

O/142/21

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF APPLICATION NOS. UK00003266689 AND UK00003266690

BY SYFT ONLINE LIMITED

FOR THE FOLLOWING TRADE MARKS:

SyftForce

AND



(SERIES OF 2)

IN CLASSES 9, 35, 38, 41 AND 42

AND IN THE MATTER OF CONSOLIDATED OPPOSITIONS THERETO

UNDER NOS. 411967 AND 412020

BY SALESFORCE.COM, INC.

BACKGROUND AND PLEADINGS

1. On 27 October 2017, Syft Online Limited (“the applicant”) applied to register the trade marks shown on the cover page of this decision in the UK. The applications were published on 15 December 2017 and 22 December 2017 respectively. The applicant seeks protection for the following goods and services:

Class 9 Computer software; application software; mobile application software.

Class 35 Personnel placement and recruitment services; Recruitment consultancy services; Recruitment services; Advertising services; Advertising services relating to the recruitment of personnel; Marketing services; Assistance relating to recruitment and placement of staff; Business recruitment consultancy; Executive recruitment services; Interviewing services [for personnel recruitment]; Management advice relating to the recruitment of staff; Office support staff recruitment services; Permanent staff recruitment; Personnel recruitment advertising; Personnel recruitment agency services; Provision of advice relating to the recruitment of graduates; Recruitment consultancy for lawyers; Recruitment consultancy for legal secretaries; Recruitment consultants in the financial services field; Recruitment of computer staff; Recruitment of executive staff; Recruitment of personnel; Recruitment of temporary technical personnel; Recruitment services for sales and marketing personnel; Dissemination of information relating to the recruitment of graduates; Wage payroll preparation; Computerised payroll preparation; Payroll advisory services; Payroll assistance; Payroll processing services [for others]; Advertising and business advice relating to telematics' services; Advertising and business management consultancy; Advertising and promotion services and related consulting; Advertising and publicity services; Advertising business especially in the field of telematic and telephone networks; Advertising particularly services for the promotion of goods; Distribution of advertising mail and of advertising supplements attached to regular editions; Distribution of products for advertising purposes; Electronic billboard advertising;

Issuing and updating of advertising texts; Mediation of advertising; Modeling for advertising or sales promotion; Modeling services for advertising or sales promotion; Organisation and holding of fairs for commercial or advertising purposes; Preparation and realization of media and advertising plans and concepts; Providing and rental of advertising space on the internet; Rental of advertisement space and advertising material; Preparing audio-visual presentations for use in advertising; Brand creation services (advertising and promotion); Business services; Advertising and publicity; Advertising research; Analysis of advertising response; Dissemination of advertising for others; Dissemination of advertising material; Exhibitions for commercial or advertising purposes; Organisation of exhibitions and trade fairs for commercial and advertising purposes; Planning, buying and negotiating advertising space; Preparation and presentation of audio visual displays for advertising purposes; Promotional services; Provision of space on web sites for advertising goods and services; Radio and television advertising; Rental of advertising material; Rental of advertising space on the internet; Advice and information about customer services and product management and prices on internet sites in connection with purchases made over the internet; Information, advisory and consultancy services relating to business and management or business administration, including such services provided on line or via the internet; Advertising space (rental of-) on the internet; human resources services; Staff performance assessment services; Personnel management services; information, advisory and consultancy services relating to the aforesaid.

Class 38 Telecommunications services; communications via a global computer network or the internet; Mail services utilising the internet and other communications networks; electronic messaging services; provision of online forums and chat rooms; information, advisory and consultancy services relating to the aforesaid.

Class 41 Education services; skills training services; training of staff and personnel; information, advisory and consultancy services relating to the aforesaid.

Class 42 Software as a service (SaaS); Software as a service (SaaS) for personnel placement and recruitment services, advertising services, marketing services, payroll services and business services; information, advisory and consultancy services relating to the aforesaid.

2. On 15 March 2018 and 22 March 2018 respectively, salesforce.com, Inc. (“the opponent”) opposed the applications based upon section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies on the following trade marks:

FORCE

EUTM no. 16193435¹

Filing date 22 December 2016; registration date 28 April 2017

(“the First Earlier Mark”)

SALESFORCE

EUTM no. 13497813

Filing date 26 November 2014; registration date 4 September 2015

(“the Second Earlier Mark”)



EUTM no. 13497871

Filing date 26 November 2014; registration date 4 September 2015

Priority date claimed 13 November 2014

¹ Although the UK has left the EU and the transition period has now expired, EUTMs, and International Marks which have designated the EU for protection, are still relevant in these proceedings given the impact of the transitional provisions of The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 – please see Tribunal Practice Notice 2/2020 for further information.

("the Third Earlier Mark")

SOCIALFORCE

EUTM no. 15287469

Filing date 31 March 2016; registration date 30 November 2016

("the Fourth Earlier Mark")

FORCE.COM

EUTM no. 16193468

Filing date 22 December 2016; registration date 28 April 2017

("the Fifth Earlier Mark")

3. The opponent relies upon all goods and services for which the earlier marks are registered, as set out in the Annex to this decision.
4. The opponent claims that there is a likelihood of confusion because the marks are similar, and the goods and services are identical or similar.
5. The applicant filed counterstatements denying the grounds of opposition.
6. On 23 October 2019, the Registry wrote out to the parties to confirm that the proceedings would be consolidated pursuant to rule 62(g) of the Trade Marks Rules 2008.
7. Only the applicant filed evidence in chief. The opponent filed evidence in reply. A hearing took place before me on 18 January 2021. The opponent was represented by Mr Philip Harris of Counsel, instructed by Lane IP. The applicant has been represented throughout these proceedings by J A Kemp LLP. Whilst representatives of the applicant were present at the hearing, they elected not to make oral submissions. The applicant also elected not to file written submissions in lieu of attendance.

EVIDENCE AND SUBMISSIONS

8. The applicant filed evidence in chief in the form of the witness statement of Mr Oghenovo Abakare dated 12 March 2020, which is accompanied by 3 exhibits. Mr Abakare is the Chief Operating Officer and co-founder of the applicant. This is a position that Mr Abakare has held since 2015.

9. The opponent filed evidence in reply in the form of the witness statement of Ms Jandan Aliss dated 30 September 2020, which is accompanied by 3 exhibits. Ms Aliss is the trade mark attorney acting on behalf of the opponent. The opponent's evidence in reply was accompanied by written submissions dated 30 September 2020.

10. Whilst I do not propose to summarise the evidence and submissions here, I have taken them into consideration and will refer to them below where necessary.

PRELIMINARY ISSUE

11. Mr Abakare gives evidence regarding the number of trade marks which contain the word "force" which are currently registered in the UK. However, as noted by the opponent in its written submissions, "the existence of such marks on the Register bears no reflection on the likelihood of confusion between the respective parties at issue in the marketplace". I agree and do not consider that this evidence assists the applicant.

DECISION

12. Section 5(2)(b) states as follows:

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

(a)...

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

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

13. The trade marks upon which the opponent relies qualify as earlier trade marks because they were applied for at an earlier date than the applicant’s mark pursuant to section 6A of the Act. As the opponent’s marks had not been registered for more than 5 years at the publication date of the mark in issue, they are not subject to proof of use pursuant to section 6A. The opponent can, therefore, rely upon all of the goods and services identified.

14. Although the UK has left the EU, section 6(3)(a) of the European (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.

My approach

15. At the hearing, Mr Harris identified that the First Earlier Mark and the Second Earlier Mark represented his client’s best case. I agree. I will, therefore, proceed on the basis of these marks in the first instance.

Section 5(2)(b) – case law

16. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia*

Sales Germany & Austria GmbH, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

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

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

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

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

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

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

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

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

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

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

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

Comparison of goods and services

17. I note that at least some of the goods and services covered by the parties' respective specifications are identical. For example, the term "computer software" appears identically in both the applicant's specification and the specification of the First Earlier Mark. It would also be identical on the principle outlined in *Meric* to "computer application software for mobile phones and devices" in the specification of the Second Earlier Mark.² I will, therefore, proceed on the basis that the goods and services are identical.

The average consumer and the nature of the purchasing act

18. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective 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:

² *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05

“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.”

19. I consider that the average consumer for the goods and services will be a member of the general public or a professional user. At the hearing, Mr Harris submitted that the level of attention paid during the purchasing process would be “average” for all goods and services. I recognise that the cost of the purchases are likely to vary, as will their frequency. However, even for low cost purchases, various factors will still be taken into consideration. For example, ease of use, suitability for particular requirements and compatibility with existing systems. Consequently, I consider that even where the cost of the purchase is relatively low, a medium degree of attention will be paid during the purchasing process. I also recognise that for some of the services, such as the applicant’s education services, the level of attention may be higher.

20. The goods and services are likely to be selected following perusal of retail outlets, their online equivalents or advertising and promotional materials. Consequently, visual considerations are likely to dominate the selection process. However, I do not discount that aural considerations will also play a part given that advice may be sought from sales assistants and recommendations may be made by word-of-mouth.

Comparison of trade marks

21. 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 the trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant

components. The Court of Justice of the European Union (“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.”

22. 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.

23. The respective trade marks are shown below:

Opponent’s trade marks	Applicant’s trade marks
<p style="text-align: center;">FORCE (the First Earlier Mark)</p>	<p style="text-align: center;">SyftForce (“the First Application”)</p>
<p style="text-align: center;">SALESFORCE (the Second Earlier Mark)</p>	<p style="text-align: center;">AND</p>
	
<p style="text-align: center;">(the Third Earlier Mark)</p>	<p style="text-align: center;">(series of 2)</p>
<p style="text-align: center;">SOCIALFORCE (the Fourth Earlier Mark)</p>	 <p style="text-align: center;"> (“the Second Application”)</p>

FORCE.COM (the Fifth Earlier Mark)	
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Overall Impression

24. The First Application consists of the conjoined words SyftForce. There are no other elements to contribute to the overall impression which lies in the words themselves. The Second Application consists of two marks, both containing the words “syft force” presented in lower case slightly stylised fonts and a device. The device consists of a silhouette of a person wearing a tie surrounded by a partial circle and handle device. The first mark in the series is presented in pink, purple and grey and the second mark in the series is presented in black and white. The wording plays the greater role in the overall impression, with the device playing a slightly lesser role. The use of colour also plays a lesser role in the overall impression.

25. The First Earlier Mark consists of the word FORCE. There are no other elements to contribute to the overall impression, which lies in the word itself. The Second Earlier Mark consists of the conjoined words SALESFORCE. The overall impression lies in the combination of those words.

Visual Comparison

Comparison with the First Earlier Mark

26. The First Earlier Mark consists of the word FORCE and this appears identically in the First Application. I do not consider that the difference in case presents any real difference as registration of a word only mark covers use in any standard typeface. The point of visual difference between the First Earlier Mark and the First Application is the addition of the word “Syft” at the beginning. I bear in mind that the beginnings of marks tend to make more of an impact than the ends. Taking all of this into account, I consider the marks to be visually similar to a medium degree.

27. The addition of the device in the Second Application acts as a further point of visual difference between the marks. Taking this into account, I consider the Second Application and the First Earlier Mark to be visually similar to between a low and medium degree.

Comparison with the Second Earlier Mark

28. The First Application and the Second Earlier Mark overlap to the extent that they both have the word FORCE/Force at the end. They differ in the word “Syft” in the First Application and “SALES” in the Second Earlier Mark, which appear at the start of each mark. As a general rule, the beginnings of marks tend to make more of an impact than the ends. The first words in both marks begin with the letter “S”. Taking all of this into account, I consider the marks to be visually similar to between a medium and high degree.

29. The device in the Second Application acts as a further point of visual difference between the marks. Taking this into account, I consider the Second Application and the Second Earlier Mark to be visually similar to a between a low and medium degree.

Aural Comparison

Comparison with the First Earlier Mark

30. The First Earlier Mark will be given its ordinary English pronunciation. The pronunciation of that word will be identical in the First Application. However, the addition of the word “Syft” at the start of the First Application will act as a point of difference. I consider that this word is likely to be pronounced in the same way as the dictionary word “Sift”. I consider the marks to be aurally similar to a medium degree.

31. The Second Application will be pronounced identically to the first. This is because the device element will not be articulated. Consequently, the same comparison applies to the Second Application.

Comparison with the Second Earlier Mark

32. The word FORCE/Force will be given its ordinary English pronunciation in both the First Application and the Second Earlier Mark. As above, the word “Syft” in the First Application is likely to be pronounced in the same way as the dictionary word “Sift”. The word “SALES” in the Second Earlier Mark will be given its ordinary English pronunciation. The words “Syft” and “Sales” both overlap in that they begin with an “SSS” sound. I consider the marks to be aurally similar to between a medium and high degree.

33. As noted above, the device in the Second Application will not be articulated. Consequently, the same comparison applies to the Second Application.

Conceptual Comparison

34. The applicant submits that the word “FORCE” will be seen as a reference to “any organised body of workers”.³ The opponent submits that the word “FORCE” has a wide range of meanings. I accept that the word FORCE might be attributed any number of meanings. However, the most likely seems to me to be a reference to something powerful or strong or a body of workers. When used in isolation, I consider the former to be more likely. When used in combination with another word (such as “sales” in the Second Earlier Mark) it is the reference to a body of workers, specifically those specialising in sales, that will be identified.⁴ In any event, as Mr Harris submitted at the hearing, the same meaning will be attributed to that word in both the earlier marks and the applications. This will, therefore, be a point of conceptual overlap.

35. The word “Syft” in the applications is likely to be viewed as either an invented word or a deliberate misspelling of the dictionary word “sift”. In either case, the word “Syft” is likely to be seen as qualifying the word “Force” i.e. it is “Syft” which is the force referred to. The same is also true of the Second Earlier Mark i.e. it will be seen as referring specifically to a “sales force”. The device in the Second Earlier Mark is likely

³ Exhibit NA3

⁴ <https://www.collinsdictionary.com/dictionary/english/sales-force>

to be recognised as a silhouette of a person wearing a tie surrounded by a circle and handle device. This may be seen as allusive for those services that relate to personnel/recruitment. Taking all of this into account, I consider the marks to be conceptually similar to no more than a medium degree.

Distinctive character of the earlier trade marks

36. 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).”

37. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods and services, to those with high inherent distinctive character, such as

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

38. The opponent has not pleaded nor has it filed any evidence to justify a finding of enhanced distinctiveness. The only document filed by the opponent which relates to its activities under the earlier marks is exhibit JMA1. This consists of one printout from the opponent's website. This is not enough on its own to demonstrate enhanced distinctiveness. Consequently, I have only the inherent position to consider. The word FORCE is an ordinary dictionary word. The applicant has provided a number of dictionary definitions such as "strength, power", "compulsion, especially with threats or violence", "military power" and "passion or earnestness".⁵ I note that Mr Abakare has given evidence that a number of businesses use the word "force" in their name across a number of sectors.⁶

39. To my mind, the word FORCE is most likely to be seen as a reference to something powerful or strong or a body of workers, depending upon the context. I consider that this will be laudatory i.e. referring to a service which is particularly successful or impactful or allusive in relation to a body of workers. I recognise that there may also be other meanings attributed to the word FORCE which are neither allusive nor descriptive. Taking all of this into account, I consider the word FORCE to be inherently distinctive to either a low or medium degree. The addition of the word SALES in the Second Earlier Mark qualifies the word FORCE. However, given the low distinctiveness of the word "SALES", I do not consider it will add much to the distinctiveness of the mark overall.

Likelihood of confusion

40. 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

⁵ Exhibit NA3

⁶ Exhibit NA1

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 and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier marks, the average consumer for the goods and services and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

41. I have found the First Application and the earlier marks to be visually and aurally similar to a medium degree or between a medium and high degree and conceptually similar to no more than a medium degree. I have found the Second Application and the earlier marks to be visually similar to between a low and medium degree, aurally similar to either a medium or between medium and high degree and conceptually similar to no more than a medium degree. I have identified the average consumer to be either a member of the general public or a professional user. I consider that a medium degree of attention will be paid during the purchasing process, which will be predominantly visual (although I do not discount an aural component). I have found the earlier marks to be inherently distinctive to either a low or medium degree, depending upon the meaning attributed to the word FORCE. I will proceed on the basis that the goods and services are identical. For the purposes of my assessment, I will proceed on the basis that the average consumer will be paying a medium degree of attention, as this represents the opponent's best case.

42. Mr Harris directed me to a number of decisions of the EUIPO which relate to "force" marks. Those decisions are not binding upon this Tribunal, however, I have borne them in mind in reaching the conclusions below. Mr Harris also referred me to a decision of this Tribunal in *AGRIFORCE Trade Mark*, Case BL O/013/10, in which it was held that there was a likelihood of confusion between the trade marks AGRIFORCE and FORCE. However, in that case, the Hearing Officer found that: "[o]wing to the inherent and clear descriptive nature of AGRI the distinctive and

dominant component of [the applicant's] trade mark is FORCE." Having made that finding, the Hearing Officer went on to conclude that:

"[...] The public at large knowing of the FORCE trade mark and the AGRIFORCE trade mark will still, owing to the common presence of the FORCE element, consider that the respective goods, whether for agriculture or not, will consider that the goods that are identical or similar come from the same or an economically linked undertaking. This public would just see AGRI as allusive to goods that might have been originally for agricultural use or could be of agricultural use. There is a likelihood of confusion in respect of all of the goods that are identical or similar."

43. Consequently, I consider that this case can be distinguished from the *AGRIFORCE* case on the basis that the only point of difference between the marks in that case was one that had been found to have a "clear descriptive nature". That is not the case here.

44. Given the visual, aural and conceptual differences between the marks, I do not consider it likely that they will be mistakenly recalled or misremembered. I do not consider that the presence of the word "Syft" in the applications will be overlooked by the average consumer or confused with the word "SALES". Consequently, even where the marks are used on identical goods and services, I do not consider there to be a likelihood of direct confusion.

45. It now falls to me to consider the likelihood of indirect confusion. Indirect confusion was described in the following terms by Iain Purvis Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL-O/375/10:

"16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later

mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.”

46. I bear in mind the decision of the CJEU in *L’Oréal SA v OHIM*, Case C-235/05 P, in which the court confirmed that weak distinctive character of the earlier trade mark does not preclude a likelihood of confusion. However, I also bear in mind the comments of Mr Iain Purvis Q.C., sitting as the Appointed Person, in *Kurt Geiger v A-List Corporate Limited*, BL O-075-13. He said:

“38. The Hearing Officer cited *Sabel v Puma* at paragraph 50 of her decision for the proposition that ‘the more distinctive it is, either by inherent nature or by use, the greater the likelihood of confusion’. This is indeed what was said in *Sabel*. However, it is a far from complete statement which can lead to error if applied simplistically.

39. It is always important to bear in mind what it is about the earlier mark which gives it distinctive character. In particular, if distinctiveness is provided by an aspect of the mark which has no counterpart in the mark alleged to be confusingly similar, then the distinctiveness will not increase the likelihood of confusion at all. If anything it will reduce it.”

47. In this case, the common element is the word FORCE/Force. I have found this word to have either a low or medium degree of inherent distinctive character. As I have explained above, the addition of the word “Syft” to the beginning of the applied-for marks will have the effect of qualifying the word “Force”. I consider that the common use of the word FORCE/Force is far more likely to be seen as a coincidence than as indicating a link between the undertakings. In this regard, I bear in mind that a finding of indirect confusion should not be made merely because two marks share a common element; it is not enough that one mark merely calls to mind another as that is mere

association not indirect confusion.⁷ Taking all of this into account, I do not consider there to be a likelihood of indirect confusion.

48. In reaching this decision, I have taken into consideration the ‘family of marks’ argument that was pleaded by the opponent in its Notice of opposition. Mr Harris did not press this line of argument at the hearing. As noted above, the only evidence filed which shows any use of the marks relied upon by the opponent is Exhibit JA1 which is a printout from the opponent’s website which displays only the Second and Third Earlier Marks. The case law is clear that in order for there to be a ‘family’ of marks, there must be evidence that those marks are available in the market.⁸ Even if the limited evidence filed by the opponent could be taken as evidence of those marks being available on the market, use in relation to only two earlier marks is not enough to constitute a ‘family’.

49. As I have found there to be no likelihood of confusion in respect of the earlier marks identified by the opponent as representing its best case, it follows that there will also be no likelihood of confusion in respect of the opponent’s other marks.

50. The oppositions based upon section 5(2)(b) are dismissed.

CONCLUSION

51. The oppositions are unsuccessful and the applications may proceed to registration.

COSTS

52. As the applicant has been successful it is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. In making my award I bear in mind that, although the applicant’s representatives attended the hearing, they attended only for the purposes of observation, not to make any

⁷ *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

⁸ *Il Ponte Finanziaria SpA v OHIM*, Case C-234/06

submissions. In the circumstances, I award the applicant the sum of **£1,000** calculated as follows:

Preparing statements and considering the opponent's statements	£400
Filing evidence	£600
Total	£1,000

53. I therefore order salesforce.com, Inc. to pay Syft Online Limited the sum of £1,000. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 8th day of March 2021

S WILSON
For the Registrar

ANNEX

First Earlier Mark

Class 9

Computer software; computer software development tools; [computer] software and downloadable [computer] software for use in developing and customizing computer software applications and computer software application user interfaces; computer software for mobile phones and devices; computer software for storing, managing, tracking, analyzing, and reporting data in the fields of marketing, promotion, sales, customer information, customer relationship management, sales support, and employee efficiency; computer software to facilitate communicating among peer professionals in the advertising, marketing, and business services fields.

Class 35

Business management services, namely, providing information, data asset, and identity management services; compilation and management of computerized databases and consulting services related thereto; business management services, namely, providing customer relationship management services and sales support management services; business management consulting services relating to customer relationship management, sales support management, and marketing automation; providing general information of interest in the fields of business, marketing, advertising, brand development, promotion, sales, sales support, customer information, customer relationship management (CRM), customer service, business analytics, cloud computing, employee efficiency, e-commerce and software development and advisory services via a website; operating online marketplaces for buying and selling, sharing, and offering for free computer software and on-demand applications; business and marketing data analytics services; marketing and advertising services; organizing and conducting tradeshow in the fields of business, marketing, advertising, brand development, promotion, sales, sales support, customer information, customer relationship management (CRM), customer service, business analytics, cloud computing, employee efficiency, e-commerce, and software development.

Class 38

Computer communication services, namely providing online facilities for real-time interaction with other computer users concerning topics of general interest; providing on-line forums for transmission of messages among computer users concerning topics of general interest; providing access to computer networks for real-time interaction with other computer users concerning topics of general interest; chat room services for social networking; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; delivery of messages by electronic transmission; electronic data interchange; electronic mail and messaging services; electronic transmission of data, images, messages, documents, and mail; instant messaging services; message sending and receiving services; peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers; providing an on-line forum for discussion of business analytics, marketing, sales, service, and strategy; providing internet chat rooms; providing on-line electronic bulletin boards for transmission of messages among computer users concerning business analytics, marketing, sales, service, and strategy; providing internet chat rooms; telecommunications, in particular mobile telephone services, telephone services, fax services, radio communication services, paging services, telex services, telegram services, e-mail data services; telecommunications via telecommunications networks, in particular mobile phone networks or satellite-supported telecommunications networks; wireless mobile phone services; mobile telecommunications services, included in class 38; cellular telephone communication; television and radio transmission; television and/or radio broadcasting; mobile phone television broadcasting; videoconferencing; news and information agencies within the framework of press agencies; electronic mail-forwarding of messages of all kinds to Internet addresses (webmessaging); computer-aided transmission of messages and images; electronic transmission of data, messages, images, documents and information relating to topics of general interest; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to online computer databases; providing access to electronic publications on the Internet; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to

information on the Internet and on the mobile Internet, in particular access to downloadable files, namely sound, image, music and video recordings, all the aforesaid files in particular for downloading for mobile telephones and other mobile terminals; transmission of information stored on databases, namely by means of interactive computer systems and/or by providing access to information on the Internet (included in class 38); telecommunications services via the Internet, intranets, extranets; procuring access to databases; providing access to a global computer network; providing access to data on computer networks, namely information, texts, drawings and images concerning goods and services; providing access to data on the Internet and on the mobile Internet, namely information and messages in the form of sound or images; providing access to software on data networks for Internet access; providing access to information for entertainment on computer networks; providing Internet chatrooms, electronic exchange of messages and information via chatlines, chatrooms and Internet forums; telecommunications by means of platforms and portals on the Internet; providing telecommunications channels for teleshopping services; e-mail services; transmitting information and data via computer networks and the Internet; leasing access time to a computer database; leasing of access time to Internet games; rental or lease of access time to computer databases.

Class 41

Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of business, marketing, advertising, brand development, promotion, sales, sales support, customer information, customer relationship management (CRM), customer service, business analytics, cloud computing, employee efficiency, e-commerce and software development, and distributing course materials in connection therewith; publication of printed matter, namely, books, newspapers and periodicals, and online books, newspapers and periodicals, other than for advertising purposes; publication of instructional and information materials in the nature of pamphlets, brochures, manuals, informational flyers, informational sheets and newsletters.

Class 42

Platform as a Service [PaaS]; Software as a Service [SaaS]; Providing temporary use of on-line non-downloadable software to store, manage, track, analyze, and report

data in the field of marketing, promotion, sales, customer information, customer relationship management, sales support, employee efficiency, e-commerce, and software development; providing temporary use of on-line non-downloadable software to facilitate communicating among peer professionals in the advertising, marketing and business services fields, and for customizing computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications and websites for others and consulting services related thereto; providing temporary use of online non-downloadable computer software application development tools and programming language for use in developing, analyzing, coding, checking, and controlling other computer software; providing temporary use of online non-downloadable computer software that implements a procedural and object-oriented programming language; online hosted computer services, namely, designing, developing, customizing, and maintaining computer software applications for others; and consulting services related thereto.

Class 45

On-line social networking services; licensing of computer systems and software; security consulting and security services.

Second Earlier Mark

Class 9

Downloadable software in the nature of a mobile application; computer application software for mobile phones and devices; computer software, namely, downloadable and non-downloadable software development tools for the creation of mobile internet applications, web applications, websites, and client interfaces; web site development software; computer software for use in customer relationship management (CRM); computer software for creating searchable databases of information and data; computer software, namely, an application allowing sales and field service employees to update and receive data stored in an enterprise's computer databases in real time, using a mobile device, with full telephony integration with the telephone and/or software features of the mobile device; computer software for providing an on-line database in the field of transaction processing to upload transactional data, provide statistical analysis, and produce notifications and reports; computer software that provides real-time, integrated business management intelligence by combining

information from various databases and presenting it in an easy-to-understand user interface; downloadable software, mobile applications, and cloud computer software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; computer software for web and mobile applications for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; enterprise software in the nature of a database for compiling data, customer data and customer interactions for enabling marketers to plan, personalize, optimize and customize communications with customers throughout the marketing, sales, and service lifecycle; downloadable computer programs and computer software for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions; downloadable computer programs and computer software for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions in the field of marketing, sales and service; downloadable computer programs and computer software recorded on data media for retrieving, tracking, analyzing, testing, measuring and managing data from computer networks and from the Internet in the field of marketing, sales and service; computer application software for mobile phones, portable media players, handheld computers, namely, software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; downloadable computer software and computer software recorded on data media for the scanning, displaying, processing, measuring and output of data on computer networks, on the Internet, and on mobile terminals and devices in the field of marketing, sales, services, business analytics, data analytics, and business intelligence; downloadable software for generating embeddable code for websites, for the purpose of creating, customizing, deploying, scheduling, tracking, analyzing, testing, measuring and managing online content on users' websites, on social media websites, and other online forums; computer software for computer system and application development, deployment and management; scientific, surveying, photographic, cinematographic, optical, measuring, signaling, checking (supervision), and teaching apparatus and instruments; monitoring apparatus; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; calculating machines; computers and data-processing apparatus; computer memory devices; modems; facsimile machines; intercommunication apparatus; computer programs (recorded, downloadable); computer operating programs, recorded; games programs for computers; computer

software (recorded, downloadable), in particular for the scanning, displaying, processing and output of multimedia data on computer networks, including the Internet, and on mobile terminals; machine-readable data carriers of all kinds containing information, and sound and image recording carriers (except unexposed film), data and information pools recorded on data carriers (downloadable); electronic publications (downloadable); interfaces for computers and mobile devices; downloadable music and image files; downloadable ring tones for mobile phones; electric installations for the remote control of industrial operations.

Class 35

Business services, strategic planning services, and marketing data analytics services for businesses including for web and mobile sites; customer loyalty services for commercial, promotional and advertising purposes; marketing services for others, namely, marketing content development, media placement, strategy and management, social media strategy consultation, and social media community management; business consultancy services for others in connection with customer engagement and customer interactions on the Internet and other media; assistance, advisory services and consultancy relating to business management, business planning, business analysis, business organization, business operations, advertising, marketing, sales and service; compilation and systemization of data, statistics, and information into computer databases; compilation and systemization of data and information into computer databases in the field of marketing, sales and services; office functions, namely, administration and indexing of information, websites and other information sources for business purposes; compilation of data, in particular, image, audio and/or video data in computer databases for business purposes; providing an on-line searchable database featuring information regarding sales, service and marketing; monitoring of social sites, internet postings, web content, and online content for others for business and marketing services; advertising, in particular television advertising, online advertising on computer networks, radio advertising, advertising by mail order, bill-posting, print and Internet advertising; dissemination of advertising matter; direct mail advertising; advertising via mobile radio networks; advertising on mobile phone television; advertising on the Internet for others; advertising agency services; planning and design of advertising activities; presentation of companies on the Internet and other media for promotional purposes; distribution

of samples; sales promotion (for others), public relations; market research, including in particular for others, on digital networks (webvertising); telemarketing services; market research and analysis services; PR agency services, namely public relations; commercial information agencies; writing of publicity texts; updating of advertising material; rental of advertising time on communication media; publication of publicity texts; publicity columns preparation; publicity material rental; production of advertising films; opinion polling; news clipping services; marketing; marketing studies; marketing research; rental of advertising space on the Internet; layout services for advertising purposes; arranging advertising events; multimedia agency services (advertising); merchandising agency services, namely advertising, sales research and market studies and analysis; auctioneering on the Internet; arranging and conducting of exhibitions and trade fairs for industrial (business), commercial and advertising purposes; business management and organization consultancy, in particular development of business concepts; personnel management consultancy; outsourcing services; business efficiency expert services; arranging of trading and economical contacts, also over the Internet; arranging of contracts, for others, for the providing of services; arranging of contracts, for others, for the buying and selling of goods; procurement services for others; consumer consultancy with regard to products and claims management (office functions) via service hotlines for consumers, in particular for Internet users (call center services); conducting research in computer files, in databases, on the Internet and on computer networks, for others, with regard to business matters and into offers for goods and services; maintenance and compilation of data and information in computer databases; systematic ordering of data in computer databases; computerized file management; compilation of statistics; office functions for the administration and indexing of data and information; office functions for the creating of indexes with regard to information, websites and other information sources; compilation of data, in particular image, audio and/or video data in computer databases; optimization of online websites for third parties for marketing purposes.

Class 38

Computer communication services, namely providing online facilities for real-time interaction with other computer users concerning topics of general interest; providing on-line forums for transmission of messages among computer users concerning topics of general interest; providing access to computer networks for real-time interaction

with other computer users concerning topics of general interest; chat room services for social networking; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; delivery of messages by electronic transmission; electronic data interchange; electronic mail and messaging services; electronic transmission of data, images, messages, documents, and mail; instant messaging services; message sending and receiving services; peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers; providing an on-line forum for discussion of business analytics, marketing, sales, service, and strategy; providing internet chat rooms; providing on-line electronic bulletin boards for transmission of messages among computer users concerning business analytics, marketing, sales, service, and strategy; providing internet chat rooms; telecommunications, in particular mobile telephone services, telephone services, fax services, radio communication services, paging services, telex services, telegram services, e-mail data services; telecommunications via telecommunications networks, in particular mobile phone networks or satellite-supported telecommunications networks; wireless mobile phone services; mobile telecommunications services, included in class 38; cellular telephone communication; television and radio transmission; television and/or radio broadcasting; mobile phone television broadcasting; videoconferencing; news and information agencies within the framework of press agencies; electronic mail; forwarding of messages of all kinds to Internet addresses (webmessaging); computer-aided transmission of messages and images; electronic transmission of data, messages, images, documents and information relating to topics of general interest; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to online computer databases; providing access to electronic publications on the Internet; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to information on the Internet and on the mobile Internet, in particular access to downloadable files, namely sound, image, music and video recordings, all the aforesaid files in particular for downloading for mobile telephones and other mobile terminals; transmission of information stored on databases, namely by means of interactive computer systems and/or by providing access to information on the Internet

(included in class 38); telecommunications services via the Internet, intranets, extranets; procuring access to databases; providing access to a global computer network; providing access to data on computer networks, namely information, texts, drawings and images concerning goods and services; providing access to data on the Internet and on the mobile Internet, namely information and messages in the form of sound or images; providing access to software on data networks for Internet access; providing access to information for entertainment on computer networks; providing Internet chatrooms, electronic exchange of messages and information via chatlines, chatrooms and Internet forums; telecommunications by means of platforms and portals on the Internet; providing telecommunications channels for teleshopping services; e-mail services; transmitting information and data via computer networks and the Internet; leasing access time to a computer database; leasing of access time to Internet games.

Class 41

Business education and training services; Business education and training services in the field of marketing, sales, and service; publication of printed matter, books, newspapers and/or periodicals (other than for advertising purposes); publication of newspapers, periodicals and books, and of printed instructional and information material (other than for advertising purposes), in electronic form and/or on the Internet; electronic desktop publishing; publication of texts, other than publicity texts; rental of printed publications; online publication of printed matter (other than for advertising purposes); editing of (mobile) websites; rental of sound recordings; digital picture service, namely editing photographs for others and services of a photo agency; production of television, mobile phone television and radio programs; film production, other than advertising films; conducting entertainment events, cultural events, live cultural and sporting events, training events, including in connection with applications for posting images, links, videos, text and other brand content, for retrieving, sorting, filtering and moderating user generated content and online communications, for managing brand content on social media websites and social networks, and for analyzing, retrieving and managing the performance of brand engagement; club services; coaching; correspondence courses; education information; educational examination; practical training; vocational retraining; arranging and conducting of conferences, congresses, concerts and symposiums, seminars, training courses,

instructional and lecture events (cultural or educational purposes); arranging of exhibitions for cultural purposes, arranging of entertainment shows; online games services (on computer networks); conducting games (for entertainment) on the Internet, including on the mobile Internet; entertainment in the form of information on entertainment services via computer networks.

Class 42

Computer software development in the field of mobile applications; providing temporary use of on-line non-downloadable software development tools; technical consulting services in the field of data management, data analytics, and business intelligence analytics; technical data analytics services; software as a service (SAAS) services featuring software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; platform as a service (PaaS) software in the nature of a database for compiling data, customer data and customer interactions for enabling marketers to plan, personalize, optimize and customize communications with customers throughout the marketing, sales, and service lifecycle; platform as a service (PaaS) featuring computer software platforms for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions; platform as a service (PaaS) featuring computer software platforms for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions in the field of marketing, sales and service; platform as a service (PaaS) featuring computer software platforms for enabling marketers to plan, personalize, optimize, monitor, analyze and measure customer interactions across channels and devices; platform as a service (PaaS) featuring computer software platforms for enabling marketers to plan, personalize, optimize, monitor, analyze and measure customer interactions across social media, customer relationship management (CRM) systems, point-of-sale systems, web analytics, web posts, email and mobile devices; consulting services in the field of providing online, non-downloadable software and applications; providing temporary use of on-line non-downloadable software; online hosted computer services, namely, designing, developing, customizing, and maintaining computer software applications for others, and consulting services related thereto; technical research; information technology consulting services; installation of computer software; computer system design and analysis; data conversion of computer programs and data; maintenance of computer

software; monitoring of computer systems by remote access; rental of computer software and web servers; Scientific and technological services and research and design relating thereto; industry analysis and research services; design and development of computer hardware and software; computer software consultancy; computer system design and analysis including for posting images, links, videos, text and other brand content, for retrieving, sorting, filtering and moderating user generated content and online communications, for managing brand content on social media websites and social networks, and for analyzing, retrieving and managing the performance of brand engagement; creating and maintaining web sites for others; data conversion of computer programs and data; maintenance of computer software; monitoring of computer systems by remote access; providing search engines for the internet; styling; technical research; web site design consultancy; consultancy in the design and development of computer hardware; digitization of documents; duplication of computer programs; information technology consulting services; installation of computer software; provision of downloadable software and/or providing temporary use of non-downloadable software for generating embeddable code for websites, for the purpose of creating, customizing, deploying, scheduling, tracking, analyzing and managing online content on users' websites, on social media websites and other online forums, and for analyzing, monitoring and managing the performance of brand engagement of others; provision of downloadable software and/or providing temporary use of non-downloadable software for creating and deploying customized interactive content on social profiles; packaging design / packaging design services; technical project studies; quality control; recovery of computer data; rental of web servers; research and development of new products for others; server hosting.

Class 45

Online social networking services for businesses and individuals via a global communications network; monitoring of social network sites and online content for others; Internet-based social networking services; online social networking services in the field of business analytics, sales and service; licensing of computer systems and software; brand engagement and online communications investigations; brand engagement and online communications investigations (security services); monitoring of social sites and online content for others; online social networking services for others; registration of domain names; security consultancy.

Third Earlier Mark

Class 9

Downloadable software in the nature of a mobile application; computer application software for mobile phones and devices; computer software, namely, downloadable and non-downloadable software development tools for the creation of mobile internet applications, web applications, websites, and client interfaces; web site development software; computer software for use in customer relationship management (CRM); computer software for creating searchable databases of information and data; computer software, namely, an application allowing sales and field service employees to update and receive data stored in an enterprise's computer databases in real time, using a mobile device, with full telephony integration with the telephone and/or software features of the mobile device; computer software for providing an on-line database in the field of transaction processing to upload transactional data, provide statistical analysis, and produce notifications and reports; computer software that provides real-time, integrated business management intelligence by combining information from various databases and presenting it in an easy-to-understand user interface; downloadable software, mobile applications, and cloud computer software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; computer software for web and mobile applications for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; enterprise software in the nature of a database for compiling data, customer data and customer interactions for enabling marketers to plan, personalize, optimize and customize communications with customers throughout the marketing, sales, and service lifecycle downloadable computer programs and computer software for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions; downloadable computer programs and computer software for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions in the field of marketing, sales and service; downloadable computer programs and computer software recorded on data media for retrieving, tracking, analyzing, testing, measuring and managing data from computer networks and from the Internet in the field of marketing, sales and service; computer application software for mobile phones, portable media players, handheld computers, namely, software for providing data analytics, business analytics, business intelligence

and for collecting and analyzing data; downloadable computer software and computer software recorded on data media for the scanning, displaying, processing, measuring and output of data on computer networks, on the Internet, and on mobile terminals and devices in the field of marketing, sales, services, business analytics, data analytics, and business intelligence; downloadable software for generating embeddable code for websites, for the purpose of creating, customizing, deploying, scheduling, tracking, analyzing, testing, measuring and managing online content on users' websites, on social media websites, and other online forums; computer software for computer system and application development, deployment and management; scientific, surveying, photographic, cinematographic, optical, measuring, signaling, checking (supervision), and teaching apparatus and instruments; monitoring apparatus; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; calculating machines; computers and data-processing apparatus; computer memory devices; modems; facsimile machines; intercommunication apparatus; computer programs (recorded, downloadable) computer operating programs, recorded; games programs for computers; computer software (recorded, downloadable), in particular for the scanning, displaying, processing and output of multimedia data on computer networks, including the Internet, and on mobile terminals; machine-readable data carriers of all kinds containing information, and sound and image recording carriers (except unexposed film), data and information pools recorded on data carriers (downloadable); electronic publications (downloadable); interfaces for computers and mobile devices; downloadable music and image files; downloadable ring tones for mobile phones; electric installations for the remote control of industrial operations.

Class 35

Business services, strategic planning services, and marketing data analytics services for businesses including for web and mobile sites; customer loyalty services for commercial, promotional and advertising purposes; marketing services for others, namely, marketing content development, media placement, strategy and management, social media strategy consultation, and social media community management; business consultancy services for others in connection with customer engagement and customer interactions on the Internet and other media; assistance, advisory services and consultancy relating to business management, business

planning, business analysis, business organization, business operations, advertising, marketing, sales and service; compilation and systemization of data, statistics, and information into computer databases; compilation and systemization of data and information into computer databases in the field of marketing, sales and services; office functions, namely, administration and indexing of information, websites and other information sources for business purposes; compilation of data, in particular, image, audio and/or video data in computer databases for business purposes; providing an on-line searchable database featuring information regarding sales, service and marketing; monitoring of social sites, internet postings, web content, and online content for others for business and marketing services; advertising, in particular television advertising, online advertising on computer networks, radio advertising, advertising by mail order, bill-posting, print and Internet advertising; dissemination of advertising matter; direct mail advertising; advertising via mobile radio networks; advertising on mobile phone television; advertising on the Internet for others; advertising agency services; planning and design of advertising activities; presentation of companies on the Internet and other media for promotional purposes; distribution of samples sales promotion (for others), public relations; market research, including in particular for others, on digital networks (webvertising); telemarketing services; market research and analysis services; PR agency services, namely public relations; commercial information agencies; writing of publicity texts; updating of advertising material; rental of advertising time on communication media; publication of publicity texts; publicity columns preparation; publicity material rental; production of advertising films; opinion polling; news clipping services; marketing; marketing studies; marketing research; rental of advertising space on the Internet; layout services for advertising purposes; arranging advertising events; multimedia agency services (advertising); merchandising agency services, namely advertising, sales research and market studies and analysis; auctioneering on the Internet; arranging and conducting of exhibitions and trade fairs for industrial (business), commercial and advertising purposes; business management and organization consultancy, in particular development of business concepts; personnel management consultancy; outsourcing services; business efficiency expert services; arranging of trading and economical contacts, also over the Internet; arranging of contracts, for others, for the providing of services; arranging of contracts, for others, for the buying and selling of goods; procurement services for others; consumer consultancy with regard to products and

claims management (office functions) via service hotlines for consumers, in particular for Internet users (call center services); conducting research in computer files, in databases, on the Internet and on computer networks, for others, with regard to business matters and into offers for goods and services; maintenance and compilation of data and information in computer databases; systematic ordering of data in computer databases; computerized file management; compilation of statistics; office functions for the administration and indexing of data and information; office functions for the creating of indexes with regard to information, websites and other information sources; compilation of data, in particular image, audio and/or video data in computer databases; optimization of online websites for third parties for marketing purposes.

Class 38

Computer communication services, namely providing online facilities for real-time interaction with other computer users concerning topics of general interest; providing on-line forums for transmission of messages among computer users concerning topics of general interest; providing access to computer networks for real-time interaction with other computer users concerning topics of general interest; chat room services for social networking; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; delivery of messages by electronic transmission; electronic data interchange; electronic mail and messaging services; electronic transmission of data, images, messages, documents, and mail; instant messaging services; message sending and receiving services; peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers; providing an on-line forum for discussion of business analytics, marketing, sales, service, and strategy; providing internet chat rooms; providing on-line electronic bulletin boards for transmission of messages among computer users concerning business analytics, marketing, sales, service, and strategy; providing internet chat rooms; telecommunications, in particular mobile telephone services, telephone services, fax services, radio communication services, paging services, telex services, telegram services, e-mail data services; telecommunications via telecommunications networks, in particular mobile phone networks or satellite-supported telecommunications networks; wireless mobile phone services; mobile telecommunications services, included in class 38; cellular telephone

communication; television and radio transmission; television and/or radio broadcasting; mobile phone television broadcasting; videoconferencing; news and information agencies within the framework of press agencies electronic mail-forwarding of messages of all kinds to Internet addresses (webmessaging); computer-aided transmission of messages and images; electronic transmission of data, messages, images, documents and information relating to topics of general interest; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to online computer databases; providing access to electronic publications on the Internet; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to information on the Internet and on the mobile Internet, in particular access to downloadable files, namely sound, image, music and video recordings, all the aforesaid files in particular for downloading for mobile telephones and other mobile terminals; transmission of information stored on databases, namely by means of interactive computer systems and/or by providing access to information on the Internet (included in class 38); telecommunications services via the Internet, intranets, extranets; procuring access to databases; providing access to a global computer network; providing access to data on computer networks, namely information, texts, drawings and images concerning goods and services; providing access to data on the Internet and on the mobile Internet, namely information and messages in the form of sound or images; providing access to software on data networks for Internet access; providing access to information for entertainment on computer networks; providing Internet chatrooms, electronic exchange of messages and information via chatlines, chatrooms and Internet forums; telecommunications by means of platforms and portals on the Internet providing telecommunications channels for teleshopping services; e-mail services; transmitting information and data via computer networks and the Internet; leasing access time to a computer database; leasing of access time to Internet games.

Class 41

Business education and training services; Business education and training services in the field of marketing, sales, and service; publication of printed matter, books, newspapers and/or periodicals (other than for advertising purposes); publication of

newspapers, periodicals and books, and of printed instructional and information material (other than for advertising purposes), in electronic form and/or on the Internet; electronic desktop publishing; publication of texts, other than publicity texts; rental of printed publications; online publication of printed matter (other than for advertising purposes); editing of (mobile) websites; rental of sound recordings; digital picture service; production of television, mobile phone television and radio programs; film production, other than advertising films; conducting entertainment events, cultural events, live cultural and sporting events, training events, including in connection with applications for posting images, links, videos, text and other brand content, for retrieving, sorting, filtering and moderating user generated content and online communications, for managing brand content on social media websites and social networks, and for analyzing, retrieving and managing the performance of brand engagement; club services; coaching; correspondence courses; education information; educational examination; practical training; vocational retraining; arranging and conducting of conferences, congresses, concerts and symposiums, seminars, training courses, instructional and lecture events (cultural or educational purposes); arranging of exhibitions for cultural purposes, arranging of entertainment shows; online games services (on computer networks); conducting games (for entertainment) on the Internet, including on the mobile Internet; entertainment in the form of information on entertainment services via computer networks.

Class 42

Computer software development in the field of mobile applications; providing temporary use of on-line non-downloadable software development tools; technical consulting services in the field of data management, data analytics, and business intelligence analytics; technical data analytics services; software as a service (SAAS) services featuring software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; platform as a service (PaaS) software in the nature of a database for compiling data, customer data and customer interactions for enabling marketers to plan, personalize, optimize and customize communications with customers throughout the marketing, sales, and service lifecycle; platform as a service (PaaS) featuring computer software platforms for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions; platform as a service (PaaS) featuring computer software

platforms for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions in the field of marketing, sales and service; platform as a service (PaaS) featuring computer software platforms for enabling marketers to plan, personalize, optimize, monitor, analyze and measure customer interactions across channels and devices; platform as a service (PaaS) featuring computer software platforms for enabling marketers to plan, personalize, optimize, monitor, analyze and measure customer interactions across social media, customer relationship management (CRM) systems, point-of-sale systems, web analytics, web posts, email and mobile devices; consulting services in the field of providing online, non-downloadable software and applications; providing temporary use of on-line non-downloadable software; online hosted computer services, namely, designing, developing, customizing, and maintaining computer software applications for others, and consulting services related thereto; technical research; information technology consulting services; installation of computer software; computer system design and analysis; data conversion of computer programs and data; maintenance of computer software; monitoring of computer systems by remote access; rental of computer software and web servers; scientific and technological services and research and design relating thereto; industry analysis and research services; design and development of computer hardware and software; computer software consultancy; computer system design and analysis including for posting images, links, videos, text and other brand content, for retrieving, sorting, filtering and moderating user generated content and online communications, for managing brand content on social media websites and social networks, and for analyzing, retrieving and managing the performance of brand engagement; creating and maintaining web sites for others; data conversion of computer programs and data; maintenance of computer software; monitoring of computer systems by remote access; providing search engines for the internet; styling; technical research; web site design consultancy; consultancy in the design and development of computer hardware; digitization of documents; duplication of computer programs; information technology consulting services; installation of computer software; software for generating embeddable code for websites, for the purpose of creating, customizing, deploying, scheduling, tracking, analyzing and managing online content on users' websites, on social media websites and other online forums, and for analyzing, monitoring and managing the performance of brand engagement of others; software for creating and deploying customized interactive

content on social profiles; packaging design / packaging design services; technical project studies; quality control; recovery of computer data; rental of web servers; research and development of new products for others; server hosting.

Class 45

Online social networking services for businesses and individuals via a global communications network; monitoring of social network sites and online content for others; Internet-based social networking services; online social networking services in the field of business analytics, sales and service; licensing of computer systems and software; brand engagement and online communications investigations; brand engagement and online communications investigations (security services); monitoring of social sites and online content for others; online social networking services for others; registration of domain names; security consultancy.

Fourth Earlier Mark

Class 9

Downloadable software in the nature of a mobile application; computer application software for mobile phones and devices; computer software, namely, downloadable and non-downloadable software development tools for the creation of mobile internet applications, web applications, websites, and client interfaces; web site development software; computer software for use in customer relationship management (CRM); computer software for creating searchable databases of information and data; computer software, namely, an application allowing sales and field service employees to update and receive data stored in an enterprise's computer databases in real time, using a mobile device, with full telephony integration with the telephone and/or software features of the mobile device; computer software for providing an on-line database in the field of transaction processing to upload transactional data, provide statistical analysis, and produce notifications and reports; computer software that provides real-time, integrated business management intelligence by combining information from various databases and presenting it in an easy-to-understand user interface; downloadable software, mobile applications, and cloud computer software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; computer software for web and mobile applications for providing data analytics, business analytics, business intelligence and for collecting and

analyzing data; enterprise software in the nature of a database for compiling data, customer data and customer interactions for enabling marketers to plan, personalize, optimize and customize communications with customers throughout the marketing, sales, and service lifecycle; downloadable computer programs and computer software for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions; downloadable computer programs and computer software for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions in the field of marketing, sales and service; downloadable computer programs and computer software recorded on data media for retrieving, tracking, analyzing, testing, measuring and managing data from computer networks and from the Internet in the field of marketing, sales and service; computer application software for mobile phones, portable media players, handheld computers, namely, software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; downloadable computer software and computer software recorded on data media for the scanning, displaying, processing, measuring and output of data on computer networks, on the Internet, and on mobile terminals and devices in the field of marketing, sales, services, business analytics, data analytics, and business intelligence; downloadable software for generating embeddable code for websites, for the purpose of creating, customizing, deploying, scheduling, tracking, analyzing, testing, measuring and managing online content on users' websites, on social media websites, and other online forums; computer software for computer system and application development, deployment and management; scientific, surveying, photographic, cinematographic, optical, measuring, signaling, checking (supervision), and teaching apparatus and instruments; monitoring apparatus; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; calculating machines; computers and data-processing apparatus; computer memory devices; modems; facsimile machines; intercommunication apparatus; computer programs (recorded, downloadable); computer operating programs, recorded; games programs for computers; computer software (recorded, downloadable), in particular for the scanning, displaying, processing and output of multimedia data on computer networks, including the Internet, and on mobile terminals; machine-readable data carriers of all kinds containing information, and sound and image recording carriers (except unexposed film), data and information pools recorded on data carriers (downloadable); electronic

publications (downloadable); interfaces for computers and mobile devices; downloadable music and image files; downloadable ring tones for mobile phones; electric installations for the remote control of industrial operations.

Class 35

Business services, strategic planning services, and marketing data analytics services for businesses including for web and mobile sites; customer loyalty services for commercial, promotional and advertising purposes; marketing services for others, namely, marketing content development, media placement, strategy and management, social media strategy consultation, and social media community management; business consultancy services for others in connection with customer engagement and customer interactions on the Internet and other media; business advice, business consultation, and business advisory services, namely in connection with business management, business planning, business analysis, business organization, business operations, advertising, marketing, the sales of goods and the providing of services; compilation and systemization of data, statistics, and information into computer databases; compilation and systemization of data and information into computer databases in the field of marketing, sales and services; office functions, namely, administration and indexing of information, websites and other information sources for business purposes; compilation of data, in particular, image, audio and/or video data in computer databases for business purposes; providing an on-line searchable database featuring information regarding sales, the provision of business services including customer services, and marketing; monitoring of social sites, and online content for others, namely monitoring and analysing of consumer opinions, consumer habits and the reputation of a brand amongst consumers, internet postings, web content, and online content for others for business and marketing services; advertising, in particular television advertising, online advertising on computer networks, radio advertising, advertising by mail order, bill-posting, print and Internet advertising; dissemination of advertising matter; direct mail advertising; advertising via mobile radio networks; advertising on mobile phone television; advertising on the Internet for others; advertising agency services; planning and design of advertising activities; presentation of companies on the Internet and other media for promotional purposes; distribution of samples; sales promotion (for others), public relations; market research, including in particular for others, on digital networks (webvertising);

telemarketing services; market research and analysis services; PR agency services, namely public relations; commercial information agencies; writing of publicity texts; updating of advertising material; rental of advertising time on communication media; publication of publicity texts; publicity columns preparation; publicity material rental; production of advertising films; opinion polling; news clipping services; marketing; marketing studies; marketing research; rental of advertising space on the Internet; layout services for advertising purposes; arranging advertising events; multimedia agency services (advertising); merchandising agency services, namely advertising, sales research and market studies and analysis; auctioneering on the Internet; arranging and conducting of exhibitions and trade fairs for industrial (business), commercial and advertising purposes; business management and organization consultancy, in particular development of business concepts; personnel management consultancy; outsourcing services; business efficiency expert services; arranging of trading and economical contacts, also over the Internet; arranging of contracts, for others, for the providing of services; arranging of contracts, for others, for the buying and selling of goods; procurement services for others; consumer consultancy with regard to products and claims management (office functions) via service hotlines for consumers, in particular for Internet users (call center services); conducting research in computer files, in databases, on the Internet and on computer networks, for others, with regard to business matters and into offers for goods and services; maintenance and compilation of data and information in computer databases; systematic ordering of data in computer databases; computerized file management; compilation of statistics; office functions for the administration and indexing of data and information; office functions for the creating of indexes with regard to information, websites and other information sources; compilation of data, in particular image, audio and/or video data in computer databases; optimization of online websites for third parties for marketing purposes; brand engagement and online communications investigations, namely monitoring and analysing of consumer opinions, consumer habits and the reputation of a brand amongst consumers.

Class 38

Computer communication services, namely providing online facilities for real-time interaction with other computer users concerning topics of general interest; providing on-line forums for transmission of messages among computer users concerning topics

of general interest; providing access to computer networks for real-time interaction with other computer users concerning topics of general interest; chat room services for social networking; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; delivery of messages by electronic transmission; electronic data interchange; electronic mail and messaging services; electronic transmission of data, images, messages, documents, and mail; instant messaging services; message sending and receiving services; peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers; providing an on-line forum for discussion of business analytics, marketing, sales, service, and strategy; providing internet chat rooms; providing on-line electronic bulletin boards for transmission of messages among computer users concerning business analytics, marketing, sales, service, and strategy; providing internet chat rooms; telecommunications, in particular mobile telephone services, telephone services, fax services, radio communication services, paging services, telex services, telegram services, e-mail data services; telecommunications via telecommunications networks, in particular mobile phone networks or satellite-supported telecommunications networks; wireless mobile phone services; mobile telecommunications services, included in class 38; cellular telephone communication; television and radio transmission; television and/or radio broadcasting; mobile phone television broadcasting; videoconferencing; news and information agencies within the framework of press agencies; electronic mail; forwarding of messages of all kinds to Internet addresses (webmessaging); computer-aided transmission of messages and images; electronic transmission of data, messages, images, documents and information relating to topics of general interest; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to online computer databases; providing access to electronic publications on the Internet; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to information on the Internet and on the mobile Internet, in particular access to downloadable files, namely sound, image, music and video recordings, all the aforesaid files in particular for downloading for mobile telephones and other mobile terminals; transmission of information stored on databases, namely by means of

interactive computer systems and/or by providing access to information on the Internet (included in class 38); telecommunications services via the Internet, intranets, extranets; procuring access to databases; providing access to a global computer network; providing access to data on computer networks, namely information, texts, drawings and images concerning goods and services; providing access to data on the Internet and on the mobile Internet, namely information and messages in the form of sound or images; providing access to software on data networks for Internet access; providing access to information for entertainment on computer networks; providing Internet chatrooms, electronic exchange of messages and information via chatlines, chatrooms and Internet forums; telecommunications by means of platforms and portals on the Internet; providing telecommunications channels for teleshopping services; e-mail services; transmitting information and data via computer networks and the Internet; leasing access time to a computer database; leasing of access time to Internet games.

Class 41

Business education and training services; Business education and training services in the field of marketing, sales, and service; publication of printed matter, books, newspapers and/or periodicals (other than for advertising purposes); publication of newspapers, periodicals and books, and of printed instructional and information material (other than for advertising purposes), in electronic form and/or on the Internet; electronic desktop publishing; publication of texts, other than publicity texts; rental of printed publications; online publication of printed matter (other than for advertising purposes); editing of (mobile) websites; rental of sound recordings; digital picture service, namely editing photographs for others and services of a photo agency; production of television, mobile phone television and radio programs; film production, other than advertising films; conducting entertainment events, cultural events, live cultural and sporting events, training events, including in connection with applications for posting images, links, videos, text and other brand content, for retrieving, sorting, filtering and moderating user generated content and online communications, for managing brand content on social media websites and social networks, and for analyzing, retrieving and managing the performance of brand engagement; club services; coaching; correspondence courses; education information; educational examination; practical training; vocational retraining; arranging and conducting of

conferences, congresses, concerts and symposiums, seminars, training courses, instructional and lecture events (cultural or educational purposes); arranging of exhibitions for cultural purposes, arranging of entertainment shows; online games services (on computer networks); conducting games (for entertainment) on the Internet, including on the mobile Internet; entertainment in the form of information on entertainment services via computer networks.

Class 42

Computer software development in the field of mobile applications; providing temporary use of on-line non-downloadable software development tools; technical consulting services in the field of data management, data analytics, and business intelligence analytics; technical data analytics services; software as a service (SAAS) services featuring software for providing data analytics, business analytics, business intelligence and for collecting and analyzing data; platform as a service (PaaS) software in the nature of a database for compiling data, customer data and customer interactions for enabling marketers to plan, personalize, optimize and customize communications with customers throughout the marketing, sales, and service lifecycle; platform as a service (PaaS) featuring computer software platforms for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions; platform as a service (PaaS) featuring computer software platforms for retrieving, tracking, analyzing, testing, measuring and managing data, customer data and customer interactions in the field of marketing, sales and service; platform as a service (PaaS) featuring computer software platforms for enabling marketers to plan, personalize, optimize, monitor, analyze and measure customer interactions across channels and devices; platform as a service (PaaS) featuring computer software platforms for enabling marketers to plan, personalize, optimize, monitor, analyze and measure customer interactions across social media, customer relationship management (CRM) systems, point-of-sale systems, web analytics, web posts, email and mobile devices; consulting services in the field of providing online, non-downloadable software and applications; providing temporary use of on-line non-downloadable software; online hosted computer services, namely, designing, developing, customizing, and maintaining computer software applications for others, and consulting services related thereto; technical research; information technology consulting services; installation of computer software; computer system design and

analysis; data conversion of computer programs and data; maintenance of computer software; monitoring of computer systems by remote access; rental of computer software and web servers; Scientific and technological services and research and design relating thereto; industry analysis and research services; design and development of computer hardware and software; computer software consultancy; computer system design and analysis including for posting images, links, videos, text and other brand content, for retrieving, sorting, filtering and moderating user generated content and online communications, for managing brand content on social media websites and social networks, and for analyzing, retrieving and managing the performance of brand engagement; creating and maintaining web sites for others; data conversion of computer programs and data; maintenance of computer software; monitoring of computer systems by remote access; providing search engines for the internet; styling; technical research; web site design consultancy; consultancy in the design and development of computer hardware; digitization of documents; duplication of computer programs; information technology consulting services; installation of computer software; provision of downloadable software and/or providing temporary use of non-downloadable software for generating embeddable code for websites, for the purpose of creating, customizing, deploying, scheduling, tracking, analyzing and managing online content on users' websites, on social media websites and other online forums, and for analyzing, monitoring and managing the performance of brand engagement of others; provision of downloadable software and/or providing temporary use of non-downloadable software for creating and deploying customized interactive content on social profiles; packaging design / packaging design services; technical project studies; quality control; recovery of computer data; rental of web servers; research and development of new products for others; server hosting; computer security consultancy and security services, especially monitoring data security.

Class 45

Online social networking services for businesses and individuals via a global communications network; monitoring of social network sites and online content for others; Internet-based social networking services; online social networking services in the field of business analytics, sales and service; licensing of computer systems and software; security consultancy and security services, especially monitoring

brands; online social networking services for others; registration of domain names; security consultancy.

Fifth Earlier Mark

Class 9

Computer software; computer software development tools; [computer] software and downloadable [computer] software for use in developing and customizing computer software applications and computer software application user interfaces; computer software for mobile phones and devices; computer software for storing, managing, tracking, analyzing, and reporting data in the fields of marketing, promotion, sales, customer information, customer relationship management, sales support, and employee efficiency; computer software to facilitate communicating among peer professionals in the advertising, marketing, and business services fields.

Class 35

Business management services, namely, providing information, data asset, and identity management services; compilation and management of computerized databases and consulting services related thereto; business management services, namely, providing customer relationship management services and sales support management services; business management consulting services relating to customer relationship management, sales support management, and marketing automation; providing general information of interest in the fields of business, marketing, advertising, brand development, promotion, sales, sales support, customer information, customer relationship management (CRM), customer service, business analytics, cloud computing, employee efficiency, e-commerce and software development and advisory services via a website; operating online marketplaces for buying and selling, sharing, and offering for free computer software and on-demand applications; business and marketing data analytics services; marketing and advertising services; organizing and conducting tradeshow in the fields of business, marketing, advertising, brand development, promotion, sales, sales support, customer information, customer relationship management (CRM), customer service, business analytics, cloud computing, employee efficiency, e-commerce, and software development.

Class 38

Computer communication services, namely providing online facilities for real-time interaction with other computer users concerning topics of general interest; providing on-line forums for transmission of messages among computer users concerning topics of general interest; providing access to computer networks for real-time interaction with other computer users concerning topics of general interest; chat room services for social networking; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; delivery of messages by electronic transmission; electronic data interchange; electronic mail and messaging services; electronic transmission of data, images, messages, documents, and mail; instant messaging services; message sending and receiving services; peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers; providing an on-line forum for discussion of business analytics, marketing, sales, service, and strategy; providing internet chat rooms; providing on-line electronic bulletin boards for transmission of messages among computer users concerning business analytics, marketing, sales, service, and strategy; providing internet chat rooms; telecommunications, in particular mobile telephone services, telephone services, fax services, radio communication services, paging services, telex services, telegram services, e-mail data services; telecommunications via telecommunications networks, in particular mobile phone networks or satellite-supported telecommunications networks; wireless mobile phone services; mobile telecommunications services, included in class 38; cellular telephone communication; television and radio transmission; television and/or radio broadcasting; mobile phone television broadcasting; videoconferencing; news and information agencies within the framework of press agencies; electronic mail-forwarding of messages of all kinds to Internet addresses (webmessaging); computer-aided transmission of messages and images; electronic transmission of data, messages, images, documents and information relating to topics of general interest; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to online computer databases; providing access to electronic publications on the Internet; wireless telecommunications through electronic transmission of data, sound, messages, images, information and documents via the Internet; providing access to

information on the Internet and on the mobile Internet, in particular access to downloadable files, namely sound, image, music and video recordings, all the aforesaid files in particular for downloading for mobile telephones and other mobile terminals; transmission of information stored on databases, namely by means of interactive computer systems and/or by providing access to information on the Internet (included in class 38); telecommunications services via the Internet, intranets, extranets; procuring access to databases; providing access to a global computer network; providing access to data on computer networks, namely information, texts, drawings and images concerning goods and services; providing access to data on the Internet and on the mobile Internet, namely information and messages in the form of sound or images; providing access to software on data networks for Internet access; providing access to information for entertainment on computer networks; providing Internet chatrooms, electronic exchange of messages and information via chatlines, chatrooms and Internet forums; telecommunications by means of platforms and portals on the Internet; providing telecommunications channels for teleshopping services; e-mail services; transmitting information and data via computer networks and the Internet; leasing access time to a computer database; leasing of access time to Internet games; rental or lease of access time to computer databases.

Class 41

Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of business, marketing, advertising, brand development, promotion, sales, sales support, customer information, customer relationship management (CRM), customer service, business analytics, cloud computing, employee efficiency, e-commerce and software development, and distributing course materials in connection therewith; publication of printed matter, namely, books, newspapers and periodicals, and online books, newspapers and periodicals, other than for advertising purposes; publication of instructional and information materials in the nature of pamphlets, brochures, manuals, informational flyers, informational sheets and newsletters.

Class 42

Platform as a Service [PaaS]; Software as a Service [SaaS]; Providing temporary use of on-line non-downloadable software to store, manage, track, analyze, and report

data in the field of marketing, promotion, sales, customer information, customer relationship management, sales support, employee efficiency, e-commerce, and software development; providing temporary use of on-line non-downloadable software to facilitate communicating among peer professionals in the advertising, marketing and business services fields, and for customizing computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications and websites for others and consulting services related thereto; providing temporary use of online non-downloadable computer software application development tools and programming language for use in developing, analyzing, coding, checking, and controlling other computer software; providing temporary use of online non-downloadable computer software that implements a procedural and object-oriented programming language; online hosted computer services, namely, designing, developing, customizing, and maintaining computer software applications for others; and consulting services related thereto.

Class 45

On-line social networking services; licensing of computer systems and software; security consulting and security services.