

O/506/17

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATIONS BY BLUE DIGITAL (EUROPE) LIMITED

UNDER NO. 3154643 FOR THE TRADE MARK

blue.com

AND

UNDER NO. 3190540 FOR THE TRADE MARK

BLUE.COM

AND

IN THE MATTER OF CONSOLIDATED OPPOSITIONS THERETO

UNDER NOS. 407438 AND 408967 RESPECTIVELY

BY O2 WORLDWIDE LIMITED

The background and the pleadings

1) On 14 March 2016 Blue Digital (Europe) Limited (“the Applicant”) filed an application to register the following mark for the following services:

blue.com

Class 38: *Telecommunications and broadcast communication services; transmission and streaming of data content via computer and global information networks; operating of electronic communications networks; providing access to databases; providing access to online databases via portals; electronic data interchange; telecommunications services for providing access to computer databases; providing data access to databases for downloading information via electronic media.*

The application was published in the Trade Marks Journal on 10 June 2016.

2) On 11 October 2016, with a priority date of 11 April 2016, the Applicant filed an application to register the following mark for the following services:

BLUE.COM

Class 9: *Computer Hardware; Computer Software; Computer peripherals; Electronic data processing equipment; computer network apparatus; parts and fittings for all the aforesaid goods.*

The application was published in the Trade Marks Journal on 6 January 2017.

3) O2 Worldwide Limited (“the Opponent”) opposes the registration of both the above marks on grounds under sections 5(1), 5(2)(a) and 5(2)(b) of the Trade Marks Act 1994 (“the Act”). In both oppositions the Opponent relies on its UK registration no. 3003477 (“the earlier mark”) for the following mark:

THE BLUE

The Opponent relies on all the goods and services for which the earlier mark is registered, as shown in the Annex to this decision. The earlier mark was filed on 24 April 2013 and registered on 13 December 2013. The consequences of these dates are that in both oppositions: i) the Opponent's mark constitutes an earlier mark in accordance with section 6 of the Act, and ii) it is not subject in either to the proof of use conditions contained in section 6A of the Act, its registration process having been completed less than five years before the publication of either of the Applicant's marks.

4) The Applicant filed respective notices of defence and counterstatements, denying the grounds of opposition, and the oppositions were consolidated. The Opponent is represented in these proceedings by Stobbs. Neither party filed evidence. Neither requested a hearing. The Opponent filed written submissions in lieu of attendance at a hearing. Although the Applicant filed no separate submissions, its counterstatements contain what amount to detailed submissions, which I shall refer to as appropriate. I therefore give this decision after a careful review of all the papers before me.

Sections 5(1) and 5(2)

5) Section 5(1) of the Act reads:

“A trade mark shall not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is applied for are identical with the goods or services for which the earlier trade mark is protected.”

Section 5(2) of the Act reads:

“A trade mark shall not be registered if because –

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

(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.”

I shall turn first to the Applicant’s claims under section 5(2)(b).

Section 5(2)(b)

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

(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 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

7) In the judgment of the 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”.

9) It follows from the General Court’s decision in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05 (“*Meric*”), and the case law cited there, that goods and services are to be held identical if a term in one of the specifications to be compared falls within the ambit of a term in the competing specification:

“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 the 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.”

10) When it comes to understanding what terms used in specifications mean and cover, the guidance in the case-law is to the effect that “in construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of the trade”¹ and that I must also bear in mind that words should be given their natural meaning within the context in which they are used; they cannot be given an unnaturally narrow meaning². I also note the judgment of Mr Justice Floyd (as he then was) in *YouView TV Limited v Total Limited* where he stated:

“..... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the

¹*British Sugar Plc v James Robertson & Sons Limited (Treat)* [1996] R.P.C. 281

²*Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267

observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IPTRANSLATOR)* [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."

12) In its notices of opposition the Opponent relies on all the goods and services of its earlier mark, as shown in the Annex this decision.

Application for registration no. 3190540

Class 9: *Computer Hardware; Computer Software; Computer peripherals; Electronic data processing equipment; computer network apparatus; parts and fittings for all the aforesaid goods.*

13) In its counterstatement the Applicant sensibly accepts that the goods in Class 9 of its application for registration no. 319540 are identical with goods protected in Class 9 of the earlier mark's specification. It is therefore unnecessary for me to undertake a comparison.

Application for registration no. 3190540

Class 38: *Telecommunications and broadcast communication services; transmission and streaming of data content via computer and global information networks; operating of electronic communications networks; providing access to databases; providing access to online databases via portals; electronic data interchange; telecommunications services for providing access to computer databases; providing data access to databases for downloading information via electronic media.*

14) The Applicant submits that while the services protected by the earlier mark are more specific, those of the opposed application offer more general

telecommunications and broadcast services. This is an inaccurate characterisation of the Opponent's specification in Class 38, which contains, in particular, the broad terms *telecommunications* and *telecommunications services*. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch) ("YouView"), for example, Floyd J said:

27) Mr Malynicz pointed to the Nice Classification, Ninth Edition. He did so not in order to construe what "telecommunications services" meant in his clients' specification, recognising that would be impermissible. Instead he drew attention to the explanatory note to show that as a matter of language, telecommunications could include both telephony, data message transmission and radio and television. To that extent, it merely confirms what one can find in a number of dictionaries. So, for example, the New Shorter Oxford Dictionary (1993) says that it means "*Communication over a distance, esp. by cable, telegraph, telephone or broadcasting*".

28) I have difficulty with the suggestion that telecommunications services should be given a narrow meaning which excludes broadcasting. Mr Malynicz did not seriously challenge the suggestion that in some contexts the term may have a more restricted meaning. The fact remains that, on its face, the expression includes a number of areas, increasingly converging, and that without a clear indication one way or the other, includes all of them.

15) The term *telecommunications* appears in both Class 38 specifications. In addition, bearing in mind the comments of Floyd J in *YouView*, the definition of telecommunications which he cites, and the broad scope of telecommunication services, the following are all sub-categories of, and thus fall within the ambit of, the Opponent's *telecommunication services*, and are therefore identical under the guidance in *Meric: telecommunications and broadcast communication services; transmission and streaming of data content via computer and global information networks; operating of electronic communications networks; electronic data interchange; telecommunications services for providing access to computer databases*. Similarly, there is identity between the Applicant's *providing access to databases* and the Opponent's *providing access to computer databases*. The Applicant's *providing access to online databases via portals* and *providing data*

access to databases for downloading information via electronic media also both fall within the ambit of the Opponent's *providing access to computer databases*, and are identical.

The average consumer and the purchasing process

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

17) The average consumer of the goods and services at issue will be either a member of the general public buying for domestic use or a professional user buying on behalf of an organisation or business. Visual considerations (through print and TV advertisements and webpages, signage, catalogues, displays, etc) will be important both when purchases are made online and when they are made in stores. Most purchases will be made through these channels. However, aural considerations can also play a role, for example, in word-of-mouth recommendations or radio advertisements, or where purchases are made in stores or by telephone, and they will not be ignored in my assessment. When selecting the goods and services in question the purchaser will wish to consider factors such as compatibility, reliability, warranty, network coverage, breadth of services offered, contract periods,

cost etc., all of which suggest that the average consumer will pay a fairly high degree of attention to the selection of the goods and services at issue. Since IT and telecommunications capabilities will be of importance to an organisation's success, and significant financial outlay may be involved, I would expect a professional or commercial user to pay a high degree of attention when selecting the services at issue.

Comparison of the marks

18) 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.”

19) It would be wrong, therefore, to dissect the trade marks artificially, 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. The marks to be compared are shown below:

Application for registration no. 3154643	Application for registration no. 3190540	The earlier mark
blue.com	BLUE.COM	THE BLUE

20) The earlier trade mark is registered in capital letters, which by convention means that it consists of the words *THE BLUE* as such, not simply the words presented in the particular font or case which appears in the Register of Trade Marks. The difference between the case in which the earlier mark is presented and that in the application for registration no. 3154643 is therefore immaterial. As a result, for the purposes of comparison with the earlier mark, there is in effect no difference between the two opposed marks. For convenience, therefore, in my comparison below I shall refer simply to “the opposed mark”.

21) It is by no means rare nowadays for trademarks to consist of domain names. The message that will be conveyed to the average consumer by the opposed mark is that an enterprise doing business under a name or mark which consists of, or includes, “blue” wishes to inform the public where it can be found online. Although the .com element is not negligible, the distinctive weight of the mark lies heavily on the BLUE, which dominates it. Similarly, while the use of the definite article may add something to the earlier mark, its relative contribution is not a very significant one. BLUE is manifestly the mark’s dominant and distinctive element.

22) In its counterstatement the Applicant draws my attention to the differing sequence of letters in the marks to be compared, the position of the coinciding letters, and the structure and length of the signs. It further submits: *“In word signs with a predominant verbal element the first part is generally the one that primarily catches the consumer’s attention and therefore will be remembered more clearly than the rest of the sign. This means that in general the beginning of a sign has significant influence on the general impression made by the mark. Applying this to our present case, the earlier mark and the subject mark have predominantly different*

verbal elements ‘THE’ for the earlier mark and ‘BLUE’ for the subject mark”. There is a rough rule of thumb that the consumer normally attaches more importance to the beginnings of word marks. However, this is no more than a rule of thumb. Each case must be considered on its merits. My assessment must take account of the overall impression created by the marks³. I have found BLUE to be the dominant and distinctive element of both marks, and this is the element on which the average consumer’s attention will focus. There is a relatively high degree of visual similarity between the marks.

23) The Applicant draws my attention to the fact that “*The earlier mark is made up of two syllables, pronounced ‘THE-BLUE’. In contrast the subject mark is made up of three syllables, pronounced ‘BLUE-DOT-COM’. Aside from sharing the same syllable ‘BLUE’, the varying lengths, rhythm and reading of the marks is entirely different*”. Here again, however, it is the element BLUE on which the average consumer’s attention will focus in both marks. There is a relatively high degree of aural similarity between the marks.

24) Though I consider that the definite article does add something to the earlier mark, in the absence of further context its conceptual significance in the mark, if any, is extremely vague and insubstantial by contrast with the very clear conceptual content of the dominant BLUE. Similarly, the conceptual content of .COM in the opposed mark is confined to informing the consumer that the mark consists of a domain name. It is the distinctive conceptual content of the word BLUE on which the average consumer’s attention will focus. Conceptually, the marks are highly similar.

³ ³ Cf. *Spa Monopole, compagnie fermière de Spa SA/NV v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-438/07*:

“23 Admittedly, the consumer normally attaches more importance to the first part of words (Joined Cases T-183/02 and T-184/02 *El Corte Inglés v OHIM – González Cabello and Iberia Líneas Aéreas de España (MUNDICOR)* [2004] ECR II-965, paragraph 81). However, that argument cannot hold in all cases (see judgment of 16 May 2007 in Case T-158/05 *Trek Bicycle v OHIM – Audi (ALL TREK)*, not published in the ECR, paragraph 70 and the case-law cited) and does not, in any event, cast doubt on the principle that the assessment of the similarity of marks must take account of the overall impression created by them.”

The distinctiveness of the earlier mark

25) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark, either on the basis of inherent qualities or because of use made, the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). 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-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).”

26) I have no evidence of acquired distinctiveness to consider. This leaves the question of inherent distinctive character. The word “blue” is neither descriptive nor allusive in any way of any of the relevant goods and services. I consider that the earlier mark has at least a normal degree of inherent distinctive character.

Likelihood of Confusion

27) The factors assessed so far have a degree of interdependency (*Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17), a global assessment of them must be made when determining whether there exists a likelihood of confusion (*Sabel BV v. Puma AG*, paragraph 22). However, there is no scientific formula to apply. It is a matter of considering the relevant factors from the viewpoint of the average consumer and determining whether they are likely to be confused. There may be a likelihood of confusion if a significant proportion of the relevant public is confused⁴.

28) I have found the earlier mark to have at least a normal degree of inherent distinctive character. I have found the respective goods and services of the two opposed marks to be identical with goods and services of the earlier mark. I have found a relatively high degree of visual and aural similarity and a high degree of conceptual similarity between both the opposed marks and the earlier mark. I have found that the average consumer of the goods and services at issue will be either a member of the general public buying for domestic use or a professional user buying on behalf of an organisation or business.

29) According to the case-law, the section of the public which has the lowest level of attention must be taken into consideration in assessing of the likelihood of confusion⁵. Even taking into consideration the high level of attention which I have attributed to the professional or commercial user, however, which may reduce somewhat the effect of imperfect recollection, and bearing in mind my findings on the purchasing process, I have no hesitation in concluding that there is a likelihood of confusion between the earlier mark and both the opposed marks. I consider that the differences between the marks will go unnoticed by many consumers, so that they will be directly confused. Even where the differences are noticed, however, the marks will be seen simply as variant marks of the same or a related undertaking.

⁴ See the comments of Floyd LJ in *JW Spear & Sons Ltd & Others v Zynga Inc* [2015] EWCA Civ 290 at paragraph 37 and of Kitchen LJ in *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, where he considered the judgment of the Court of Appeal in *Interflora Inc v Marks and Spencer plc* [2015] EWCA Civ 1403, [2014] FSR 10.

⁵ See to that effect in *Kido v OHIM — Amberes (SCORPIONEXO)*, T 152/08, at paragraph 40

There will be indirect confusion. Accordingly, **the opposition under section 5(2)(b) succeeds in its entirety against both the opposed marks.**

Sections 5(1) and 5(2)(a)

30) The opposition under section 5(2)(b) having succeeded in its entirety against both the opposed marks, it is unnecessary for me to examine the Opponent's claims under sections 5(1) and 5(2)(a) of the Act.

Costs

31) O2 Worldwide Limited has been successful and is entitled to a contribution towards its costs. I hereby order Blue Digital (Europe) Limited to pay O2 Worldwide Limited the sum of £1,000. This sum is calculated as follows:

<i>Opposition fees</i>	£ 200
<i>Preparing statements and considering the other side's statements</i>	£ 400
<i>Written submissions</i>	£ 400

The above sum should be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 10th day of October 2017

**Martin Boyle
For the Registrar,
The Comptroller-General**

Annex

Goods and services protected by UK registration no. 3003477

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; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; computer hardware; computer application software; computer software; computer software downloadable from the Internet; PDAs (Personal Digital Assistants), pocket PCs, mobile telephones, laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; televisions; headphones; satellite navigation devices; computer software recorded onto CD Rom; SD-Cards (secure digital cards); glasses, spectacle glasses, sunglasses, protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes, audio discs; audio-video tapes, audio-video cassettes, audio-video discs; video tapes, video cassettes, video discs; CDs, DVDs; electronic publications (downloadable); mouse mats; magnets; mobile telephone covers, mobile telephone cases; magnetic cards; encoded cards; parts and fittings for all the aforesaid goods.

Class 16

Paper, cardboard and goods made from these materials, not included in other classes; printed matter; book binding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters

and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks; books, calendars, cards, catalogues, programmes, writing paper, envelopes, pads, notebooks, diaries, greeting cards, magazines, pamphlets, pens, pencils, postcards, posters, decalcomanias, stickers, tickets, beer mats; coasters of paper and cardboard; napkins of paper; tissues and towels of paper; bags of paper and/or plastic material; tickets, coupons and vouchers; parts and fittings for all the aforesaid goods.

Class 35

Advertising; business management; business administration; office functions; organisation, operation and supervision of loyalty and incentive schemes; retail services and online retail services connected with the sale of 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, automatic vending machines and mechanisms for coin operated apparatus, cash registers, calculating machines, data processing equipment and computers, fire-extinguishing apparatus, apparatus for the transmission of sound and image, telecommunications apparatus, mobile telecommunication apparatus, mobile telecommunications handsets, computer hardware, computer application software, computer software, computer software downloadable from the Internet, PDAs (Personal Digital Assistants), pocket PCs, mobile telephones, laptop computers, telecommunications network apparatus, drivers software for telecommunications networks and for telecommunications apparatus, protective clothing, protective helmets, televisions, computer software recorded onto CD Rom, SD-Cards (secure digital cards), glasses, spectacle glasses, sunglasses, protective glasses and cases therefor, contact lenses, cameras, camera lenses, MP3 players, audio tapes, audio cassettes, audio discs, audio-video tapes, audio-video cassettes, audio-video discs, video tapes, video cassettes, video discs, CDs, DVDs, electronic publications (downloadable), mouse mats, magnets, mobile telephone covers, mobile telephone cases, magnetic

cards, encoded cards, paper, cardboard , printed matter, book binding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paint brushes, typewriters and office requisites, instructional and teaching material, plastic materials for packaging, printers' type, printing blocks, books, calendars, cards, catalogues, programmes, writing paper, envelopes, pads, notebooks, diaries, greeting cards, magazines, pamphlets, pens, pencils, postcards, posters, decalcomanias, stickers, tickets, beer mats, coasters of paper and cardboard, napkins of paper, tissues and towels of paper, bags of paper and/or plastic material, clothing, footwear, headgear, household or kitchen utensils and containers, jewellery, precious stones, horological and chronometric instruments, musical instruments, apparatus for lighting, textiles and textile piece goods, leather and imitations of leather, handbags, rucksacks, purses, bags and sports bags, travel bags, backpacks, duffel bags, boot bags, holdalls, wallets, purses, credit card holders, games and playthings, gymnastic and sporting articles, meat, fish, poultry, game, coffee, tea, cocoa, sugar, rice, beers, mineral waters, aerated waters and other non-alcoholic drinks, alcoholic beverages, matches; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 36

Insurance; financial affairs; monetary affairs; real estate affairs; financial information and advice relating to tariffs; information and advice relating to finance and insurance; financial payment services; payment processing services; electronic payment services; automated payment services; payment collection agencies; processing of payment transactions via the Internet; money transfer services; electronic funds transfer services; bill payment services; issuing of tokens of value in relation to customer loyalty schemes; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 38

Telecommunications; telecommunications services; mobile telecommunications services; telecommunications portal services; Internet portal services; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; broadcasting services; television broadcasting services; broadcasting services relating to internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; information services provided by means of telecommunication networks relating to telecommunications; services of a network provider, namely rental and handling of access time to data networks and databases, in particular the Internet; provision of access time for data networks and data banks, in particular the Internet; communications services for accessing a database, leasing of access time to a computer database; providing access to computer databases; rental of access time to a computer database; operation of a network, being telecommunication services; expert advice and opinion relating to telecommunications; planning relating to telecommunications equipment; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 41

Education; providing of training; entertainment; sporting and cultural activities; interactive entertainment services; electronic games services provided by means of any communications network; entertainment and information services provided by means of telecommunication networks; provision of news information; television production services; television entertainment services; internet protocol television services; provision of entertainment by means of television and Internet protocol television; provision of musical events; entertainment club services; discotheque services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and cultural

events; ticket information services for entertainment, sporting and cultural events; ticket agency services; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; information and consultancy services relating to information technology; consultancy services relating to information technology; engineering services relating to information technology; information services relating to information technology; technical consultancy services relating to information technology; computer programming services; programming of data processing apparatus and equipment; recovery of computer data; consultancy in the field of computer hardware; computer programming; duplication of computer programs; computer rental; computer software design; installation of computer software; maintenance of computer software; repair of computer software; updating of computer software; rental of computer software; rental of computer hardware; computer system design; computer systems analysis; consultancy in the field of computer software; conversion of data or documents from physical to electronic media; creating and maintaining websites for others; data conversion of computer programs and data (not physical conversion); hosting computer sites (web sites) of others; engineering services relating to telecommunications; technical consulting; rental of computers; monitoring of telecommunications network systems; services of information brokers and providers, namely product research for others; weather forecasting; research relating to telecommunications; research of field telecommunication technology; technical support services relating to telecommunications and apparatus; expert advice and opinion relating to technology; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 45

Dating services; online dating services; security services for the protection of property and individuals; legal services; management of copyright; arbitration services; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.