

O/0755/23

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003771749

BY JOHN STEPHEN PAUL DONOHER

TO REGISTER THE FOLLOWING TRADE MARK:

SHRED

IN CLASSES 25, 28, 35, 39 AND 43

AND IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 435566

BY NUTRIFARM SP. Z.O.O.

BACKGROUND AND PLEADINGS

1. On 30 March 2022, John Stephen Paul Donoher (“the applicant”) applied to register the trade mark shown on the cover page of this decision, in the UK. The application was published for opposition purposes on 13 May 2022 and registration is sought for the goods and services set out in the Annex to this decision.¹

2. On 12 August 2022, the application was partially opposed by Nutrifarm Sp. z.o.o. (“the opponent”) based upon section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies upon UKTM no. 917920733 for the mark 6-SHRED.² The earlier mark was filed on 20 June 2018 and registered on 30 October 2018. The opposition is directed against only those services underlined in the Annex to this decision. The opponent relies upon all goods for which the earlier mark is registered, being:

Class 5 Strengthening supplements containing parapharmaceutical preparations for prophylactic purposes and for convalescents, Preparations for supplementing the body with essential vitamins and microelements, Dietary and nutritional substances (including fat burning products); Vitamin, mineral and protein preparations and substances; Nutritional supplements; Dietary supplemental drinks, Vitamin drinks, Nutritional drink mix for use as a meal replacement; Dietary and nutritional supplements, Sports nutritional supplements, Fitness and endurance supplements; Diet capsules.

3. The opponent claims that the marks are similar and that the goods and services are identical or similar, with the result that there is a likelihood of confusion.

¹ The specification was amended following the filing of a TM21B on 11 November 2022.

² On 1 January 2021, the UK left the EU after the expiry of the transition period. Under Article 54 of the Withdrawal Agreement, the Registry created comparable UK trade marks for all rights holders with an existing EUTM. As a result of the opponent having an EUTM being protected as at the end of the Implementation Period, a comparable UK trade mark was automatically created. The comparable trade mark shown here is now recorded on the UK trade mark register, has the same legal status as if it had been applied for and registered under UK law and retains its original filing date.

4. The applicant filed a counterstatement denying that the goods and services are similar and denying that the marks are similar enough to result in confusion.

5. The opponent is represented by Trademarkia and the applicant is self-represented.

6. Neither party filed evidence. The opponent filed written submissions during the evidence rounds. Neither party requested a hearing, and only the opponent filed written submissions in lieu. This decision is taken following a careful perusal of the papers.

RELEVANCE OF EU LAW

7. 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 upon 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

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

“5(2) A trade mark shall not be registered if because –

(a)...

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

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

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

“5A Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only.”

10. By virtue of its earlier filing date, the trade mark upon which the opponent relies qualifies as an earlier trade mark pursuant to section 6 of the Act. As the earlier mark had not completed its registration process more than 5 years before the application date of the mark in issue, it is not subject to proof of use pursuant to section 6A of the Act.

11. 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 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 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 to mind the earlier mark, 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 will wrongly 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

12. The competing goods and services are as follows:

Opponent's goods	Applicant's services
<p><u>Class 5</u></p> <p>Strengthening supplements containing parapharmaceutical preparations for prophylactic purposes and for convalescents, Preparations for supplementing the body with essential vitamins and microelements, Dietary and nutritional substances (including fat burning products); Vitamin, mineral and protein preparations and substances; Nutritional supplements; Dietary supplemental drinks, Vitamin drinks, Nutritional drink mix for use as a meal replacement; Dietary and nutritional supplements, Sports nutritional supplements, Fitness and endurance supplements; Diet capsules.</p>	<p><u>Class 35</u></p> <p>The bringing together, for the benefit of others, of a variety of goods, enabling customers to view and purchase prepared foods, prepared meals, snackfoods, foodstuffs, meat, fish, meat extracts, fresh fruits and vegetables, preserved fruits and vegetables, dried fruits and vegetables, cooked fruits and vegetables, dairy products, bread and pastry products; the bringing together, for the benefit of others, of a variety of goods, enabling the customer to view and purchase sweets and confectionery, pasta and noodle products, cereals, prepared meals and puddings, ingredients for making prepared meals and puddings, baby food, snack foods; the bringing together, for the benefit of others, of a variety of goods, enabling customers to view and purchase foodstuff for pet animals, flowers, condiments, herbs, grains, nuts, preserves, eggs, edible oils, edible fats, beverages, alcoholic beverages, coffee, tea, milk, enabling customers to conveniently view and purchase those goods from a general merchandise</p>

	<p>Internet web site; provision of information to customers and advice and assistance in the selection of goods brought together as above; none of the aforesaid relating to dietary or nutritional supplements.</p> <p><u>Class 39</u></p> <p>Delivery of goods; transportation of goods; transportation logistics; distribution of goods; packaging and storage of goods; information about journeys, tariffs, timetables and methods of transport; provision of car parks and car parking services; vehicle rental; rental of warehouses; rental of containers and pallets; rental of packing machines; rental of storage systems; rental of refrigeration and freezer storage systems; rental of conveying machines, apparatus and installations; rental of electronically controlled machines and apparatus for use for storage and retrieval of goods; rental of robotic handling apparatus; rental of robotic apparatus for product selection and handling; rental of boxes and containers; information, advisory and consultancy services relating to the aforesaid services including the provision of such services on line from a computer database or via the Internet or extranets; delivery of foodstuffs and prepared</p>
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	<p>meals; tracking and tracing of shipments [transport information]; information and advisory services relating to the aforesaid; none of the aforesaid relating to dietary or nutritional supplements.</p> <p><u>Class 43</u></p> <p>Providing food and drink; providing of food and drink by means of on-line ordering; food and drink takeaway services; cafes and cafeteria services; canteen services; catering services, restaurants and self-service restaurant services, snack bars; services for providing food and drink; providing information about the provision of food and drink; none of the aforesaid relating to dietary or nutritional supplements.</p>
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13. 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 Court of Justice of the European Union (“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.”

14. Guidance on this issue has also come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

- (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.

15. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the General Court (“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.”

16. In *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as ‘complementary’ and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different, i.e. *chicken* against *transport services for chickens*. The purpose of

examining whether there is a complementary relationship between goods/services is to assess whether the relevant public are liable to believe that responsibility for the goods/services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C. noted as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited* BL-0-255-13:

“It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes.”

Whilst on the other hand:

“.....it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together.

Class 35

The bringing together, for the benefit of others, of a variety of goods, enabling customers to view and purchase prepared foods, prepared meals, snackfoods, foodstuffs, meat, fish, meat extracts, fresh fruits and vegetables, preserved fruits and vegetables, dried fruits and vegetables, cooked fruits and vegetables, dairy products, bread and pastry products; the bringing together, for the benefit of others, of a variety of goods, enabling the customer to view and purchase sweets and confectionery, pasta and noodle products, cereals, prepared meals and puddings, ingredients for making prepared meals and puddings, baby food, snack foods; the bringing together, for the benefit of others, of a variety of goods, enabling customers to view and purchase foodstuff for pet animals, flowers, condiments, herbs, grains, nuts, preserves, eggs, edible oils, edible fats, beverages, alcoholic beverages, coffee, tea, milk, enabling customers to conveniently view and purchase those goods from a general merchandise Internet web site; none of the aforesaid relating to dietary or nutritional supplements.

17. With regard to the applicant’s class 35 services, the opponent submits as follows:

“28. Therefore, it is easy to see that the goods in class 9 [sic] and 35 are the same nature and purpose as well as method of use as they are meant for the people (and animals as well) to be eaten orally in order to provide bodies with the necessary energy, nutritions, vitamins and minerals to live. The goods in class 5 are either complement, i.e. enhance the nutritions [sic], support and add further vitamins or minerals in parallel to what is provided for the body from the goods sold in class 35 or in competition, i.e. products such as drinks used as a meal replacement or [sic] diet capsules are dinked [sic] or eaten instead of mentioned goods in class 35 to substitutes [sic] their nutritions [sic] usually at a lower energy level.

29. Furthermore, the mentioned goods related to food and supplements products are sold via the same channels, including online sale as mentioned in class 35. The relevant public expects internet shops to be able to order either online via the same source, same online shop. As the people are more conscious know about healthy diet and life style they are also expecting the food products and so mentioned in class 35 to be of the best quality and also including nutritional enhanced ingredient in case of such products like cereals, prepared meals and puddings, ingredients for making prepared meals and puddings, baby food, snack foods, foodstuffs for pet animals. Many times they are themselves promoted as dietary and nutritional supplements to support the body with the additional vitamins or minerals or substances for fat burning or helping to lose/keep weight or to be a meal replacement.

30. Despite, the Applicant has limited the Contested Mark with the statement at the end “none of the aforesaid relating to dietary or nutritional supplements” it has to be observed that considering this limitation the services for selling food products claimed within class 35 the opposed services in class 35 still remains in competition to goods in class 5 (food products versus meal replacement/diet capsules) or complementary food products versus supplements) being sold through the same channels (shops, markets, online shops) sharing same nature, intended purpose and method of use as explained above.

31. And therefore, opposed services in class 35 are identical or at least similar to goods in class 5 registered for the Earlier Mark.”

18. The main issue with these submissions is that they appear to repeatedly mistake the applicant’s class 35 specification for retail services to be a specification for the goods to which those services relate. That is not the case. Consequently, it is not possible for the opponent’s goods to be identical to the applicant’s services.

19. With regard to the similarity of the goods and services, contrary to the opponent’s submission, they are inherently different in nature (one being a service and the other a good). Similarly, they will differ in method of use, with the opponent’s goods being consumed and the applicant’s services involving the engagement of the customer in a retail environment. The purpose of the goods and services will also differ, as the opponent’s goods are to provide nutritional benefit to the consumer whereas the applicant’s services are to facilitate the purchase of goods.

20. Further, the exclusion added to the applicant’s specification makes it clear that none of the goods to which the retail services relate are, or are related to, dietary or nutritional supplements. Consequently, I see no reason for there to be any complementarity within the meaning of the case law. Clearly, the significantly differing purposes mean that there would be no competition between them.

21. I accept the opponent’s submission that there may be some overlap in trade channels. However, this is only at the most general level i.e. they may all be purchased through large retailers such as supermarkets. I also accept that they may all be purchased by the same users, but again, this is at a very general level purely on the basis that they are all likely to be purchased by members of the general public. In my view, this very general level overlap in trade channels and user alone is not sufficient to result in a finding of similarity. I consider the goods and services to be dissimilar.

Provision of information to customers and advice and assistance in the selection of goods brought together as above; none of the aforesaid relating to dietary or nutritional supplements.

22. Again, I can see no more than a very high level overlap in trade channels and user, and I consider this alone to be insufficient for a finding of similarity. The goods and services are dissimilar.

Class 39

Delivery of goods; transportation of goods; transportation logistics; distribution of goods; packaging and storage of goods; rental of warehouses; rental of containers and pallets; rental of packing machines; rental of storage systems; rental of refrigeration and freezer storage systems; rental of conveying machines, apparatus and installations; rental of electronically controlled machines and apparatus for use for storage and retrieval of goods; rental of robotic handling apparatus; rental of robotic apparatus for product selection and handling; rental of boxes and containers; information, advisory and consultancy services relating to the aforesaid services including the provision of such services on line from a computer database or via the Internet or extranets; delivery of foodstuffs and prepared meals; tracking and tracing of shipments [transport information]; information and advisory services relating to the aforesaid; none of the aforesaid relating to dietary or nutritional supplements.

23. In relation to the applicant's class 39 specification, the opponent submits as follows:

"32. Similarly, in case of opposed services in class 39 related to delivery, transportation, distribution, packaging and storage of goods, being monitored specifically delivery of foodstuffs and prepared meals and related services claimed in class 39 it has to be observed that in today's trade it is expected that the goods in the nature of goods in class 5 claimed for the Earlier Mark are delivered by the same or linked companies in their or rented vehicles with their name/device marks attached to the outside parts of the vehicles, well visible to

the relevant public which sees it as an additional mean [sic] to promote the goods they are selling via their store, including online platforms.

33. The companies manufacturing goods in class [sic] take care of delivery, transportation, distribution, packaging and storage of goods such as foodstuff as well as supplements and other goods in class 5 being complimentary or in competition with food stuff or through their linked companies. Particularly when they sell via online it is common that they then package and store those goods at their warehouses using their labels on the packages and deliver than [sic] within their vehicles with their name on it or via linked companies. Therefore, the services in class 39 are similar to goods in class 5 due to being complementary and same distribution channels (being a means to deliver the goods in class 5 expected by the relevant public.

34. Again the limitation at the end “none of the aforesaid relating to dietary or nutritional supplements” of the services in class 39 does not change the fact that the contested services in class 39 are similar to goods in class 5. As discussed, foodstuffs are either complementary or in competition with supplements and therefore the services for packing, storing, delivering, distributing both are either complementary or in competition with each other.”

24. I do not accept that it is common for the same undertakings to provide both delivery/storage/packing services and dietary or nutritional supplements. The fact that businesses that sell dietary or nutritional supplements pack their own goods, store them and distribute them to their customers, does not mean that they are providing a delivery/storage/packing service. This is not the provision of any of these services to a third party customer; this is simply the operational tasks required to sell their own products. I have no evidence before me that any such overlap in trade channels exists.

25. The goods and services clearly differ in nature; the opponent's goods are consumables for the purposes of nutrition, whereas the applicant's specification covers services in the field of packing, delivery and storage. The purposes also clearly differ, as will the method of use. The fact that the applicant's specification excludes such services being provided in the field of nutritional or dietary supplements,

combined with the lack of overlap in trade channels, prevents these goods and services from being complementary. They are clearly not in competition given their vastly differing purposes. Any overlap in user will be insufficient on its own for a finding of similarity. Consequently, I consider the goods and services to be dissimilar.

Information about journeys, tariffs, timetables and methods of transport; provision of car parks and car parking services; vehicle rental; none of the aforesaid relating to dietary or nutritional supplements.

26. The submissions provided by the opponent do not appear to relate to these services. In my view, they are even further removed than the applicant's other class 39 services. They are clearly dissimilar.

Class 43

Providing food and drink; providing of food and drink by means of on-line ordering; food and drink takeaway services; cafes and cafeteria services; canteen services; catering services, restaurants and self-service restaurant services, snack bars; services for providing food and drink; providing information about the provision of food and drink; none of the aforesaid relating to dietary or nutritional supplements.

27. In relation to this class, the opponent submits as follows;

“Similarly in case of [sic] contested services in class 43 for providing food and drink which are as discussed earlier either complementary or in competition with goods in class 5. It is also now a common practice that businesses providing food and drink also include in selling their healthy food or drink products in the nature of supplements, products enhanced with vitamins or minerals, having special sport or fitness healthy snacks in their cafeterias or online deliveries. Therefore again the relevant public is expecting that they will go to their favourite restaurant and cafeteria where they will be able to buy their favourite goods such as in class 5. It is also common that those who manufacture goods such as claimed under class 5 they are delivering online or opening special cafeterias and restaurants to provide their products their [sic]

to allow people to grab them on the go or to be delivered to their homes instantly.”

28. I accept, of course, that businesses operating within this class also sell food and beverage products. However, I consider it highly unlikely that they will sell goods in class 5 being nutritional and dietary supplements or meal replacements. Whilst the opponent submits that this is common practice, they have filed no evidence to support this claim. Further, the exclusion added to the applicant’s specification makes it clear that these are not services that relate to those goods. In my view, it is unlikely that there is any overlap in trade channels. The method of use, purpose and nature of the goods and services will clearly differ. I do not consider that they are in competition, nor can I see any reason to find that they are complementary. They are dissimilar.

29. As some degree of similarity between the goods and services is required for a finding of likelihood of confusion, and I have found the applicant’s services to be dissimilar to the goods of the opponent, the opposition fails at this stage.

Final remarks

30. For the avoidance of doubt, even if I am wrong in my findings that the goods and services are dissimilar, any similarity will be at only a very low level. Consequently, I consider that this distance between the goods and services would have been sufficient to offset the similarity of the marks in any event, and there would have been no likelihood of confusion.

CONCLUSION

31. The opposition is unsuccessful, and the application may proceed to registration.

COSTS

32. As the applicant has been successful, he would ordinarily be entitled to a contribution towards his costs. However, as the applicant is self-represented, the

Tribunal wrote to him to explain that if he wished to claim costs then he should complete and file a costs proforma. The letter continued:

“If the pro-forma is not completed and returned, costs, other than official fees arising from the action (excluding extensions of time), may not be awarded.”

33. No proforma was filed. Consequently, I make no award of costs.

Dated this 9th day of August 2023

S WILSON

For the Registrar

ANNEX

Class 25

Clothing, footwear, headgear.

Class 28

Gymnastic and sporting articles, apparatus and equipment; balls for use in sports; exercise and fitness apparatus, equipment and machines; sports equipment, machines and accessories; exercise equipment and machines; hand exercisers; gymnasium equipment, including multipurpose jungle unit, free standing cross over cable, long pull and pull down combo, double pull down station, long pull, pull down machine, bench press, barbell incline bench with spotters platform, olympic plate holder, seated calf machine, standing calf machine, rowing machine, combination squat rack and bench press, adjustable flat bench, adjustable low-seated incline bench, behind the neck press bench, hyperextension bench, leg extension, leg curl, hyper-extension machine, sit-up bench, standing curl bench, seated incline bench, and free standing lying leg press; weight lifting belts, weight lifting gloves, weight belt straps, wrist straps, and kettle bells; weight lifting apparatus and equipment; weights for use in physical activities; computer game consoles, portable computer game consoles; protective and/or water-resistant and/or water-proof bags, covers, cases, carriers and holders adapted for use in relation to computer game consoles, portable computer game consoles; parts and fittings for all the aforesaid.

Class 35

The bringing together, for the benefit of others, of a variety of goods, enabling customers to view and purchase prepared foods, prepared meals, snackfoods, foodstuffs, meat, fish, meat extracts, fresh fruits and vegetables, preserved fruits and vegetables, dried fruits and vegetables, cooked fruits and vegetables, dairy products, bread and pastry products; the bringing together, for the benefit of others, of a variety of goods, enabling the customer to view and purchase sweets and confectionery, pasta and noodle products, cereals, prepared meals and puddings, ingredients for making prepared meals and puddings, baby food, snack foods; the bringing together, for the benefit of others, of a variety of goods, enabling customers to view and purchase foodstuff for pet animals, flowers, condiments, herbs, grains, nuts,

preserves, eggs, edible oils, edible fats, beverages, alcoholic beverages, coffee, tea, milk, enabling customers to conveniently view and purchase those goods from a general merchandise Internet web site; provision of information to customers and advice and assistance in the selection of goods brought together as above; organisation, operation and management of customer loyalty and incentive schemes; operation and supervision of sales incentive schemes; on-line administration and supervision of a discount, special offer and gift voucher schemes; organisation, operation and supervision of loyalty and incentive schemes via the internet and mobile devices; loyalty card services; advertising, marketing and promotional services; dissemination of advertising and promotional materials; direct mail advertising services; online advertising on a computer network; market research and marketing services; business information; advisory services for business management; computerised file management; compilation, storage, analysis and retrieval of information and data; compilation and systemisation of information into computer databases; compilation and arranging of statistical information; price comparison services; price analysis services; compilation and provision of price, feature and suitability information relating to goods and services; dissemination of statistical information; rental of advertising space; presentation of goods on communication media, for retail purposes; commercial information and advice for consumers; sales promotion for others; distribution of samples; information, advisory and consultancy services relating to the aforesaid services including the provision of such services on line from a computer database or via the Internet or extranets; processing of data and of information by electronic means; none of the aforesaid relating to dietary or nutritional supplements.

Class 39

Delivery of goods; transportation of goods; transportation logistics; distribution of goods; packaging and storage of goods; information about journeys, tariffs, timetables and methods of transport; provision of car parks and car parking services; vehicle rental; rental of warehouses; rental of containers and pallets; rental of packing machines; rental of storage systems; rental of refrigeration and freezer storage systems; rental of conveying machines, apparatus and installations; rental of electronically controlled machines and apparatus for use for storage and retrieval of goods; rental of robotic handling apparatus; rental of robotic apparatus for product

selection and handling; rental of boxes and containers; information, advisory and consultancy services relating to the aforesaid services including the provision of such services on line from a computer database or via the Internet or extranets; delivery of foodstuffs and prepared meals; tracking and tracing of shipments [transport information]; information and advisory services relating to the aforesaid; none of the aforesaid relating to dietary or nutritional supplements.

Class 43

Providing food and drink; providing of food and drink by means of on-line ordering; food and drink takeaway services; cafes and cafeteria services; canteen services; catering services, restaurants and self-service restaurant services, snack bars; services for providing food and drink; providing information about the provision of food and drink; none of the aforesaid relating to dietary or nutritional supplements.