

O/0230/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003777427

BY SONER COLAK

TO REGISTER THE FOLLOWING TRADE MARK:

NyokiClub

NYOKICLUB



(SERIES OF THREE)

IN CLASSES 9, 14, 25, 35 AND 41

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 436739

BY NOKIA CORPORATION

Background and pleadings

1. On 13 April 2022 Soner Colak (“the applicant”) applied to register the series of three trade marks shown on the cover page of this decision in the UK. The specification for which the mark seeks registration stands as follows:¹

Class 9: *Computer Application Software for Blockchain-based Platforms; Computer Software That Provides a User Interface for Managing Digital Identities and for Signing Blockchain Transactions; Downloadable Electronic Data Files Featuring Artwork, And Experiences; Downloadable Software; Downloadable Computer Game Software; Intelligent Gateways for Communication; Mobile Apps; Recorded Content; Media Content; Computer Software; Downloadable Computer Software for Blockchain Technology; CdRoms; Dvds; Audio and Audio-visual Recordings; Pre-recorded Videos; Electronic Publications; Podcasts; Downloadable Publications; E-books; Information Technology and Audio-visual, Multimedia and Photographic Devices; Wearable Digital Electronic Communication Devices; Wearable Digital Electronic Devices Capable of Providing Access to the Internet; Smart Watches; Watchbands That Communicate Data to Other Electronic Devices; Data Storage Devices and Media; Communications Equipment; Data Collection Apparatus; Data Processing Equipment and Accessories (electrical and Mechanical); Safety Protection and Signalling Devices; Software for Digital Exchanges for Virtual Items; Downloadable Computer Software for Creating, Storing, Text, Toys and Games for Use Online and in Online Virtual Worlds; Downloadable Computer Software for Managing Digital and Virtual Blockchain-based Tokens; Downloadable Computer Application Software for Blockchain-based Platforms, Videos, Videos, Watches.*

Class 14: *Alarm Clocks; Alloys of Precious Metal; Amulets [jewellery]; Ankle Bracelets; Apparatus for Timing Sports Events; Articles of Imitation Jewellery; Articles of Jewellery Coated with Precious Metals; Articles of Jewellery Made*

¹ The specification initially covered a number of terms that were subsequently found to have been accepted in error. The refusal of these terms followed receipt of the opponent’s observations raising an objection under Rule 8(2) of the Trade Mark Rules 2008 which led to a refusal under Section 40 of the Trade Marks Act.

from Rope Chain; Articles of Jewellery Made of Precious Metals; Articles of Jewellery with Ornamental Stones; Articles of Jewellery with Precious Stones; Artificial Gemstones; Badges of Precious Metal; Bangle Bracelets; Bangles; Beads for Making Jewellery; Beads for Use in the Manufacture of Jewellery; Body Jewellery; Body-piercing Rings; Body-piercing Studs; Boxes for Timepieces; Bracelets; Bracelets [jewelry]; Bracelets of Precious Metal; Brooches [jewelry]; Buckles for Watchstraps; Busts of Precious Metals; Cases for Watches and Clocks; Charity Bracelets; Charms in Precious Metals or Coated Therewith; Charms of Precious Metals; Charms of Semi-precious Metals; Clasps for Jewellery; Clip Earrings; Clocks; Clocks Incorporating Radios; Collectible Coins; Costume Jewellery; Cuff Links; Cuff Links Made of Precious Metals with Semi-precious Stones; Cut Diamonds; Decorative Brooches [jewellery]; Desk Clocks; Dress Watches; Ear Clips; Ear Studs; Earrings; Figurines of Precious Metal; Gems; Horological and Chronometric Instruments; Imitation Jewellery; Ivory Jewelry; Jade [jewellery]; Jewellery; Jewellery Plated with Precious Metals; Jewellery and Imitation Jewellery; Jewellery and Precious Stones; Jewellery and Watches; Jewellery, Including Imitation Jewellery and Plastic Jewellery; Jewellery, Precious Stones; Jewelry Brooches; Jewelry Cases; Jewels; Key Chains As Jewellery [trinkets or Fobs]; Key Holders of Precious Metals; Key Rings [trinkets or Fobs] of Precious Metal; Key Rings of Precious Metals; Lapel Pins [jewelry]; Locketts; Model Figures [ornaments] Made of Precious Metal; Neck Chains; Necklaces [jewellery]; Precious Gemstones; Precious Jewels; Precious Metal Alloys; Precious Metal Trophies; Precious Metals; Precious Metals and Alloys Thereof; Precious Stones; Precious Stones and Watches; Processed or Semi-processed Precious Metals; Ring Bands [jewellery]; Rings [jewellery]; Sculptures Made of Precious Metal; Semi-finished Articles of Precious Metals for Use in the Manufacture of Jewellery; Semi-precious Gemstones; Semi-precious Stones; Shoe Ornaments of Precious Metal; Small Jewellery Boxes of Precious Metals; Statuettes of Precious Metal and Their Alloys; Synthetic Precious Stones; Table Clocks; Tiaras; Tie Bars; Tie Clips; Tie Pins; Trophies of Precious Metals; Unwrought and Semi-wrought Precious Stones and Their Imitations; Wall Clocks.; Watch Bands and Straps; Watch Boxes; Watch Bracelets; Watch Cases; Watches.

Class 25: *Aprons; Footwear; Articles of Outerwear; Baseball Cap; Beach Cover-ups; Beach Shoes; Beachwear; Beanies; Swimwear and Costumes; Fancy Dress Costumes; Waterproof Clothing; Belts (being Articles of Clothing); Berets; Bibs; Blazers; Blouses; Booties; Boots; Boxer Shorts; Briefs; Caps; Clothing; Coats; Crop Tops; Dresses; Earmuffs; Footwear and Headgear; Gloves; Hats; Headbands and Wristbands; Hoodies; Jackets; Jeans; Jerseys; Jumpers and Cardigans; Knitwear; Leggings; Leotards; Loungewear; Mittens; Neckties; Overalls; Halter Tops; Pullovers; Pyjama Sets; Clothing; Pyjamas; Robes; Sandals; Saris; Sarongs; Scarves; Shawls; Shirts; Shoes; Shorts; Skirts; Slacks; Sleepwear; Slippers; Socks and Hosiery; Soles for Footwear; Headgear; Sports Shorts; Stockings; Suits; Sweaters; Sweatpants; Sweatshirts; Swimming Costumes; Swimwear; T-shirts; Tank Tops; Ties; Ties and Belts; Top Hats; Tracksuits; Trainers; Trousers; Twinsets; Underwear; Vests; Clothing; Visors; Waistcoats; Workout Shoes and Running Shoes; Wraps.*

Class 35: *Advertising; Marketing and Sales Promotions; Online Ordering Services; Business Risk Management Services; Business Management and Consultancy; Business Assistance; Business Introductory Services; Business Research; Business Administration; Business and Commercial Information; Business Data Analysis Services; Statistics (compilation Of); Management and Compilation of Computerized Databases; Data Management; Market Research and Studies; Physical and Online Retail Store Services Connected with the Sale of Clothing, Toys and Games for Use Online; Retail Store Services Connected with the Sale of Virtual Goods, Toys and Games for Use in Virtual Environments; Providing an Online Marketplace for Buyers and Sellers of Crypto Collectibles; Provision of an Online Marketplace and Registry for Buyers and Sellers of Digital Assets, Watchbands That Communicate Data to Other Electronic Devices, Watches, Wearable Digital Electronic Communication Devices, Wearable Digital Electronic Devices Capable of Providing Access to the Internet.*

Class 41: *Arranging and Conducting of Colloquiums, Conferences and Congresses; Organizing and Presenting Displays of Entertainment;*

Organization of Fashion Shows for Entertainment Purposes; Entertainment in the Nature of Fashion Shows; Organisation and Presentation of Educational Events; Conducting of Educational Events; Arranging of Cultural Events; Organisation of Cultural Events; Arranging of Musical Events; Production, Organisation and Presentation of Esports Events; Organisation and Presentation of Live Entertainment Events; Entertainment Services, Organisation of Entertainment Events; Conducting of Entertainment Events; Provision of Recreational Events; Arranging of Educational Events; Seminars; Seminars and Symposiums for Cultural and Educational Purposes; On-line Publication of Electronic Books and Journals; Education Services; Entertainment Services, Toys and Games for Use in Virtual Environments; Sound Recording and Video Entertainment Services; Provision of Information on Entertainment Via Pod Cast; Entertainment Services Provided by Blogs; Entertainment Services Provided by Vlogs; Television and Radio Entertainment Services; Digital Music (not Downloadable) Provided from the Internet; Sound Recordings (not Downloadable) Provided from the Internet; Video Recordings (not Downloadable) Provided from the Internet; Sound Recordings Provided by On-line Streams; Video Recordings Provided by On-line Streams; Entertainment Services Provided by On-line Streams; Education and Teaching Information Services; Arranging and Conducting of Educational Training Events, Webinars, Workshops and Vlogs; Publication of Books.

2. The application was accepted and published for opposition purposes on 15 July 2022.

3. On 07 October 2022, the application was opposed by Nokia Corporation (“the opponent”) under Sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”). The opposition is partial being directed against some of the applied-for goods and services, namely those in classes 9, 14, 35 and 41.

4. Under Sections 5(2)(b) and 5(3) the opponent relies upon the following two trade marks and the goods and services covered by the same as shown below:²

UK00916147902

NOKIA

Filing date: 08 December 2016

Registration date: 29 May 2017

The opponent relies on the registered goods and services in classes 9, 14, 35 and 41 under Section 5(2)(b) and claims reputation for the registered goods and services in classes 9, 11, 14, 35, 37, 38, 41, 42. The full list of those services is at Annex 1.

UK00917868623

The image shows the word "NOKIA" in a bold, blue, sans-serif font. The letters are evenly spaced and the font is consistent throughout the word.

Filing date: 6 March 2018

Registration date: 09 October 2018

The opponent relies on the registered goods and services in classes 9, 14, 35 and 41 under Section 5(2)(b) and claims reputation for the registered goods and services in classes 9, 11, 14, 35, 37, 38, 41, 42. The full list of those services is at Annex 2.

5. The two trade marks relied upon by the opponent qualify as “earlier trade marks” in accordance with Section 6 of the Act because they were applied for at an earlier date than the filing date of the applied-for mark. Neither mark had been registered for five years at the date the contested mark was filed for registration and, as such, they are not subject to the use conditions contained in Section 6A(3) of the Act. Consequently,

² Under Article 54 of the Withdrawal Agreement between the UK and the EU, the UK IPO created comparable UK trade marks for all right holders with an existing registered EUTM or International Registration designating the EU. As a result, the opponent’s earlier marks were converted into comparable UK trade marks. Comparable UK marks are now recorded in the UK trade mark register, have the same legal status as if they had been applied for and registered under UK law, and the original filing dates remain the same.

the opponent can rely upon the goods and services it has identified without proving that it has genuinely used the marks.

6. Under Section 5(2)(b), the opponent claims that the marks are similar and that the goods and services are identical or similar, leading to a likelihood of confusion.

7. Under Section 5(3), the opponent claims that the public will make the requisite link between the marks, and that the applied-for mark will take unfair advantage of or cause detriment to the distinctive character and reputation of the opponent's marks.

8. On 11 November 2022, the applicant filed a Form TM8 including a counterstatement. This was deemed inadmissible, and an amended version was filed on 18 January 2023 in which the applicant stated as follows (my emphasis):

"We respectfully deny the allegations made by the opponent that our trademark is similar to their trademark "NOKIA" under section 5(2)(b) of the Trade Marks Act 1994. Additionally, we dispute the grounds for opposition under section 5(3) of the Act.

It is our position that the opponent's accusations do not accurately reflect the reality of the situation. Our trademark "NYOKI CLUB" is an NFT (Non Fungible Token) brand deployed on the Ethereum Network, while the opponent's trademark "NOKIA" is a technology brand. These two brands operate in completely different industries and therefore, it is not possible for customers to mistake one for the other.

Furthermore, we would like to emphasize that we have no intention of capitalizing on the goodwill and reputation established by the opponent's trademark "NOKIA". Our brand "NYOKI CLUB" is a unique and distinct digital artwork brand and we are not seeking to gain any goodwill and custom from opponent's trademark "NOKIA". In light of the above, we firmly believe that there is no likelihood of confusion between our trademark "NYOKI CLUB" and the opponent's trademark "NOKIA". We therefore respectfully deny the allegations made by the opponent under section 5(2)(b) and 5(3) of the Trade

Marks Act 1994 and maintain that the opposition is without merit. We respectfully request that you take our arguments into consideration when assessing the opposition and grant our trademark application for "NYOKI CLUB".

9. This is the extent of the applicant's involvement in these proceedings. The applicant did not participate further in the case and was not represented.

10. Only the opponent filed evidence. A hearing was arranged pursuant to a request by the opponent and took place before me on 9 December 2024 by video conference. The opponent was represented by Daniel Ramos from the opponent's representatives, Osborne Clarke LLP. The applicant did not attend the hearing, neither did they file written submissions in lieu.

EU Law

11. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, Section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

The evidence

12. The opponent's evidence consists of a witness statement from Jeremie Vaquer, dated 23 June 2023. Mr Vaquer is Senior legal counsel at the opponent's corporation and his evidence is accompanied by 20 exhibits being those labelled JV1-JV20.

13. I do not intend to summarise the opponent's evidence in full here. However, I confirm that I have taken all filed documents into account and will summarise them to the extent that I deem necessary below.

MY APPROACH

14. Before I turn to the grounds, it is necessary to say a little more about the applicant's pleadings and summarise the issues which are outstanding.

15. As I have said, the applicant's participation in these proceedings has been minimal. The only document the applicant has filed is a Form TM8 which includes a counterstatement. Beyond that, the applicant did not effectively take part in the case. They did not file any evidence or written submissions during the evidence rounds, nor did they comment on the opponent's evidence. They did not confirm whether they would attend the hearing, nor did they provide written submissions in lieu. At one point, the proceedings were suspended pending consideration of observations filed by the opponent about some of the terms in the application being not clear or precise and contrary to Rule 8(2) of the Trade Mark Rules 2008; the applicant was invited to give their views on the observations and the late objection, or request a hearing, with a deadline of 23 October 2023 to respond. Having received no response, on 29 December 2023, the examiner issued a decision to partially refuse the application in relation to the objectionable terms, which the applicant did not appeal. Lastly, being a private litigant, at the end of the evidence rounds the applicant was invited to complete and return a pro-forma if they wished to request an award of costs, to which, once again, they did not respond.

16. I make the point that the applicant did not participate beyond the filing of the Form TM8 because it is important to understand my conclusion on the pleadings about the similarity of the goods and services. In the original Form TM8 filed on 11 November 2022 the applicant did not address the similarity of the goods and services. They stated:

"We strongly disagree with the opponent about the similarity of our trademarks. Our brand "NYOKI CLUB" is nothing alike with opponent's trademark "NOKIA". Opponent's accusations does not reflect the truth. Our trademark "NYOKI CLUB" is an NFT (Non Fungible Token) brand deployed on Ethereum Network. We are not seeking to gain any goodwill and custom from opponent's trademark "NOKIA". It is not possible for "NOKIA" customers to mistake "NOKIA" with "NYOKI CLUB". Their brand is a technology brand and our brand is a Digital artwork. These two trademarks are completely different from each other."

17. On 19 December 2022, the Tribunal wrote to the applicant saying that the counterstatement had been considered and it was the registry's preliminary view that more information was required before any further action could be taken. The applicant was requested to admit or deny whether the goods and services are similar for the Section 5(2)(b) claim and admit or deny the grounds under Section 5(3) and was given a deadline of 9 January 2023 to respond. The amended Form TM8 and counterstatement were received on 18 January 2023; although they were late, they were admitted into the proceedings. Significantly, although the counterstatement was deemed admissible, it continues to fail to address the similarity of the goods and services. For the sake of completeness, I should say that the email attaching the applicant's Form TM8 contained the following statement:

"I am writing to follow up on my previous correspondence regarding opposition number OP000436739. As I have not received a response from you since my last email, I am resending the latest email and the attached opposition form (TM8) for your reference.

I would like to reiterate that we are denying the allegations of similarity of goods and services made under section 5(2)(b) of the Trade Marks Act 1994, and also denying the grounds for opposition under section 5(3)."

18. Whilst the applicant briefly stated that they denied the allegations of similarity of goods and services, neither the original nor the amended counterstatement contained a statement denying the similarity of goods and services. Moreover, whilst the applicant's email containing the statement denying the allegations of similarity of goods and services was copied to the opponent's legal representatives, since such statement was not formally incorporated in the counterstatement, it is not part of the pleadings. In this connection, it is important to note that neither the Hearing Officer nor the parties can be expected to keep a record of statements made in emails, and that statements made by the parties but not reproduced in formal documents, such as pleadings, evidence or written submissions, are not part of indices prepared for hearings. Lastly, having elected not to actively participate in the proceedings after the filing of the Form TM8, the applicant deprived themselves of an opportunity to clarify their position as regards the similarity of goods and services by presenting, for

example, detailed submissions that argued the dissimilarity of the goods and services which would have prompted a request for clarification (and would have very likely resulted in an amendment of pleadings) from the Hearing Officer or the opponent.

19. In *SKYCLUB*, BL-O-044/21, Professor Phillip Johnson, sitting as the Appointed Person, concluded that the Hearing Officer had erred in proceeding on the basis that the similarity of goods and services was an issue, in circumstances whereby the applicant had not denied the claim in the Form TM8. He stated:

“23. [...] Mr Engelman submits that filing Form TM8 should be treated as a general denial; that is, denying everything alleged by the Opponent that is not specifically addressed in the pleadings. In other words, if a blank Counter-Statement were filed then the similarity of marks, the similarity of goods and services, the likelihood of confusion, and anything else alleged by the Applicant would be in issue.

24. The position in the Civil Procedure Rules (CPR) is clear; namely, a defendant must state which allegations are denied, which allegations a defendant is unable to admit or deny, and which allegations the defendant admits (CPR, 16.5(1)). Where a defendant fails to deal with an allegation it is taken to be admitted (CPR 16.5(5)). This is subject to the rule that where an allegation is not dealt with, but the defence sets out the nature of his case in relation to the issue to which that allegation is relevant, then the allegation must be proved by the Claimant (CPR 16.5(3)). Thus, the filing of a “blank” defence would lead to the whole of the Claimant’s case being admitted.

25. The procedure before neither the registrar nor the Appointed Person is governed by the CPR, but there is a Tribunal Practice Notice (TPN 4/2000) which deals with pleadings and provides a similar rule to the CPR:

19. A defence should comment on the facts set out in the statement of case and should state which of the grounds are admitted or denied and those which the applicant is unable to admit or deny but which he requires the opponent to prove.

20. The counter-statement should set out the reasons for denying a particular allegation and if necessary the facts on which they will rely in their defence. For example, if the party filing the counter-statement wishes to refer to prior registrations in support of their application then, as above, full details of those registrations should be provided.

26. In the context of the CPR, the Court of Appeal has emphasised that there is a positive duty on a defendant to admit or deny matters unless the party is unable to do so: *SPI North Ltd v Swiss Post International (UK) Ltd* [2019] EWCA Civ 7 at [48]. As Lord Hoffmann opined in *Barclays Bank Plc v Boulter* [1999] 1 WLR 1919 at 1923:

The purpose of the pleadings is to define the issues and give the other party fair notice of the case which he has to meet.

27. In that case, their Lordships excused otherwise inadequate pleadings (under the old Rules of the Supreme Court) because the case the defendant would have to meet was made abundantly clear (from concealed and referential allegations) and the pleading point was said to be “technical in the highest degree” (*Barclays* at 1923). In that case, the defendant’s Counsel had made it clear that he would be able to deal with the point without the trial being adjourned. On the other hand, the plaintiff would merely have to make a formal request to amend. On balance it was concluded that no amendment was necessary.

28. In this case, it is clear from the Hearing Officer’s decision that the amendment would have been allowed if an application had been made and (as in fact occurred) the parties were ready to proceed on the basis that the similarity of goods and services, the global appreciation test and the likelihood of confusion was in issue. However, in contrast to *Barclays*, in this case there was no concealed or referential allegation. The defence appeared only to address the (now abandoned) section 5(3) ground and nothing (other than experience) would have put the Appellant on notice that the similarity of goods

and services or confusion were in issue in relation to s 5(2)(b).

29. The Hearing Officer has the power to request clarifications from a party to proceedings under r 62(1)(a) of the Trade Marks Rules 2008. He also could have invited Mr Engelman to apply to amend his pleadings to put in issue the similarity of goods and services, confusion and so on. Neither of these things happened. Accordingly, the Hearing Officer was wrong to proceed on the basis that the similarity of goods and services, confusion and anything other than similarity of the marks was in issue.”

20. Accordingly, I will proceed on the basis that the parties’ goods and services are identical or similar.

21. As regards the degree of similarity, the opponent did not clarify in its pleadings which goods it considered to be identical and which goods it considered to be similar. However, in his skeleton argument, Mr Ramos stated that *“all of the goods and services covered by the [applied-for mark] in classes 9, 14, 35, and 41 (in other words, all classes other than class 25) are identical, or otherwise highly similar, to the goods and services on which [the opponent] relies”*. Bearing in mind that:

1. The opponent had a fully pleaded claim of identity or similarity of goods and services by completing the boxes on TM7 (without the need to specify the degree of similarity at that stage).
2. There is no rule preventing an opponent to supplement the claim of identity/similarity between the respective goods/services after the filing of the Form TM7.
3. Whilst it is not advisable to address the identity, or similarity of the goods/services for the first time at a hearing,³ in this case the caseworker did

³ TPN 1/2018 states that caseworkers may invoke the registrar’s power under Rule 62 of the Trade Mark Rules 2008 to require a party to explain which goods/services are claimed to be identical/similar by filing an amended TM7/26(l), or alternatively by serving the form TM7/26(l) on the other side and simultaneously directing the party bringing the case to provide further information about the claimed identity/similarity between the respective goods/services, none of this was done by the Tribunal.

not invoke the registrar's power under Rule 62 of the Trade Mark Rules 2008 to require the opponent to explain which goods/services were claimed to be identical/similar before serving the Form TM7, nor did they direct the opponent to provide further information about the claimed identity/similarity between the respective goods/services by the deadline for filing evidence.

22. Taking all of the above into account, I conclude that the opponent's claim that the goods and services are either identical or highly similar is a permissible supplementation of the pleaded (and undisputed) claim that the goods and services are identical or similar. Accordingly, I will proceed on the basis that all of the contested goods and services are identical or highly similar.

DECISION

Section 5(2)(b) of the Act

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

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

(a) ...

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

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

24. Section 5A states:

“Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the

trade mark is applied for, the application is to be refused in relation to those goods and services only.”⁴

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

⁴ This section also applies to the ground raised under sections 5(3).

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

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

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

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

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

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

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

Comparison of goods and services

26. As set out above, I will proceed on the basis that the contested goods and services are either identical or highly similar.

Average consumer

27. As the case law above indicates, it is necessary for me to determine who the average consumer is for the parties' goods and services. I must then determine the

manner in which the goods and services are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. (as he then was) 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.”

28. The average consumer of the parties’ goods in class 14 is the public at large, whereas the average consumer of the parties’ goods and services in classes 9, 35 and 41 is either a member of the general public or a business user.

29. The goods are likely to be obtained by self-selection from the shelves of a retail outlet, online or catalogue equivalent. This means that the marks will be seen and so the visual elements of the marks will be the most significant. Visual considerations are, therefore, likely to dominate the selection process for the goods. However, I do not discount that there will also be an aural component to the purchase, in the form of advice sought from a sales assistant or word of mouth recommendations. Turning to the services, I agree with Mr Ramos that the aural component is as important as the visual one, at least in relation to business-to-business services, because the marks will often pass through word-of-mouth recommendations, for example, at business events or forums, and the very nature of the services demands personal dealings between the business user and the business providing the service, whereby there will be an aural reference to the mark.

30. Whilst the cost of the goods and services is likely to vary, and the level of attention deployed by businesses is likely to be higher than that deployed by members of the general public, I agree with Mr Ramos’ submission that the contested goods and



services are not so specialist that the purchasing process would require a high degree of attention; the only exception I can well see is *business risk management services* in class 35. However, I am not persuaded by Mr Ramos' submission that in circumstances where there are different degree of attention involved, one would have to consider the lower degree of attention; that rule applies when goods and services might be purchased by both members of the public and businesses deploying different level of attention, but does not apply to the terms included in the specification *per se* (in the sense that if a term in the specification attracts a lower degree of attention, that lower degree of attention should apply to the entire specification). In my view, the level of attention will range from medium to above medium, with *business risk management services* being the only service which might attract a high degree of attention.

Comparison of marks

31. 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.”

32. 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. The respective marks are shown below:

The application (series of three)	The opponent's marks
<p>NyokiClub</p> <p>NYOKICLUB</p>	<p>NOKIA</p>
	

Overall impression

The application

33. The three marks in the applicant's series consist of the conjoined words 'NYOKICLUB'.

34. The second mark in the series is a word-only mark; there are no other elements to contribute to the overall impression of this mark, which lies in the combination of these words.

35. In the other two marks of the series, the letters present a degree of stylisation and in one of them the conjoined words 'NYOKICLUB' are presented in white against a red rectangular background. However, the visual impact of these figurative elements is minimal because they are purely decorative and, as such, do not affect the overall impression of the marks which lies in the conjoined words 'NYOKICLUB'.

The opponent's marks

36. The opponent's first earlier mark is a word-only mark consisting of the word 'NOKIA'. There are no other elements to contribute to the overall impression of the mark, which lies in the word itself.

37. The opponent's second earlier mark is a figurative mark consisting of the word 'NOKIA' presented in blue in a slightly stylised font. Whilst the colour and the stylisation have a visual impact, it is minimal and does not affect the overall impression of the mark which lies in the word 'NOKIA'.

Similarity of the marks

38. Whilst I note that in his counterstatement the applicant states that it denies the claim that the marks are similar, the reasons put forward by the applicant appear to relate to the segments of the market in which the parties operate. However, the segment of the market in which the parties trade (or intend to trade) is irrelevant to the comparison I am required to make which must be based on the marks as they are registered and applied-for respectively.

Visual similarity

39. Visually, I will compare the word-only marks first.

40. I agree with Mr Ramos that 'NYOKICLUB' will be perceived as the words 'NYOKI' and 'CLUB' conjoined. While the rule is that marks are perceived as a whole, the exception to the rule is that, under certain circumstances, consumers could break them down into smaller parts that suggest a concrete meaning or resemble words known to them. In this case, the word 'CLUB' is a well-known English word which is identifiable within the mark 'NYOKICLUB'.

41. The coinciding elements of the marks are the words 'NYOKI' and 'NOKIA'. They are both five-letter words beginning with a 'N' and containing the string of letters 'O, K, I'. The only difference between 'NYOKI' and 'NOKIA' is that in 'NYOKI' there is a 'Y' between the first letter 'N' and the string 'OKI', whereas in 'NOKIA' the 'Y' is missing and there is a final letter 'A' at the end.

42. Bearing in mind that:

- a) The word 'NYOKI' in 'NYOKICLUB' will be perceived separately.

- b) The rule of thumb that beginning of marks tend to be more focused upon is fully applicable in this case because the word 'CLUB' is a dictionary word which is qualified by the word 'NYOKI' indicating a club called 'NYOKI CLUB' – therefore the word 'NYOKI' carries the mark conceptually as it gives the name to the club, and it is also a highly distinctive invented word.
- c) Visually, the similarities created by the first letter 'N' and the sequence 'OKI' outweighs the difference created by the second letter 'Y' in the application, and the last letter 'A' in the earlier marks.

43. I consider that the elements 'NYOKI' and 'NOKIA' in the respective marks are visually similar to a high degree, whereas the marks as wholes are similar to a medium degree.

44. As regards the figurative marks, the impact of the stylisation, colour and background is so minimal that it does not materially affect my conclusion about the overall degree of similarity between the marks.

Aural similarity

45. Aurally, the elements 'NYOKI' and 'NOKIA' in respective marks are likely to be pronounced as NEE-O-KEE or NYE-O-KEE and 'NO-KEE-A" giving rise to a very high degree of aural similarity. The word 'CLUB' will be pronounced in the ordinary way and will reduce the overall aural similarity to a medium degree.

Conceptual similarity

46. Conceptually, the elements 'NYOKI' and 'NOKIA' in respective marks have no meaning and, consequently, cannot be compared. The word 'CLUB' in the application means "*an organization of people with a common purpose or interest, who meet regularly and take part in shared activities*" and will convey the concept of a club called 'NYOKI' which is absent in the opponent's mark. The marks have no conceptual similarity.

Distinctive character of earlier mark

47. 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).”

48. Registered trade marks possess various degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use made of it.

49. The verbal element of the opponent's earlier marks is 'NOKIA'. The word 'NOKIA' has no meaning and will be perceived as invented. As such, it is inherently distinctive to a high degree.

50. The opponent has filed evidence of reputation and the applicant, in their counterstatement, appears to concede that the sign 'NOKIA' has reputation as a technology brand stating that they have "*no intention of capitalizing on the goodwill and reputation established by the opponent's trade mark "NOKIA"*". Notwithstanding the applicant's concession, a factor that is relevant to the assessment of enhanced distinctiveness is the strength of the reputation. Hence, I will turn to the evidence in that respect.

51. The trade mark 'NOKIA' became a famous brand for mobile phones in the mid-1990s. According to a Wikipedia entry, NOKIA 1100 (released in 2003) and NOKIA 1110 (released in 2005) are the best-selling mobile phones in history with both selling over 250 million units in the year they were released.⁵ Comparative, these NOKIA models sold more units than Apple's best-selling mobile phones, the iPhone 6 and iPhone 6 Plus, which were released in 2014 and sold 222 million units. In addition, in the list of 115 top best-selling phones, NOKIA has 27 models, including four in the top 10; these models were all sold under the mark NOKIA and were released between 1999 and 2003 selling a combined total of 1,699,500,000 units. The most recent of the opponent's top selling mobile phones, the NOKIA 105 series, was released in 2013, accounting for approximately 200 million units sold.

52. As well as mobile phones, the opponent offers a broad range of goods and services under the trade mark 'NOKIA', including consumer electronics, tablets, speakers, wireless routers/gateways/hotspots, provision of broadband and network related services and equipment, business-to-business network solutions, radio equipment, antennas, receivers, media converters, cameras, fibre optic network terminals, and accessories and applications for the above goods. This is shown by webpages from the opponent's global website www.nokia.com.⁶

⁵ JV2

⁶ JV4

53. The leading position of the opponent in the supply of telecommunications and networking infrastructures and services in the UK is supported by a copy of evidence titled "*Ensuring access to 'safe' technology: the UK's 5G infrastructure and national security*" submitted by the opponent to Members of UK Parliament at the Parliamentary Science and Technology Select Committee's UK telecommunications infrastructure enquiry in July 2019. The opening paragraph of the evidence states:

"While having once been best known as a mobile phone manufacturer and vendor, Nokia today is a leading communications and networking company working with communications service providers, governments, large enterprises and consumers. We currently have 48 commercial 5G worldwide, including in the UK. We are a significant supplier to major operators of CNI, across rail, road and telecommunications networks, where the security of our products is inherent in their design"

54. From such evidence, Mr Ramos very helpfully extrapolated the following points:

- In the rail sector, Nokia is the main supplier to the UK Network Rail Telecom. This operates the fibre optic network running alongside railway lines and delivers voice, data, video and broadband services.
- On roads infrastructure, Nokia is the technology partner for National Roads Telecommunications Services (NRTS), that provides programme management, design, construction, financing, and maintenance of the integrated communications systems that link the roadway communication devices (including emergency telephones and CCTV) along the motorways and major roads in England with the national traffic control and police control centres.
- In telecommunications, Nokia has a large footprint across the network and supplies the majority of IP infrastructure for BT. This includes their core network and has a considerable reach across the UK. Nokia also supplies the rural and sub-urban sections (accounting for two thirds of UK geography) of the Emergency Services Network (ESN).

- Nokia is also a world leader in programmable networks, 5G and Internet of Things (IoT) technologies, and has been involved in Smart City deployments since their inception. Working in partnership with Bristol University and Bristol City Council, Nokia joined the 'Bristol Is Open' project in 2016, and has provided funding, technical staff and expertise to help deliver a secure and open programmable city.

55. In addition, various press releases and third-party articles demonstrate a number of high-profile partnerships between 'NOKIA' and leading brands and businesses in relation to infrastructure activities, including:⁷

- In September 2020, the opponent signed a 5G deal to become BT's largest infrastructure partner.
- In 2020, the opponent partnered with Openreach to deploy next generation fibre access to 20 million homes across the UK "by the mid-to-late-2020s.
- In 2019, the opponent partnered with O2 to deliver a three-year project to power O2's 5G network across London and Slough.
- In 2022, the opponent partnered with Virgin Media O2 to deploy private 5G network for an NHS hospital in South London.
- In 2021, the opponent partnered with Vodafone to unveil a new network AI running on Google cloud to detect network anomalies.

56. The opponent's most recent leading position in the supply of telecommunications and networking infrastructures and services is also confirmed by various online articles reporting on Nokia being ranked No. 1 in telecommunication software and services in 2020.⁸

⁷ JV16

⁸ JV9

57. Notwithstanding the new expansion, the opponent has retained a leading position as a supplier of mobile phones, as shown by a UK online article from 2018 which states: *“Thanks to a heavy dose of nostalgia and startup-like agility, the new Nokia has reportedly become the unlikely third-place runner in the UK phone market after Apple and Samsung”* and *“According to data from Counterpoint Research, Nokia took third position for smartphones shipped in the UK in Q4 2017, thanks to affordable phones like the Nokia 3 and Nokia 6. It sat behind only Apple and Samsung”*.

58. In terms of sales figures, Mr Vaquer says that the opponent’s subsidiary company in the UK is Nokia UK Limited whose principal activity is the provision of mobile, fixed and cloud network solutions under the NOKIA trade mark. UK turnover for those activities is as follows:

2021: £443 million
2020: £430 million
2019: £480 million
2018: £455 million
2017: £306 million

59. Mr Vaquer says that in addition to those network solutions sales, HMD Global Oy (Nokia's brand licensee for phones, tablets and related accessories) generates significant sales of phones, tablets and related accessories bearing the NOKIA trade mark. The following quantity of mobile phone and tablet products were sold in the UK between 2017 and 2022:

2022: 633,000 units sold for a gross sales value of USD 43.6 million
2021: 765,000 units sold for a gross sales value of USD 61.4 million
2020: 854,000 units sold for a gross sales value of USD 57.6 million
2019: 921,000 units sold for a gross sales value of USD 46.9 million
2018: 1,228,000 units sold for a gross sales value of USD 106.4 million
2017: 1,333,000 units sold for a gross sales value of USD87.2 million

60. The opponent’s UK marketing spend for the years 2019 to 2021 was as follows:

2021 - £36,000

2020 - £162,374

2019 - £175,500

61. The rest of the evidence reports on, *inter alia*, the press coverage received by NOKIA in national publications including in MailOnline, Reuters, EXPRESS, and The Guardian;⁹ the number of annual visits from UK users to the opponent's website www.nokia.com (this was over half a million in 2021 and 2022, and as high as 2,6 million in 2019);¹⁰ the number of UK followers of the opponent's Facebook page (this was 29,391 in 2022) and awards won by the opponent. In particular, Mr Vaquer states that NOKIA has won nine Nobel prizes, eight Emmy awards, five Turing awards, two Grammy awards and one Academy award exhibiting various press releases from www.nokia.com which report on the following:

- In 2021 Nokia won the 5G World award for most innovative machine learning software product jointly developed with Vodafone.
- In 2013 Nokia Lumia 920 won the Most Innovative Handset Award at the Mobile News Awards (UK).
- In April 2022, Nokia inventors won a Technology & Engineering Emmy Award for the standardization of HTTP encapsulated protocols, which are used for streaming over HTTP (USA).
- In 2022 NOKIA 4 phones won the iF 2022 design award (Germany)
- In 2022 NOKIA won 6 Red Dot Awards and 8 iF Awards including for Sustainable Packaging Solution and Fastmile 5G Gateway 3.0, a wireless broadband solution.

⁹ JV20

¹⁰ JV18

62. Given the above evidence, it is clear that at the relevant date of 13 April 2022, the opponent had an extensive goodwill and reputation in the brand 'NOKIA'. In 2018, 'NOKIA' was the third-place runner in the UK phone market after Apple and Samsung and took the third position for smartphones shipped in the UK in 2017. Accordingly, I am satisfied that the opponent's reputation primarily related to phones and smartphones (which are covered by the specifications relied upon under Section 5(2)(b)) and that such reputation was exceptionally strong.

63. In his skeleton argument, Mr Ramos argued that the opponent's reputation extends to other goods in class 9 (namely *cameras, computer hardware and software telecoms equipment, as well as computer software relating to connectivity, telecoms, AI software solutions, and software with application to the metaverse*), services in class 35 (namely *retail services in connection with general technology products, telecommunications and connectivity services*), services in class 37 (*installation, maintenance and repair of telecommunication equipment*) and services in class 41 (*entertainment services; educational services*). However, the classes which are relevant for the purpose of the objection based on Section 5(2)(b) are 9, 14, 35 and 41.

64. The sales figures relate to the sales of mobile phones, tablets and network solutions services. Whilst the opponent's reputation might extend to retail services in connection with the sales of mobile phones and tablets which are covered by the registered specifications in class 35, the registered specifications do not cover retail services in connection with telecommunications and connectivity services. Finally, there is no evidence of the opponent providing entertainment or educational services.

65. Accordingly, I find that the use made of the earlier marks has enhanced their distinctiveness to the highest possible degree in relation to mobile phones, smartphones and related retail services.

Likelihood of confusion

66. 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, including that a lesser degree of similarity between the respective marks may be offset by a greater degree of similarity between the respective goods and vice versa. I must keep in mind the distinctive character of the earlier mark, the average consumer for the goods and the nature of the purchasing process. I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

67. Confusion can be direct or indirect. The difference between these two types of confusion was explained in *L.A. Sugar Trade Mark*, BL O/375/10, where Iain Purvis Q.C. (as he then was) 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 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”*.

17. 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).”

68. These three categories are not exhaustive. Rather, they were intended to be illustrative of the general approach.

69. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ approved Mr Purvis’s formulation but added:

“13. As James Mellor QC sitting as the Appointed Person pointed out in *Cheeky Italian Ltd v Sutaria* (O/219/16) at [16] ‘a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion’. Mr Mellor went on to say that, if there is no likelihood of direct confusion, ‘one needs a reasonably special set of circumstances for a finding of a likelihood of indirect confusion’. I would prefer to say that there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion.”

70. It is not sufficient that a mark merely calls to mind another mark: *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17. This is mere association not indirect confusion.

71. Earlier in this decision I found that:

- The goods and services are either identical or similar to a high degree.

- The goods and services will be purchased with a degree of attention ranging from medium to above medium, and high for *business risk management services*. The goods and services will be purchased mainly visually, although for business-to-business services, including *business risk management services*, aural consideration are equally important.
- The marks as wholes are visually and aurally similar to a medium degree; however, the elements 'NYOKI' and 'NOKIA' in the respective marks are visually similar to a high degree and aurally similar to a very high degree. Conceptually, the elements 'NYOKI' and 'NOKIA' in respective marks have no meaning and, consequently, cannot be compared. The word 'CLUB' in the application will convey the concept of a club called 'NYOKI' which is absent in the opponent's marks.
- The earlier marks are inherently distinctive to a high degree and the use made of them has enhanced their distinctiveness to the highest possible degree in relation to mobile phones, smartphones and related retail services.

72. The competing marks coincide in their inclusion of the highly (and very highly) similar verbal elements 'NYOKI' and 'NOKIA'. This is the only element of the opponent's earlier marks and the first element of the applicant's mark. However, the applicant's mark contains the word 'CLUB' which is not present in the opponent's marks. Although the average consumer will tend to focus on the word 'NYOKI' at the beginning of 'NYOKICLUB', 'CLUB' is not negligible and is unlikely to be overlooked by the average consumer. Taking all the above factors into account, it is my view that the differences between the competing marks are likely to be sufficient for the average consumer to distinguish between them and avoid mistaking them for one another. Consequently, notwithstanding the principles of imperfect recollection and interdependency, I find that there is no likelihood of direct confusion.

73. On indirect confusion, whilst the average consumer is likely to notice and recall the differences between the competing marks, they will also identify, in the application, the verbal element 'NYOKI' which is visually highly similar, and aurally very highly similar,

to the opponent's brand 'NOKIA'. Adding to this the identity or high similarity of the parties' goods and services and the highest possible degree of distinctiveness of the earlier mark 'NOKIA', there is a risk of indirect confusion. This is because 'NOKIA' is so powerful, and 'NYOKI' and 'NOKIA' are visually and aurally similar to a degree which would easily enable them to become directly confused in the perceptions and recollections of a significant part of the relevant public when encountered in the context of identical and highly similar goods and services. This is so even in relation to the services which might attract a high degree of attention, because in the context of those services the average consumer will hear the marks and the aurally similarity between 'NYOKI' and 'NOKIA' is very high, and there is no conceptual hook upon which the consumer's memory could hang. Further, the words 'NYOKICLUB' are likely to signify the name of a club and in the context of these words, the word 'NYOKI' will be identified as the main indicator of origin of the goods and services. In my view, it is likely that the average consumer who directly confuses 'NYOKI' for 'NOKIA' will come to the conclusion that the former mark is a variant mark used by the opponent to indicate, for example, goods and services offered by the opponent within a loyalty scheme or goods and services made available or offered with discounts to consumers who are also members of a club within the opponent's offering.

74. The opposition under Section 5(2)(b) is successful in relation to the contested goods and services.

Section 5(3)

75. Section 5(3) of the Act states:

"5(3) A trade mark which –

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

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

76. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, *General Motors*, Case 252/07, *Intel*, Case C-408/01, *Adidas-Salomon*, Case C-487/07, *L’Oreal v Bellure*, Case C-323/09, *Marks and Spencer v Interflora*, Case C383/12P, *Environmental Manufacturing LLP v OHIM*. The law appears to be as follows:

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

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

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

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

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph 68; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

(f) Detriment to the distinctive character of the earlier mark occurs when the mark’s ability to identify the goods/services for which it is registered is

weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel, paragraphs 76 and 77* and *Environmental Manufacturing, paragraph 34*.

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

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

(i) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the holder of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora, paragraph 74* and the court's answer to question 1 in *L'Oreal v Bellure*).

77. The conditions of Section 5(3) are cumulative. Firstly, the opponent must show that the earlier marks and the applicant's mark are similar. Secondly, the opponent must show that the earlier marks have achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must be established that the level of reputation and the similarities between the marks will cause the public to make a link between

them in the sense of the earlier marks being brought to mind by the later mark. Finally, assuming the first three conditions have been met, Section 5(3) requires that one or more of the types of damage will occur. It is unnecessary for the purposes of Section 5(3) that the goods and services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks.

78. The relevant date for the assessment under Section 5(3) is the filing date of the application at issue, being 13 April 2022.

Reputation

79. In *General Motors*, Case C-375/97, the CJEU held that:

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

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

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

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

80. Whilst enhanced distinctiveness and reputation are different, the factors relevant to both assessments are the same. For the same reasons given above, I consider that the opponent has demonstrated an exceptionally strong reputation in the UK at the relevant date for phones and smartphones in class 9 and related retail services in class 35, as well as for the provision of installation, maintenance and repair of telecommunications and networking devices, equipment and systems, communications networks (other than software) in class 37, telecommunications services in class 38 and technological services in class 42.

Link

81. As I noted above, my assessment of whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are:

The degree of similarity between the conflicting marks

82. I adopt the same finding set out above as regards the visual, aural and conceptual similarity.

The nature of the goods or services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public.

83. I adopt the same finding set out above as regard the identity and high similarity of the goods and services. The relevant public for the goods and services is a member of the general public or a business.

The strength of the earlier mark's reputation

84. The opponent's reputation is exceptionally strong, and it is in the field of technology and telecommunications.

The degree of the earlier mark's distinctive character, whether inherent or acquired through use.

85. Inherently the mark 'NOKIA' is distinctive to a high degree, and it has become distinctive to the highest possible level as a result of the use made.

Whether there is a likelihood of confusion

86. I adopt the same finding set out above that there is a risk of indirect confusion.

87. Given my finding above about the similarity of the marks, the similarity of the goods and services, the enhanced distinctiveness of the earlier marks and the likelihood of confusion, I find that the public is likely to make a link between the marks and that this will result in an unfair advantage for the applicant through consumers believing that the applicant's goods and services come from the opponent, and the applicant gaining a commercial advantage from that belief.

88. The opposition under Section 5(3) is successful in relation to the contested goods and services.

CONCLUSION

89. The partial opposition has been successful.

90. The application will be refused for the contested goods and services in classes 9, 14, 35 and 41. However, the application may proceed to registration for the unopposed goods in class 25.

COSTS

91. The opponent has been successful and is, therefore, entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the opponent the sum of £2,500, calculated as follows:

Preparing a notice of opposition:	£300
Filing evidence:	£1,000
Preparing for and attending a hearing:	£1,000
Official fees:	£200
Total:	£2,500

92. I therefore order Soner Colak to pay Nokia Corporation the sum of £2,500. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 13th day of March 2025

TERESA PERKS
For the Registrar

Annex 1

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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, storing, transforming, accumulating, regulating or controlling electricity; apparatus for recording, capturing, storing, processing, editing, displaying, transmission or reproduction and play back of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital and optical recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers and computer hardware, parts and fittings thereof; computer peripheral devices; computer software; fire-extinguishing apparatus; telecommunications devices, apparatuses and equipment, parts and fittings thereof; base stations, transmitters, receivers, controllers, switches, antennas, cables; wires; amplifiers; commutators; cells; modems; radio and microwave transmission devices and equipment; apparatus and instruments for data communication, satellite communication and telecommunication; apparatus and instruments for monitoring of telecommunication networks and data communication networks; radar equipment; ciphering equipment, cryptoaid equipment; phones, smartphones and other wearable and portable electronic devices for capturing, receiving, collecting, recording, reading, displaying, organizing, editing, transmitting, sharing, manipulating and reviewing data, text, maps, images and sounds; portable media players; tablets; electronic agendas; electronic book readers; notebook computers; digital photo frames; cameras; camcorders; tripods for cameras; sensors; presence capture devices; wearable connected devices, namely devices in the form of watches, glasses, contact lenses, headbands, gloves, bracelets, earrings, jewelry, helmets and contact lenses that can be used for computing, sensing, scanning, recording, displaying, monitoring, data-processing, remote-controlling, predicting, programming, connecting to computer networks or for telecommunication purposes; wearable connected devices, namely computing devices to be carried by end-users, or to be worn on or into the body of end-users or to be incorporated into clothing, footwear, headgear, contact lenses, bags, textiles, fabrics, tissue and any kinds of materials and portable

goods and accessories and that can be used for computing, sensing scanning, recording, displaying, monitoring, data-processing, remote controlling, predicting, programming, connecting to computer networks or for telecommunication purposes; wearable and portable computing devices; smartwatches; head-mounted displays; devices with electric, electronic and digital functions that can connect to computer networks and which have computing, sensory, scanning, communication, data-storage, biofeedback, physiological-tracking, health-monitoring, fitness monitoring, predictive or augmented-reality capabilities, in the form of glasses, gloves, watches, clothing, footwear, headgear, bands and helmets; batteries; chargers; printers; covers for phones, smartphones, computers, tablets and other wearable and portable handheld computing devices; audio, imaging, video and radio apparatus and instruments; speakers; headsets; earplugs; microphones; television and multimedia apparatus; displays; hands free kits for phones, smartphones, computers, tablets and other wearable and portable handheld computing devices; electronic publications; Global Positioning System [GPS] apparatus, instruments and devices; navigation apparatus for vehicles [on-board computers]; navigational instruments; satellite navigational apparatus; apparatus and software for GPS navigation and mapping systems; chips; microprocessors; semi-conductors; smart cards [integrated circuit cards]; printed circuits; remote control apparatus; downloadable sound, video and image files; electronic pens; electronic tags for goods; computer software, computer hardware and wearable computing devices allowing the remote monitoring, control and command of vehicles and vehicle parameters, of household appliances and furniture, of energy management systems, of home automation systems, of security systems, of home entertainment and audio/video equipment, of telecommunication devices, social media devices and computing devices, and of fitness and health telecare equipment; machine to machine (M2M) communications equipment and devices; computer game software; video game cartridges; memory cards for video game machines; software applications; spectacles; glasses; binoculars; spectacle frames; optical lenses; contact lenses; optical goods; optical glass; goggles for sports; sunglasses; clothing, garment, nets and protection devices for protection against accidents, irradiation and fire; protective helmets; helmets for sport; application programming interfaces (APIs); software development tools; computer software and hardware allowing to

listen to music and read audio/video files, to send and read out electronic messages, to take, edit, read, display and share digital photographs, sounds and videos, to browse on the Internet, to chat and to connect to social networks; digital maps; software applications for providing location-based and contextually-relevant advertisement; vision recognition software; audio recognition software; computer software and hardware for the provision and rendering of travel and tourism advice and for providing information about location of entertainment venues, local education institutions, hotels, landmarks, museums, public transportation, traffic, parking information, weather, price comparison, shopping, advertisement, health and fitness, employment information, social activities and cultural events, Points of Interest (POIs), sporting events, food and drink; location tracking devices; software applications and hardware enabling the user to obtain location-related and contextually-relevant information; computer software and hardware providing health, fitness and well-being information; equipment and apparatus for measuring and/or recording different physiological or other parameters, including heart rate, blood pressure, weight, sleep quality, ventilation, body temperature, skin conductivity, blood glucose (all being for scientific purposes), lactic acid, time, speed, acceleration, altitude, environmental temperature, humidity and purity; downloadable software in the nature of a mobile application for displaying and sharing a user's location and finding, locating, and interacting with other users; computer software and hardware allowing online payment and payment at distance; algorithms for the compression, decompression, encoding, decoding and processing of audio, video and imaging data; audio, video and images encoder/decoder (codec); computing and communication hardware and software for use by public safety agencies; accelerometers; acid hydrometers; sound alarms; acoustic couplers; actinometers; aerometers; air analysis apparatus; alarms; alcoholmeters; alidades; altimeters; ammeters; anemometers; animated cartoons; anodes; answering machines; antiglare visors and glasses; anti-interference devices [electricity]; anti-theft warning apparatus; anticathodes; apertometers [optics]; apparatus and instruments for astronomy; audiovisual teaching apparatus; automated teller machines [ATM]; azimuth instruments; balancing apparatus; bar code readers; barometers; beacons, luminous; betatrons; blueprint apparatus; boiler control instruments; breathing apparatus, except for artificial respiration; bullet-proof

vests; buzzers; calibrating rings; calipers; capillary tubes; carpenters' rules; cathodes; cathodic anti-corrosion apparatus; chemistry apparatus and instruments; chromatography apparatus for laboratory use; cleaning apparatus for sound recording discs; clothing especially made for laboratories; comparators; compasses; computer memory devices; control panels [electricity]; cosmographic instruments; false coin detectors; counters; meters; crash test dummies; cyclotrons; darkrooms; data processing apparatus; decompression chambers; densitometers; detectors; diagnostic apparatus, not for medical purposes; dictating machines; diffraction apparatus [microscopy]; distance measuring apparatus; distillation apparatus for scientific purposes; divers' masks, gloves, earplugs, nose-clips and suits; DNA chips; dog whistles; dosimeters; downloadable ring tones for mobile phones; dressmakers' measures; drying apparatus for photographic prints; dynamometers; electric installations for the remote control of industrial operations; electrified rails for mounting spot lights; electrified fences; electro-dynamic apparatus for the remote control of railway points and of signals; electrolyzers; electronic pocket translators; electronic notice boards; encoded magnetic cards and identification bracelets; epidiascopes; ergometers; light meters; extinguishers; instruments containing eyepieces; apparatus for fermentation [laboratory apparatus]; fiber optic cables; films, exposed; filters for respiratory masks; filters [photography]; fire engines; fire blankets; signalling lights; flashlights; fog signals, non-explosive; food analysis apparatus; apparatus to check franking; frequency meters; ovens for laboratory use; furniture especially made for laboratories; wires of metal alloys; fuses; galvanic cells; galvanometers; gasometers; gauges; glass covered with an electrical conductor; heat regulating apparatus; heliographic apparatus; hemline markers; high-frequency apparatus; holograms; hydrometers; hygrometers; identity cards, magnetic; electric apparatus for remote ignition; incubators for bacteria culture; intercommunication apparatus; interfaces for computers; juke boxes; knee-pads for workers; laboratory centrifuges; lactometers; lasers, not for medical purposes; lenses for astrophotography; levelling instruments; life-saving equipment; light-emitting electronic pointers; light emitting diodes [LED]; lighting ballasts; locks, electric; loudspeakers; magnetic data media; magnets; magnifying glasses [optics]; marine depth finders; marking buoys; masts for wireless aerials; material testing instruments and machines; mathematical instruments; measures; measuring

devices, electric; measuring glassware and spoons; mechanical signs; megaphones; mercury levels; metal detectors for industrial or military purposes; meteorological instruments; metronomes; micrometers; microscopes; microtomes; kilometer recorders for vehicles; mirrors [optics]; monitoring apparatus, electric; monitors; motor fire engines; naval signalling apparatus; neon signs; observation instruments; octants; ohmmeters; optical fibers; optical data media; oscillographs; ozonators; parking meters; particle accelerators; pedometers; periscopes; sound recording discs; photocopiers; photometers; photovoltaic cells; apparatus and instruments for physics; pipettes; planimeters; polarimeters; precision measuring apparatus; precision balances; pressure measuring apparatus; printers for use with computers; probes for scientific purposes; pyrometers; quantity indicators; radar apparatus; radio pagers; radiological apparatus for industrial purposes; radiotelephony sets; railway traffic safety appliances; range finders; telemeters; readers; refractors; regulating apparatus, electric; remote control apparatus; respirators for filtering air; resuscitation mannequins; retorts; road signs, luminous or mechanical; rulers; safety nets; satellites for scientific purposes; scales; scanners; sextants; sighting telescopes for firearms; signals, luminous or mechanical; signs, luminous; simulators for the steering and control of vehicles; gradient indicators; inclinometers; sonars; sound locating instruments; sounding apparatus and machines; spectrosopes; speed indicators; spherometers; starter cables for motors; steering apparatus, automatic, for vehicles; stereoscopic apparatus; stills for laboratory experiments; sulphitometers; surveying chains; surveyors' levels; tachometers; taximeters; teeth protectors; teleprinters; teleprompters; telescopes; temperature indicators; test tubes; testing apparatus not for medical purposes; theft prevention installations, electric; theodolites; thermometers, not for medical purposes; thermostats; ticket dispensers; time recording apparatus; totalizators; traffic-light apparatus; triodes; urinometers; USB flash drives; vacuum gauges; variometers; vehicle breakdown warning triangles; verniers; viewfinders, photographic; viscosimeters; voltmeters; voting machines; walkie-talkies; water level indicators; wavemeters; weighing machines; weights; wind socks for indicating wind direction; word processors; wrist rests for use with computers; X-ray films, exposed; X-rays producing apparatus and installations, not for medical purposes;

scales for medical and surgical purposes; parts, fittings and accessories of all the aforementioned goods.

Class 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; acetylene generators; air deodorising apparatus; air cooling apparatus; air conditioning installations and apparatus; air filtering installations, apparatus and machines; alcohol burners; anti-dazzle devices for vehicles [lamp fittings]; aquarium filtration apparatus, heaters and lights; arc lamps; autoclaves [electric pressure cookers]; bakers' ovens; barbecues; bath tubs and bath installations; bedwarmers; beverage cooling apparatus; bidets; blankets, electric, not for medical purposes; boilers, other than parts of machines; toasters; bread-making machines; burners; ceiling lights; central heating radiators; fairy lights for festive decoration; chromatography apparatus for industrial purposes; coffee machines, electric; cookers; cooking utensils, electric; cooking apparatus and installations; cooling installations, appliances and machines; dampers [heating]; defrosters for vehicles; dental ovens; deodorising apparatus, not for personal use; desalination plants; desiccating apparatus; disinfectant apparatus; disposable sterilization pouches; distillation apparatus; diving lights; drip irrigation emitters; drying apparatus and installations; evaporators; extractor hoods for kitchens; fans [air-conditioning]; filters [parts of household or industrial installations]; fireplaces, domestic; flares; foot warmers, electric or non-electric; forges, portable; fountains; freezers; fruit roasters; fuel economizers; fumigation apparatus, not for medical purposes; fire bars; ovens, other than for laboratory use; scrubbers [parts of gas installations]; gas condensers, other than parts of machines; germicidal burners; glue-heating appliances; hair driers [dryers]; hand drying apparatus for washrooms; hearths; heat pumps; heating installations; heating apparatus, electric; hot plates; hydrants; ice machines and apparatus; ice boxes; incinerators; kettles, electric; kilns; kitchen ranges [ovens]; laboratory burners; lamps; washing coppers; laundry dryers, electric; lava rocks for use in barbecue grills; level controlling valves in tanks; light bulbs; light-emitting diodes [LED] lighting apparatus; lighters; lighting apparatus and installations; lights for vehicles; lights, electric, for Christmas trees; microwave ovens [cooking apparatus]; microwave ovens for industrial purposes; nuclear reactors; atomic piles; oil burners; ornamental fountains; pasteurisers; pipes [parts of sanitary installations]; pocket warmers; polymerisation installations; radiators

[heating]; refrigerating appliances and installations; regulating and safety accessories for water or gas apparatus and pipes; roasting apparatus; griddles [cooking appliances]; grills [cooking appliances]; rotisseries; sanitary apparatus and installations; sauna and spa bath installations; showers; sinks; sockets for electric lights; solar thermal collectors [heating]; steam generating installations; sterilizers; stills; stoves; swimming pool chlorinating apparatus; tanning apparatus [sun beds]; taps [faucets]; thermostatic valves [parts of heating installations]; toilets [water-closets]; searchlights; urinals [sanitary fixtures]; ventilation [air-conditioning] installations and apparatus; waffle irons, electric; warming pans; wash-hand basins [parts of sanitary installations]; water heaters; water distribution installations; water filtering apparatus and machines; flushing apparatus; watering installations, automatic; watering machines for agricultural purposes; whirlpool-jet apparatus; parts, fittings and accessories of all the aforementioned goods.

Class 14: Precious metals and their alloys; jewellery; precious stones; horological and chronometric instruments; badges of precious metal; beads for making jewelry; boxes of precious metal; bracelets [jewelry]; brooches [jewelry]; cabochons for making jewelry; chains [jewelry]; charms [jewelry]; trinkets [jewelry]; chronometric instruments; clasps for jewelry; clocks; clocks and watches, electric; clockworks; coins; copper tokens; cuff links; earrings; statuettes of precious metal; hat ornaments of precious metal; ingots of precious metals; ivory [jewelry]; jewelry of yellow amber; jewelry boxes; key rings [trinkets or fobs]; lockets [jewelry]; medals; movements for clocks and watches; necklaces [jewelry]; peridot; ornamental pins; ornaments [jewelry]; costume jewelry; pearls made of ambroid [pressed amber]; pearls [jewelry]; pins [jewelry]; platinum [metal]; precious metals, unwrought or semi-wrought; rings [jewelry]; semi-precious stones; shoe ornaments of precious metal; silver thread [jewelry]; split rings of precious metal for keys; spun silver [silver wire]; stopwatches; sundials; tie clips and pins; watch bands, straps and chains; watch hands; watches; watch boxes; works of art of precious metal; wristwatches; parts, fittings and accessories of all the aforementioned goods.

Class 35: Advertising; business management; business administration; office functions; publicity; rental of advertising space; arranging newspaper subscriptions

for others; arranging subscriptions to telecommunication services for others; auctioneering; accounting; providing business and commercial information; commercial or industrial management assistance; commercial information and advice for consumers [consumer advice shop]; commercial administration of the licensing of the goods and services of others; collection, compilation, processing, management, updating and maintenance of data in computer databases; compilation of statistics; cost price analysis; data search in computer files for others; demonstration of goods; distribution of samples; document reproduction; economic forecasting; employment agency services; import-export agency services; computerized file management; market studies; marketing; news clipping services; office machines and equipment rental; provision of an on-line marketplace for buyers and sellers of goods and services; opinion polling; arranging and conducting of commercial, trade and business conferences, shows and exhibitions; outsourcing services [business assistance]; personnel management consultancy; photocopying services; presentation of goods on communication media, for retail purposes; procurement services for others; public relations; media planning services; search engine optimization for sales promotion; sponsorship search; telemarketing services; telephone answering for unavailable subscribers; rental of vending machines; web site traffic optimization; wholesale, retail and online store services in the field of telecommunication devices, equipment, systems, software and solutions comprised of telecommunication devices and software; wholesale, retail and online store services in the field of phones, computers, computer hardware and computer software, in the field of handheld mobile digital electronic devices for capturing, receiving, collecting, recording, reading, displaying, organizing, editing, transmitting, sharing, manipulating and reviewing data, text, maps, images and sounds, in the field of entertainment apparatus and equipment for recording, capturing, storing, processing, editing, displaying, transmission or reproduction and play back of sound, images or video and for playing video and software games, in the field of multimedia apparatus and equipment, in the field of telecommunication devices, sensors, printers, energy management systems, home automation systems, security systems, computing devices, fitness and health-monitoring equipment and apparatus, horological and chronometric instruments, household and kitchen utensils, clothing, footwear and headgear, games and playthings, machine tools,

digital maps and musical instruments, and in the field of peripherals, parts, fittings and accessories for all the afore mentioned goods; wholesale, retail and online store services in the field of medical apparatus and instruments, pharmaceuticals, veterinary and sanitary preparations, physical therapy and sporting equipment, toiletries, machines for household use, gardening articles, furniture, clothing, bags, jewelry, vehicles, hand tools, optical goods, white goods, heating, cooking, cooling and lighting apparatus and equipment, household appliances, sanitary installations, wearable computing devices, navigation devices, audio-visual equipment, information technology equipment; data processing services; administration of consumer loyalty programs; arranging and conducting incentive rewards programs to promote the sale of goods and services; providing computer databases, namely compilation of data regarding the purchase and sale of a wide variety of products and services of others; customer experience management (CEM) services; predictive business analytics services.

Class 37: Building construction; anti-rust treatment for vehicles; artificial snow-making services; asphaltting; bricklaying; building insulating; rental of bulldozers; carpentry services; chimney sweeping; cleaning of buildings [interior]; rental of cleaning machines; cleaning of buildings [exterior surface]; clock and watch repair; clothing repair; rental of construction equipment; construction; disinfecting; rental of drainage pumps; drilling of wells; dry cleaning; electric appliance installation and repair; elevator installation and repair; factory construction; rental of excavators; fire alarm installation and repair; furnace installation and repair; furniture maintenance; harbour construction; irrigation devices installation and repair; kitchen equipment installation; knife sharpening; laundering; laying of cable; leather care, cleaning and repair; machinery installation, maintenance and repair; masonry; mining extraction; painting, interior and exterior; photographic apparatus repair; pipeline construction and maintenance; plastering; plumbing; pump repair; quarrying services; rat exterminating; re-tinning; refilling of toner cartridges; rental of road sweeping machines; repair information; repair of power lines; riveting; road paving; roofing services; rustproofing; sanding; scaffolding; shipbuilding; shoe repair; street cleaning; strong-room maintenance and repair; underwater construction; upholstery; varnishing; vehicle lubrication; vehicle washing; vehicle service

stations; vehicle battery charging; vermin exterminating, other than for agriculture; vulcanization of tyres; washing of linen; washing; construction, maintenance, installation and repair of computers, tablet computers, computer hardware, phones, smartphones, electronic organizers, computer peripherals, smart glasses, smart watches, cameras, audio and visual equipment, scales, of wearable and portable computing devices, of vehicles, of office machines and equipment, of machines for industrial and agricultural use, of household appliances, of energy management systems, of home automation systems, of lighting devices and equipment, of sanitary installations, of security systems, of home entertainment and audio/video equipment, of fitness and health equipment, of medical apparatus and instruments, of machine to machine (M2M) communications equipment, of electric and electronic consumer goods, of hand tools, of optical goods and of navigation devices; installation, maintenance and repair of telecommunications and networking devices, equipment and systems, communications networks (other than software), satellite communications and radio and television communications equipment, instruments and machines; information, advisory and consultancy services relating to all the aforesaid.

Class 38: Telecommunications; telephone, sound, images, text and data transmission services; cellular telephone communication; communications by computer terminals; communications by fibre optic and wireless networks; computer aided transmission of messages, sound, data and images; electronic bulletin board services [telecommunications services]; facsimile transmission; rental, hire and leasing of telecommunications devices, equipment and systems; message sending; rental of modems; news agency services; providing online forums; paging services [radio, telephone or other means of electronic communication]; radio broadcasting; radio communications; satellite transmission; streaming of data; providing telecommunications connections to a global computer network; providing user access to global computer networks; providing telecommunication channels for teleshopping services; providing internet chatrooms; providing access to databases; rental of message sending apparatus; rental of access time to global computer networks; telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; rental of telephones; television

broadcasting; telex services; transmission of telegrams; electronic mail; message sending; transmission of greeting cards online; transmission of digital files; video-on-demand transmission; videoconferencing services; voice mail services; wireless broadcasting; provision of access to a computerized database that allow the management and security of connected electronic devices and of software applications; predictive analytics services relating to telecommunication and connectivity; information, advisory and consultancy services relating to all the aforesaid services.

Class 41: Education; providing of training; entertainment; sporting and cultural activities; amusement park services; providing amusement arcade services; animal training; rental of audio and video equipment; audio, video and images editing and production services; arranging of beauty contests; booking of seats for shows; calligraphy services; cinema presentations; rental of cinematographic apparatus; club services [entertainment or education]; coaching [training]; arranging and conducting of colloquiums, concerts, exhibitions, conferences, congresses, in-person educational forums, of symposiums, of seminars, of award ceremonies and of workshops; disc jockey services; dubbing; electronic desktop publishing; film production, other than advertising films; conducting fitness classes; wellbeing coaching services; provision of nutrition, fitness and wellbeing training; fitness counselling; health club services [health and fitness training]; gambling services; game services provided on-line from a computer network; games equipment rental; providing golf facilities; conducting guided tours; holiday camp services [entertainment]; karaoke services; language interpreter services; layout services, other than for advertising purposes; lending library services; rental of lighting apparatus for theatrical sets or television studios; microfilming; modelling for artists; rental of motion pictures; movie studio services; providing museum facilities [presentation, exhibitions]; music composition services; production of music; news reporters services; nightclub services [entertainment]; on-line publication of electronic books and journals; providing on-line electronic publications, on-line music and on-line videos, not downloadable; orchestra services; organization of competitions [education or entertainment]; organization of sports competitions; organization of lotteries; organization of balls; organization of shows [impresario

services]; organization of fashion shows for entertainment purposes; party planning [entertainment]; photographic reporting; photography; practical training [demonstration]; presentation of live performances; publication of texts, other than publicity texts; publication of books; radio entertainment; rental of radio and television sets; production of radio and television programmes; recording studio services; providing recreation facilities; services of schools [education]; scriptwriting, other than for advertising purposes; rental of show scenery; production of shows; rental of skin diving equipment; songwriting; rental of sound recordings; sport camp services; providing sports facilities; rental of sports equipment, except vehicles; rental of sports grounds; rental of stadium facilities; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; toy rental; translation; tutoring; videotape editing; videotaping; vocational guidance [education or training advice]; writing of texts; zoological garden services; organizing education, seminars, workshops and training in the field of telecommunications devices, equipment, networks, systems, solutions and software.

Class 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design, development, installation, maintenance and updating of computer hardware and software; analysis for oil-field exploitation; architectural services; authenticating works of art; bacteriological and biological research; calibration [measuring]; chemistry services; clinical trials; cloud seeding; computer programming; computer system analysis and design; computer virus protection services; computer security consultancy; construction drafting; consultancy in the field of energy-saving; conversion of data or documents from physical to electronic media; cosmetic research; creating and maintaining web sites for others; data conversion of computer programs and data [not physical conversion]; interior design; digitization of documents [scanning]; dress designing; electronic data storage; energy auditing; engineering; geological surveys and research; graphic arts design; handwriting analysis [graphology]; hosting computer sites [web sites]; land surveying; mechanical research; meteorological information; monitoring of computer systems by remote access; outsource service providers in the field of information technology; packaging design; physics [research]; quality

control; recovery of computer data; research and development of new products for others; provision of scientific information, advice and consultancy in relation to carbon offsetting; scientific laboratory services; providing search engines for the internet; styling [industrial design]; surveying; technical project studies; technical writing; technological consultancy; telecommunications technology consultancy; material and textile testing; underwater exploration; urban planning; vehicle roadworthiness testing; water analysis; weather forecasting; rental of web servers; web site design consultancy; scientific and technological analysis, research, development, planning, optimization, support, technical troubleshooting and consultancy services in the field of telecommunications devices, equipment, networks, systems, solutions and software; design, engineering and development of telecommunications devices, equipment, networks, systems, solutions and software; scientific and technological analysis, research, development, support, technical troubleshooting and consultancy services in the field of artificial intelligence, nanomaterials, sensors, connectivity, information technology [IT], geolocation and mapping, navigation, computer hardware, computer software, computing technologies, data analytics, audio technologies, imaging and video technologies, digital media technologies, multimedia technologies, virtual reality technologies, radio technologies, medical and healthcare technology, public safety technology, energy technologies, transport technologies, wearable computing devices, printing, automation, connected vehicles, connected furniture, connected clothing, connected consumer products, connected home appliances, machine to machines (M2M) systems, presence capture solutions; scientific and technological analysis and research services in the field of vehicles, furniture, clothing, home appliances and consumer products that can communicate via computer or telecommunication network, as well as support, consultancy and development services relating to all the aforementioned services; cloud computing; server hosting; software as a service [SaaS]; infrastructure-as-a-service (IaaS); platform-as-a-service (PaaS); application service provider (ASP) services; providing on-line [non-downloadable] software and mobile applications; providing temporary use of on-line non-downloadable software for use as an application programming interface (API); providing temporary use of on-line non-downloadable software development tools; rental of computer software and hardware; rental of audio, imaging, video,

digital media, multimedia, virtual reality and presence capture software and hardware; data encoding and decoding services; leasing of data processing equipment; cartography services; mapping services; map creation services; on demand provision services of online and digital maps; creating indexes of online information, sites and other resources available on global computer networks for others; technical digital imaging services; industrial design; off-site data backup; research in the field of environmental protection and recycling; capture, collecting, processing, computation, treatment, analyze, organization and recovery of data; installation, repair and maintenance of computer software; performance monitoring services of electronic devices connected to a network of computers or of telecommunication equipment (Smart Data as a Service); collection, storage and provision of access to information, network data and geolocalisation data (Optimization as a Service); Predictive analytics services relating to computer software, computer hardware and information technology; clinical solutions services relating to clinical research and trials for improvement of patient/physician interaction; information, advisory and consultancy services relating to all the aforesaid services.

Annex 2

UK00917868623

Class 9: smartwatches; head-mounted displays; devices with electric, electronic and digital functions that can connect to computer networks and which have computing, sensory, scanning, communication, data-storage, biofeedback, physiological-tracking, health-monitoring, fitness monitoring, predictive or augmented-reality capabilities, in the form of glasses, gloves, watches, clothing, footwear, headgear, bands and helmets; batteries; chargers; printers; covers for phones, smartphones, computers, tablets and other wearable and portable handheld computing devices; audio, imaging, video and radio apparatus and instruments; speakers; headsets; microphones; television and multimedia apparatus; displays; hands free kits for phones, smartphones, computers, tablets and other wearable and portable handheld computing devices; electronic publications; Global Positioning System [GPS] apparatus, instruments and devices; navigation apparatus for vehicles [on-board computers]; navigational instruments; satellite navigational apparatus; apparatus and software for GPS navigation and

mapping systems; chips; microprocessors; semi-conductors; smart cards [integrated circuit cards]; printed circuits; remote control apparatus; downloadable sound, video and image files; electronic pens; electronic tags for goods; computer software, computer hardware and wearable computing devices allowing the remote monitoring, control and command of vehicles and vehicle parameters, of household appliances and furniture, of energy management systems, of home automation systems, of security systems, of home entertainment and audio/video equipment, of telecommunication devices, social media devices and computing devices, and of fitness and health telecare equipment; machine to machine (M2M) communications equipment and devices; computer game software; software applications; glasses; binoculars; optical lenses; contact lenses; optical goods; goggles for sports; application programming interfaces (APIs); software development tools; computer software and hardware allowing to listen to music and read audio/video files, to send and read out electronic messages, to take, edit, read, display and share digital photographs, sounds and videos, to browse on the Internet, to chat and to connect to social networks; digital maps; software applications for providing location-based and contextually-relevant advertisement; vision recognition software; audio recognition software; computer software and hardware for the provision and rendering of travel and tourism advice and for providing information about location of entertainment venues, local education institutions, hotels, landmarks, museums, public transportation, traffic, parking information, weather, price comparison, shopping, advertisement, health and fitness, employment information, social activities and cultural events, Points of Interest (POIs), sporting events, food and drink; location tracking devices; software applications and hardware enabling the user to obtain location-related and contextually-relevant information; computer software and hardware providing health, fitness and well-being information; equipment and apparatus for measuring and/or recording different physiological or other parameters, including heart rate, blood pressure, weight, sleep quality, ventilation, body temperature, skin conductivity, blood glucose (all being for scientific purposes), lactic acid, time, speed, acceleration, altitude, environmental temperature, humidity and purity; computer software and hardware allowing online payment and payment at distance; algorithms for the compression, decompression, encoding, decoding and processing of audio, video and imaging data; audio, video

and images encoder/decoder (codec); computing and communication hardware and software for use by public safety agencies; air analysis apparatus; alarms; animated cartoons; automated teller machines [ATM]; compasses; computer memory devices; data processing apparatus; detectors; diagnostic apparatus, not for medical purposes; distance measuring apparatus; DNA chips; downloadable ring tones for mobile phones; electric installations for the remote control of industrial operations; electro-dynamic apparatus for the remote control of railway points and of signals; encoded magnetic cards and identification bracelets; fiber optic cables; films, exposed; flashlights; food analysis apparatus; wires of metal alloys; galvanic cells; heat regulating apparatus; high-frequency apparatus; holograms; intercommunication apparatus; interfaces for computers; lasers, not for medical purposes; lenses for astrophotography; life-saving equipment; light emitting diodes [LED]; locks, electric; loudspeakers; masts for wireless aerials; material testing instruments and machines; measuring devices, electric; metronomes; microscopes; monitoring apparatus, electric; observation instruments; optical fibers; photocopiers; photovoltaic cells; apparatus and instruments for physics; precision balances; radar apparatus; radiotelephony sets; railway traffic safety appliances; satellites for scientific purposes; scales; scanners; signals, luminous or mechanical; signs, luminous; simulators for the steering and control of vehicles; sound locating instruments; telescopes; temperature indicators; testing apparatus not for medical purposes; theft prevention installations, electric; thermometers, not for medical purposes; thermostats; time recording apparatus; traffic-light apparatus; viewfinders, photographic; walkie-talkies; wavemeters; weighing machines; X-rays producing apparatus and installations, not for medical purposes; humanoid robots with artificial intelligence; wearable activity trackers; wearable computers; wearable video display monitors; Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, storing, transforming, accumulating, regulating or controlling electricity; apparatus for recording, capturing, storing, processing, editing, displaying, transmission or reproduction and play back of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital and optical recording media; calculating machines, data processing equipment,

computers and computer hardware, parts and fittings thereof; computer peripheral devices; computer software; telecommunications devices, apparatuses and equipment, parts and fittings thereof; base stations, transmitters, receivers, controllers, switches, antennas, cables; electric wires; amplifiers; commutators; modems; radio and microwave transmission devices and equipment; apparatus and instruments for data communication, satellite communication and telecommunication; apparatus and instruments for monitoring of telecommunication networks and data communication networks; radar equipment; ciphering equipment, phones, smartphones and other wearable and portable electronic devices for capturing, receiving, collecting, recording, reading, displaying, organizing, editing, transmitting, sharing, manipulating and reviewing data, text, maps, images and sounds; portable media players; tablets; electronic agendas; electronic book readers; notebook computers; digital photo frames; cameras; camcorders; sensors; wearable connected devices, namely devices in the form of watches, glasses, contact lenses, headbands, gloves, bracelets, earrings, jewelry and helmets that can be used for computing, sensing, scanning, recording, displaying, monitoring, data-processing, remote-controlling, predicting, programming, connecting to computer networks or for telecommunication purposes; computing devices to be carried by end-users or to be worn on or into the body of end-users or to be incorporated into clothing, footwear, headgear, contact lenses, bags, textiles, fabrics, tissue, furniture and any kinds of materials and portable goods and accessories and that can be used for computing, sensing, scanning, recording, displaying, monitoring, data-processing, remote controlling, predicting, programming, connecting to computer networks or for telecommunication purposes; wearable and portable computing devices; displays for vehicles; sensors for vehicles; parts, fittings and accessories of all the aforementioned goods.

Class 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; air conditioning installations and apparatus; air filtering installations, apparatus and machines; cooling installations, appliances and machines; filters for ventilation apparatus [parts of household or industrial installations]; fuel economizers; heating installations; lamps; light bulbs; lighting installations; nuclear reactors; atomic piles; refrigerating

appliances and installations; sanitary installations; sauna and spa bath installations; steam generating installations; tanning apparatus [sun beds]; ventilation [air-conditioning] installations; water distribution installations; watering installations, automatic; watering machines for agricultural purposes; parts, fittings and accessories of all the aforementioned goods.

Class 14: Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments; boxes of precious metal; bracelets [jewelry]; coins; cuff links; key rings [trinkets or fobs]; medals; necklaces [jewelry]; ornamental pins; rings [jewelry]; watch bands, straps and chains; watch hands; watches; watch boxes; works of art of precious metal; wristwatches; parts, fittings and accessories of all the aforementioned goods.

Class 35: Advertising; business management; business administration; office functions; publicity; rental of advertising space; arranging subscriptions to telecommunication services for others; auctioneering; accounting; providing business and commercial information; commercial or industrial management assistance; commercial information and advice for consumers [consumer advice shop]; commercial administration of the licensing of the goods and services of others; collection, compilation, processing, management, updating and maintenance of data in computer databases; compilation of statistics; cost price analysis; data search in computer files for others; demonstration of goods; distribution of samples; document reproduction; economic forecasting; import-export agency services; computerized file management; market studies; marketing; office machines and equipment rental; provision of an on-line marketplace for buyers and sellers of goods and services; arranging and conducting of commercial, trade and business conferences, shows and exhibitions; outsourcing services [business assistance]; personnel management consultancy; presentation of goods on communication media, for retail purposes; procurement services for others; public relations; search engine optimization for sales promotion; sponsorship search; telemarketing services; telephone answering for unavailable subscribers; rental of vending machines; web site traffic optimization; wholesale, retail and online store services in the field of telecommunication devices, equipment, systems, software

and solutions comprised of telecommunication devices and software; wholesale, retail and online store services in the field of phones, computers, computer hardware and computer software; wholesale, retail and online store services in the field of handheld mobile digital electronic devices for capturing, receiving, collecting, recording, reading, displaying, organizing, editing, transmitting, sharing, manipulating and reviewing data, text, maps, images and sounds; wholesale, retail and online store services in the field of entertainment apparatus and equipment for recording, capturing, storing, processing, editing, displaying, transmission or reproduction and play back of sound, images or video and for playing video and software games; wholesale, retail and online store services in the field of multimedia apparatus and equipment; wholesale, retail and online store services in the field of telecommunication devices, sensors, printers, energy management systems, home automation systems, security systems, computing devices, fitness and health-monitoring equipment and apparatus; wholesale, retail and online store services in the field of horological and chronometric instruments, household and kitchen utensils, clothing, footwear and headgear, games and playthings, machine tools, digital maps, musical instruments, optical goods, location tracking devices, computing devices enabling the user to obtain location-related and contextually-relevant information and carrying cases for such products; wholesale, retail and online store services in the field of medical apparatus and instruments, pharmaceuticals, veterinary and sanitary preparations, physical therapy and sporting equipment; wholesale, retail and online store services in the field of white goods, heating, cooking, cooling and lighting apparatus and equipment, household appliances, sanitary installations, wearable computing devices, navigation devices, Global Positioning System [GPS] apparatus, audio-visual equipment, information technology equipment; retail and wholesale services in the field of machine to machine (M2M) communications equipment and devices; data processing services; collecting and processing of data; administration of consumer loyalty programs; arranging and conducting incentive rewards programs to promote the sale of goods and services; providing computer databases, namely compilation of data regarding the purchase and sale of a wide variety of products and services of others; customer experience management (CEM) services; predictive business analytics services; information, advisory and consultancy services relating to all the aforesaid services.

Class 37: Building construction; clock and watch repair; electric appliance installation and repair; machinery installation, maintenance and repair; photographic apparatus repair; repair information; repair of power lines; construction, maintenance, installation and repair of computers, tablet computers, computer hardware, phones, smartphones, electronic organizers, computer peripherals, smart glasses, smart watches, cameras, audio and visual equipment; construction, maintenance, installation and repair of scales, of wearable and portable computing devices, of vehicles, of office machines and equipment, of machines for industrial and agricultural use; construction, maintenance, installation and repair of household appliances, of energy management systems, of home automation systems, of lighting devices and equipment, of sanitary installations, of security systems, of home entertainment and audio/video equipment, of fitness and health equipment, of medical apparatus and instruments, of machine to machine (M2M) communications equipment, of electric and electronic consumer goods, of hand tools, of optical goods and of navigation devices; installation, maintenance and repair of telecommunications and networking devices, equipment and systems, communications networks (other than software), satellite communications and radio and television communications equipment, instruments and machines; upgrading of computer hardware; installation, maintenance and upgrading of computer hardware; information, advisory and consultancy services relating to all the aforesaid services.

Class 38: Telecommunications; telephone, sound, images, text and data transmission services; cellular telephone communication; communications by computer terminals; communications by fibre optic and wireless networks; computer aided transmission of messages, sound, data and images; electronic bulletin board services [telecommunications services]; facsimile transmission; rental, hire and leasing of telecommunications devices, equipment and systems; message sending; rental of modems; news agency services; providing online forums; paging services [radio, telephone or other means of electronic communication]; radio broadcasting; radio communications; satellite transmission; streaming of data; providing telecommunications connections to a global computer network; providing user access to global computer networks; providing telecommunication channels for

teleshopping services; providing internet chatrooms; providing access to databases; rental of message sending apparatus; rental of access time to global computer networks; telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; rental of telephones; television broadcasting; telex services; transmission of telegrams; electronic mail; transmission of greeting cards online; transmission of digital files; video-on-demand transmission; videoconferencing services; voice mail services; wireless broadcasting; provision of access to a computerized database that allow the management and security of connected electronic devices and of software applications; information, advisory and consultancy services relating to all the aforesaid services.

Class 41: Education; providing of training; entertainment; sporting and cultural activities; rental of audio and video equipment; audio, video and images editing and production services; rental of cinematographic apparatus; coaching [training]; arranging and conducting of colloquiums, concerts, exhibitions, conferences, congresses, in-person educational forums, of symposiums, of seminars, of award ceremonies and of workshops; arranging and conducting of commercial trade and business conferences; d film production, other than advertising films; conducting fitness classes; wellbeing coaching services; provision of nutrition, fitness and wellbeing training; fitness counselling; health club services [health and fitness training]; game services provided on-line from a computer network; games equipment rental; microfilming; movie studio services; on-line publication of electronic books and journals; providing on-line electronic publications, on-line music and on-line videos, not downloadable; organization of competitions [education or entertainment]; organization of sports competitions; photography; practical training [demonstration]; presentation of live performances; publication of texts, other than publicity texts; publication of books; rental of radio and television sets; recording studio services; rental of sound recordings; rental of sports equipment, except vehicles; videotape editing; videotaping; organizing education, seminars, workshops and training in the field of telecommunications devices, equipment, networks, systems, solutions and software; information, advisory and consultancy services relating to all the aforesaid services.

Class 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design, development, installation, maintenance and upgrading of computer software; design and development of computer hardware; clinical trials; computer programming; computer system analysis and design; computer virus protection services; computer security consultancy; construction drafting; consultancy in the field of energy-saving; conversion of data or documents from physical to electronic media; creating and maintaining web sites for others; data conversion of computer programs and data [not physical conversion]; digitization of documents [scanning]; electronic data storage; energy auditing; hosting computer sites [web sites]; mechanical research; meteorological information; monitoring of computer systems by remote access; outsource service providers in the field of information technology; physics [research]; quality control; recovery of computer data; research and development of new products for others; provision of scientific information, advice and consultancy in relation to carbon offsetting; scientific laboratory services; providing search engines for the internet; surveying; technical project studies; technical writing; technological consultancy; telecommunications technology consultancy; material and textile testing; urban planning; vehicle roadworthiness testing; water analysis; rental of web servers; web site design consultancy; scientific and technological analysis, research, development, planning, optimization, support, technical troubleshooting and consultancy services in the field of telecommunications devices, equipment, networks, systems, solutions and software; design, engineering and development of telecommunications devices, equipment, networks, systems, solutions and software; scientific and technological analysis, research, development, support, technical troubleshooting and consultancy services in the field of artificial intelligence, nanomaterials, sensors, connectivity, information technology [IT], geolocation and mapping, navigation, computer hardware, computer software, computing technologies, data analytics; scientific and technological analysis, research, development, support, technical troubleshooting and consultancy services in the field of audio technologies, imaging and video technologies, digital media technologies, multimedia technologies, virtual reality technologies, radio technologies; scientific and technological analysis, research, development, support, technical troubleshooting and consultancy services in the

field of medical and healthcare technology, public safety technology, energy technologies, transport technologies, wearable computing devices, printing, automation, connected vehicles, connected furniture, connected clothing, connected consumer products, connected home appliances, machine to machines (M2M) systems, presence capture solutions; scientific and technological analysis and research services in the field of vehicles, furniture, clothing, home appliances and consumer products that can communicate via computer or telecommunication network, as well as support, consultancy and development services relating to all the aforementioned services; cloud computing; server hosting; software as a service [SaaS]; infrastructure-as-a-service (IaaS); platform-as-a-service (PaaS); application service provider (ASP) services; providing on-line [non-downloadable] software and mobile applications; providing temporary use of on-line non-downloadable software for use as an application programming interface (API); providing temporary use of on-line non-downloadable software development tools; rental of computer software and hardware; rental of audio, imaging, video, digital media, multimedia, virtual reality and presence capture software and hardware; data encoding and decoding services; leasing of data processing equipment; cartography services; mapping services; map creation services; on demand provision services of online and digital maps; computer services, namely, creating computer network-based indexes of information, websites and resources; technical digital imaging services; industrial design; off-site data backup; research in the field of environmental protection; collecting, and processing of data; installation, repair and maintenance of computer software; performance monitoring services of electronic devices connected to a network of computers or of telecommunication equipment (Smart Data as a Service); collection, storage and provision of access to information, network data and geolocalisation data (Optimization as a Service); medical and clinical research and trials for improvement of patient/physician interaction; information, advisory and consultancy services relating to all the aforesaid services.