BL O/0764/26

TRADE MARKS ACT 1994

IN THE MATTER OF UK REGISTRATION NO. 3322945

IN THE NAME OF DR MOHAMMED FARAKH KAMRAN

IN RESPECT OF THE FOLLOWING TRADE MARK:

EMPOWER

Empower

(series of two)

IN CLASSES 42 AND 44

AND

AN APPLICATION FOR REVOCATION THEREOF

UNDER NUMBER 508436

BY NATERA, INC.

BACKGROUND AND PLEADINGS

1. The UK trade mark ("UKTM") shown on the front page of this decision (UKTM no: 3322945) (series of two) ("the contested mark") stands registered in the name of Dr Mohammed Farakh Kamran, ("the proprietor"). It was filed on 6 July 2018 and completed its registration process on 23 November 2018. The mark stands registered for the services in classes 42 and 44, set out in Annex 1 of this decision.

2. On 12 February 2025, Natera, Inc. ("the applicant") applied to revoke the contested mark on grounds of non-use in accordance with sections 46(1)(a) and 46(1)(b) of the Trade Marks Act 1994 ("the Act"). Revocation is sought in respect of the specification in its entirety. The periods in respect of which non-use is claimed are 24 November 2018 to 23 November 2023, with an effective date of revocation of **24 November 2023** under section 46(1)(a) ("the first relevant period"), and 11 February 2020 to 10 February 2025, with an effective date of revocation of **11 February 2025** ("the second relevant period"), under section 46(1)(b).

3. The proprietor filed a defence and counterstatement in which it denies the claims against it in their entirety. The proprietor states that it has made genuine use of the contested mark, for the services covered by the registration, within the relevant periods.

4. The proprietor is self-represented, and the applicant is represented by J A Kemp LLP. Only the proprietor filed evidence in these proceedings. No hearing was requested, however, both parties filed written submissions in lieu.

EVIDENCE AND SUBMISSIONS

5. The proprietor filed evidence in chief in the form of a witness statement of Dr Mohammed Kamran dated 21 July 2025, accompanied by exhibits MK01 to MK11. Dr Kamran is the owner of the trade mark and also the Director of Future Genetics Limited.

6. Additionally, the proprietor filed written submissions dated 20 January 2026.

7. The applicant filed written submissions dated 11 February 2026.

DECISION

8. Section 46 of the Act is relevant to the revocation proceedings, which states:

> "46. - (1) The registration of a trade mark may be revoked on any of the following grounds-
>
> > (a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;
> >
> > (b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;
> >
> > (c) […]
> >
> > (d) […]
>
> (2) For the purpose of subsection (1) use of a trade mark includes use in a form (the "variant form") differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.
>
> (3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as in referred to in that

paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

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

(4) […]

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

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

> (a) the date of the application for revocation, or
>
> (b) if the registrar or court is satisfied that the grounds for revocation existing at an earlier date, that date."

9. Section 100 is also relevant, which reads:

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

10. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

RELEVANT CASE LAW

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

> "105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439*,* Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 *P Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bundervsvereinigung Kamaradschaft 'Feldmarschall Radetsky'*[2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV [EU:C:2012:816], Case C-609/11 Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C–720/18 and C–721/18 *Ferrari SpA v DU [EU:C:2020:854].*
>
> 106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:
>
> (1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].
>
> (2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at[36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

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

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

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

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

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

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

12. In *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd*, Case BL O/404/13, Mr Geoffrey Hobbs QC (as he then was), sitting as the Appointed Person stated that:

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

13. What I take from this case law is that there is no requirement to produce any specific form of evidence, but that I must consider what the evidence as a whole shows me, and whether on this basis I can reasonably be satisfied on the balance of probabilities that there has been genuine use of the contested mark.

EVIDENCE OF USE

Evidence in chief - Witness statement of Dr Mohammed Kamran for the proprietor

- Dr Kamran is the owner and Director of Future Genetics Limited and the owner of the mark. Dr Kamran states that:

> "As the proprietor of the EMPOWER trademark, I have used the mark exclusively through my wholly-owned company, Future Genetics Limited. Since at least 24 November 2018, Future Genetics Limited has consistently deployed the "EMPOWER" mark across the full spectrum of goods and services set out in Classes 42 and 44. In my TM8 evidence submission, I originally identified 260 distinct terms (Table 1). To streamline the record, enhance clarity, and remain within the IPO's 300-page limit. I have grouped these into twelve umbrella categories in Class 42 and four umbrella categories in Class 44:
>
> • Class 42:
> 1. Advisory & Consultancy Services
> 2. Analysis & Testing Services
> 3. Microbiological, Biochemical & Biological Research
> 4. Biotechnological Research
> 5. Clinical Research & Trials
> 6. Contract & Laboratory Research Services
> 7. Diagnostic Apparatus Design
> 8. Sample & Report Preparation Services
> 9. Information & Data Services
> 10. General Research & Development Services
> 11. Scientific Research Services
>
> • Class 44:
> 12. Genetic & Genomic Testing & Screening
> 13. Medical Diagnostic & Testing
> 14. Genetic & Health Counselling

15. Medical & Health Services (Genetic Focus)"[1]

- A 'Collaborative Research Agreement' has been provided between Future Genetics and I note that this is signed by Dr Kamran and a Dr Chitre which is dated 24 July 2018.[2] Dr Kamran states that:

> "this contract demonstrates the initial clinical trial commitment under the EMPOWER™ brand. It shows Future Genetics as the trial Sponsor and sets out the research scope and governance. The exhibit evidences genuine use of "EMPOWER" in arranging NHS-based clinical research (Class 42) and related services (e.g. contract research)."[3]

I note that neither EMPOWER or the NHS centre are referenced within this exhibit.

- An email has been provided confirming Dr Kamran's IRAS portal registration dated 25 December 2018.[4] Dr Kamran states "This was the first step toward NHS HRA approval for the EMPOWER 1 study. It confirms bona fide preparation of EMPOWER™ clinical research and maps to Information & Data Services in Class 42 (the IRAS portal is an interactive clinical-study information system)."[5]
- An excerpt has been provided from an IRAS form[6] which relates to a clinical trial in respect of breast cancer. I note that this is undated. A section of this has been highlighted, which reads as follows:

> "For studying cancer treatments, a sample size of 200,000 patients will give us about 5,000 patients based on disease prevalence. We thus expect to be powered to detect large ethnic disparities for the most

[1] Witness statement of Dr Kamran, para 2
[2] Exhibit MK01
[3] Witness statement of Dr Kamran, Exhibit MK01 – 20180724. First NHS Contract for EMPOWER™ 1 Study
[4] Exhibit MK02
[5] Witness statement of Dr Kamran, Exhibit MK02 – 20181225. NHS HRA IRAS Portal
[6] Exhibit MK03

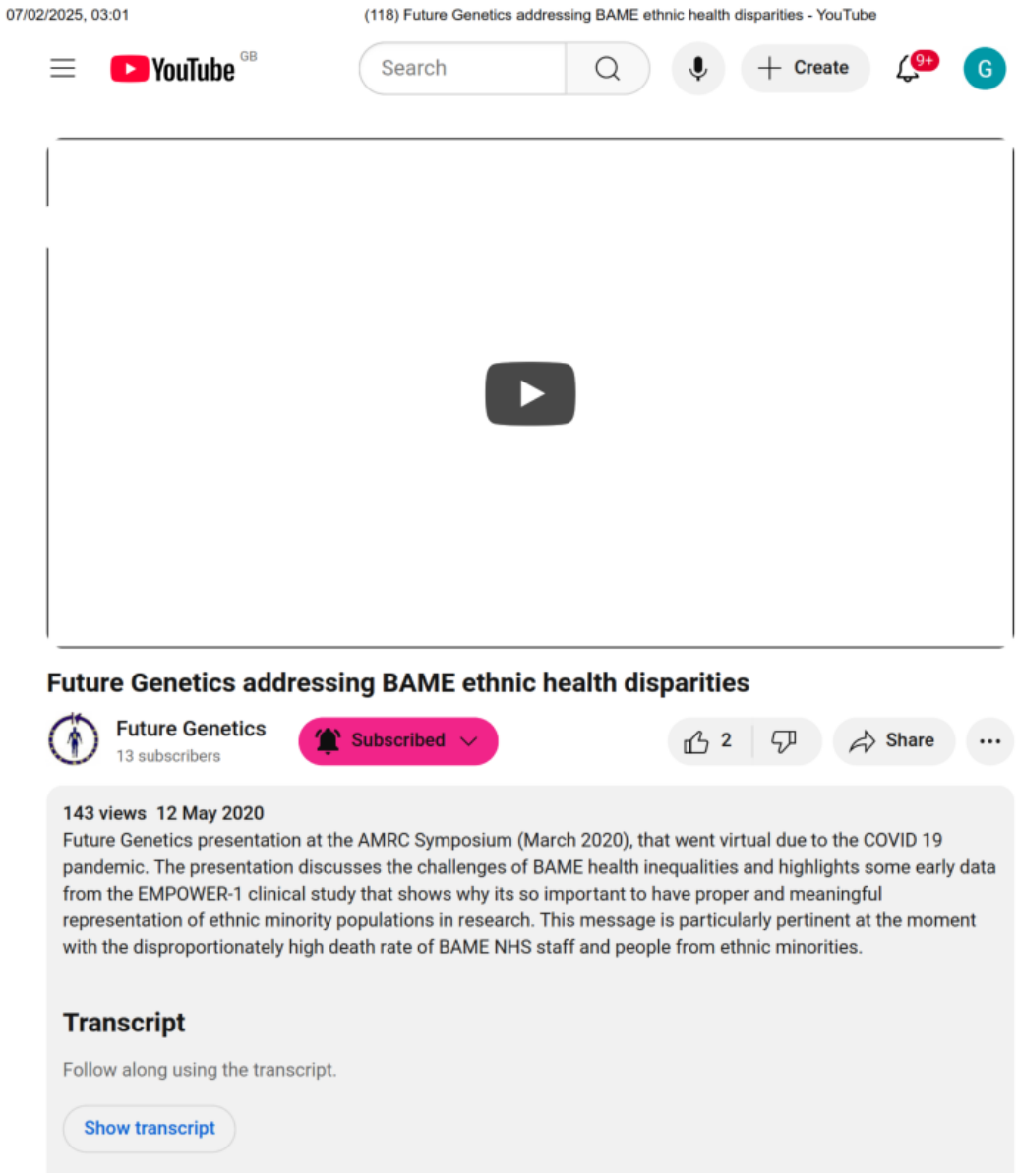
commonly used treatment regimens with high power so long as we have 800+ patients for that given treatment."

Dr Kamran states that this "shows that EMPOWER™ used in designing a 200,000-patient trial (inc. Breast Cancer) and it establishes that the EMPOWER™ mark was applied to rigorous clinical trial planning well before any competitor filing."[7] However, I note that the marks are not featured within the exhibit. The official listing for this study has also been provided via an excerpt from the ClinicalTrials.gov website.[8] I note that this appears to be an American website, however, it references a study taking place in the UK. The website confirms an ongoing clinical investigation which began on 1 February 2020 with primary completion anticipated on 1 February 2028 and final completion on 1 February 2030. The trial is called "EMPOWER-1: A Multi-site Clinical Cohort Study to Reduce Health Inequality: Identifying Ethnic Disparities in Treatment Failures for Medicines Prescribed to Treat Diseases That Cause Significant Mortality and Morbidity in the UK Population" and is a study into the genetic disease-risk across 19 health conditions. The study location is confirmed as Wolverhampton, UK, however the description states that they are looking to recruit patients across different NHS sites in England, and "the study addresses the issue of health inequality and genetic disparity in the United Kingdom (UK) by recruiting up to 200,000 patients primarily from the three main ethnic groups in the UK".

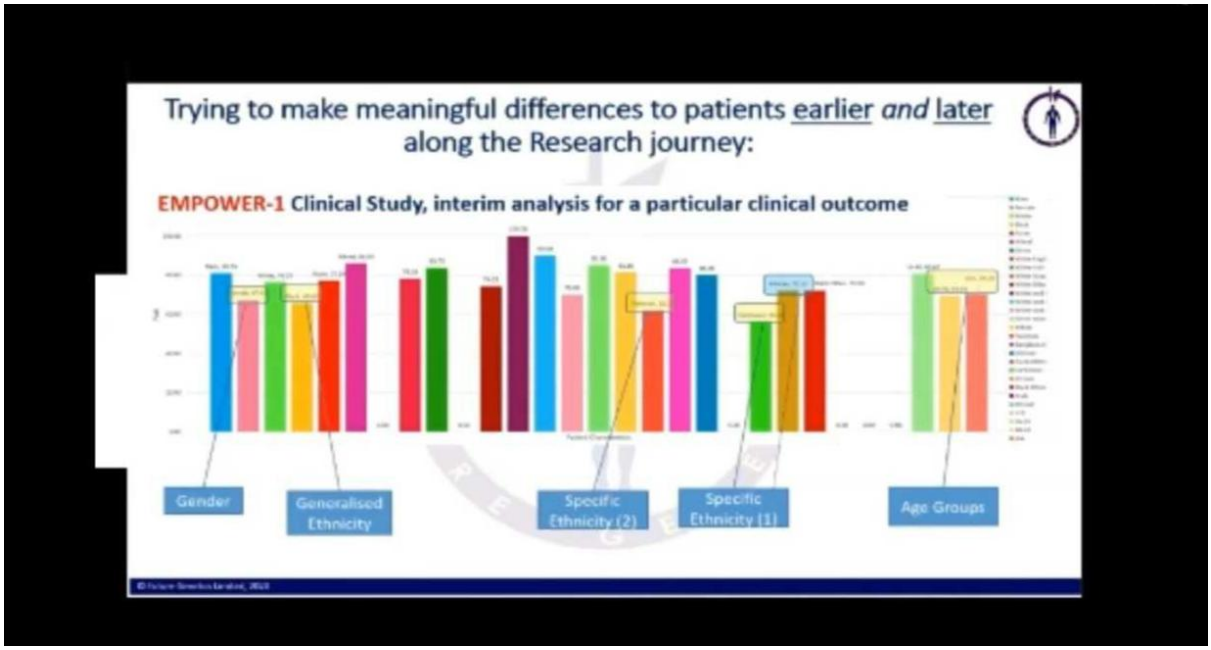
- Dr Kamran has provided a copy of the application to NHS HRA in respect of the research study. The duration of the study is 4 years, 11 months and 29 days. The REC date of opinion is shown as being 16 January 2020 and the REC opinion is noted as being "Further information favourable opinion".[9]
- I have before me, details of a webinar delivered by Dr Kamran in May 2020 at the AMRC EDI workshop.[10] The evidence comprises of emails confirming Dr

[7] Witness statement of Dr Kamran, Exhibit MK03 – 2019 IRAS Submission Excerpt
[8] Exhibit MK04
[9] Exhibit MK05
[10] Exhibits MK06a-e

Kamran's attendance, along with screenshots from YouTube and excerpts from the transcript of Dr Kamran's presentation. Dr Kamran states that these exhibits illustrate "active, publicfacing [sic] use of EMPOWER™ 1 in the research community". The documents within these exhibits are dated between January 2020 and May 2020. I note that the emails are between Dr Kamran and the conference organisers, however, the EMPOWER mark is not shown within the emails. The transcript of the presentation is entitled AMRC_EMPOWER_1_Excerpt, however, EMPOWER is not mentioned within the presentation. There is a screenshot taken from YouTube, in which the video is entitled 'Future Genetics addressing BAME ethnic health disparities', and I note that EMPOWER-1 is mentioned within the blurb, as follows:



Slides from the presentation also refer to the EMPOWER-1 Clinical Study:



- I have before me details of the following conferences:
    - 'Festival of Genomics' which was held in London on 23-24 January 2019.[11]
    - 'EDIS Symposium 2019' which was held in London on 9 September 2019.[12]
    - 'Royal College of General Practitioners' conference which was held in February 2021.[13]

Dr Kamran states that these exhibits show that he was "listed as a speaker on the clinical/genomics track, indicating early EMPOWER™ publicity." I have also viewed a clip of Dr Kamran speaking at this conference, during which he states that there are 20 people signed up to the trial and 25 NHS sites.[14] Dr Kamran appears to be asserting that "EMPOWER" branding was used to describe the forthcoming NHS study. There is very little evidence contained within these exhibits which illustrates the marks in use. I note that EMPOWER-1 is

[11] Exhibits MK07a-c & MK08a-b
[12] Exhibits MK09a-c
[13] Exhibits MK10a-d
[14] Witness statement of Dr Kamran, Exhibits MK07a–c – Festival of Genomics (Jan 2019)

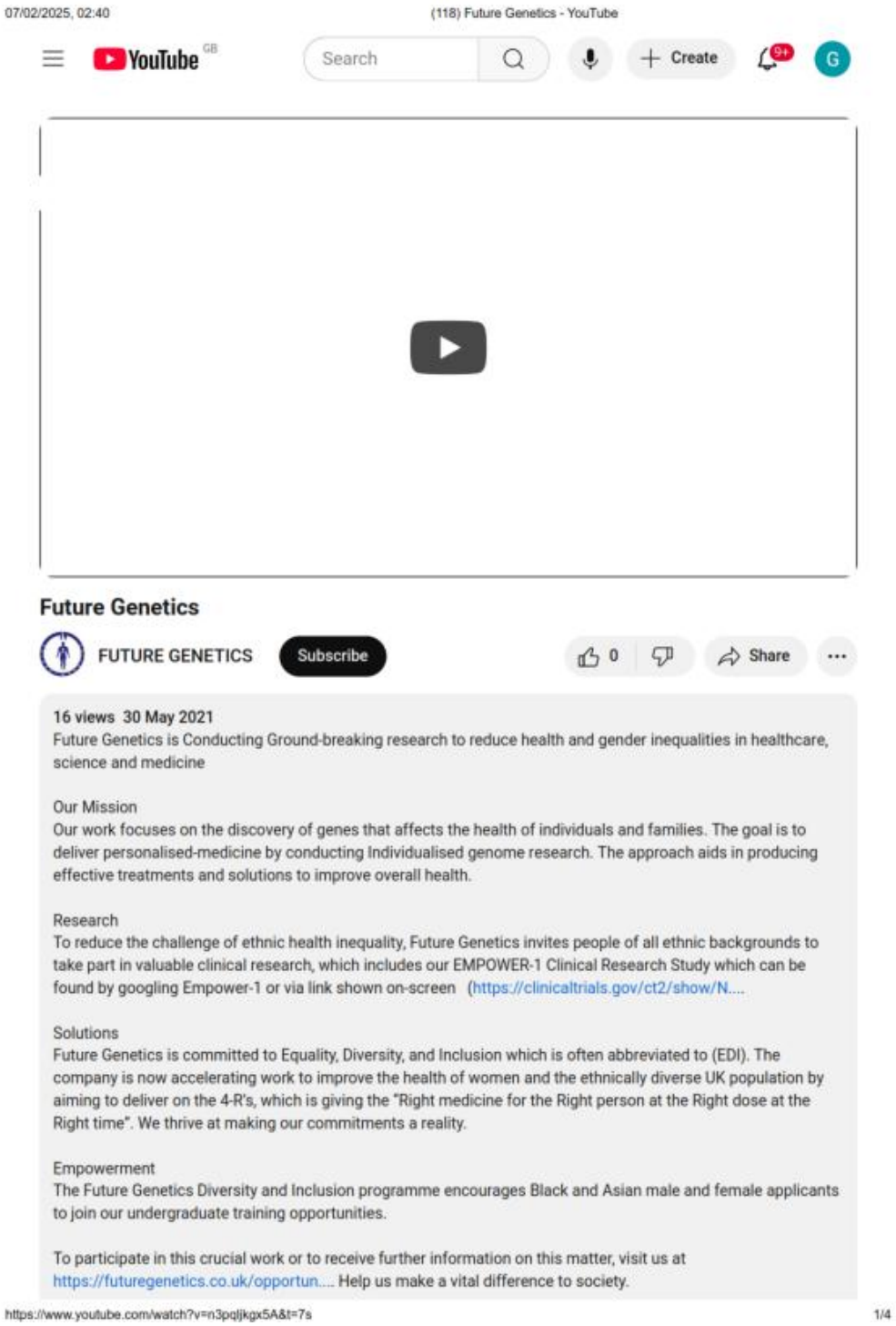
mentioned by Dr Kamran in his introduction at the EDIS Symposium,[15] and it is also mentioned at the beginning of his talk at the 'Royal College of General Practitioners' conference.[16] One of the marks is also shown on one of the slides during Dr Kamran's presentation[17] (I have also viewed the 39 second clip provided on YouTube):[18]

Whilst the evidence of the marks in use is scant in respect of exhibits MK08 – MK09, I note that both conferences took place prior to the launch of the clinical trial and Dr Kamran appears to state that this was in preparation for the trial beginning.

- I have before me a "corporate messaging piece" regarding "Future Genetics EMPOWER™ Mission".[19] Dr Kamran states "they articulate the EMPOWER™ vision to "deliver personalised medicine by conducting individualised genome research" under EMPOWER™. These exhibits show marketing of the EMPOWER™ concept and its association with genetic counseling [sic]. They map to Advisory/Consultancy and Information Services (explaining EMPOWER™ scope to the public) and prefigure Class 44 services (e.g.

[15] Exhibit MK09b
[16] Exhibit MK10a
[17] Exhibit MK09d
[18] Exhibit MK09c
[19] Exhibit MK11a-d

Genetic Counseling)".[20] I have also viewed the YouTube video which encourages people from all ethnic backgrounds to take part in the EMPOWER 1 study.[21] I note that the YouTube video was posted on 30 May 2021:[22]



[20] Witness statement of Dr Kamran, para Future Genetics EMPOWER™ Mission
[21] Exhibit MK11b
[22] Exhibit MK11d

- I have 7 emails before me between Dr Kamran and various contacts expressing interest in taking part in the EMPOWER clinical trial.[23] These are dated between 1 September 2020 and 13 November 2024. EMPOWER-1 features throughout these emails; however, I note that 5 of these recipients are based outside of the UK.
- Dr Kamran has provided one Facebook post, dated 23 June 2022[24] and one dated 4 July 2023,[25] under the Future Genetics Facebook page. I note that one of the marks features within the earlier post, but not the latter. The earlier post has one comment and does not appear to have any likes.
- I have been provided with Facebook adverts from the Future Genetics page which are dated between 21 October 2023 and 29 November 2023 in relation to breast cancer, prostate cancer and lung cancer DNA screening.[26] A version of the marks is shown throughout the posts. Dr Kamran states that "these demonstrate active, direct-to-consumer marketing of EMPOWER™ branded genetic tests within the contested periods."[27] I have no details before me regarding the reach of these adverts, or the number of followers that the Future Genetics Facebook page has. Similarly, I am unable to see how many people have interacted with the adverts, or what business this has generated.
- I also have a list of 66 Facebook adverts which have been placed by Future Genetics between June 2022 and October 2023.[28] Dr Kamran states that these are "showing EMPOWER™ logos on posts about various genetic tests and paternity testing".[29] There is also a screen shot of the Future Genetics page, which I note has 6 likes and 19 followers. This shows various posts which have been made on the page, which do bear the mark. None of the Facebook posts are dated.
- I have before me a contract between Future Genetics Limited and the UK Accreditation Service which was signed on 17 November 2022 which Dr

[23] Exhibit MK12a-g
[24] Exhibit MK13
[25] Exhibit MK15b
[26] Exhibits 16a-c, 17 and 18
[27] Witness statement of Dr Kamran, para EMPOWER™ Test Marketing (Oct 2023)
[28] Exhibit 19a-b
[29] Witness statement of Dr Kamran, para Facebook Branding ("Breast, Prostate, Lung" Campaign)

Kamran states is in respect of EMPOWER labs to ensure that they meet ISO standards.[30] I note that neither of the marks feature within the document.

- Dr Kamran has provided an email trail dated 16 August 2024 with the UK Accreditation Service in which he is seeking a refund for the money previously paid.[31] Dr Kamran states within the email that he is intending to pursue UKAS ISO 15189:2022 accreditation in future and seeking to negotiate over repayment of the fee.
- Dr Kamran has set out a timeline as follows:

"The foregoing exhibits together form an unbroken timeline of bona fide EMPOWER™ use from late 2018 through the present. Early entries (MK02–MK05) show regulatory approvals in 2018–2020; concurrent conference/exhibit usage (MK06–MK09 in 2019–2020) shows public promotion; and recent marketing exhibits (MK16–MK19 in 2023) demonstrate direct consumer outreach. No substantial gap exists in the contested periods. For example, between Nov 2018 and Nov 2023 (s.46(1)(a)), at least one new exhibit appears in every quarter (see timeline and table below). Between Feb 2020 and Feb 2025 (s.46(1)(b)), EMPOWER™ was used in clinical research, marketing, and digital channels throughout (Table 2)."[32]

14. The proprietor filed a very lengthy witness statement and exhibits, and although I have considered this in full, this concludes my summary of the proprietor's evidence, insofar as I consider it necessary.

FORM OF THE MARKS IN USE

15. Before I move on to assess the sufficiency of the evidence, I shall begin by addressing the way in which the contested marks have been displayed in relation to the relevant services in evidence.

[30] Exhibit MK21
[31] Exhibit MK22
[32] Witness statement of Dr Kamran, para Continuity and Use Timeline

16. In *Colloseum Holdings AG v Levi Strauss & Co.,* Case C-12/12, which concerned the use of one mark with, or as part of, another mark, the Court of Justice of the European Union ("CJEU") found that:

> "31. It is true that the 'use' through which a sign acquires a distinctive character under Article 7(3) of Regulation No 40/94 relates to the period before its registration as a trade mark, whereas 'genuine use', within the meaning of Article 15(1) of that regulation, relates to a five-year period following registration and, accordingly, 'use' within the meaning of Article 7(3) for the purpose of registration may not be relied on as such to establish 'use' within the meaning of Article 15(1) for the purpose of preserving the rights of the proprietor of the registered trade mark.
>
> 32. Nevertheless, as is apparent from paragraphs 27 to 30 of the judgment in *Nestlé*, the 'use' of a mark, in its literal sense, generally encompasses both its independent use and its use as part of another mark taken as a whole or in conjunction with that other mark.
>
> 33. As the German and United Kingdom Governments pointed out at the hearing before the Court, the criterion of use, which continues to be fundamental, cannot be assessed in the light of different considerations according to whether the issue to be decided is whether use is capable of giving rise to rights relating to a mark or of ensuring that such rights are preserved. If it is possible to acquire trade mark protection for a sign through a specific use made of the sign, that same form of use must also be capable of ensuring that such protection is preserved.
>
> 34. Therefore, the requirements that apply to verification of the genuine use of a mark, within the meaning of Article 15(1) of Regulation No 40/94, are analogous to those concerning the acquisition by a sign of distinctive character through use for the purpose of its registration, within the meaning of Article 7(3) of the regulation.
>
> 35 Nevertheless, as pointed out by the German Government, the United Kingdom Government and the European Commission, a registered trade mark that is used only as part of a composite mark or in conjunction with another mark

must continue to be perceived as indicative of the origin of the product at issue for that use to be covered by the term 'genuine use' within the meaning of Article 15(1)." (emphasis added)

17. The contested marks are word only marks presented in both upper case and a mixture of upper and lower case. Given that normal and fair use of the registration will cover use in any standard typeface, font or colour, where the mark is used in a colour other than black, this is use of the mark as registered and is use upon which the proprietor may rely, as per *La Superquimica v EUIPO.*[33] The mark is also shown as follows throughout the evidence:

EMPOWER-1
EMPOWER 1

18. As per *Colloseum Holdings AG v Levi Strauss & Co.,*[34] I consider that the addition of the number '1' or '-1' does not alter the distinctive character of the word itself and will likely be seen as the first edition of something. All of the elements of the registered marks are present and there is no alteration in meaning. As such, I find that the above are acceptable variant uses of the registered marks.

GENUINE USE

19. With regard to the evidence of use submitted, I must now consider if it sufficiently demonstrates genuine use, whilst reminding myself that use does not have to be quantitively significant to be genuine. The burden is on the proprietor to prove that it has used its mark within the relevant periods.

20. Whether the evidence is sufficient for this purpose will depend on whether it demonstrates that there has been real commercial exploitation of the mark, in the course of trade, sufficient to create or maintain a market for the services at issue in the UK during the relevant five-year periods. In making this assessment, I am required to consider all relevant factors, including:

[33] T-24/17, EU:T:2018:668 at paragraph 39
[34] Case C-12/12

- The scale and frequency of the use shown;
- The nature of the use shown;
- The services for which use has been shown;
- The nature of those services and the market(s) for them; and
- The geographical extent of the use shown.

21. I have carefully considered the evidence provided by the proprietor and whether this meets the requirements for genuine use as per *easyGroup*, set out earlier in this decision. I am also mindful of the guidance from the *Dosenbach-Ochsner* case.[35]

22. In the first instance, I note that Dr Kamran is both the owner of the trade mark and the Director of Future Genetics. The applicant has stated within their written submissions:

> "We observe that the Proprietor's evidence does not show a licence nor written consent being in place between the Proprietor and Future Genetics Limited".

Whilst I accept that this is the case, it is not necessary for a licence to be formally recorded. As noted in the Explanatory Notes to the proposal from the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (Document ref. SCT/5/4 June 8, 2000):

> "5.05. Article 5 would apply independently of whether or not a licence exists or, if a licence exists, whether or not the licence is recorded. Hence, it is sufficient for the holder to consent to the use of his mark in order to benefit from such use whenever the question of use becomes relevant, i.e. in the context of a trademark acquiring distinctiveness or becoming well-known, or for the purpose of maintaining a trademark registration. In essence, any use of the mark by any third party to which the holder consents must be considered use by the holder."

[35] Along with *Awareness Limited v Plymouth City Council,* Case BL O/236/13, emphasising the need to consider what the evidence fails to "show", and what might reasonably have been conclusively shown.

From the evidence before me, and given his position as owner of the trade mark and Director of Future Genetics, Dr Kamran clearly gives consent for Future Genetics to make use of the mark, and I am satisfied that a formal licence agreement is not required.

23. The proprietor's evidence comprises of a 102-page witness statement and 23 exhibits. This is followed by a further 148 pages of submissions (although there is some overlap with the evidence previously served). I note that the applicant submits that "the Proprietor acknowledges that they have not made any commercial use of the trade mark in the course of trade during the relevant periods", however, I cannot locate such an admission within the proprietor's pleadings, and on the contrary note that it is the proprietor's assertion that "the EMPOWER mark has been consistently used in active clinical trial operations, recruitment of participants, collaborative research projects and related promotional efforts".[36]

24. The proprietor submits that various preparatory tasks were undertaken in respect of the marks, including entering into a contract with an NHS site ahead of the clinical trial and completion of the IRAS ethics submission registration. However, the mark is not featured in either document and I note that the contract is in the name of Future Genetics. I also have evidence before me of various conferences at which Dr Kamran was a speaker, which he also cites as preparation for use of the mark, using the conferences as a way to create publicity. Again, I note that there is very little evidence of use of the mark within the exhibits that I have before me in relation to these conferences, and whilst there is a reference to the Festival of Genomics having 2000 attendees and 50 plus exhibitors,[37] in the majority I have no details as to the number of delegates who attended these events, or the contracts/sales/customers that it generated as a result of these promotional activities. I bear in mind that as per *Ansul,* where preparations are underway to secure customers, particularly in the form of advertising campaigns, this may be sufficient to establish genuine use, however, I do not find this evidence compelling.

25. The proprietor shows that it has a social media presence with a Facebook account under the name of 'Future Genetics' which features the mark in use. The posts are

[36] Proprietor's submissions dated 20 January 2026
[37] Exhibit MK07

dated between June 2022 and November 2023, and promote the various activities undertaken by the proprietor in the form of DNA testing for various types of cancer. I note that the number of likes/followers that the page has is extremely low, and there is no information before me regarding the level of interaction with the individual posts, nor any details of what level of custom is generated from the same. I also note that the majority of the emails expressing an interest in the trial and the details from the ClinicalTrials.gov website all appear to be from outside the UK.

26. The best evidence that I have before me in respect of use of the mark, is the clinical trial which is sponsored by Future Genetics and entitled "EMPOWER-1: A Multi-site Clinical Cohort Study to Reduce Health Inequality: Identifying Ethnic Disparities in Treatment Failures for Medicines Prescribed to Treat Diseases That Cause Significant Mortality and Morbidity in the UK Population". I note that Dr Kamran states that the "EMPOWER-1 study has so far recruited over 4500 NHS patients"[38] and that the NHS study will be at NHS Health Board's across England, although the location of the study is named as Wolverhampton. However, there is other evidence in which Dr Kamran states that he has 20 people signed up across 25 NHS sites. I also note that the study is due to run until 2030. The evidence in respect of the number of participants signed up to the trial is contradictory. However, I find that the issue facing the proprietor in respect of its evidence is down to how its mark is used and whether this constitutes genuine use of the mark at issue, i.e. whether the use of the mark is consistent with the essential function of a trade mark.

27. When considering the evidence as a whole, I note that I have nothing tangible before me that shows any services branded solely as 'EMPOWER' offerings. Everything that I do have appears to come under the heading of 'Future Genetics', and when EMPOWER is shown, it typically appears alongside this. The only evidence in which EMPOWER appears alone is in the title of the clinical trial. The issue that the proprietor has, is that in order to find that this use satisfies the essential function of a trade mark, I must be satisfied that upon selecting the services at issue the consumer or end user would see the opponent's mark and use it to identify the origin of its services.

[38] Exhibit MK14

28. In order to assess this further, it is necessary to consider who the average consumer is and how the services will be selected. The average consumer for the services at issue will fall into two categories, ordinary members of the general public and medical professionals who will select them having viewed images on websites or in brochures/leaflets. Such a process depends predominantly on the visual component; however, I do not discount aural considerations stemming from conferences or word of mouth recommendations. When selecting the services, the average consumer will consider various factors such as purpose, cost, and specific testing features, such as the specific elements of any studies or testing. This, in my view, results in a high degree of attention.

29. I accept that when considering the clinical trial, the average consumer will notice EMPOWER, however, I am of the view that even in this situation, the average consumer would not believe the mark was intended to have a trade mark function and would not consider it as a badge of origin, simply noting it as the trial name. Even in circumstances where both groups of average consumers consider EMPOWER to be the sponsor of the trial, which I understand is common in respect of clinical trials, I do not consider that they would understand it to be a trade mark solely due to its name appearing in the trial title.

30. Taking all of the above into account, and considering the evidence as a whole, I do not find that the way in which the proprietor uses EMPOWER as part of a clinical trial title to satisfy the essential function of a trade mark. I find that at best, it will be an indicator of sponsorship, but that the average consumer will not view the use of EMPOWER as an indicator that guarantees the origin of the services at issue. I find the remainder of the evidence which has been filed by the proprietor to fall short of the standard required to prove use, as the majority of the evidence is vague, and in places, contradictory. I have no details before me regarding the market share of the services offered under the mark. I also have no details at all regarding the intensity of use, or what, if any, investment there has been in advertising or promotion. As such, I find that the proprietor has failed to show that it has made genuine use of its mark within either the periods set out under 46(1)(a) or 46(1)(b), and as such, the cancellation application succeeds.

CONCLUSION

31. The revocation is successful in its entirety under section 46(1)(a) of the Act. UK trade mark number 3322945 shall be revoked from the first revocation date sought, namely from 24 November 2023.

COSTS

32. The applicant has been successful and is entitled to a contribution towards their costs. In the circumstances I award the cancellation applicant the sum of £1,400 as a contribution towards the cost of the proceedings, in accordance with Tribunal Practice Notice 1/2023. The sum is calculated as follows:

Official fee:	£200
Preparing and filing the TM26(N) and considering the counterstatement:	£250
Considering the other side's evidence	£600
Preparing submissions in lieu	£350
Total:	**£1,400**

33. I therefore order Dr Mohammed Farakh Kamran to pay Natera, Inc. the sum of £1,400. The above sum should be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 21st day of August 2026

LA Bailey

For the Registrar

Annex 1

Class 42 Advisory services relating to genetics; Advisory services relating to genomics; Advisory services relating to medical research; Advisory services relating to pharmacogenetics; Advisory services relating to pharmacogenomics; Advisory services relating to scientific instruments; Advisory services relating to scientific research; Advisory services relating to scientific research; Advisory services relating to technological research; Analysis in the field of molecular biology; Analysis of human serum for medical research; Animal semen testing services for research purposes; Bacteriological consultation and research; Bacteriological research and analysis; Bacteriological research; Biochemical research and analysis; Biochemical research and development; Biochemical research; Biological research and analysis; Biological research laboratory services; Biological research services; Biological research, clinical research and medical research; Biological research; Biomedical research services; Biotechnological research relating to agriculture; Biotechnological research relating to enzymatic synthesis; Biotechnological research relating to industry; Biotechnological research relating to livestock; Biotechnological research; Biotechnology research; Blood analysis services for scientific research purposes; Building research services; Clinical research; Clinical research namely in the field of genomics; Clinical research namely in the field of pharmacogenomics; Clinical research namely in the field of genetics; Clinical research namely in the field of pharmacogenetics; Clinical research namely in the field of biomarkers; Clinical research namely in the field of diagnostics; Clinical research namely in the field of prognosis; Clinical research namely in the field of health; Clinical research namely in the field of disease; Compilation of scientific information; Conducting clinical trials; Conducting clinical trials for genetic-based products; Conducting clinical trials for genomics-based products; Conducting clinical trials for pharmaceutical products; Conducting clinical trials for pharmacogenetic products; Conducting clinical trials for pharmacogenomics products; Conducting clinical trials in the field of human disease; Conducting

clinical trials in the field of human health; Conducting clinical trials; Conducting clinical trials namely in the field of genomics; Conducting clinical trials namely in the field of pharmacogenomics; Conducting clinical trials namely in the field of genetics; Conducting clinical trials namely in the field of pharmacogenetics; Conducting clinical trials namely in the field of biomarkers; Conducting clinical trials namely in the field of diagnostics; Conducting clinical trials namely in the field of prognosis; Conducting clinical trials namely in the field of health; Conducting clinical trials namely in the field of disease; Conducting scientific studies; Consultancy in the field of scientific research; Contract research services relating to molecular sciences; Design and development of diagnostic apparatus; Design and development of medical diagnostic apparatus; Design of diagnostic apparatus and equipment; Design of diagnostic apparatus; Development of diagnostic apparatus; DNA screening for scientific research purposes; DNA testing services to determine paternity (laboratory services); Genetic engineering services relating to plants; Genetic engineering services; Genetic fingerprinting; Genetic research; Genetic testing for clinical research purposes; Genetic testing for scientific research purposes; Genetic testing of humans for research purposes; Genetic testing of laboratory animals for research purposes; Information on the subject of scientific research in the field of biochemistry and biotechnology; Issuing of scientific information; Laboratory (Scientific -) services; Laboratory research in the field of gene expression; Laboratory research in the field of genetics and genomics; Laboratory research services relating to genetics and genomics; Laboratory research services relating to pharmaceuticals; Laboratory research; Medical and pharmacological research services; Medical research laboratory services; Pharmaceutical research and development services; Pharmaceutical research and development; Pharmaceutical research services; Preparation of biological samples for analysis in research laboratories; Preparation of biological samples for research purposes; Preparation of biological samples for testing and analysis in research laboratories; Preparation of immunohistological samples for analysis in research

laboratories; Preparation of reports relating to scientific research; Preparation of reports relating to technical research; Preparation of scientific reports; Preparation of technological research reports; Product research and development; Product research; Providing clinical research information and results from an online searchable database; Providing information about industrial analysis and research services; Providing information about the results of clinical trials for human and animal health products; Providing information about the results of clinical trials for pharmaceutical products; Providing information about the results of clinical trials; Providing information on clinical studies via an interactive website; Providing information relating to scientific research in the fields of biochemistry and biotechnology; Providing medical and scientific research information in the field of genetics, genomics, pharmacogenomics, pharmaceuticals, and clinical trials; Providing medical and scientific research information in the field of pharmaceuticals and clinical trials; Providing online information about industrial analysis and research services; Providing scientific information in the field of human illnesses and their treatments; Providing scientific research information and results from an online searchable database; Provision of information and data relating to medical and veterinary research and development; Provision of information relating to clinical research; Provision of information relating to scientific research; Provision of information relating to technological research; Provision of research services; Provision of scientific information; Research (Biological -); Research (Clinical -); Research (Scientific -); Research and development for others; Research and development for the pharmaceutical industry; Research and development in the field of diagnostic preparations; Research and development in the field of genetics; Research and development in the field of genomics; Research and development in the field of microorganisms and cells; Research and development in the field of pharmacogenetics; Research and development in the field of pharmacogenomics; Research and development in the pharmaceutical and biotechnology fields; Research and development of new products for others; Research and

development of new products; Research and development of vaccines and medicines; Research and development services in the field of antibodies; Research and development services in the field of antibody technology; Research and development services in the field of bacteriology; Research and development services in the field of chemistry; Research and development services in the field of cytology; Research and development services in the field of gene expression systems; Research and development services in the field of genetics; Research and development services in the field of genomics; Research and development services in the field of immunohistology; Research and development services in the field of immunology; Research and development services in the field of pharmacogenetics; Research and development services in the field of pharmacogenomics; Research and development services relating to vaccines; Research and development services; Research and testing services in the fields of bacteriology and virology; Research in the field of gene therapy; Research in the field of genetics; Research in the field of genomics; Research in the field of pharmacogenetics; Research in the field of pharmacogenomics; Research laboratories; Research laboratory services; Research of livestock breeding; Research of pharmaceuticals; Research relating to bacteriology; Research relating to biotechnology; Research relating to demographics; Research relating to medicines; Research relating to molecular sciences; Research relating to pharmaceuticals; Research relating to science; Research relating to technology; Research services; Research to develop new products; Scientific advisory services; Scientific analysis; Scientific and industrial research; Scientific and technological services; Scientific consultancy; Scientific investigations for medical purposes; Scientific laboratory services; Scientific research and analysis; Scientific research and development; Scientific research conducted using databases; Scientific research for medical purposes in the area of genetics and genomics; Scientific research for medical purposes; Scientific research in the field of genetics and genetic engineering; Scientific research in the field of pharmacy; Scientific research in the field of social medicine; Scientific research relating to

bacteriology; Scientific research relating to biology; Scientific research relating to chemistry; Scientific research relating to cosmetics; Scientific research relating to genetics of plants; Scientific research relating to genetics; Scientific research relating to genomics; Scientific research relating to hair care preparations; Scientific research relating to pharmacogenetics; Scientific research relating to pharmacogenomics; Scientific research services; Scientific research; Scientific risk assessment; Scientific services relating to the isolation and cultivation of human tissues and cells; Scientific technological services; Scientific testing services; Stem cell research services; Stem cell research; Technical consultancy in relation to research services relating to foods and dietary supplements; Technical research projects and studies; Technical research services; Technical research; Technological research; Technological services and research relating thereto.

Class 44 DNA screening for medical purposes; Drug, alcohol and DNA screening for medical purposes; Genetic and genomic testing for medical purposes; Genetic and genomic testing of animals for diagnostic or treatment purposes; Genetic and genomic testing of animals; Genetic and genomic testing of humans for diagnostic or treatment purposes; Genetic and genomic testing of humans; Genetic counseling; Genetic counselling; Genomics counselling; Health counseling; Medical and health services relating to DNA, genetics and genetic testing; Medical and health services relating to DNA, genomics and genomic testing; Medical counseling; Medical counseling services; Medical diagnostic services; Medical testing for diagnostic or treatment purposes; Psychological counseling; Public health counseling; RNA or DNA analysis for disease diagnosis and prognosis;