

O/0655/23

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK3702916

BY BELLABEAT, INC.

TO REGISTER THE TRADE MARK:

SPRING

IN CLASSES 9, 21 & 42

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 432643

BY WELLSTER HEALTHTECH GROUP GmbH

Background and pleadings

1. On 23 November 2020 Bellabeat, Inc. (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the European Union. The applicant subsequently applied for the same mark in the UK on 28 September 2021. In accordance with Article 59 of the Withdrawal Agreement between the UK and the European Union, by filing an application for the same mark in the UK within nine months of the end of the transition period, the applicant’s mark is deemed to have the same filing date and date of priority as the EU mark. Therefore, the deemed filing date of the application in these proceedings is 23 November 2020. The application was published for opposition purposes on 14 January 2022. The goods and services applied for are as follows:

Class 9: Computers and computer peripheral devices; Sport timers; Smartwatches; Fitness trackers (measuring instruments); Data processing apparatus and instruments being suitable for personal wear or adapted for personal wear; Wearable digital electrical equipment for tracking, collecting, displaying, measuring, monitoring and processing fitness and health data; Software; Application software for mobile phones; Downloadable applications for use with mobile devices; Computer software for listening, monitoring and recording heart rate and sharing information; Computer software for monitoring and storing menstrual cycle, fetal development and other health-related information and for sharing information; Downloadable software in the form of a wireless application for listening to, monitoring and recording heart rate and sharing information on selected media; Downloadable software in the form of a wireless application for listening to, monitoring and recording menstrual cycle, fetal development and other health-related information and sharing information on selected media; All the aforesaid relating solely to developing and monitoring personal health and well-being, and monitoring and analysing fitness.

Class 21: Drinks containers, Drinking bottles, Smart bottles and cups, namely beverage containers for use in detecting ingested fluid and transferring data to software and informing the user of the contents and nutrition information of the container.

Class 42: Industrial analysis services, Industrial research and Industrial designing services; Quality control and authentication services; Design and development of computer hardware and software; Design of computers and computer software for heart rate monitoring, listening, tracking and recording; Design of computers and computer software for monitoring, tracking and recording menstrual cycle, fetal development and other health-related information; IT services, namely creating an online community for registered users enabling them to participate in discussions, virtual communities and social networking; Electronic media, electronic storage of, namely, images, text and audio data; Electronic storage of heart rate data, fetal development data, and health-related data; Server for the sharing of photos, namely providing a website featuring technology enabling users to upload to the server, and view and download digital photos from the server; All the aforesaid relating solely to developing and monitoring personal health and well-being, and monitoring and analysing fitness.

2. The application was opposed by Wellster Heathtech Group GmbH (“the opponent”) on 14 April 2022. The opposition is based upon sections 5(2)(a) and (b) of the Trade Marks Act 1994 (“the Act”).

3. The opponent relies on the following trade mark for the opposition under section 5(2)(a):

UK3377438 (the ‘first earlier registration’)

SPRING

Priority date: 24 January 2019

Filing date: 21 February 2019

Registration date: 4 March 2022

Relying upon some of the goods and services for which the earlier mark is protected, as set out in Annex 1.

4. For the opposition under section 5(2)(b), the opponent relies on the following trade marks:

UK3405920 (the 'second earlier registration')



Priority date: 10 May 2019

Filing date: 11 June 2019

Registration date: 11 March 2022

UK3395553 (the 'third earlier registration')

GoSpring

Filing date: 12 April 2019

Registration: 5 June 2020

Both relying upon some of the goods and services registered, as set out in annex 2.

5. The opponent claims that the marks are identical (in the case of the first earlier registration) or confusingly similar (in respect of the second and third earlier registrations). They also claim that the goods and services at issue are identical or highly similar.

6. The applicant filed a counterstatement in which they admit that the first earlier registration is identical to the contested mark and also admit the second earlier registration is similar to the contested mark. They deny there is similarity between the

third earlier registration and the contested mark and also claim that there is no similarity between any of the opponent's goods and services and their own.

7. The applicant is represented by Elkington and Fife LLP and the opponent is represented by Matthais W. Schaefer.

8. Neither party filed evidence nor requested a hearing but both parties provided submissions in lieu. This decision is therefore taken following careful consideration of the papers.

9. 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 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.

DECISION

10. Section 5(2) of the Act states:

“5(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 and services similar to those for which the trade mark is protected

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark”.

11. By virtue of their earlier filing dates, the trade marks upon which the opponent relies qualify as earlier trade marks pursuant to section 6 of the Act. As the earlier marks had not completed their registration process more than 5 years before the date

of the application in question, they are not subject to proof of use pursuant to section 6A of the Act.

Case law

12. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

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

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

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

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

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

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

Comparison of Goods and Services

13. Section 60A of the Act provides:

“(1) For the purpose of this Act goods and services-

(a) are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification.

(b) are not to be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

(2) In subsection (1), the "Nice Classification" means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, which was last amended on 28 September 1975."

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

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

15. 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.

16. In *Gérard Meric v OHIM* ('Meric'), Case T-133/05, the General Court ("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".

17. For the purposes of considering the issue of similarity of goods, it is permissible to consider groups of terms collectively where they are sufficiently comparable to be assessed in essentially the same way and for the same reasons (see *Separode Trade Mark* (BL O/399/10) and *BVBA Management, Training en Consultancy v. Benelux-Merkenbureau* [2007] ETMR 35 at paragraphs 30 to 38).

18. In *Boston Scientific Ltd v OHIM*, Case T-325/06, the GC stated that "complementary" means:

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

19. I consider that the opponent's best case is the second earlier registration and therefore I will continue my assessments based on that registration. I will come back to the first and third earlier registrations as necessary later in my decision. The goods and services to be compared are shown in the table set out in annex 3.

Class 9:

Computers and computer peripheral devices;

20. The above goods are found identically in both the applicant and opponent specifications.

Sport timers; Fitness trackers (measuring instruments);

21. I consider that the above goods from the applicant's specification are a way of measuring time and therefore they would fall within the wider category of 'scientific, research, navigational, surveying, optical, weighing, measuring, signalling, detection, testing, checking, life-saving and teaching apparatus and instruments' from the opponent's specification and therefore find them to be identical using the *Meric* principles.

Smartwatches; Data processing apparatus and instruments being suitable for personal wear or adapted for personal wear; Wearable digital electrical equipment for tracking, collecting, displaying, measuring, monitoring and processing fitness and health data;

22. I consider that the above goods from the applicant's specification would fall within the wider category of 'wearable computers' from the opponent's specification and therefore, I find them to be identical using the *Meric* principles.

Software; All the aforesaid relating solely to developing and monitoring personal health and well-being, and monitoring and analysing fitness; Application software for mobile phones; Downloadable applications for use with mobile devices;

23. I find that the above goods from the applicant's specification will fall within the wider category of 'recorded and downloadable media, computer software, except for downloadable electronic publications and except for mere cosmetic purposes in the medical and pharmaceutical, veterinary and healthcare, hygiene, beauty and personal care field, mental-healthcare as well as psychological-healthcare field, including

downloadable apps for mobile devices' and therefore consider them to be identical using the *Meric* principles.

Computer software for listening, monitoring and recording heart rate and sharing information; Computer software for monitoring and storing menstrual cycle, fetal development and other health-related information and for sharing information; Downloadable software in the form of a wireless application for listening to, monitoring and recording heart rate and sharing information on selected media; Downloadable software in the form of a wireless application for listening to, monitoring and recording menstrual cycle, fetal development and other health-related information and sharing information on selected media

24. I consider that the above goods from the applicant's specification will fall within the wider category of 'recorded and downloadable media, computer software, except for downloadable electronic publications and except for mere cosmetic purposes in the medical and pharmaceutical, veterinary and healthcare, hygiene, beauty and personal care field, mental-healthcare as well as psychological-healthcare field, including downloadable apps for mobile devices' and find them to be identical using the *Meric* principles.

Class 21

Drinks containers, Drinking bottles, Smart bottles and cups, namely beverage containers for use in detecting ingested fluid and transferring data to software and informing the user of the contents and nutrition information of the container.

25. I consider that the above goods from the applicant's specification will fall within the wider category of 'household utensils and containers in the field of personal health and body care' from the opponent's specification and therefore find them to be identical under the *Meric* principles.

Class 42

Industrial analysis services, Industrial research and Industrial designing services;

26. I believe that there will be an overlap in nature, user and use between the above services from the applicant's specification and the opponent's 'industrial analysis services' as they both contain the identical service of industrial analysis. The opponent's service is registered more generally whereas the applicant's service is limited to 'developing and monitoring personal health and well-being, and monitoring and analysing fitness' and has the addition of industrial research and designing services. The trade channels will overlap also. They are not in competition nor are they complementary. I therefore find them to be similar to a high degree.

Quality control and authentication services;

27. I consider that the opponent's 'technological services and design relating thereto' covers a broad range of activities relating to technology including both design, development and more practical aspects. Given the broadness of the term, I consider that it could incorporate the above services from the applicant's specification and therefore I find them to be identical under the *Meric* principles. If I am found to be wrong, then I consider that it would also have overlap with the opponent's 'Design and development of medical technology' as there could be shared users and use as part of the development of new technology would involve checking the quality of the products before they reach the marketplace. There may be an overlap in trade channels also but the nature will differ slightly as the opponent's services involves the entire process of creating new technology rather than one aspect of the process. They would not be complementary nor would they be in competition. I therefore find them to be similar to a medium degree.

Design and development of computer hardware and software; Design of computers and computer software for heart rate monitoring, listening, tracking and recording; Design of computers and computer software for monitoring, tracking and recording menstrual cycle, fetal development and other health-related information; All the aforesaid relating solely to developing and monitoring personal health and well-being, and monitoring and analysing fitness.

28. I consider that the above services from the applicant's specification will fall within the wider category of 'Design and development of computer hardware and software in the medical and pharmaceutical as well as veterinary and healthcare, hygiene and personal care field' in the opponent's specification and therefore, I find them to be identical under the *Meric* principles.

IT services, namely creating an online community for registered users enabling them to participate in discussions, virtual communities and social networking; Electronic media, electronic storage of, namely, images, text and audio data; Electronic storage of heart rate data, fetal development data, and health-related data; Server for the sharing of photos, namely providing a website featuring technology enabling users to upload to the server, and view and download digital photos from the server;

29. I believe that the above services from the applicant's specification will fall within the wider category of 'Technological services and design relating thereto' and therefore, I find them to be identical under the *Meric* principles.

Average consumer and the purchasing act

30. 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.

31. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. (as he then was) described the average consumer in these terms:

"60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The word

“average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

32. In *Olimp Laboratories sp. z o.o. v EUIPO*, Case T-817/19, EU:T:2021:41, the GC considered the average consumer for and level of attention which would be paid in the selection of pharmaceutical and medical products. It said:

“39 Where the goods in question are medicinal or pharmaceutical products, the relevant public is composed of medical professionals, on the one hand, and patients, as end users of those goods, on the other (see judgment of 15 December 2010, *Novartis v OHIM – Sanochemia Pharmazeutika (TOLPOSAN)*, T 331/09, EU:T:2010:520, paragraph 21 and the case-law cited; judgment of 5 October 2017, *Forest Pharma v EUIPO – Ipsen Pharma (COLINEB)*, T 36/17, not published, EU:T:2017:690, paragraph 49).

40 Moreover, it is apparent from case-law that, first, medical professionals display a high degree of attentiveness when prescribing medicinal products and, second, with regard to end consumers, in cases where pharmaceutical products are sold without prescription, it must be assumed that those goods will be of concern to consumers, who are deemed to be reasonably well informed and reasonably observant and circumspect where those goods affect their state of health, and that these consumers are less likely to confuse different versions of such goods. Furthermore, even assuming that a medical prescription is mandatory, consumers are likely to demonstrate a high level of attentiveness upon prescription of the goods at issue in the light of the fact that those goods are pharmaceutical products. Thus, medicinal products, whether or not issued on prescription, can be regarded as receiving a heightened level of attentiveness on the part of consumers who are normally well informed and reasonably observant and circumspect (see judgment of 15 December 2010, *TOLPOSAN*, T 331/09, EU:T:2010:520, paragraph 26 and the case-law cited).

41 [...]

42 In the present case, having regard to the nature of the goods concerned, namely medical or pharmaceutical products in Class 5, the Board of Appeal acted correctly in finding in paragraphs 18 to 21 of the contested decision – which, moreover, is not disputed by the applicant – that, in essence, the relevant public was made up of medical professionals and pharmacists and consumers belonging to the general public with a higher than average degree of attentiveness.”

33. Taking into consideration the above caselaw, for the goods and services at issue that are medically related, such as *‘Computer software for listening, monitoring and recording heart rate and sharing information; Computer software for monitoring and storing menstrual cycle, fetal development and other health-related information and for sharing information; Downloadable software in the form of a wireless application for listening to, monitoring and recording heart rate and sharing information on selected media; Downloadable software in the form of a wireless application for listening to, monitoring and recording menstrual cycle, fetal development and other health-related information and sharing information on selected media’* in class 9, *‘Design of computers and computer software for heart rate monitoring, listening, tracking and recording; Design of computers and computer software for monitoring, tracking and recording menstrual cycle, fetal development and other health-related information’* and *‘Design and development of computer hardware and software in the medical and pharmaceutical as well as veterinary and healthcare, hygiene and personal care field’* in class 42, the average consumer may be a professional or a member of the general public, however due to the nature of these goods and services being medical, both sets of consumers can be said to be paying a higher than normal degree of attention in the selection of those services.

34. The selection process is likely to predominantly involve a visual aspect when looking for products in a retail setting or perusing a specialist catalogue or website. There may also be advertisements or presentations of the goods and services that the consumer will be exposed to. I do not however, discount that there may also be an aural component to the purchase through word-of-mouth recommendations or orders which may be placed by telephone.

35. For the remaining goods in classes 9 and 21 and services in class 42, I consider that again, there could be professional purchasers or member of the public however, these are more general goods and services and not so specialised. There is a wide range of price points, from very low to very high and one-off purchases to ongoing commitments. I therefore consider the average consumer will pay an average degree of attention. Once again, I consider that the visual aspect of the purchasing process will be the most important with customers wanting to view the items in person or on a website but once more I do not discount there may also be an aural component to the purchase.



Comparison of the marks

36. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural, and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

37. It would be wrong, therefore, to artificially dissect the trade marks, although, it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

38. The parties respective marks are shown below:

Earlier Mark	Contested Mark
<p data-bbox="204 309 643 340"><i>The second earlier registration</i></p> 	

39. In *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 the average consumer.”

40. The contested mark is a word mark comprised of one word and therefore the overall impression lies within that word. The opponent’s mark is also a single word in a lightly stylised typeface, I consider that the overall impression again lies in the word itself.

41. Visually, both marks are comprised of the same six letter word. At best, the marks will be seen as differing in their casing or typeface; the earlier mark is presented all in lower case, whereas the applicant’s mark is presented in capitals and there is a dot to the right of the letter ‘g’. In the event that a consumer does notice the difference in stylisation, I consider the marks to be similar to a very high degree.

42. Aurally and conceptually, both marks contain the same word and will therefore be pronounced identically and will be assigned the same meaning. There are several

dictionary definitions for the word 'spring' such as the season or the action of jumping forward but the average consumer will attribute the same meaning to both marks.¹

Distinctive character of the earlier mark

43. 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-2779, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

44. 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 and services, to those with high inherent distinctive character, such as

¹ <https://www.collinsdictionary.com/dictionary/english/spring>

invented words which have no allusive qualities. The distinctive character of a mark can be enhanced by virtue of the use that has been made of it.

45. The opponent has not pleaded that the distinctiveness of the earlier mark has been enhanced through use, nor has it filed any evidence to support such a claim. Consequently, I have only the inherent position to consider. The opponent's mark consists of the word 'spring', which is an ordinary dictionary word with light stylisation. I cannot see any relation between the meaning of the word and the goods and services registered and therefore I find that it will have a medium degree of inherent distinctive character.

Likelihood of confusion

46. 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 goods and services may be offset by a greater degree of similarity between the marks and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the 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 he has retained in his mind.

47. I have found as follows:

- a) The goods vary from being similar to a medium degree to identical.

- b) The average consumer is a member of the general public or a professional user, who will pay an average degree of attention during the purchasing process (although it will be higher for some of the more specialist services).
- c) The purchasing process will be predominantly visual, although I do not discount an aural component to the purchase.
- d) The marks are visually similar to a high degree and aurally/conceptually identical.
- e) The earlier mark is inherently distinctive to a medium degree.

48. Taking all of the above factors into account, I consider that the marks are likely to be mistakenly recalled or misremembered as each other. The marks are highly visually similar and aurally and conceptually identical which will be retained in the mind of the average consumer. In addition, the goods and services at issue are similar to either a medium degree or higher and therefore, I believe that the combination of these findings will counteract the higher level of attention paid by the average consumer for some of the goods and services. Consequently, there is a likelihood of direct confusion in relation to all of the goods and services.

Conclusion

49. The opposition succeeds in its entirety.

50. Given the opposition has been wholly successful under this ground and the second earlier registration, the other marks/grounds do not put the opponent in any better position and therefore, I will not consider them further.

COSTS

51. The opponent has been successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. I award the opponent the sum of **£650**, calculated as follows:

Official fee	£100
Preparing a Notice of opposition and considering the applicant's counterstatement	£250
Filing written submissions	£300
Total	£650

52. I therefore order Bellabeat, Inc. to pay Wellster Heathtech Group GmbH the sum of £650. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 11 day of July 2023

L Nicholas
For the Registrar

Annex 1:

Class 10: Condoms for hygienic purposes; Surgical, medical and veterinary apparatus and instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Artificial limbs and eyes; Orthopedic articles, except for dentistry; Suture materials; Massage apparatus; Sexual activity apparatus, devices and articles; Adult sexual aids; Sphygmotensimeters; Blood pressure testing apparatus; Blood pressure monitors; Electronic blood pressure meters [for medical use]; Electronic blood pressure monitors [for medical use]; Electronic blood pressure recorders [for medical use]; Exercising apparatus for medical rehabilitative purposes; Computer controlled training apparatus for therapeutic use; Physical exercise apparatus for medical purposes; Belts, electric, for medical purposes; (electric) belts for medical purposes; Physical exercise articles for physical training [for medical purposes]; Apparatus for use in exercising muscles for medical use; Apparatus for achieving physical fitness [for medical use] for personal home use; Massage apparatus [for medical purposes]; Body rehabilitation apparatus for medical purposes for home use; Medical instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical therapy instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical apparatus and instruments; namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical instruments for application in human bodies; namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Testing apparatus for medical purposes, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home

test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Tools for medical diagnostics; namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical hearing instruments; Medical analytical apparatus for medical purposes, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Electronic medical instruments; namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical imaging apparatus; Pulse counters for personal home use [medical apparatus]; Medical ultrasound apparatus, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Scanners for medical diagnosis, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical prostheses, except for dentistry; Prostheses for medical treatment, except for dentistry; Ear inserts for medical use; Splinting materials for medical use, except for dentistry; Orthopedic and mobility aids, except for dentistry; Orthopaedic hip prostheses; therapeutic and support equipment adapted for the disabled; apparatus, equipment and objects for nursing babies.

Class 42: Technological services and design relating thereto; Industrial analysis services; Design and development of computer hardware and software in the medical and pharmaceutical as well as veterinary and healthcare field; none of the aforementioned services relating to a creative design agency; all of the aforementioned services not in the field of personnel services; Computer programming in the medical field; Writing of computer programs for medical applications; Design and development of computer software for use with medical technology; Design and development of medical technology; Medical laboratory services; Providing

information, not relating to publications, in the field of medical disorders and their treatment; Providing medical information, not relating to publications, in the field of pharmaceuticals and clinical trials; Provision of information, not relating to publications, and data relating to medical and veterinary development; Design and development of medical diagnostic apparatus; Information technology services for the pharmaceutical and healthcare industries; none of the aforementioned services relating to the field of dentistry.

Class 44: Advisory services relating to medical problems; Medical and veterinary services; Hygienic care for human beings or animals, for medical purposes; Agriculture, horticulture and forestry services; Provision of pharmaceutical information; Provision of information relating to medicine; Advisory services relating to pharmaceuticals; Providing information relating to dietary and nutritional supplements; Consultation services relating to skin care, for medical purposes; Services for the care of the skin, for medical purposes; Medical counseling; Medical consultations; Public health counseling; Individual medical counseling services provided to patients; Advisory services relating to medical instruments; Consultancy and information services relating to medical products; Medical assistance consultancy provided by doctors and other specialized medical personnel; Technical consultancy services relating to medical health; Health care consultancy services [medical]; Advisory services relating to medical apparatus and instruments; Physician services; Medical care; Medical assistance; Issuing of medical reports; Hiring of medical instruments; Conducting of medical examinations; Medical tele-reporting [medical services]; Analysis of human tissues for medical treatment; Provision of medical services; Medical services; Medical and healthcare services; Dietetic counselling services [medical]; Providing online medical record services other than dentistry; Medical treatment services; Medical information; Providing medical information; Medical analysis services; Medical evaluation services; Medical imaging services; Nursing care; Medical examinations; Compilation of medical reports; Medical screening; Behavioural analysis for medical purposes; Psychological testing for medical purposes; Preparation of psychological profiles for medical purposes; Psychometric testing for medical purposes; Home nursing aid services; Nursing home services; Outpatient and inpatient care services; Mental health services; Medical care and analysis services relating to patient treatment; Nursing, medical; Hospital nursing

home services; Providing information relating to nursing care services; Blood pressure screening services; Fitting of orthopaedic devices; Consultancy services relating to orthopaedic implants; Nutrition consultancy; Diet planning and supervision; Weight reduction diet planning services; Nutrition and dietetic consultancy; Dietician service; Advisory services relating to diet; Providing information relating to dietary and nutritional guidance; Dietary and nutritional guidance; Providing information about dietary supplements and nutrition; Dietetic advisory services; Services rendered by a dietician; Nutritional advice; Nutrition counseling; Providing nutritional information about food; Providing nutritional information about food for medical weight loss purposes; Providing nutritional information about drinks for medical weight loss purposes; Health counselling; Home health care services; Health centre services; Managed health care services; Health care services offered through a network of health care providers on a contract basis; Providing health care information by telephone; Consulting services relating to health care; Professional consultancy relating to health; Information services relating to health care; Health care relating to therapeutic massage; Professional consultancy relating to health care; Providing health information; Health assessment surveys; Preparation of reports relating to health care matters; Health advice and information services; Advice relating to the personal welfare of elderly people [health]; Rental of equipment for human healthcare; Health risk assessment surveys; Hygienic care, for medical purposes; Telemedicine services; Medical screening; none of the aforementioned services relating to the field of dentistry.

Annex 2:

Class 8: Hand operated hand tools and implements; table cutlery [knives, forks and spoons].

Class 9: Scientific, research, navigational, surveying, optical, weighing, measuring, signalling, detection, testing, checking, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, storing, regulating or controlling the distribution or use of electricity; recorded and downloadable media, computer software, except for downloadable electronic publications and except for mere cosmetic purposes in the medical and pharmaceutical, veterinary and healthcare, hygiene, beauty and personal care field, mental-healthcare as well as psychological-healthcare field, including downloadable apps for mobile devices, downloadable therapeutic explanation videos and downloadable psychology tests; coin-operated mechanisms, cash registers, calculators; computers and computer peripherals; diving suits, diving masks, earplugs for divers, nose clamps for divers and swimmers, diving gloves, breathing apparatus for diving; wearable computers; computer software relating to the medical field; computer software for use in medical decision support systems; virtual reality software for medical teaching; personal computers incorporating dietary aid computer software; artificial intelligence software for healthcare; machine learning software for healthcare; health monitoring software; Virtual Reality Glasses; Augmented Reality Glasses.

Class 10: Surgical, medical and veterinary apparatus and instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Artificial limbs, eyes; Orthopedic articles, except for dentistry; Suture materials; therapeutic and assistive devices adapted for the disabled; Massage apparatus; apparatus, equipment and objects for nursing babies; Sexual activity apparatus, devices and articles; Adult sexual aids; Sphygmotensimeters; Blood pressure testing apparatus; Blood pressure monitors; Electronic blood pressure meters [for medical use]; Electronic blood pressure monitors [for medical use]; Electronic blood pressure recorders [for medical use]; Exercising apparatus for medical rehabilitative purposes; Computer controlled

training apparatus for therapeutic use; Physical exercise apparatus for medical purposes; Belts, electric, for medical purposes; (electric) belts for medical purposes; Physical exercise articles for physical training [for medical purposes]; Apparatus for use in exercising muscles for medical use; Apparatus for achieving physical fitness [for medical use] for personal home use; Massage apparatus [for medical purposes]; Body rehabilitation apparatus for medical purposes for home use; Medical instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical therapy instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical apparatus and instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical instruments for application in human bodies, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Testing apparatus for medical purposes, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Tools for medical diagnostics, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical hearing instruments; Medical analytical apparatus for medical purposes; namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Electronic medical instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical imaging

apparatus; Pulse counters for personal home use [medical apparatus]; Medical ultrasound apparatus, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Scanners for medical diagnosis, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical prostheses, except for dentistry; Prostheses for medical treatment, except for dentistry; Ear inserts for medical use; Splinting materials for medical use, except dentistry; Orthopedic and mobility aids, except for dentistry; Orthopaedic hip prostheses; Condoms for hygienic purposes.

Class 21: Household utensils and containers in the field of personal health and body care; cleaning articles; glass, unworked or semi-worked, except building glass; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware in the field of personal health and body care.

Class 35: Advertising services to promote public awareness of medical issues; retail and wholesale trade services (including on-line services) of medical apparatus and medical instruments; retail and wholesale trade services (including online) of pharmaceutical, medical and veterinary articles and hygiene products; retail or wholesale services (including online services) for pharmaceutical, veterinary, sanitary and medical items; maintaining personal medical history records and files; business administration services in the field of healthcare;

Class 42: Technological services and design relating thereto; Industrial analysis services; Design and development of computer hardware and software in the medical and pharmaceutical as well as veterinary and healthcare, hygiene and personal care field; none of the aforementioned services relating to a creative design agency all of the aforementioned services not in the field of personnel services; Computer programming in the medical field; Writing of computer programs for medical applications; Design and development of computer software for use with medical technology; Design and development of medical technology; Medical laboratory

services; Providing information, not relating to publications, in the field of medical disorders and their treatment; Providing medical information, not relating to publications, in the field of pharmaceuticals and clinical trials; Provision of information, not relating to publications, and data relating to medical and veterinary development; Design and development of medical diagnostic apparatus; none of the aforementioned services relating to the field of dentistry.

Class 44: Medical and veterinary services; Hygienic care for human beings or animals, for medical purposes; Agriculture, horticulture and forestry services; Provision of pharmaceutical information; Provision of information relating to medicine; Advisory services relating to pharmaceuticals; Providing information relating to dietary and nutritional supplements; Consultation services relating to skin care, for medical purposes; Services for the care of the skin, for medical services; Medical counseling; Medical consultations; Public health counseling; Individual medical counseling services provided to patients; Advisory services relating to medical instruments; Consultancy and information services relating to medical products; Medical assistance consultancy provided by doctors and other specialized medical personnel; Technical consultancy services relating to medical health; Health care consultancy services [medical]; Advisory services relating to medical apparatus and instruments; Physician services; Medical care; Medical assistance; Issuing of medical reports; Hiring of medical instruments; Conducting of medical examinations; Medical tele-reporting [medical services]; Analysis of human tissues for medical treatment; Provision of medical services; Medical services; Dietetic counselling services [medical]; Medical and healthcare services; Providing online medical record services other than dentistry; Medical treatment services; Medical information; Providing medical information; Medical analysis services; Medical evaluation services; Medical imaging services; Nursing care; Medical examinations; Compilation of medical reports; Medical screening; Behavioural analysis for medical purposes; Psychological testing for medical purposes; Preparation of psychological profiles for medical purposes; Psychometric testing for medical purposes; medical screening; Home nursing aid services; Nursing home services; Outpatient and inpatient care services; Mental health services; Medical care and analysis services relating to patient treatment; Nursing, medical; Hospital nursing home services; Providing information relating to nursing care services; Blood pressure screening services; Fitting of orthopaedic devices;

Consultancy services relating to orthopaedic implants; Nutrition consultancy; Diet planning and supervision; Weight reduction diet planning services; Nutrition and dietetic consultancy; Dietician service; Advisory services relating to diet; Providing information relating to dietary and nutritional guidance; Dietary and nutritional guidance; Providing information about dietary supplements and nutrition; Dietetic advisory services; Services rendered by a dietician; Nutritional advice; Nutrition counseling; Providing nutritional information about food; Providing nutritional information about food for medical weight loss purposes; Providing nutritional information about drinks for medical weight loss purposes; Health counselling; Home health care services; Health centre services; Managed health care services; Health care services offered through a network of health care providers on a contract basis; Providing health care information by telephone; Consulting services relating to health care; Professional consultancy relating to health; Information services relating to health care; Health care relating to therapeutic massage; Professional consultancy relating to health care; Providing health information; Health assessment surveys; Preparation of reports relating to health care matters; Health advice and information services; Advice relating to the personal welfare of elderly people [health]; Rental of equipment for human healthcare; Health risk assessment surveys; Hygienic care, for medical purposes; Telemedicine services; none of the aforementioned services relating to the field of dentistry.

Annex 3:

Opponent's goods and services	Applicant's goods and services
Class 8: Hand operated hand tools and implements; table cutlery [knives, forks and spoons].	
Class 9: Scientific, research, navigational, surveying, optical, weighing, measuring, signalling, detection, testing, checking, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, storing, regulating or controlling the distribution or use of electricity; recorded and downloadable media, computer software, except for downloadable electronic publications and except for mere cosmetic purposes in the medical and pharmaceutical, veterinary and healthcare, hygiene, beauty and personal care field, mental-healthcare as well as psychological-healthcare field, including downloadable apps for mobile devices, downloadable therapeutic explanation videos and downloadable psychology tests; coin-operated mechanisms, cash registers, calculators; computers and computer peripherals; diving suits, diving masks, earplugs for divers, nose clamps for divers and swimmers, diving gloves, breathing apparatus for diving; wearable	Class 9: Computers and computer peripheral devices; Sport timers; Smartwatches; Fitness trackers (measuring instruments); Data processing apparatus and instruments being suitable for personal wear or adapted for personal wear; Wearable digital electrical equipment for tracking, collecting, displaying, measuring, monitoring and processing fitness and health data; Software; Application software for mobile phones; Downloadable applications for use with mobile devices; Computer software for listening, monitoring and recording heart rate and sharing information; Computer software for monitoring and storing menstrual cycle, fetal development and other health-related information and for sharing information; Downloadable software in the form of a wireless application for listening to, monitoring and recording heart rate and sharing information on selected media; Downloadable software in the form of a wireless application for listening to, monitoring and recording menstrual

<p>computers; computer software relating to the medical field; computer software for use in medical decision support systems; virtual reality software for medical teaching; personal computers incorporating dietary aid computer software; artificial intelligence software for healthcare; machine learning software for healthcare; health monitoring software; Virtual Reality Glasses; Augmented Reality Glasses.</p>	<p>cycle, fetal development and other health-related information and sharing information on selected media; All the aforesaid relating solely to developing and monitoring personal health and well-being, and monitoring and analysing fitness.</p>
<p>Class 10: Surgical, medical and veterinary apparatus and instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Artificial limbs, eyes; Orthopedic articles, except for dentistry; Suture materials; therapeutic and assistive devices adapted for the disabled; Massage apparatus; apparatus, equipment and objects for nursing babies; Sexual activity apparatus, devices and articles; Adult sexual aids; Sphygmotensimeters; Blood pressure testing apparatus; Blood pressure monitors; Electronic blood pressure meters [for medical use]; Electronic blood pressure monitors [for medical use]; Electronic blood pressure</p>	

recorders [for medical use]; Exercising apparatus for medical rehabilitative purposes; Computer controlled training apparatus for therapeutic use; Physical exercise apparatus for medical purposes; Belts, electric, for medical purposes; (electric) belts for medical purposes; Physical exercise articles for physical training [for medical purposes]; Apparatus for use in exercising muscles for medical use; Apparatus for achieving physical fitness [for medical use] for personal home use; Massage apparatus [for medical purposes]; Body rehabilitation apparatus for medical purposes for home use; Medical instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical therapy instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical apparatus and instruments, namely blood pressure monitors, blood glucose monitors,

cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical instruments for application in human bodies, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Testing apparatus for medical purposes, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Tools for medical diagnostics, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical hearing instruments; Medical analytical apparatus for medical purposes; namely blood pressure monitors, blood glucose monitors,

cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Electronic medical instruments, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical imaging apparatus; Pulse counters for personal home use [medical apparatus]; Medical ultrasound apparatus, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Scanners for medical diagnosis, namely blood pressure monitors, blood glucose monitors, cholesterol meters, Testosterone Meters (Home Test Kits), Home test kits for venereal diseases, Home test kits for sperm quality, fertility monitoring, erection monitor and diagnostic cameras; Medical prostheses, except for dentistry; Prostheses for medical

<p>treatment, except for dentistry; Ear inserts for medical use; Splinting materials for medical use, except dentistry; Orthopedic and mobility aids, except for dentistry; Orthopaedic hip prostheses; Condoms for hygienic purposes.</p>	
<p>Class 21: Household utensils and containers in the field of personal health and body care; cleaning articles; glass, unworked or semi-worked, except building glass; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware in the field of personal health and body care.</p>	<p>Class 21: Drinks containers, Drinking bottles, Smart bottles and cups, namely beverage containers for use in detecting ingested fluid and transferring data to software and informing the user of the contents and nutrition information of the container.</p>
<p>Class 35: Advertising services to promote public awareness of medical issues; retail and wholesale trade services (including on-line services) of medical apparatus and medical instruments; retail and wholesale trade services (including online) of pharmaceutical, medical and veterinary articles and hygiene products; retail or wholesale services (including online services) for pharmaceutical, veterinary, sanitary and medical items; maintaining personal medical history records and files; business administration services in the field of healthcare;</p>	
<p>Class 42: Technological services and design relating thereto; Industrial</p>	<p>Class 42: Industrial analysis services, Industrial research and Industrial</p>

<p>analysis services; Design and development of computer hardware and software in the medical and pharmaceutical as well as veterinary and healthcare, hygiene and personal care field; none of the aforementioned services relating to a creative design agency all of the aforementioned services not in the field of personnel services; Computer programming in the medical field; Writing of computer programs for medical applications; Design and development of computer software for use with medical technology; Design and development of medical technology; Medical laboratory services; Providing information, not relating to publications, in the field of medical disorders and their treatment; Providing medical information, not relating to publications, in the field of pharmaceuticals and clinical trials; Provision of information, not relating to publications, and data relating to medical and veterinary development; Design and development of medical diagnostic apparatus; none of the aforementioned services relating to the field of dentistry.</p>	<p>designing services; Quality control and authentication services; Design and development of computer hardware and software; Design of computers and computer software for heart rate monitoring, listening, tracking and recording; Design of computers and computer software for monitoring, tracking and recording menstrual cycle, fetal development and other health-related information; IT services, namely creating an online community for registered users enabling them to participate in discussions, virtual communities and social networking; Electronic media, electronic storage of, namely, images, text and audio data; Electronic storage of heart rate data, fetal development data, and health-related data; Server for the sharing of photos, namely providing a website featuring technology enabling users to upload to the server, and view and download digital photos from the server; All the aforesaid relating solely to developing and monitoring personal health and well-being, and monitoring and analysing fitness.</p>
<p>Class 44: Medical and veterinary services; Hygienic care for human beings or animals, for medical purposes; Agriculture, horticulture and forestry services; Provision of pharmaceutical</p>	

information; Provision of information relating to medicine; Advisory services relating to pharmaceuticals; Providing information relating to dietary and nutritional supplements; Consultation services relating to skin care, for medical purposes; Services for the care of the skin, for medical services; Medical counseling; Medical consultations; Public health counseling; Individual medical counseling services provided to patients; Advisory services relating to medical instruments; Consultancy and information services relating to medical products; Medical assistance consultancy provided by doctors and other specialized medical personnel; Technical consultancy services relating to medical health; Health care consultancy services [medical]; Advisory services relating to medical apparatus and instruments; Physician services; Medical care; Medical assistance; Issuing of medical reports; Hiring of medical instruments; Conducting of medical examinations; Medical tele-reporting [medical services]; Analysis of human tissues for medical treatment; Provision of medical services; Medical services; Dietetic counselling services [medical]; Medical and healthcare services; Providing online medical record services other than dentistry;

Medical treatment services; Medical information; Providing medical information; Medical analysis services; Medical evaluation services; Medical imaging services; Nursing care; Medical examinations; Compilation of medical reports; Medical screening; Behavioural analysis for medical purposes; Psychological testing for medical purposes; Preparation of psychological profiles for medical purposes; Psychometric testing for medical purposes; medical screening; Home nursing aid services; Nursing home services; Outpatient and inpatient care services; Mental health services; Medical care and analysis services relating to patient treatment; Nursing, medical; Hospital nursing home services; Providing information relating to nursing care services; Blood pressure screening services; Fitting of orthopaedic devices; Consultancy services relating to orthopaedic implants; Nutrition consultancy; Diet planning and supervision; Weight reduction diet planning services; Nutrition and dietetic consultancy; Dietician service; Advisory services relating to diet; Providing information relating to dietary and nutritional guidance; Dietary and nutritional guidance; Providing information about dietary supplements

<p>and nutrition; Dietetic advisory services; Services rendered by a dietician; Nutritional advice; Nutrition counseling; Providing nutritional information about food; Providing nutritional information about food for medical weight loss purposes; Providing nutritional information about drinks for medical weight loss purposes; Health counselling; Home health care services; Health centre services; Managed health care services; Health care services offered through a network of health care providers on a contract basis; Providing health care information by telephone; Consulting services relating to health care; Professional consultancy relating to health; Information services relating to health care; Health care relating to therapeutic massage; Professional consultancy relating to health care; Providing health information; Health assessment surveys; Preparation of reports relating to health care matters; Health advice and information services; Advice relating to the personal welfare of elderly people [health]; Rental of equipment for human healthcare; Health risk assessment surveys; Hygienic care, for medical purposes; Telemedicine services; none of the aforementioned services relating to the field of dentistry.</p>	
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