

O/0328/24

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF APPLICATION NO. UK00003636463

BY RYZEUP LLC

IN CLASSES 5, 9, 16, 18, 25, 28, 32, 35, 38, 41 AND 42

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 427418 BY

ADVANCED MICRO DEVICES, INC.

AND

IN THE MATTER OF REGISTRATION NOS. UK00003192036, UK00915951809

AND UK00915951941

IN THE NAME OF ADVANCED MICRO DEVICES, INC.

AND

IN THE MATTER OF APPLICATIONS FOR REVOCATION ON THE GROUNDS OF

NON-USE UNDER NOS. 505228, 505229 AND 505230

BY RYZEUP LLC

BACKGROUND AND PLEADINGS

1. On 4 May 2021, RYZEUP LLC (“RL”) applied to register the series of 2 trade marks RYZEUP/RyzeUp under application no. UK00003636463 (“the 463 Mark”), in the UK. The application for the 463 Mark was published for opposition purposes on 9 July 2021 and registration is sought for the goods and services set out in the Annex to this decision.

2. On 11 October 2021, the application for the 463 Mark was partially opposed by Advanced Micro Devices, Inc. (“AMD”) based upon sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”). The opposition is directed at those goods and services underlined in the Annex to this decision only. Under both grounds of opposition, AMD relies upon UKTM no. 3192036 (“the 036 Mark”) for the trade mark RYZEN which was filed on 19 October 2016 and registered on 10 March 2017. A priority date of 25 July 2016 is claimed. AMD relies upon all goods for which the earlier mark is registered, namely:

Class 9 Semiconductor devices; semiconductor chips; semiconductors; computer hardware; microprocessor modules; microprocessor subsystems; computer hardware subsystems; computer subsystems; graphics software; chipsets; integrated circuits; graphics processors; accelerated processors; graphics cards; video cards; video game software; computer software; video game consoles; virtual reality headsets; computer workstations consisting of computer hardware and computer hardware components; computer servers; solid state drives; volatile memory and dynamic random-access memory.

3. Under section 5(2)(b) of the Act, AMD claims that the marks are similar and the goods and services are identical or similar, with the result that there is a likelihood of confusion.

4. Under section 5(3) of the Act, AMD claims that it has a reputation for all of the goods for which its mark is registered. It claims that use of RL’s mark would, without due

cause, take unfair advantage of, and/or be detrimental to, the distinctive character and/or repute of the earlier mark.

5. RL filed a counterstatement denying the claims made.

6. AMD is also the proprietor of UKTM no. 915951941 (“the 941 Mark”) for the mark AMD RYZEN and UKTM no. 915951809 (“the 809 Mark”) for the mark RYZEN, both of which were filed on 19 October 2016 and registered on 29 March 2017. The 941 Mark and the 809 Mark stand registered for the goods underlined in paragraph 2 above. Both marks claim priority from 25 July 2016.

7. On 29 July 2022, RL applied to revoke the 036, 941 and 809 Marks on the grounds of non-use pursuant to section 46(1)(a) of the Act. The relevant periods are as follows:

- a. 11 March 2017 to 10 March 2022, with an effective date of revocation of 11 March 2022 for the 036 Mark.
- b. 30 March 2017 to 29 March 2022, with an effective date of revocation of 30 March 2022 for the 941 and 809 Marks.

8. AMD filed counterstatements denying the claims made.

THE HEARING

9. A hearing took place before me on 14 February 2024, by video conference. AMD was represented by Claire Evans of Mewburn Ellis LLP and filed a skeleton argument in advance of the hearing. RL has been represented throughout these proceedings by Insanity Talent Management Limited. RL elected not to attend the hearing but filed written submissions in lieu.

EVIDENCE AND SUBMISSIONS

10. AMD filed evidence in chief in the form of the first witness statement of Harry A. Wolin dated 16 February 2023, which is accompanied by 34 exhibits (HAW1 to

HAW34). Mr Wolin is the Senior Vice President, General Counsel and Corporate Secretary for AMD.

11. RL filed undated written submission during the evidence rounds on 20 March 2023.

12. AMD filed evidence in reply in the form of the second witness statement of Mr Wolin dated 20 June 2023, which is accompanied by 22 exhibits (HAW35 to HAW56).

13. RL filed undated written submissions in lieu on 12 February 2024.

14. I invited RL to file additional submissions following the hearing to clarify the extent to which it was admitted that the parties' respective goods/services were similar. They did so on 24 March 2024, and AMD filed a short response on 4 April 2024.

15. I have taken the evidence and submissions into account in reaching this decision and will refer to them below where necessary.

RELEVANCE OF EU LAW

16. 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.

DECISION

MY APPROACH

17. The effective dates of revocation claimed in the revocation actions are 10 March or 29 March 2022. These dates are both after the relevant date in the opposition, which is the filing date of the application for the 463 Mark i.e. 4 May 2021. Consequently, even if I revoke AMD's marks in full, it will still be entitled to rely upon its full

specification for the 036 Mark as it stood at the relevant date. The revocations will not, therefore, have any direct impact upon the opposition proceedings. Nonetheless, I will begin by assessing the revocation actions first, followed by the opposition.

REVOCATIONS

18. Section 46 of the Act is relevant to the revocation proceedings which states:

“46. - (1) The registration of a trade mark may be revoked on any of the following grounds-

(a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;

[...]

(2) For the purpose of subsection (1) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as in referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making

of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) [...]

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from-

(a) the date of the application for revocation, or

(b) if the registrar or court is satisfied that the grounds for revocation existing at an earlier date, that date”.

19. As the 941 Mark and the 809 Mark are comparable marks, AMD can rely upon use of those marks in the EU for any and all parts of the relevant periods which fall prior to IP Completion Day (i.e. 31 December 2020) pursuant to paragraphs 7 and 8 of Part 1, Schedule 2A of the Act. Only use in the UK is relevant to the 036 Mark.

20. Section 100 is also relevant, which reads:

“If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

21. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable

number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 P *Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bunderversammlung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Marken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 P *Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient

to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

22. Proven use of a mark which fails to establish that “the commercial exploitation of the mark is real” because the use would not be “viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods or services protected by the mark” is, therefore, not genuine use.

23. RL has accepted that AMD has made genuine use of its marks in relation to “multicore microprocessors”, subject to the use shown being acceptable use (or acceptable variant use) of the marks in issue. Further, in its written submissions in lieu, RL states:

“17. In these consolidated proceedings, the evidence to show use of the Cancellation Marks across their specifications is worse than inconclusive: it is completely absent. In the premises, the Cancellations should succeed in part and the specification for the Cancellation Marks should be narrowed to:

a. Semiconductor devices; semiconductor chips; semiconductors; computer hardware; microprocessor subsystems; chipsets; integrated circuits; graphic processors; accelerated processors.”

24. Subject to the issue of the marks used by the opponent being acceptable use (or variant use), RL appears to accept that AMD has evidenced use to support the contested marks being maintained for the above specification. With that in mind, I note the following from AMD’s evidence:

a. AMD has operated in the UK since June 1973.

- b. Mr Wolin explains that “RYZEN/ AMD RYZEN is a brand of multicore microprocessors designed and marketed by the Company for desktop, mobile, server, and embedded platforms”.
- c. The first product under the RYZEN and AMD RYZEN marks was launched in early 2017.
- d. Examples of historical screenshots from AMD’s website have been provided, which all refer to “processors”.¹ Examples of AMD’s products are as follows:



- e. Mr Wolin states that there are four main retailers of AMD’s products which are *Ebuyer, PCSpecialist, Overclockers, and Scan*. Printouts from the websites of these retailers have been provided which all refer to “processors”.²
- f. The following revenue figures have been provided for goods sold in the UK under the RYZEN and AMD RYZEN marks:

2017	Over £8million
2018	Over £14million
2019	Over £25million
2020	Over £50million
2021	Over £40million
2022	Over £21million

¹ Exhibit HAW4

² Exhibits HAW5 to HAW8.

- g. Invoices have been provided, with product details for each item to which the invoices relate.³ The invoices are dated 5 December 2017 to 11 March 2022, for over 56,000 units of processors.
- h. Marketing expenditure has been provided for the EMEA region, which is as follows:

2017	Over £8million
2018	Over £13million
2019	Over £70million
2020	Over £164million
2021	Over £89million
2022	Over £82million

However, I note that the EMEA is a far larger area than just the UK or EU.

- i. Reference is made to the fact that a business has sold AMD products in 89 stores throughout 2022, with images of the RYZEN mark being used in stores alongside the words “join the creators who know the pure speed of laptops powered by AMD Ryzen processors”.⁴
- j. Reference is made to a business that appears to have undertaken some promotional activity for AMD by giving away a custom-built gaming system which used RYZEN processors. There were 900,000 views and 30,000 competition entries. However, there is very limited information about the extent to which the RYZEN and AMD RYZEN marks were visible, what goods were advertised and, importantly, where the customers were who viewed the videos or entered the competition were located.⁵

³ Exhibit HAW9

⁴ Exhibit HAW11

⁵ Exhibit HAW12

- k. AMD announced the launch of a new processor at a virtual trade event in 2021, which was viewed by over 3million people.⁶
- l. AMD's products were advertised at *The Future Games Show* in early 2022, which attracted 590,000 views. However, no information is provided about the extent to which RYZEN and AMD RYZEN marks were promoted.⁷
- m. Reviews from UK consumers of the AMD RYZEN processors have been provided from the Amazon and Currys websites.⁸
- n. AMD has undertaken promotional activities on social media.⁹ AMD's UK page has nearly 15,000 followers and its UK Twitter page has over 100,000 followers.¹⁰

25. There are examples of the opponent using the 036, 941 and 809 Marks as registered. However, RL claims that use of the mark AMD RYZEN is not use upon which AMD can rely to show use of the mark RYZEN (including as shown above on the products). In my view, this is not correct. The word RYZEN within the mark AMD RYZEN and the use shown in the above images, is clearly use of the word RYZEN as registered.¹¹ It continues to indicate origin within the marks and is, therefore, use upon which AMD can rely.

26. As a result of that finding, and RL's submissions referred to above, the 036, 941 and 809 Marks can remain registered for at least the following terms:

Class 9 Semiconductor devices; semiconductor chips; semiconductors; computer hardware; microprocessor subsystems; chipsets; integrated circuits; graphic processors; accelerated processors.

27. That leaves the following terms to be considered, which remain in dispute:

⁶ Exhibit HAW13

⁷ Exhibit HAW16

⁸ Exhibits HAW29 and HAW30

⁹ See, for example, exhibit HAW31

¹⁰ Exhibits HAW32 and HAW33

¹¹ *Colloseum Holdings AG v Levi Strauss & Co.*, Case C-12/12

The 036 Mark

Class 9 Microprocessor modules; computer hardware subsystems; computer subsystems; graphics software; graphics cards; video cards; video game software; computer software; video game consoles; virtual reality headsets; computer workstations consisting of computer hardware and computer hardware components; computer servers; solid state drives; volatile memory and dynamic random-access memory.

The 941 and 809 Marks

Class 9 Microprocessor modules; computer hardware subsystems; computer subsystems; graphics software; graphics cards; video cards; video game software; computer software; virtual reality headsets; computer workstations; computer servers; solid state drives; volatile memory and dynamic random-access memory.

28. In relation to *computer servers, video cards, video game consoles* and *virtual reality headsets*, Ms Evans submitted that AMD's processors would be used within those items, but she accepted that there was no evidence in relation to those products themselves. There is no evidence of use in relation to these goods and the fact that AMD's products might be a component part of these goods is not sufficient to demonstrate genuine use of the finished article. Further, there is no evidence of use in relation to *solid state drives* or *volatile memory and dynamic random-access memory*.

29. AMD sells various processors, which may themselves be parts of *computer hardware subsystems, computer subsystems, computer workstations* and *computer workstations consisting of computer hardware and computer hardware components*. However, it has shown no use of systems themselves. Even if that is wrong, given that AMD's use is in relation to such a limited sub-category of goods which is, in itself, a recognisable sub-category, I do not consider that AMD should be entitled to retain these broader terms.

30. There is a small amount of use in relation to *microprocessor modules*. In any event, it would be pernickety to exclude these goods which are so closely related to AMD's microprocessors. I consider that AMD can retain this term.

31. In relation to *graphics cards* and *graphics software*, Ms Evans made reference to exhibit HAW48 which describes "AMD Ryzen Processor with Radeon Graphics for gaming laptops". This seems to me to be evidence that AMD sells processors under the RYZEN/AMD RYZEN marks but that they are sold in conjunction with graphics which are themselves marketed under the brand RADEON. This is not, in my view, evidence of use of the RYZEN/AMD RYZEN marks in relation to graphic cards or graphic software. When asked about this at the hearing, Ms Evans essentially gave oral evidence that whilst AMD currently uses Radeon graphics within their processors, they have previously used their own. Ms Evans was not under oath when she said this and I have no formal evidence before me to this effect. Consequently, I decline to find that there is use in relation to *graphics cards* or *graphic software*. I can see no other evidence that puts AMD in a stronger position.

32. Ms Evans made a similar argument in relation to *computer software* and *video game software*. The fact that AMD's goods might be used in conjunction with that software is not sufficient to evidence use of the software itself. In addition, Ms Evans referred to exhibit HAW45 which discusses AMD RYZEN "chipset drivers". The page is dated 24 November 2020. My understanding is that a chipset driver is a set of files that tells a piece of hardware how to function through communications with a computer's operating systems. I understand this to be a type of software. Plainly, it could not be said to fall within the meaning of the term *video game software* in any event. It would, of course, be a subset of *computer software* at large. However, I have no information about the extent of any sales of this software or any marketing activity undertaken. I do not consider this evidence to be sufficient to demonstrate genuine use of *computer software* or *video game software*.

33. In conclusion, the contested marks can remain registered for the following terms:

Class 9 Semiconductor devices; semiconductor chips; semiconductors; computer hardware; microprocessor modules; microprocessor subsystems; chipsets; integrated circuits; graphics processors; accelerated processors.

THE OPPOSITION

Section 5(2)(b)

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

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

(a)...

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

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

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

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

36. Given its earlier filing date, the 036 Mark relied upon qualifies as an earlier trade mark pursuant to section 6 of the Act. As the 036 Mark had not completed its registration process more than 5 years before the application date of the mark in issue, it is not subject to the use provisions set out in section 6A of the Act. The opponent

can, therefore, rely upon all of the goods in its specification as it stood at the relevant date.

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

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

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

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

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

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

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

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

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

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

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

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

Comparison of goods and services

Class 9

Scientific, nautical, surveying, [...] optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments.

38. This is a very broad term and I bear in mind that broad terms should be given their literal meaning.¹² In my view, AMD's goods would not fall within the literal meaning of

¹² *Sky v Skykick* [2020] EWHC 990 (Ch)

any of these terms, nor can I see any reason for them to be similar when taking account of the case law cited above. In my view, they are dissimilar.

Computer hardware; computers and parts and fittings thereof.

39. RL admits that these goods are identical to those of AMD.

Data processing equipment, computers; Personal electronic devices used to track fitness goals and statistics; wearable activity trackers; smartwatches; portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files; wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks; wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; smart rings; smartphones; smartwatches; laptop computers; telecommunications network apparatus.

40. In my view, these goods are all identical on the principle outlined in *Meric* to “computer hardware” in AMD’s specification. If I am wrong in that finding, then there will be an overlap in nature, method of use, purpose, trade channels and user and the goods will be highly similar.

Computer software.

41. This term appears identically in AMD’s specification.

Downloadable computer software and applications in the nature of networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; software applications for mobile telecommunications devices; computer software applications, downloadable; drivers software for telecommunications networks and for telecommunications apparatus; computer software recorded onto CD Rom; mobile phone application software; software for telecommunication.

42. As these are all types of computer software, they will be identical to the term “computer software” in AMD’s specification, on the principle outlined in *Meric*.

Apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity.

43. I understand AMD’s integrated circuits to be a type of electronic circuit formed on a small piece of semiconducting material. Consequently, I consider these goods to be identical on the principle outlined in *Meric*.

Apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data.

44. I consider these goods to be identical to AMD’s “computer hardware” on the principle outlined in *Meric*.

Electronic games for mobile telecommunications devices; computer games; computer game software; computer games programs.

45. These goods are self-evidently identical or identical on the principle outlined in *Meric* to “video game software” in AMD’s specification.

Headphones; docking stations; cables, namely, charging cables; computer peripherals; loudspeakers; television apparatus; audio, video and audiovisual mixers.

46. These are all self-evidently, or types of, computer peripherals. They would be sold through the same trade channels to the same users as the opponent's "computer hardware". It is also likely that the average consumer would perceive the same undertaking to be responsible for the goods, and they are important or indispensable for each other. Consequently, they are complementary. In my view, the goods are similar to a medium degree.

Batteries, rechargeable batteries and chargers for rechargeable batteries.

47. These goods are parts of computer hardware. In my view, they are likely to be sold through the same trade channels to the same users as AMD's "computer hardware". They are also likely to be complementary. I consider the goods to be similar to a medium degree.

Magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; vinyl records; compact discs; USB flash drives; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; magnetic cards; encoded cards; magnetic data media.

48. To my understanding, these are all types of data carriers. They clearly differ in nature, purpose and method of use with AMD's goods. I have no evidence to suggest that these goods would reach the market through the same trade channels as AMD's goods. I accept there may be some overlap in large retailers, but it seems likely to me that they would be sold in different sections of those retailers. There is no obvious competition or complementarity. The users may overlap, but that is not enough on its own for a finding of similarity. I consider the goods to be dissimilar.

Radios, including mobile and portable radios; MP3 players.

49. These are electronic goods that are likely to be sold in close proximity to AMD's "computer hardware". The purposes of the goods may overlap to the extent that both can be used to play music, and for the same reason there may be a small degree of competition. However, generally speaking, these goods are likely to be separate purchases rather than competing ones. The nature and method of use of the goods differ. The users will plainly overlap. In my view, the goods are similar to a medium degree.

Music recordings; audio recordings; video recordings; Recorded and downloadable media; podcasts; digital music downloadable online; downloadable audio, visual and audio-visual recordings; downloadable image files; downloadable music files; downloadable ring tones for mobile phones.

50. These are all types of downloadable files that may be viewed using AMD's "computer hardware". However, to my knowledge, it is unlikely that the same businesses would sell both computer hardware and files of this nature. There is no overlap in nature, method of use or purpose. There does not appear to be any complementarity or competition. The users may overlap but that is not enough on its own for a finding of similarity. I consider the goods to be dissimilar. I have considered whether any of AMD's other goods put it in a stronger position, and I do not consider that they do.

Cameras; camera lenses; photographic, cinematographic [...] apparatus and instruments.

51. These are electronic goods that are likely to be sold in close proximity to AMD's goods. They would include goods such as webcams which are often used with computer hardware. Consequently, I consider it likely that there will be an overlap in trade channels and user. There may also be some complementarity in the case of webcams. Consequently, I consider the goods to be similar to a medium degree.

Fire-extinguishing apparatus.

52. I can see no reason for these goods to overlap in trade channels, method of use, purpose or nature with AMD's goods. There is no competition or complementarity. Any overlap in user is insufficient for a finding of similarity. I consider the goods to be dissimilar.

Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic games.

53. I accept that these goods are likely to be sold by the same businesses that sell AMD's "video game consoles" and "video game software". They will also be sold to the same users. There may also be complementarity. In my view, the goods are similar to a medium degree.

Downloadable electronic publications; downloadable electronic publications.

54. As these terms would include the aforementioned strategy guides and manuals, the same finding applies. The goods are similar to a medium degree.

Selfie sticks [hand-held monopods]; mouse mats; mobile telephone covers; mobile telephone cases; cases and covers for mobile telecommunication devices and laptop computers; hands free kits for phones.

55. These are all accessories that would be used with AMD's "computer hardware". Consequently, I accept that they are likely to be sold through the same trade channels, to the same users. There may also be complementarity. In my view, the goods are similar to a medium degree.

Glasses, sunglasses.

56. These goods are clearly distinct from AMD's goods and would be sold through separate retailers. Whilst I note that the method of use may overlap at a very general level with, for example, "virtual reality headsets" in AMD's specification because they

would all be worn over the eyes, the nature and purpose clearly differs. There is no competition or complementarity. Any overlap in user is at a very general level. I consider the goods to be dissimilar.

Magnets.

57. I can see no reason to find an overlap in trade channels, method of use, purpose or nature with AMD's goods. There is no competition or complementarity. Any overlap in trade channels is insufficient on its own for a finding of similarity. I consider the goods to be dissimilar.

Parts and fittings for all the aforesaid goods.

58. The outcome in relation to this term will follow those findings I have made in relation to the core goods to which they relate, as mentioned above.

Class 16

59. In relation to "printed matter" and "instructional and teaching materials" in RL's specification, I accept that these are likely to be sold through the same trade channels to the same users as AMD's "video game software", for the reasons set out in paragraph 53 above. Consequently, for the same reasons, I find them to be similar to a medium degree.

60. In relation to RL's remaining class 16 goods, Ms Evans submitted that there could be an overlap in user and trade channels. Ms Evans submitted that AMD produces printed matter for the purposes of advertising its goods. In my view, this is not the same as an undertaking providing class 16 goods for a commercial purpose. In these circumstances, AMD is not using its mark in relation to these goods in a way that is consistent with the essential function of a trade mark. With that in mind, I can see no reason to conclude that there is an overlap in trade channels. The nature, purpose and method of use of the goods clearly differs. There is no competition or complementarity. The user may overlap, but that is not sufficient on its own for a finding of similarity. The goods and services are dissimilar.

Classes 18

61. I accept that “cases” and “bags” in RL’s specification would include goods specifically designed to hold AMD’s “computer hardware”. Consequently, they are likely to be sold through the same trade channels to the same users. There may also be complementarity. I consider them to be similar to a medium degree.

62. In relation to the remaining goods in class 18, Ms Evans submitted that they are likely to be sold by the same undertakings as AMD’s goods as merchandise. I have no evidence before me that it is common for businesses that sell AMD’s goods to sell merchandise at all, or that such merchandise would include RL’s class 18 goods. In my view, it is most likely that such goods would be sold by distinct businesses. If they were sold in the same retailers, they are likely to be sold in different areas. Any overlap in user is not sufficient on its own for a finding of similarity. There is no overlap in nature, method of use or purpose and no basis for finding competition or complementarity. In my view, the goods are dissimilar.

63. In relation to “parts and fittings for the aforesaid goods”, to the extent that they relate to “cases” and “bags”, I am not convinced that they will be sold through the same trade channels as AMD’s goods, nor do I have any evidence to suggest that they would be. It seems to me more likely that parts and fittings for such goods would be sold by distinct undertakings. There is no overlap in nature, method of use or purpose. There is no competition or complementarity. There may be an overlap in user, but that is not sufficient on its own for a finding of similarity. I consider the goods to be dissimilar. Where they relate to goods that I have found to be similar, I can see no reason to find the parts and fittings similar.

Class 25

64. Ms Evans made the same submissions in relation to these goods as in relation to the class 18 goods. For the same reasons given in paragraph 62 above, I consider these goods to be dissimilar.

Class 28

Games [...]; amusement machines; video game apparatus; arcade video game machines; video game consoles; peripherals and controllers for video game consoles; hand-held video games; hand-held consoles for playing video games; gaming machines for gambling; joysticks for video games.

65. In my view, these goods are likely to overlap in trade channels and user with AMD's "video game software" and "video game consoles". There may also be complementarity, as they are important or indispensable for each other, and the average consumer would perceive the same undertaking as being responsible for the goods. I consider them to be similar to a medium degree.

[...] playthings; gymnastic and sporting articles; decorations for Christmas trees; Toys; fancy dress outfits being children's playthings.

66. I can see no basis for finding that these goods overlap in nature, method of use or purpose. There is no evidence before me to suggest an overlap in trade channels, nor do I consider it likely. Where the goods are all sold through large retailers, they are likely to be sold in distinct sections. There is no competition or complementarity. Any overlap in user is insufficient on its own for a finding of similarity. I consider the goods to be dissimilar.

Educational toys.

67. This term could include electronic toys that take the form of laptops or tablets that are used by children for developmental play. Consequently, I consider that there is similarity in nature, method of use and trade channels with AMD's "computer hardware". There may be some overlap in purpose, in some instances. The user may overlap. There is no competition or complementarity. I consider the goods to be similar to a medium degree.

Parts and fittings for all the aforesaid goods.

68. Whether or not these goods are similar to AMD's goods will follow the outcome for the core goods to which they relate, as set out above.

Class 35

Advertising; business management; advertising services provided via the Internet; provision and rental of advertising space, time and media; provision of space on websites for advertising goods and services; marketing and promotional services; event marketing; public relations and publicity services; merchandising; organisation, arrangement and conducting of exhibitions and events for advertising and promotional purposes; organisation, arrangement and conducting of competitions and prize draws for commercial or advertising purposes; production of television and radio advertisements.

69. It seems to me unlikely that the same businesses that offer advertising, promotional or business management services will also offer AMD's goods. Whilst I recognise that a business might advertise its own goods, this is not the same as offering an advertising service to third parties (which is what is meant by a trade mark registration for those services in class 35). The method of use, nature and purpose of the goods and services plainly differs. There is no competition or complementarity. Whilst the user may overlap, this is not sufficient on its own for a finding of similarity. I consider the goods and services to be dissimilar.

Wholesale, retail and online retail services in connection with photographic, cinematographic, apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, headphones, docking stations, radios, including mobile and portable radios, data processing equipment, computers, computer software, apparatus for the transmission of sound and image, telecommunications apparatus, mobile telecommunication apparatus, mobile telecommunications handsets, digital telecommunication apparatus and instruments, digital tablets, tablet computers,

computer hardware, Personal electronic devices used to track fitness goals and statistics, wearable activity trackers, smartwatches, portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files, wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks, wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens, charging cables, Downloadable electronic publications, Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic games, downloadable computer software and applications in the nature of networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms, computers, computer peripherals, computer application software, computer software downloadable from the Internet, recorded computer software, software applications, mobile software applications, downloadable applications for multimedia devices, software applications for mobile telecommunications devices, electronic games for mobile telecommunications devices, computer games, computer game software, computer software applications, downloadable, computer games programs, PDAs (Personal Digital Assistants), pocket PCs, mobile telephones, selfie sticks [hand-held monopods], smart rings, smartphones, smartwatches, laptop computers, telecommunications network apparatus, drivers software for telecommunications networks and for telecommunications apparatus, computer software recorded onto CD Rom, cameras, camera lenses, MP3 players, downloadable electronic publications, mouse mats, mobile telephone covers, mobile telephone cases, cases and covers for mobile telecommunication devices and laptop computers, hands free kits for phones, mobile phone application software, software for telecommunication, loudspeakers, television apparatus, audio, video and audiovisual mixers, batteries, rechargeable batteries and chargers for rechargeable batteries.

70. As these services relate to the same goods that I have found to be similar to AMD's goods above, I consider the same overlap in trade channels and user to apply. There may also be some complementarity. Consequently, I find these services to be similar to AMD's goods to between a low and medium degree.

Wholesale, retail and online retail services in connection with games [...], educational toys, amusement machines, video game apparatus, arcade video game machines, video game consoles, peripherals and controllers for video game consoles, hand-held video games, hand-held consoles for playing video games, gaming machines for gambling, joysticks for video games.

71. I accept that these services could all be offered through the same retailers as AMD's "video game software" and "video game consoles". There is clearly an overlap in user. For some of the terms, there will also be complementarity. Consequently, I consider there to be between a low and medium degree of similarity.

Wholesale, retail and online retail services in connection with gaming chairs, gaming rigs.

72. Although these services relate to goods for use whilst gaming (being furniture items), I do not consider it likely that the same overlap in trade channels will apply. This is because, in my experience, it is not usual for a retailer to sell both furniture (even if it is designed for gaming) and software/games consoles. The users will plainly overlap. However, the nature, method of use and purpose of the goods differ. There is no competition (given the differing purposes) and no complementarity (given that the average consumer would not perceive the same undertaking as responsible for the goods). In my view, they are dissimilar. If I am wrong in that finding, they would be similar to a very low degree.

Wholesale, retail and online retail services in connection with vitamins, minerals and food supplements, dietetic foods and drinks adapted for sports nutrition purposes, dietary preparations for sporting purposes and not for medical purposes, vitamin and mineral enriched foods, drinks and foodstuffs, amino acid supplements, Scientific, nautical, surveying, optical, weighing, measuring, signalling, checking (supervision),

life-saving and teaching apparatus and instruments, magnetic data carriers, recording discs, compact discs, DVDs and other digital recording media, music recordings, vinyl records, compact discs, audio recordings, video recordings, Recorded and downloadable media, podcasts, digital music downloadable online, fire-extinguishing apparatus, downloadable audio, visual and audio-visual recordings, USB flash drives, glasses, sunglasses, audio tapes, audio cassettes, audio discs, audio-video tapes, audio-video cassettes, audio-video discs, video tapes, video cassettes, video discs, CDs, DVDs, downloadable image files, downloadable music files, magnets, magnetic cards, encoded cards, downloadable ring tones for mobile phones, paper and cardboard, printed matter, photographs, stationery and office requisites, except furniture, adhesives for stationery or household purposes, drawing materials and materials for artists, paintbrushes, instructional and teaching materials, educational supplies, notepaper, writing paper, envelopes, transfers, decalcomanias, labels, trading cards, post cards, notepads, stickers, posters, pictures, prints, albums, paintings [pictures], framed or unframed, canvas pictures and prints, periodical publications, newspapers, magazines, annuals [printed publications], poster magazines, printed programmes, binders, books, booklets, book markers, book ends, photo albums and collectors' albums, philatelic stamps, rulers, pencil sharpeners, erasers, flags of paper, pennants of paper, calendars, paper coasters, works of art and figurines of paper, cardboard and papier mache, stationery cases, pencil cases, writing and drawing instruments, files, folders and folios, personal organisers, address books, diaries, jotters, autograph books, autograph albums, cards, birthday cards, greeting cards, bags and articles for packaging, wrapping and storage of paper, cardboard or plastics, paper weights, tissues, paper handkerchiefs, towels of paper, gift bags and gift wrap, gift tags, gift vouchers, money holders, holders for chequebooks, Leather and imitations of leather, leather belts, trunks and travelling bags, umbrellas, parasols and walking sticks, articles of luggage, cases, suitcases, handbags, purses, bags, travel bags, backpacks, duffel bags, boot bags, sports bags, gym bags, school bags and satchels, holdalls, wallets, credit card cases and holders, toiletry bags, belts for luggage, shoulder belts, luggage tags, shoes bags, swim bags, rucksacks, umbrella covers, Clothing, footwear, headwear, outerclothing, leisurewear, loungewear, sportswear, sports clothing, track suits, training suits, knitwear, suits, sweatshirts, sweaters, pullovers, jumpers, tops, hooded tops, shirts, t-shirts, jerseys, rugby tops, bottoms, trousers, shorts, skirts, dresses, gowns, bathrobes, dungarees,

lounge pants, socks, underclothing, underwear, boxer shorts, vests, stockings, lingerie, hosiery, nightwear, pyjamas, dressing gowns, one-piece suits, jackets, coats, waterproof outerclothing, weatherproof clothing, thermal clothing, anoraks, rainwear, cagoules, ponchos, romper suits, sleepsuits, smocks, salopettes, overalls, aprons, fancy dress costumes, shoes, boots, sandals, slippers, swimwear, ties, cravats, pocket squares, gloves, scarves, ear muffs, belts [clothing], braces for clothing, wrist bands, sweatbands, collar protectors, inner soles, hats, caps, visors, [...] playthings, gymnastic and sporting articles, decorations for Christmas trees, Toys, fancy dress outfits being children's playthings, Non-alcoholic beverages, sports drinks, sports drinks containing electrolytes, wall hangings, chairs, gaming chairs, gaming rigs, keyrings, key chains, lights, LED lighting strips, fans, dehumidifiers, scooters, bicycles, watches, jewellery, furniture, bedspreads, duvet covers, pillows, pillow covers, badges, brooches, cereal-based snack foods, confectionery, dried meat snacks, shaker bottles, blenders, blender cups, metal straws, food containers; information, advisory and consultancy services relating to all of the aforesaid services.

73. I can see no reason for finding any overlap in trade channels, nature, method of use or purpose. The user will overlap, but only at a very general level. There is no competition or complementarity. I consider the goods and services to be dissimilar.

Class 38

74. Ms Evans submitted that these services are similar to AMD's goods because they "can be complementary, coincide in purpose, distribution channels and points of sale and can be directed to the same consumers". I asked Ms Evans if there was anything in the evidence to this effect, and she was unable to identify anything to assist. I accept that there will be an overlap in user at a very general level. However, I see no reason to find that the trade channels would be the same. The nature, purpose and method of use of the goods and services clearly differs. Whilst I recognise that AMD's goods might include products that are used for telecommunications, I consider it unlikely that the average consumer would perceive the same undertaking as being responsible for the goods and services. I also recognise that telecommunications businesses may provide their customers with some types of electronic goods required to facilitate their services, but I do not consider these to be similar to AMD's goods, nor have I been

given any specific submissions to suggest that they are. Consequently, there is no complementarity. There is no competition, given the differing purposes. I consider the goods and services to be dissimilar.

Class 41

Entertainment; gambling; game services provided on-line from a computer network; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; provision of on-line computer games; rental of computer games programs; computer amusement services.

75. These services are, or would include, the provision of online gaming services. In my view, the same businesses that sell “video game software” are also likely to provide on-line equivalents. Consequently, there is an overlap in trade channels and user. The purpose of the goods and services is also the same. Plainly, there will be a difference in nature and method of use. However, there may be competition. Consequently, I consider them to be similar to a medium degree.

Providing online entertainment, namely providing sound and video recordings in the field of computer and video game-based entertainment.

76. This term does not appear to cover the provision of online games themselves, but rather other materials that relate to video games. I have no evidence before me to suggest that these services would be provided by the same undertakings as those that provide video game software/video game consoles and I consider it unlikely. There is no overlap in nature, method of use or purpose. There is no obvious competition or complementarity. Whilst there may be an overlap in user, that is not enough on its own for a finding of similarity. I consider the goods and services to be dissimilar. If I am wrong in this finding, they are similar to only a very low degree.

Development and dissemination of educational materials of others in the field of computer and video games.

77. This appears to me to be a type of publishing service which relates specifically to materials in the field of computer/video games. I consider it unlikely that these services would be provided by the same undertakings as AMD's goods and I have no evidence to the contrary. The nature, method of use and purpose of the goods and services clearly differ. There is no competition or complementarity. I also consider it unlikely that the users will overlap, as these services are likely to be used by those wishing to publish materials about gaming, whereas AMD's goods are likely to be used by gamers. I consider the goods and services to be dissimilar.

Entertainment in the nature of ongoing television programs in the field of computer and video games and entertainment.

78. Whilst these services are in the field of video games, they relate to the provision of television programs. In my view, television programs, even those based on video games, are likely to be sold by different undertakings to those that make video game software/consoles themselves. I have no evidence before me to the contrary. The nature, method of use and purpose of the goods and services is clearly different. The user may overlap, but that is not enough on its own for a finding of similarity. There is no competition or complementarity. I consider the goods and services to be dissimilar.

Entertainment services, namely, providing on-line reviews of computer and video games; information in the field of computer and video games, and commentary and articles about computer and video games, all on-line via a global computer network.

79. Again, whilst these services are in the field of video games, they appear to me most likely to be services provided by third parties which relate to various types of video game software, rather than services provided by those that make video games. Consequently, I do not consider there to be an overlap in trade channels, method of use, purpose or nature. There is no competition or complementarity. There may be an overlap in user but that is not enough on its own for a finding of similarity. I consider

the goods and services to be dissimilar. If I am wrong in this finding, they are similar to only a very low degree.

Sporting activities; academies [education]; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; electronic desktop publishing; entertainer services; entertainment information; organisation of shows for entertainment purposes; film production, other than advertising films; fan clubs; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; production of radio and television programmes; production of shows; providing karaoke services; providing on-line electronic publications, not downloadable; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; providing recreation facilities; television entertainment; theatre productions; ticket agency services [entertainment]; interactive entertainment services; provision of news information; television production services; television programming services; television production and television programming services provided by means of Internet protocol technology; entertainment, namely a continuing entertainment show distributed over radio, television, satellite, audio, and video media; entertainment club services; presentation of live performances; entertainment in the nature of live concerts and performances by dj's, performers, musical artists and groups; entertainment services, namely personal appearances by dj's, performers, musical groups, musical artists and celebrities; entertainment services namely live, televised and movie appearances by a professional entertainer; downloading of radio and television programmes, films, videos, sound, images or data from the Internet or other computer network; conducting entertainment exhibitions in the nature of music festivals; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, cultural and sporting events; publishing services; arranging, organising and conducting of competitions, games and quizzes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for events; rental of music and audiovisual

recordings; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

80. In relation to the remaining entertainment services listed above, I can see no reason for there to be an overlap in trade channels with the opponent's goods. The specific purposes differ, as do their nature and method of use. There is no meaningful competition or complementarity. The user may be the same, but that is not enough on its own for a finding of similarity. I consider the services to be dissimilar. If I am wrong in this finding, they are similar to a very low degree.

81. With regard to the educational services in this class, Ms Evans referred to the fact that AMD offers training events. In this regard, Mr Wolin gives evidence that AMD "regularly holds training sessions for UK customers on its RYZEN-based notebooks". In support of this, is a series of undated pictures which show people sat around a table looking at screens which display the words "AMD PRO TECHNOLOGIES". The fact that AMD might offer training in relation to a different product (which itself contains its RYZEN/AMD RYZEN product) is not evidence of use of the marks relied upon in relation to educational services. I can see no basis for finding that the same businesses would offer these goods and services, nor is there any overlap in nature, method of use or purpose. There is no competition or complementarity. Any overlap in user is insufficient on its own for a finding of similarity. I consider the goods and services to be dissimilar.

82. I can see no other point of overlap with any of the terms in this class of AMD's specification and I find them all to be dissimilar.

Class 42

Design and development of computer hardware and software; rental of computer hardware; information services relating to [...] computer hardware.

83. RL accepts that there is between a low and medium degree of similarity between these services and AMD's goods.

Information services relating to information technology [...].

84. In my view, this is a broader term which would include the information services listed above for which RL has accepted similarity. Consequently, I find that the same finding should apply, and they are similar to between a low and medium degree.

Scientific and technological services and research and design relating thereto; consultancy in the field of computer hardware; computer rental; rental of data processing apparatus and computers; computer software design; consultancy in the field of computer software.

85. In my view, these terms are all synonymous with (or are broader categories of services which include) the terms that RL has accepted are similar to AMD's goods. Consequently, I consider the same to apply; they are similar to between a low and medium degree.

Technical services relating to projection and planning of equipment for telecommunications.

86. I have no evidence before me to suggest that there is any overlap in trade channels between these services and AMD's goods. The nature, method of use and purpose of the goods and services plainly differ. There is no competition (given the differing purposes) or complementarity (given the distinct trade channels). The user may overlap, but that is not sufficient on its own for a finding of similarity. I find the goods and services to be dissimilar.

Industrial analysis and research services.

87. I understand industrial analysis to be the study of a specific industry. Consequently, I can see no basis for there to be an overlap in trade channels, method of use, purpose or nature with AMD's goods. There is no competition or

complementarity. Even if there is an overlap in user, that is not sufficient on its own for a finding of similarity. I consider the goods and services to be dissimilar.

Application service provider (ASP); application service provider (ASP) featuring software for receiving, transmitting and displaying vouchers and receiving and transmitting data for the purchase of goods and services; application service provider (ASP) featuring software for providing consumers with information regarding discounts, vouchers and special offers for the goods or services of others; application service provider services regarding social networking software.

88. I understand these services to be alternatives to the provision of physical “computer software”. Consequently, I consider there to be an overlap in trade channels, purpose and user. There is also competition. Consequently, the goods and services are similar to a medium degree.

Maintaining websites; provision of an Internet platform for social networking services; hosting of digital content online; hosting of websites; creating and maintaining websites for others; hosting computer sites (web sites); hosting of financial platforms; constructing an internet platform for electronic commerce; design of platforms; hosting of platforms.

89. I understand all of these services to relate to the creation and hosting of websites. I have no evidence before me to suggest that the same businesses that provide these services would also sell AMD’s goods, and I consider it unlikely. There is no overlap in nature, method of use or purpose. There is no obvious competition or complementarity. Whilst there may be an overlap in user, that is not enough on its own for a finding of similarity.

Computer programming services; services of a programmer; computer programming; duplication of computer programs; computer system design.

90. I understand these services to relate to the creation of computer software. In my view, these services might be commissioned as an alternative to purchasing a finished “computer software” product. There is, therefore, some overlap in purpose. There is

also some competition. Plainly, the user may overlap. The nature and method of use are likely to differ. There may be some overlap in trade channels in some instances. I consider the goods and services to be similar to a medium degree.

Installation of computer software; maintenance of computer software; updating of computer software; computer systems analysis; services of engineers; expert advice and expert opinion relating to technology; information services relating to [...] software in relation to information technology.

91. These are all services that relate to the ongoing maintenance of computer software. I consider it likely that the same businesses that sell computer software are also likely to offer these services to their customers. It is not uncommon, for example, for software businesses to provide updates (which include maintenance, such as fixing bugs). Consequently, I consider there to be an overlap in user and trade channels. There is also complementarity. The goods and services are similar to a medium degree.

Recovery of computer data; conversion of data or documents from physical to electronic media; data conversion of computer programs and data (not physical conversion); services of information brokers and providers, namely product research for others; weather forecasting; research in the field of telecommunication technology; monitoring of network systems in the field of telecommunications; technical support services relating to telecommunications and apparatus information and advisory services relating to the aforesaid; storage of information and data; information and advisory services relating to the aforesaid services provided over a telecommunications network.

92. I can see no reason for finding there to be an overlap in trade channels, purpose, method of use or nature with AMD's goods. There is no competition or complementarity. The user may overlap but that is not enough on its own for a finding of similarity. I consider the goods and services to be dissimilar.

Information, consultancy and advisory services for all the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet.

93. The similarity of these services to AMD's goods will follow my findings above in relation to the core services to which they relate.

94. As some degree of similarity between goods and services is necessary for a successful opposition under section 5(2)(b), the opposition must fail in respect of those goods and services that I have found to be dissimilar.¹³

The average consumer and the nature of the purchasing act

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

96. The average consumer will include business users and members of the general public. The goods and services will vary in cost and frequency of purchase, but they are all technical in nature and are likely to be relatively considered. Consequently, I

¹³ *eSure Insurance v Direct Line Insurance* [2008] ETMR 77 CA

consider that at least a medium degree of attention will be paid during the purchasing process, although the level of attention may be higher for some of the goods and services.

97. The goods and services are likely to be selected following perusal of signage on physical premises, product packaging and websites. Consequently, I consider that visual considerations will dominate the purchasing process. However, I do not discount an aural component to the purchase given that advice may be sought from retail assistants and word-of-mouth recommendations may be made.

Comparison of trade marks

98. It is clear from *Sabel* that the average consumer normally perceives a trade mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the trade marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union (“CJEU”) stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

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

99. 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.

100. The respective trade marks are shown below:

AMD's trade mark (the opponent)	RL's trade marks (the applicant)
RYZEN	RYZEUP RyzeUp (series of 2)

101. RL's application is for a series of two trade marks (RYZEUP and RyzeUp). As both marks in the series ultimately relate to the same word, the same comparison will apply to both and I will refer to them from this point as RL's mark.

102. Both AMD and RL's marks consist of single words, in which the overall impression resides.

103. Visually, the marks overlap in that the first four letters are the same (RYZE). They differ in that those letters are followed by the letter N in AMD's mark and the word UP in RL's mark. I bear in mind that the beginnings of marks tend to make more of an impact than the ends. In my view, the marks are visually similar to between a medium and high degree.

104. Aurally, AMD's mark is likely to be pronounced RISE-ENN. RL's mark is likely to be pronounced RISE-UP. In my view, the marks are aurally similar to a medium degree.

105. Conceptually, AMD's mark has no clear meaning. In my view, RL's mark may be viewed as an invented word by a significant proportion of average consumers. In that case, the marks will be conceptually neutral. Otherwise, it will be viewed as a misspelling of the word RISE followed by the word UP, which together will be taken to mean to stand up or raise something up. In that case, the marks will be conceptually dissimilar.

Distinctive character of the earlier trade mark

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

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

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

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

108. AMD’s mark consists of the invented word RYZEN. It does not appear to have any allusive qualities. In my view, it is inherently distinctive to a high degree.

109. I have summarised the AMD's evidence of use above. I do not consider use to be very long-standing given that AMD did not begin using its marks in the UK until 2017. However, the revenue generated under the mark during that time is clearly significant. I have evidence of marketing spend which relates to the EMEA region (which is clearly much larger than the UK), but no breakdown as to what proportion of these figures relate to the UK market. Nonetheless, there is evidence before me of marketing activities being undertaken in the UK, albeit fairly limited. I also note that AMD's RYZEN products have been referenced in various publications including *The Independent* and *The Guardian*.¹⁴ Taking the evidence as a whole into account, I consider that the distinctiveness of AMD's mark has been enhanced through use to a modest degree. This results in AMD's mark being distinctive to a very high degree overall in relation to microprocessors.

Likelihood of confusion

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

111. I have found as follows:

¹⁴ Exhibits HAW19 and HAW24

- a. The goods/services vary from being similar to a very low degree to identical (except where I have found them to be dissimilar).
- b. The average consumer for the goods/services is a member of the general public or a business user who is likely to pay at least a medium degree of attention during the purchasing process (although it could be higher in some instances).
- c. The purchasing process will be predominantly visual, although I do not discount an aural component to the purchase.
- d. The marks are visually similar to between a medium and high degree and aurally similar to a medium degree. They will either be conceptually dissimilar or the conceptual position will be neutral, depending on whether a meaning is attributed to RL's mark.
- e. AMD's mark is inherently highly distinctive, which has been enhanced through use to a very high degree in relation to microprocessors.

112. Bearing all of the above factors into account, I consider it likely that the marks will be mistakenly recalled or misremembered as each other where they are used on goods/services that are similar to at least between a low and medium degree (or higher). This is because the marks are visually similar to between a medium and high degree and the purchasing process is predominantly visual. Further, the distinctiveness of AMD's mark (both inherently and through use) means that the average consumer is likely to see what they expect to see.¹⁵ In reaching this finding, I have borne in mind that for some average consumers there is likely to be a conceptual difference between the marks. However, I do not consider that conceptual distinction to be strong enough to overcome the visual similarities in this case. I consider there to be a likelihood of direct confusion for all of those goods/services that I have found to be similar to between a low and medium degree or higher. Where the goods and services are similar to only a very low degree, I consider the distance between the

¹⁵ *Kennedy Fried Chicken*, Case BL O/227/04

goods/services will be sufficient to offset the similarity of the marks and there will be no likelihood of confusion (either direct or indirect).

Final Remarks

113. For the avoidance of doubt, my finding would have been the same even if I had not found the distinctiveness of AMD's mark to have been enhanced through use. This is because AMD's mark would still be inherently distinctive to a high degree and the visual similarities between the marks (in a predominantly visual purchasing process) are likely to result in the average consumer mistaking one mark for the other.

Conclusion

114. The opposition based upon section 5(2)(b) of the Act succeeds in relation to the following goods and services:

Class 9 Photographic, cinematographic apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; headphones; docking stations; radios, including mobile and portable radios; data processing equipment, computers; Personal electronic devices used to track fitness goals and statistics; wearable activity trackers; smartwatches; portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files; wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks; wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens; cables, namely, charging cables;

computer software; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; computer hardware; Downloadable electronic publications; Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic games; downloadable computer software and applications in the nature of networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms; computers and parts and fittings therefor; computer peripherals; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; software applications for mobile telecommunications devices; electronic games for mobile telecommunications devices; computer games; computer game software; computer software applications, downloadable; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches; laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; computer software recorded onto CD Rom; cameras; camera lenses; MP3 players; downloadable electronic publications; mouse mats; mobile telephone covers; mobile telephone cases; cases and covers for mobile telecommunication devices and laptop computers; hands free kits for phones; mobile phone application software; software for telecommunication; loudspeakers; television apparatus; audio, video and audiovisual mixers; batteries, rechargeable batteries and chargers for rechargeable batteries; parts and fittings for all the aforesaid goods.

Class 16 Printed matter; instructional and teaching materials.

- Class 18 Cases; bags.
- Class 28 Games; amusement machines; video game apparatus; arcade video game machines; video game consoles; peripherals and controllers for video game consoles; hand-held video games; hand-held consoles for playing video games; gaming machines for gambling; joysticks for video games; educational toys; parts and fittings for all the aforesaid goods.
- Class 35 Wholesale, retail and online retail services in connection with photographic, cinematographic apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, headphones, docking stations, radios, including mobile and portable radios, data processing equipment, computers, computer software, apparatus for the transmission of sound and image, telecommunications apparatus, mobile telecommunication apparatus, mobile telecommunications handsets, digital telecommunication apparatus and instruments, digital tablets, tablet computers, computer hardware, Personal electronic devices used to track fitness goals and statistics, wearable activity trackers, smartwatches, portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files, wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks, wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens, charging cables, Downloadable electronic publications, Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic games, downloadable computer software and applications in the nature of

networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms, computers, computer peripherals, computer application software, computer software downloadable from the Internet, recorded computer software, software applications, mobile software applications, downloadable applications for multimedia devices, software applications for mobile telecommunications devices, electronic games for mobile telecommunications devices, computer games, computer game software, computer software applications, downloadable, computer games programs, PDAs (Personal Digital Assistants), pocket PCs, mobile telephones, selfie sticks [hand-held monopods], smart rings, smartphones, smartwatches, laptop computers, telecommunications network apparatus, drivers software for telecommunications networks and for telecommunications apparatus, computer software recorded onto CD Rom, cameras, camera lenses, MP3 players, downloadable electronic publications, mouse mats, mobile telephone covers, mobile telephone cases, cases and covers for mobile telecommunication devices and laptop computers, hands free kits for phones, mobile phone application software, software for telecommunication, loudspeakers, magnetic data media, television apparatus, audio, video and audiovisual mixers, batteries, rechargeable batteries and chargers for rechargeable batteries, Games, educational toys, amusement machines, video game apparatus, arcade video game machines, video game consoles, peripherals and controllers for video game consoles, hand-held video games, hand-held consoles for playing video games, gaming machines for gambling, joysticks for video games.

Class 41 Entertainment; gambling; game services provided on-line from a computer network; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; provision of on-line computer games; rental of computer games programs; computer amusement services.

Class 42 Scientific and technological services and research and design relating thereto; design and development of computer hardware and software; application service provider (ASP); application service provider (ASP) featuring software for receiving, transmitting and displaying vouchers and receiving and transmitting data for the purchase of goods and services; application service provider (ASP) featuring software for providing consumers with information regarding discounts, vouchers and special offers for the goods or services of others; application service provider services regarding social networking software; computer programming services; services of a programmer; consultancy in the field of computer hardware; computer programming; duplication of computer programs; computer rental; computer software design; installation of computer software; maintenance of computer software; updating of computer software; rental of computer software; rental of computer hardware; computer system design; computer systems analysis; consultancy in the field of computer software; services of engineers; expert advice and expert opinion relating to technology; rental of data processing apparatus and computers; information services relating to information technology, computer hardware and software in relation to information technology; information, consultancy and advisory services for all the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet.

Section 5(3)

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

“5(3) A trade mark which -

(a) 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 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.”

116. Section 5(3A) of the Act states:

“Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier trade mark is protected.”

117. I can deal with this ground relatively swiftly. I find that AMD had a modest reputation for microprocessors at the relevant date for the same reasons given above. However, whilst the similarity of goods/services is not a requirement under section 5(3) of the Act, it is a relevant factor when assessing whether the relevant public will make the requisite link.¹⁶ Given the distance between the goods/services that survived the section 5(2)(b) ground of opposition, I do not consider it likely that the relevant public would make a link between the marks, notwithstanding the distinctiveness of AMD’s mark and the visual similarities. Even if a link was made, it would be too fleeting for damage to arise.

CONCLUSION

118. The opposition is successful in relation to the following goods and services for which the application is refused:

Class 9 Photographic, cinematographic apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; headphones; docking stations; radios, including mobile and portable radios; data processing equipment, computers; Personal electronic devices used to track fitness goals and statistics; wearable activity trackers; smartwatches; portable digital electronic devices for

¹⁶ *Intel*, Case C-408/01

recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files; wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks; wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens; cables, namely, charging cables; computer software; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; computer hardware; Downloadable electronic publications; Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic games; downloadable computer software and applications in the nature of networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms; computers and parts and fittings therefor; computer peripherals; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; software applications for mobile telecommunications devices; electronic games for mobile telecommunications devices; computer games; computer game software; computer software applications, downloadable; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches; laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; computer software recorded onto CD Rom; cameras; camera lenses; MP3 players; downloadable

electronic publications; mouse mats; mobile telephone covers; mobile telephone cases; cases and covers for mobile telecommunication devices and laptop computers; hands free kits for phones; mobile phone application software; software for telecommunication; loudspeakers; television apparatus; audio, video and audiovisual mixers; batteries, rechargeable batteries and chargers for rechargeable batteries; parts and fittings for all the aforesaid goods.

Class 16 Printed matter; instructional and teaching materials.

Class 18 Cases; bags.

Class 28 Games; amusement machines; video game apparatus; arcade video game machines; video game consoles; peripherals and controllers for video game consoles; hand-held video games; hand-held consoles for playing video games; gaming machines for gambling; joysticks for video games; educational toys; parts and fittings for all the aforesaid goods.

Class 35 Wholesale, retail and online retail services in connection with photographic, cinematographic apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, headphones, docking stations, radios, including mobile and portable radios, data processing equipment, computers, computer software, apparatus for the transmission of sound and image, telecommunications apparatus, mobile telecommunication apparatus, mobile telecommunications handsets, digital telecommunication apparatus and instruments, digital tablets, tablet computers, computer hardware, Personal electronic devices used to track fitness goals and statistics, wearable activity trackers, smartwatches, portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files, wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised

of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks, wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens, charging cables, Downloadable electronic publications, Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic games, downloadable computer software and applications in the nature of networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms, computers, computer peripherals, computer application software, computer software downloadable from the Internet, recorded computer software, software applications, mobile software applications, downloadable applications for multimedia devices, software applications for mobile telecommunications devices, electronic games for mobile telecommunications devices, computer games, computer game software, computer software applications, downloadable, computer games programs, PDAs (Personal Digital Assistants), pocket PCs, mobile telephones, selfie sticks [hand-held monopods], smart rings, smartphones, smartwatches, laptop computers, telecommunications network apparatus, drivers software for telecommunications networks and for telecommunications apparatus, computer software recorded onto CD Rom, cameras, camera lenses, MP3 players, downloadable electronic publications, mouse mats, mobile telephone covers, mobile telephone cases, cases and covers for mobile telecommunication devices and laptop computers, hands free kits for phones, mobile phone application software, software for telecommunication, loudspeakers, magnetic data media, television apparatus, audio, video and audiovisual mixers, batteries, rechargeable batteries and chargers for rechargeable batteries, Games, educational toys, amusement machines, video game apparatus, arcade video game

machines, video game consoles, peripherals and controllers for video game consoles, hand-held video games, hand-held consoles for playing video games, gaming machines for gambling, joysticks for video games.

Class 41 Entertainment; gambling; game services provided on-line from a computer network; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; provision of on-line computer games; rental of computer games programs; computer amusement services.

Class 42 Scientific and technological services and research and design relating thereto; design and development of computer hardware and software; application service provider (ASP); application service provider (ASP) featuring software for receiving, transmitting and displaying vouchers and receiving and transmitting data for the purchase of goods and services; application service provider (ASP) featuring software for providing consumers with information regarding discounts, vouchers and special offers for the goods or services of others; application service provider services regarding social networking software; computer programming services; services of a programmer; consultancy in the field of computer hardware; computer programming; duplication of computer programs; computer rental; computer software design; installation of computer software; maintenance of computer software; updating of computer software; rental of computer software; rental of computer hardware; computer system design; computer systems analysis; consultancy in the field of computer software; services of engineers; expert advice and expert opinion relating to technology; rental of data processing apparatus and computers; information services relating to information technology, computer hardware and software in relation to information technology; information, consultancy and advisory services for all the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet.

119. The opposition is unsuccessful in relation to the following goods and services for which the application may proceed to registration, along with those goods and services that were unopposed:

Class 5 Vitamins, minerals and food supplements; dietetic foods and drinks adapted for sports nutrition purposes; dietary preparations for sporting purposes and not for medical purposes; vitamin and mineral enriched foods, drinks and foodstuffs; amino acid supplements.

Class 9 Scientific, nautical, surveying, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; music recordings; vinyl records; compact discs; audio recordings; video recordings; Recorded and downloadable media; podcasts; digital music downloadable online; fire-extinguishing apparatus; downloadable audio, visual and audio-visual recordings; USB flash drives; glasses, sunglasses; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; downloadable image files; downloadable music files; magnets; magnetic cards; encoded cards; downloadable ring tones for mobile phones; magnetic data media; parts and fittings for all the aforesaid goods.

Class 16 Paper and cardboard; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; educational supplies; notepaper; writing paper; envelopes; transfers; decalcomanias; labels; trading cards; post cards; notepads; stickers; posters; pictures; prints; albums; paintings [pictures], framed or unframed; canvas pictures and prints; periodical publications; newspapers; magazines; annuals [printed publications]; poster magazines; printed programmes; binders; books; booklets; book markers; book ends; photo albums and collectors' albums; philatelic stamps; rulers; pencil sharpeners; erasers; flags of paper; pennants of

paper; calendars; paper coasters; works of art and figurines of paper, cardboard and papier mache; stationery cases; pencil cases; writing and drawing instruments; files; folders and folios; personal organisers; address books; diaries; jotters; autograph books; autograph albums; cards; birthday cards; greeting cards; bags and articles for packaging, wrapping and storage of paper, cardboard or plastics; paper weights; tissues; paper handkerchiefs; towels of paper; gift bags and gift wrap; gift tags; gift vouchers; money holders; holders for chequebooks.

Class 18 Leather and imitations of leather; leather belts; trunks and travelling bags; umbrellas, parasols and walking sticks; articles of luggage; suitcases; handbags; purses; travel bags; backpacks; duffel bags; boot bags; sports bags; gym bags; school bags and satchels; holdalls; wallets; credit card cases and holders; toiletry bags; belts for luggage; shoulder belts; luggage tags; shoes bags; swim bags; rucksacks; umbrella covers; parts and fittings for all of the aforesaid goods.

Class 25 Clothing, footwear, headwear; outerclothing; leisurewear; loungewear; sportswear; sports clothing; track suits; training suits; knitwear; suits; sweatshirts; sweaters; pullovers; jumpers; tops; hooded tops; shirts; t-shirts; jerseys; rugby tops; bottoms; trousers; shorts; skirts; dresses; gowns; bathrobes; dungarees; lounge pants; socks; underclothing; underwear; boxer shorts; vests; stockings; lingerie; hosiery; nightwear; pyjamas; dressing gowns; one-piece suits; jackets; coats; waterproof outerclothing; weatherproof clothing; thermal clothing; anoraks; rainwear; cagoules; ponchos; romper suits; sleepsuits; smocks; salopettes; overalls; aprons; fancy dress costumes; shoes; boots; sandals; slippers; swimwear; ties; cravats; pocket squares; gloves; scarves; ear muffs; belts [clothing]; braces for clothing; wrist bands; sweatbands; collar protectors; inner soles; hats; caps; visors.

Class 28 Playthings; gymnastic and sporting articles; decorations for Christmas trees; Toys; fancy dress outfits being children's playthings; parts and fittings for all the aforesaid goods.

Class 32 Non-alcoholic beverages; sports drinks; sports drinks containing electrolytes.

Class 35 Advertising; business management; advertising services provided via the Internet; provision and rental of advertising space, time and media; provision of space on websites for advertising goods and services; marketing and promotional services; event marketing; public relations and publicity services; merchandising; organisation, arrangement and conducting of exhibitions and events for advertising and promotional purposes; organisation, arrangement and conducting of competitions and prize draws for commercial or advertising purposes; production of television and radio advertisements; wholesale, retail and online retail services in connection with vitamins, minerals and food supplements, dietetic foods and drinks adapted for sports nutrition purposes, dietary preparations for sporting purposes and not for medical purposes, vitamin and mineral enriched foods, drinks and foodstuffs, amino acid supplements, Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, magnetic data carriers, recording discs, compact discs, DVDs and other digital recording media, music recordings, vinyl records, compact discs, audio recordings, video recordings, Recorded and downloadable media, podcasts, digital music downloadable online, fire-extinguishing apparatus, downloadable audio, visual and audio-visual recordings, USB flash drives, glasses, sunglasses, audio tapes, audio cassettes, audio discs, audio-video tapes, audio-video cassettes, audio-video discs, video tapes, video cassettes, video discs, CDs, DVDs, downloadable image files, downloadable music files, magnets, magnetic cards, encoded cards, downloadable ring tones for mobile phones, paper and cardboard, printed matter, photographs, stationery and office requisites, except furniture, adhesives for stationery or household purposes, drawing materials and materials for artists, paintbrushes, instructional and teaching materials, educational supplies, notepaper,

writing paper, envelopes, transfers, decalcomanias, labels, trading cards, post cards, notepads, stickers, posters, pictures, prints, albums, paintings [pictures], framed or unframed, canvas pictures and prints, periodical publications, newspapers, magazines, annuals [printed publications], poster magazines, printed programmes, binders, books, booklets, book markers, book ends, photo albums and collectors' albums, philatelic stamps, rulers, pencil sharpeners, erasers, flags of paper, pennants of paper, calendars, paper coasters, works of art and figurines of paper, cardboard and papier mache, stationery cases, pencil cases, writing and drawing instruments, files, folders and folios, personal organisers, address books, diaries, jotters, autograph books, autograph albums, cards, birthday cards, greeting cards, bags and articles for packaging, wrapping and storage of paper, cardboard or plastics, paper weights, tissues, paper handkerchiefs, towels of paper, gift bags and gift wrap, gift tags, gift vouchers, money holders, holders for chequebooks, Leather and imitations of leather, leather belts, trunks and travelling bags, umbrellas, parasols and walking sticks, articles of luggage, cases, suitcases, handbags, purses, bags, travel bags, backpacks, duffel bags, boot bags, sports bags, gym bags, school bags and satchels, holdalls, wallets, credit card cases and holders, toiletry bags, belts for luggage, shoulder belts, luggage tags, shoes bags, swim bags, rucksacks, umbrella covers, Clothing, footwear, headwear, outerclothing, leisurewear, loungewear, sportswear, sports clothing, track suits, training suits, knitwear, suits, sweatshirts, sweaters, pullovers, jumpers, tops, hooded tops, shirts, t-shirts, jerseys, rugby tops, bottoms, trousers, shorts, skirts, dresses, gowns, bathrobes, dungarees, lounge pants, socks, underclothing, underwear, boxer shorts, vests, stockings, lingerie, hosiery, nightwear, pyjamas, dressing gowns, one-piece suits, jackets, coats, waterproof outerclothing, weatherproof clothing, thermal clothing, anoraks, rainwear, cagoules, ponchos, romper suits, sleepsuits, smocks, salopettes, overalls, aprons, fancy dress costumes, shoes, boots, sandals, slippers, swimwear, ties, cravats, pocket squares, gloves, scarves, ear muffs, belts [clothing], braces for clothing, wrist bands, sweatbands, collar protectors, inner soles, hats, caps,

visors, playthings, gymnastic and sporting articles, decorations for Christmas trees, Toys, fancy dress outfits being children's playthings, educational toys, Non-alcoholic beverages, sports drinks, sports drinks containing electrolytes, wall hangings, chairs, gaming chairs, gaming rigs, keyrings, key chains, lights, LED lighting strips, fans, dehumidifiers, scooters, bicycles, watches, jewellery, furniture, bedspreads, duvet covers, pillows, pillow covers, badges, brooches, cereal-based snack foods, confectionery, dried meat snacks, shaker bottles, blenders, blender cups, metal straws, food containers; information, advisory and consultancy services relating to all of the aforesaid services.

Class 38 Telecommunications services; broadcasting services; television and radio broadcasting, transmission and communication services; broadcasting and transmission of radio or television programmes; transmission of sound and/or pictures; broadcasting services, namely, uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; news agency services; webcasting services; providing digital program distribution of audio and video broadcasts over a global computer network; providing access to a video sharing portal for entertainment and education purposes; electronic communication services; radio broadcasting, digital radio broadcasting and television broadcasting services; televisual communication services; television programming; broadcasting over the Internet or other computer network; electronic transmission of streamed and downloadable audio and video files via electronic and communications networks as well as by means of a global computer network; electronic mail services; providing of access to on-line chat rooms and bulletin boards; telecommunication of information including web pages, computer programs, text and any other data; transmission of messages, data and content via the Internet and other computer and communications networks; online forums, chat rooms, journals, blogs, and listservers for the transmission of messages, comments and multimedia content among users; providing access to digital music

websites on the Internet or other computer network; delivery of digital music by telecommunications; webstreaming being the transmission of data, information and audio-visual data via the Internet or other computer network; news agency services; transmission of written and digital communications; leasing and rental services in connection with telecommunications apparatus and equipment; operation of chat rooms; provision of news and news information via a computer network and/or the Internet; provision of on-line forums; really simple syndication (rss) feeds relating to music, news, films, celebrities and television programmes; advisory and consultancy services relating to the aforesaid.

Class 41 Sporting activities; academies [education]; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; electronic desktop publishing; entertainer services; entertainment information; organisation of shows for entertainment purposes; film production, other than advertising films; providing online entertainment, namely providing sound and video recordings in the field of computer and video game-based entertainment; fan clubs; development and dissemination of educational materials of others in the field of computer and video games; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; production of radio and television programmes; production of shows; providing karaoke services; providing on-line electronic publications, not downloadable; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; providing recreation facilities; television entertainment; theatre productions; ticket agency services [entertainment]; interactive entertainment services; provision of news information; television production services; television programming services; television production and television

programming services provided by means of Internet protocol technology; entertainment in the nature of ongoing television programs in the field of computer and video games and entertainment; entertainment, namely a continuing entertainment show distributed over radio, television, satellite, audio, and video media; entertainment club services; presentation of live performances; entertainment in the nature of live concerts and performances by dj's, performers, musical artists and groups; entertainment services, namely personal appearances by dj's, performers, musical groups, musical artists and celebrities; entertainment services, namely, providing on-line reviews of computer and video games; information in the field of computer and video games, and commentary and articles about computer and video games, all on-line via a global computer network; entertainment services namely live, televised and movie appearances by a professional entertainer; downloading of radio and television programmes, films, videos, sound, images or data from the Internet or other computer network; conducting entertainment exhibitions in the nature of music festivals; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, cultural and sporting events; publishing services; arranging, organising and conducting of competitions, games and quizzes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for events; rental of music and audiovisual recordings; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 42 Industrial analysis and research services; maintaining websites; provision of an Internet platform for social networking services; hosting of digital content online; hosting of websites; recovery of computer data; conversion of data or documents from physical to electronic media;

creating and maintaining websites for others; data conversion of computer programs and data (not physical conversion); hosting computer sites (web sites); technical services relating to projection and planning of equipment for telecommunications; services of information brokers and providers, namely product research for others; weather forecasting; research in the field of telecommunication technology; monitoring of network systems in the field of telecommunications; technical support services relating to telecommunications and apparatus information and advisory services relating to the aforesaid; hosting of financial platforms; constructing an internet platform for electronic commerce; design of platforms; hosting of platforms; information, consultancy and advisory services for all the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; storage of information and data; information and advisory services relating to the aforesaid services provided over a telecommunications network.

COSTS

120. The parties have both been partially successful across all of the consolidated proceedings. Consequently, I decline to make an award of costs and direct that each party bear their own costs of proceedings.

Dated this 11th day of April 2024

S WILSON

For the Registrar

ANNEX

Class 5

Vitamins, minerals and food supplements; dietetic foods and drinks adapted for sports nutrition purposes; dietary preparations for sporting purposes and not for medical purposes; vitamin and mineral enriched foods, drinks and foodstuffs; amino acid supplements.

Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; headphones; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; docking stations; radios, including mobile and portable radios; music recordings; vinyl records; compact discs; audio recordings; video recordings; Recorded and downloadable media; podcasts; digital music downloadable online; data processing equipment, computers; Personal electronic devices used to track fitness goals and statistics; wearable activity trackers; smartwatches; portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files; wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks; wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens; cables, namely, charging cables; computer software; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; computer hardware; Downloadable electronic publications; Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic

games; downloadable audio, visual and audio-visual recordings; downloadable computer software and applications in the nature of networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms; computers and parts and fittings therefor; computer peripherals; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; software applications for mobile telecommunications devices; electronic games for mobile telecommunications devices; computer games; computer game software; computer software applications, downloadable; computer games programs; USB flash drives; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches; laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; computer software recorded onto CD Rom; glasses, sunglasses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; downloadable electronic publications; downloadable image files; downloadable music files; mouse mats; magnets; mobile telephone covers; mobile telephone cases; cases and covers for mobile telecommunication devices and laptop computers; hands free kits for phones; magnetic cards; encoded cards; mobile phone application software; software for telecommunication; downloadable ring tones for mobile phones; loudspeakers; magnetic data media; television apparatus; audio, video and audiovisual mixers; batteries, rechargeable batteries and chargers for rechargeable batteries; parts and fittings for all the aforesaid goods.

Class 16

Paper and cardboard; printed matter; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; educational supplies; notepaper; writing paper; envelopes; transfers; decalcomanias; labels; trading cards; post cards; notepads; stickers; posters; pictures; prints; albums; paintings [pictures], framed or unframed; canvas pictures and prints; periodical

publications; newspapers; magazines; annuals [printed publications]; poster magazines; printed programmes; binders; books; booklets; book markers; book ends; photo albums and collectors' albums; philatelic stamps; rulers; pencil sharpeners; erasers; flags of paper; pennants of paper; calendars; paper coasters; works of art and figurines of paper, cardboard and papier mache; stationery cases; pencil cases; writing and drawing instruments; files; folders and folios; personal organisers; address books; diaries; jotters; autograph books; autograph albums; cards; birthday cards; greeting cards; bags and articles for packaging, wrapping and storage of paper, cardboard or plastics; paper weights; tissues; paper handkerchiefs; towels of paper; gift bags and gift wrap; gift tags; gift vouchers; money holders; holders for chequebooks.

Class 18

Leather and imitations of leather; leather belts; trunks and travelling bags; umbrellas, parasols and walking sticks; articles of luggage; cases; suitcases; handbags; purses; bags; travel bags; backpacks; duffel bags; boot bags; sports bags; gym bags; school bags and satchels; holdalls; wallets; credit card cases and holders; toiletry bags; belts for luggage; shoulder belts; luggage tags; shoes bags; swim bags; rucksacks; umbrella covers; parts and fittings for all of the aforesaid goods.

Class 25

Clothing, footwear, headwear; outerclothing; leisurewear; loungewear; sportswear; sports clothing; track suits; training suits; knitwear; suits; sweatshirts; sweaters; pullovers; jumpers; tops; hooded tops; shirts; t-shirts; jerseys; rugby tops; bottoms; trousers; shorts; skirts; dresses; gowns; bathrobes; dungarees; lounge pants; socks; underclothing; underwear; boxer shorts; vests; stockings; lingerie; hosiery; nightwear; pyjamas; dressing gowns; one-piece suits; jackets; coats; waterproof outerclothing; weatherproof clothing; thermal clothing; anoraks; rainwear; cagoules; ponchos; romper suits; sleepsuits; smocks; salopettes; overalls; aprons; fancy dress costumes; shoes; boots; sandals; slippers; swimwear; ties; cravats; pocket squares; gloves; scarves; ear muffs; belts [clothing]; braces for clothing; wrist bands; sweatbands; collar protectors; inner soles; hats; caps; visors.

Class 28

Games and playthings; gymnastic and sporting articles; decorations for Christmas trees; Toys; fancy dress outfits being children's playthings; educational toys; amusement machines; video game apparatus; arcade video game machines; video game consoles; peripherals and controllers for video game consoles; hand-held video games; hand-held consoles for playing video games; gaming machines for gambling; joysticks for video games; parts and fittings for all the aforesaid goods.

Class 32

Non-alcoholic beverages; sports drinks; sports drinks containing electrolytes.

Class 35

Advertising; business management; advertising services provided via the Internet; provision and rental of advertising space, time and media; provision of space on websites for advertising goods and services; marketing and promotional services; event marketing; public relations and publicity services; merchandising; organisation, arrangement and conducting of exhibitions and events for advertising and promotional purposes; organisation, arrangement and conducting of competitions and prize draws for commercial or advertising purposes; production of television and radio advertisements; wholesale, retail and online retail services in connection with vitamins, minerals and food supplements, dietetic foods and drinks adapted for sports nutrition purposes, dietary preparations for sporting purposes and not for medical purposes, vitamin and mineral enriched foods, drinks and foodstuffs, amino acid supplements, Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, headphones, magnetic data carriers, recording discs, compact discs, DVDs and other digital recording media, docking stations, radios, including mobile and portable radios, music recordings, vinyl records, compact discs, audio recordings, video recordings, Recorded and downloadable media, podcasts, digital music downloadable online, data processing equipment, computers, computer software, fire-extinguishing apparatus, apparatus for the transmission of sound and image, telecommunications apparatus, mobile telecommunication apparatus, mobile telecommunications

handsets, digital telecommunication apparatus and instruments, digital tablets, tablet computers, computer hardware, Personal electronic devices used to track fitness goals and statistics, wearable activity trackers, smartwatches, portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, and digital files, wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smart phones, and personal computers through Internet websites and other computer and electronic communication networks, wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image and digital files and display screens, charging cables, Downloadable electronic publications, Downloadable electronic publications in the nature of strategy guides and manuals in the field of electronic games, downloadable audio, visual and audio-visual recordings, downloadable computer software and applications in the nature of networking platforms, social media platforms, platforms for sharing and distributing video, audio and audiovisual recordings, platforms for playing video games, software-as-a-service platforms and communications platforms, computers, computer peripherals, computer application software, computer software downloadable from the Internet, recorded computer software, software applications, mobile software applications, downloadable applications for multimedia devices, software applications for mobile telecommunications devices, electronic games for mobile telecommunications devices, computer games, computer game software, computer software applications, downloadable, computer games programs, USB flash drives, PDAs (Personal Digital Assistants), pocket PCs, mobile telephones, selfie sticks [hand-held monopods], smart rings, smartphones, smartwatches, laptop computers, telecommunications network apparatus, drivers software for telecommunications networks and for telecommunications apparatus, computer software recorded onto CD Rom, glasses, sunglasses, cameras, camera lenses, MP3 players, audio tapes, audio cassettes, audio discs, audio-video tapes, audio-video cassettes, audio-video discs, video tapes, video cassettes, video discs, CDs, DVDs, downloadable electronic publications, downloadable image files, downloadable music files, mouse mats, magnets, mobile telephone covers, mobile telephone cases, cases and covers for mobile telecommunication devices and laptop computers, hands free kits for phones,

magnetic cards, encoded cards, mobile phone application software, software for telecommunication, downloadable ring tones for mobile phones, loudspeakers, magnetic data media, television apparatus, audio, video and audiovisual mixers, batteries, rechargeable batteries and chargers for rechargeable batteries, paper and cardboard, printed matter, photographs, stationery and office requisites, except furniture, adhesives for stationery or household purposes, drawing materials and materials for artists, paintbrushes, instructional and teaching materials, educational supplies, notepaper, writing paper, envelopes, transfers, decalcomanias, labels, trading cards, post cards, notepads, stickers, posters, pictures, prints, albums, paintings [pictures], framed or unframed, canvas pictures and prints, periodical publications, newspapers, magazines, annuals [printed publications], poster magazines, printed programmes, binders, books, booklets, book markers, book ends, photo albums and collectors' albums, philatelic stamps, rulers, pencil sharpeners, erasers, flags of paper, pennants of paper, calendars, paper coasters, works of art and figurines of paper, cardboard and papier mache, stationery cases, pencil cases, writing and drawing instruments, files, folders and folios, personal organisers, address books, diaries, jotters, autograph books, autograph albums, cards, birthday cards, greeting cards, bags and articles for packaging, wrapping and storage of paper, cardboard or plastics, paper weights, tissues, paper handkerchiefs, towels of paper, gift bags and gift wrap, gift tags, gift vouchers, money holders, holders for chequebooks, Leather and imitations of leather, leather belts, trunks and travelling bags, umbrellas, parasols and walking sticks, articles of luggage, cases, suitcases, handbags, purses, bags, travel bags, backpacks, duffel bags, boot bags, sports bags, gym bags, school bags and satchels, holdalls, wallets, credit card cases and holders, toiletry bags, belts for luggage, shoulder belts, luggage tags, shoes bags, swim bags, rucksacks, umbrella covers, Clothing, footwear, headwear, outerclothing, leisurewear, loungewear, sportswear, sports clothing, track suits, training suits, knitwear, suits, sweatshirts, sweaters, pullovers, jumpers, tops, hooded tops, shirts, t-shirts, jerseys, rugby tops, bottoms, trousers, shorts, skirts, dresses, gowns, bathrobes, dungarees, lounge pants, socks, underclothing, underwear, boxer shorts, vests, stockings, lingerie, hosiery, nightwear, pyjamas, dressing gowns, one-piece suits, jackets, coats, waterproof outerclothing, weatherproof clothing, thermal clothing, anoraks, rainwear, cagoules, ponchos, romper suits, sleepsuits, smocks, salopettes, overalls, aprons, fancy dress costumes, shoes, boots, sandals, slippers, swimwear, ties, cravats, pocket

squares, gloves, scarves, ear muffs, belts [clothing], braces for clothing, wrist bands, sweatbands, collar protectors, inner soles, hats, caps, visors, Games and playthings, gymnastic and sporting articles, decorations for Christmas trees, Toys, fancy dress outfits being children's playthings, educational toys, amusement machines, video game apparatus, arcade video game machines, video game consoles, peripherals and controllers for video game consoles, hand-held video games, hand-held consoles for playing video games, gaming machines for gambling, joysticks for video games, Non-alcoholic beverages, sports drinks, sports drinks containing electrolytes, wall hangings, chairs, gaming chairs, gaming rigs, keyrings, key chains, lights, LED lighting strips, fans, dehumidifiers, scooters, bicycles, watches, jewellery, furniture, bedspreads, duvet covers, pillows, pillow covers, badges, brooches, cereal-based snack foods, confectionery, dried meat snacks, shaker bottles, blenders, blender cups, metal straws, food containers; information, advisory and consultancy services relating to all of the aforesaid services.

Class 38

Telecommunications services; broadcasting services; television and radio broadcasting, transmission and communication services; broadcasting and transmission of radio or television programmes; transmission of sound and/or pictures; broadcasting services, namely, uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; news agency services; webcasting services; providing digital program distribution of audio and video broadcasts over a global computer network; providing access to a video sharing portal for entertainment and education purposes; electronic communication services; radio broadcasting, digital radio broadcasting and television broadcasting services; televisual communication services; television programming; broadcasting over the Internet or other computer network; electronic transmission of streamed and downloadable audio and video files via electronic and communications networks as well as by means of a global computer network; electronic mail services; providing of access to on-line chat rooms and bulletin boards; telecommunication of information including web pages, computer programs, text and any other data; transmission of messages, data and content via the Internet and other computer and communications networks; online forums, chat rooms, journals, blogs, and listservers for the transmission of messages,

comments and multimedia content among users; providing access to digital music websites on the Internet or other computer network; delivery of digital music by telecommunications; webstreaming being the transmission of data, information and audio-visual data via the Internet or other computer network; news agency services; transmission of written and digital communications; leasing and rental services in connection with telecommunications apparatus and equipment; operation of chat rooms; provision of news and news information via a computer network and/or the Internet; provision of on-line forums; really simple syndication (rss) feeds relating to music, news, films, celebrities and television programmes; advisory and consultancy services relating to the aforesaid.

Class 41

Entertainment; sporting activities; academies [education]; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; electronic desktop publishing; entertainer services; entertainment information; organisation of shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; providing online entertainment, namely providing sound and video recordings in the field of computer and video game-based entertainment; fan clubs; development and dissemination of educational materials of others in the field of computer and video games; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; production of radio and television programmes; production of shows; providing karaoke services; providing on-line electronic publications, not downloadable; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; providing recreation facilities; television entertainment; theatre productions; ticket agency services [entertainment]; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and television programming services provided by means of Internet protocol

technology; entertainment in the nature of ongoing television programs in the field of computer and video games and entertainment; entertainment, namely a continuing entertainment show distributed over radio, television, satellite, audio, and video media; entertainment club services; presentation of live performances; entertainment in the nature of live concerts and performances by dj's, performers, musical artists and groups; entertainment services, namely personal appearances by dj's, performers, musical groups, musical artists and celebrities; entertainment services, namely, providing on-line reviews of computer and video games; information in the field of computer and video games, and commentary and articles about computer and video games, all on-line via a global computer network; entertainment services namely live, televised and movie appearances by a professional entertainer; downloading of radio and television programmes, films, videos, sound, images or data from the Internet or other computer network; conducting entertainment exhibitions in the nature of music festivals; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, cultural and sporting events; provision of on-line computer games; rental of computer games programs; computer amusement services; publishing services; arranging, organising and conducting of competitions, games and quizzes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for events; rental of music and audiovisual recordings; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; maintaining websites; application service provider (ASP); application service provider (ASP) featuring software for receiving, transmitting and displaying vouchers and receiving and transmitting data for the purchase of goods and services; application service provider (ASP) featuring software for providing consumers with information regarding discounts, vouchers and special offers for the goods or services of others; application service provider services regarding social

networking software; provision of an Internet platform for social networking services; hosting of digital content online; hosting of websites; computer programming services; services of a programmer; recovery of computer data; consultancy in the field of computer hardware; computer programming; duplication of computer programs; computer rental; computer software design; installation of computer software; maintenance of computer software; updating of computer software; rental of computer software; rental of computer hardware; computer system design; computer systems analysis; consultancy in the field of computer software; conversion of data or documents from physical to electronic media; creating and maintaining websites for others; data conversion of computer programs and data (not physical conversion); hosting computer sites (web sites); services of engineers; expert advice and expert opinion relating to technology; rental of data processing apparatus and computers; technical services relating to projection and planning of equipment for telecommunications; services of information brokers and providers, namely product research for others; weather forecasting; research in the field of telecommunication technology; monitoring of network systems in the field of telecommunications; technical support services relating to telecommunications and apparatus information and advisory services relating to the aforesaid; information services relating to information technology, computer hardware and software in relation to information technology; hosting of financial platforms; constructing an internet platform for electronic commerce; design of platforms; hosting of platforms; information, consultancy and advisory services for all the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; storage of information and data; information and advisory services relating to the aforesaid services provided over a telecommunications network.