof clothing; rainproof clothing; waterproof clothing; ready-made clothing; hoods; pullovers; shirts; polo shirts; button down shirts; ponchos; skirts; slacks; sweaters; sweat shirts; tee-shirts; polo shirts; casual shirts; collared shirts; dress shirts; turtleneck shirts; woven shirts; sports shirts; short-sleeved or long-sleeved t-shirts; sports shirts with short sleeves; moisture-wicking sports shirts; short-sleeved t-shirts; long-sleeved shirts; shirts and slips; sport shirts; t-shirts; short-sleeve shirts; short-sleeved shirts; printed t-shirts; open-necked shirts; tennis skirts; pleated skirts; waterproof clothing; trousers; leggings; casual trousers; corduroy trousers; over-trousers; short trousers; hosiery; gloves and mittens; scarves; belts; waist belts; gloves; leather belts; footwear; shoes; sports shoes; athletic shoes; cleats for attachment to sports shoes; flat shoes; shoes for leisurewear; slip-on shoes; sport shoes; sports shoes; leisure shoes; footwear for men and women; footwear for men; footwear for women; inner socks for footwear; leisure footwear; sneakers [footwear]; sneakers; trainers; trainers; socks; hosiery; headgear; scarves; head scarves; ear muffs;

namely hats; beanies; caps; headbands; children's headwear; balaclavas; earbands; fashion hats; head sweatbands; headbands; headbands against sweating; hoods; knitted caps; muffs; rain hats; sports caps; thermal headgear; woolly hats.

Class 28: Sporting articles; balls for games; balls for play; balls for playing games; electronic targets for games and sports; nets for sporting ball games; nets for ball games; sports games.

Class 35: Retail, online retail and wholesale services in relation to the sale of downloadable publications, electronic publications, publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites), clothing, clothing for men and women, athletic clothing, casual clothing, children's clothing, articles of clothing, tops, bottoms, belts, gloves including those made of skin, waterproof clothing, cardigans, knitwear, polo neck jumper, tanktops, coats, pants, sweat pants, lounge pants, dress pants, stretch pants, roll necks, woollen clothing, silk clothing, handwarmers, windproof clothing, rainproof clothing, waterproof clothing, ready-made clothing, hoods, pullovers, shirts, polo shirts, button down shirts, ponchos, skirts, slacks, sweaters, sweat shirts, tee-shirts, polo shirts, casual shirts, collared shirts, dress shirts, turtleneck shirts, woven shirts, sports shirts, short-sleeved or long-sleeved t-shirts, sports shirts with short sleeves, moisture-wicking sports shirts, short-sleeved t-shirts, long-sleeved shirts, shirts and slippers, sport shirts, t-shirts, short-sleeve shirts, short-sleeved shirts, printed t-shirts, open-necked shirts, tennis skirts, pleated skirts, waterproof clothing, trousers, leggings, casual trousers, corduroy trousers, over-trousers, short trousers, hosiery, gloves and mittens, scarves, belts, waist belts, gloves, leather belts, footwear, shoes, sports shoes, athletic shoes, cleats for attachment to sports shoes, flat shoes, shoes for

leisurewear, slip-on shoes, sport shoes, sports shoes, leisure shoes, footwear for men and women, footwear for men, footwear for women, inner socks for footwear, leisure footwear, sneakers [footwear], sneakers, trainers, trainers, socks, hosiery, headgear, scarves, head scarves, ear muffs, namely hats, beanies, caps, headbands, children's headwear, balaclavas, earbands, fashion hats, head sweatbands, headbands, headbands against sweating, hoods, knitted caps, muffs, rain hats, sports caps, thermal headgear, woolly hats, sporting articles, balls for games, balls for play, balls for playing games, ball nets, electronic targets for games and sports, nets for sporting ball games, nets for ball games, sports games, none of the aforesaid services relating to the sale of software, data, software for data analysis, databases and electronic publications in relation to pharmaceuticals or in the field of pharmaceuticals.

Class 41: Entertainment; provision of news online; information, providing online electronic publications (not downloadable); recreation and services; education; providing of training; providing of coaching; providing of instruction; information, advisory and consultancy services relating to all of the aforesaid services; none of the aforesaid services in relation to pharmaceuticals or the field of pharmaceuticals.

147. It is, however, permitted to proceed to registration for all other goods and services, being all goods and services in classes 5, 10, 18, 38 and 42 and some goods and services in classes 9, 25, 28, 35 and 41. For ease of reference, those goods and services for which NG's application may proceed are set out at **Annex 5** of this decision.

148. For the avoidance of doubt, each of the conclusions reached above is made subject to any successful appeal.

COSTS

149. While ANI's first and second marks survived revocation for some goods and its opposition has succeeded to some degree, NG has enjoyed the greater degree of success. As a result, I consider that NG is entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 1/2023, albeit reduced to a slight degree to reflect ANI's partial success. It is noted that NG was required to prepare eight different revocation applications. However, the forms included a significant amount of duplication and were not necessarily complex and I will take this into account in considering the costs for these tasks. Further, while NG did not file evidence, he was required to incur the costs of reviewing the same. In the circumstances, I award NG the sum of £3,050 as a contribution towards its costs. The sum is calculated as follows:

Considering a notice of opposition and preparing a counterstatement:	£250
Preparing the revocation applications and considering the counterstatements:	£600
Considering ANI's evidence:	£600
Preparing for and attending the hearing:	£800
Official fees for the revocation actions (£200 each):	£1,600
<u>Sub-Total:</u>	<u>£3,850</u>
<i>Reduction:</i>	<i>(-£800)</i>
Total:	£3,050

150. I hereby order Augusta National, Inc. to pay Nickey Gower the sum of £3,050.

The above sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 26th day of May 2026

A COOPER

For the Registrar

Annex 1

Class 5

Preparations for enhancing the libido; preparations for facilitating sexual coupling; lubricants being sexual aids; personal sexual lubricants; vaginal lubricants; vaginal washes; preparations for use in vaginal lubrication; sexual stimulant gels.

Class 9

Computers; software; computer software; mobile application software; downloadable software; downloadable publications; computer hardware; computer networks, computer hardware and firmware; computer software; computer hardware and software for managing, securing and operating networks and computers via firewalls, backup software, anti-virus software, resource monitoring software; computer software for providing network, internet, and computer security; computer software for providing intrusion detection and prevention; computer software for scanning, detecting, and removing viruses, worms, Trojan horses, adware, spyware, and other malware; computer software for use in the monitoring and control of computer and online activity; computer software for providing online transaction security; computer optimization software; computer software for use in recruitment; computer software to prevent, diagnose, and repair computer problems; computer maintenance software; computer software for the back-up, storage, restoration and recovery of data, folders, and files; computer software and downloadable computer software, namely, utility software; computer software for providing software updates; user manuals and instructional guides supplied with all of the foregoing; computer hardware and peripherals; computer software to enable secure transmission of digital information over the Internet and other modes of communication between computing devices; downloadable computer software for enabling transmission of photographs; computer software for the collection, organizing, transmission, storage and sharing of data and information; computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and

communication networks; computer software to integrate managed security services, namely public key infrastructure services; computer software for use in analysis and reporting; downloadable publications; application software for cloud computing services; computer software for application and database integration; computer hardware, computer software for remote management of computer terminals or servers connected by computer networks, computing terminals, computing workstations, internet servers, mobile phones, internet phones, wireless receivers, wireless transmitters, satellite receivers, electronic and optical communications instruments and components, namely, digital transmitters; knowledge management software; data analysis software; computer and mobile application software to enable users to purchase and evaluate goods via an online marketplace; computer and mobile applications e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; computer database software featuring information in the field of sex toys, erotic products, collectibles and a wide variety of products; computer software and software development tools for use in developing further software and software applications in the field of e-commerce; databases; data terminals; data networks; data buffers; data banks; data cartridges; data transmitters; data switches; data cables; data processors; electronic databases; computer databases; data encryption apparatus; data encoding apparatus; recorded data files; data exchange units; time data generators; data transmission networks; data processing programs; data storage media; data protection backup units; apparatus for data storage; airborne data acquisition instruments; electronic data processing equipment; data communications software; database management software; software for online messaging; apparatus and software for capturing, recording, reproducing, manipulating and transmitting data, images and sounds; magnetic data carriers and encoders; video capture software; video recording software; machine learning software; self-educating computer software; artificial intelligence apparatus; artificial intelligence software; computer software for data analytics and application for use in management of data and information; computer software for analysing market information; downloadable computer software for remote monitoring and analysis; downloadable computer software for data analysis, recommendation and decision support based on data analysis and compilation, data mining, knowledge management and research, business process and data

optimization, automation of predictive analytic processes, optimization of predictive analytic business decisions, advertising optimization and personalization, document management, business intelligence information gathering and analysis, forecasting and reporting of possible predictive outcomes, application of company and market data and data analytics, accounting and financial reporting and analysis, budgeting, enterprise management, data extraction, data monitoring, statistical compilation of market data, economic forecasting, and market analysis; electronic publications; downloadable instruction manuals in electronic form; publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites); multi-media software for use in creating presentations, managing databases and accessing and displaying information; none of the aforesaid being software, software for data analysis, databases and publications in relation to pharmaceuticals or in the field of pharmaceuticals.

Class 10

Sex toys; vibrators; vibro-massage apparatus; devices for massaging, vibrating or stimulating the body; devices for aiding copulation, masturbation and sexual arousal, including synthetic reproductions of parts of the male and female anatomy and synthetic reproductions of penises and vaginas; electronic massaging apparatus; apparatus and instruments for applying electrical currents to the skin for stress relief; penis rings; nipple clamps; dildos; dongs; butt plugs; anal beads; penis sleeves; penis extensions; masturbators; body prostheses; love dolls; vaginal exercisers; condoms; flavoured, ribbed and/or coloured condoms; mechanical contraceptives; condoms for hygienic purposes; non-chemical contraceptives; erotic articles for application to the body (included in class 10), in particular massage apparatus, vibrators and functioning representations of human body parts and sex organs; erection and orgasm-enhancing devices (included in class 10); sex aid kits; sex aids, including ropes; marital aids; benwa balls, being adult sexual aids; bondage kits; bondage gear; aphrodisiacs; adult sexual aids; mechanical apparatus to aid in the erection of the penis; rubber rings to be worn about the penis; apparatus to induce and increase sexual stimulation, pleasure and performance; artificial vaginas; artificial penises; penis enlargers; whips being sex toys; crops being sex toys; parts, fittings and accessories for all the aforesaid goods.

Class 18

Leather and imitations of leather; leather straps; leather floggers; leather riding crops; leather collars; leather leads; leather restraints; leather thongs; leather masks and blindfolds; whips, harness and saddlery; harness fittings; collars, leashes and clothing for animals.

Class 25

Clothing; clothing for men and women; clothing for wear in judo practices; clothing for wear in wrestling games; athletic clothing; casual clothing; clothing for cycling; clothing for fishermen; clothing for horse-riding; clothing for martial arts; clothing for skiing; children's clothing; articles of clothing; sleeping garments; bathing suits; bathing trunks; beachwear; beach clothing; bikinis; tops; bottoms; belts; denim; denim jeans; denim coats; denim shirts; denim jackets; fur jackets; fur coats; fur hats; stoles [fur]; fur muffs; fur cloaks; clothing made of fur; gloves including those made of skin; hide or fur; corsets; parkas; waterproof clothing; clothing for role-play; coveralls; cardigans; knitwear; polo neck jumper; tanktops; tights; tuxedos; coats; waistcoats; tunics; pants; underpants jackets; jogging pants; sweat pants; lounge pants; dress pants; stretch pants; cargo pants; jogging pants; stuff jackets; roll necks; gabardines; foundation garments; woollen clothing; silk clothing; handwarmers; windproof clothing; rainproof clothing; waterproof clothing; body linen; ready-made clothing; hoods; plush clothing; slippers; pullovers; shirts; polo shirts; button down shirts; yokes; pique shirts; ponchos; cowls; skirts; skirt suits; slacks; sweaters; sweat shirts; tennis shirts; tee-shirts; polo shirts; pique shirts; shirt fronts; shirt-jacs; casual shirts; collared shirts; rugby shirts; dress shirts; turtleneck shirts; woven shirts; yoga shirts; hunting shirts; fishing shirts; knit shirts; aloha shirts; camouflage shirts; sports shirts; shirt yokes; short-sleeved or long-sleeved t-shirts; snap crotch shirts for infants and toddlers; sports shirts with short sleeves; padded shirts for athletic use; moisture-wicking sports shirts; button-front aloha shirts; short-sleeved t-shirts; long-sleeved shirts; shirts and slippers; football shirts; soccer shirts; ramie shirts; sport shirts; t-shirts; shirts for suits; short-sleeve shirts; short-sleeved shirts; printed t-shirts; mock turtleneck shirts; open-necked shirts; tennis skirts; pleated skirts; culotte skirts; layettes; waterproof clothing; wedding dresses; trousers; trouser socks; leggings; casual trousers; corduroy trousers; over-trousers;

short trousers; jogging bottoms; swimwear; swimsuits; swim briefs; swimming trunks; swimming caps; night gowns; negligees; robes; sleeping robes; pyjamas; bathrobes; undergarments; underwear; undershirts; combinations; chemises; panties; shorts and briefs; brassieres; lingerie; bodices (lingerie); petticoats; hosiery; camisoles; gloves and mittens; scarves; neckerchiefs; garters; sock suspenders; suspenders; belts; waist belts; shifts; masquerade costumes; gloves; leather belts; footwear; shoes; beach shoes; sandals; sports shoes; athletic shoes; ballet shoes; basketball shoes; baseball shoes; bath shoes; beach shoes; canvas shoes; cycling shoes; deck shoes; dress shoes; driving shoes; cleats for attachment to sports shoes; flat shoes; foot volleyball shoes; gymnastic shoes; handball shoes; heel pieces for shoes; hockey shoes; jogging shoes; mountaineering shoes; overshoes; riding shoes; rubber shoes; running shoes; ski and snowboard shoes and parts thereof; shoes soles for repair; shoes for leisurewear; slip-on shoes; sport shoes; tennis shoes; tap shoes; sports shoes; training shoes; boots; high-heeled shoes; protective metal members for shoes and boots; leisure shoes; rain shoes; volleyball shoes; boots; ankle boots; army boots; basketball sneakers; bath slippers; beach footwear; bootees (woollen baby shoes); boots; boots for sport; boots (ski -); footwear for men and women; footwear for men; footwear for women; footwear soles; footwear uppers; footwear made of vinyl; heelpieces for footwear; heels; inner socks for footwear; inner soles; insoles for footwear; intermediate soles; ladies' footwear; leisure footwear; moccasins; mules; outer soles; shoe straps; shoe uppers; soles for footwear; ski boot bags; sneakers [footwear]; sneakers; slippers; slippers made of leather; slipper soles; trainers; slippers; sandals; trainers; socks; hosiery; arm warmers; legwarmers; suspenders; stocking suspenders; suspender belts for men; braces for clothing; headgear; beach hats; berets; scarves; head scarves; shawls; wraps; ear muffs; boas; blousons; parkers; namely hats; bandannas; beanies; caps; headbands; ribbons and braid; children's headwear; chefs' hats; beach hats; balaclavas; bathing caps; bonnets; earbands; fashion hats; fedoras; fur hats; fur muffs; head sweatbands; headbands; headbands against sweating; hoods; knitted caps; masks (sleep -); muffs; nightcaps; rain hats; sports caps; thermal headgear; veils; turbans; woolly hats.

Class 28

Games and playthings; adult games and playthings; gymnastic and sporting articles; decorations for Christmas trees; action figures [toys or playthings]; action skill games; action toys; aerosol actuator guns [playthings]; air mattresses for recreational use; air pistols [toys]; amusement apparatus being coin-operated; amusement apparatus for use in arcades; amusement game machines; amusement machines, automatic and coin-operated; animal replicas as playthings; apparatus for games; arcade game machines; arcade games; arcade games (electronic -) [coin or counter operated apparatus]; articles for playing jokes; articles of clothing for dolls; articles of clothing for toys; automatic coin-operated games; automatic gaming machines; backgammon games; backgammon sets; ball nets; balloons; balloons (play -); balls for games; balls for juggling; balls for play; balls for playing games; barrels for darts; bath toys; bathing floats; bathtub toys; bats for ball games; battery-operated action toys; battery operated remote controlled toy vehicles; battery operated toys; beach balls; bean bag dolls; beanbags in the form of playthings; belts for weightlifting; bendable toys; bill-operated gaming equipment; billiard balls; billiard cue chalk; billiard game playing equipment; billiard markers; billiard table cushions; bingo cards; bingo game playing equipment; bingo markers; blocks (building -) [toys]; board games; sexually themed board games; sex games; bobble-head dolls; boule games; bouncers [playthings]; bouncing toys; bowls [games]; bubble making wand and solution sets; buckets [playthings]; building blocks [toys]; building bricks [toys]; building games; camogie stick; checkers sets; checkers pieces; checkers [games]; checkerboards; checker sets; cases for action figures; cases for play accessories; carriages for dolls; carnival masks; carnival caps; cards [games]; cards (bingo -); card shuffling machines; card games; sexual and erotic card games; adult card games; caps [percussive] for toy pistols; cloth toys; clockwork toys [of plastics]; clockwork toys [of metal]; climbing slides being play apparatus for children; climbing frames (play things); chips for gambling; chips and dice [gaming equipment]; chip markers for bingo; children's toys; children's toy bicycles other than for transport; children's riding vehicles [playthings]; children's ride-on toy vehicles; children's punch balls; children's playthings; children's playhouses; children's play cosmetics; children's multiple activity tables [playthings]; children's multiple activity toy; children's four-wheeled vehicles [playthings]; chessboards; chess sets; chess pieces; chess games; chess boards; cheerleading pom-poms; costume masks; costumes for role-play; conveyances for teddy bears; controllers for toys; containers adapted for

holding darts flights; containers adapted for holding darts; construction toys; conjuring apparatus; confetti; compendiums of board games; collectable toy figures; coin-operated pinball game machines; coin-operated gaming equipment; coin-operated games; coin-operated electronic amusement apparatus; coin-operated electrical amusement apparatus; coin-operated arcade video game machines; clothing for toy figures; clothing for dolls; cuddly toys; cube puzzles; craft toys sold in kit form; craft model kits; crackers [party novelties]; counters for games [discs]; counters for games; counters [discs] for games; cots for dolls; costumes being childrens playthings; domino sets; dolls' rooms; dolls in sitting posture (osuwari dolls); dolls' houses; dolls for playing; dolls' feeding bottles; dolls' clothing accessories; dolls' clothing; dolls' clothes; dolls' beds; dolls; doll rooms; doll playsets; doll houses; doll house furniture; doll costumes; doll accessories; dice games; dice (cups for -); dice cups; dice; detonating caps [toys]; darts; dominoes; draughtboards; draughts; draughts [games]; draughts sets; drones [toys]; dye paintballs for use as projectiles in war games; educational playthings; electric action figures with lights and sounds; electric action toys; electronic board games; electronic dart games; electronic educational teaching games; electronic games; electronic games other than those adapted for use with television receivers only; electronic learning toys; electronic remote controlled toys; electronic remote controlled toy vehicles; electronic targets for games and sports; electronic targets for game; electronically operated toy vehicles; electronically operated toy motor vehicles; fabric dolls; fabric toys; face masks being playthings; fake teeth [novelty items]; fantasy character toys; feeding bottles (dolls' -); flotation apparatus for swimming; floating recreational pads; fluffy toys; flumes; flying discs [toys]; foosball tables; four-wheeled toy vehicles; fruit machines; furnishings for doll houses; game boards for trading card games; game cards; games; games (apparatus for -); games (balls for -); halloween masks; gyroscopes and flight stabilizers for model aircraft; goke pots [pots for stone pieces used in go games]; go stones; go games; go boards; gliders [scale models]; gliders [playthings]; gaming tables; gaming machines for gambling; gaming machines; games relating to fictional characters; games (marbles for -); games (counters [discs] for -); inflatable swimming pools [play articles]; inflatable swimming pools for recreational use [toys]; inflatable ride-on toys; inflatable pools for recreational use; inflatable pool toys; inflatable mattresses for recreational use; inflatable inner tubes for aquatic recreational use; inflatable float mattresses for recreational use;

inflatable bop bags; inflatable beach balls; inflatable bath toys; infants' swings; indoor play tents; indoor play apparatus for children; indoor football (tables for -); indoor football tables; imitation toilet preparations being toys; jokes (practical -) [novelties]; inflatable thin rubber toys; inflatable toys; inflatable toys in the form of boats; inflatable toys resembling air vehicles; interlocking toy construction pieces; jack-in-the-boxes; japanese chess (shogi games); japanese dice games (sugoroku); japanese horizontal pinball machines [smartball machines]; japanese playing cards; japanese playing cards (hanafuda); japanese playing cards (utagaruta); japanese traditional dolls; japanese vertical pinball machine (pachinko machines); jewellery for dolls; jigsaw puzzles; jokes (play things); kick boards; kickboard flotation devices for recreational use; kite handles; kite lines; kite parts; kite reels; kite string; kite tails; kites; kits of parts [sold complete] for making toy model cars; kits of parts [sold complete] for making toy models; kits of parts [sold complete] for constructing models; kits [sold complete] for the construction of scale models; kokeshi dolls; korean chess boards (jang-gi pan); korean chess pieces (jang-gi pieces); korean dominos (glopae); korean playing cards (hwatoo); led light sticks (toys); lever action toys; lottery scratch cards; lottery tickets; lottery wheels; magic tricks; magicians' sets (play things); mah-jong; mah jong equipment; mah jong games; manipulative games; manipulative puzzles; marbles; marbles for games; marbles for playing games; marionettes; markers (billiard -); markers [counters] for playing games; mascot dolls; masks [playthings]; masks (theatrical -); masks (toy -); masquerade masks; mechanical action toys; mechanical games; mechanical toys; miniature car models [toys or playthings]; miniature die cast vehicles; musical toys; musical games; multiple activity toys for babies; multi-part construction toys; models for use with war games; motor driven toy animals; models for use with role playing games; models being toys; modeled plastic toy figurines; model vehicles (scale -) [playthings]; model vehicles (scale -); paper party hats; paper party favours; paper hats [party novelties]; paper face-masks; paper dolls; paper airplanes; paddling pools; paddles for use in paddle ball games; paddleball paddles; paddle balls; paddle ball games; pachinkos; novelty vampire teeth; novelty masks; novelties in the form of bugs in boxes; novelties for parties, dances [party favors, favours]; non-motorised toys for riding; noisemakers [toys]; ninepins; nine man's morris sets; nets for sporting ball games; nets for ball games; plastic model kits for making toy vehicles; plastic character toys; pistols (toy -); pistols (caps for -) [toys];

paper trumpets; parlor games; parlour games; party favor hats; party favors; party favors in the nature of crackers; party games; party novelties; party poppers; pedal-propelled wheeled toys; percussion caps [toys]; pet toys; pet toys containing catnip; pet toys made of rope; piñatas; war games using model soldiers; water guns [playthings]; water pistols; water pistols [playthings]; water slides; water squirting toys; water toys; water wings; waterslides; weight lifting belts [sports articles]; wendy houses; wheels for toy vehicles; whistles [toys]; whistling toys; wind-up toys; wind-up walking toys; wooden toy building blocks; wooden pieces for shogi game (koma); wooden toys; xylophones being musical toys; video game machines; video game apparatus; ventriloquist's dummies; vehicles (radio-controlled toy -); vehicles (scale model -); uta-garuta playing cards; uta-garuta [japanese playing cards]; twirling batons; tricycles [playthings]; transforming robotic toys; transforming robotic toy vehicles; trampolines; train sets [playthings]; train sets; traditionally dressed dolls; traditional japanese playing cards; trading cards [card game]; tracks for model vehicles; toys sold in kit form; toys simulating objects used by adults in day to day activity; toys relating to magic; toys made of wood; toys made of rubber; toys made of plastics; toys made of metal; toys made of bamboo; toys incorporating money boxes; toys in the nature of imitation foodstuffs; toys in the form of puzzles; toys, games and playthings for pet animals; toys for use in swimming pools; toys for use in perambulators; toys for sandpits; swings [playthings]; swing sets; swings; swimming kick boards; swimming floats for recreational use; swimming floats; swimming boards; swim floats for recreational use; surfboard covers; sugoroku board games; stuffed toys; stuffed toy animals; stuffed puppets; stuffed plush toys; stuffed bean-filled toys; stuffed animals [toys]; stuffed and plush toys; streamers [party novelties]; stone-pieces pots for go game (goke pots); squeeze toys; squeezable squeaking toys; sports games; spools for throwing, incorporating coiled string which unwinds and rewinds returning the spool to the hand; spinning tops [toys]; spinning tops [playthings]; spinning tops incorporating string which rewinds and returns the top to the hand when thrown; spinning tops; sketching toys; skill and action games; skipping ropes; skittles [games]; sledges [playthings]; sleds for use in downhill amusement rides; sleds [recreational equipment]; sleighs [playthings]; sleighs [recreational equipment]; slides [playthings]; sliotar; slot machines [counter-freed amusement apparatus]; snow globes; snow saucers; snow sledges [playthings]; soap bubbles [toys]; soft sculpture

plush toys; soft sculpture toys; soft toys; soft toys in the form of elks; soft toys in the form of animals; spinning discs incorporating string which rewinds and returns the disc to the hand when thrown; sandbox toys; sandboxes [playthings]; scale model aeroplanes; skateboards [recreational equipment]; skateboard paddles; sit-in toy vehicles; shove ha'penny sets; shogi game equipment (japanese chess); shogi boards; shoes for dolls; see-saws; scratch cards for playing lottery games; scooters [toys]; scale model vehicles [toys]; scale model vehicles [playthings]; scale model structures [toys]; scale model kits [toys]; scale model figures; scale model cars [toys]; scale model cars [playthings]; scale model buildings [toys]; scale model airplanes; remote controlled toys in the form of vehicles; ride-on toy vehicles; ride-on toy vehicles (motorised -); ride-on toys; ring buoys for recreational use; sakura dolls; rubber character toys; rubber baseballs; rubber balls; roundabouts being playthings; roulette wheels; roulette tables; roulette sets; roulette chips; rooms (dolls' -); rooms for dolls; role play games; role playing games; rocking toys; push toys; puzzles; puzzles [toys]; question sets for board games; quiz games; quoits; quoits [ring games]; racing car games; radio controlled model vehicles; radio controlled toy model cars; radio-controlled toy vehicles; radio-controlled toys; rag dolls.

Class 35

The bringing together for the benefit of others of online adult entertainment services enabling customers to conveniently compare and purchase those services; online subscription services for the purpose of allowing individuals to subscribe and access content uploaded by members of the service for online adult entertainment services; none of the aforesaid services in relation to pharmaceuticals or the field of pharmaceuticals; retail, online retail and wholesale services in relation to the sale of preparations for enhancing the libido, preparations for facilitating sexual coupling, lubricants being sexual aids, personal sexual lubricants, vaginal lubricants, vaginal washes, preparations for use in vaginal lubrication, sexual stimulant gels, computers, software, computer software, mobile application software, downloadable software, downloadable publications, computer hardware, computer networks, computer hardware and firmware, computer software, computer hardware and software for managing, securing and operating networks and computers via firewalls, backup software, anti-virus software, resource monitoring software, computer

software for providing network, internet, and computer security, computer software for providing intrusion detection and prevention, computer software for scanning, detecting, and removing viruses, worms, Trojan horses, adware, spyware, and other malware, computer software for use in the monitoring and control of computer and online activity, computer software for providing online transaction security, computer optimization software, computer software for use in recruitment, computer software to prevent, diagnose, and repair computer problems, computer maintenance software, computer software for the back-up, storage, restoration and recovery of data, folders, and files, computer software and downloadable computer software, namely, utility software, computer software for providing software updates, user manuals and instructional guides supplied with all of the foregoing, computer hardware and peripherals, computer software to enable secure transmission of digital information over the Internet and other modes of communication between computing devices, downloadable computer software for enabling transmission of photographs, computer software for the collection, organizing, transmission, storage and sharing of data and information, computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management, computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks, computer software to integrate managed security services, namely public key infrastructure services, computer software for use in analysis and reporting, downloadable publications, application software for cloud computing services, computer software for application and database integration, computer hardware, computer software for remote management of computer terminals or servers connected by computer networks, computing terminals, computing workstations, internet servers, mobile phones, internet phones, wireless receivers, wireless transmitters, satellite receivers, electronic and optical communications instruments and components, namely, digital transmitters, knowledge management software, data analysis software, computer and mobile application software to enable users to purchase and evaluate goods via an online marketplace, computer and mobile applications e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network, computer database

software featuring information in the field of sex toys, erotic products, collectibles and a wide variety of products, computer software and software development tools for use in developing further software and software applications in the field of e-commerce, databases, data terminals, data networks, data buffers, data banks, data cartridges, data transmitters, data switches, data cables, data processors, electronic databases, computer databases, data encryption apparatus, data encoding apparatus, recorded data files, data exchange units, time data generators, data transmission networks, data processing programs, data storage media, data protection backup units, apparatus for data storage, airborne data acquisition instruments, electronic data processing equipment, data communications software, database management software, software for online messaging, apparatus and software for capturing, recording, reproducing, manipulating and transmitting data, images and sounds, magnetic data carriers and encoders, video capture software, video recording software, machine learning software, self-educating computer software, artificial intelligence apparatus, artificial intelligence software, computer software for data analytics and application for use in management of data and information, computer software for analysing market information, downloadable computer software for remote monitoring and analysis, downloadable computer software for data analysis, recommendation and decision support based on data analysis and compilation, data mining, knowledge management and research, business process and data optimization, automation of predictive analytic processes, optimization of predictive analytic business decisions, advertising optimization and personalization, document management, business intelligence information gathering and analysis, forecasting and reporting of possible predictive outcomes, application of company and market data and data analytics, accounting and financial reporting and analysis, budgeting, enterprise management, data extraction, data monitoring, statistical compilation of market data, economic forecasting, and market analysis, electronic publications, downloadable instruction manuals in electronic form, publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites), multi-media software for use in creating presentations, managing databases and accessing and displaying information, sex toys, vibrators, vibro-massage apparatus, devices for massaging, vibrating or stimulating the body, devices for aiding copulation, masturbation and sexual arousal, including synthetic

reproductions of parts of the male and female anatomy and synthetic reproductions of penises and vaginas, electronic massaging apparatus, apparatus and instruments for applying electrical currents to the skin for stress relief, penis rings, nipple clamps, dildos, dongs, butt plugs, anal beads, penis sleeves, penis extensions, masturbators, body prostheses, love dolls, vaginal exercisers, condoms, flavoured, ribbed and/or coloured condoms, mechanical contraceptives, condoms for hygienic purposes, non-chemical contraceptives, erotic articles for application to the body (included in class 10), in particular massage apparatus, vibrators and functioning representations of human body parts and sex organs, erection and orgasm-enhancing devices (included in class 10), sex aid kits, sex aids, including ropes, marital aids, benwa balls, being adult sexual aids, bondage kits, bondage gear, aphrodisiacs, adult sexual aids, mechanical apparatus to aid in the erection of the penis, rubber rings to be worn about the penis, apparatus to induce and increase sexual stimulation, pleasure and performance, artificial vaginas, artificial penises, penis enlargers, whips being sex toys, crops being sex toys, parts, fittings and accessories for all the aforesaid goods, leather and imitations of leather, leather straps, leather floggers, leather riding crops, leather collars, leather leads, leather restraints, leather thongs, leather masks and blindfolds, whips, harness and saddlery, harness fittings, collars, leashes and clothing for animals, clothing, clothing for men and women, clothing for wear in judo practices, clothing for wear in wrestling games, athletic clothing, casual clothing, clothing for cycling, clothing for fishermen, clothing for horse-riding, clothing for martial arts, clothing for skiing, children's clothing, articles of clothing, sleeping garments, bathing suits, bathing trunks, beachwear, beach clothing, bikinis, tops, bottoms, belts, denim, denim jeans, denim coats, denim shirts, denim jackets, fur jackets, fur coats, fur hats, stoles [fur], fur muffs, fur cloaks, clothing made of fur, gloves including those made of skin, hide or fur, corsets, parkas, waterproof clothing, clothing for role-play, coveralls, cardigans, knitwear, polo neck jumper, tanktops, tights, tuxedos, coats, waistcoats, tunics, pants, underpants jackets, jogging pants, sweat pants, lounge pants, dress pants, stretch pants, cargo pants, jogging pants, stuff jackets, roll necks, gabardines, foundation garments, woollen clothing, silk clothing, handwarmers, windproof clothing, rainproof clothing, waterproof clothing, body linen, ready-made clothing, hoods, plush clothing, slippers, pullovers, shirts, polo shirts, button down shirts, yokes, pique shirts, ponchos, cowls, skirts, skirt suits, slacks, sweaters, sweat shirts, tennis shirts, tee-

shirts, polo shirts, pique shirts, shirt fronts, shirt-jacs, casual shirts, collared shirts, rugby shirts, dress shirts, turtleneck shirts, woven shirts, yoga shirts, hunting shirts, fishing shirts, knit shirts, aloha shirts, camouflage shirts, sports shirts, shirt yokes, short-sleeved or long-sleeved t-shirts, snap crotch shirts for infants and toddlers, sports shirts with short sleeves, padded shirts for athletic use, moisture-wicking sports shirts, button-front aloha shirts, short-sleeved t-shirts, long-sleeved shirts, shirts and slips, football shirts, soccer shirts, ramie shirts, sport shirts, t-shirts, shirts for suits, short-sleeve shirts, short-sleeved shirts, printed t-shirts, mock turtleneck shirts, open-necked shirts, tennis skirts, pleated skirts, culotte skirts, layettes, waterproof clothing, wedding dresses, trousers, trouser socks, leggings, casual trousers, corduroy trousers, over-trousers, short trousers, jogging bottoms, swimwear, swimsuits, swim briefs, swimming trunks, swimming caps, night gowns, negligees, robes, sleeping robes, pyjamas, bathrobes, undergarments, underwear, undershirts, combinations, chemises, panties, shorts and briefs, brassieres, lingerie, bodices (lingerie), petticoats, hosiery, camisoles, gloves and mittens, scarves, neckerchiefs, garters, sock suspenders, suspenders, belts, waist belts, shifts, masquerade costumes, gloves, leather belts, footwear, shoes, beach shoes, sandals, sports shoes, athletic shoes, ballet shoes, basketball shoes, baseball shoes, bath shoes, beach shoes, canvas shoes, cycling shoes, deck shoes, dress shoes, driving shoes, cleats for attachment to sports shoes, flat shoes, foot volleyball shoes, gymnastic shoes, handball shoes, heel pieces for shoes, hockey shoes, jogging shoes, mountaineering shoes, overshoes, riding shoes, rubber shoes, running shoes, ski and snowboard shoes and parts thereof, shoes soles for repair, shoes for leisurewear, slip-on shoes, sport shoes, tennis shoes, tap shoes, sports shoes, training shoes, boots, high-heeled shoes, protective metal members for shoes and boots, leisure shoes, rain shoes, volleyball shoes, boots, ankle boots, army boots, basketball sneakers, bath slippers, beach footwear, bootees (woollen baby shoes), boots, boots for sport, boots (ski -), footwear for men and women, footwear for men, footwear for women, footwear soles, footwear uppers, footwear made of vinyl, heelpieces for footwear, heels, inner socks for footwear, inner soles, insoles for footwear, intermediate soles, ladies' footwear, leisure footwear, moccasins, mules, outer soles, shoe straps, shoe uppers, soles for footwear, ski boot bags, sneakers [footwear], sneakers, slippers, slippers made of leather, slipper soles, trainers, slippers, sandals, trainers, socks, hosiery, arm warmers,

legwarmers, suspenders, stocking suspenders, suspender belts for men, braces for clothing, headgear, beach hats, berets, scarves, head scarves, shawls, wraps, ear muffs, boas, blousons, parkers, namely hats, bandannas, beanies, caps, headbands, ribbons and braid, children's headwear, chefs' hats, beach hats, balaclavas, bathing caps, bonnets, earbands, fashion hats, fedoras, fur hats, fur muffs, head sweatbands, headbands, headbands against sweating, hoods, knitted caps, masks (sleep -), muffs, nightcaps, rain hats, sports caps, thermal headgear, veils, turbans, woolly hats, games and playthings, adult games and playthings, gymnastic and sporting articles, decorations for Christmas trees, action figures [toys or playthings], action skill games, action toys, aerosol actuator guns [playthings], air mattresses for recreational use, air pistols [toys], amusement apparatus being coin-operated, amusement apparatus for use in arcades, amusement game machines, amusement machines, automatic and coin-operated, animal replicas as playthings, apparatus for games, arcade game machines, arcade games, arcade games (electronic -) [coin or counter operated apparatus], articles for playing jokes, articles of clothing for dolls, articles of clothing for toys, automatic coin-operated games, automatic gaming machines, backgammon games, backgammon sets, ball nets, balloons, balloons (play -), balls for games, balls for juggling, balls for play, balls for playing games, barrels for darts, bath toys, bathing floats, bathtub toys, bats for ball games, battery-operated action toys, battery operated remote controlled toy vehicles, battery operated toys, beach balls, bean bag dolls, beanbags in the form of playthings, belts for weightlifting, bendable toys, bill-operated gaming equipment, billiard balls, billiard cue chalk, billiard game playing equipment, billiard markers, billiard table cushions, bingo cards, bingo game playing equipment, bingo markers, blocks (building -) [toys], board games, sexually themed board games, sex games, bobble-head dolls, boule games, bouncers [playthings], bouncing toys, bowls [games], bubble making wand and solution sets, buckets [playthings], building blocks [toys], building bricks [toys], building games, camogie stick, checkers sets, checkers pieces, checkers [games], checkerboards, checker sets, cases for action figures, cases for play accessories, carriages for dolls, carnival masks, carnival caps, cards [games], cards (bingo -), card shuffling machines, card games, sexual and erotic card games, adult card games, caps [percussive] for toy pistols, cloth toys, clockwork toys [of plastics], clockwork toys [of metal], climbing slides being play apparatus for children, climbing frames (play things), chips for gambling, chips and dice [gaming

equipment], chip markers for bingo, children's toys, children's toy bicycles other than for transport, children's riding vehicles [playthings], children's ride-on toy vehicles, children's punch balls, children's playthings, children's playhouses, children's play cosmetics, children's multiple activity tables [playthings], children's multiple activity toy, children's four-wheeled vehicles [playthings], chessboards, chess sets, chess pieces, chess games, chess boards, cheerleading pom-poms, costume masks, costumes for role-play, conveyances for teddy bears, controllers for toys, containers adapted for holding darts flights, containers adapted for holding darts, construction toys, conjuring apparatus, confetti, compendiums of board games, collectable toy figures, coin-operated pinball game machines, coin-operated gaming equipment, coin-operated games, coin-operated electronic amusement apparatus, coin-operated electrical amusement apparatus, coin-operated arcade video game machines, clothing for toy figures, clothing for dolls, cuddly toys, cube puzzles, craft toys sold in kit form, craft model kits, crackers [party novelties], counters for games [discs], counters for games, counters [discs] for games, cots for dolls, costumes being childrens playthings, domino sets, dolls' rooms, dolls in sitting posture (osuwari dolls), dolls' houses, dolls for playing, dolls' feeding bottles, dolls' clothing accessories, dolls' clothing, dolls' clothes, dolls' beds, dolls, doll rooms, doll playsets, doll houses, doll house furniture, doll costumes, doll accessories, dice games, dice (cups for -), dice cups, dice, detonating caps [toys], darts, dominoes, draughtboards, draughts, draughts [games], draughts sets, drones [toys], dye paintballs for use as projectiles in war games, educational playthings, electric action figures with lights and sounds, electric action toys, electronic board games, electronic dart games, electronic educational teaching games, electronic games, electronic games other than those adapted for use with television receivers only, electronic learning toys, electronic remote controlled toys, electronic remote controlled toy vehicles, electronic targets for games and sports, electronic targets for game, electronically operated toy vehicles, electronically operated toy motor vehicles, fabric dolls, fabric toys, face masks being playthings, fake teeth [novelty items], fantasy character toys, feeding bottles (dolls' -), flotation apparatus for swimming, floating recreational pads, fluffy toys, flumes, flying discs [toys], foosball tables, four-wheeled toy vehicles, fruit machines, furnishings for doll houses, game boards for trading card games, game cards, games, games (apparatus for -), games (balls for -), halloween masks, gyroscopes and flight stabilizers for model aircraft, goke

pots [pots for stone pieces used in go games], go stones, go games, go boards, gliders [scale models], gliders [playthings], gaming tables, gaming machines for gambling, gaming machines, games relating to fictional characters, games (marbles for -), games (counters [discs] for -), inflatable swimming pools [play articles], inflatable swimming pools for recreational use [toys], inflatable ride-on toys, inflatable pools for recreational use, inflatable pool toys, inflatable mattresses for recreational use, inflatable inner tubes for aquatic recreational use, inflatable float mattresses for recreational use, inflatable bop bags, inflatable beach balls, inflatable bath toys, infants' swings, indoor play tents, indoor play apparatus for children, indoor football (tables for -), indoor football tables, imitation toilet preparations being toys, jokes (practical -) [novelties], inflatable thin rubber toys, inflatable toys, inflatable toys in the form of boats, inflatable toys resembling air vehicles, interlocking toy construction pieces, jack-in-the-boxes, japanese chess (shogi games), japanese dice games (sugoroku), japanese horizontal pinball machines [smartball machines], japanese playing cards, japanese playing cards (hanafuda), japanese playing cards (utagaruta), japanese traditional dolls, japanese vertical pinball machine (pachinko machines), jewellery for dolls, jigsaw puzzles, jokes (play things), kick boards, kickboard flotation devices for recreational use, kite handles, kite lines, kite parts, kite reels, kite string, kite tails, kites, kits of parts [sold complete] for making toy model cars, kits of parts [sold complete] for making toy models, kits of parts [sold complete] for constructing models, kits [sold complete] for the construction of scale models, kokeshi dolls, korean chess boards (jang-gi pan), korean chess pieces (jang-gi pieces), korean dominos (glopae), korean playing cards (hwatoo), led light sticks (toys), lever action toys, lottery scratch cards, lottery tickets, lottery wheels, magic tricks, magicians' sets (play things), mah-jong, mah jong equipment, mah jong games, manipulative games, manipulative puzzles, marbles, marbles for games, marbles for playing games, marionettes, markers (billiard -), markers [counters] for playing games, mascot dolls, masks [playthings], masks (theatrical -), masks (toy -), masquerade masks, mechanical action toys, mechanical games, mechanical toys, miniature car models [toys or playthings], miniature die cast vehicles, musical toys, musical games, multiple activity toys for babies, multi-part construction toys, models for use with war games, motor driven toy animals, models for use with role playing games, models being toys, modeled plastic toy figurines, model vehicles (scale -) [playthings], model vehicles (scale -), paper party hats, paper

party favours, paper hats [party novelties], paper face-masks, paper dolls, paper airplanes, paddling pools, paddles for use in paddle ball games, paddleball paddles, paddle balls, paddle ball games, pachinkos, novelty vampire teeth, novelty masks, novelties in the form of bugs in boxes, novelties for parties, dances [party favors, favours], non-motorised toys for riding, noisemakers [toys], ninepins, nine man's morris sets, nets for sporting ball games, nets for ball games, plastic model kits for making toy vehicles, plastic character toys, pistols (toy -), pistols (caps for -) [toys], paper trumpets, parlor games, parlour games, party favor hats, party favors, party favors in the nature of crackers, party games, party novelties, party poppers, pedal-propelled wheeled toys, percussion caps [toys], pet toys, pet toys containing catnip, pet toys made of rope, piñatas, war games using model soldiers, water guns [playthings], water pistols, water pistols [playthings], water slides, water squirting toys, water toys, water wings, waterslides, weight lifting belts [sports articles], wendy houses, wheels for toy vehicles, whistles [toys], whistling toys, wind-up toys, wind-up walking toys, wooden toy building blocks, wooden pieces for shogi game (koma), wooden toys, xylophones being musical toys, video game machines, video game apparatus, ventriloquist's dummies, vehicles (radio-controlled toy -), vehicles (scale model -), uta-garuta playing cards, uta-garuta [japanese playing cards], twirling batons, tricycles [playthings], transforming robotic toys, transforming robotic toy vehicles, trampolines, train sets [playthings], train sets, traditionally dressed dolls, traditional japanese playing cards, trading cards [card game], tracks for model vehicles, toys sold in kit form, toys simulating objects used by adults in day to day activity, toys relating to magic, toys made of wood, toys made of rubber, toys made of plastics, toys made of metal, toys made of bamboo, toys incorporating money boxes, toys in the nature of imitation foodstuffs, toys in the form of puzzles, toys, games and playthings for pet animals, toys for use in swimming pools, toys for use in perambulators, toys for sandpits, swings [playthings], swing sets, swings, swimming kick boards, swimming floats for recreational use, swimming floats, swimming boards, swim floats for recreational use, surfboard covers, sugoroku board games, stuffed toys, stuffed toy animals, stuffed puppets, stuffed plush toys, stuffed bean-filled toys, stuffed animals [toys], stuffed and plush toys, streamers [party novelties], stone-pieces pots for go game (goke pots), squeeze toys, squeezable squeaking toys, sports games, spools for throwing, incorporating coiled string which unwinds and rewinds

returning the spool to the hand, spinning tops [toys], spinning tops [playthings], spinning tops incorporating string which rewinds and returns the top to the hand when thrown, spinning tops, sketching toys, skill and action games, skipping ropes, skittles [games], sledges [playthings], sleds for use in downhill amusement rides, sleds [recreational equipment], sleighs [playthings], sleighs [recreational equipment], slides [playthings], sliotar, slot machines [counter-free amusement apparatus], snow globes, snow saucers, snow sledges [playthings], soap bubbles [toys], soft sculpture plush toys, soft sculpture toys, soft toys, soft toys in the form of elks, soft toys in the form of animals, spinning discs incorporating string which rewinds and returns the disc to the hand when thrown, sandbox toys, sandboxes [playthings], scale model aeroplanes, skateboards [recreational equipment], skateboard paddles, sit-in toy vehicles, shove ha'penny sets, shogi game equipment (japanese chess), shogi boards, shoes for dolls, see-saws, scratch cards for playing lottery games, scooters [toys], scale model vehicles [toys], scale model vehicles [playthings], scale model structures [toys], scale model kits [toys], scale model figures, scale model cars [toys], scale model cars [playthings], scale model buildings [toys], scale model airplanes, remote controlled toys in the form of vehicles, ride-on toy vehicles, ride-on toy vehicles (motorised -), ride-on toys, ring buoys for recreational use, sakura dolls, rubber character toys, rubber baseballs, rubber balls, roundabouts being playthings, roulette wheels, roulette tables, roulette sets, roulette chips, rooms (dolls' -), rooms for dolls, role play games, role playing games, rocking toys, push toys, puzzles, puzzles [toys], question sets for board games, quiz games, quoits, quoits [ring games], racing car games, radio controlled model vehicles, radio controlled toy model cars, radio-controlled toy vehicles, radio-controlled toys, rag dolls; none of the aforesaid services relating to the sale of software, data, software for data analysis, databases and electronic publications in relation to pharmaceuticals or in the field of pharmaceuticals.

Class 38

Telecommunication; communications services; telecommunications services; satellite and digital communications services; broadcasting services; access time to global computer networks; computer network communications services; providing access to communications networks; communications network services; advice, information and consultancy services relating to the aforesaid services; communications by

computer terminals; computer aided transmission of messages and images; electronic mail; providing telecommunications connections to a global computer network; providing user access to a global computer network [service providers]; telecommunications routing and junction services; interactive telecommunications services; telecommunication of information (web pages), computer programs and data excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; providing telecommunications connections to the Internet or databases; provision of telecommunication access to world-wide web facilities and structures; communication by computer terminals; communication by fibre optic networks; computer aided transmission of messages and images; facsimile transmission; message sending; paging services; rental of modems; data communication services by electronic means; rental of telecommunication equipment; electronic message sending, receiving and forwarding services; collection, transmission and delivery of data by electronic means; collection, transmission and delivery of mail messages, still picture and/or moving picture information such as characters, messages, music and images, telegrams, information and data by mechanical, electronic, telephone, telex, cable, computer and satellite means; transmission, broadcast and reception of audio, video, still and moving images and data whether in compressed or uncompressed form and whether in real or delayed time; electronic messaging, conferencing and order- transmission services; video conferencing services; communication by electronic bulletin board that enables users to perform a real-time interactive talk between a computer terminal and an electronic bulletin board containing still picture and moving picture information and voice information such as characters excluding those relating to pharmaceuticals; providing electronic bulletin boards and message boards for transmission of messages excluding those relating to pharmaceuticals; provision of discussion forums excluding those relating to pharmaceuticals; transmission of music; transmission of films, interactive programmes and videos excluding those relating to pharmaceuticals; electronic computer games; transmission of information relating to on-line shopping and general retail services excluding those in the field of pharmaceuticals or relating to pharmaceuticals; video-on-demand transmission services; video broadcasting; news agency services; providing access to computer database on the global computer network for searching and retrieving information,

data, web sites and resources available on computer networks excluding those relating to pharmaceuticals; providing user access to a computer database containing electronic publications, bulletin boards, database and information accessible via computer excluding those relating to pharmaceuticals or in the field of pharmaceuticals; providing online chat rooms and electronic bulletin boards excluding those in the field of pharmaceuticals or relating to pharmaceuticals; operation of chat rooms (chat room services) excluding those in the field of pharmaceuticals or relating to pharmaceuticals; electronic exchange of messages via chat lines, chatrooms and Internet forums; multiple user access to global computer information networks for the transfer and dissemination of a wide range of information excluding that which relates to the field of pharmaceuticals; data streaming excluding that which relates to the field of pharmaceuticals; data transmission excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; data transmission and data broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; providing access to online computer databases; providing of reports relating to communications; providing virtual facilities for real-time interaction among computer users excluding those which relate to the field of pharmaceuticals; data broadcasting services broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; international data transfer broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; international data transmission broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; online document delivery via global computer network; providing access to online computer databases excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; electronic data interchange; electronic data transmission broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; electronic data communications broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; telematic [data communication] services; data bank interconnection services; peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; broadcasting services over computer or other communication networks namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, messages, graphics, and images.

Class 41

Education; providing of training; providing of coaching; providing of instruction; entertainment; arranging, conducting and provision of training courses relating to erotica, sex and sexual health; arranging, organising and conducting of conferences, workshops, seminars, conventions, fairs, symposia, events and exhibitions relating to erotica, sex and sexual health; provision of information relating to erotica, sex and sexual health via the Internet and other communications networks; education and entertainment services provided by means of radio, television, telephony, the Internet and on-line databases relating to erotica, sex and sexual health; entertainment and educational services featuring electronic media, multimedia content, audio and video content, movies, pictures, photographs, graphics, images, text and related information provided via the Internet and other communications networks relating to erotica, sex and sexual health; film production; production of video recordings, sound recordings, DVDs, CDs, CD-ROMs, video and audio tapes; production of television and radio programmes; publication of magazines, books, texts and printed matter relating to erotica, sex and sexual health; publishing by electronic means; providing online electronic publications (not downloadable); provision of television programmes, radio programmes, films, audio and/or visual material and games online (not downloadable) relating to erotica, sex and sexual health; provision of news online; provision of cinematographic and video entertainment relating erotica, sex and sexual health; information relating to lifestyle, fashion and beauty services provided online from a computer database or the Internet; audio production; video production; audio and video recording services; photographer services; music recording studio services; recreation and services; information, advisory and consultancy services relating to all of the aforesaid services; none of the aforesaid services in relation to pharmaceuticals or the field of pharmaceuticals.

Class 42

Design and development of computer software; development of mobile applications; providing an online and platform and mobile application that gives users the ability to engage for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs,

videos, data, text, messages, advertisements, media advertising communications and information; providing temporary use of non-downloadable software; providing temporary use of non-downloadable software for modifying and enabling transmission of images, audio-visual and video content; providing temporary use of non-downloadable computer software for viewing and interacting with a feed of images, audio-visual and video content and associated text and data; providing temporary use of non-downloadable computer software for finding content and content publishers, and for subscribing to content; providing temporary use of non-downloadable computer software for tagging images, audio-visual and video content with data indicating date, location, people and subject matter; providing information from searchable indexes and databases of information; providing search engines for obtaining data via communications networks; providing an online network service that enables users to transfer personal identity data and to share personal identity data with and among multiple applications or websites; computer services, namely, hosting online web facilities for others for organising and conducting meetings, events and interactive discussions via communication networks; computer services, namely, creating a virtual community for registered users to share, view, subscribe to and interact with images, audio-visual and video content and related data and information; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data, text, messages, advertisements, media advertising communications and information; application service provider (ASP) featuring software to enable creating, editing, uploading, downloading, accessing, viewing, posting, displaying, tagging, blogging, streaming, linking, annotating, indicating sentiment about, commenting on, embedding, transmitting, sharing, searching, or otherwise providing or interacting with electronic media; application service provider (ASP) featuring application programming interface (API) software which facilitates online services for social networking, developing software applications, and purchasing and disseminating advertising; application service provider (ASP) featuring software for use in buying, selling, tracking, valuing, optimizing, targeting, analysing, delivery, and reporting of online advertising and marketing; application service provider (ASP) featuring

software for use in designing and managing online advertising and marketing campaigns; platform as a service (PAAS) featuring computer software platforms for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data, text, messages, advertisements, media advertising communications and information; rental of computer software that gives users the ability to upload, edit, and share images, videos, audios, text and audio-visual content; hosting a website for the electronic storage of digital photographs and videos; industrial analysis and research services; design consultancy; design services; computer website design; computer design services; graphic design; graphic design services; art work design; website design; website design services; illustration services; brand design services; design of brand names; design of logos; design of logos for t-shirts; product and packaging design services; design services in relation to sex toys; design services in relation to clothes; visual design; cartoon characters' design; research and development; product research and development; technical support services, namely, providing help desk services in the field of computer software, namely, providing users with instructions and advice on the use of downloadable computer software, provided online and via e-mail; none of the aforesaid services in relation to pharmaceuticals or the field of pharmaceuticals.

Annex 2

Class 9

Computer programs and computer software for featuring instruction in golf for use in the field of golf and golf tournaments; computer game software for instructional and entertainment purposes pertaining to the game of golf and golf tournaments; video game programs pertaining to the game of golf and golf tournaments; compact discs and prerecorded video tapes pertaining to the game of golf and golf tournaments; interactive game software and interactive video games pertaining to the game of golf and golf tournaments; downloadable electronic games via the internet pertaining to the game of golf and golf tournaments; sunglasses.

Class 14

Jewelry; clocks; key chains made of leather or imitations of leather.

Class 16

Books, souvenir programs, journals, and manuals pertaining to sports, sporting events, sports tournaments, and sports entertainment; calendars; paperweights; posters and prints; stationery; paper place mats; writing instruments; money clips.

Class 18

Attaché cases and briefcases; garment bags for travel; key chains made of leather or imitations of leather; tote bags; umbrellas; wallets and handbags; pouches for holding personal items; luggage.

Class 21

Beverage ware, namely, drinking glasses, cups, and mugs; ornamental decorative accessories, namely, bowls, dishes, all made of glass, crystal, and china.

Class 24

Towels; place mats not of paper; blankets and throws; banners and flags of textile.

Class 29

Nut-based snack foods.

Class 30

Corn-based snack foods; candy; cookies; crackers; ice cream; grain-based snack foods.

Class 38

Broadcasting sporting events on television, radio, the internet, digital communications networks, and cable; computer-aided electronic transmission and electronic delivery of voice, data, images, and messages in the field of sports, sporting events, sports tournaments, and sports entertainment via computer networks, interactive television, and the internet.

Class 41

Organizing and conducting golf tournaments; entertainment in the nature of golf tournaments; entertainment services, namely, providing temporary use of non-downloadable interactive games, non-downloadable electronic games, non-downloadable computer games, and non-downloadable video games; instruction in the field of golf and other sports; providing news and information about sports and sporting events; providing a web site featuring news and information about sports and sporting events; educational services, namely, conducting classes, seminars, conferences, workshops in the field of planning, managing, and holding golf tournaments; providing golf courses and other facilities for sports, sporting events, and sports award programs; publishing of non-downloadable electronic online publications; electronic games services provided by means of the internet.

Class 43

Consulting services in the field of hospitality; food preparation services; restaurant and bar services.

Annex 3

Class 9

Computers; software; computer software; mobile application software; downloadable software; downloadable publications; computer hardware; computer networks, computer hardware and firmware; computer software; computer hardware and software for managing, securing and operating networks and computers via firewalls, backup software, anti-virus software, resource monitoring software; computer software for providing network, internet, and computer security; computer software for providing intrusion detection and prevention; computer software for scanning, detecting, and removing viruses, worms, Trojan horses, adware, spyware, and other malware; computer software for use in the monitoring and control of computer and online activity; computer software for providing online transaction security; computer optimization software; computer software for use in recruitment; computer software to prevent, diagnose, and repair computer problems; computer maintenance software; computer software for the back-up, storage, restoration and recovery of data, folders, and files; computer software and downloadable computer software, namely, utility software; computer software for providing software updates; user manuals and instructional guides supplied with all of the foregoing; computer hardware and peripherals; computer software to enable secure transmission of digital information over the Internet and other modes of communication between computing devices; downloadable computer software for enabling transmission of photographs; computer software for the collection, organizing, transmission, storage and sharing of data and information; computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks; computer software to integrate managed security services, namely public key infrastructure services; computer software for use in analysis and reporting; downloadable publications; application software for cloud computing services; computer software for application and database integration; computer hardware, computer software for remote management of computer terminals or servers

connected by computer networks, computing terminals, computing workstations, internet servers, mobile phones, internet phones, wireless receivers, wireless transmitters, satellite receivers, electronic and optical communications instruments and components, namely, digital transmitters; knowledge management software; data analysis software; computer and mobile application software to enable users to purchase and evaluate goods via an online marketplace; computer and mobile applications e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; computer software and software development tools for use in developing further software and software applications in the field of e-commerce; databases; data terminals; data networks; data buffers; data banks; data cartridges; data transmitters; data switches; data cables; data processors; electronic databases; computer databases; data encryption apparatus; data encoding apparatus; recorded data files; data exchange units; time data generators; data transmission networks; data processing programs; data storage media; data protection backup units; apparatus for data storage; airborne data acquisition instruments; data generators; data transmission networks; data processing programs; data storage media; data protection backup units; apparatus for data storage; airborne data acquisition instruments; electronic data processing equipment; data communications software; database management software; software for online messaging; apparatus and software for capturing, recording, reproducing, manipulating and transmitting data, images and sounds; magnetic data carriers and encoders; video capture software; video recording software; machine learning software; self-educating computer software; artificial intelligence apparatus; artificial intelligence software; computer software for data analytics and application for use in management of data and information; computer software for analysing market information; downloadable computer software for remote monitoring and analysis; downloadable computer software for data analysis, recommendation and decision support based on data analysis and compilation, data mining, knowledge management and research, business process and data optimization, automation of predictive analytic processes, optimization of predictive analytic business decisions, advertising optimization and personalization, document management, business intelligence information gathering and analysis, forecasting and reporting of possible predictive outcomes, application of company and market data and data analytics, accounting

and financial reporting and analysis, budgeting, enterprise management, data extraction, data monitoring, statistical compilation of market data, economic forecasting, and market analysis; electronic publications; downloadable instruction manuals in electronic form; publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites); multi-media software for use in creating presentations, managing databases and accessing and displaying information.

Class 18

Leather and imitations of leather; leather straps.

Class 28

Games and playthings; gymnastic and sporting articles; amusement apparatus being coin-operated; amusement apparatus for use in arcades; amusement game machines; amusement machines, automatic and coin-operated; apparatus for games; arcade game machines; arcade games; arcade games (electronic -) [coin or counter operated apparatus]; automatic coin-operated games; automatic gaming machines; balls for games; balls for play; balls for playing games; battery operated toys; bill-operated gaming equipment; board games; children's toys; children's playthings; children's multiple activity tables [playthings]; children's multiple activity toy; coin-operated gaming equipment; coin-operated games; coin-operated electronic amusement apparatus; coin-operated electrical amusement apparatus; coin-operated arcade video game machines; educational playthings; electronic board games; electronic educational teaching games; electronic games; electronic games other than those adapted for use with television receivers only; electronic learning toys; electronic remote controlled toys; electronic targets for games and sports; electronic targets for game; games; games (apparatus for -); games (balls for -); go games; gaming tables; gaming machines for gambling; gaming machines; indoor play apparatus for children; jewellery for dolls; video game machines; video game apparatus; toys made of rubber; toys made of plastics; toys made of metal; toys made of bamboo; sports games; skill and action games; slot machines [counter-freed amusement apparatus].

Class 35

The bringing together for the benefit of others of online adult entertainment services enabling customers to conveniently compare and purchase those services; online subscription services for the purpose of allowing individuals to subscribe and access content uploaded by members of the service for online adult entertainment services; retail, online retail and wholesale services in relation to the sale of computers, software, computer software, mobile application software, downloadable software, downloadable publications, computer hardware, computer networks, computer hardware and firmware, computer software, computer hardware and software for managing, securing and operating networks and computers via firewalls, backup software, anti-virus software, resource monitoring software, computer software for providing network, internet, and computer security, computer software for providing intrusion detection and prevention, computer software for scanning, detecting, and removing viruses, worms, Trojan horses, adware, spyware, and other malware, computer software for use in the monitoring and control of computer and online activity, computer software for providing online transaction security, computer optimization software, computer software for use in recruitment, computer software to prevent, diagnose, and repair computer problems, computer maintenance software, computer software for the back-up, storage, restoration and recovery of data, folders, and files, computer software and downloadable computer software, namely, utility software, computer software for providing software updates, user manuals and instructional guides supplied with all of the foregoing, computer hardware and peripherals, computer software to enable secure transmission of digital information over the Internet and other modes of communication between computing devices, downloadable computer software for enabling transmission of photographs, computer software for the collection, organizing, transmission, storage and sharing of data and information, computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management, computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks, computer software to integrate managed security services, namely public key infrastructure services, computer software for use in analysis and

reporting, downloadable publications, application software for cloud computing services, computer software for application and database integration, computer hardware, computer software for remote management of computer terminals or servers connected by computer networks, computing terminals, computing workstations, internet servers, mobile phones, internet phones, wireless receivers, wireless transmitters, satellite receivers, electronic and optical communications instruments and components, namely, digital transmitters, knowledge management software, data analysis software, computer and mobile application software to enable users to purchase and evaluate goods via an online marketplace, computer and mobile applications e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; computer software and software development tools for use in developing further software and software applications in the field of e-commerce, databases, data terminals, data networks, data buffers, data banks, data cartridges, data transmitters, data switches, data cables, data processors, electronic databases, computer databases, data encryption apparatus, data encoding apparatus, recorded data files, data exchange units, time data generators, data transmission networks, data processing programs, data storage media, data protection backup units, apparatus for data storage, airborne data acquisition instruments, electronic data processing equipment, data communications software, database management software, software for online messaging, apparatus and software for capturing, recording, reproducing, manipulating and transmitting data, images and sounds, magnetic data carriers and encoders, video capture software, video recording software, machine learning software, self-educating computer software, artificial intelligence apparatus, artificial intelligence software, computer software for data analytics and application for use in management of data and information, computer software for analysing market information, downloadable computer software for remote monitoring and analysis, downloadable computer software for data analysis, recommendation and decision support based on data analysis and compilation, data mining, knowledge management and research; electronic publications, downloadable instruction manuals in electronic form, publications in electronic form supplied on-line from a database or from facilities provided on the Internet or other networks (including web-sites), multi-media software for use in creating presentations, managing databases and accessing and displaying

information, sports caps, games and playthings, adult games and playthings, gymnastic and sporting articles, action skill games, apparatus for games, arcade game machines, arcade games, arcade games (electronic -) [coin or counter operated apparatus], automatic coin-operated games, automatic gaming machines, backgammon games, backgammon sets, ball nets, balls for games, balls for juggling, balls for play, balls for playing games, battery operated toys, board games, card games, children's toys, coin-operated gaming equipment, coin-operated games, coin-operated electronic amusement apparatus, coin-operated electrical amusement apparatus, coin-operated arcade video game machines, educational playthings; electronic board games, electronic educational teaching games, electronic games, electronic games other than those adapted for use with television receivers only, electronic learning toys, electronic remote controlled toys, electronic targets for games and sports, electronic targets for game, games, games (apparatus for -), games (balls for -), go games, go boards, gaming tables, gaming machines for gambling, gaming machines, games (counters [discs] for -), indoor play apparatus for children, jewellery for dolls; nets for sporting ball games, nets for ball games; video game machines, video game apparatus; toys made of wood, toys made of rubber, toys made of plastics, toys made of metal, toys made of bamboo, sports games.

Class 38

Telecommunication; communications services; telecommunications services; satellite and digital communications services; broadcasting services; access time to global computer networks; computer network communications services; providing access to communications networks; communications network services; advice, information and consultancy services relating to the aforesaid services; communications by computer terminals; computer aided transmission of messages and images; electronic mail; providing telecommunications connections to a global computer network; providing user access to a global computer network [service providers]; telecommunications routing and junction services; interactive telecommunications services; telecommunication of information (web pages), computer programs and data; providing telecommunications connections to the Internet or databases; provision of telecommunication access to world-wide web facilities and structures; communication by computer terminals; communication by fibre optic networks; computer aided

transmission of messages and images; facsimile transmission; message sending; paging services; rental of modems; data communication services by electronic means; rental of telecommunication equipment; electronic message sending, receiving and forwarding services; collection, transmission and delivery of data by electronic means; collection, transmission and delivery of mail messages, still picture and/or moving picture information such as characters, messages, music and images, telegrams, information and data by mechanical, electronic, telephone, telex, cable, computer and satellite means; transmission, broadcast and reception of audio, video, still and moving images and data whether in compressed or uncompressed form and whether in real or delayed time; electronic messaging, conferencing and order-transmission services; video conferencing services; communication by electronic bulletin board that enables users to perform a real-time interactive talk between a computer terminal and an electronic bulletin board containing still picture and moving picture information and voice information such as characters; providing electronic bulletin boards and message boards for transmission of messages; provision of discussion forums; transmission of music, films, interactive programmes, videos, electronic computer games; transmission of information relating to on-line shopping and general retail services; video-on-demand transmission services; video broadcasting; news agency services; providing access to computer database on the global computer network for searching and retrieving information, data, web sites and resources available on computer networks; providing user access to a computer database containing electronic publications, bulletin boards, database and information accessible via computer; providing online chat rooms and electronic bulletin boards; operation of chat rooms (chat room services); electronic exchange of messages via chat lines, chatrooms and Internet forums; multiple user access to global computer information networks for the transfer and dissemination of a wide range of information; data streaming; data transmission; data transmission and data broadcasting; providing access to online computer databases; providing of reports relating to communications; providing virtual facilities for real-time interaction among computer users; providing online facilities for real-time interaction with other computer users; data broadcasting services; international data transfer; international data transmission; online document delivery via global computer network; providing access to online computer databases; electronic data interchange; electronic data transmission; electronic data

communications; telematic [data communication] services; data bank interconnection services; peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; broadcasting services over computer or other communication networks namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, messages, graphics, and images.

Class 41

Education; providing of training; providing of coaching; providing of instruction; entertainment; film production; production of video recordings, sound recordings, DVDs, CDs, CD-ROMs, video and audio tapes; production of television and radio programmes; publishing by electronic means; providing online electronic publications (not downloadable); provision of news online; information relating to lifestyle, fashion and beauty services provided online from a computer database or the Internet; audio production; video production; audio and video recording services; photographer services; music recording studio services; recreation and services; information, advisory and consultancy services relating to all of the aforesaid services.

Class 42

Design and development of computer software; development of mobile applications; providing an online and platform and mobile application that gives users the ability to engage for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data, text, messages, advertisements, media advertising communications and information; providing temporary use of non-downloadable software; providing temporary use of non-downloadable software for modifying and enabling transmission of images, audio-visual and video content; providing temporary use of non-downloadable computer software for viewing and interacting with a feed of images, audio-visual and video content and associated text and data; providing temporary use of non-downloadable computer software for finding content and content publishers, and for subscribing to content; providing temporary use of non-downloadable computer software for tagging images, audio-visual and video content with data indicating date, location, people and subject matter; providing information from searchable indexes and databases of information; providing search engines for

obtaining data via communications networks; providing an online network service that enables users to transfer personal identity data and to share personal identity data with and among multiple applications or websites; computer services, namely, hosting online web facilities for others for organising and conducting meetings, events and interactive discussions via communication networks; computer services, namely, creating a virtual community for registered users to share, view, subscribe to and interact with images, audio-visual and video content and related data and information; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data, text, messages, advertisements, media advertising communications and information; application service provider (ASP) featuring software to enable creating, editing, uploading, downloading, accessing, viewing, posting, displaying, tagging, blogging, streaming, linking, annotating, indicating sentiment about, commenting on, embedding, transmitting, sharing, searching, or otherwise providing or interacting with electronic media; application service provider (ASP) featuring application programming interface (API) software which facilitates online services for social networking, developing software applications, and purchasing and disseminating advertising; application service provider (ASP) featuring software for use in buying, selling, tracking, valuing, optimizing, targeting, analysing, delivery, and reporting of online advertising and marketing; application service provider (ASP) featuring software for use in designing and managing online advertising and marketing campaigns; platform as a service (PAAS) featuring computer software platforms for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data, text, messages, advertisements, media advertising communications and information; rental of computer software that gives users the ability to upload, edit, and share images, videos, audios, text and audio-visual content; hosting a website for the electronic storage of digital photographs and videos; design consultancy; design services; computer website design; computer design services; technical support services, namely, providing help desk services in the field of computer software,

namely, providing users with instructions and advice on the use of downloadable computer software, provided online and via e-mail.

Annex 4

ANI's second mark

Class 9

Computer programs and computer software featuring instruction in golf and golf tournaments; computer game software for instructional and entertainment purposes pertaining to the game of golf and golf tournaments; video game programs pertaining to the game of golf and golf tournaments; compact discs and prerecorded video tapes pertaining to the game of golf and golf tournaments; interactive game software and interactive video games pertaining to the game of golf and golf tournaments; downloadable electronic games via the internet pertaining to the game of golf and golf tournaments; sunglasses.

Class 38

Broadcasting sporting events on television, radio, the internet, digital communications networks, and cable; computer-aided electronic transmission and electronic delivery of voice, data, images, and messages in the field of sports, sporting events, sports tournaments, and sports entertainment via computer networks, interactive television, and the internet.

Class 39

Transportation services, namely, shuttle services.

Class 41

Organizing and conducting golf tournaments; entertainment in the nature of golf tournaments; entertainment services, namely, providing temporary use of non-downloadable interactive games, non-downloadable electronic games, non-downloadable computer games, and non-downloadable video games; instruction in the field of golf and other sports; providing news and information about sports and sporting events; providing a web site featuring news and information about sports and sporting events; educational services, namely, conducting classes, seminars, conferences, and workshops in the field of planning, managing, and holding golf tournaments; providing golf courses and other facilities for sports, sporting events, and

sports award programs; publishing of non-downloadable electronic online publications; electronic games services provided by means of the internet.

Class 43

Hotel and lodging services; consulting services in the field of hospitality; food preparation services; restaurant and bar services.

ANI's third mark

Class 41

Production of television programmes and video recordings; all relating to the Augusta Masters Tournament; all included in Class 41.

ANI's fourth mark

Class 41

Production of television programmes and video recordings; all relating to the Augusta Masters Golf Tournament; all included in Class 41.

ANI's fifth mark

Class 9

Pre-recorded films and video tapes; teaching apparatus; all the aforesaid goods pertaining to the game of golf; all included in Class 9.

ANI's sixth mark

Class 9

Pre-recorded films and video tapes; teaching apparatus; all of the aforesaid goods pertaining to the game of golf; all included in Class 9.

ANI's seventh mark

Class 9

Computer and video programs, software, discs, tapes and games; downloadable electronic game programs; electronic programs, software and games; hand-held units for playing electronic games for use with an external display screen or monitor; interactive electronic and video programs, software, discs, tapes and games; internet games; sunglasses.

Class 38

Broadcasting sporting events on television, radio, the internet, and electronically in any and all media whether now existing or hereinafter invented; computer-aided electronic transmission and electronic delivery of voice, data, images, and messages in the field of sporting events, sports tournaments and sports entertainment via computer networks, interactive television and the internet.

Class 41

Conducting sports tournaments; entertainment services, namely, providing non-downloadable video, disc and tape programs and games, online electronic programs and games, and computer programs and games that be accessed and played over computer networks; golf courses; golf instruction and other instruction of sports; planning, managing and holding golf tournaments; providing a web site through which others can locate information about sporting events; providing a web site featuring information on sports; providing golf courses and other sports facilities; providing instructions concerning planning, managing and holding golf tournaments; providing news and information on sports; providing various facilities for sporting events, sports tournaments, sports and athletic competitions and awards programs; publishing of non-downloadable electronic online publications.

Class 43

Hospitality, food and restaurant services.

ANI's eighth mark

Class 28

Christmas ornaments.

Annex 5

Class 5

Preparations for enhancing the libido; preparations for facilitating sexual coupling; lubricants being sexual aids; personal sexual lubricants; vaginal lubricants; vaginal washes; preparations for use in vaginal lubrication; sexual stimulant gels.

Class 9

Computers; software; computer software; mobile application software; downloadable software; computer hardware; computer networks, computer hardware and firmware; computer software; computer hardware and software for managing, securing and operating networks and computers via firewalls, backup software, anti-virus software, resource monitoring software; computer software for providing network, internet, and computer security; computer software for providing intrusion detection and prevention; computer software for scanning, detecting, and removing viruses, worms, Trojan horses, adware, spyware, and other malware; computer software for use in the monitoring and control of computer and online activity; computer software for providing online transaction security; computer optimization software; computer software for use in recruitment; computer software to prevent, diagnose, and repair computer problems; computer maintenance software; computer software for the back-up, storage, restoration and recovery of data, folders, and files; computer software and downloadable computer software, namely, utility software; computer software for providing software updates; user manuals and instructional guides supplied with all of the foregoing; computer hardware and peripherals; computer software to enable secure transmission of digital information over the Internet and other modes of communication between computing devices; downloadable computer software for enabling transmission of photographs; computer software for the collection, organizing, transmission, storage and sharing of data and information; computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks;

computer software to integrate managed security services, namely public key infrastructure services; computer software for use in analysis and reporting; application software for cloud computing services; computer software for application and database integration; computer hardware, computer software for remote management of computer terminals or servers connected by computer networks, computing terminals, computing workstations, internet servers, mobile phones, internet phones, wireless receivers, wireless transmitters, satellite receivers, electronic and optical communications instruments and components, namely, digital transmitters; knowledge management software; data analysis software; computer and mobile application software to enable users to purchase and evaluate goods via an online marketplace; computer and mobile applications e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; computer database software featuring information in the field of sex toys, erotic products, collectibles and a wide variety of products; computer software and software development tools for use in developing further software and software applications in the field of e-commerce; databases; data terminals; data networks; data buffers; data banks; data cartridges; data transmitters; data switches; data cables; data processors; electronic databases; computer databases; data encryption apparatus; data encoding apparatus; recorded data files; data exchange units; time data generators; data transmission networks; data processing programs; data storage media; data protection backup units; apparatus for data storage; airborne data acquisition instruments; electronic data processing equipment; data communications software; database management software; software for online messaging; apparatus and software for capturing, recording, reproducing, manipulating and transmitting data, images and sounds; magnetic data carriers and encoders; video capture software; video recording software; machine learning software; self-educating computer software; artificial intelligence apparatus; artificial intelligence software; computer software for data analytics and application for use in management of data and information; computer software for analysing market information; downloadable computer software for remote monitoring and analysis; downloadable computer software for data analysis, recommendation and decision support based on data analysis and compilation, data mining, knowledge management and research, business process and data optimization, automation of predictive

analytic processes, optimization of predictive analytic business decisions, advertising optimization and personalization, document management, business intelligence information gathering and analysis, forecasting and reporting of possible predictive outcomes, application of company and market data and data analytics, accounting and financial reporting and analysis, budgeting, enterprise management, data extraction, data monitoring, statistical compilation of market data, economic forecasting, and market analysis; downloadable instruction manuals in electronic form; multi-media software for use in creating presentations, managing databases and accessing and displaying information; none of the aforesaid being software, software for data analysis, databases and publications in relation to pharmaceuticals or in the field of pharmaceuticals.

Class 10

Sex toys; vibrators; vibro-massage apparatus; devices for massaging, vibrating or stimulating the body; devices for aiding copulation, masturbation and sexual arousal, including synthetic reproductions of parts of the male and female anatomy and synthetic reproductions of penises and vaginas; electronic massaging apparatus; apparatus and instruments for applying electrical currents to the skin for stress relief; penis rings; nipple clamps; dildos; dongs; butt plugs; anal beads; penis sleeves; penis extensions; masturbators; body prostheses; love dolls; vaginal exercisers; condoms; flavoured, ribbed and/or coloured condoms; mechanical contraceptives; condoms for hygienic purposes; non-chemical contraceptives; erotic articles for application to the body (included in class 10), in particular massage apparatus, vibrators and functioning representations of human body parts and sex organs; erection and orgasm-enhancing devices (included in class 10); sex aid kits; sex aids, including ropes; marital aids; benwa balls, being adult sexual aids; bondage kits; bondage gear; aphrodisiacs; adult sexual aids; mechanical apparatus to aid in the erection of the penis; rubber rings to be worn about the penis; apparatus to induce and increase sexual stimulation, pleasure and performance; artificial vaginas; artificial penises; penis enlargers; whips being sex toys; crops being sex toys; parts, fittings and accessories for all the aforesaid goods.

Class 18

Leather and imitations of leather; leather straps; leather floggers; leather riding crops; leather collars; leather leads; leather restraints; leather thongs; leather masks and blindfolds; whips, harness and saddlery; harness fittings; collars, leashes and clothing for animals.

Class 25

Clothing for wear in judo practices; clothing for wear in wrestling games; clothing for cycling; clothing for fishermen; clothing for horse-riding; clothing for martial arts; clothing for skiing; sleeping garments; bathing suits; bathing trunks; beachwear; beach clothing; bikinis; denim; denim jeans; denim coats; denim shirts; denim jackets; fur jackets; fur coats; fur hats; stoles [fur]; fur muffs; fur cloaks; clothing made of fur; hide or fur; corsets; parkas; clothing for role-play; coveralls; tights; tuxedos; waistcoats; tunics; underpants jackets; jogging pants; cargo pants; jogging pants; stuff jackets; gabardines; foundation garments; body linen; plush clothing; slippers; yokes; pique shirts; cowls; skirt suits; tennis shirts; pique shirts; shirt fronts; shirt-jacs; rugby shirts; yoga shirts; hunting shirts; fishing shirts; knit shirts; aloha shirts; camouflage shirts; shirt yokes; snap crotch shirts for infants and toddlers; padded shirts for athletic use; button-front aloha shirts; football shirts; soccer shirts; ramie shirts; shirts for suits; mock turtleneck shirts; culotte skirts; layettes; wedding dresses; trouser socks; jogging bottoms; swimwear; swimsuits; swim briefs; swimming trunks; swimming caps; night gowns; negligees; robes; sleeping robes; pyjamas; bathrobes; undergarments; underwear; undershirts; combinations; chemises; panties; shorts and briefs; brassieres; lingerie; bodices (lingerie); petticoats; camisoles; neckerchiefs; garters; sock suspenders; suspenders; shifts; masquerade costumes; beach shoes; sandals; ballet shoes; basketball shoes; baseball shoes; bath shoes; canvas shoes; cycling shoes; deck shoes; dress shoes; driving shoes; foot volleyball shoes; gymnastic shoes; handball shoes; heel pieces for shoes; hockey shoes; jogging shoes; mountaineering shoes; overshoes; riding shoes; rubber shoes; running shoes; ski and snowboard shoes and parts thereof; shoes soles for repair; tennis shoes; tap shoes; training shoes; boots; high-heeled shoes; protective metal members for shoes and boots; rain shoes; volleyball shoes; ankle boots; army boots; basketball sneakers; bath slippers; beach footwear; bootees (woollen baby shoes); boots for sport; footwear soles; footwear uppers; footwear made of vinyl; heelpieces for footwear; heels; inner

soles; insoles for footwear; intermediate soles; ladies' footwear; moccasins; mules; outer soles; shoe straps; shoe uppers; soles for footwear; ski boot bags; slippers; slippers made of leather; slipper soles; arm warmers; legwarmers; suspenders; stocking suspenders; suspender belts for men; braces for clothing; beach hats; berets; shawls; wraps; boas; blousons; parkers; bandannas; ribbons and braid; chefs' hats; bathing caps; bonnets; fedoras; masks (sleep -); nightcaps; veils; turbans.

Class 28

Games and playthings; adult games and playthings; gymnastic articles; decorations for Christmas trees; action figures [toys or playthings]; action skill games; action toys; aerosol actuator guns [playthings]; air mattresses for recreational use; air pistols [toys]; amusement apparatus being coin-operated; amusement apparatus for use in arcades; amusement game machines; amusement machines, automatic and coin-operated; animal replicas as playthings; apparatus for games; arcade game machines; arcade games; arcade games (electronic -) [coin or counter operated apparatus]; articles for playing jokes; articles of clothing for dolls; articles of clothing for toys; automatic coin-operated games; automatic gaming machines; backgammon games; backgammon sets; ball nets; balloons; balloons (play -); balls for juggling; barrels for darts; bath toys; bathing floats; bathtub toys; bats for ball games; battery-operated action toys; battery operated remote controlled toy vehicles; battery operated toys; beach balls; bean bag dolls; beanbags in the form of playthings; belts for weightlifting; bendable toys; bill-operated gaming equipment; billiard balls; billiard cue chalk; billiard game playing equipment; billiard markers; billiard table cushions; bingo cards; bingo game playing equipment; bingo markers; blocks (building -) [toys]; board games; sexually themed board games; sex games; bobble-head dolls; boule games; bouncers [playthings]; bouncing toys; bowls [games]; bubble making wand and solution sets; buckets [playthings]; building blocks [toys]; building bricks [toys]; building games; camogie stick; checkers sets; checkers pieces; checkers [games]; checkerboards; checker sets; cases for action figures; cases for play accessories; carriages for dolls; carnival masks; carnival caps; cards [games]; cards (bingo -); card shuffling machines; card games; sexual and erotic card games; adult card games; caps [percussive] for toy pistols; cloth toys; clockwork toys [of plastics]; clockwork toys [of metal]; climbing slides being play apparatus for children; climbing frames (play things); chips for

gambling; chips and dice [gaming equipment]; chip markers for bingo; children's toys; children's toy bicycles other than for transport; children's riding vehicles [playthings]; children's ride-on toy vehicles; children's punch balls; children's playthings; children's playhouses; children's play cosmetics; children's multiple activity tables [playthings]; children's multiple activity toy; children's four-wheeled vehicles [playthings]; chessboards; chess sets; chess pieces; chess games; chess boards; cheerleading pom-poms; costume masks; costumes for role-play; conveyances for teddy bears; controllers for toys; containers adapted for holding darts flights; containers adapted for holding darts; construction toys; conjuring apparatus; confetti; compendiums of board games; collectable toy figures; coin-operated pinball game machines; coin-operated gaming equipment; coin-operated games; coin-operated electronic amusement apparatus; coin-operated electrical amusement apparatus; coin-operated arcade video game machines; clothing for toy figures; clothing for dolls; cuddly toys; cube puzzles; craft toys sold in kit form; craft model kits; crackers [party novelties]; counters for games [discs]; counters for games; counters [discs] for games; cots for dolls; costumes being childrens playthings; domino sets; dolls' rooms; dolls in sitting posture (osuwari dolls); dolls' houses; dolls for playing; dolls' feeding bottles; dolls' clothing accessories; dolls' clothing; dolls' clothes; dolls' beds; dolls; doll rooms; doll playsets; doll houses; doll house furniture; doll costumes; doll accessories; dice games; dice (cups for -); dice cups; dice; detonating caps [toys]; darts; dominoes; draughtboards; draughts; draughts [games]; draughts sets; drones [toys]; dye paintballs for use as projectiles in war games; educational playthings; electric action figures with lights and sounds; electric action toys; electronic board games; electronic dart games; electronic educational teaching games; electronic games; electronic games other than those adapted for use with television receivers only; electronic learning toys; electronic remote controlled toys; electronic remote controlled toy vehicles; electronic targets for game; electronically operated toy vehicles; electronically operated toy motor vehicles; fabric dolls; fabric toys; face masks being playthings; fake teeth [novelty items]; fantasy character toys; feeding bottles (dolls' -); flotation apparatus for swimming; floating recreational pads; fluffy toys; flumes; flying discs [toys]; foosball tables; four-wheeled toy vehicles; fruit machines; furnishings for doll houses; game boards for trading card games; game cards; games; games (apparatus for -); games (balls for -); halloween masks; gyroscopes and flight stabilizers for model aircraft; goke pots [pots for stone

pieces used in go games]; go stones; go games; go boards; gliders [scale models]; gliders [playthings]; gaming tables; gaming machines for gambling; gaming machines; games relating to fictional characters; games (marbles for -); games (counters [discs] for -); inflatable swimming pools [play articles]; inflatable swimming pools for recreational use [toys]; inflatable ride-on toys; inflatable pools for recreational use; inflatable pool toys; inflatable mattresses for recreational use; inflatable inner tubes for aquatic recreational use; inflatable float mattresses for recreational use; inflatable bop bags; inflatable beach balls; inflatable bath toys; infants' swings; indoor play tents; indoor play apparatus for children; indoor football (tables for -); indoor football tables; imitation toilet preparations being toys; jokes (practical -) [novelties]; inflatable thin rubber toys; inflatable toys; inflatable toys in the form of boats; inflatable toys resembling air vehicles; interlocking toy construction pieces; jack-in-the-boxes; japanese chess (shogi games); japanese dice games (sugoroku); japanese horizontal pinball machines [smartball machines]; japanese playing cards; japanese playing cards (hanafuda); japanese playing cards (utagaruta); japanese traditional dolls; japanese vertical pinball machine (pachinko machines); jewellery for dolls; jigsaw puzzles; jokes (play things); kick boards; kickboard flotation devices for recreational use; kite handles; kite lines; kite parts; kite reels; kite string; kite tails; kites; kits of parts [sold complete] for making toy model cars; kits of parts [sold complete] for making toy models; kits of parts [sold complete] for constructing models; kits [sold complete] for the construction of scale models; kokeshi dolls; korean chess boards (jang-gi pan); korean chess pieces (jang-gi pieces); korean dominos (glopae); korean playing cards (hwatoo); led light sticks (toys); lever action toys; lottery scratch cards; lottery tickets; lottery wheels; magic tricks; magicians' sets (play things); mah-jong; mah jong equipment; mah jong games; manipulative games; manipulative puzzles; marbles; marbles for games; marbles for playing games; marionettes; markers (billiard -); markers [counters] for playing games; mascot dolls; masks [playthings]; masks (theatrical -); masks (toy -); masquerade masks; mechanical action toys; mechanical games; mechanical toys; miniature car models [toys or playthings]; miniature die cast vehicles; musical toys; musical games; multiple activity toys for babies; multi-part construction toys; models for use with war games; motor driven toy animals; models for use with role playing games; models being toys; modeled plastic toy figurines; model vehicles (scale -) [playthings]; model vehicles (scale -); paper party hats; paper

party favours; paper hats [party novelties]; paper face-masks; paper dolls; paper airplanes; paddling pools; paddles for use in paddle ball games; paddleball paddles; paddle balls; paddle ball games; pachinkos; novelty vampire teeth; novelty masks; novelties in the form of bugs in boxes; novelties for parties, dances [party favors, favours]; non-motorised toys for riding; noisemakers [toys]; ninepins; nine man's morris sets; plastic model kits for making toy vehicles; plastic character toys; pistols (toy -); pistols (caps for -) [toys]; paper trumpets; parlor games; parlour games; party favor hats; party favors; party favors in the nature of crackers; party games; party novelties; party poppers; pedal-propelled wheeled toys; percussion caps [toys]; pet toys; pet toys containing catnip; pet toys made of rope; piñatas; war games using model soldiers; water guns [playthings]; water pistols; water pistols [playthings]; water slides; water squirting toys; water toys; water wings; waterslides; weight lifting belts [sports articles]; wendy houses; wheels for toy vehicles; whistles [toys]; whistling toys; wind-up toys; wind-up walking toys; wooden toy building blocks; wooden pieces for shogi game (koma); wooden toys; xylophones being musical toys; video game machines; video game apparatus; ventriloquist's dummies; vehicles (radio-controlled toy -); vehicles (scale model -); uta-garuta playing cards; uta-garuta [japanese playing cards]; twirling batons; tricycles [playthings]; transforming robotic toys; transforming robotic toy vehicles; trampolines; train sets [playthings]; train sets; traditionally dressed dolls; traditional japanese playing cards; trading cards [card game]; tracks for model vehicles; toys sold in kit form; toys simulating objects used by adults in day to day activity; toys relating to magic; toys made of wood; toys made of rubber; toys made of plastics; toys made of metal; toys made of bamboo; toys incorporating money boxes; toys in the nature of imitation foodstuffs; toys in the form of puzzles; toys, games and playthings for pet animals; toys for use in swimming pools; toys for use in perambulators; toys for sandpits; swings [playthings]; swing sets; swings; swimming kick boards; swimming floats for recreational use; swimming floats; swimming boards; swim floats for recreational use; surfboard covers; sugoroku board games; stuffed toys; stuffed toy animals; stuffed puppets; stuffed plush toys; stuffed bean-filled toys; stuffed animals [toys]; stuffed and plush toys; streamers [party novelties]; stone-pieces pots for go game (goke pots); squeeze toys; squeezable squeaking toys; spools for throwing, incorporating coiled string which unwinds and rewinds returning the spool to the hand; spinning tops [toys]; spinning tops [playthings]; spinning tops incorporating

string which rewinds and returns the top to the hand when thrown; spinning tops; sketching toys; skill and action games; skipping ropes; skittles [games]; sledges [playthings]; sleds for use in downhill amusement rides; sleds [recreational equipment]; sleighs [playthings]; sleighs [recreational equipment]; slides [playthings]; sliotar; slot machines [counter-freed amusement apparatus]; snow globes; snow saucers; snow sledges [playthings]; soap bubbles [toys]; soft sculpture plush toys; soft sculpture toys; soft toys; soft toys in the form of elks; soft toys in the form of animals; spinning discs incorporating string which rewinds and returns the disc to the hand when thrown; sandbox toys; sandboxes [playthings]; scale model aeroplanes; skateboards [recreational equipment]; skateboard paddles; sit-in toy vehicles; shove ha'penny sets; shogi game equipment (japanese chess); shogi boards; shoes for dolls; see-saws; scratch cards for playing lottery games; scooters [toys]; scale model vehicles [toys]; scale model vehicles [playthings]; scale model structures [toys]; scale model kits [toys]; scale model figures; scale model cars [toys]; scale model cars [playthings]; scale model buildings [toys]; scale model airplanes; remote controlled toys in the form of vehicles; ride-on toy vehicles; ride-on toy vehicles (motorised -); ride-on toys; ring buoys for recreational use; sakura dolls; rubber character toys; rubber baseballs; rubber balls; roundabouts being playthings; roulette wheels; roulette tables; roulette sets; roulette chips; rooms (dolls' -); rooms for dolls; role play games; role playing games; rocking toys; push toys; puzzles; puzzles [toys]; question sets for board games; quiz games; quoits; quoits [ring games]; racing car games; radio controlled model vehicles; radio controlled toy model cars; radio-controlled toy vehicles; radio-controlled toys; rag dolls.

Class 35

The bringing together for the benefit of others of online adult entertainment services enabling customers to conveniently compare and purchase those services; online subscription services for the purpose of allowing individuals to subscribe and access content uploaded by members of the service for online adult entertainment services; none of the aforesaid services in relation to pharmaceuticals or the field of pharmaceuticals; retail, online retail and wholesale services in relation to the sale of preparations for enhancing the libido, preparations for facilitating sexual coupling, lubricants being sexual aids, personal sexual lubricants, vaginal lubricants,

vaginal washes, preparations for use in vaginal lubrication, sexual stimulant gels, computers, software, computer software, mobile application software, downloadable software, computer hardware, computer networks, computer hardware and firmware, computer software, computer hardware and software for managing, securing and operating networks and computers via firewalls, backup software, anti-virus software, resource monitoring software, computer software for providing network, internet, and computer security, computer software for providing intrusion detection and prevention, computer software for scanning, detecting, and removing viruses, worms, Trojan horses, adware, spyware, and other malware, computer software for use in the monitoring and control of computer and online activity, computer software for providing online transaction security, computer optimization software, computer software for use in recruitment, computer software to prevent, diagnose, and repair computer problems, computer maintenance software, computer software for the back-up, storage, restoration and recovery of data, folders, and files, computer software and downloadable computer software, namely, utility software, computer software for providing software updates, user manuals and instructional guides supplied with all of the foregoing, computer hardware and peripherals, computer software to enable secure transmission of digital information over the Internet and other modes of communication between computing devices, downloadable computer software for enabling transmission of photographs, computer software for the collection, organizing, transmission, storage and sharing of data and information, computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management, computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks, computer software to integrate managed security services, namely public key infrastructure services, computer software for use in analysis and reporting, downloadable publications, application software for cloud computing services, computer software for application and database integration, computer hardware, computer software for remote management of computer terminals or servers connected by computer networks, computing terminals, computing workstations, internet servers, mobile phones, internet phones, wireless receivers, wireless

transmitters, satellite receivers, electronic and optical communications instruments and components, namely, digital transmitters, knowledge management software, data analysis software, computer and mobile application software to enable users to purchase and evaluate goods via an online marketplace, computer and mobile applications e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network, computer database software featuring information in the field of sex toys, erotic products, collectibles and a wide variety of products, computer software and software development tools for use in developing further software and software applications in the field of e-commerce, databases, data terminals, data networks, data buffers, data banks, data cartridges, data transmitters, data switches, data cables, data processors, electronic databases, computer databases, data encryption apparatus, data encoding apparatus, recorded data files, data exchange units, time data generators, data transmission networks, data processing programs, data storage media, data protection backup units, apparatus for data storage, airborne data acquisition instruments, electronic data processing equipment, data communications software, database management software, software for online messaging, apparatus and software for capturing, recording, reproducing, manipulating and transmitting data, images and sounds, magnetic data carriers and encoders, video capture software, video recording software, machine learning software, self-educating computer software, artificial intelligence apparatus, artificial intelligence software, computer software for data analytics and application for use in management of data and information, computer software for analysing market information, downloadable computer software for remote monitoring and analysis, downloadable computer software for data analysis, recommendation and decision support based on data analysis and compilation, data mining, knowledge management and research, business process and data optimization, automation of predictive analytic processes, optimization of predictive analytic business decisions, advertising optimization and personalization, document management, business intelligence information gathering and analysis, forecasting and reporting of possible predictive outcomes, application of company and market data and data analytics, accounting and financial reporting and analysis, budgeting, enterprise management, data extraction, data monitoring, statistical compilation of market data, economic forecasting, and market analysis, downloadable instruction

manuals in electronic form, multi-media software for use in creating presentations, managing databases and accessing and displaying information, sex toys, vibrators, vibro-massage apparatus, devices for massaging, vibrating or stimulating the body, devices for aiding copulation, masturbation and sexual arousal, including synthetic reproductions of parts of the male and female anatomy and synthetic reproductions of penises and vaginas, electronic massaging apparatus, apparatus and instruments for applying electrical currents to the skin for stress relief, penis rings, nipple clamps, dildos, dongs, butt plugs, anal beads, penis sleeves, penis extensions, masturbators, body prostheses, love dolls, vaginal exercisers, condoms, flavoured, ribbed and/or coloured condoms, mechanical contraceptives, condoms for hygienic purposes, non-chemical contraceptives, erotic articles for application to the body (included in class 10), in particular massage apparatus, vibrators and functioning representations of human body parts and sex organs, erection and orgasm-enhancing devices (included in class 10), sex aid kits, sex aids, including ropes, marital aids, benwa balls, being adult sexual aids, bondage kits, bondage gear, aphrodisiacs, adult sexual aids, mechanical apparatus to aid in the erection of the penis, rubber rings to be worn about the penis, apparatus to induce and increase sexual stimulation, pleasure and performance, artificial vaginas, artificial penises, penis enlargers, whips being sex toys, crops being sex toys, parts, fittings and accessories for all the aforesaid goods, leather and imitations of leather, leather straps, leather floggers, leather riding crops, leather collars, leather leads, leather restraints, leather thongs, leather masks and blindfolds, whips, harness and saddlery, harness fittings, collars, leashes and clothing for animals, clothing for wear in judo practices, clothing for wear in wrestling games, clothing for cycling, clothing for fishermen, clothing for horse-riding, clothing for martial arts, clothing for skiing, sleeping garments, bathing suits, bathing trunks, beachwear, beach clothing, bikinis, denim, denim jeans, denim coats, denim shirts, denim jackets, fur jackets, fur coats, fur hats, stoles [fur], fur muffs, fur cloaks, clothing made of fur, corsets, parkas, clothing for role-play, coveralls, tights, tuxedos, waistcoats, tunics, underpants jackets, jogging pants, cargo pants, jogging pants, stuff jackets, gabardines, foundation garments, body linen, plush clothing, slippers, yokes, cowls, skirt suits, tennis shirts, shirt fronts, shirt-jacks, rugby shirts, yoga shirts, hunting shirts, fishing shirts, knit shirts, aloha shirts, camouflage shirts, shirt yokes, snap crotch shirts for infants and toddlers, padded shirts for athletic use, football shirts, soccer shirts,

ramie shirts, shirts for suits, mock turtleneck shirts, culotte skirts, layettes, wedding dresses, trouser socks, jogging bottoms, swimwear, swimsuits, swim briefs, swimming trunks, swimming caps, night gowns, negligees, robes, sleeping robes, pyjamas, bathrobes, undergarments, underwear, undershirts, combinations, chemises, panties, shorts and briefs, brassieres, lingerie, bodices (lingerie), petticoats, camisoles, neckerchiefs, garters, sock suspenders, shifts, masquerade costumes, beach shoes, sandals, ballet shoes, basketball shoes, baseball shoes, bath shoes, beach shoes, canvas shoes, cycling shoes, deck shoes, dress shoes, driving shoes, foot volleyball shoes, gymnastic shoes, handball shoes, heel pieces for shoes, hockey shoes, jogging shoes, mountaineering shoes, overshoes, riding shoes, rubber shoes, running shoes, ski and snowboard shoes and parts thereof, shoes soles for repair, tennis shoes, tap shoes, training shoes, boots, high-heeled shoes, protective metal members for shoes and boots, rain shoes, volleyball shoes, boots, ankle boots, army boots, basketball sneakers, bath slippers, beach footwear, bootees (woollen baby shoes), boots, boots for sport, boots (ski -), footwear soles, footwear uppers, footwear made of vinyl, heelpieces for footwear, heels, inner soles, insoles for footwear, intermediate soles, ladies' footwear, moccasins, mules, outer soles, shoe straps, shoe uppers, soles for footwear, ski boot bags, slippers made of leather, slipper soles, sandals, arm warmers, legwarmers, stocking suspenders, suspender belts for men, braces for clothing, beach hats, berets, shawls, wraps, boas, blousons, parkers, bandannas, ribbons and braid, chefs' hats, beach hats, bathing caps, bonnets, fedoras, fur hats, fur muffs, masks (sleep -), nightcaps, veils, turbans, games and playthings, adult games and playthings, gymnastic articles, decorations for Christmas trees, action figures [toys or playthings], action skill games, action toys, aerosol actuator guns [playthings], air mattresses for recreational use, air pistols [toys], amusement apparatus being coin-operated, amusement apparatus for use in arcades, amusement game machines, amusement machines, automatic and coin-operated, animal replicas as playthings, apparatus for games, arcade game machines, arcade games, arcade games (electronic -) [coin or counter operated apparatus], articles for playing jokes, articles of clothing for dolls, articles of clothing for toys, automatic coin-operated games, automatic gaming machines, backgammon games, backgammon sets, balloons, balloons (play -), balls for juggling, barrels for darts, bath toys, bathing floats, bathtub toys, bats for ball games, battery-operated action toys, battery operated

remote controlled toy vehicles, battery operated toys, beach balls, bean bag dolls, beanbags in the form of playthings, belts for weightlifting, bendable toys, bill-operated gaming equipment, billiard balls, billiard cue chalk, billiard game playing equipment, billiard markers, billiard table cushions, bingo cards, bingo game playing equipment, bingo markers, blocks (building -) [toys], board games, sexually themed board games, sex games, bobble-head dolls, boule games, bouncers [playthings], bouncing toys, bowls [games], bubble making wand and solution sets, buckets [playthings], building blocks [toys], building bricks [toys], building games, camogie stick, checkers sets, checkers pieces, checkers [games], checkerboards, checker sets, cases for action figures, cases for play accessories, carriages for dolls, carnival masks, carnival caps, cards [games], cards (bingo -), card shuffling machines, card games, sexual and erotic card games, adult card games, caps [percussive] for toy pistols, cloth toys, clockwork toys [of plastics], clockwork toys [of metal], climbing slides being play apparatus for children, climbing frames (play things), chips for gambling, chips and dice [gaming equipment], chip markers for bingo, children's toys, children's toy bicycles other than for transport, children's riding vehicles [playthings], children's ride-on toy vehicles, children's punch balls, children's playthings, children's playhouses, children's play cosmetics, children's multiple activity tables [playthings], children's multiple activity toy, children's four-wheeled vehicles [playthings], chessboards, chess sets, chess pieces, chess games, chess boards, cheerleading pom-poms, costume masks, costumes for role-play, conveyances for teddy bears, controllers for toys, containers adapted for holding darts flights, containers adapted for holding darts, construction toys, conjuring apparatus, confetti, compendiums of board games, collectable toy figures, coin-operated pinball game machines, coin-operated gaming equipment, coin-operated games, coin-operated electronic amusement apparatus, coin-operated electrical amusement apparatus, coin-operated arcade video game machines, clothing for toy figures, clothing for dolls, cuddly toys, cube puzzles, craft toys sold in kit form, craft model kits, crackers [party novelties], counters for games [discs], counters for games, counters [discs] for games, cots for dolls, costumes being childrens playthings, domino sets, dolls' rooms, dolls in sitting posture (osuwari dolls), dolls' houses, dolls for playing, dolls' feeding bottles, dolls' clothing accessories, dolls' clothing, dolls' clothes, dolls' beds, dolls, doll rooms, doll playsets, doll houses, doll house furniture, doll costumes, doll accessories, dice games, dice (cups for -), dice cups, dice, detonating

caps [toys], darts, dominoes, draughtboards, draughts, draughts [games], draughts sets, drones [toys], dye paintballs for use as projectiles in war games, educational playthings, electric action figures with lights and sounds, electric action toys, electronic board games, electronic dart games, electronic educational teaching games, electronic games, electronic games other than those adapted for use with television receivers only, electronic learning toys, electronic remote controlled toys, electronic remote controlled toy vehicles, electronic targets for game, electronically operated toy vehicles, electronically operated toy motor vehicles, fabric dolls, fabric toys, face masks being playthings, fake teeth [novelty items], fantasy character toys, feeding bottles (dolls' -), flotation apparatus for swimming, floating recreational pads, fluffy toys, flumes, flying discs [toys], foosball tables, four-wheeled toy vehicles, fruit machines, furnishings for doll houses, game boards for trading card games, game cards, games, games (apparatus for -), games (balls for -), halloween masks, gyroscopes and flight stabilizers for model aircraft, goke pots [pots for stone pieces used in go games], go stones, go games, go boards, gliders [scale models], gliders [playthings], gaming tables, gaming machines for gambling, gaming machines, games relating to fictional characters, games (marbles for -), games (counters [discs] for -), inflatable swimming pools [play articles], inflatable swimming pools for recreational use [toys], inflatable ride-on toys, inflatable pools for recreational use, inflatable pool toys, inflatable mattresses for recreational use, inflatable inner tubes for aquatic recreational use, inflatable float mattresses for recreational use, inflatable bop bags, inflatable beach balls, inflatable bath toys, infants' swings, indoor play tents, indoor play apparatus for children, indoor football (tables for -), indoor football tables, imitation toilet preparations being toys, jokes (practical -) [novelties], inflatable thin rubber toys, inflatable toys, inflatable toys in the form of boats, inflatable toys resembling air vehicles, interlocking toy construction pieces, jack-in-the-boxes, japanese chess (shogi games), japanese dice games (sugoroku), japanese horizontal pinball machines [smartball machines], japanese playing cards, japanese playing cards (hanafuda), japanese playing cards (utagaruta), japanese traditional dolls, japanese vertical pinball machine (pachinko machines), jewellery for dolls, jigsaw puzzles, jokes (play things), kick boards, kickboard flotation devices for recreational use, kite handles, kite lines, kite parts, kite reels, kite string, kite tails, kites, kits of parts [sold complete] for making toy model cars, kits of parts [sold complete] for making toy models, kits of

parts [sold complete] for constructing models, kits [sold complete] for the construction of scale models, kokeshi dolls, korean chess boards (jang-gi pan), korean chess pieces (jang-gi pieces), korean dominos (glopae), korean playing cards (hwatoo), led light sticks (toys), lever action toys, lottery scratch cards, lottery tickets, lottery wheels, magic tricks, magicians' sets (play things), mah-jong, mah jong equipment, mah jong games, manipulative games, manipulative puzzles, marbles, marbles for games, marbles for playing games, marionettes, markers (billiard -), markers [counters] for playing games, mascot dolls, masks [playthings], masks (theatrical -), masks (toy -), masquerade masks, mechanical action toys, mechanical games, mechanical toys, miniature car models [toys or playthings], miniature die cast vehicles, musical toys, musical games, multiple activity toys for babies, multi-part construction toys, models for use with war games, motor driven toy animals, models for use with role playing games, models being toys, modeled plastic toy figurines, model vehicles (scale -) [playthings], model vehicles (scale -), paper party hats, paper party favours, paper hats [party novelties], paper face-masks, paper dolls, paper airplanes, paddling pools, paddles for use in paddle ball games, paddleball paddles, paddle balls, paddle ball games, pachinkos, novelty vampire teeth, novelty masks, novelties in the form of bugs in boxes, novelties for parties, dances [party favors, favours], non-motorised toys for riding, noisemakers [toys], ninepins, nine man's morris sets, plastic model kits for making toy vehicles, plastic character toys, pistols (toy -), pistols (caps for -) [toys], paper trumpets, parlor games, parlour games, party favor hats, party favors, party favors in the nature of crackers, party games, party novelties, party poppers, pedal-propelled wheeled toys, percussion caps [toys], pet toys, pet toys containing catnip, pet toys made of rope, piñatas, war games using model soldiers, water guns [playthings], water pistols, water pistols [playthings], water slides, water squirting toys, water toys, water wings, waterslides, weight lifting belts [sports articles], wendy houses, wheels for toy vehicles, whistles [toys], whistling toys, wind-up toys, wind-up walking toys, wooden toy building blocks, wooden pieces for shogi game (koma), wooden toys, xylophones being musical toys, video game machines, video game apparatus, ventriloquist's dummies, vehicles (radio-controlled toy -), vehicles (scale model -), uta-garuta playing cards, uta-garuta [japanese playing cards], twirling batons, tricycles [playthings], transforming robotic toys, transforming robotic toy vehicles, trampolines, train sets [playthings], train sets, traditionally dressed dolls,

traditional japanese playing cards, trading cards [card game], tracks for model vehicles, toys sold in kit form, toys simulating objects used by adults in day to day activity, toys relating to magic, toys made of wood, toys made of rubber, toys made of plastics, toys made of metal, toys made of bamboo, toys incorporating money boxes, toys in the nature of imitation foodstuffs, toys in the form of puzzles, toys, games and playthings for pet animals, toys for use in swimming pools, toys for use in perambulators, toys for sandpits, swings [playthings], swing sets, swings, swimming kick boards, swimming floats for recreational use, swimming floats, swimming boards, swim floats for recreational use, surfboard covers, sugoroku board games, stuffed toys, stuffed toy animals, stuffed puppets, stuffed plush toys, stuffed bean-filled toys, stuffed animals [toys], stuffed and plush toys, streamers [party novelties], stone-pieces pots for go game (goke pots), squeeze toys, squeezable squeaking toys, spools for throwing, incorporating coiled string which unwinds and rewinds returning the spool to the hand, spinning tops [toys], spinning tops [playthings], spinning tops incorporating string which rewinds and returns the top to the hand when thrown, spinning tops, sketching toys, skill and action games, skipping ropes, skittles [games], sledges [playthings], sleds for use in downhill amusement rides, sleds [recreational equipment], sleighs [playthings], sleighs [recreational equipment], slides [playthings], sliotar, slot machines [counter-freed amusement apparatus], snow globes, snow saucers, snow sledges [playthings], soap bubbles [toys], soft sculpture plush toys, soft sculpture toys, soft toys, soft toys in the form of elks, soft toys in the form of animals, spinning discs incorporating string which rewinds and returns the disc to the hand when thrown, sandbox toys, sandboxes [playthings], scale model aeroplanes, skateboards [recreational equipment], skateboard paddles, sit-in toy vehicles, shove ha'penny sets, shogi game equipment (japanese chess), shogi boards, shoes for dolls, see-saws, scratch cards for playing lottery games, scooters [toys], scale model vehicles [toys], scale model vehicles [playthings], scale model structures [toys], scale model kits [toys], scale model figures, scale model cars [toys], scale model cars [playthings], scale model buildings [toys], scale model airplanes, remote controlled toys in the form of vehicles, ride-on toy vehicles, ride-on toy vehicles (motorised -), ride-on toys, ring buoys for recreational use, sakura dolls, rubber character toys, rubber baseballs, rubber balls, roundabouts being playthings, roulette wheels, roulette tables, roulette sets, roulette chips, rooms (dolls' -), rooms for dolls, role play games,

role playing games, rocking toys, push toys, puzzles, puzzles [toys], question sets for board games, quiz games, quoits, quoits [ring games], racing car games, radio controlled model vehicles, radio controlled toy model cars, radio-controlled toy vehicles, radio-controlled toys, rag dolls; none of the aforesaid services relating to the sale of software, data, software for data analysis, databases and electronic publications in relation to pharmaceuticals or in the field of pharmaceuticals.

Class 38

Telecommunication; communications services; telecommunications services; satellite and digital communications services; broadcasting services; access time to global computer networks; computer network communications services; providing access to communications networks; communications network services; advice, information and consultancy services relating to the aforesaid services; communications by computer terminals; computer aided transmission of messages and images; electronic mail; providing telecommunications connections to a global computer network; providing user access to a global computer network [service providers]; telecommunications routing and junction services; interactive telecommunications services; telecommunication of information (web pages), computer programs and data excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; providing telecommunications connections to the Internet or databases; provision of telecommunication access to world-wide web facilities and structures; communication by computer terminals; communication by fibre optic networks; computer aided transmission of messages and images; facsimile transmission; message sending; paging services; rental of modems; data communication services by electronic means; rental of telecommunication equipment; electronic message sending, receiving and forwarding services; collection, transmission and delivery of data by electronic means; collection, transmission and delivery of mail messages, still picture and/or moving picture information such as characters, messages, music and images, telegrams, information and data by mechanical, electronic, telephone, telex, cable, computer and satellite means; transmission, broadcast and reception of audio, video, still and moving images and data whether in compressed or uncompressed form and whether in real or delayed time; electronic messaging, conferencing and order- transmission services; video

conferencing services; communication by electronic bulletin board that enables users to perform a real-time interactive talk between a computer terminal and an electronic bulletin board containing still picture and moving picture information and voice information such as characters excluding those relating to pharmaceuticals; providing electronic bulletin boards and message boards for transmission of messages excluding those relating to pharmaceuticals; provision of discussion forums excluding those relating to pharmaceuticals; transmission of music; transmission of films, interactive programmes and videos excluding those relating to pharmaceuticals; electronic computer games; transmission of information relating to on-line shopping and general retail services excluding those in the field of pharmaceuticals or relating to pharmaceuticals; video-on-demand transmission services; video broadcasting; news agency services; providing access to computer database on the global computer network for searching and retrieving information, data, web sites and resources available on computer networks excluding those relating to pharmaceuticals; providing user access to a computer database containing electronic publications, bulletin boards, database and information accessible via computer excluding those relating to pharmaceuticals or in the field of pharmaceuticals; providing online chat rooms and electronic bulletin boards excluding those in the field of pharmaceuticals or relating to pharmaceuticals; operation of chat rooms (chat room services) excluding those in the field of pharmaceuticals or relating to pharmaceuticals; electronic exchange of messages via chat lines, chatrooms and Internet forums; multiple user access to global computer information networks for the transfer and dissemination of a wide range of information excluding that which relates to the field of pharmaceuticals; data streaming excluding that which relates to the field of pharmaceuticals; data transmission excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; data transmission and data broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; providing access to online computer databases; providing of reports relating to communications; providing virtual facilities for real-time interaction among computer users excluding those which relate to the field of pharmaceuticals; data broadcasting services broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; international data transfer broadcasting excluding that which relates to the field of pharmaceuticals or relating to

pharmaceuticals; international data transmission broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; online document delivery via global computer network; providing access to online computer databases excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; electronic data interchange; electronic data transmission broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; electronic data communications broadcasting excluding that which relates to the field of pharmaceuticals or relating to pharmaceuticals; telematic [data communication] services; data bank interconnection services; peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; broadcasting services over computer or other communication networks namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, messages, graphics, and images.

Class 41

Arranging, conducting and provision of training courses relating to erotica, sex and sexual health; arranging, organising and conducting of conferences, workshops, seminars, conventions, fairs, symposia, events and exhibitions relating to erotica, sex and sexual health; provision of information relating to erotica, sex and sexual health via the Internet and other communications networks; education and entertainment services provided by means of radio, television, telephony, the Internet and on-line databases relating to erotica, sex and sexual health; entertainment and educational services featuring electronic media, multimedia content, audio and video content, movies, pictures, photographs, graphics, images, text and related information provided via the Internet and other communications networks relating to erotica, sex and sexual health; film production; production of video recordings, sound recordings, DVDs, CDs, CD-ROMs, video and audio tapes; production of television and radio programmes; publication of magazines, books, texts and printed matter relating to erotica, sex and sexual health; publishing by electronic means; provision of television programmes, radio programmes, films, audio and/or visual material and games online (not downloadable) relating to erotica, sex and sexual health; provision of cinematographic and video entertainment relating erotica, sex and sexual health; information relating to lifestyle, fashion and beauty services provided online from a

computer database or the Internet; audio production; video production; audio and video recording services; photographer services; music recording studio services; information, advisory and consultancy services relating to all of the aforesaid services; none of the aforesaid services in relation to pharmaceuticals or the field of pharmaceuticals.

Class 42

Design and development of computer software; development of mobile applications; providing an online and platform and mobile application that gives users the ability to engage for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data, text, messages, advertisements, media advertising communications and information; providing temporary use of non-downloadable software; providing temporary use of non-downloadable software for modifying and enabling transmission of images, audio-visual and video content; providing temporary use of non-downloadable computer software for viewing and interacting with a feed of images, audio-visual and video content and associated text and data; providing temporary use of non-downloadable computer software for finding content and content publishers, and for subscribing to content; providing temporary use of non-downloadable computer software for tagging images, audio-visual and video content with data indicating date, location, people and subject matter; providing information from searchable indexes and databases of information; providing search engines for obtaining data via communications networks; providing an online network service that enables users to transfer personal identity data and to share personal identity data with and among multiple applications or websites; computer services, namely, hosting online web facilities for others for organising and conducting meetings, events and interactive discussions via communication networks; computer services, namely, creating a virtual community for registered users to share, view, subscribe to and interact with images, audio-visual and video content and related data and information; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data,

text, messages, advertisements, media advertising communications and information; application service provider (ASP) featuring software to enable creating, editing, uploading, downloading, accessing, viewing, posting, displaying, tagging, blogging, streaming, linking, annotating, indicating sentiment about, commenting on, embedding, transmitting, sharing, searching, or otherwise providing or interacting with electronic media; application service provider (ASP) featuring application programming interface (API) software which facilitates online services for social networking, developing software applications, and purchasing and disseminating advertising; application service provider (ASP) featuring software for use in buying, selling, tracking, valuing, optimizing, targeting, analysing, delivery, and reporting of online advertising and marketing; application service provider (ASP) featuring software for use in designing and managing online advertising and marketing campaigns; platform as a service (PAAS) featuring computer software platforms for social networking, managing social networking content, creating a virtual community, and transmission of images, audio-visual and video content, photographs, videos, data, text, messages, advertisements, media advertising communications and information; rental of computer software that gives users the ability to upload, edit, and share images, videos, audios, text and audio-visual content; hosting a website for the electronic storage of digital photographs and videos; industrial analysis and research services; design consultancy; design services; computer website design; computer design services; graphic design; graphic design services; art work design; website design; website design services; illustration services; brand design services; design of brand names; design of logos; design of logos for t-shirts; product and packaging design services; design services in relation to sex toys; design services in relation to clothes; visual design; cartoon characters' design; research and development; product research and development; technical support services, namely, providing help desk services in the field of computer software, namely, providing users with instructions and advice on the use of downloadable computer software, provided online and via e-mail; none of the aforesaid services in relation to pharmaceuticals or the field of pharmaceuticals.

