

O/0828/23

TRADE MARKS ACT 1994

IN THE MATTER OF
TRADE MARK APPLICATION NO. UK00003704093
BY HAUFF-TECHNIK GMBH & CO. KG
TO REGISTER:

G-BOX

AS A TRADE MARK
IN CLASSES 6, 9, 17, 19 AND 37

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 433181
BY TRIARCA A/S

BACKGROUND AND PLEADINGS

1. On 29 September 2021, Hauff-Technik GmbH & Co. KG (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was made pursuant to Article 59 of the Withdrawal Agreement between the United Kingdom and the European Union. Under the terms of that agreement, the applicant is entitled to rely upon the earlier EU filing date i.e. 19 June 2020. The application also claims priority from an earlier German mark (no. 3020190287882 from 20 December 2019). The application was published for opposition purposes on 4 February 2022 and registration is sought for the goods and services in **Annex 1**.¹

2. The opposition was opposed by Triarca A/S (“the opponent”) on 4 May 2022. The opposition is based on section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies on the following mark:

GOBOX

UK917908615²

Filing date 29 May 2018; date of entry on register 29 November 2019.

Relying on the following goods:

Class 6: *Fireproof cabinets of metal [other than furniture].*

Class 9: *Apparatus, instruments and cables for electricity; measuring, detecting and monitoring instruments, indicators and controllers; navigation, guidance, tracking, targeting and map making devices; information technology and audiovisual equipment; magnets, magnetizers and demagnetizers; safety,*

¹ The applicant filed a limitation to the goods and services for its application after publication, the resultant changes are reflected in the Annex to this decision.

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

security, protection and signalling devices; scientific and laboratory devices for treatment using electricity; computers and computer hardware; computer components and parts; scientific research and laboratory apparatus, educational apparatus and simulators; data processing equipment and accessories (electrical and mechanical).

3. The opponent claims that due to the similarity between the parties' marks and the identity and/or similarity of the goods and services at issue, there exists a likelihood of confusion on the part of the relevant public, which includes the likelihood of association.

4. The applicant filed a counterstatement denying the claims made.

5. The applicant is represented by Kilburn & Strode; the opponent is represented by Patrade A/S. Only the applicant filed evidence. The opponent filed submissions during the evidence rounds. No hearing was requested. Only the applicant filed submissions in lieu of a hearing. The decision is taken following careful consideration of the papers.

6. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Act relied upon in these proceedings are derived from an EU Directive. This is why this decision continues to make reference to the trade mark case-law of EU courts.

EVIDENCE

7. As above, the applicant filed evidence. The applicant's evidence came in the form of the witness statement of Mr Michael Seibold. Mr Seibold is the Managing Director of Hauff-Technik, a position he has held since January 2005. Mr Seibold's evidence is accompanied by 6 exhibits, labelled MS 1 to MS 6.

8. I do not intend to summarise the evidence and submissions at this stage but will refer to the evidence and submissions where necessary throughout this decision.

PRELIMINARY ISSUE

9. I note that within its submissions, the opponent submits that they have already been successful in identical opposition proceedings against the applicant in the EU. The opponent states that the identical EU trade mark application was refused for all the goods in class 9 and some of the services in class 37. The opponent states that the decision was not appealed by the applicant. I have read the attached decision, and whilst noted, I am not bound by the EUIPO's decision in these proceedings.

DECISION

Section 5(2)(b): legislation and case law

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

“(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 or association with the earlier trade mark.”

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

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

12. Given its filing date, the opponent's mark qualifies as an earlier trade mark under the above provisions. The opponent's mark completed its registration process less than five years before the priority date of the application and, therefore, is not subject to proof of use conditions. Therefore, the opponent can rely on all the goods for which its mark is registered.

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

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

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

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

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

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

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

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

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

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

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

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

THE COMPARISON OF THE GOODS AND SERVICES

14. The goods and services to be compared are as follows:

The applicant's goods and services	The opponent's goods
Class 9: <i>Splice sleeves for ground installation for data cables, in particular fibre optic cables; Components of splice sleeves for ground installation for data cables, in particular fibre optic cables</i>	Class 6: <i>Fireproof cabinets of metal [other than furniture].</i> Class 9: <i>Apparatus, instruments and cables for electricity; measuring,</i>

(included in Class 9); Fibre optic cables, pre-fabricated with sockets; Fibre optic cables, pre-fabricated with fitting aids and/or fasteners; Outdoor housings for ground installation to house antennas, in particular WLAN antennas; Outdoor housings for radio receiving tuners and/or transmitters; Outdoor housings for ground installation to house sealing containers, splice cassettes and housings for electric and data installations, Sealing containers for ground installation to house housings, namely housings to house data cables, housings to house antennas and housings for radio receivers and/or radio transmitters; Parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 9 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 17: *Plastics in extruded form for use in manufacture; Sealing, packing and insulating materials; Flexible pipes, not of metal; Seals, in particular compression seals; Expansion joint fillers; Sealing compounds; Sealing*

detecting and monitoring instruments, indicators and controllers; navigation, guidance, tracking, targeting and map making devices; information technology and audiovisual equipment; magnets, magnetizers and demagnetizers; safety, security, protection and signalling devices; scientific and laboratory devices for treatment using electricity; computers and computer hardware; computer components and parts; scientific research and laboratory apparatus, educational apparatus and simulators; data processing equipment and accessories (electrical and mechanical).

means; Packing rings; Sealing strips; Substances for insulating buildings against moisture; Ebonite moulds; Sealant compounds for joints; Gum, raw or semi-worked; Rings of rubber; Rubber plugs; Ebonite; Synthetic resins [semi-finished products]; Plastic substances, semi-processed; Pipe and cable gaskets; Pipe sleeves, not of metal; Junctions, not of metal, for pipes; Hoses of textile material; Synthetic rubber; Waterproof packings; Spacers (other than pipe clamps); Sealing ducts for passing through electricity, gas, water, heating, telecommunications, signal or data lines; Flexible duct tubes and pipes, shrink tubes, connection couplings; Couplings; Flexible tubes, not of metal; Pipe clamps of rubber; Jackets for pipes; Casings of rubber for tubes; Pipe sealing compositions; Glands for pipes; Pipe clamps of rubber; Pipe clamps of rubber; Non-metallic couplings for tubes; Non-metallic adapters for mounting pipe fittings on housings; Non-metallic couplings for pipes; Non-metallic couplings for pipes; Fittings of rubber for tubes; Seals for pipe connections; Non-metallic connections for pipes; Non-metallic connections for pipes; Pipe spacers (Non-metallic -); Non-metallic couplings for pipes; Parts and accessories for all the aforesaid goods,

included in this class; all the aforesaid goods in class 17 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 19: *Building and construction materials and elements, not of metal; Construction materials and construction elements of plastic; Building materials and construction elements of concrete; Manhole covers, not of metal; Manhole liners, not of metal; Props, not of metal; Beams, not of metal; Non-metallic parts of transportable buildings; Rigid pipes, not of metal, for building; Gutter pipes, not of metal; Concrete building elements; Shuttering, not of metal, for concrete; Drain pipes, not of metal; Sandstone pipes; Building materials, predominantly of plastics, in particular housings for installation in the ground, in particular waterproof housings; Parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 19 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all*

of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 37: *Construction services; Repair of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; Installation of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; Consultancy in the construction sector, assembly in the construction sector, all of the aforesaid in particular relating to the connection of buildings with supply lines; Installation, in particular in relation to switch cabinets, splice sleeves, splice cassettes, switch cabinet components and other distributing devices, all of the aforesaid for electric or fibre optic cables, including in relation to the laying and interior connection of electric and fibre optic cables; Repair and installation of switchboards, switch cabinets, splice closures and other devices for distributing electric or fibre-optic cables; all the aforesaid services in class 37 not for plants for the production of electric energy, heat and cold; all the aforesaid services not for charging stations for electromobility; all of the aforesaid services for fibre optic network*

<i>expansion by telecommunication companies and public utilities.</i>	
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15. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the Court of Justice of the European Union (“CJEU”) in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

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

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

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and, in particular, whether they are or are likely to be found on the same or different shelves;

(f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance, whether market research companies, who of course act for industry, put the goods or services in the same or different sectors

17. In *Boston Scientific Ltd v OHIM*, Case T-325/06, the General Court (GC) stated that “complementary” means:

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

18. I also note that, in relation to the task of comparing the parties’ goods and services, Mr Geoffrey Hobbs Q.C., as the Appointed Person, in *Separode Trade Mark*, BL O/399/10 confirmed (at paragraph 5) that:

“The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision.”

19. In *Les Éditions Albert René v OHIM*, Case T-336/03, the GC found that:

“61... The mere fact that a particular good is used as a part, element or component of another does not suffice in itself to show that the finished goods containing those components are similar since, in particular, their nature, intended purpose and the customers for those goods may be completely different.”

Class 9

20. I note in its submissions, the opponent submits that the contested goods in class 9 are all “either identical or at least highly similar to the opponent’s goods”. The opponent submits that this is on the basis that the goods are all electronic apparatus and instruments or at least products that are highly similar to these and are sold through the same trade channels.

21. I note that the applicant’s class 9 goods are subject to the following limitations *“all the aforesaid goods in class 9 not for plants for the production of electric energy, heat and cold”, “all the aforesaid goods not for charging stations for electromobility”* and *“all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public”*. Whilst I do not intend to repeat the limitation in respect of every term in this class of the specification throughout the following comparison, I will keep it in mind and factor it into my analysis.

22. *“Splice sleeves for ground installation for data cables, in particular fibre optic cables”* to my understanding, are protective sleeves that are used to house carbon fibre that has been connected together. I consider that these goods in the applicant’s specification are similar to *“[...] cables for electricity”* in the opponent’s specification. I consider that the goods may overlap in users, in that a business/individual installing electrical cables may also be looking to install some of their fibre optic network to their property. In addition, I am of the view that the goods could be purchased from the same retail store or its online equivalent and therefore, share the same trade channels. However, I do not consider that the goods will coincide in method of use, purpose or nature. I also, do not consider that the goods are in competition, nor do I consider that they are complementary. In relation to complementarity, whilst I am of the view that they may be viewed as originating from the same undertakings, I do not consider that there is a close connection between them, in the sense that one is indispensable or important for the use of the other. Taking the above into consideration, I find the goods to be similar to a low degree. I can see no other point of similarity which would put the opponent in any stronger position.

23. I consider that *“components of splice sleeves for ground installation for data cables, in particular fibre optic cables (included in Class 9)”* in the applicant’s specification is one step further removed from the comparison outlined above. I do not

consider that the findings that I have made above apply here, this is because as components to splice sleeves, I do not consider that there is any overlap in trade channels. This leaves only an overlap in user, which I do not consider is sufficient to substantiate similarity. In my view, these goods are dissimilar. I can see no other point of similarity which would put the opponent in any stronger position.

24. I consider that *“fibre optic cables, pre-fabricated with sockets”* and *“fibre optic cables, pre-fabricated with fitting aids and/or fasteners”* in the applicant’s specification are similar to *“[...] cables for electricity”* in the opponent’s specification. This is on the basis that they coincide in nature, as they are all cables. Whilst I recognise that the purpose of the cables will differ, as the applicant’s goods will be used for telecommunication networks in the installation of fibre optic networks and the opponent’s goods will be used for electricity; it is my understanding that in telecommunications installations, fibre optical networks are now being installed on top of previously installed electrical networks. I also consider that there may be an overlap in the users of the goods, as the average consumer may purchase fibre optic cables alongside electric cables to be used between for example televisions and stereos or televisions and amplifiers. Taking that into account, I also consider that these goods would be purchased from the same retailers, therefore, I find the goods to share the same trade channels. I do not consider that the goods are in competition, nor do I consider them to be complementary. This is on the basis that I am not of the view that one parties’ goods is indispensable or important for the use of the other in such a way that customers may think the responsibility for those goods lies with the same undertaking. Consequently, I consider the goods to be similar to a medium degree.

25. I will be comparing the following of the applicant’s goods collectively on the basis that these goods seem to me to be much alike, and, in line with the guidance in *Separode* that I cited above, are sufficiently comparable to be assessable for the registration essentially the same way for essentially the same reasons:

“Outdoor housings for ground installation to house antennas, in particular WLAN antennas”, “outdoor housings for radio receiving tuners and/or transmitters”, and “outdoor housings for ground installation to house sealing containers, splice cassettes and housings for electric and data installations,

Sealing containers for ground installation to house housings, namely housings to house data cables, housings to house antennas and housings for radio receivers and/or radio transmitters”.

I consider that all of the goods are weatherproof outdoor enclosures that protect cables, antennas etc from a variety of environmental hazards and obstructions. I consider that these goods are similar to “*apparatus, instruments and cables for electricity*” in the opponent’s specification. Whilst I recognise that the applicant’s goods are for telecommunications and the opponent’s goods are for electricity, I am of the view that the opponent’s goods are inclusive of all the apparatus for electricity, which I consider to be inclusive of outdoor housings that can be used to house electric cables. They overlap in nature and method of use. However, the goods will differ in purpose and uses, as one will house telecommunications and the other will house electrical cables. I am of the view that the goods can be purchased from the same stores and will be situated in the same area in a retail store, therefore, I consider that the goods will overlap in trade channels. I also consider that there may be some overlap in users, as purchasers of the goods may be looking to install both electricity and telecommunication networks. I do not consider that the goods are either complementary or in competition. In light of this, I consider that the goods are similar to a medium degree.

26. *That leaves “parts and accessories for all the aforesaid goods, included in this class”* in relation to the class 9 goods in the applicant’s specification. In my view, it is unclear what “*parts and fittings*” are in relation to the goods in the applicant’s specification. Additionally, no submissions or evidence have been provided to assist me in this matter. For the goods that I have found to be similar to a medium degree, I am of the view that the parts and fittings associated with the goods will overlap in trade channels and users. Therefore, I find the parts and fittings of these goods to be similar to a low degree. For the goods that I found to be similar to a low degree, I am of the view that the parts and fittings associated with the goods are dissimilar. Where the goods are dissimilar, it follows that the parts and fittings for those goods are also dissimilar to the goods in the opponent’s specification.

Class 17

27. I note in its submissions, the opponent submits that the contested goods and services in classes 17, 19 and 37 are all highly similar to the opponent's goods in classes 6 and 9 or to a great extent related to these. In relation to class 17, the opponent submits that the goods are sold through the same "sales channels" as the opponent's goods.

28. I note that the applicant's class 17 goods are subject to the following limitations "*all the aforesaid goods in class 17 not for plants for the production of electric energy, heat and cold*", "*all the aforesaid goods not for charging stations for electromobility*", and "*all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities*". Whilst I do not intend to repeat the limitation in respect of every term in this class of the specification throughout the following comparison, I will keep it in mind.

29. I consider that "*plastics in extruded form for use in manufacture*", "*plastic substances, semi-processed*", "*ebonite moulds*", "*ebonite*", "*synthetic rubber*", "*gum, raw or semi-worked*", and "*synthetic resins [semi-finished products]*" in the applicant's specification are plastics and materials that are used in the manufacture of goods. I am unable to find any similarity between the applicant's goods and any of the goods in the opponent's specification. The goods differ in nature, purpose, method of use, users and trade channels. The goods are neither in competition nor complementary. In light of this, I find the goods to be dissimilar.

30. I compared "*sealing, packing and insulating materials*", "*seals, in particular compression seals*", "*sealing compounds*", "*sealing means*", "*sealing strips*", "*sealant compounds for joints*", "*pipe sealing compositions*", "*sealing ducts for passing through [...] , gas, water, heating, telecommunications, signal or data lines*", and "*seals for pipe connections*" in the applicant's specification collectively in line with the guidance of *Separode*. I compared the applicant's goods with "*apparatus, instruments and cables for electricity*" in the opponent's specification. Taking into consideration the aforementioned limitations, the applicant's goods are for use for the fibre optic expansion by telecommunication companies and the public, I consider that the goods have a level of similarity. The goods are likely to be purchased from the same trade

channels such as hardware stores or specialist equivalents and I consider that the goods overlap in users. The goods differ in method of use, purpose and nature. I do not consider that the goods are in competition, nor are they complementary. In light of this, I find the goods to be similar to a low degree. I can see no other point of similarity which puts the opponent in any stronger position.

31. I consider that “*sealing ducts for passing through electricity [...] lines*” in the applicant’s specification and “*apparatus, instruments and cables for electricity*” in the opponent’s specification are similar. I consider that the parties’ goods are likely to be sold by the same trade channels, such as a hardware store or specialist equivalent. In addition, I consider that there will be an overlap in users. Further, I consider that the goods will be complementary on the basis that the sealing ducts for electricity will be important or indispensable for the opponent’s goods, and I am of the view that the average consumer will consider that they originate from the same undertaking. Taking the above into account, I find the goods to be similar to a medium degree.

32. Whilst I consider that the following goods in the applicant’s specification and “*apparatus, instruments and cables for electricity*” in the opponent’s specification may coincide in being sold through the same retail store and therefore overlap in user, I have been unable to identify any further similarity between the parties’ goods. I am not of the view that this is sufficient in itself to warrant a finding of similarity and I find the following goods to be dissimilar. However, if I am mistaken, I find the following goods to be similar to a low degree:

“Flexible pipes, not of metal; expansion joint fillers; packing rings; substances for insulating buildings against moisture; pipe and cable gaskets; hoses of textile material; waterproof packings; spacers (other than pipe clamps); pipe spacers (non-metallic -); flexible duct tubes and pipes, shrink tubes, connection couplings; couplings; non-metallic couplings for tubes; non-metallic couplings for pipes; non-metallic couplings for pipes; non-metallic couplings for pipes; non-metallic adapters for mounting pipe fittings on housings; non-metallic connections for pipes; non-metallic connections for pipes; rings of rubber; rubber plugs; pipe clamps of rubber; pipe clamps of rubber; pipe clamps of rubber; fittings of rubber for tubes; casings of rubber for tubes; flexible tubes,

not of metal; jackets for pipes; glands for pipes; pipe sleeves, not of metal; junctions, not of metal, for pipes.”

33. In relation to “*parts and accessories for all the aforesaid goods, included in this class*” in the applicant’s specification, the findings that I have made above in paragraph 26 apply here. Consequently, I find parts and accessories for those goods similar to a medium degree to have a low degree of similarity and those that are either low or dissimilar to be dissimilar.

Class 19

34. Whilst I note the opponent’s submissions in relation to class 19, I have been unable to find any similarity between the opponent’s goods and most of the applicant’s goods in class 19. I note that the applicant’s goods are a variety of materials, parts and fittings that are used in building and construction. I do not consider that there is any similarity between the users, methods of use, nature, purpose or trade channels of the goods. In addition, I do not consider that the goods are in competition or complementary. Taking this into account, I consider that all of the applicant’s goods below are dissimilar to the goods in the opponent’s specification:

“Building and construction materials and elements, not of metal; construction materials and construction elements of plastic; building materials and construction elements of concrete; manhole covers, not of metal; manhole liners, not of metal; props, not of metal; beams, not of metal; non-metallic parts of transportable buildings; rigid pipes, not of metal, for building; gutter pipes, not of metal; concrete building elements; sandstone pipes; parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 19 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.”

35. Applying the reasoning discussed above in paragraph 25, I consider that “*building materials, predominately of plastics, in particular housings for installation in*

the ground, in particular waterproof housings” in the applicant’s specification is similar to *“apparatus, instruments and cables for electricity”* in the opponent’s specification. Taking this into account, I consider the goods to be similar to a medium degree.

36. In relation to *“parts and accessories for all the aforesaid goods, included in this class”*, the findings I have made above in paragraph 26. Consequently, I find the parts and accessories of the goods that I have found to be similar to a medium degree to have a low degree of similarity and those goods that I have found to be dissimilar the parts and accessories are also found to be dissimilar.

Class 37

37. I have been unable to identify and similarity between *“construction services”, “repair of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground”, “installation of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground”, and “consultancy in the construction sector, assembly in the construction sector, all of the aforesaid in particular relating to the connection of buildings with supply lines”* in the applicant’s specification to any of the goods in the opponent’s specification. I do not consider that the providers of the applicant’s services would also produce the opponent’s goods or vice versa. It is not my view that the goods and services will overlap in nature, purpose, method of use, users or trade channels. In addition, I do not consider that the goods and services are complementary or in competition. In light of this, I find the goods and services to be dissimilar.

38. I consider that *“installation, in particular in relation to switch cabinets, splice sleeves, splice cassettes, switch cabinet components and other distributing devices, all of the aforesaid for electric or fibre optic cables, including in relation to the laying and interior connection of electric and fibre optic cables”* and *“repair and installation of switchboards, switch cabinets, splice closures and other devices for distributing electric or fibre-optic cables”* in the applicant’s specification are similar to *“apparatus, instruments and cables for electricity”* in class 9 of the opponent’s specification. In my view, the goods and services overlap in users. I consider that the goods and services have different methods of use; they also differ in nature and purpose. However, I

consider that the goods and services overlap in distribution channels, this is on the basis that they may be provided by the same company, for example, a customer looking to have repair work carried out in relation to switchboards would be of the view that the provider of the service would provide the equipment/parts needed to complete the service. Taking this into account, there may be some complementarity between the goods and services. Therefore, I consider the goods and services to be similar to a medium degree.

39. As some degree of similarity between the goods and services is necessary to engage the test for the likelihood of confusion, my findings above mean that the opposition aimed against those goods and services I have found to be dissimilar will fail.³ For ease of reference, the opposition fails against the following goods and services in the applicant's specification:

Class 9: components of splice sleeves for ground installation for data cables, in particular fibre optic cables (included in Class 9); parts and accessories for all the aforesaid goods, included in this class.

Class 17: plastics in extruded form for use in manufacture; plastic substances, semi-processed; ebonite moulds; ebonite; synthetic rubber; gum, raw or semi-worked; synthetic resins [semi-finished products]; parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 17 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 19: Building and construction materials and elements, not of metal; construction materials and construction elements of plastic; building materials and construction elements of concrete; manhole covers, not of metal; manhole liners, not of metal; props, not of metal; beams, not of metal; non-metallic parts of transportable buildings; rigid pipes, not of metal, for building; gutter pipes, not

³ *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

of metal; concrete building elements; shuttering, not of metal, for concrete; drain pipes, not of metal; sandstone pipes; parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 19 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 37: construction services; repair of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; installation of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; consultancy in the construction sector, assembly in the construction sector, all of the aforesaid in particular relating to the connection of buildings with supply lines.

The average consumer and the purchasing act

40. As the law above indicates, it is necessary for me to determine who the average consumer is for the parties' goods and services. I must then determine the manner in which the goods and services are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

41. I note that the applicant submits in its counterstatement that the purchasers of the goods will be very specialist and the purchasers would apply a high degree of concentration in relation to the purchase of the goods. In contrast, the opponent

submits that the average consumer is the public at large. The opponent submits that the level of attention will vary from “average to very low” depending on the price and frequency of the purchase of the goods. In addition, the opponent submits that the goods at issue given their price tag “would not warrant more than a low degree of attention”.

42. I consider that the goods and services at issue will be purchased by the general public, or businesses. I am of the view that the goods at issue will, for the most part, be available via retailers, being both general retailers and more specialist ones, and their online or catalogue equivalents. At the retailer’s physical premises, the goods will be displayed on shelves and self-selected by the customer. A similar process will apply when the goods are selected online or via catalogues, in that a consumer will select them after seeing an image, be that on a webpage or in a catalogue. In my view, the visual component will dominate all methods of sale, although I do not discount an aural component playing a part in the form of word-of-mouth recommendations and advice from sales assistants.

43. Given the wide range of goods at issue, the price and frequency of purchase will vary quite considerably. For example, some goods may be inexpensive and bought frequently (such as various types of cables covered by the opponent’s goods) but some may be considerably more expensive and purchased infrequently (such as information technology and audiovisual equipment). I am of the view that when they are considering the goods, the average consumer will bear in mind factors such as the compatibility of the goods, durability and processing quality. Taking this all into account, I am of the view that the level of attention paid will also vary. For the majority of goods, I consider that the degree of attention will be medium. However, in relation to the goods used by telecommunications businesses (such as *“fibre optic cables, pre-fabricated with fitting aids and/or fasteners”*) I consider that the average consumer is likely to pay a higher degree of attention because the selection of the goods will be important to the operation of their business. For these goods, I consider that the level of attention will be higher than medium (but not the highest).

44. In relation to the services at issue, I consider that the provider of the services would be selected with some care, especially considering that installation of fibre

optics, for example, would require amendments to existing infrastructure to install. The average consumer of the services at issue will be the general public, including businesses. These services will typically be advertised in brochures, specialist magazines, on the internet and on the front of retail premises. Therefore, the initial selection is primarily visual. However, I accept that such services may be researched or discussed with a member of staff, so word-of-mouth recommendations also come into play. Therefore, I do not discount that an aural component plays a part.

45. I do not consider that the services will be selected frequently and when they are selected, I consider that the services will be expensive. I am of the view that when selecting the services the average consumer will consider factors such as the experience, cost, customer support and qualifications of the services and the service providers. Taking all of this into account, I consider that the level of attention for these services will be high, especially given the changes that may need to be made to existing infrastructure.

COMPARISON OF THE MARK

46. The respective marks are shown below:

G-BOX	GOBOX
The applicant's mark	The opponent's mark

47. It is clear from *Sabel BV v Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural, and conceptual similarities of trade marks must be assessed by reference to all the overall impressions created by the trade 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.”

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

49. The applicant’s mark consists of the text ‘G-BOX’. The applicant’s mark is presented in standard typeface and upper case. There are no other elements that contribute to the overall impression of the mark which lies in the text itself. The opponent’s mark consists of the text ‘GOBOX’. The opponent’s mark is presented in standard typeface and upper case. There are no other elements that contribute to the overall impression of the mark which lies in the text itself.

50. Visually, the marks share the letters ‘G’ at the beginning of the mark and ‘BOX’ at the end of the mark. The only points of difference are the ‘O’ in the opponent’s mark and the hyphen in the applicant’s mark. Consequently, I agree with the opponent’s submissions that the marks are visually similar to a high degree.

51. Aurally, it is my view that the applicant’s mark will be pronounced as JEE – BOKS. It is my view that the opponent’s mark will be pronounced as GO-BOKS. I note that in its submissions, the opponent states that the hyphen contained in the applicant’s mark will not be pronounced and that the average consumer tends to fill out what is missing in the mark. Firstly, in relation to the hyphen, I disagree with the opponent. It is my understanding that hyphens can be used to either join words together or divide words, dependent on certain styles. I am of the view that the use of the hyphen, in this circumstance, has been added to help with the pronunciation of the mark, by separating a prefix to avoid mispronunciation. I consider that the hyphen indicates a break in the words and as a result, the applicant’s mark will be pronounced as above. Secondly, in relation to the opponent’s submission that the average consumer tends to fill out what is missing in the mark, whilst I disagree that this would happen in this instance given the discussion in relation to the hyphen above, even if

that was the case, there is nothing to suggest that the average consumer would fill in the hyphen and replace it with an 'O'. Consequently, taking all of the above into account, I consider the marks to be similar to a medium degree.

52. Conceptually, I note that the opponent submits that 'G' and 'BOX' are the most dominant parts of the concept of both the opponent's mark and the contested mark and that 'G-' in the applicant's mark is the least dominant part of the applicant's mark. In relation to this, I recognise the applicant's submissions that "the marks must be compared in their entirety and not dissected into their component parts" which it submits the opponent has done in its submissions. I have taken this into account, however, I note that in *Usinor SA v OHIM*⁴ the GC stated that even though consumers normally perceive marks as a whole, they nevertheless will break down elements if they suggest a meaning or resemble words known to them. Taking this into account, I consider that G-BOX will be seen as consisting of a letter and a recognisable dictionary word which is joined by a hyphen. I consider that GOBOX will be identified by the average consumer as consisting of two recognisable dictionary words.

53. I note that the applicant submits that the marks differ conceptually. This is on the basis that 'BOX' in the marks has a "clear and unambiguous meaning well understood by the English-speaking public".

54. I consider that the presence of the word 'BOX' at the end of the marks, this will be a point of conceptual overlap, the addition of the letters 'G-' and 'GO' respectively, at the beginning of the marks, will create a point of difference. As mentioned above, I recognise that even though consumers normally perceive marks as a whole, they nevertheless will break down elements if they suggest a meaning or resemble words known to them. I consider that the opponent's mark may be seen as the conjoined words 'GO' and 'BOX', which may be taken to mean movement or travel in relation to a box. In relation to the applicant's mark, I am of the view that the 'G-' does not have a clear meaning but the word 'BOX' will be attributed with its usual meaning. In this scenario, I find that the reference to 'BOX' results in the marks being conceptually similar to a medium degree.

⁴ Case T-189/05

DISTINCTIVE CHARACTER OF THE EARLIER MARK

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

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, paragraph 49).

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

56. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with a high inherent distinctive character, such as invented words which have no allusive qualities.

57. The opponent has not pleaded that its mark has acquired enhanced distinctive character through use and has not filed evidence to support such a claim. I have, therefore, only the inherent position of the earlier mark to consider.

58. The applicant submits that the “word box would be deemed to be a container and descriptive, and hence of low distinctive character”.

59. The earlier mark consists of the word ‘GOBOX’. The average consumer would break this down into two identifiable dictionary words. While I find that to be the case, its construction is not particularly unusual to the point that it would be viewed as a novel or made up word. It is not my view that ‘BOX’ will be perceived by the average consumer as descriptive or allusive in relation to the goods upon which it will be displayed. Consequently, I find the mark to have a medium of inherent distinctive character.

LIKELIHOOD OF CONFUSION

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

61. I have found the marks to be visually similar to a high degree, aurally similar to a medium degree and conceptually similar to a medium degree. I have found the opponent’s mark to have a medium degree of inherent distinctive character. I have found the average consumer to be the general public or businesses. I have found that the goods and services are likely to be selected visually, although I do not discount an

aural component. I have concluded that the degree of attention paid during the purchasing process for the goods and services will vary from medium to high. I have found the goods and services at issue to vary in similarity from medium to similar to a low degree.

62. While I note that the parties' marks differ in the presence/absence of 'O' and a hyphen in the marks respectively, bearing in mind the principle of imperfect recollection, I am of the view that the average consumer will overlook or misremember the differences between the marks. This is particularly the case given that the marks share the letter 'G' at the beginning of the marks and the suffix 'BOX'. Further, I have found the marks to be visually similar to a high degree and the purchasing process will be predominantly visual. Consequently, it is my view that it is likely that the marks will be misremembered or mistakenly recalled as each other, even when a high degree of attention is applied. Therefore, I find that there is a likelihood of direct confusion between the marks. In respect of the goods and services that I have found to be similar to a medium degree, I consider that the high degree of visual similarity of the marks will offset the distance between the goods and services. As a result, my finding of direct confusion applies to the goods and services that I find to be similar to a medium degree as well. I do not consider that this finding will extend to the goods that I have found to be similar to a low degree.

CONCLUSION

63. The opposition has succeeded for the following goods which will be refused:

Class 9: fibre optic cables, pre-fabricated with sockets; fibre optic cables, pre-fabricated with fitting aids and/or fasteners; Outdoor housings for ground installation to house antennas, in particular WLAN antennas; outdoor housings for radio receiving tuners and/or transmitters; outdoor housings for ground installation to house sealing containers, splice cassettes and housings for electric and data installations, Sealing containers for ground installation to house housings, namely housings to house data cables, housings to house antennas and housings for radio receivers and/or radio transmitters; all the aforesaid goods in class 9 not for plants for the production of electric energy,

heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public.

Class 17: Sealing ducts for passing through electricity [...] lines.

Class 19: Building materials, predominately of plastics, in particular housings for installation in the ground, in particular waterproof housings.

Class 37: Installation, in particular in relation to switch cabinets, splice sleeves, splice cassettes, switch cabinet components and other distributing devices, all of the aforesaid for electric or fibre optic cables, including in relation to the laying and interior connection of electric and fibre optic cables; repair and installation of switchboards, switch cabinets, splice closures and other devices for distributing electric or fibre-optic cables.

64. The opposition has failed in relation to the following goods and services which will proceed to registration:

Class 9: Splice sleeves for ground installation for data cables, in particular fibre optic cables; components of splice sleeves for ground installation for data cables, in particular fibre optic cables (included in Class 9); parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 9 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 17: plastics in extruded form for use in manufacture; sealing, packing and insulating materials; flexible pipes, not of metal; seals, in particular compression seals; expansion joint fillers; sealing compounds; sealing means; packing rings; sealing strips; substances for insulating buildings against moisture; ebonite moulds; sealant compounds for joints; gum, raw or semi-worked; rings of rubber; rubber plugs; ebonite; synthetic resins [semi-finished products]; plastic

substances, semi-processed; pipe and cable gaskets; pipe sleeves, not of metal; junctions, not of metal, for pipes; hoses of textile material; synthetic rubber; waterproof packings; spacers (other than pipe clamps); sealing ducts for passing through[...] gas, water, heating, telecommunications, signal or data lines; flexible duct tubes and pipes, shrink tubes, connection couplings; couplings; flexible tubes, not of metal; pipe clamps of rubber; jackets for pipes; casings of rubber for tubes; pipe sealing compositions; glands for pipes; pipe clamps of rubber; pipe clamps of rubber; non-metallic couplings for tubes; non-metallic adapters for mounting pipe fittings on housings; non-metallic couplings for pipes; non-metallic couplings for pipes; fittings of rubber for tubes; seals for pipe connections; non-metallic connections for pipes; non-metallic connections for pipes; pipe spacers (non-metallic -); non-metallic couplings for pipes; parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 17 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 19: Building and construction materials and elements, not of metal; construction materials and construction elements of plastic; building materials and construction elements of concrete; manhole covers, not of metal; manhole liners, not of metal; props, not of metal; beams, not of metal; non-metallic parts of transportable buildings; rigid pipes, not of metal, for building; gutter pipes, not of metal; concrete building elements; shuttering, not of metal, for concrete; drain pipes, not of metal; sandstone pipes; parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 19 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 37: construction services; repair of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; installation of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; consultancy in the construction sector, assembly in the

construction sector, all of the aforesaid in particular relating to the connection of buildings with supply lines.

COSTS

65. The applicant has enjoyed the greater degree of success overall and is entitled to an award of costs based on the scale published in Tribunal Practice Note 2/2016. In the circumstances, I award the applicant the sum of £550 as a contribution towards its costs. I have reduced the award to reflect the overall balance of success. I will award costs to the applicant as follows:

Preparing a statement and considering the opponent's statement	£200
Preparing evidence	£350
Total	£550

66. I, therefore, order Triarca A/S to pay Hauff-Technik GmbH & Co. KG the sum of £550. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 31st day of August 2022

**A Klass
For the Registrar
the Comptroller-General**

Annex 1

Class 9: *Splice sleeves for ground installation for data cables, in particular fibre optic cables; Components of splice sleeves for ground installation for data cables, in particular fibre optic cables (included in Class 9); Fibre optic cables, pre-fabricated with sockets; Fibre optic cables, pre-fabricated with fitting aids and/or fasteners; Outdoor housings for ground installation to house antennas, in particular WLAN antennas; Outdoor housings for radio receiving tuners and/or transmitters; Outdoor housings for ground installation to house sealing containers, splice cassettes and housings for electric and data installations, Sealing containers for ground installation to house housings, namely housings to house data cables, housings to house antennas and housings for radio receivers and/or radio transmitters; Parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 9 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.*

Class 17: *Plastics in extruded form for use in manufacture; Sealing, packing and insulating materials; Flexible pipes, not of metal; Seals, in particular compression seals; Expansion joint fillers; Sealing compounds; Sealing means; Packing rings; Sealing strips; Substances for insulating buildings against moisture; Ebonite moulds; Sealant compounds for joints; Gum, raw or semi-worked; Rings of rubber; Rubber plugs; Ebonite; Synthetic resins [semi-finished products]; Plastic substances, semi-processed; Pipe and cable gaskets; Pipe sleeves, not of metal; Junctions, not of metal, for pipes; Hoses of textile material; Synthetic rubber; Waterproof packings; Spacers (other than pipe clamps); Sealing ducts for passing through electricity, gas, water, heating, telecommunications, signal or data lines; Flexible duct tubes and pipes, shrink tubes, connection couplings; Couplings; Flexible tubes, not of metal; Pipe clamps of rubber; Jackets for pipes; Casings of rubber for tubes; Pipe sealing compositions; Glands for pipes; Pipe clamps of rubber; Pipe clamps of rubber; Non-metallic couplings for tubes; Nonmetallic adapters for mounting pipe fittings on housings; Non-metallic couplings for pipes; Non-metallic couplings for pipes; Fittings of rubber for tubes; Seals for pipe connections; Non-metallic connections for pipes; Non-metallic*

connections for pipes; Pipe spacers (Non-metallic -); Non-metallic couplings for pipes; Parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 17 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.

Class 19: *Building and construction materials and elements, not of metal; Construction materials and construction elements of plastic; Building materials and construction elements of concrete; Manhole covers, not of metal; Manhole liners, not of metal; Props, not of metal; Beams, not of metal; Non-metallic parts of transportable buildings; Rigid pipes, not of metal, for building; Gutter pipes, not of metal; Concrete building elements; Shuttering, not of metal, for concrete; Drain pipes, not of metal; Sandstone pipes; Building materials, predominantly of plastics, in particular housings for installation in the ground, in particular waterproof housings; Parts and accessories for all the aforesaid goods, included in this class; all the aforesaid goods in class 19 not for plants for the production of electric energy, heat and cold; all the aforesaid goods not for charging stations for electromobility; all of the aforesaid goods for fibre optic network expansion by telecommunication companies and public utilities.*

Class 37: *Construction services; Repair of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; Installation of manhole covers and manhole liners (not of metal), and waterproof casings for installing in the ground; Consultancy in the construction sector, assembly in the construction sector, all of the aforesaid in particular relating to the connection of buildings with supply lines; Installation, in particular in relation to switch cabinets, splice sleeves, splice cassettes, switch cabinet components and other distributing devices, all of the aforesaid for electric or fibre optic cables, including in relation to the laying and interior connection of electric and fibre optic cables; Repair and installation of switchboards, switch cabinets, splice closures and other devices for distributing electric or fibre-optic cables; all the aforesaid services in class 37 not for plants for the production of electric energy, heat and cold; all the aforesaid services not for charging stations for electromobility; all of the aforesaid services for fibre optic network expansion by telecommunication companies and public utilities.*