

BL O/0438/25

TRADE MARKS ACT 1994

IN THE MATTER OF

TRADE MARK APPLICATION NO. 3889264

BY

BUILDING BETTER RELATIONSHIPS LIMITED

TO REGISTER THE FOLLOWING TRADE MARK:

Tandm

IN CLASSES 9, 41, 42, & 44

AND

IN THE MATTER OF THE OPPOSITION THERETO

UNDER NO. 441804

BY TRIPOD TECHNOLOGY GMBH

Background and pleadings

1. On 15 March 2023, Building Better Relationships Limited (“***the Applicant***”) applied to register in the UK the trade mark shown on the cover page of this decision, under number 3889264 (“***the Contested Mark***”). Details of the application were published in the Trade Marks Journal for opposition purposes on 2 June 2023. Registration is sought for the goods and services listed in Annex A to this decision.
2. On 7 July 2023,¹ Tripod Technology GmbH, (“***the Opponent***”) filed a notice of opposition, partially opposing the application under section 5(2)(b) of the Trade Marks Act 1994 (“***the Act***”). Within its TM7, the Opponent indicated that the opposition is directed against some of the goods and services in classes 9, 41 and 42 of the application, namely:

Class 9: Mobile apps; Mobile application software; Downloadable smart phone application software; Application software for mobile devices; Downloadable software in the nature of a mobile application; Downloadable mobile applications; Application software for smart phones; Downloadable computer software for use as an application programming interface (API); Software for mobile phones; Downloadable software applications for mobile phones; Web application software; Downloadable application software; Instant messaging software; Interactive database software; Application simulation software; Interactive video software.

Class 41: Health and wellness training; Health education; Physical health education; Education services relating to health; Education in the field of occupational health and safety.

Class 42: Updating of smartphone software; Smartphone software design; Hosting of mobile applications; Design and development of software in the field of mobile applications; Development and design of mobile applications; Design and development of software for instant messaging.

¹ The original Form TM7 was filed on 7 July 2023, then after a series of amendments it was ultimately served on 29 August 2023.

3. For the purposes of this opposition, the Opponent relies upon the following trade mark:

Earlier Mark: tandem

UK registration number: UK00003176868

Filing date: 25 July 2016

Registration date: 16 December 2016

Goods and services relied upon:

Class 9: Downloadable software in the nature of a mobile application to enable the sharing of digital media and information via global computer and communication network; downloadable software for electronic messaging, namely, instant messaging software; downloadable computer software, namely communications software for electronically exchanging voice, data, video and graphics accessible via computer, mobile, wireless, and telecommunication networks; downloadable computer software for processing images, graphics, audio, video, and text; computer software development tools; computer software for use in developing computer programs; downloadable computer software, namely, video and audio conferencing software; all the previously mentioned goods, only with regard to an online community for registered users to participate in language learning and cultural exchange.

Class 38: Telecommunication services; namely, transmission of voice, messages, data, images, audio and video by means of computer networks, telecommunications networks, wireless communication networks, and the internet.

4. In its notice of opposition, the Opponent states that there is a high likelihood of confusion between the competing marks due to the phonetic, visual, and conceptual similarities and the competing goods and services appear to be similar or identical. The Opponent also contends that although the specific areas of application of the goods and services differ (i.e., language learning and cultural exchange against the health and wellness sector), the overlapping nature of these

sectors, specifically the development and use of mobile applications and educational services, can create confusion among consumers, including a likelihood of association.

5. On 17 October 2023 the Applicant filed a defence and counterstatement denying the grounds of opposition and submitting that the competing marks “*have different spellings*” and the competing services differ in their nature (building relationships v learning a language) and in end users (businesses v general consumers).
6. By virtue of its earlier filing date of 25 July 2016, the Earlier Mark constitutes an earlier mark in accordance with section 6 of the Act. The Earlier Mark completed its registration process over five years prior to the filing date of the Applicant’s mark. As such, it is, in principle, subject to the proof of use requirements specified within section 6A of the Act. However, in its counterstatement the Applicant did not request proof of use. The Opponent can, therefore, rely upon all of the goods and services it has identified without having to demonstrate use.
7. Neither the Applicant nor the Opponent is legally represented.

Evidence and submissions

8. During the evidence rounds the Opponent filed evidence in the form of a witness statement from Dindia Gutmann, dated 9 January 2024, and accompanied by Exhibits DG1 – DG9. Dindia Gutmann is the People and Operations Manager at Tripod Technology GmbH (i.e., the Opponent) and has held this position since 2021. Therefore, the witness is duly authorised to provide evidence on behalf of the Opponent.
9. The Applicant filed evidence comprising the witness statement of R-J Stratton, a director of Building Better Relationships Limited (i.e., the Applicant), dated 9 April 2024, and accompanied by Exhibits 1 – 4. The witness is duly authorised to provide evidence on behalf of the Applicant.
10. On 13 May 2024 the Opponent filed written submissions in reply.
11. Neither party requested a hearing, nor filed submissions in lieu of a hearing.
12. The evidence and submissions will not be summarised here, but I have taken them into consideration in reaching my decision and will be referred to as and where

appropriate during this decision. This decision is taken following a careful perusal of the papers.

Relevance of EU law

13. 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.

Preliminary matters

Section 5(3) claim

14. In its statement of grounds, the Opponent submitted that *“our ‘tandem’ mark has a significant presence and recognition in its sector, with over 18 million registered members and prestigious recognition from both Apple and Google in their “Best Apps of the Year” selections. This high level of recognition and reputation not only indicates the strength of our brand but also the potential damage and dilution that could occur if the ‘Tandm’ mark is permitted”* and also that they *“[...] strongly believe there is a substantial likelihood of confusion between the two marks that could mislead the public and significantly damage the strong goodwill and reputation associated with our ‘tandem’ mark”*. In its written submissions the Opponent also asserted that *“[...] the presence of other similar marks may dilute the distinctiveness of our mark”* and *“[...] the potential for confusion may erode our reputation and goodwill in the marketplace”*.²

15. The Opponent's consideration of matters such as those reproduced above are noted but nonetheless appear more consistent with a section 5(3) claim. For clarity, section 5(2)(b) is the only pleaded ground in the present proceedings and, in the absence of a direct pleading and any supporting evidence, the scope of the

² Written submissions dated 13 May 2024.

opposition does not extend, for example, to grounds such as section 5(3) of the Act.

Parties operate in different market sectors

16. In its defence, the Applicant submitted that “*the 2 Apps provide completely different services – tandem, foreign language learning – Tandm, building better relationship*”. Similarly, in Mr Stratton’s witness statement he contended that “*the services of both trademarks could be described as educational but are in completely different spheres – the Opponent’s to “Learn a new language around the world with Tandem” and the Applicant’s to improve relationship skills, for businesses in the UK*”.

17. It appears to me the Applicant intends to bring forward the argument that the competing goods and services are dissimilar as the parties operate in different market sectors. I am reminded of the findings of Dr. Brian Whitehead in *City Storage Systems LLC v Kenmark Kitchen Limited*, where, sitting as the Appointed Person, he stated:

“18. The authors of Kerly state at 11-055: “It is the goods or services covered by the specifications of the marks at issue that must be considered when making this assessment, and not the goods or services actually marketed under those marks”, referring to *Present-Service Ullrich GmbH & Co KG v OHIM* (T-66/11) [2013] E.T.M.R. 29. In that case, the General Court said at 45:

“Secondly, the applicant’s claim that it operates in a completely different commercial sector from the intervener is also irrelevant. In order to assess the similarity of the goods or services at issue for the purposes of art.8(1)(b) of Regulation 207/2009, the group of goods or services protected by the marks at issue must be taken into account, and not the goods or services actually marketed under those marks”.

18. Fundamentally, the assessment of likelihood of confusion requires a consideration of all the circumstances in which the mark applied for might be used if it were

registered.³ This requires me to make an assessment based on a notional and fair use of the terms in the competing specifications against the potential or intended uses of those goods and services, and not necessarily just the ones currently being used by either party in their trade.

19. It follows that in my assessment I must look at the similarity of the goods and services solely on the basis of those registered and it is impermissible for me to take into account the goods and services actually provided by the parties.

20. Furthermore, marketing strategies, including the targeting of specific consumers, are temporary and may change over time. As such, it is not appropriate to take that factor into account in my assessment.⁴ However, I will make an assessment, later in this decision, as to who the average consumer could be for the goods and services at issue.

State of the Register argument

21. In his witness statement, Mr Stratton submitted that “*there are numerous (50+) trademarks utilising ‘Tandem/similar’*”. The Applicant neither provided further clarification to this regard, nor submitted any evidence that such trade marks have genuinely been used. Whilst I acknowledge these comments, I find that the existence of previously registered third-party marks consisting of or containing the word “tandem” does not provide much assistance in relation to the assessment of similarity between the marks at hand. In accordance with the comments of the General Court (“GC”) in *Zero Industry Srl v OHIM*, the presence on the UK register of marks containing the same or shared elements is not evidence of how many of such trade marks are in fact used in the market, nor does it clarify whether consumers have or have not been confused by the presence of such marks. The decision I am required to make is based on a notional assessment of the likelihood of confusion.

Decision

Section 5(2)(b)

³ See *O2 Holdings Limited & Anor v Hutchison 3G UK Limited*, Case C-533/06, [66].

⁴ *Devinlec Développement Innovation Leclerc SA v OHIM*, Case C-171/06P at [59].

22. The relevant parts of section 5 of the Act are as follows:

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

(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”.

23. Section 5A reads:

“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.”

Case law

24. The leading authorities which guide me are from the Court of Justice of the European Union (“CJEU”): *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.

The Principles

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to

make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

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

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

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

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

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

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

Comparison of goods and services

25. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

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

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

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

27. Section 60A of the Act sets out that goods or services are not to be considered similar simply because they appear in the same classes. Alternatively, section 60A also states that goods or services are not to be considered dissimilar simply because they appear in different classes.

28. In *Gérard Meric v OHIM*, Case T- 133/05, the GC stated that:

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

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

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

30. In *Sky v Skykick* [2020] EWHC 990 (Ch), Lord Justice Arnold considered the validity of trade marks registered for, amongst many other things, the general term 'computer software'. In the course of his judgment he set out the following summary of the correct approach to interpreting broad and/or vague terms:

“[...] the applicable principles of interpretation are as follows: (1) General terms are to be interpreted as covering the goods or services clearly covered by the literal meaning of the terms, and not other goods or services. (2) In the case of services, the terms used should not be interpreted widely, but confined to the core of the possible meanings attributable to the terms. (3) An unclear or imprecise term should be narrowly interpreted as extending only to such goods or services as it clearly covers. (4) A term which cannot be interpreted is to be disregarded.”

31. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the GC stated that “complementary” means:

“[...] there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking.”

32. For the purposes of considering the issue of similarity, it is permissible to consider groups of terms collectively where they are sufficiently comparable to be assessed in essentially the same way and for the same reasons.⁵

33. The competing goods and services are as follows:

Opponent’s goods and services	Applicant’s goods and services
<u>Class 9</u>	<u>Class 9</u>
Downloadable software in the nature of a mobile application to enable the sharing of digital media and information via global computer and communication network;	Mobile apps; Mobile application software; Downloadable smart phone application software; Application software for mobile devices; Downloadable software in the nature

⁵ See *Separode Trade Mark* (BL O/399/10) and *BVBA Management, Training en Consultancy v. Benelux-Merkenbureau* [2007] ETMR 35 at paragraphs 30 to 38.

<p>downloadable software for electronic messaging, namely, instant messaging software; downloadable computer software, namely communications software for electronically exchanging voice, data, video and graphics accessible via computer, mobile, wireless, and telecommunication networks; downloadable computer software for processing images, graphics, audio, video, and text; computer software development tools; computer software for use in developing computer programs; downloadable computer software, namely, video and audio conferencing software; all the previously mentioned goods, only with regard to an online community for registered users to participate in language learning and cultural exchange.</p>	<p>of a mobile application; Downloadable software applications for mobile phones; Application software for smart phones; Downloadable computer software for use as an application programming interface (API); Software for mobile phones; Downloadable mobile applications; Web application software; Downloadable application software; Instant messaging software; Interactive database software; Application simulation software; Interactive video software.</p>
<p><u>Class 38</u></p>	
<p>Telecommunication services; namely, transmission of voice, messages, data, images, audio and video by means of computer networks, telecommunications networks, wireless communication networks, and the internet.</p>	
	<p><u>Class 41</u></p>

	Health and wellness training; Health education; Physical health education; Education services relating to health; Education in the field of occupational health and safety.
	<u>Class 42</u>
	Updating of smartphone software; Smartphone software design; Hosting of mobile applications; Design and development of software in the field of mobile applications; Development and design of mobile applications; Design and development of software for instant messaging.

Class 9

- *“Mobile apps; Mobile application software; Downloadable smart phone application software; Application software for mobile devices; Downloadable software in the nature of a mobile application; Downloadable software applications for mobile phones; Application software for smart phones; Software for mobile phones; Downloadable mobile applications; Downloadable application software”*

34. All the Applicant’s goods above essentially consist of mobile applications⁶ (software).⁷ Therefore, the Applicant’s goods above include in a more general category (i.e., mobile application software) the Opponent’s *“Downloadable software in the nature of a mobile application to enable the sharing of digital media and information via global computer and communication network”*. Thus, the competing goods are identical in line with the principle outlined in *Meric*.

⁶ In line with my view, J-R Stratton submitted in his witness statement that *“we agree that both trademarks have been developed for mobile applications [...]”*.

⁷ This definition also applies to *“web application software”* since this term identifies an application software that can run on any device (including mobile phones).

- *Web application software*

35. Web applications run on a web server and can be accessed via the internet without the need to be downloaded or installed. When compared with the Opponent's "*Downloadable software in the nature of a mobile application to enable the sharing of digital media and information via global computer and communication network*", I find that these goods share the same nature (software) and intended purpose (access and use of a mobile application), but they partially differ in their method of use since any download is required for the Applicant's goods. Similarly, the competing goods are unlikely to share the same trade channels as downloadable applications need to be downloaded from *ad hoc* platforms (e.g., Apple store) whilst web applications can be accessed directly via the internet. Nonetheless, the goods address the same users (mobile application users). Overall, I find these goods to be similar to a high degree.

- "*Downloadable computer software for use as an application programming interface (API)*"

36. An 'application programming interface' (API) allows different software applications to communicate with each other. Even if worded differently, the Applicant's term is identical to the Opponent "*downloadable computer software, namely communications software for electronically exchanging voice, data, video and graphics accessible via computer, mobile, wireless, and telecommunication networks*".

37. In the eventuality I am mistaken, I find the competing goods to be highly similar because they share the same nature (computer software), method of use (download of a software for use on a computer), intended purpose (enable software communication and media exchange), and trade channels. The goods are not complementary and although they may not be directly in competition with each other they could share the same intended users (i.e., users interested in downloading communication software).

- "*Instant messaging software*"

38. The Applicant's term above is self-evidently identical to the Opponent's "downloadable software for electronic messaging, namely, instant messaging software".⁸

- "Interactive database software"

39. Database software consist of a program primarily used for storing, modifying, extracting and searching for information within a database. Therefore, I find the Applicant's term above to have a medium degree of similarity to the Opponent's "Downloadable software in the nature of a mobile application to enable the sharing of [...] information via global computer and communication network" and "downloadable computer software, namely communications software for electronically exchanging [...] data [...] accessible via computer, mobile, wireless, and telecommunication networks" as the competing goods share the same nature (software), method of use (query a software program to obtain information/data), intended purpose (access and exchange information/data), and trade channels.

- "Interactive video software"

40. Interactive videos provide the viewer the ability to interact with the digital medium (e.g., click on a desktop or touch on mobile devices) for an action to occur (e.g., the viewer can trigger content to appear within the video such as text, images, videos or additional web content). Therefore, I find the Applicant's term above is similar at least to a medium degree to the Opponent's "downloadable computer software for processing images, graphics, audio, video, and text" because the competing goods share the same nature (software), method of use, intended purpose (software for processing images, video, or text), trade channels and end users (e.g., users of interactive videos). Whilst these goods are not in competition, they can be complementary (i.e., interactive video software relying on another software for processing graphics/text/video to make the viewer's interaction possible).

- "Application simulation software"

⁸ The use of the word 'namely' must be understood as a restriction to the specific goods and services listed thereafter (see case T-549/14, *Castello / Castellò (fig.) et al.*, [71]).

41. Software simulation involves modelling real-world phenomena to create a virtual representation of a system or process. This allows users to observe and analyse the behaviour of the system without physically performing the operation. The Applicant's term above has a low level of similarity with the Opponent's "*downloadable computer software for processing images, [...] and text*" as these goods overlap in their nature (software) and method of use (input of text or images to obtain a simulation). From my understanding of how simulation software functions, this will not require an additional software to process images or text, thus, these goods are neither complementary nor in competition.
42. I must add that the Opponent's limitation for the class 9 goods "*all the previously mentioned goods, only with regard to an online community for registered users to participate in language learning and cultural exchange*" does not affect my assessment of similarity above (and of class 42 below) since the contested 'software' goods all refer to a wider definition of 'software' that can also potentially encompass the Opponent's goods (in class 9) and services (in class 42) aimed at users participating in language learning and cultural exchange programs.

Class 41

- "*Health and wellness training; Health education; Physical health education; Education services relating to health; Education in the field of occupational health and safety*"
43. The Applicant's services above all consist of education services in the field of health, wellness and safety. In its statement of grounds, the Opponent submitted that the Applicant's services are similar or identical to those of the Opponent as "*they both involve [...] educational services, even though the areas of application differ (language learning and cultural exchange vs. health and wellness)*". The Applicant contended that "*both trademarks could be described as educational but are in completely different spheres – the Opponent's to "Learn a new language around the world with Tandem" and the Applicant's to improve relationship skills, for businesses in the UK*". I acknowledge the parties' submissions, however the Earlier Mark's specification, upon which the opposition is based as identified above in this decision, does not contain education services. As already stated above, in assessing the similarity of the competing goods and services, I must look at the

similarity solely on the basis of those goods and services registered. Therefore, the fact that the Opponent may provide education services in the field of language learning and cultural exchange does not change the fact that the Earlier Mark's specification does not contain education services per se. Therefore, I find the Applicant's services above differ from the goods and services in classes 9 and 38 upon which the Opponent relies for this opposition.

Class 42

- “*Updating of smartphone software; Smartphone software design*”

44. A smartphone software is the phone's operating system (OS) that enables the basic functioning of the device including the correct running of mobile applications which are software applications designed to run on such devices. Whilst the contested services and the Opponent's “*Downloadable software in the nature of a mobile application [...]*” both refer to ‘software’, on the one hand the Opponent's goods are application software (downloadable) and on the other hand the Applicant's designing/updating of smartphone software consist of services aimed at the design or update of the phone's OS (not including the phone's mobile applications which require individual design/updates developed specifically for each application). Therefore, the competing terms differ in their intended purpose and methods of use. Furthermore, I find the respective goods and services neither share the same trade channels nor are in competition with each other because the provider of the smartphone's operating system (OS) is usually the one designing the software and providing the updates, whilst the providers of mobile applications offer them independently as additional features to a phone's system (including the application's updates that are released independently from the phone's OS, albeit making sure the applications and their updates remain compatible with the phone's OS). I also do not find the competing goods and services are complementary. Whilst I appreciate mobile applications must be compatible with their smartphone's OS to function, however, consumers are unlikely to believe that the undertaking providing a mobile application software is economically connected with the one providing the updates for the smartphone's OS. Accordingly, I find the respective goods and services to be dissimilar.

- *“Design and development of software in the field of mobile applications; Development and design of mobile applications; Design and development of software for instant messaging”*

45. The Applicant’s services above are concerned with the design and development of smartphone software and mobile application software. Whilst services are not the same as goods, I consider the Opponent’s *“Downloadable software in the nature of a mobile application to enable the sharing of digital media and information via global computer and communication network”* and *“downloadable software for electronic messaging, namely, instant messaging software”* in Class 9 to be the end result of such design and development services. As such, I find that there exists a complementary relationship with the above contested services and the Opponent’s mobile application software (also for instant messaging), on the basis that without the above services there would be no software end product. Whilst I acknowledge that the nature, purpose and method of use of the goods and services at issue is different, there may be an element of competition, with the consumer selecting either bespoke goods from the designer or choosing specific apparatus or software already on the market. As such, I do not consider it unreasonable for the consumer to believe that the goods and services derive from the same or related undertakings. Overall, I find there to be a medium degree of similarity between the above services and the Opponent’s mobile applications software.

- *“Hosting of mobile applications”*

46. Mobile application hosting essentially consists of providing (and maintaining) a platform onto which applications are uploaded for third parties (i.e., application users) to access or install them. The Opponent’s specification features ‘mobile application software’ goods in class 9. The competing goods and services have a different nature (application software against a hosting platform), method of use and intended purpose (make available applications against the actual use of the applications). The Applicant’s services are likely to target users (especially professionals) who intend to make their applications available to the public, whilst the Opponent’s ‘mobile application software’ goods consist of the end product that users (i.e., members of the general public) will access and download onto their personal devices. Thus, they differ in their respective end users. The competing goods and services do not share the same trade channels (those seeking

application hosting services intend to distribute their applications whereas the general public will access the hosing platform to download the applications for their personal use) and do not compete with each other. However, these goods and services are complementary on the basis that the Opponent's software applications are accessed (i.e., downloaded) from a hosting platform. Hence, hosting services are indispensable for the distribution of mobile applications in such a way that customers may think that the responsibility for those goods and services lies with the same undertaking. Overall, I find that such goods and services are similar to at least a low degree.

Conclusion on the similarity of the goods and services

47. Some similarity between the parties' goods and services is essential in order to find a likelihood of confusion between the parties' marks. In the case of *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA, Lady Justice Arden stated that:

“49. [...] I do not find any threshold condition in the jurisprudence of the Court of Justice cited to us. Moreover, I consider that no useful purpose is served by holding that there is some minimum threshold level of similarity that has to be shown. If there is no similarity at all, there is no likelihood of confusion to be considered. If there is some similarity, then the likelihood of confusion has to be considered but it is unnecessary to interpose a need to find a minimum level of similarity”.

48. The opposition against the terms that I have found to have no similarity to the Opponent's goods/services therefore fails at this point. For ease of reference, those terms are:

Class 41 Health and wellness training; Health education; Physical health education; Education services relating to health; Education in the field of occupational health and safety.

Class 42 Updating of smartphone software; Smartphone software design.

49. I will now continue with the opposition based on section 5(2)(b) of the Act in respect of the similar goods and services.

The average consumer and the nature of the purchasing act

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

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

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

52. The goods and services for which I found similarity are types of software (in class 9) and software design and development (in class 42). Most types of the competing software goods consist of mobile apps with some types being more specialised (e.g., ‘interactive database’ and ‘application simulation’ software) and targeted towards certain types of professions such as IT specialists. Nonetheless, most of the average consumers of the goods are likely to be part of the public at large (i.e., mobile phone owners downloading apps onto their devices) but may also include businesses and professional users for the more specialised software.

53. The cost and frequency of purchase for the goods in class 9 will vary depending on the type of software and it is likely to range from relatively low for mobile applications to relatively high (but not the highest) for more technical software. Several factors may influence the average consumer when purchasing the goods,

such as useability, technical function, and the compatibility of the software with existing systems. Based on these factors, I find that the average consumer for the software goods in class 9 will pay at least a medium degree of attention.

54. The goods are likely to be obtained by self-selection from websites, e-commerce platforms, or app stores. The goods may also be purchased following advertisements on social media or other specialised online platforms. Consequently, visual considerations are likely to dominate the selection process. However, I do not discount that there may also be an aural component to the purchase of the goods through advice sought from a sales assistant or representative, and word-of-mouth recommendations.

55. Turning to the services in class 42, these are likely to be purchased by professionals (e.g., businesses purchasing and/or distributing applications) that will take into account various factors such as the compatibility of the software with the customers' current IT systems, the technical capability and reputation of the service provider (e.g., software developer) and the suitability to satisfy any specific business requirements. Some of the services will be fairly specialised and therefore likely to be expensive. This will depend on the specific needs of the customer who may be a business considering the purchase of a more sophisticated software package which may require a more bespoke approach. The level of attention taken by the prospective purchaser may be influenced by their own requirements. Consequently, I consider that these services will likely be purchased with a level of attention ranging between medium and high.

56. I consider the purchase of the goods and services to be mainly visual with the mark being placed on websites, mobile apps, or other online advertising media. The visual component will therefore dominate the purchasing process, but I do not discount aural considerations such as word-of-mouth recommendations or discussing the suitability of the products (or services) with the provider.

Comparison of the marks

57. It is clear from *Sabel BV v. Puma AG* 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 them, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo SA v OHIM*, that:

“34. [...] 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.”

58. It would be wrong, therefore, to artificially dissect the trade marks, although it is necessary to take into account their distinctive and dominant components and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the trade marks.

59. The trade marks to be compared are as follows:

Contested trade mark	Earlier trade mark
Tandm	tandem

Overall impression

60. The overall impression of each mark resides in the single word of which each is composed.

Visual Comparison

61. The Earlier Mark is composed of six letters and the Contested Mark is five letters long. The sequence of the first four letters ('tand-') and the last letter ('m') are identical in both marks and they only differ in the Earlier Mark's additional penultimate letter 'e'.

62. In the instant case, the visual difference created by the additional letter 'e' in the Opponent's mark is tempered by the fact that all the other letters composing the two marks are identical.
63. The Applicant submitted that the competing marks have different spellings whilst the Opponent submitted that in the written form such difference (i.e., the missing 'e') is less apparent.
64. In its defence the Applicant argued that the competing marks have "*different logos*" and in Mr Stratton's witness statement he submitted that "*the appearance of the Apps are completely different in format and spelt differently*". I took into consideration the parties' submissions and evidence⁹ regarding the format in which their respective marks are marketed. However, under section 5 of the Act, I must assess the marks' similarity (or lack thereof) and their likelihood of confusion on the basis of fair and notional use of the earlier and later marks rather than by taking into account their actual use.
65. In *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, the GC noted that the beginnings of words tend to have more visual and aural impact than the ends and I find that to be the case here, particularly given UK consumers read from left to right. The court stated:

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

⁹ Exhibit DFG1 and Exhibit 1 to Mr Stratton's witness statement.

the opposing signs is insufficient to dispel the existence of a strong visual similarity.

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

83. Second, the first two syllables of the opposing signs forming the prefix 'mundi' are the same. In that respect, it should again be emphasised that the attention of the consumer is usually directed to the beginning of the word. Those features make the sound very similar."¹⁰

66. Overall, I consider that there is a high degree of visual similarity between the marks.

Aural Comparison

67. The respective marks both comprise one-syllable words.

68. In his witness statement, Mr Stratton conceded that the competing marks are phonetically similar. The Earlier Mark consists of an English dictionary word and the relevant consumer will voice it accordingly. Turning to the Contested Mark, it is my view that the relevant consumer, when confronted with the letter combination 'tandm', will likely voice it as the word "tandem", notwithstanding the absence of the letter 'e' before the final 'm'. Therefore, the respective marks are read identically.

69. In the eventuality I am mistaken, and part of the relevant consumers will pronounce the Contested Mark without the additional 'e', or using a different vowel between 'd' and 'm', I nonetheless find the marks to share identical sounds in their respective 'tand-' and 'm' parts with a resulting high level of aural similarity.

Conceptual Comparison

70. The Earlier Mark 'tandem' is the English dictionary word indicating "any arrangement of two or more persons or things one behind the other, moving or

¹⁰ For similar case law on this principle see, *inter alia*, *Sport Eybl & Sports Experts v OHIM* (Case T-179/11) and *Gappol v EUIPO* (Case T-411/15).

working in combination”.¹¹ Turning to the meaning of ‘tandm’, I find that the relevant consumers, when reading the mark, are likely to fill in the gaps (i.e., the missing “e”) and understand it as “tandem”. Therefore, the competing marks both refer to the same concept of something or someone ‘in tandem’ (i.e., arranged one behind the other or working in combination). Thus, I find there is a high conceptual similarity between the marks.

Distinctive character of the earlier mark

71. In *Lloyd Schuhfabrik Meyer*, 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 Alternberger* [1999] ECR I-0000, paragraph 49).

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

72. Registered trade marks possess varying degrees of inherent distinctive character. These range from the very low, such as those which are suggestive or allusive of

¹¹ https://www.oed.com/dictionary/tandem_n1?tab=meaning_and_use#19248057.

the goods, to those with high inherent distinctive character, such as invented words.

73. Although the distinctiveness of a mark may be enhanced as a result of it having been used in the market, the Opponent has filed no evidence of use of its mark. Accordingly, I have only the inherent position to consider.

74. The Earlier Mark is the English dictionary word “tandem”. I find the mark to be neither descriptive of nor to have any semantic correlation with the goods and services at hand. Neither party has provided further clarification in this regard. I find the Earlier Mark has an above medium degree of inherent distinctive character.

Likelihood of confusion

75. There is no simple formula for determining whether there is a likelihood of confusion. The factors considered above have a degree of interdependency (*Canon* at [17]). I must make a global assessment of the competing factors (*Sabel* at [22]), considering the various factors from the perspective of the average consumer and deciding whether the average consumer is likely to be confused. In making my assessment, I must keep in mind that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he has retained in his mind (*Lloyd Schuhfabrik* at [26]).

76. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other. The concept of indirect confusion was explained by Iain Purvis Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10 as follows:

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

is something along the following lines: “*The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark*”.

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

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

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

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

77. For the competing goods and services for which I found similarity, this ranges from low to identical. In their selection the relevant consumer is likely to pay at least a medium level of attention for the goods in class 9 and the level of attention for the professional public (e.g., businesses) is likely to be between medium and high for the services in class 42. The distinctiveness of the Earlier Mark is above medium. The marks are visually and conceptually similar to a high degree and are aurally identical or highly similar. The purchase of the goods and services for which I found similarity is considered to be mainly visual but the potential for aural use is borne in mind. I note the observation by the GC in the case of *El Corte Inglés* that the beginnings of words tend to have more of a visual and aural impact than the ends of words, although I recognise that this is merely a rule of thumb. In the instant case, the parties’ marks share the same beginning and ending (i.e., ‘tand’ and ‘m’) and the only visual difference being the presence of the letter ‘e’ in the Opponent’s

mark. It is my view that when the average consumer encounters the Opponent's mark, they may mistake it for the Applicant's mark (or vice versa) because the mind's eye has failed to register or recall the penultimate letter 'e'. I reach this conclusion also with regard to the professional and taking into consideration the higher level of attention these consumers pay. Weighing all of these factors, taking into consideration that consumers do not compare marks side by side and bearing in mind the effects of imperfect recollection, I find that the average consumer is likely to mistake the Earlier Mark for the Contested Mark. Thus, there is a likelihood of direct confusion.

Conclusion

78. The opposition under section 5(2)(b) succeeds in part and the application, subject to any appeal, will be refused for the following goods and services in classes 9 and 42 for which I found similarity or identity:

Class 9 Mobile apps; Mobile application software; Downloadable smart phone application software; Application software for mobile devices; Downloadable software in the nature of a mobile application; Downloadable software applications for mobile phones; Application software for smart phones; Software for mobile phones; Downloadable mobile applications; Downloadable application software; Web application software; Downloadable computer software for use as an application programming interface (API); Instant messaging software; Interactive database software; Interactive video software; Application simulation software.

Class 42 Design and development of software in the field of mobile applications; Development and design of mobile applications; Design and development of software for instant messaging; Hosting of mobile applications.

79. The application may proceed to registration for the services in class 41 and class 42 for which the opposition has failed as indicated above at paragraph 48. The application may also proceed to registration for the other applied-for goods in class

9 and the services in classes 42 and 44 which were not opposed and indicated below (for ease of reference):

Class 9 Application software for mobile phones; Smartphone software; Smartphone software applications, downloadable; Downloadable application software for smart phones; Computer application software for mobile phones; Downloadable smart phone applications (software); Mobile software; Application software for smart TV; Downloadable emoticons for mobile phones; Downloadable applications for use with mobile devices; Downloadable applications for mobile devices; Software applications for mobile devices; Software and applications for mobile devices; Software applications for use with mobile devices; Downloadable software in the nature of a mobile application for playing games; Application software; Electronic game software for mobile phones; Downloadable mobile applications for use with wearable computer devices; Computer game software for use on mobile devices; Computer software for mobile phones; Computer application software for mobile telephones; Augmented reality software for use in mobile devices; Computer game software for use on mobile and cellular phones; Software for smartphones; Educational mobile applications; Application server software; Interactive game software; Business application software; Dashboard software; GPS navigation device; Downloadable mobile applications for the management of information; Devices for hands-free use of mobile phones; Educational tablet applications; Computer application software for use with wearable computer devices; Digital dashboard software; Internet messaging software; Interactive software; Braille mobile phones; Website development software.

Class 42 User authentication services using single sign-on technology for online software applications; Video game software development; Video game software design; Updating of smartphone software; Update of computer software; Smartphone software design; Providing user authentication

services using single sign-on technology for online software applications; Programming of video game software.

Class 44 Health counselling; Mental health services; Health care relating to hydrotherapy; Health care relating to relaxation therapy; Health care relating to naturopathy; Health care in the nature of health maintenance organizations; Health care relating to acupuncture; Advice relating to the personal welfare of elderly people [health]; Health care relating to homeopathy; Health care relating to osteopathy; Health centres; Consultancy relating to health care; Health care relating to therapeutic massage; Health care relating to fasting; Health consultancy; Personality assessment services [mental health services]; Health care relating to remedial exercise; Mental health screening services; Home health care services; Consultancy services relating to health care; Health assessment services; Health centre services; Personality testing [mental health services]; Health spa services; Human hygiene and beauty care; Professional consultancy relating to health care; Provision of health care services; Advisory services relating to health care; Health risk assessment; Health care consultancy services [medical]; Health counseling; Information services relating to health care; Health care relating to chiropraxis; Psychological care; Health care services for treating Alzheimer's disease; Medical health assessment services; Consulting services relating to health care; Provision of health care services in domestic homes; Health clinic services; Hygienic and beauty care services; Managed health care services; Nutrition counselling; Professional consultancy relating to health; Postnatal care services for women; Hygienic and beauty care; Counselling relating to nutrition; Health screening services; Hygienic and beauty care for humans; Provision of hygienic and beauty care services; Advisory services relating to health; Cosmetic body care services provided by health spas; Health assessment surveys; Health screening; Health hydro services; Development of individual physical rehabilitation programmes; Postnatal care services; Preparation of reports relating to health care matters; Beauty care services; Hygienic care for human beings; Beauty care for

human beings; Health resort services [medical]; Public health counseling; Health farm services [medical]; Provision of health information; Personal therapeutic services relating to circulatory improvement; Rental of equipment for human hygiene and beauty care; Advisory services relating to beauty care; Beauty care; Information relating to health; Exercise facilities for health rehabilitation purposes (Provision of -); Health clinic services [medical]; Health advice and information services; Health center services; Counselling relating to the psychological relief of medical ailments; Health centers; Respite care services in the nature of home nursing aid; Providing health information.

Costs

80. The Opponent has been successful and would normally be entitled to a contribution towards its costs. However, as the Opponent is not legally represented, at the conclusion of the evidence rounds, the official letter, dated 17 June 2024, advised the Opponent that, if it intended to make a request for an award for costs it should complete and return the relevant costs proforma by 15 July 2024. The same letter stated, inter alia, that:

“If the pro-forma is not completed and returned, costs, other than official fees arising from the action (excluding extensions of time), may not be awarded.”

81. No costs proforma has been filed by the Opponent in response to the abovementioned letter. Consequently, no award for costs will be made other than for the official fees. I therefore award costs to the Opponent as follows:

Official fee	£100
Total:	£100

82. I order Building Better Relationships Limited to pay Tripod Technology GmbH the sum of **£100**. This sum is to be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 16th day of May 2025

Andrea Rossi

For the Registrar

Annex A

List of the Contested Mark's goods and services applied for registration:

Class 9 Mobile apps; Mobile application software; Application software for mobile phones; Downloadable smart phone application software; Smartphone software; Application software for mobile devices; Smartphone software applications, downloadable; Downloadable application software for smart phones; Computer application software for mobile phones; Downloadable smart phone applications (software); Downloadable software in the nature of a mobile application; Downloadable software applications for mobile phones; Mobile software; Application software for smart phones; Downloadable computer software for use as an application programming interface (API); Software for mobile phones; Downloadable mobile applications; Application software for smart TV; Downloadable emoticons for mobile phones; Downloadable applications for use with mobile devices; Downloadable applications for mobile devices; Software applications for mobile devices; Software and applications for mobile devices; Software applications for use with mobile devices; Web application software; Downloadable application software; Downloadable software in the nature of a mobile application for playing games; Application software; Electronic game software for mobile phones; Downloadable mobile applications for use with wearable computer devices; Computer game software for use on mobile devices; Computer software for mobile phones; Computer application software for mobile telephones; Augmented reality software for use in mobile devices; Computer game software for use on mobile and cellular phones; Software for smartphones; Educational mobile applications; Application server software; Interactive game software; Business application software; Dashboard software; GPS navigation device; Downloadable mobile applications for the management of information; Devices for hands-free use of mobile phones; Educational tablet applications; Instant messaging software; Interactive database software; Application

simulation software; Interactive video software; Computer application software for use with wearable computer devices; Digital dashboard software; Internet messaging software; Interactive software; Braille mobile phones; Website development software.

Class 41 Health and wellness training; Health education; Physical health education; Health club services [health and fitness training]; Training services relating to health and safety; Education services relating to health; Education in the field of occupational health and safety; Health and fitness club services; Health club [fitness] services; Provision of educational health and fitness information; Training services relating to occupational health; Education and training services in the field of occupational health and safety; Education services relating to physical fitness; Physical fitness education services; Education and training in the field of occupational health and safety; Health club services; Education services relating to the development of childrens' mental faculties; Provision of health club [physical exercise] facilities; Education services relating to nutrition; Physical fitness centre services; Educational services relating to physical fitness; Provision of educational services relating to health; Physical fitness consultation; Physical fitness centres; Education services relating to yoga; Education services relating to meditation; Vocational education relating to avoidance of health related problems.

Class 42 Updating of smartphone software; Smartphone software design; User authentication services using single sign-on technology for online software applications; Hosting of mobile applications; Design and development of software in the field of mobile applications; Development and design of mobile applications; Design and development of software for instant messaging; Video game software development; Video game software design; Update of computer software; Providing user authentication services using single sign-on technology for online software applications; Programming of video game software.

Class 44 Health counselling; Mental health services; Health care relating to hydrotherapy; Health care relating to relaxation therapy; Health care relating to naturopathy; Health care in the nature of health maintenance organizations; Health care relating to acupuncture; Advice relating to the personal welfare of elderly people [health]; Health care relating to homeopathy; Health care relating to osteopathy; Health centres; Consultancy relating to health care; Health care relating to therapeutic massage; Health care relating to fasting; Health consultancy; Personality assessment services [mental health services]; Health care relating to remedial exercise; Mental health screening services; Home health care services; Consultancy services relating to health care; Health assessment services; Health centre services; Personality testing [mental health services]; Health spa services; Human hygiene and beauty care; Professional consultancy relating to health care; Provision of health care services; Advisory services relating to health care; Health risk assessment; Health care consultancy services [medical]; Health counseling; Information services relating to health care; Health care relating to chiropraxis; Psychological care; Health care services for treating Alzheimer's disease; Medical health assessment services; Consulting services relating to health care; Provision of health care services in domestic homes; Health clinic services; Hygienic and beauty care services; Managed health care services; Nutrition counselling; Professional consultancy relating to health; Postnatal care services for women; Hygienic and beauty care; Counselling relating to nutrition; Health screening services; Hygienic and beauty care for humans; Provision of hygienic and beauty care services; Advisory services relating to health; Cosmetic body care services provided by health spas; Health assessment surveys; Health screening; Health hydro services; Development of individual physical rehabilitation programmes; Postnatal care services; Preparation of reports relating to health care matters; Beauty care services; Hygienic care for human beings; Beauty care for human beings; Health resort services [medical]; Public health counseling; Health farm services [medical]; Provision of health information; Personal therapeutic services relating to circulatory

improvement; Rental of equipment for human hygiene and beauty care; Advisory services relating to beauty care; Beauty care; Information relating to health; Exercise facilities for health rehabilitation purposes (Provision of -); Health clinic services [medical]; Health advice and information services; Health center services; Counselling relating to the psychological relief of medical ailments; Health centers; Respite care services in the nature of home nursing aid; Providing health information.