

O/401/20

TRADE MARKS ACT 1994

**IN THE MATTER OF
TRADE MARK APPLICATION NO. 3401919
BY BUX & CO LTD
TO REGISTER AS A TRADE MARK:**

F1T

IN CLASS 41

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 417591
BY FORMULA ONE LICENSING BV**

BACKGROUND AND PLEADINGS

1. On 24 May 2019, Bux & Co Ltd (“the applicant”) applied to register the trade mark **F1T**, under number 3401919 (“the application”). It was accepted and published in the Trade Marks Journal on 7 June 2019 in respect of the following goods and services:

Class 25: Clothing; footwear; headgear; gymwear; gym shirts; gym shorts; gym shoes; gym boots; gym socks; gym suits.

Class 41: Education; provision of educational services relating to health and fitness; providing of training; training services relating to health and fitness; entertainment; sporting and cultural activities; provision of gym facilities; provision of entertainment, sporting and cultural activities; rental of sports equipment; sports club facilities; provision of swimming bath facilities.

2. However, the applicant subsequently restricted the scope of the application by way of Form TM21B dated 31 July 2019 to *‘provision of gym facilities’* in class 41.

3. On 9 September 2019, Formula One Licensing BV (“the opponent”) filed a notice of opposition. The opposition is brought under Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) and is directed against the remaining service of the application.

4. The opponent relies upon its International Registration designating the United Kingdom number 1360007 (“the earlier mark”), under which the following trade mark is protected:



The image shows the trade mark 'F1' in a bold, black, sans-serif font. The 'F' is a simple, blocky letter, and the '1' is a simple, blocky numeral. The two characters are positioned side-by-side with a small gap between them.

5. The earlier mark was registered on 17 February 2017 and on 31 July 2018 the opponent designated the UK as a territory in which it sought to protect the International Registration under the terms of the Protocol to the Madrid Agreement. Protection for the earlier mark was granted on 22 November 2018 in respect of a range of goods and services in classes 4, 9, 12, 14, 16, 18, 25, 28, 32, 33, 35, 36, 38, 39 and 41.¹ However, for the purposes of the opposition, the opponent only seeks to rely upon the following services:

Class 41: Sporting activities; providing of training; provision of training; providing recreation facilities; providing facilities for sports events; organization of sporting events and activities; organization of sports competitions; providing sports facilities; information services concerning sports events.

6. The opponent's mark is an earlier mark, in accordance with Section 6 of the Act. However, as it had not been protected for five years or more at the filing date of the application, it is not subject to the proof of use provisions contained in Section 6A of the Act. Consequently, the opponent is entitled to rely upon all the services in class 41 listed above without having to establish genuine use.

7. The opponent argues that the competing trade marks are visually, aurally and conceptually similar. In this regard, the opponent submits that the only difference between the marks is the additional letter "T" in the contested mark and that the marks are otherwise visually and aurally identical. To the extent that a conceptual comparison is possible, the opponent contends that both marks evoke or allude to Formula One motor racing. Furthermore, the opponent argues that the services of the application are "covered by, or are similar to," the services in class 41 of the earlier mark. These factors, the opponent contends, will result in a likelihood of confusion, including a likelihood of association. Accordingly, the opponent submits that registration of the contested mark would be contrary to Section 5(2)(b) of the Act.

¹ A full list of the goods and services for which the earlier mark has protection are included as an annex to this decision.

8. The applicant filed a counterstatement denying the ground of opposition. Although the applicant does not dispute that the respective services of the competing marks are similar, the applicant denies that the marks are similar. The applicant submits that consumers are accustomed to differentiating between marks consisting of two and three letters on the basis of small differences between them. Moreover, the applicant contends that, in the context of the services for which it seeks registration, its mark will be perceived as a stylised version of the word “FIT”. Assessing the competing marks in their wholes, the applicant argues that the marks are visually, aurally and conceptually dissimilar. Finally, the applicant submits that “F1” does not have an independent distinctive role within its mark. Based on these factors, the applicant denies that there is a likelihood of confusion and requests that the application proceeds to registration.

9. Both parties have been professionally represented throughout these proceedings; the opponent by Elkington and Fife LLP and the applicant by Wilson Gunn. Neither of the parties have filed evidence but both parties filed written submissions in lieu of a hearing. I do not intend to summarise these but will refer to them throughout this decision, as and where necessary. Both parties were given the option of an oral hearing but neither requested to be heard on this matter.² Therefore, this decision is taken following a careful perusal of the papers before me, keeping all submissions in mind.

DECISION

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

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

“5(2) A trade mark shall not be registered if because -
[...]

² The opponent originally requested a hearing in its email to the Tribunal dated 18 March 2020, though later confirmed in its email dated 6 April 2020 that it was content for a decision to be taken from the papers.

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

Comparison of services

12. In the judgment of the Court of Justice of the European Union (“CJEU”) in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

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

13. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

(a) The respective uses of the respective goods or services;

(b) The respective users of the respective goods or services;

(c) The physical nature of the goods or acts of service;

(d) The respective trade channels through which the goods or services reach the market;

(e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;

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

14. Moreover, in *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

"... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of 'dessert sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

15. In *Avnet Incorporated v Isoact Limited*, [1998] F.S.R. 16, Jacob J. (as he then was) stated that:

"In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase."

16. The General Court ("GC") confirmed in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05, that, even if goods are not worded identically, they can still be considered identical if one term falls within the scope of another (or vice versa):

"29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark".

17. The services to be compared are:

| Opponent's services | Applicant's services |
|--|--|
| Class 41: Sporting activities; providing of training; provision of training; providing recreation facilities; providing facilities for sports events; organization of sporting events and activities; organization of sports competitions; providing sports facilities; information services concerning sports events. | Class 41: Provision of gym facilities. |

18. The opponent has contended that the services of the application are “covered by, or are similar to, all of the class 41 services which the earlier mark covers”. The opponent has submitted that some of the terms of its specification relied upon for the purposes of the opposition are sufficiently broad to encompass the service the applicant provides. According to the opponent, this is because gyms are designed to facilitate various kinds of training, recreation and sports events. With regard to the other services in the specification of the earlier mark, the opponent has contended that there is a high degree of similarity to the service the applicant provides as they all fall within the provision of services relating to sport. For its part, the applicant has not disputed that the services of the application are similar to the services of the earlier mark.

19. The specification relied upon by the opponent includes the term ‘*providing sports facilities*’. The word ‘sport’ is generally understood as meaning all types of physical activity that people do to keep healthy or for enjoyment.³ As for the applicant’s specification, the word ‘gym’ is generally understood to mean physical exercises and

³ <https://dictionary.cambridge.org/dictionary/english/sport>

activities performed inside, often using equipment.⁴ To my mind, physical exercises using equipment would be encompassed by all physical activity done to keep healthy or for enjoyment. Moreover, I am of the view that the provision of sports facilities could reasonably incorporate the provision of fitness and conditioning facilities or gyms. Therefore, I find these services identical under the principle outlined in *Meric*. Even in the event that I am wrong in this finding, it remains the case that there will be an overlap in users, use, nature of the acts of service, intended purpose and trade channels, rendering the services highly similar.

The average consumer and the nature of the purchasing act

20. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question (see *Lloyd Schuhfabrik Meyer*, Case C-342/97).

21. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

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

22. Both parties are agreed that the contested services in class 41 are available to the general public. Acquiring access to, or use of, gym and sport facilities are ordinary purchases for the purposes of exercising or training. Although, of course, it may vary

⁴ <https://dictionary.cambridge.org/dictionary/english/gym>

depending on the individual, these types of services are likely to be used by consumers on a fairly regular basis; accordingly, they are likely to be relatively frequent purchases, typically involving a paid membership or occasionally on a pay per session basis. While I appreciate that the cost of such services may vary somewhat, on average they would not commonly require a significant outlay. The purchasing of these services is likely to be predominantly factor upon what facilities are available, the range of exercise equipment on offer, the price of a membership or session, and the appropriateness of these features to the needs and personal goals of the consumer. For this reason, although not an intensely important choice, the act of purchasing the services would not be merely causal and would involve a degree of thought on the consumer's part. In my view, the purchasing process for these services would be typically visual in nature; the services are likely to be purchased after the consumer has viewed information in brochures or on the internet, or after a physical inspection of the premises. However, I do not discount aural considerations entirely, as it is possible that consumers would purchase the services after receiving word of mouth recommendations. In light of the above, I find that the level of attention of the general public in respect of these services would be average.

Comparison of trade marks

23. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a 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 marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

24. 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.

25. The respective trade marks are shown below:

| Earlier trade mark | Applicant's mark |
|---------------------------|-------------------------|
| F1 | F1T |

26. The opponent has submitted that the earlier mark is contained within the contested mark, and the competing marks differ only by the additional letter "T". In this regard, the opponent has highlighted that the first two characters of the competing trade marks are identical and has submitted that "consumers pay a greater level of attention to the beginning of a mark". In summation, the opponent has argued that the marks are visually similar to a high degree. Phonetically, the opponent has contended that the first two syllables of the contested mark will be pronounced identically to the earlier mark, resulting in clear similarities between the competing marks. In this connection, the opponent disputes the applicant's argument that consumers will pronounce the contested mark as the word "FIT". The opponent has submitted that the competing trade marks are aurally similar to a high degree. Conceptually, the opponent has argued that, insofar as a conceptual comparison is possible, both marks evoke or allude to Formula One motor racing, often being referred to as "F1".

27. To the contrary, the applicant has argued that the competing trade marks are not similar and has contended that the differences between them will be sufficient for consumers to differentiate between the services of the respective parties. In this connection, the applicant has submitted that consumers are used to differentiating between short trade marks on the basis of small differences. Moreover, the applicant has argued that, in relation to the services for which registration is sought, the

contested mark will be perceived as a stylised version of the word “FIT”. Consumers would not, according to the applicant, proceed to break down the contested mark into its component letters and numbers as the word “FIT” is more easily and readily brought to mind. Further, the applicant has submitted that the letter “T” is indispensable to imbuing the contested mark with meaning and, therefore, cannot be discounted. In summary, it is the applicant’s contention that the competing marks are visually, aurally and conceptually dissimilar.

28. The earlier mark is a plain word consisting of the letter and numeral “F1”. As this is the only element of the mark, it dominates the overall impression entirely.

29. The applicant’s mark is in word-only format and comprises the letters and numeral “F1T”. Given this is the only element, it wholly dominates the overall impression of the mark.

30. Visually, the competing trademarks coincide insofar as they share the same letter and numeral “F-1”, in the same order. This combination comprises the entirety of the earlier mark and is reproduced at the beginning of the applicant’s mark. The marks are visually different because a letter “T” is included at the end of the applicant’s mark but has no counterpart in the earlier mark. Although differences at the ends of marks tend to have less impact – owing to the average consumer in the UK reading from left to right – it is also important to bear in mind the shortness of the marks, the earlier mark and the applicant’s mark being only two and three characters in length, respectively. Bearing in mind my assessment of the overall impressions, I consider the marks to be visually similar to a medium degree.

31. Aurally, the earlier mark consists of two syllables, i.e. (“EFF-WON”), while the applicant’s mark comprises three syllables, i.e. (“EFF-WON-TEE”). The first two syllables of the competing marks are indistinguishable in the way in which they will be articulated. The final syllable in the applicant’s mark is not replicated in the earlier mark. Taking into account the overall impressions, I consider that the marks are aurally similar to a medium degree. Given the services for which the application has been made, I am somewhat sympathetic to the applicant’s argument that its mark would be pronounced as the word (“FIT”); however, while I consider this a possibility for some

consumers, I do not accept that this would be the case for all consumers. In instances where consumers do articulate the applicant's mark as ("FIT"), its mark will consist of one syllable that will be phonetically very different from the earlier mark, rendering the competing trade marks aurally dissimilar.

32. Conceptually, the combination of the letter and numeral in the earlier mark does not have any clear and obvious meaning which could be understood by the average consumer. I do not agree with the opponent's assertion that the mark evokes or alludes to Formula One motor racing. While it is possible that the mark would provide this conceptual message to those familiar with motor sports, the opponent has not adduced any evidence to demonstrate that a significant proportion of consumers of the services at issue would perceive the mark in the manner it has suggested. I find that the average consumer would perceive the earlier mark as a conceptually neutral combination of a letter from the English language and a numeral. In relation to the applicant's mark, due to the addition of the letter "T", I consider it even less likely that the average consumer of the services at issue would understand the mark to be alluding to, or evoking, Formula One motor racing. Rather, in my view, the applicant's mark would be perceived by some consumers as a conceptually neutral combination of a numeral placed between two letters from the English language. This does not have any clear or obvious meaning relevant to the services at hand. For this significant group of consumers, both marks will be conceptually neutral. As previously indicated, due to the services for which the applicant seeks registration of its mark, I consider it possible that other consumers will understand the applicant's mark to be alluding to the word "FIT". In *Usinor SA v OHIM*, Case T-189/05, the GC found that:

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

63. In the present case, the Board of Appeal correctly found that the signs at issue have a common prefix, 'galva', which evokes the technique of galvanisation, that is, the act of fixing an electrolytic layer to a metal to protect it from oxidation.

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

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

66. As far as the earlier mark is concerned, the suffix 'allia' is combined with the prefix 'galva' in the same way. The evocative force of the suffix 'allia' will enable the relevant public – on account of its knowledge and experience – to understand that that is a reference to the word 'alliage'. That process of identification is facilitated still further by the association of the idea of 'alliage' (alloy) with that of galvanisation, the suffix 'allia' being attached to the prefix 'galva'.

67. By breaking down the signs at issue, the relevant public will therefore interpret both signs as referring to the concepts of galvanisation and alloy.

68. Consequently, the conclusion to be drawn is, as the applicant correctly maintains, that the signs at issue are conceptually very similar, inasmuch as they both evoke the idea of galvanisation and of an alloy of metals, although

that idea is conveyed more directly by the mark applied for than by the earlier mark”.

33. In the context of the services at issue, the mark superficially represents the word “FIT” due to the numeral “1” in place of the letter “I”. Given that consumers will look for meaning in words which do not offer one readily, some consumers will perceive the mark as an inventive misspelling of this word. For consumers whom understand the mark in this regard, the applicant’s mark will possess a conceptual aspect which is not replicated in the earlier mark. For these consumers, and in consideration of my assessment of the overall impressions, I consider the competing trade marks conceptually dissimilar.

Distinctive character of the earlier mark

34. 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 *WindsurfingChiemsee v Huber and Attenberger* [1999] ECR I-0000, 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).”

35. In *Kurt Geiger v A-List Corporate Limited*, BL O/075/13, Mr Iain Purvis Q.C. as the Appointed Person pointed out that the level of ‘distinctive character’ is only likely to increase the likelihood of confusion to the extent that it resides in the element(s) of the marks that are identical or similar. 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.”

36. In other words, simply considering the level of distinctive character possessed by the earlier mark is not enough. It is important to ask *in what does the distinctive character of the earlier mark lie?* Only after that has been done can a proper assessment of the likelihood of confusion be carried out.

37. The opponent has asserted that the earlier mark has a high degree of distinctiveness, while the applicant has submitted that the earlier mark is inherently distinctive to at least a “normal” level. The protection process for the earlier mark was not completed more than five years before the filing date of the application and, as such, the opponent has not been required to provide proof of use. The opponent has not filed evidence in this matter and, therefore, has not demonstrated that its mark enjoys an enhanced level of distinctive character. Consequently, I have only the inherent position to consider.

38. Registered trade marks possess varying degrees of inherent distinctive character. These range from the very low, such as those which are suggestive or allusive of the goods or services, to those with high inherent distinctive character, such as invented words. Dictionary words which do not allude to the goods or services will be somewhere in the middle.

39. The earlier mark is in word-only format and consists of the letter “F” adjoined to the numeral “1”. The letter is the fifth of the English alphabet while the numeral is a mathematical unit. There are no other elements. The distinctiveness of the earlier mark rests with the letter and numeral in combination; together, they dominate the overall impression of the mark and provide its distinctive character. The term “F1” is neither descriptive nor allusive of the services at issue, though it is comprised of a common letter from the English alphabet and a common mathematical unit. I consider that the earlier mark possesses a medium level of inherent distinctive character.

Likelihood of confusion

40. 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 services, and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier trade mark, the average consumer for the 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 they have retained in their mind.

41. 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 services down to the responsible undertakings being the same or related.

42. In *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, the GC noted that the beginnings of word tend to have more visual and aural impact than the ends. The court stated:

“81. It is clear that visually the similarities between the word marks MUNDICOLOR and the mark applied for, MUNDICOR, are very pronounced. As was pointed out by the Board of Appeal, the only visual difference between the signs is in the additional letters ‘lo’ which characterise the earlier marks and which are, however, preceded in those marks by six letters placed in the same position as in the mark MUNDICOR and followed by the letter ‘r’, which is also the final letter of the mark applied for. Given that, as the Opposition Division and the Board of Appeal rightly held, the consumer normally attaches more importance to the first part of words, the presence of the same root ‘mundico’ in the opposing signs gives rise to a strong visual similarity, which is, moreover, reinforced by the presence of the letter ‘r’ at the end of the two signs. Given those similarities, the applicant’s argument based on the difference in length of the opposing signs is insufficient to dispel the existence of a strong visual similarity.

82. As regards aural characteristics, it should be noted first that all eight letters of the mark MUNDICOR are included in the MUNDICOLOR marks.

83. Second, the first two syllables of the opposing signs forming the prefix ‘mundi’ are the same. In that respect, it should again be emphasised that the attention of the consumer is usually directed to the beginning of the word. Those features make the sound very similar.”

43. In *Robert Bosch GmbH v Bosco Brands UK Limited*, BL O/301/20, Mr James Mellor Q.C. as the appointed person highlighted that there is no special test for ‘short’ marks. He said:

“38. In my view, it is clear that none of these cases establish any sort of special test for short marks. The point is a common sense one – that if marks differ e.g. by one letter, the difference may have a greater impact in marks which consists

of two letters than four etc. But every comparison must be conducted according to the approach laid down in the CJEU case law and every comparison will depend on its own facts.”

44. In addition, he went on to say:

“43. All the cases to which I have made reference on this topic establish that there are no special tests which apply to ‘short’ marks – whatever falls within the supposed category of ‘short’ marks. In reality, the tribunal simply has to apply the well-established propositions for assessing the visual, aural and conceptual similarities.”

45. Earlier in this decision I concluded that:

- The respective services in class 41 of the competing trade marks are identical or highly similar;
- Average consumers of the services at issue are members of the general public, whom would demonstrate an average level of attention during the purchasing act;
- The purchasing process for the contested services would be predominantly visual in nature, though I have not discounted aural considerations;
- The overall impression of the earlier mark would be dominated by the term “F1”, being the only element of the mark;
- The overall impression of the applicant’s mark would be dominated by the term “F1T”, being the sole element of the mark;
- The competing trade marks are visually similar to a medium degree;

- Aural similarity would factor upon whether the applicant's mark would be articulated by consumers as the word "FIT", the competing marks being aurally dissimilar where they do and aurally similar to a medium degree where they do not;
- Likewise, conceptual similarity would be contingent on whether consumers perceive the applicant's mark as alluding to the word "FIT", the competing marks being conceptually dissimilar where they do and conceptually neutral otherwise;
- The earlier mark possesses a medium level of inherent distinctive character.

46. The opponent's strongest case lies with those consumers who do not perceive the contested mark as allusive of the word "FIT" or proceed to articulate it as such. For these consumers, I remind myself that the competing marks have a medium degree of visual and aural similarity, while the marks are conceptually neutral.

47. I appreciate that I have found the respective services of the competing trade marks to be identical and that the level of attention paid by consumers during the purchasing act is likely to be no more than average. Nevertheless, I am of the view that, notwithstanding these findings, the consumer will not be directly confused. Although the contested trade mark contains the entirety of the earlier mark, the difference between the marks created by the additional letter "T" in the contested mark would not be overlooked by the average consumer. Even though this difference is at the end of the marks, a position which ordinarily has less impact than the beginning, that is offset by the shortness of the marks. Despite there being no special test for 'short' marks, the earlier mark comprises only two characters and, therefore, adding a further character has a significant impact on the overall impression portrayed by the contested mark. Consistent with the common-sense approach described by Mr Mellor, the difference between the competing marks has a greater impact due to the marks consisting of only two and three characters; due to the brevity of the marks, consumers

are more likely to notice the difference between them.⁵ Moreover, I agree with the applicant's argument that the element "F1" does not play an independent role within the overall impression of the contested mark; I do not believe that consumers would dissect the contested mark to analyse its various details.

48. Taking the above factors into account, the difference between the competing trade marks previously identified is, in my view, likely to be sufficient to avoid the average consumer mistaking one trade mark for the other. Therefore, even when factoring in the imperfect recollection of the consumer and the interdependency principle, it follows that there will be no direct confusion. For the sake of completeness, my conclusion would be the same for those consumers who perceive the contested mark to be alluding to the word "FIT" and pronounce the mark as such. For these consumers, the competing marks would be aurally and conceptually dissimilar, in which case they would be even further distinguished. These factors point towards a lesser, rather than a greater, risk of confusion.

49. That leaves indirect confusion to be considered. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

"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

⁵ Case T-274/09 *Deutsche Bahn v OHIM*, paragraph 78, and Case T-304/10 *dm-drogerie markt v OHIM*, paragraph 42

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.

Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as “LITE”, “EXPRESS”, “WORLDWIDE”, “MINI” etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (“FAT FACE” to “BRAT FACE” for example).”

50. In *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, Mr James Mellor Q.C., as the Appointed Person, stressed that a finding of indirect confusion should not be made merely because the two marks share a common element. In this connection, he pointed out that it is not sufficient that a mark merely calls to mind another mark. This is mere association not indirect confusion.

51. Applying the principles from the above case law, due to the difference between the marks previously outlined, I do not believe that the average consumer will assume the opponent and the applicant are economically linked undertakings on the basis of the competing trade marks. I am unconvinced that the average consumer would assume a commercial association between the parties, or sponsorship on the part of the opponent, merely because of the shared characters “F1”. This element is not so

strikingly distinctive that consumers would assume that only the opponent would be using it in a trade mark. Furthermore, the addition of a letter “T” to the seemingly arbitrary characters “F1” is neither simply adding a non-distinctive element to the earlier mark nor is it characteristic of any brand extensions with which consumers would be familiar. The difference between the marks and their respective overall impressions are not conducive to a logical brand extension. I find it unlikely that the competing trade marks would be perceived in this manner. Therefore, in my view, there is no likelihood of indirect confusion.

CONCLUSION

52. The opposition under Section 5(2)(b) of the Act has failed. Subject to any successful appeal against my decision, the application will become registered in the UK.

COSTS

53. As the opposition has been unsuccessful, the applicant is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. The decision has been taken from the papers without an oral hearing. The applicant did not file evidence in these proceedings but did file written submissions in lieu of a hearing. In the circumstances I award the applicant the sum of **£500** as a contribution towards the cost of the proceedings. The sum is calculated as follows:

| | |
|--|-------------|
| Considering the opponent’s statement and preparing a counterstatement | £200 |
| Preparing written submissions | £300 |
| Total | £500 |

54. I therefore order Formula One Licensing BV to pay Bux & Co Ltd the sum of **£500**. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an unsuccessful appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 14th day of August 2020

James Hopkins
For the Registrar,
The Comptroller General

ANNEX: FULL SPECIFICATIONS OF EARLIER MARK WO0000001360007

Class 4: Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting; engine oils and fuels; gasoline, petrol, diesel oil, gas and bio-fuels; candles; lubricant wax; industrial greases; natural gas; liquid gases; lubricating oils and greases; carburants; liquid petroleum gases; non-chemical additives for motor fuel, lubricants and greases; lighting fuel; cutting oils for industrial purposes; milling oils.

Class 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; eyeglasses, sunglasses, anti-dazzle eyewear, cords for sunglasses and glasses; contact lenses; containers for contact lenses; binoculars; magnets and decorative magnets; directional compasses; apparatus for recording, transmitting, editing, mixing and reproducing of sound and images; radios; vehicle radios; two-way radio transceivers; televisions; flat screens; liquid crystal displays; high definition and plasma screens; home cinema systems; video recorders; CD players; portable CD players; DVD players; mp3 players; apparatus for reading digital music; cassette players; portable cassette players; mini-disc players; portable radios; loudspeakers; infotainment apparatus for vehicles; headphones; earphones; microphones; remote controls, voice-

activated remote controls; electric door devices that facilitate remote opening and closing; navigation apparatus; personal digital assistants (PDAs); computers; data processors; computer keyboards; computer monitors; modems; computer carrying cases; computer mice; pads for computer mice; electronic pocket translators; dictating machines; electronic notebooks, diaries and agendas; electronic publications; scanners; printers; photocopying machines; facsimile transmission machines; telephones; telephone answering apparatus; video telephones; cellular telephones; cellular telephone covers; devices for hands-free use of telephones; earphones and headsets for cellular telephones; keyboards for cellular telephones; downloadable ringtones and graphic representations for cellular telephones; cellular telephone straps; carrying cases adapted for cellular telephones; cellular telephones with integrated cameras and video cameras; apparatus for operating cellular telephone cameras; calculating machines; credit card reading machines; cash exchanging machines; automated teller machines; video cameras, camcorders; photographic equipment, cameras (cinematographic cameras), projectors, exposed films, slides, flash bulbs (photography), cameras and camera accessory cases and straps, batteries; machines and programs for karaoke; computer software (pre-recorded computer programs) including software for games; computer programs; databases (computer software); screen saver programs for computers; recorded or non-recorded magnetic, digital or analogue media for sound or images; video discs, video tapes, magnetic tapes, magnetic discs, DVDs, floppy discs, optical discs, compact discs, mini-discs, CD-roms, all the aforementioned being blank or pre-recorded with music, sound or images (which may be animated); computer software for games of chance machines, reel game and interactive slot machines; holograms; magnetic cards (encoded); memory adapters (computer equipment); memory cards; memory sticks; microchip cards; microchip or magnetic credit cards, microchip or magnetic telephone cards, microchip or magnetic cards for money changers, microchip or magnetic cards for automated teller and money exchange machines, microchip or magnetic prepaid cards for cellular telephones, microchip or magnetic travel and entertainment cards, microchip or magnetic cheque guarantee and microchip or magnetic debit cards; security alarms; smoke detectors; wind socks for indicating wind direction; photovoltaic cells and solar electric panels; distance measuring apparatus; speed measuring and indication equipment; time recording devices; tire pressure sensors; tire pressure gauges; publications in electronic form in the form of CD-roms, databases or supplied

via the internet; downloadable electronic maps; audio receivers, sound amplifiers; television tubes; cathode ray tubes; set top boxes, namely computer software and hardware which can convert, supply and transmit audio and video data; satellite dishes; computer disc drives; packaged semi-conductors; integrated circuits containing programs used for audio, video or computer data processing; rechargeable batteries; audio and video data processors and converters; data transmission cables; electronic commerce payment machines; protective helmets for sports; magnetic identification bracelets; electronic tickets in magnetic card form or downloadable from a remote computer network; tickets in magnetic card form; safety clothing for protection against fire; safety gloves for protection against accidents; safety clothing with reflective bands; safety goggles; ear plugs for divers; protective helmets for sport; electric batteries for vehicles; directional signage software that facilities users to solicit each other to perform a wide range of personal and customised services in relation to the rental and reservation of temporary lodgings and to provide reviews and feedback about the provision of temporary private lodgings; computer software for coordinating transportation services; video game cassettes; video game discs; simulators for the steering and control of vehicles.

Class 12: Vehicles; apparatus for locomotion by land, air or water; bicycles; motorbikes; motor scooters; automobiles; sports utility vehicles; trucks; vans; caravans; buses; refrigerated vehicles; airplanes; boats; motor racing cars; electric vehicles; trailers; hot air balloons; airships; tires; inner tubes for tires; rubber tread patterns for use in the retreading of tires; patches for repairing inner tubes and tires; adhesive rubber patches for the repair of tires and inner tubes, valves for tires; pumps for inflating tires; non-skid devices for vehicle tires, namely, spikes and snow chains; vehicle wheels; wheel rims; wheel rim bands; hubcaps; tire covers; vehicle accessories, namely, sun screens, luggage racks, ski racks, hubcaps, seat covers, headlight covers, steering wheel covers, gear shift lever covers, vehicle covers; rearview mirrors; windshield wipers; safety belts for vehicle seats; bicycle bells; baby carriages; strollers; car seats for infants and children (for vehicles); engines for land vehicles.

Class 14: Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments; jewellery, necklaces, rings,

earrings; gems; crystals and gemstones; watches; wristwatches, watch straps, clocks; stopwatches; electric clocks; pendulums; medals, medallions, pendants, brooches; bracelets, leather bracelets; pins (jewellery); tie clips and tie pins; cufflinks; commemorative medals of precious metal; commemorative plates, trophies, statues, statuettes and sculptures, ornamental pins for hats, ashtrays, all the aforementioned goods being of precious metal; novelty key holders, trinkets and charms for key holders; coins; medals and badges for clothing of precious metal; decorative key holders, medallions not of precious metal; decorative key holders of plastic.

Class 16: Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; artists' and drawing materials; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks; colouring and drawing books; picture books; activity books; magazines; newspapers; books and reviews, including those relating to sports personalities and sports events; booklets; crossword and puzzle books; bookmarks; printed teaching material; score sheets; event programs; event albums; photograph albums; autograph books; printed timetables; pamphlets; collectible photographs of sports personalities; bumper stickers, stickers, albums, sticker albums; posters; photograph stands; tablecloths of paper; towels of paper; paper bags; invitation cards; greeting cards; gift wrapping paper; cardboard boxes; packaging boxes made of paper or cardboard; paper coasters and place mats; garbage bags of paper or plastics; food wrapping paper; plastic film for preserving foodstuffs; paper coffee filters; labels, not of textile; paper wet wipes not impregnated with chemicals or compounds; toilet paper; napkins of paper for removing make-up; boxes for handkerchiefs, of paper and cardboard; tissues of paper; boxed tissues; stationery and teaching materials (except apparatus); typewriter paper; copying paper; envelopes; notepads; folders for papers; tissue paper; writing books; paper sheets for note taking; writing paper; binders [office supplies]; files; filing boxes; book-cover paper; luminous paper; self-adhesive paper for notes; paperweights; crepe paper; cloth paper; paper badges and insignia; flags of paper; team flags of paper; writing instruments; fountain pens; pencils; ball-point pens; ball-point pen and pencil sets; felt-tip colouring pens; fibre-tip pens and felt-tip writing pens; marker pens; stands for pens; stands for pencils; pencil cases; drawing instrument sets; ink, inking pads, rubber stamps; electric or non-electric typewriters;

lithographs, lithographic works of art; paintings (pictures), framed or unframed; paint boxes, paint palettes and colouring pencils; chalks; pencil ornaments; blocks for printing; address books; diaries; personal organizers of paper; road maps; tickets, passes; pass holders; admission tickets; checks; comic books; calendars; postcards; advertising boards, banners and materials included in this class; decalcomanias; sticking labels; office requisites, except furniture; correction fluids; rubber erasers; pencil sharpeners; stands and containers for office articles; paper clips; thumbtacks; rulers; adhesive tapes for stationery, adhesive tape dispensers; staples; marking templates; binder clips; holders for notepads; cases for visiting cards; bookends; book holders [stationery]; stamps (seals); postage stamps; commemorative stamp sheets; credit cards without magnetic coding, telephone cards, cash cards, atm cards, cards for travelling and for shows, cheque guarantee cards and debit cards, not magnetic, made of paper or cardboard; baggage tags of paper; passport cases and covers; travellers' cheques; holders for cheque books; metal note clips; baggage tags; identity card holders; non-magnetic credit cards; document holders; cheque holders.

Class 18: Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals; leather and imitation leather; leather straps; umbrellas, parasols; sport bags (other than those adapted for the goods they are designed to contain); leisure bags; backpacks; rucksacks; tote bags, school bags; belt bags, handbags, bags of leather; beach bags, garment bags, suit bags; suitcases; straps for suitcases; travel bags; travel trucks; wheeled bags; briefcases (leather goods); vanity cases (empty); toiletry bags; key cases (leather goods); wallets; purses; luggage tags; boxes of leather; business card cases; clothing made of leather, collars and leashes for pets.

Class 25: Clothing, footwear, headgear; clothing; shoes and footwear; sandals; sports shoes; boots; headgear for wear; shirts; knitwear (clothing); pullovers; sleeveless pullovers; t-shirts; waistcoats; singlets; vests; sleeveless jerseys; dresses; skirts; underwear; bathing suits; bath robes; shorts; trousers; sweaters; sweatshirts; kimonos; knitted caps; caps; hats; sashes for wear; scarves; shawls; caps with visors; bandanas (neckerchiefs); tracksuits; jackets; sports jackets; stadium vests (marking vests); blazers; waterproof clothing; coats; uniforms; motorists' clothing; neckties; wrist

bands; headbands; gloves; aprons; bibs, not of paper; pyjamas; play suits for infants and children; socks and stockings; garters; belts; braces for clothing.

Class 28: Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees; games and playthings; balls for play; sports balls; board games; tables for table football; dolls and plush toys; toy vehicles; remote control toy vehicles; toy scooters; puzzles; jigsaw puzzles; inflatable toys; playing cards; confetti; articles for gymnastics and sports; rackets; apparatus for gymnastics; golf accessories, namely golf clubs, golf gloves, ground markers, ball markers, golf bags, golf club head covers, golf tees; sporting bags and containers adapted for carrying sports articles; party hats (toys); electronic games adapted for use with television sets; electronic games other than those adapted for use with television sets; handheld video games; video game machines; gaming consoles; electronic games apparatus, accessories for electronic games apparatus; voice-activated or hand-operated game controllers; joysticks for video games; electronic game machines with liquid crystal displays; foam hands (toys); robots (toys) for entertainment, prepayment video games for arcades (arcade games); fairground ride apparatus; replica aircraft models, kites; roller skates; skate boards; toys for pets; lottery tickets scratch cards.

Class 32: Beers; mineral and aerated waters and other non- alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages; non-alcoholic beverages; concentrates, syrups and powders for making non-alcoholic beverages; mineral and aerated waters; other non-alcoholic beverages; energy drinks; isotonic drinks; hypertonic drinks; hypotonic drinks; fruit and vegetable drinks; fruit and vegetable juices; frozen fruit drinks; non- carbonated, non-alcoholic frozen flavoured beverages; vitamin- enriched beverages (not for medical use); lagers; pale ales and ales; non-alcoholic beers.

Class 33: Alcoholic beverages (except beers); anise (liqueur); anisette; aperitifs; arak; baijiu; wines protected by the appellation of origin "Champagne"; sparkling wines; cider; cocktails; digestifs (liqueurs and spirits); distilled beverages; alcoholic fruit extracts; gin; kirsch; liqueurs; port wines; rice alcohol; rum; sake; spirits; vodka; whisky; wines.

Class 35: Advertising; business management; business administration; office functions; advertising services; services of an agency that publishes advertising texts; services of an advertising agency; services of an advertising agency on a global computer network (the internet) or via wireless electronic communication devices; dissemination of advertising matter; rental of advertising space; rental of advertising time in film credits; television advertising, radio advertising; advertising in the form of animated cartoons; promotional agency services, promotional agency services for sports and public relations; promotion of motor sport events; marketing study services; marketing research services; public opinion polling services; organization of exhibitions for commercial or advertising purposes; compilation and systemization of data in data banks; services of managing data banks; compilation of statistics; advertising for sports events in the field of motor racing; retailing of goods of all kinds; presentation of goods on any communication media for retail services; services of retailing of solvents, paraffin, waxes, bitumen and gasoline; the bringing together, for the benefit of others, of various goods (except the transportation thereof) including sporting equipment, clothing, games, toys, souvenirs, printed matter, books and computer software (excluding the transport thereof) in order to give customers the opportunity to view and purchase those goods conveniently in a store or via a global computer network (the internet) or via wireless electronic communication devices; advertising and promotional services, information services concerning advertising and promotion, all the aforesaid services being provided on-line from a computer data bank or via a global computer network (the internet) or via wireless electronic communication devices; design and compilation of advertisements for websites on a global computer network (the internet) or via wireless electronic communication devices; provision of space on websites for advertising of goods and services; auctioneering on a global computer network (the internet) or via wireless electronic communication devices; collection of directories for publication on the internet and on a wireless electronic communication network; commercial administration services for processing commercial services on a global computer network (internet) or via wireless electronic communication devices; compilation, creation and management of data, namely compilation of domain names in a registry; sales promotion, namely implementing preferential programs for customers; loyalty, incentive and bonus program services for customers at sports venues by means of distributing loyalty and encoded member cards which may hold personal user data; promoting the goods and

services of others by means of the issuance of loyalty rewards cards for supporters, containing personal information on the identity of the card holder and enabling control of access to sports stadiums (ticket office services); electronic commerce services (e-commerce), namely making product information available via telecommunication networks for advertising and sales purposes; database administration services; compilation of information into computer databases namely still or animated images; arranging of contracts for the purchase and sale of goods or services, for others; promotion of sports events in the field of motor racing; promotion of the goods and services of third parties, through contractual agreements, especially through partnership (sponsoring) and licenses, offering third party goods and services higher profile and an enhanced image derived from cultural and sporting events, particularly international events; compilation and recording of data and information on sports performances; services of providing staff, particularly for selling beverages and foods; promotion of motor racing events; retailing of interactive educational and entertainment products, interactive compact discs, cd-roms, and computer games; retailing, particularly on a global computer network, of interactive educational and entertainment products, interactive compact discs, cd-roms, and computer games; providing online business directories in relation to the reservation of temporary lodgings, and the rankings, ratings, reviews, referrals and recommendations in relation to reservation of temporary lodgings; search for financial sponsorship in relation to motor sport events.

Class 36: Insurance; financial affairs; monetary affairs; real estate affairs; issuing and management of credit cards and travellers' cheques; financial services; banking services; credit and fund investment; private banking; vehicle leasing; loan procurement services; insurance services; leasing financing; hire-purchase financing services; services for credit and debit cards; clearing services (foreign currency exchange); financial guarantee services relating to the reimbursement of expenses incurred following a vehicle breakdown or a vehicle accident; financial sponsorship of sports meetings; information services concerning finance and insurance, provided from a computer database or via the internet or on any wireless electronic communication network; home banking services; telephone banking services; banking services via the internet or on any wireless electronic communication network;

payment services via mobile telephone; safe deposit services; real estate consultancy; financial services including e-wallets and cryptocurrency.

Class 38: Telecommunications; telecommunication services and consultancy; communication by mobile telephone; communication by telex; communication via electronic computer terminals linked to telecommunication networks, data banks and the internet or via wireless electronic communication devices; communication by telegraph; communication by telephone; communication by facsimile; communication by radio; paging services; mobile telephone services; conference services by telephone or by video; cable television program broadcasting; distribution and transmission of analogue television, digital television, cable television, satellite television, pay-per-view television, interactive television, interactive entertainment and interactive competitions and radio; radio broadcasting; radio and television broadcasting of programs relating to sports and sports events; entertainment program broadcasting; news agency services; rental of telephones, facsimile machines and other telecommunication apparatus; transmission of commercial internet pages online or via wireless electronic communication devices; transmission and dissemination of television and radio programs via the internet or via any wireless electronic communication network; electronic message transmission; other message transmission services; computer aided transmission of messages and images; providing access to data communication servers and real-time chat forums; telecommunication via a fibre-optic network; providing access to a global computer network or interactive communications technologies for access to private and commercial purchasing and ordering services; telecommunication services for the booking of tickets via the internet; providing access to a multi-user network system giving information relating to betting and money games and internet-based services and other global networks; providing access time to a global computer network (the internet) or via wireless electronic communication devices; telecommunication of computer information (including websites) and other data; transmission of information (including sites on data communication networks) via telecommunication; electronic mail; service provider services via the internet or via any wireless electronic communication network (telecommunication services); providing connections for telecommunications with a global computer network (the internet) or with data banks; providing access to websites offering digital music on the internet via a global

computer network or via wireless electronic communication devices; rental of access time to music streaming websites on the internet via a global computer network or via wireless electronic communication devices; rental of access time to a database server centre (telecommunication services); rental of access time to a computer database (telecommunication services); transmission of digital music via telecommunications; on-line transmission of electronic publications; transmission of digital music via the internet or via any wireless electronic communication network; transmission of digital music via streaming websites; simulcast broadcasting and/or uploading of film recordings and sound and video recordings; simulcast broadcasting and/or uploading of interactive educational and entertainment products, interactive compact disks, cd-roms, computer programs and computer games (telecommunications); real-time streaming of video and audio material via the internet; real-time streaming of digital music via mobile telephones; providing access to and leasing of access to computer bulletin boards and chat rooms in real time via a global computer network; telecommunication services dedicated to retail sales by means of interactive communications with customers; multimedia telecommunication; videotext and teletext transmission services; information transmission via communication satellite, microwave or by electronic, digital or analogue means; transmission of digital information by cable, wire or fibre; transmission of information via mobile telephone, telephone, facsimile machine and telex; telecommunication services for receiving and exchanging information, messages, images and data; leasing of broadcasting apparatus for external broadcasting; leasing of telecommunications installations.

Class 39: Transport; packaging and storage of goods; travel arrangement; travel agency services for arranging travel; travel organization and reservation; travel ticket reservation services; arranging of travel documents; travel tour operation services; transportation services by airplane, railway, bus and truck; boat travel services; tourist travel services; vehicle rental; rental of parking spaces; taxi transportation; chauffeur services; limousine services; providing information relating to the planning and bookings of car sharing and temporary parking services; providing information regarding transportation services and bookings for transportation services via a website; distribution of water, heat, gas and electricity; newspaper, review and book delivery; postal services; courier services; packaging of goods; distribution of tickets; freight forwarding services; tracking and locating of goods and parcels in transit;

transportation, storage and delivery of letters, documents, messages, printed matter, parcels and other goods by land, sea or air; transport of persons by aircraft, train, bus, truck or boat; satellite navigation services; warehousing of goods; distribution of solvents, paraffins, waxes, bitumens and oil products, except liquid gas; distribution (delivery) of films and sound and image recordings; distribution (delivery) of interactive educational and entertainment products, interactive compact disks, cd-roms, computer programs and computer games.

Class 41: Education; providing of training; entertainment; sporting and cultural activities; provision of training; sporting and cultural activities, operating lotteries, prize draws; arranging of contests; betting and gaming services relating to sports; hospitality services, in particular customer reception services (entertainment services), including reservation of entry tickets to sports or entertainment events; entertainment services in connection with sports events; providing recreation facilities; providing facilities for sports events; organization of sporting and cultural events and activities; organization of sports competitions; organization of events relating to motor sport; providing sports facilities; entertainment services in the form of public viewing of live and delayed broadcast of sports events; rental of video and audio-visual installations; production, presentation, distribution and/or rental of film recordings and sound and video recordings; radio and television coverage of sports events; production of programmes for radio, television and videotape; editing services; ticket reservation services for entertainment, sporting and cultural events; information services concerning sports events or entertainment; timing of sports events; arranging of beauty contests; arranging and conducting of concerts, conferences and training workshops; operating night clubs and amusement parks; organisation of exhibitions for cultural and educational purposes; interactive entertainment; betting and gaming services on-line on the internet or on any wireless electronic communication network; entertainment information (including in connection with sport), provided on-line from a computer database or via the internet or via any wireless electronic communication network; electronic game services provided by means of the Internet or mobile telephones; organisation of computer games competitions; publication of books; publication of books and electronic journals on-line; audio and video recording services; production of animated cartoons for the cinema, production of animated cartoons for television; rental of sound and picture recordings for entertainment purposes; distribution of

sound and images recordings via the internet; provision of digital music (not downloadable); offering digital music via telecommunications; education information provided on-line from a computer database or via the internet or via any wireless electronic communication network; provision of sports information relating to statistical information; arranging and conducting of educational discussion groups, not on-line; translation services; photographic services; provision of entertainment facilities.