

O/0818/23

TRADE MARKS ACT 1994

**IN THE MATTER OF INTERNATIONAL REGISTRATION NO. 1643276
IN THE NAME OF ZERODENSITY YAZILIM ANONİM ŐİRKETİ
FOR THE TRADE MARK**

TRAXIS

IN CLASSES 9 AND 42

AND

**THE OPPOSITION THERETO UNDER NUMBER 433759
BY AXIS AB**

Background and pleadings

1. On 1 December 2021, Zerodensity Yazilim Anonim Şirketi (“the holder”) requested protection in the UK for the international trade mark registration (“IR”) shown on the cover page of this decision for goods and services in classes 9 and 42.¹ The holder claims a priority date of 18 October 2021 from a Turkish trade mark.²

2. Following publication, the application was opposed by Axis AB (“the opponent”) under sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”). The opponent relies upon the following two earlier trade mark registrations for both grounds of opposition:

(i) 916915217

AXIS

Filing date: 26 June 2017; registration date: 24 October 2017

Relying on all the registered goods and services in classes 9, 35, 38, 41, 42 and 45.

(ii) IR 1377573

AXIS

International registration date: 29 June 2017; UK designation date 11 December 2017; date of protection in the UK: 21 June 2018. Priority date: 26 June 2017, claimed from an EUIPO trade mark.³

Relying on all the protected goods and services in classes 9, 35, 38, 41, 42 and 45.

¹ Office of Origin: Turkey.

² Trade mark number 2021-146539.

³ European Intellectual Property Office, trade mark number 016915217.

3. Mark (ii) is represented on the UK register in the above format. However, it is represented in the notice of opposition as a word-only mark. The international register records “The applicant declares that they wish the mark to be considered as a mark in standard characters (only if word mark)”. Moreover, mark (ii) claims the European Trade Mark (“EUTM”) from which mark (i) is derived for its priority date. It must, therefore, be a word-only mark.

4. Under section 5(2)(b) of the Act, the opponent claims that the marks are visually and aurally highly similar, and the respective goods and services are either identical or highly similar. It claims that the combination of similarities between the marks and the parties’ goods and services leads to a likelihood of confusion.

5. Under section 5(3) of the Act, the opponent claims a reputation in its marks for security and surveillance apparatus, software and associated goods and services, including the design and development of such software. It claims that the relevant public will believe that the holder’s goods and services come from the opponent or an undertaking linked to the opponent. Further, the opponent claims that the contested applications will ‘ride on the coat tails’ of the earlier marks, unfairly benefitting from their repute. The opponent also claims that use of the contested mark will erode the distinctiveness of the earlier marks and damage their repute if used in relation to goods and services of poor quality.

6. The holder filed a defence and counterstatement, denying the grounds of opposition. It denies that the marks are similar and states that the goods and services are different.

7. The opponent is professionally represented by Womble Bond Dickinson (UK) LLP and the holder by RightPro IP & Legal Consultancy Ltd. Both parties filed evidence and submissions during the evidence rounds. Neither party requested a hearing, and only the opponent filed written submissions in lieu of a hearing. I make this decision after a careful consideration of all the papers.

Evidence

8. The opponent has filed evidence from Nils Olsson, who is Director of IP Rights for Axis Communications AB. Mr Olsson explains that Axis Communications AB is a wholly owned subsidiary of the opponent and that the opponent has authorised him to give evidence. His first witness statement is dated 21 October 2022, aimed at proving that the earlier marks have a reputation.⁴ The holder's evidence is given by Mehmet Ozkan, who is the holder's Vice President of Finance and Operations.⁵ His evidence is aimed at explaining what the holder does and how its mark is used. Mr Olsson's evidence in reply responds to criticisms of his first set of evidence which were made in the holder's submissions.⁶

Section 5(2)(b) of the Act

9. Section 5(2)(b) states:

“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.”

10. Section 5A states:

“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

⁴ Witness statement dated 14 October 2022 and exhibits.

⁵ Witness statement dated 20 December 2022 and exhibits.

⁶ Mr Olsson's second witness statement is dated 14 February 2023.

trade mark is applied for, the application is to be refused in relation to those goods and services only.”⁷

11. The following principles for determining whether there is a likelihood of confusion under section 5(2)(b) of the Act are taken from the decisions of the CJEU 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.⁸

The principles

(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

⁷ This section also applies to the ground raised under section 5(3) of the Act.

⁸ 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. That is why this decision continues to refer to the case law of the EU courts.

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

12. As I mentioned earlier in this decision, earlier mark (ii) claims priority from the EUTM from which earlier mark (i) is derived. Earlier mark (i), a 'comparable mark', is

a clone of the EUTM.⁹ The two earlier marks relied upon are identical and the specifications vary only slightly.

13. The full specifications covered by the earlier marks are set out in the annexe to this decision. The opponent submits in the notice of opposition that its software for video surveillance apparatus, access control apparatus and intercom apparatus; computer application software for mobile devices and handheld personal computers are identical to the holder's class 9 goods. I disagree because the uses or purposes are different. I will make the comparison on the basis of the opponent's goods and services which I consider to be the closest to those of the contested mark, as follows:

Opponent's goods and services	Holder's goods and services
<p>Class 9: cameras, including but not limited to digital cameras, network cameras, web cameras, IP cameras, thermal cameras; motion control devices for cameras; optical motion sensing and tracking devices for cameras</p>	<p>Class 9: Computer hardware and software used for analyzing camera position and orientation, object position and orientation for motion pictures, films, cinematographic productions, television programmes, computer and video games and other visual and audiovisual content.</p>
<p>Class 42: designing computer systems, design and development of products (hardware and software) for others in the field of computers, video techniques, camera techniques, image processing, audio processing, access control and intercom; software design;</p>	<p>Class 42: Design and development of computer hardware and software used for analyzing camera position and orientation, object position and orientation for motion pictures, films, cinematographic productions, television programmes, computer and video games and other visual and audiovisual</p>

⁹ Following the end of the transition period of the UK's withdrawal from the EU, all EU trade marks registered before 1 January 2021 were recorded as comparable trade marks in the UK trade mark register and as a consequence, have the same legal status as if they had been applied for and registered under UK law. A comparable trade mark retains the same filing date, priority date (if applicable) and registration date of the EUTM from which it derives.

<p>engineering;</p> <p>supply of technical know-how; consultation in the field of computer infrastructure, computer hardware, video techniques, camera techniques and image processing, computer software [...]</p>	<p>content; engineering services relating to computer hardware and software used for analyzing camera position and orientation, object position and orientation for motion pictures, films, cinematographic productions, television programmes, computer and video games and other visual and audiovisual content; information, consultancy and advisory services relating to the aforesaid.</p>
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14. In comparing the respective specifications, all relevant factors should be considered, as per *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.* where the CJEU stated at paragraph 23 of its judgment:

“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. Additionally, the criteria identified in *British Sugar Plc v James Robertson & Sons Limited (“Treat”)* [1996] R.P.C. 281 for assessing similarity between goods and services also include an assessment of the channels of trade of the respective goods or services.

16. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs)* (OHIM) the General Court (“GC”) stated that complementary means:¹⁰

“82 ... there is a close connection between [the goods], 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...”.¹¹

17. The holder’s goods are hardware and software which have been limited to particular purposes. Some of those purposes specifically involve cameras, and media which use cameras. Although the nature and purpose is not the same as for cameras, the software is for cameras, for which the opponent has cover. The opponent also has cover for motion control devices for cameras and optical motion sensing and tracking devices for cameras. The holder’s software analyses camera position and orientation, and object positions and orientation. These goods are complementary, at least in fields in which cameras are used, and will share trade channels and users. I find that there is a medium degree of similarity between the opponent’s class 9 goods in the above table and the holder’s *Computer hardware and software used for analyzing camera position and orientation, object position and orientation for motion pictures, films, cinematographic productions, television programmes*.

18. The phrasing of the specification means that the holder’s software is also limited as being for analysing camera position and orientation and object position and orientation for ‘computer and visual games and other visual and audiovisual content’. It is not clear whether software for cameras would be used in such fields, but software for analysing object position and orientation for computer and video games and other visual and audiovisual content would be. The opponent has cover for software design at large, and design and development of hardware and software in the field of computers, video techniques, camera techniques, image processing and audio processing. This would include designing the same software and hardware which is

¹⁰ Case T-325/06.

¹¹ In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is capable of being the sole basis for the existence of similarity between goods and services.

covered by the holder's class 9 goods. There is a complementary relationship, shared trade channels and the same users. The first group of the opponent's class 42 services listed above are similar to a medium degree to all of the holder's class 9 goods.

19. The law requires that goods/services be considered identical where one party's description of its goods/services encompasses the specific goods/services covered by the other party's description (and vice versa).¹² I find that the holder's *Design and development of computer hardware and software used for analyzing camera position and orientation, object position and orientation for motion pictures, films, cinematographic productions, television programmes, computer and video games and other visual and audiovisual content*; is identical to the opponent's designing computer systems, design and development of products (hardware and software) for others in the field of computers, video techniques, camera techniques, image processing, audio processing [...]. The design and development of software in the holder's specification is also identical to the opponent's software design.

20. The opponent has cover for engineering, which is identical to the holder's *engineering services relating to computer hardware and software used for analyzing camera position and orientation, object position and orientation for motion pictures, films, cinematographic productions, television programmes, computer and video games and other visual and audiovisual content*.

21. The opponent's supply of technical know-how; consultation in the field of computer infrastructure, computer hardware, video techniques, camera techniques and image processing, computer software [...] is identical to the holder's *information, consultancy and advisory services relating to the aforesaid*.

22. The opponent's goods and services are subject to the following exclusion:

none of the aforementioned goods in relation to management information system such as supplier relationship management, business intelligence,

¹² *Gérard Meric v OHIM*, Case T-33/05, GC.

logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

23. The exclusion does not affect the comparison because the goods and services in the holder's specification are not covered by the exclusion.

24. In his witness statement for the holder, Mr Ozkan states that the holder's targeted customers are broadcasters using augmented virtual reality and that the holder has no interest in, nor use for, security and surveillance cameras. That is not relevant to the comparison which must be made on the basis of the notional coverage of the terms in the specification. Mr Ozkan also states that "TRAXIS is neither a camera, nor a software for cameras – it is the trademark of a product family." Again, I must consider what is in the specification. "Computer [...] software used for analyzing camera position and orientation" includes software for use for or with cameras.

The average consumer and the purchasing process

25. As the caselaw cited above indicates, it is necessary to decide who the average consumer is for the parties' goods and how they purchase them. "Average consumer" in the context of trade mark law means the "typical consumer."¹³ 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*.

26. The average consumer for the holder's goods and services will most likely be businesses. That is also the case for the opponent's goods and services, with the caveat that it has cover for cameras at large, which will be purchased by both the

¹³ *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).

general public and businesses. The opponent submits that the holder’s specification covers standard, everyday goods and services and that the level of attention will be normal. I do not agree. The level of attention will vary according to the goods and services, but will be at least medium, and in some cases high (such as engineering and design services). For the parties’ goods and services, the purchase is likely to be primarily visual via websites, brochures and physical retail, although there is also likely to be an aural aspect if advice is sought about the goods and services, and particularly in relation to consultation services.

Comparison of marks

27. As both of the earlier marks are the same, I will refer to them in the singular from this point in the decision. The marks to be compared are:

Earlier mark	The holder’s mark
AXIS	TRAXIS

28. *Sabel BV v. Puma AG* 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.”

29. 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.

30. Both parties' marks consist of a single element, in which the overall impression of each mark resides.

31. The earlier mark consist of the four letters AXIS, which also appear in the same sequence in the holder's mark. The holder's mark has six letters, with the additional two letters, TR, at the beginning of the mark to form TRAXIS. In *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, the GC noted that the beginnings of words tend to have more visual and aural impact than the ends. The parties' marks are relatively short, and the presence of TR at the beginning of the holder's mark is a noticeable point of visual difference. The parties' marks are visually similar to a low to medium degree. The same analysis applies to the level of aural similarity: both are two syllable marks, but the holder's mark has an additional two consonants at the beginning which will be heard as the start of the word when it is spoken. It will be heard as TRAK-SIS, rather than AK-SIS, which is how the opponent's mark will be heard.

32. Turning to the conceptual analysis, the holder states that its mark is derived from TRACK and AXIS, "to imply the function and purpose of the system to be used (tracking the object)."¹⁴ I doubt that the average consumer, even if an expert in the area of trade in which the holder states it operates, would understand TRAXIS to be an amalgamation of TRACK and AXIS (which is less apparent visually than aurally). It is the average consumer's conceptual perception which is key.

33. The opponent submits that TR is a "well-known" prefix. It has provided no evidence or explanation to support this submission. I do not know of TR as a prefix.

34. The opponent submits that neither mark has a concept, but "in the event that the UKIPO finds that the marks TRAXIS and AXIS have conceptual meanings, given the inclusion of the word AXIS in both marks, there would be conceptual identity and / or

¹⁴ Counterstatement.

similarity”. This is a puzzling submission. Firstly, it seems nonsensical to submit that there is no meaning but that the UKIPO might find one. Secondly, AXIS is a dictionary word, so it must have a meaning. The first two definitions of AXIS in the *Online Collins Dictionary* are:¹⁵

“1. a real or imaginary line about which a body, such as an aircraft, can rotate or about which a object, form, composition, or geometrical construction is symmetrical

2. one of two or three reference lines used in coordinate geometry to locate a point in a plane or in space”.

35. The average consumer is likely to see AXIS as meaning a geometrical line. TRAXIS is not a dictionary word. It has no meaning. I bear in mind that sometimes invented words can be evocative of known words and their meanings, leading to conceptual similarity. An example of this is GALVALLOY, a mark considered by the GC in *Usinor SA v OHIM*.¹⁶ The Court said:

“62. In the third place, as regards the conceptual comparison, it must be noted that while the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details (*Lloyd Schuhfabrik Meyer*, paragraph 25), he will nevertheless, perceiving a verbal sign, break it down into verbal elements which, for him, suggest a concrete meaning or which resemble words known to him (Case T-356/02 *Vitakraft-Werke Wührmann v OHIM – Krafft (VITAKRAFT)* [2004] ECR II-3445, paragraph 51, and Case T-256/04 *Mundipharma v OHIM – Altana Pharma (RESPICUR)* [2007] ECR II-0000, paragraph 57).

63. In the present case, the Board of Appeal correctly found that the signs at issue have a common prefix, ‘galva’, which evokes the technique of

¹⁵ Accessed on 23 August 2023.

¹⁶ Case T-189/05.

galvanisation, that is, the act of fixing an electrolytic layer to a metal to protect it from oxidation.

64. By contrast, the Board of Appeal incorrectly took the view that a conceptual comparison of the second part of the signs was not possible, because the suffixes 'llia' and 'lloy' were meaningless.

65. That conclusion is based on an artificial division of the signs at issue, which fails to have regard to the overall perception of those signs. As stated in paragraph 59 above, the relevant public, which is French-speaking but has knowledge of the English language, will recognise in the mark applied for the presence of the English word 'alloy', corresponding to 'alliage' in French, even if the first letter of that word ('a') has merged with the last letter of the prefix 'galva', according to the usual process of haplology. That mark will therefore be perceived as referring to the concepts of galvanisation and alloy."

36. In the present case, I doubt that the AXIS part would be picked out because TR is not a word or a prefix, and has no meaning of its own. TRAXIS looks like an invented word and I find that it would be perceived as one. There is no conceptual similarity between the marks because one has a concept (AXIS) and the other does not (TRAXIS).

Distinctive character of the earlier mark

37. The assessment as to whether there is a likelihood of confusion includes considering whether the distinctive character of the earlier mark has been enhanced (i.e. more distinctiveness has been acquired) through the use made of it. If a mark has an inherently high, or an enhanced, level of distinctiveness, the likelihood of confusion is increased. AXIS does not directly describe the goods and services of the earlier mark which I have compared above to those of the holder, nor to the other goods and services relied upon. However, it is mildly allusive of the opponent's "motion control devices for cameras; optical motion sensing and tracking devices for cameras; radars" (class 9) and "services concerning [...] radar;" and "security services for the protection of property and individuals by means of [...] radar" (class 45),

because an axis is a line used to locate a spatial point. For these goods, the mark is of below average inherent distinctiveness. For the other registered goods and services, it is of average distinctiveness.

38. Distinctive character is a measure of how strongly the earlier mark identifies the goods for which it is registered (and on which it may rely), determined, according to *Lloyd Schuhfabrik Meyer & Co.*, partly by assessing the proportion of the relevant public which, because of the mark, identifies the goods as originating from a particular undertaking. At paragraph 23, of its judgment, the CJEU stated:

“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).

39. The opponent has filed evidence about the use it has made of its mark. Although it is entitled to rely upon the use it has made of mark (i) in the EU prior to 31 December 2020, it is only use in the UK which is relevant to the question of whether that use increases the likelihood of confusion.¹⁷ This is because the assessment is made from the perspective of the UK average consumer.

40. Mr Olsson states that the opponent is the market leader in network video cameras for security surveillance and access control. The opponent’s HQ is in Sweden, with 90,000 ‘partners’ in 179 countries around the world. Mr Olsson states that the opponent began trading in the UK in 1986. However, there is little to show this. Screenshots from the archived versions of the opponent’s website, which has a top

¹⁷ Tribunal Practice Notice 2/2020.

level domain of .com, show dating in US format and refer to events outside of the UK. I note, for example, that page 23 of Exhibit NO4 shows that the website archive address ends in “/us/en/”. The opponent has not directed me to, nor highlighted, where I can tell that the website evidence relates to the UK. However, I can see that pages 31 to 42 carry the domain name www.axis.com/en-gb which refers, I assume, to Great Britain. There is not much detail on the prints. The prints were downloaded on 20 October 2022 and where the detail on the prints themselves bear a date, the dates fall in August and October 2022, which is after the relevant date.

41. The YouTube, Twitter and Facebook evidence does not show how many of the subscribers or followers are from the UK. There is some evidence of UK activity in relation to the opponent on LinkedIn, but the date range inputted to obtain the evidence was 1 January 2022 to 20 October 2022, after the relevant date. Mr Olsson states that there are copies of LinkedIn posts made in English for the UK market, but they are not dated. Exhibit NO7 comprises a report of awards won by the opponent which was created in 2012 and last updated in 2017. Many of the awards concern countries other than the UK. The UK awards listed which relate to the opponent’s goods and services, as opposed to individuals who work for the opponent, are as follows:

- 2003: Best use of technology in Government award. AXIS 2400 Video Servers were part of Newport schools’ award winning IP-surveillance solution.
- 2003: AXIS 2640 Network DVR received the Premier Awards 2003 in the Product Innovation category.
- 2004: the opponent won the Premier 2004 award in the New Technology Manufacturer category.
- 2006: PC Pro. AXIS 225D Fixed Dome Network Camera and AXIS 230 MPEG-2 Network Camera received the PC Pro Recommended award.
- 2010: Security Innovation of the Year. AXIS Q1910-E Thermal Network Camera received the 2010 Security Excellence Awards.
- 2014: IFSEC Security Excellence Awards. Winner of the “Security project of the Year” category for the University of West Scotland project by Boston Networks in conjunction with the opponent.

- 2014: PSI Premier Awards. The opponent won the “CCTV Product of the Year” category with AXIS P5414-E PTZ Dome.
- 2016: The opponent won the PSI Premier Award in the category Technology Innovation of the Year 2016.
- 2016: Security Fire and Excellence Awards 2016. AXIS Q3709-PVE Network Camera won CCTV Camera Equipment of the Year.

42. Press articles shown in Exhibit NO8 were published in UK security and IT-related magazines. The mark AXIS is shown in relation to security cameras in such publications (where prior to the relevant date) from 1996, 2000, 2007, 2008, 2009 and 2013. Articles dating from 2016 and 2018 appear to be from US publications, looking at the dating format and the content. These are not relevant to the perception of the UK average consumer. A similar issue arises in relation to Exhibit NO9, which is an article from www.asmag.com, dated “2021/11/18”. Mr Olsson describes the content as showing that the opponent was in the top ten of companies in the security and access control sector in 2021. It is clear from the content, which refers to US\$, and the dating format that this is a US publication. How the article and its contents are relevant to the UK has not been explained.

43. Mr Olsson says this about marketing and turnover:

“18. Since its inception, the Opponent has continuously made significant investments on advertising its products and services under the Axis Trade Marks in the UK and EU. The majority of this expenditure was spent on such items as brand development, research and development, websites, and social media pages. As an example, during 2020 the global Research and Development expenses, as well as the global Sale and Marketing expenses, were estimated at over 2 Billion SEK and 1.7 Billion SEK, respectively. Notable examples have been outlined above and below.

19. As the Opponent is not publicly traded, country-level turnover and sales information is highly confidential.

20. In the year 2014, the Opponent's sales totalled around SEK 5,450 million. In 2016, Axis' sales totalled around SEK 7,386 million, with 52% of its products being sold in the Americas, 36% in EMEA (Europe, Middle East and Africa), and 12% in Asia -a distribution the Opponent continues to maintain today with the 2021 total sales of SEK 11.7 billion and EMEA accounting for 33% of the total sales. The development from 2014 to 2021 shows the continued growth of the business.”

44. None of this is UK-specific, a fact pointed out by Mr Ozkan in his evidence. In his evidence in reply, Mr Olssen simply re-iterated the statement that the opponent's country-level turnover is confidential. The opponent could have requested confidentiality. At the very least, the remainder of its evidence should point convincingly to the UK, at the relevant date, to make up for the absence of UK-specific figures. The opponent has not taken either of these courses of action. Although it states that the invoices in Exhibit NO6 show use in the UK, they are underwhelming given the lack of corroborative evidence pointing to the UK at the relevant date. Five of the invoices dates from 1986, several of which are for unspecified goods or services. The most recent invoice dates from 2011, ten years prior to the relevant date. All the financial information has been redacted, even for invoices as old as these. I do not understand why recent invoices have not been provided.

45. There are no UK-specific turnover figures, marketing figures, nor any visible financial information on the invoices provided. The most recent invoice was a decade old at the relevant date. There is no social media evidence which shows UK awareness prior to the relevant date. The most recent press article relating to the UK dates from 2013, eight years prior to the relevant date. The most recent award in the UK was in 2016, five years prior to the relevant date. This represents the high point of the opponent's evidence but, without other corroborative evidence, the opponent has not shown that, at the relevant date, its mark benefitted from an enhanced degree of distinctive character.

Likelihood of confusion

46. Deciding whether there is a likelihood of confusion is not scientific; it is a matter of considering all the factors, weighing them and looking at their combined effect, in accordance with the authorities set out earlier in this decision. One of those principles states that a lesser degree of similarity between goods and services may be offset by a greater degree of similarity between the trade marks, and vice versa. The level of similarity between the parties' goods and services which I have compared is either identical or medium.

47. Direct confusion occurs where marks are mistaken for one another, flowing from the principle 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 which has been retained in the mind. Even in relation to identical services, there is no likelihood of direct confusion. I have already referred to the difference at the start of the (relatively short) marks. I am aware that, on occasion, common elements at the end of marks may also be sufficient to create a likelihood of confusion. For example, in *Bristol Global Co Ltd v EUIPO*, Case T-194/14, the GC held that there was a likelihood of confusion between AEROSTONE (slightly stylised) and STONE if both marks were used by different undertakings in relation to identical goods (land vehicles and automobile tyres). This was despite the fact that the beginnings of the marks were different. The common element, STONE, was sufficient to create the necessary degree of similarity between the marks as wholes for the opposition before the EUIPO to succeed. The difference in the present case is that the different beginning is not an identifiable element which is separate to the common element. It comprises the letters TR, which create, when added to AXIS, an invented word which is not capable of dissection; at least, not when perceived by the average consumer.

48. In addition to the different beginnings of the marks, one has a concept and the other does not. This helps to offset the visual and aural similarities which are, in any case, of only a low to medium degree.¹⁸ Further, in relation to the goods of the earlier mark, the concept of AXIS means that the earlier mark has only a low to medium

¹⁸ *The Picasso Estate v OHIM*, CJEU, Case C-361/04 P.

degree of inherent distinctive character, and no more than medium for the services. Even when only a medium degree of attention is paid to the purchase, the marks will not be mistaken for one another.

49. The opponent has not explicitly addressed indirect confusion, which I assume means that it considers there to be direct, rather than indirect, confusion. However, in its submissions filed with its first set of evidence, the opponent said:

“4.39 It is submitted that the Opponents is the owner of a family of marks which all contain the word AXIS. The Earlier Registrations are examples of such group of marks that are owned and used by the Opponent. It is established that the finding that a particular mark forms part of a family of marks requires that the common component of the signs is identical or very similar. The signs must contain the same distinctive element, and this element must play an independent role in the sign as a whole.

4.40 The common element that characterises the family appears in the same position within the marks. Therefore, the same (or very similar) element appearing in the same position in the contested mark of the Application will be a strong indicator that the mark of the Application could be associated with the Opponent's family of marks.”

50. There was no family of marks claim pleaded in the notice of opposition. The family of marks issue appears to have occurred to the opponent when filing its evidence. No request was made to add the claim. Even in the above submissions, the family of marks is not identified. All of this is unfair to the holder. However, even if the family of marks claim had been pleaded up front, it makes no difference. Looking at the evidence, the claim appears to be predicated on the fact that the opponent uses AXIS and then model numbers, or a mark such as NETEYE after AXIS. There is no reason why the average consumer, even if it knows this, will then assume that putting TR in front of AXIS, to make an invented word, must indicate another mark in the opponent's family of marks. It is not the pattern which the opponent claims for its family of marks.

51. For completeness, I also find that there is no likelihood of indirect confusion outside of a family of marks claim, whereby the consumer recognises that the marks are different, but puts the similarities between them down to the undertakings being the same or economically linked.¹⁹ Indirect confusion is not a consolation prize for an opponent which has not succeeded in a finding of direct confusion. Differences between marks which are the reason why there is no likelihood of direct confusion might also be the reason why there is no indirect confusion.²⁰ Adding the letters TR to the front of a known word to create an invented word will not indicate a brand extension, or brand collaboration to the average consumer.

52. There is no likelihood of confusion, either directly or indirectly. I also consider that if I am wrong that the inherent distinctiveness of the earlier mark has not been enhanced through use, that there would only be a modest lift to above average for security cameras. This is not enough to alter my findings of no likelihood of confusion for all the reasons given above.

Section 5(2)(b) outcome

53. The section 5(2)(b) ground of opposition fails.

Section 5(3) of the Act

54. Section 5(3) states:

“(3) A trade mark which-

is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom and the use of the later mark without due cause would take unfair advantage

¹⁹ See *Back Beat Inc v L.A. Sugar (UK) Limited*, BL O/375/10, Mr Iain Purvis QC, sitting as the Appointed Person.

²⁰ See the comments of Mr James Mellor QC, sitting as the Appointed Person in *Cheeky Italian Limited v Ashish Sutaria*, BL O/219/16.

of, or be detrimental to, the distinctive character or the repute of the earlier trade mark”.

(3A) Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier trade mark is protected.”

55. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, *General Motors*, Case 252/07, *Intel*, Case C-408/01, *Adidas-Salomon*, Case C-487/07, *L’Oreal v Bellure* and Case C-323/09, *Marks and Spencer v Interflora* and Case C-383/12 P, *Environmental Manufacturing LLP v OHIM*. The law appears to be as follows.

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

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

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Saloman*, paragraph 29 and *Intel*, paragraph 63.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark’s reputation and distinctiveness; *Intel*, paragraph 42.

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph

68; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

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

(g) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel*, paragraphs 76 and 77 and *Environmental Manufacturing*, paragraph 34.

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

(i) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV*, paragraph 40. The stronger the reputation of the earlier mark, the easier it will be to prove that detriment has been caused to it; *L'Oreal v Bellure NV*, paragraph 44.

(j) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in

order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora*, paragraph 74 and the court's answer to question 1 in *L'Oreal v Bellure*).

56. For a successful claim under section 5(3), cumulative conditions must be satisfied by the opponent: similarity between the marks; a qualifying reputation in the earlier mark; a link between the marks (the earlier mark will be brought to mind on seeing the later mark); and one (or more) of the claimed types of damage. It is not necessary that the goods and services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the relevant public will make a link between the marks.

57. The first condition of some similarity between the marks is satisfied, as found earlier in this decision.

58. The next condition is reputation. Reliance upon this ground requires evidence of a reputation amongst a significant part of the relevant public, as stated in *General Motors*:

“25. It cannot be inferred from either the letter or the spirit of Article 5(2) of the Directive that the trade mark must be known by a given percentage of the public so defined.

26. The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.

27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.

28. Territorially, the condition is fulfilled when, in the terms of Article 5(2) of the Directive, the trade mark has a reputation ‘in the Member State’. In the absence of any definition of the Community provision in this respect, a trade mark cannot be required to have a reputation ‘throughout’ the territory of the Member State. It is sufficient for it to exist in a substantial part of it.”

59. The opponent relies upon all the goods and services of its earlier marks, as set out in the annexe to this decision. Having assessed the evidence, if there is any reputation, it is limited to security cameras. However, the issues I identified with the evidence in making the assessment as to whether the distinctiveness of the earlier mark had been enhanced through use also apply here. It is difficult to tell whether the required knowledge threshold had been reached by a significant part of the public concerned because of the shortcomings in the evidence.²¹ Unlike the enhanced distinctive character assessment, for this ground the opponent is able to rely upon EU use of mark (i) up until 31 December 2020. However, the only difference this makes is that the awards made in EU countries can be taken into account. Even if I were to find a qualifying reputation in the EU as of 31 December 2020 in relation to security cameras, it is still necessary for there to be a link made in the minds of the UK relevant public. The evidence falls at this hurdle, even if it clears the reputation hurdle because there is not enough evidence to demonstrate that the UK relevant public would be sufficiently aware of the mark.

60. If I am wrong about that, and that there is a modest reputation, I still consider that a link would not be made because of the differences between the marks. Part of the opponent’s case is that the holder’s customers will assume the goods and services are those of the opponent or an economically linked undertaking because they are confused. As there is no likelihood of confusion, this part of the claim fails. Without a link, there can be no damage. Even if there is a link (for which a likelihood of confusion is unnecessary), it will be too fleeting, given the differences between the marks and the level of attention of the relevant public, to cause any damage. There is no image that comes out in the evidence which may be transferred, and no evidence

²¹ *Burgerista Operations GmbH v Burgista Bros Limited* [2018] EWHC 35 (IPEC) at paragraph 69.

(only speculation) that the distinctiveness of the earlier mark will be diluted through the use of the contested mark. Lastly, a claim that poor quality goods and services would damage the reputation, without any evidence of such, is purely hypothetical. The section 5(3) claim fails.

Section 5(3) outcome

61. The section 5(3) ground of opposition fails.

Overall outcome

62. The opposition fails.

Costs

63. The holder has been successful and is entitled to a contribution towards the costs of the proceedings. Costs are usually based upon the scale of costs published in Tribunal Practice Notice 2/2016, the scale allowing for the range of procedural and substantive issues that are generally found in cases before this Tribunal. The breakdown of the cost award is as follows:

Considering the opposition and filing the counterstatement	£400
Considering the opponent's evidence and submissions and filing evidence and submissions	£800
Total	£1200

64. I order Axis AB to pay Zerodensity Yazilim Anonim Şirketi the sum of **£1200**. This sum is to 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 29th day of August 2023

Judi Pike
For the Registrar

Annexe: the goods and services relied upon by the opponent

Mark (i) 916915217

Class 9: Security surveillance apparatus; video surveillance apparatus; electric and electronic video surveillance installations; cameras, including but not limited to digital cameras, network cameras, web cameras, IP cameras, thermal cameras; access control apparatus; access control installations; intercom apparatus; intercom installations; video intercom systems; audio intercom systems; software for video surveillance apparatus, access control apparatus and intercom apparatus; accessories for video surveillance apparatus, access control apparatus and intercom apparatus; computer application software for mobile devices and handheld personal computers; cloud servers, cloud computing software; camera housings; mounting devices for cameras; casings and covers for cameras; camera lenses; control boards, power accessories; joysticks all for the use together with cameras, video surveillance, access control and intercom apparatus and installations; illuminators (other than for medical use) only for the use together with cameras, video surveillance, access control and intercom apparatus and installations; cables and connectors, installation displays all for the use together with cameras, video surveillance, access control and intercom apparatus and installations; video encoders; video decoders; camera servers, chips (integrated circuit); motion control devices for cameras; optical motion sensing and tracking devices for cameras; radars; microphones; speakers; none of the aforementioned goods in relation to management information system such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 35: Arranging of business and financial contacts, also via internet; distribution of goods for advertising purposes; promoting the goods and services of others; providing an online searchable database of commercial information, also via the internet; business services, namely, providing computer databases regarding the purchase and sale of a variety of products and services of others; retail sales services;

arranging of exhibitions for commercial purposes; none of the aforementioned services being marketing/sales related services, including providing insight and technology led solutions for marketing and sales activities and operations; procurement services for others (purchasing goods and services for other businesses), commercial administration of licensing; distribution services, including wholesale business, regarding cameras, including but not limited to digital cameras, network cameras, web cameras, IP-cameras, thermal cameras, video encoders, video decoders, security surveillance apparatus, access control apparatus, intercom apparatus, radars, microphones, speakers, computers, computer programs, video management software, peripherals and accessories for cameras and computers; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 38: Telecommunication services; intercommunication services; IP-communication services; communications by computer networks namely documents and instructions to and from network servers, requests for images and sound; electric and digital transmission of data, signals and images; computer aided and electronic transmission of images, voice and data; voice over IP-services; providing access to computer databases; granting access time to data bases; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 41: Teaching/education; arranging of guidance/instruction; arranging and conducting of conferences, congresses, seminars, workshops and symposiums; guidance, practical training (demonstration); publication of texts other than publicity texts; providing on-line electronic publications (downloadable); education academies;

certification of education and training awards; publication of books; not to management information system such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 42: Professional consulting activities in the form of professional technical expertise (non business); technical expertise; computer consulting services regarding program design for microprocessors, updating of computer programs for text, video, audio, images and data processing, consultation for product development; consulting activities in the form of testing and consultation for new products and development of new products; consultation in the field of computer infrastructure, computer hardware, video techniques, camera techniques and image processing, computer software, system integration and recorded computer programs, access control and intercom; designing computer systems, design and development of products (hardware and software) for others in the field of computers, video techniques, camera techniques, image processing, audio processing, access control and intercom; designing, development, consultation and research in the field of computer application software of mobile devices and handheld personal computers; technical consultation and research in the fields of computers, software and electronic data, system integration, computer processing and video techniques, camera techniques and image processing, access control apparatus, intercom apparatus, security surveillance and video surveillance; engineering; supply of technical know-how; industrial designing, computer programming, computer system analysis; software design; maintenance and support of software, updating software; cloud services; rental and leasing of computer processing apparatus and computers; hosting computer sites (web sites); maintaining and creating web sites for others; development of electronic surveillance apparatus; designing, development, technical consultation and research concerning electronic surveillance, burglar alarms, security, security alarms, security systems and access control systems for security purposes, intercom; supply of technical know-how;

none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 45: Services concerning burglar alarms, security and surveillance, security alarms, security systems, surveillance systems, radar, access control and intercom systems; monitoring of burglar and security alarms; security services for the protection of property and individuals by means of electronic surveillance, burglar alarms, security, security alarms, security systems, radar, access control systems and intercom systems; computerized surveillance services relating to break and enter; licensing of software; licensing of know-how; licensing of intellectual property; computerized surveillance services relating to break and enter; rental of security surveillance apparatus; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Mark (ii) IR 1377573

Class 9: Security surveillance apparatus; video surveillance apparatus; electric and electronic video surveillance installations; cameras, including but not limited to digital cameras, network cameras, web cameras, IP cameras, thermal cameras; access control apparatus; access control installations; intercom apparatus; intercom installations; video intercom systems; audio intercom systems; software for video surveillance apparatus, access control apparatus and intercom apparatus; accessories for video surveillance apparatus, access control apparatus and intercom apparatus; computer application software for mobile devices and handheld personal computers; cloud servers, cloud computing software; camera housings; mounting devices for cameras; casings and covers for cameras; camera lenses; control boards,

power accessories; illuminators (other than for medical use), only for use together with cameras, video surveillance, access control and intercom apparatus and installations; joysticks, cables and connectors, installation displays, all for the use together with cameras, video surveillance, access control and intercom apparatus and installations; video encoders; video decoders; camera servers, chips (integrated circuit); motion control devices for cameras; optical motion sensing and tracking devices for cameras; radars; microphones; speakers; none of the aforementioned goods in relation to management information system such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 35: Arranging of business and financial contacts, also via Internet; distribution of goods for advertising purposes; promoting the goods and services of others; providing commercial information from an online searchable database, also via the Internet; business services, namely providing business information regarding the purchase and sale of a variety of products and services of others by means of computer databases; retail sales services connected with cameras, including but not limited to digital cameras, network cameras, web cameras, IP-cameras, thermal cameras, video encoders, video decoders, security surveillance apparatus, access control apparatus, intercom apparatus, radars, microphones, speakers, computers, computer programs, video management software, peripherals and accessories for cameras and computers; arranging of exhibitions for commercial purposes, procurement services for others (purchasing goods and services for other businesses), commercial administration of licensing; distribution services, including wholesale business, regarding cameras, including but not limited to digital cameras, network cameras, web cameras, IP-cameras, thermal cameras, video encoders, video decoders, security surveillance apparatus, access control apparatus, intercom apparatus, radars, microphones, speakers, computers, computer programs, video management software, peripherals and accessories for cameras and computers; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material

management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 38: Telecommunication services; intercommunication services; Internet protocol (IP) communication services; communications by computer networks namely documents and instructions to and from network servers, requests for images and sound; electric and digital transmission of data, signals and images; computer aided and electronic transmission of images, voice and data; voice over Internet protocol (VoIP) services; providing access to computer databases; granting access time to data bases; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 41: Teaching/education; arranging of guidance [education or training advice] or instructions; arranging and conducting of conferences, congresses, seminars, workshops and symposiums; guidance [education or training advice], practical training (demonstration); publication of texts other than publicity texts; education academies; certification of education and training awards; publication of books; not to management information system such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 42: Professional consulting activities in the form of professional technical expertise (non business) in the field of security and surveillance; technical expertise;

computer consulting services regarding program design for microprocessors, updating of computer programs for text, video, audio, images and data processing, consultation for product development; consulting activities in the form of testing and consultation for new products and development of new products; consultation in the field of computer infrastructure, computer hardware, video techniques, camera techniques and image processing, computer software, system integration and recorded computer programs, access control and intercom; designing computer systems, design and development of products (hardware and software) for others in the field of computers, video techniques, camera techniques, image processing, audio processing, access control and intercom; designing, development, consultation and research in the field of computer application software of mobile devices and handheld personal computers; technical consultation and research in the fields of computers, software and electronic data, system integration, computer processing and video techniques, camera techniques and image processing, access control apparatus, intercom apparatus, security surveillance and video surveillance; engineering; consultancy services relating to technical research; industrial designing, computer programming, computer system analysis; software design; maintenance and support of software, updating software; cloud computing services; rental and leasing of computer processing apparatus and computers; hosting computer sites (web sites); maintaining and creating web sites for others; development of electronic surveillance apparatus; designing, development, technical consultation and research concerning electronic surveillance, burglar alarms, security, security alarms, security systems and access control systems for security purposes, intercom; supply of technical know-how; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.

Class 45: Security services concerning burglar alarms, security and surveillance, security alarms, security systems, surveillance systems, radar, access control and intercom systems; monitoring of burglar and security alarms; security services for the protection of property and individuals by means of electronic surveillance, burglar

alarms, security, security alarms, security systems, radar, access control systems and intercom systems; computerized surveillance services relating to break and enter; licensing of software; licensing of know-how; licensing of intellectual property; computerized surveillance services relating to break and enter; rental of security surveillance apparatus; none of the aforementioned services in relation to management information systems such as supplier relationship management, business intelligence, logistics, material management, business process reengineering and management; not to automatic data integration or exchange of business-process data; not to music production, musical composition, and/or production, or musical instruments; not to scales; not to accounting and financial information systems and software.