

BL O/0560/24

TRADE MARKS ACT 1994

**IN THE MATTER OF
INTERNATIONAL REGISTRATION NO. 1643217:
IN THE NAME OF
EUROPEAN SUPER LEAGUE COMPANY SL**



**IN CLASSES 25, 28, 35, 38 AND 41
AND THE APPLICATION TO DESIGNATE THE UNITED KINGDOM**

AND

**OPPOSITION NO. 435471 THERETO
BY
SUPER LEAGUE (EUROPE) LIMITED**

BACKGROUND AND PLEADINGS

1. International trade mark registration 1643217 (“**the IR**”) consists of the sign shown on the cover page of this decision. The IR is in the name of European Super League Company, S.L (“**the Applicant**”). The Applicant has applied to designate the IR for protection in the United Kingdom in respect of goods and services in Classes 25, 28, 35, 38 and 41, as listed in the part of this decision that compares the parties’ goods and services.
2. The IR is registered with effect from 13 October 2021, but claims priority from an earlier filing on 16 April 2021 of the same mark as an European Union Trade Mark.¹ The request to designate the UK was published for opposition purposes on 6 May 2022.
3. On 9 August 2022, Super League (Europe) Limited (“**the Opponent**”) filed a notice of opposition against the applied-for UK designation of the IR. The opposition is based on grounds under **sections 5(2)(b), 5(3) and 5(4)(a)** of the Trade Marks Act 1994 (“**the Act**”). Each ground of opposition is directed at all the goods and services under the IR.
4. For the purposes of its **sections 5(2)(b) and 5(3)** grounds, the Opponent relies upon the following series of earlier-filed figurative trade marks:



UK TM No. 3441047

Application date: 1 November 2019

Registration date: 31 January 2021

5. The Opponent’s trade mark is registered for goods and services in Classes 9, 18, 25, 28, 35, 38 and 41, as listed in the Annex at the end of this decision and to which I refer to the extent I consider necessary in the part of this decision that compares the parties’ goods and services.

1 European Union Trade Mark No. 018455149.

6. For both the section 5(2)(b) and 5(3) grounds, the Opponent relies on all of the goods and services for which its trade mark is registered.
7. The Opponent's **section 5(2)(b)** claim is that the parties' trade marks are similar and that the goods and services are similar or identical, such that there is a likelihood of confusion.
8. The Opponent's **section 5(3)** claim is that its earlier filed trade mark has a strong reputation in the United Kingdom because of the use that has been made of it, and that use of the later trade mark is without due cause and will take advantage of and be detrimental to the distinctive character and reputation of the Opponent's trade mark.
9. The **section 5(4)(a)** ground is based on the plain words "SUPER LEAGUE", which sign the Opponent claims to have used throughout the United Kingdom since January 1996, generating sales and goodwill in respect of the following goods and services:

Clothing, footwear and headgear; bags, sports bags, sporting goods, apparatus and equipment; games, toys and playthings; retail and wholesale of Clothing, footwear and headgear, bags, sports bags, sporting goods, apparatus and equipment, games, toys and playthings; marketing, promotion and advertising services, organising exhibitions, shows, sporting events; sporting services; entertainment services; sports competitions; sports training and coaching services; podcasts; providing access to internet forums; television, satellite and radio broadcasting services and pay per view subscription services and content; cultural services; sports education and instructions services; sports camp services; organising sports leagues and competitions.

10. The Opponent claims that the similarity of the parties' signs and their goods and services is such that use of the IR in the UK would be a misrepresentation leading to a real risk of damage to the Opponent's goodwill and that use of the IR would therefore be liable to being prevented by the law of passing off.
11. The Applicant filed a notice of defence, including a counterstatement denying the claims. The Applicant filed no other submissions in this opposition, nor any

evidence. I shall refer in this decision to points from the Applicant's 4-page counterstatement to the extent I consider warranted.

12. The Opponent is represented by Wilson Gunn; the Applicant by Pure Ideas Limited. Only the Opponent filed evidence and written submissions. The Opponent requested an oral hearing, which took place by video conference on 12 January 2024, which was attended by Andrew Marsden of Wilson Gunn. The Applicant chose not to attend. The Opponent filed a skeleton argument ahead of that hearing.

Evidence of use

13. The Applicant marked its Form TM8 Notice of Opposition to request that the Opponent provide proof of use of its earlier trade mark. The Opponent's trade mark had been registered for less than five years at the priority date of the opposed IR (16 April 2021, "**the relevant date**"). The Opponent's mark is therefore not subject to the use provisions under section 6A of the Act. The Opponent may therefore rely on all of the registered goods and services without having to prove use of the mark.
14. It is, however, necessary for the Opponent to establish (i) the claimed enhancement of the distinctive character of the earlier trade mark (ii) the claimed reputation of the trade mark and (iii) goodwill acquired through use of the claimed sign. During the evidence rounds, the Opponent filed the following:
 - **Witness Statement of Andrew Marsden**, dated 6 April 2023, introducing **Exhibits AM1 - AM9**
 - Written submissions dated 20 April 2023
15. Mr Marsden is a chartered trademark attorney at Wilson Gunn responsible for the Opponent's trademark portfolio. The evidence includes the following points:
 - i. The Super League was formed in 1996 and comprises 12 Rugby League teams.² The Opponent organises the competition, which is sponsored by Betfred. Past sponsors have included Tetley's, Stobart and First Utility.

2 **Exhibit AM6** shows a Wikipedia account of the establishment of the Super League as "the top-level of the British rugby league system".

- ii. Each of the 12 clubs operates under the Super League banner which is said to appear on each club shirt, related merchandise and on advertising boardings and material.
- iii. The Grand Final is typically held at Old Trafford football stadium in Manchester, with attendance figures in excessive 50,000.³ Super League games are televised on Sky Sports and broadcast elsewhere, including on Channel 4 since 2022.
- iv. The sign “Super League” has been used since 1996, and the earlier registered trade mark has been in use since November 2019 in connection with sports entertainment services, sporting and competition services and a range of connected services.
- v. **Exhibit AM1** shows copies of relevant pages from the accounts of the Opponent published between 1997 and 2021. The turnover figures range up from nearly £2.5 million in 2000 to over £9.5 million in 2017. The Opponent’s accounts refer to income from transactions including sale of broadcasting rights, sponsorship, ticket sales, and the amounts received as agents for the Super League clubs. The accounts do not of course show use of the trade mark.
- vi. **Exhibits AM2** and **AM3** show extracts from the website www.superleague.co.uk. The following mark is shown on the website.



I accept that this is use of the earlier mark, alongside the trade mark of the sponsor.⁴ The mark shown is an acceptable variant of the earlier figurative mark and the difference in colour scheme is not enough to undermine the claimed use. However, those exhibits do not show use of the trade mark before the relevant date. Nor do they show use of the mark on the clothing of the teams, nor in respect of the full list of goods and services claimed.

3 **Exhibit AM4** shows attendance figures.
4 *Colloseum Holdings AG v Levi Strauss & Co.*, Case C-12/12 para 32.

- vii. **Exhibit AM8** shows details from the Facebook account operated by the Opponent. The account was created in November 2011 and has over 260,000 followers. The earlier trade mark is shown beneath the Betfred sign, but the exhibit dates from after the relevant date. The Facebook handle is @rlsuperleague, where the 'rl' presumably signifies 'rugby league'. **Exhibit AM9** shows details from the Twitter account operated by the Opponent. It was created in April 2009 and has over 226,000 followers at time of printing (after the relevant date). The earlier trade mark is not shown.

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, such as the General Court and the Court of Justice of the European Union (“**CJEU**”).

STATUTORY PROVISIONS

17. The parts of section 5 of the Act relevant to the parties' claims are:

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

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

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

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

(3) A trade mark which—

(a) is identical with or similar to an earlier trade mark, and

(b)

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 the repute of the earlier trade mark.

(3A) *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.*

(4) *A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented—*

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

[...]

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.

(4A) *The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.*

18. Section 6 of the Act provides the meaning of “earlier trade mark” as referenced in section 5(2) and 5(3).

6. (1) *In this Act an “earlier trade mark” means—*

(a) a registered trade mark which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,

DECISION

The section 5(2)(b) claim

19. Determination of a section 5(2)(b) claim must be made in light of the following principles, 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. The principles are:

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

- (a) 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;
- (b) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- (c) 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;
- (d) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;
- (e) 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;

- (f) 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;
- (g) 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;
- (h) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (i) 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;
- (j) 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 the marks

20. It is clear from *Sabel* that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo* 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.*”⁵
21. It would therefore be wrong to dissect the trade marks artificially, but it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features that are not negligible and therefore contribute to the overall impressions created by the marks. The marks to be compared are shown below:

5 *Bimbo SA v OHIM, Case C-591/12P* (at paragraph 34).

The Opponent's earlier registered mark	The Applicant's contested mark
	

22. The overall impression of the Opponent's earlier mark is that it comprises the words "SUPER LEAGUE" with a logo. The overall impression of the Applicant's mark is that it comprises the words THE SUPER LEAGUE, with a faint logo and with pink and blue colouring across the first word. The words SUPER LEAGUE are presented one above the other in the contested mark, whereas they are presented alongside one another in the Opponent's mark, but I find that this has little or no impact of the overall impressions of the marks.
23. The Applicant argues in its counterstatement that the earlier mark is "a highly stylised logo mark with a 'Super League' element." The Applicant submits that the Super League element should be ignored in comparing the marks/signs and that consideration should be limited to the logo elements in the marks. It makes this submission based on the following assertions:

Super League is a common phrase "which has no inherent or established distinctive nature in its own right, being a superlative and descriptor 'SUPER', with another common descriptor 'LEAGUE', in relation to sports including association football, rugby league and hockey to name but a few, along with other situations where there is division and/or rank based on merit performance and positioning. The phrase is used widely as a descriptor and there are already a number of prior users and registrations for marks with the Super league element combined with graphic elements in logos as well as specific fonts and scripts. No one entity has exclusive rights to the words Super League by registration or use or reputation for all the relevant goods and services in the United Kingdom."

24. The parties will be aware of the limited effect of assertions based on the "state of the register". The case law makes clear that the mere fact that a number of trade marks relating to the goods at issue may contain the words called into question is

not enough to establish that the distinctive character of that element has been weakened because of its frequent use in the field concerned.⁶ The state of the register is not evidence of how many of such trade marks may be effectively used in the market, nor does it clarify whether consumers have or have not been confused by the presence of such marks.

25. The Applicant has filed no evidence at all in these proceedings, so there is nothing to support its claims of widespread use and that no one entity has exclusive rights to the words by registration. I note that the Opponent's submissions during the evidence rounds referred to its having secured registration of the plain word mark SUPER LEAGUE for services in Class 41.⁷ Characterisation of a sign as descriptive or generic is equivalent to denying its distinctive character,⁸ whereas a registered trade mark, by virtue of its registration, must be assumed to have at least some distinctive character. The Opponent's reference to its two other registrations (filed shortly after the priority date of the Applicant's contested mark) is stated to be a counter to the Applicant's submission that the plain words SUPER LEAGUE are entirely non-distinctive. Distinctiveness must of course be considered in relation to the registered goods or services and I note that the plain word mark is registered for services in Class 41 that include production of radio and television programmes; sporting activities.
26. I do not accept the Applicant's submission that the words SUPER LEAGUE should be ignored in the comparison. The comparison is between the marks as wholes, which comprise both words and logos. The Opponent does not claim any similarity between the respective device elements, but trade mark case law principles suggest that where a mark contains words and a figurative element the word element will generally be more distinctive and / or dominant, since the relevant public will keep in mind the word elements to identify the mark concerned, the figurative elements being perceived more as decorative elements.⁹
27. I accept that the words SUPER LEAGUE are of inherently low distinctiveness, but I find that in both parties' marks those words are dominant. The words occupy a significantly greater part of the earlier mark than its logo element, and the average

6 *Zero Industry Srl v OHIM*, Case T-400/06, the General Court at paragraph 73.

7 Trade mark Nos. 3801891 and 3630175.

8 *Formula One Licensing BV v OHIM*, CJEU Case C-196/11P, at paragraph 41.

9 *MigrosGenossenschafts-Bund v EUIPO*, T-68/17 and T-171/17 M & K v EUIPO, EU:T:2018:683, [41].

consumer will more readily be struck by the words. The word “THE” in the Applicant’s mark is simply the definite article which in plain format is non-distinctive. I acknowledge that the “THE” in the Applicant’s mark is colourful, but the words SUPER LEAGUE remain the more distinctive word element.

28. The Opponent accepts that the device elements in each mark are dissimilar, but submits that the complete marks are visually, aurally, and conceptually highly similar because of the commonality of the identical dominant words SUPER LEAGUE. The similarity of the mark is increased because of the use of similar fonts and capitalisation of the words in each mark. The words SUPER LEAGUE are presented differently from the non-distinctive word “THE” in the contested mark and their separation in that way helps them stand out. **I agree that the marks taken in their entirety are visually, aurally and conceptually highly similar.**

Comparison of the goods and services

29. In considering this question of similarity of the goods or services, I take account of the factors identified in case law:

*“In assessing the similarity of the goods ... all the relevant factors relating to those goods .. 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”.*¹⁰

30. In *Gérard Meric v Office for Harmonisation in the Internal Market (OHIM)* the European Court ruled that goods can be considered as identical when the goods designated by the trade mark application the earlier mark are included in a more general category designated by the earlier mark or vice versa.¹¹
31. It is settled case law that assessing whether goods and services at issue are similar must be on the basis of all relevant factors. These may include the nature of the goods and services, their purpose, their users and method of use, the trade channels through which they reach the market, and whether they are in competition

¹⁰ The essence of case law points on similarity made in relation to goods applies correspondingly to services.

¹¹ See paragraph 29 of the judgment of the General Court in *Gérard Meric v Office for Harmonisation in the Internal Market (OHIM)*, Case T- 133/05

with each other or are complementary.¹² Goods and services are complementary when “... 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.”¹³

32. In construing the meaning of terms, I keep in mind the guidance from case law that trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise, but that “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.”¹⁴ I also bear in mind that terms used to specify services should not be interpreted widely, but confined to the core of the possible meanings attributable to the terms.¹⁵
33. Section 60A of the Act states that goods and services are not to be regarded as being similar to each other simply because they appear in the same class, nor are they to be regarded as being dissimilar from each other on the ground that they appear in different classes.
34. The goods and services to be compared are set out over the following paragraphs. The Applicant noted that the Opponent did not particularise how or why relevant goods and/or services are similar, but at paragraph 7 of its counterstatement the Applicant states that “*given the scope and range the goods and services of the opposed application and the [goods and services relied on under the Opponent’s earlier trade mark] it is accepted that there is at least similarity in relation to some goods and services, but that such similarity falls away due to the clear and obvious lack of similarity between [the marks] meaning there will be no confusion in the course of trade.*” I’ll return to this submission later in this decision when considering the likelihood of confusion.

12 See *Canon*, paragraph 23, and *British Sugar Plc v James Robertson & Sons Limited (TREAT Trade Mark)* [1996] RPC 281 at [296].

13 *Boston Scientific Ltd v OHIM*, Case T-325/06, paragraph 82.

14 See paragraph 12 Floyd J (as he then was) in *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch).

15 See, for example, Lord Justice Arnold at paragraph 47 of *Sky v Skykick* [2020] EWHC 990 (Ch).

Applicant's goods in Class 25

Clothing; shoes; headwear; shirts; knitwear [clothing]; sweaters; tee-shirts; vests; sports shirts without sleeves; skirts; underwear; bathing suits; bath robes; shorts; trousers; caps; caps [headwear]; hats; sashes for wear; foulards; shawls; tracksuits; sweatshirts; jackets; blazers; waterproof clothing; coats; uniforms; neckties; cuffs; headbands [clothing]; gloves [clothing]; aprons [clothing]; bibs not of paper; pajamas; stockings; socks; stocking suspenders; belts [clothing]; sportswear; sports shoes; sports footwear; footwear; football boots; caps and sports caps; studs for football boots.

35. The parties' goods in class 25 are different types of clothing, footwear and headgear. The Opponent's registration in class 25 includes *Clothing, footwear and headgear* and *football boots*. The goods are broadly **identical** based on the principle in *Meric*, or otherwise at least similar to high degree – for instance the applied-for *studs for football boots* are complementary to the earlier registered *football boots* (and share channels of trade and users).

Applicant's goods in Class 28

Toys and playthings; sports balls; balls for games; board games; foosball tables [games]; dolls; plush toys; toy vehicles; mind games; party balloons; playing cards; confetti; gymnastic and sporting articles; soccer equipment; gloves specifically adapted for sports; gloves for games; knee guards [sports articles]; elbow guards [sports articles]; shoulder pads for sports; football goals; cases adapted to sporting articles; paper party hats [party favors]; toy robots; appliances for gymnastics; kites; roller skates; scooters [toys]; skateboards; starting blocks for sports events; body protection equipment for sports; arm guards for sports; palm guards for sports; hip protectors for sports; abdominal protectors for sports use; hand guards for sports; shin guards [sports articles]; fist guards [sports articles]; masks for sports; chest protectors for sports; neck guards for sports; scratch cards for playing lottery games; trading cards [card games]; padded protectors [parts of sports suits]; apparatus for games; machines for physical exercises; decorations for Christmas trees.

36. The Opponent's goods in class 28 include *Games, toys and playthings; gymnastic and sporting articles and equipment; decorations for Christmas trees*. These goods encompass all of the goods applied-for and are therefore **identical**.

Applicant's services in Class 35

37. The contested services in Class 35 are various. They cover services such as marketing, advertising, promoting events, personnel and company management, networking, loyalty programmes, news clipping, public relations and retail services in respect of various goods. The Opponent submits that its own earlier goods and services are similar to the contested services in Class 35 as follows:

- Its earlier goods in Class 18 are identical or highly similar to the Applicant's retail services in Class 35;
- Its earlier goods in Class 9 are similar to the Applicant's services in classes 35;
- The parties' services in classes 35, 38 and 41 are identical or highly similar to the services in classes 35, 38 and 41.

38. The Opponent's submissions on similarity of goods and services at issue are essentially bare assertions, but I have looked across the parties' specifications and in the table below I list each of the applied-for services in Class 35 and identify aspects of the Opponent's goods and/or services that I consider to have at least some degree of similarity, having in mind the case law factors and principles outlined previously. I have grouped the Applicant's services to which comparable factors of similarity (self-evidently) apply in respect of (unless otherwise stated) the Opponent's registered services in Class 35:

The Applicant's Class 35 services
<ul style="list-style-type: none">• <i>Event marketing;</i>• <i>promotion of special events;</i>• <i>promotional services relating to e-sports events;</i>• <i>promotion of sports competitions and events;</i>• <i>organization and conducting of promotional events;</i>• <i>advertising services relating to e-sports events;</i>• <i>organization of the promotion of charitable fundraising events;</i>

- *organization of events;*
- *exhibitions, fairs and shows for commercial, promotional and advertising purposes;*
- *organization of exhibitions for commercial or advertising purposes;*
- *promotion of the sale of third-party goods and services via promotional events;*
- *promotion of fairs for commercial purposes;*
- *organization and conducting of commercial demonstrations;*
- *organization of trade fairs;*

- *advertising;*
- *advertising, including the promotion of the goods and services of others by means of sponsoring arrangements and license agreements;*
- *promotional marketing services;*
- *promotional, marketing and advertising services;*
- *advertising and promotion services;*
- *sales promotion for others;*
- *preparation of advertising material;*
- *advertising agency services;*
- *provision of marketing information via websites;*
- *promotion, advertising and marketing of websites online;*
- *production of advertising films;*
- *organization of prize draws for promotional purposes;*
- *online advertising;*
- *commercial promotion services;*
- *marketing;*
- *distribution of advertisements and commercial announcements;*
- *commercial business promotion;*
- *advertising services relating to the sale of products;*
- *advertising services provided via the Internet;*
- *online advertising via a computer network;*
- *presentation of companies on the Internet and other media;*

- *promoting the products and services of others via agreements with sponsors in order to associate their products and services with sports competitions;*
- *promotion of goods and services through the sponsoring of sports events;*
- *dissemination of advertisements;*

39. The Applicant's above contested services are included in and therefore **identical** to the following of the Opponent's earlier services in Class 35, or else are **at least similar to a medium degree** based on factors such as nature, purpose, channels of trade and shared users:

- *marketing, advertising and promotion services;*
- *promotion of sports competitions and events;*
- *provision of on-line advertising space;*
- *arranging and conducting or trade and business shows;*

The Applicant's Class 35 services

- *promotional management of celebrities;*
- *promotional management for sports celebrities;*
- *business management services for footballers;*
- *sponsorship search;*
- *representation services for sports people;*
- *public relation services;*
- *media relations services;*

40. The Applicant's above contested services are included in and therefore **identical** to the Opponent's earlier *promotional management for sports personalities* services in Class 35, or else are **at least similar to a medium degree** based on factors such as nature, purpose, channels of trade and shared users,

The Applicant's Class 35 services

- *company management;*
- *business management of sports clubs;*

- *commercial consultancy;*
- *business management of sports facilities [for others];*

41. The Applicant's above contested services are included in and therefore **identical** to the following of the Opponent's earlier services in Class 35, or else are **at least similar to a medium degree** based on factors such as nature, purpose, channels of trade and shared users:

- *franchising services providing business assistance*
- *business management of sports personalities*
- *promotion of sports competitions and events*

The Applicant's Class 35 services

- *professional networking services*

42. The Applicant's above contested services are essentially **identical** to the Opponent's earlier *business networking services* in Class 35.

The Applicant's Class 35 services

- *personnel selection;*
- *selection of executive staff;*
- *personnel recruitment consultancy;*
- *personnel management consultancy;*

43. The Applicant's above contested services have **at least a low degree of similarity** to the Opponent's earlier *business networking services* in Class 35, based on factors such as shared users and overlapping purpose and channels of trade.

The Applicant's Class 35 services

- *administration of programs for frequent travellers;*
- *administration of consumer loyalty programs;*

44. The Applicant's above contested services are essentially **identical** to the Opponent's earlier *provision and operation of customer loyalty and discount card schemes* in Class 35.

The Applicant's Class 35 services
<ul style="list-style-type: none">• <i>opinion polling;</i>

45. The Applicant's *opinion polling* services are **at least similar to a low degree** to the Opponent's *marketing, advertising and promotion services* based on factors such as channels of trade, shared users and complementarity.

The Applicant's Class 35 services
<ul style="list-style-type: none">• <i>organization of subscriptions to electronic newspapers;</i>• <i>news clipping services;</i>

46. The Applicant's above services are **at least similar to a high degree** to the Opponent's registered services include in Class 38 *news information and news agency services* and in Class 35 for *Retail and wholesale services in connection with the sale of newspapers, magazines and periodical publications*.

The Applicant's Class 35 services
<ul style="list-style-type: none">• <i>organization of subscriptions to Internet services;</i>

47. The Opponent has protection in Class 35 for *Retail and wholesale services in connection with the sale of computer application software for streaming audio-visual media content via the internet, media streaming software, video streaming devices, digital media streaming devices* (the goods under those retail services are also protected under Class 9). The Opponent's registration in Class 38 includes *providing user access to the Internet (service providers) and subscription television broadcasting services*. The Applicant's *organization of subscriptions to Internet services* is **at least similar to a medium degree** to the Opponent's services based on factors such as channels of trade, purpose, shared users and complementarity.

The Applicant's Class 35 retail services

- *presentation of products on any communication means for retail purposes;*
- *provision of online marketplaces for buyers and sellers of goods and services.*

48. The Applicant's above services are essentially retail services, and they include and are therefore **identical** to all of the Opponent's earlier retail services in Class 35.

49. The Opponent's list of retail services in Class 35 are in respect of various goods, many of which are identical or similar to the goods in respect of which the Applicant's retail services are also specified.

The Applicant's Class 35 retail services

- *retail services in relation to cups and glasses;*
- *retail services relating to stationery;*
- *retail services relating to clothing;*
- *retail services online for clothing;*
- *retail services relating to toys;*
- *online retail services for toys;*
- *retail services relating to household textiles;*
- *retail sale of sports articles;*
- *retail services relating to smartphones;*
- *retail services relating to downloadable electronic publications;*
- *online retail services for downloadable and pre-recorded music and films;*
- *online retail sale services for downloadable digital music;*
- *online retail services for jewelry;*
- *online retail sale services for cosmetic and beauty products;*

The Opponent's Class 35 services include "*Retail and wholesale services in connection with the sale of ...*" the following goods, which are **identical** to the Applicant's above retail services:

- *... drinking glasses and vessels*

- ... stationery
- ... clothing
- ... games, toys and playthings,
- ... textiles, furniture coverings of textile, bed and household linen
- ... gymnastic and sporting articles and equipment,
- ... smartphones
- ... electronic publications (downloadable),
- ... Jewellery
- ... Cosmetics
- ... digital media streaming devices, sound recordings, video recordings
- ... recorded and downloadable media

The Applicant's Class 35 retail services

- retail sale services for furniture;
- retail services relating to smart watches;
- retail services relating to fashion accessories;
- online retail sale services for downloadable ring tones;
- retail of third-party pre-paid cards for the purchase of entertainment services;
- retail of third-party pre-paid cards for the purchase of multimedia content;

The Opponent's Class 35 services include "*Retail and wholesale services in connection with the sale of ...*" the following goods, which are **at least similar to medium degree** to the Applicant's above retail services, taking various account of factors such as users, nature and channels of trade and competition.

- ... works of art of porcelain, bed and table covers, tableware, blinds, furniture coverings of textile, bed and household linen, curtains
- ... clocks and watches, stop-watches and sports stop-watches, digital media streaming devices

- ... scarves, cravats, headbands, jewellery, bracelets, brooches, chains of precious metal, cuff links, earrings, necklaces, key rings and key chains

I consider the retail of the last listed goods to be retail of “fashion accessories”. I also note that the Opponent’s goods in Class 18 include purses; handbags; umbrellas and sunshades and in my view these too may be considered fashion accessories. Although retail services are different in nature, purpose and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree.¹⁶

- ... recorded data files, computer software for use in applications (apps) for mobile phones, sound recordings
- ... smart cards, telephone cards, encrypted smart cards

The following of the Opponent’s services are also similar to the Applicant’s retail of third-party pre-paid cards for the purchase of entertainment services multimedia content

- **Class 41:** Entertainment and education services
- **Class 38:** transmission and delivery of data, audio, video and multimedia files, including downloadable files and files streamed over a global computer network; live streaming of audio, visual and audiovisual material on the Internet

The Applicant’s services in Class 38

News agency services; radio communications; communication services; electronic communications networks; data communication services; Internet communication services; rental of communication apparatus; information about telecommunications; communications services for accessing a database; interactive communication and broadcasting services; consultancy services regarding

¹⁶ Oakley, Inc v OHIM, Case T-116/06, at paragraphs 46-57, the General Court.
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telecommunications; communication services via the Internet; advisory and consultancy services relating to wireless communications and wireless communications equipment; consultancy services relating to data communications; transmission of short messages [SMS], images, speech, sound, music and text communications between mobile telecommunications devices; providing access to websites on the Internet or any other communications network; communication services for exchange of data in electronic format; provision of communications facilities for the exchange of digital data; providing access to the Internet and other communication networks; provision of access to databases; electronic mail transmission; communications via global computer networks or the Internet; computer communication services for transmitting information; communication services for the electronic transmission of data; assistance in providing cable television communication services for third parties; online communication services; radio broadcasting services; radio broadcasting; broadcasting; cable television broadcasting; radio broadcasting services by means of the Internet; television broadcasting on the Internet; mobile telephone communication services; communications by computer terminals; wireless broadcasting services; message sending; provision of Internet chat rooms; provision of online forums; electronic bulletin board services [telecommunication services]; transmission of portable audio files.

50. The Applicant's services in Class 38 cover news agency services and different forms of communications and broadcasting services, including provision of internet forums.
51. The Opponent's services in Class 38 include numerous terms that cover the same services as those in the Applicant's specification and are therefore **identical**. Other broad terms self-evidently establish **more than a medium degree of similarity** based on factors such as nature, purpose, channels of trade and shared users. The Opponent's registration includes for instance: *news information and news agency services; Telecommunications; internet chat rooms and forums; transmission of data and audio-visual images via a global computer network or the internet; providing user access to the Internet (service providers); video, audio and television streaming services; broadcasting services; broadcasting and transmission of text, messages, information, sound and images; broadcasting and transmission of radio*

and television programmes; mobile telephone communication services; communications by fibre optic networks information, advisory and consultancy services relating to all of the aforesaid services.

The Applicant's services in Class 41

Education; training; provision of training courses; organization and conducting of educational face-to-face forums; training services using simulators; coaching [training]; organization of competitions [education]; ticket reservation services for activities and events for education; club services [education]; sports education; photography services; providing recreation facilities; implementation of handicaps for sports events; organization and conducting of school athletic events; rental of equipment for use in athletic events; rental of equipment for use in sports events; facilities for sports events, sports and athletics competitions and award programs; management of events for sports clubs; providing sports facilities; rental of sports grounds; rental of sports equipment, except vehicles; rental of stadium facilities; sports camp services; timing of sports events; sports park services; sports club services; booking of sports facilities; providing online newsletters in the field of sports entertainment; fan clubs; fan club services; organization of fan clubs; reservation of seats for entertainment events; ticket procurement services for sporting events; over-the-counter services for collecting tickets for sporting, cultural and leisure events; information on tickets for sport events; ticket reservation services for activities and events for entertainment and sports; booking of seats for shows; news reporters services; supply of electronic publications online, which are not downloadable; electronic publication of books and periodicals online.

52. The Applicant's services in Class 41 cover different forms of education, training, coaching, competitions, ticket reservations for education events and for activities and events for entertainment and sports, club services, photography services, recreation facilities, implementation of handicaps for sports events, organization and conducting of school athletic events, rental of facilities and equipment for use in sports events, rental of stadium facilities, sports camp services, timing of sports events, providing online sports entertainment newsletters, fan club services, news reporters services and electronic publication of books and periodicals.

53. The Opponent's services in Class 41 include numerous broad terms that cover the same services as those in the Applicant's specification and are therefore **identical**. Other broad terms self-evidently establish **more than a low degree of similarity** based on factors such as nature, purpose, channels of trade and shared users. The Opponent's registration specifies services that include for instance: *Entertainment, education, training, coaching and tuition services, sporting and cultural activities, sport camp services, presentation of live entertainment, sports entertainment services; audio, video and multimedia production, and photography, providing films and television programmes, not downloadable, via video-on-demand services, rental of television broadcasting facilities, organising events, quizzes and competitions and betting services.*

The average consumer and the nature of the purchasing act

54. Trade mark questions must be approached from the point of view of the presumed expectations of the average consumer - a legal construct who is reasonably well informed and reasonably circumspect; "average" denotes that the person is typical.¹⁷ It is necessary to determine who is the average consumer for the respective goods and services and how the consumer is likely to select them. 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.⁸

55. The average consumer of most of the goods and services at issue will be the general public: buying clothing etc. in Class 25, toys and sporting equipment in Class 28, and accessing the retail services in Class 35, the communications services in Class 38 and the education, sports-related services and online publications. Some of the services target a business public – for instance, in Class 35: personnel management consultancy; company management; professional networking services; business management services for footballers; business management of sports clubs. The average consumer is likely to take into consideration various factors when selecting the (various) goods and services at issue. The degree of attention will vary: for instance it will be lowish for buying a toy, Christmas decoration, a cap or tee-shirt, or when accessing a broadcast or online forum; higher for services such as rental

17 Per Birss J (as he then was) 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), paragraph 60.

of stadium facilities and for business-targeted services. In buying the goods and services the trade marks may likely be seen on websites or on labels, so visual considerations will be important. However, I bear in mind that the goods and services may sometimes be the subject of word-of-mouth recommendations and therefore aural considerations are also relevant.

Distinctive character of the earlier trade mark

56. Registered trade marks possess varying degrees of inherent distinctive character, ranging from low because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. A greater degree of distinctiveness of an earlier mark may tend to increase the likelihood of confusion. In *Lloyd Schuhfabrik* 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 ...

*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).”¹⁸*

57. The distinctive character of a trade mark can be appraised only, first, by reference to the goods and services specified in the registration and, secondly, by reference to the way it is perceived by the relevant public.¹⁹
58. The Applicant has argued, for the reasons I set out previously when I considered the overall impressions of the marks, that “the phrase SUPER LEAGUE has no inherent or established distinctive nature in its own right”. The Applicant has filed no evidence that the phrase is commonplace or in use in relation to any of the goods or services for which the earlier mark is registered. The Opponent has registrations for the plain word mark “SUPER LEAGUE”, which is prima facie evidence of the registrability of that phrase as a trade mark, providing exclusivity in respect of the goods and services for which such a mark is registered.
59. The average consumer would perceive the phrase ‘SUPER LEAGUE’ as a reference to a championship competition amongst exceptional/top level players or teams. I have accepted that the ordinary meanings of the words create a unit that has an allusive nature in terms of the services at issue. However, the question to consider is of course the distinctive character of the earlier trade mark. The earlier trade mark involves not only the textual element ‘SUPER LEAGUE’, but also a figurative element. The logo looks a bit like a shield, but it is possible that it may be perceived as a stylised S; it is also possible that the middle space may be perceived as the shape of a rugby ball.
60. A validly registered trade mark is deemed to have a degree of distinctiveness and in my view the mark as a whole has a low degree of distinctive character on an inherent basis.
61. The Opponent’s witness stated that the earlier registered trade mark has been in use since November 2019 in connection with sports entertainment services, sporting and competition services and a range of connected services. The exhibits themselves do not show actual use within the relevant period of the earlier mark as registered. It is shown used on the Opponent’s website and Facebook account, but the exhibits show the position only after the relevant date. The accounts corroborate the Opponent’s significant business earnings from sporting and competition services

19 *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91.

and the Opponent's activities have long drawn significant crowds at a high-profile stadium and through broadcasting in the UK. Given the witness evidence stating that the mark itself has been used since November 2019, more than a year and a half before the relevant date, it is reasonable to allow that the Opponent's earlier trade mark benefits from a degree of enhancement to its distinctive character through use. However, the evidence is not rich or specific enough to persuade me that the distinctive character of the earlier mark has been enhanced to more than a medium level even in respect of its core sports entertainment and competition services.

Conclusion as to likelihood of confusion

62. I now turn to reach a conclusion as to the likelihood of confusion between the trade marks. Confusion can be direct or indirect. Whereas direct confusion involves the average consumer mistaking one trade mark for the other, indirect confusion is where the average consumer realises that the trade marks are not the same but puts the similarity that exists between the trade marks/goods down to the responsible undertakings being the same or related. Deciding whether there is a likelihood of confusion is not scientific; it is a matter of making a global assessment of all relevant factors in accordance with case law principles, especially those outlined at my paragraph 19 above.
63. The following factors favour the Opponent's claim:
- the marks themselves are highly similar visually, aurally and conceptually;
 - the respective goods and services are largely identical and there is at least a low degree of similarity across the specifications;
 - case law allows that a great degree of similarity between goods and may offset a lesser degree of similarity between the marks and vice versa.
64. Factors less favourable to the Opponent's claim are:
- the marks have dissimilar figurative elements;
 - the average consumer for some of the services will be businesses, who will pay a greater degree of attention in the purchasing process;
 - the shared text that gives rise to similarity between the marks is of inherently low distinctive character.

65. Although the common element is inherently of low distinctiveness, the Opponent has shown use of its earlier mark in light of which I have afforded the earlier mark a degree of enhanced distinctiveness. Even if the evidence were insufficient to find that the distinctive character of this particular earlier mark had been enhanced through use, the Applicant has filed no evidence to show that anyone other than the Opponent is using a trade mark based on the shared words "SUPER LEAGUE".
66. When marks share an element with low distinctiveness, the assessment of a likelihood of confusion must focus on the impact of the non-coinciding components on the overall impression of the marks. It must take into account the similarities/differences and distinctiveness of the non-coinciding components.
67. The contested mark contains an additional word, which despite its colourful presentation is the non-distinctive word "THE", and the words SUPER LEAGUE are more dominant and distinctive. That the words are side by side in the earlier mark has little or no effect on the overall impressions of the marks. The device in the contested mark is faint and the logo element in neither mark strikes me as especially distinctive. Indeed the logo in the contested mark is simply a diagonal line across a circle and is of lower or equally low distinctiveness as the shared words.²⁰
68. The Applicant made submissions suggesting that the parties' goods and services are targeted at different consumers since the opponent is concerned only with rugby league. However, neither party's specification has any limitation that even seeks to differentiate a particular market. So where, for example, each of the competing marks specifies retail of clothing or sporting articles, or sporting services, there is nothing in the respective specifications to prevent use in the field of rugby league, football, hockey or any other sport.
69. Though the devices are dissimilar, it is my view that through the operation of imperfect recollection, the marks may be directly confused. I also find that even if the colourful "THE" and the different logos were recalled, the shared dominant presence in these marks of the words SUPER LEAGUE, used in respect of identical

20 European Trade Mark and Design Network Common Communication on the Common Practice of Relative Grounds of Refusal – Likelihood of Confusion (Impact of non-distinctive/weak components) CP5 (2 October 2014) which was implemented by the United Kingdom prior to its exit from the European Union. See too *Zero Industry Srl v OHIM*, Case T-400/06, the General Court at paragraphs 74 and 75.

or similar goods or services would lead the average consumer to conclude that the trade marks and goods and services are from the same commercial source or related undertakings.

Outcome: The opposition succeeds in full based on the section 5(2)(b) ground.

The section 5(3) and 5(4)(a) grounds

70. At the hearing, I asked Mr Marsden whether, in the event that the section 5(2)(b) ground were to succeed in full, he would consider it warranted for me to consider the further two grounds under sections 5(3) and 5(4)(a). Mr Marsden indicated that the Opponent would be content for the opposition decision to cease at the point at which the application were defeated.
71. The tribunal is generally encouraged to deal with each and all claims in an opposition at first instance. However, I appreciate Mr Marsden's pragmatic approach in this case. Since I have dealt with the section 5(2)(b) claim in thorough fashion, I will make use of that procedural economy. However, I will note that the other two grounds are entirely dependent on what findings may safely be made based on the evidence.
72. A **section 5(3) ground** has certain potential advantages in that (i) a mark with a reputation need only be brought to the mind of the relevant consumer, which is a less onerous threshold than a likelihood of confusion (ii) similarity of goods and services is not strictly required (though the closeness of the respective fields is a relevant factor). On the other hand, the challenges of a section 5(3) ground include: (i) establishing the claimed reputation in respect of the claimed trade mark and in respect of the claimed goods and services: and (ii) questions over whether an applicant may be said to have due cause to use a mark that overlaps only in elements that are not inherently distinctive and over related considerations of dilution or unfair advantage.
73. I have doubts as to whether the evidence in relation to the use of the earlier trade mark – as registered – is sufficient to establish that that mark had acquired a reputation among the relevant consumers in the UK. That particular mark is stated

to have been in use since November 2019, and the exhibits are insufficiently focused on demonstrating its use position as at the relevant date. Even if it were proper for me to find that the mark had a reputation at the relevant date, the evidence certainly fails to show to which of the claimed goods and services such a reputation attached. The evidence contains no specific reference to the vast majority of the goods and services for which the reputation is claimed. Under the section 5(2)(b) claim I have already found the goods and services to be similar or identical and the Opponent therefore has no need to rely on the potential second advantage of a section 5(3) ground over a section 5(2)(b) claim, that similarity of goods/services is not strictly required. As to a potential defence of due cause, this has not been claimed or anyway made out in evidence filed by the Applicant. In the circumstances, I will make no full findings on the section 5(3) ground, mainly in view of Mr Marsden's helpful agreement and since its outcome will not advantage the Opponent any further.

74. With regard to the **section 5(4)(a)** claim, I note that in *Marks and Spencer PLC v Interflora*, [2012] EWCA (Civ) 1501, Lewinson L.J. had cast doubt on whether the test for misrepresentation for passing off purposes came to the same thing as the test for a likelihood of confusion under trade mark law. He pointed out that it is sufficient for passing off purposes that “*a substantial number*” of the relevant public are deceived, which might not mean that the average consumer is confused. However, in the later Court of Appeal decision in *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, Kitchin LJ considered the role of the average consumer in the assessment of a likelihood of confusion. He concluded that “... if, having regard to the perceptions and expectations of the average consumer, the court concludes that a significant proportion of the relevant public is likely to be confused such as to warrant the intervention of the court then it may properly find infringement.” Although *Comic Enterprises* was an infringement case, the principles apply equally under section 5(2).²¹ The upshot of this is that although the test for likelihood of confusion under trade mark law may differ from the test for misrepresentation under the law of passing off, it seems doubtful whether the difference between the legal tests will (all other factors being equal) produce

21 See *Soulcycle Inc v Matalan Ltd*, [2017] EWHC 496 (Ch).

different outcomes. This is because they are both normative tests intended to exclude the particularly careless or careful, rather than quantitative assessments.

75. The Opponent, having succeeded in full under its section 5(2)(b) claim, could be in no better position were it to succeed under its section 5(4)(a) claim. The advantage of the 5(4)(a) claim is that the sign relied on is simply the plain words SUPER LEAGUE, which provide a greater degree of similarity to the applied-for mark, since the logo element of the earlier registered trade mark ceases to be a consideration. However, while the Opponent's evidence may establish goodwill under that sign in respect of, say, organising rugby league competitions, again it is insufficiently rich and specific enough to show goodwill in respect of the list of goods and services that I set out at paragraph 9 of this decision. In the circumstances, I will make no full findings on the section 5(4)(a) ground, again in view of Mr Marsden's helpful agreement and since its outcome will not alter the outcome of the opposition.

COSTS

76. The Opponent is entitled to a fair contribution towards its costs, taking account of the scale published in the annex to Tribunal Practice Notice (2/2016).

- Official fee for Form TM7 Notice of Opposition - £200
 - Preparing a statement and considering the other side's statement - £450
 - Preparing evidence and submissions during evidence rounds - £750
 - Preparing for and attending a hearing - £800
- TOTAL - £2200

77. I order European Super League Company, S.L to pay Super League (Europe) Limited the sum of £2200. This sum is to be paid within 21 days of the end of the period allowed for appeal or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings (subject to any order of the appellate tribunal).

Dated this 18th day of June 2024

Matthew Williams
For the Registrar

ANNEX

Goods and services of the Opponent's trade mark

Class 9: *Computer hardware and software; computer software applications; computer software applications for mobile devices; computer programs; computer games and computer games software; recorded and downloadable media, blank digital or analogue recording and storage media; recorded content; media content; databases; recorded data files; computer programs, software, software platforms, software applications, and mobile apps, all in the field of sport and sport related activities and entertainment; computer software for use in applications (apps) for mobile phones, smartphones, tablets, personal computers, tablets, laptops and smart TVs; computer application software for streaming audio-visual media content via the internet; media streaming software; video streaming devices; digital media streaming devices; sound recordings; video recordings; films; smart cards; telephone cards; encrypted smart cards; cameras and parts and fittings therefor; binoculars; calculating machines; eye glasses and spectacles, cases, chains, cords and frames therefor; cases for photographic apparatus and instruments; containers for contact lenses; optical goods; sound recording and sound reproducing apparatus and instruments; compact discs; digital versatile discs; juke boxes; radios; record, compact disc, and digital versatile disc players; audio-visual apparatus; telephones; mobile telephones; magnets; magnifying glasses; measuring apparatus and instruments; mechanical signs; neon signs; sockets; plugs and switches; sunglasses; electronic publications (downloadable); mobile phone cases and covers; cases and covers for tablet computers and computers; computer mouse mats; protective headgear; protective sports helmets; mouth guards for sports.*

Class 18: *Bags; sports bags; wallets; purses; handbags; suitcases, trunks and travelling bags; school bags and satchels; back packs and beach bags; umbrellas and umbrella covers; duffel bags, boot bags, holdalls, wallets and bags; key cases and cases; purses; boxes; pouches; credit card holders; walking canes and sticks; attaché cases and brief cases; bands and straps of leather; collars and covers for animals; leather laces, leads and leashes; sunshade parasols.*

Class 25: *Clothing, footwear and headgear; articles of outer clothing; articles of sports clothing; sportswear; leisurewear; articles of underclothing; lingerie; hosiery; footwear being articles of clothing; shirts; boots; underwear; coats; overalls; ear muffs; rugby boots and shoes; football boots and shoes; shorts; t-shirts; socks; sweaters; baseball caps; hats; bobble hats; beanie hats; scarves; jackets; dressing gowns; pyjamas; sandals; slippers; boxer shorts; beach clothes and shoes; baby boots; romper suits; baby pants and sleep suits; dungarees; braces; belts and berets; wrist bands; track suits; ties; cravats; aprons; bathrobes; bathing caps and suits; bathing trunks; gloves and mittens; headbands; boots; jackets; jerseys; jumpers and knitwear; leggings; vests; waistcoats; waterproof clothing; belts; ties; leather shoe and boot linings.*

Class 28: *Games, toys and playthings; rugby games; board games; rugby goals and posts; party novelty hats; shin guards; gloves for games; balloons; balls; gymnastic and sporting articles and equipment; playing balls; rugby balls; footballs; plush toys; decorations for Christmas trees; Christmas crackers; synthetic Christmas trees and stands; golf bags and gloves; jokes and novelties; playing cards; spinning tops; kites; knee guards and protective padding; pads for use in sports; marbles; slides; skateboards; snowboards; skittles; sleighs; masks; mobiles; rattles; roller skates; in-line skates; bodybuilding apparatus; confetti, exercise apparatus; electronic games apparatus; controllers for computer games; games adapted for use with television receivers; handheld computer games; handheld video games; handheld electronic games; coin-operated games.*

Class 35: *Retail and wholesale services in connection with the sale of cosmetics, toiletries, deodorants and anti-perspirants, make-up, perfumes, eau de cologne, cologne, scents, after sun products, pre-shave and after-shave lotions, balm, cologne, creams, gels, moisturising cream and preparations, after-shave and after-shaving preparations, articles for hair care, body care products and preparations, preparations for the hair and body, hand lotions and other lotions (toilet waters), hair care, colouring and styling preparations and products, hair lotions, hair conditioners and other hair care cosmetics, shaving lotions, hair dyes and other cosmetics, dentifrices, soaps, non-medicated creams and lotions, styling gels, lotions, mousse and sprays, badges (for vehicles) and bars for use therewith, keys, key blanks, key rings and key chains, locks and ornaments, computer hardware and software, computer software*

applications, computer software applications for mobile devices, computer programs, computer games and computer games software, recorded and downloadable media, blank digital or analogue recording and storage media, recorded content, media content, databases, recorded data files, computer programs, software, software platforms, software applications, and mobile apps, all in the field of sport and sport related activities and entertainment, computer software for use in applications (apps) for mobile phones, smartphones, tablets, personal computers, tablets, laptops and smart TVs, computer application software for streaming audio-visual media content via the internet, media streaming software, video streaming devices, digital media streaming devices, sound recordings, video recordings, films, smart cards, telephone cards, encrypted smart cards, cameras and parts and fittings therefor, binoculars, calculating machines, eye glasses and spectacles, cases, chains, cords and frames therefor, cases for photographic apparatus and instruments, containers for contact lenses, optical goods, sound recording and sound reproducing apparatus and instruments, compact discs, digital versatile discs, juke boxes, radios, record, compact disc, and digital versatile disc players, audio-visual apparatus, telephones, mobile telephones, magnets, magnifying glasses, measuring apparatus and instruments, mechanical signs, neon signs, sockets, plugs and switches, sunglasses, sunshades, electronic publications (downloadable), mobile phone cases and covers, cases and covers for tablet computers and computers, computer mouse mats, protective headgear, protective sports helmets, mouth guards for sports, Jewellery, precious stones, precious metals and their alloys, horological and chronometric instruments, badges of precious metal, boxes of precious metal, bracelets, brooches, chains of precious metal, cuff links, earrings, necklaces, ornaments of precious metal, statues and statuettes of precious metal, containers of precious metal, clocks and watches, stop-watches and sports stop-watches, key fobs, figurines of precious metal, printed matter, newspapers, magazines and periodical publications, books, brochures, flyers, leaflets, posters, photographs, programme binders and binding material, stationery, instructional teaching materials, manuals, writing or drawing books and pads, birthday cards and cards, greeting cards, postcards, tickets, timetables, note pads and note books, photo engravings, photograph albums and albums, address books, almanacs, holders, cases and boxes for pens, pens and pencils, pencil and pen holders, paper, cardboard, erasers and erasing products, pencil sharpeners, rulers, books and booklets, book markers and book ends, letter trays, calendars, paper weights and

paper clips, gift bags and bags for packaging, gift wrap and packaging paper, envelopes, folders, labels, seals, blackboards and scrap books, height charts and charts, carrier bags and garbage bags, prints and pictures, ink and ink wells, paper knives, poster magazines, signs and advertisement boards, paper and cardboard, adhesive tapes and dispensers, office requisites and diaries, hat boxes, pads of paper, stickers and stencils, beer mats, catalogues, paper and cardboard coasters, confetti, transfers and diagrams, drawing instruments and materials, paint boxes and brushes, patterns and embroidery design, engravings and etchings, paper towels and hankies, paper flags, toilet paper, maps, paper and cardboard place mats, graphic prints, representations and reproductions, lithographs and lithographic works of art, portraits, paper table cloths and napkins, prints, poster magazines, bags, sports bags, wallets, purses, handbags, suitcases, trunks and travelling bags, school bags and satchels, back packs and beach bags, umbrellas and umbrella covers, duffel bags, boot bags, holdalls, wallets and bags, key cases and cases, purses, boxes, pouches, credit card holders, cheque book holders, walking canes and sticks, attaché cases and brief cases, bands and straps of leather, leather shoe and boot linings, collars and covers for animals, leather laces, leads and leashes, household or kitchen utensils and containers, mugs, plates, bowls, dishes, porcelain ware, glass ware, pots, pans, cookware, cooking utensils, tableware, place mats, coasters, plastic storage containers, oven gloves, paper cups, bread bins, bread boards, candelabra, candlesticks, china ornaments, crystal (glassware), decanters, drinking glasses and vessels, earthenware, figurines of porcelain, terra-cotta or glass, goblets, tableware, mosaics of glass, statues and statuettes of porcelain, terra-cotta or glass, works of art of porcelain, terra-cotta or glass, combs and brushes, textiles, bed and table covers, tableware, bedspreads, blinds, furniture coverings of textile, bed and household linen, duvet covers, valances, curtains and net curtains, table covers, towels, beach towels and tea-towels, tapestries, pillow cases and covers, banners, flags, clothing, footwear and headgear, articles of outer clothing, articles of sports clothing, sportswear, leisurewear, articles of underclothing, lingerie, hosiery, footwear being articles of clothing, shirts, boots, underwear, coats, overalls, ear muffs, rugby boots and shoes, football boots and shoes, shorts, t-shirts, socks, sweaters, baseball caps, hats, bobble hats, beanie hats, scarves, jackets, dressing gowns, pyjamas, sandals, slippers, boxer shorts, beach clothes and shoes, baby boots, romper suits, baby pants and sleep suits, dungarees, braces, belts and berets, wrist bands, track suits, ties, cravats, aprons,

bathrobes, bathing caps and suits, bathing trunks, gloves and mittens, headbands, boots, jackets, jerseys, jumpers and knitwear, leggings, vests, waistcoats, waterproof clothing, belts, ties, games, toys and playthings, rugby games, board games, rugby goals and posts, party novelty hats, shin guards, gloves for games, balloons, balls, gymnastic and sporting articles and equipment, playing balls, rugby balls, footballs, plush toys, decorations for Christmas trees, Christmas crackers, synthetic Christmas trees and stands, golf bags and gloves, jokes and novelties, playing cards, spinning tops, kites, knee guards and protective padding, pads for use in sports, marbles, slides, skateboards, snowboards, skittles, sleighs, masks, mobiles, rattles, roller skates, in-line skates, bodybuilding apparatus, exercise apparatus, electronic games apparatus, controllers for computer games, games adapted for use with television receivers, handheld computer games, handheld video games, handheld electronic games, coin-operated games; marketing, advertising and promotion services; provision of on-line advertising space; promotional management for sports personalities; promotion of sports competitions and events; business management of sports personalities; business networking services; provision and operation of customer loyalty and discount card schemes; arranging and conducting or trade and business shows; franchising services providing business assistance.

Class 38: *Telecommunications; video broadcasting; video transmission; providing access to a video sharing portal; communication by on-line blogs; internet chat rooms and forums; transmission of data and audio-visual images via a global computer network or the internet; providing user access to the Internet (service providers); providing user access to platforms and portals on the Internet; providing user access to information on the Internet; provision of access to an Internet portal featuring video-on-demand programs; provision of telecommunication access to video and audio content provided via an online video-on-demand service; audio and video on demand transmissions; data transmission and data broadcasting; data streaming; streaming of audio, visual and audiovisual content on the Internet; video, audio and television streaming services; streaming of sporting events; transmission and delivery of data, audio, video and multimedia files, including downloadable files and files streamed over a global computer network; live streaming of audio, visual and audiovisual material on the Internet; communications services; broadcasting services; broadcasting and transmission of text, messages, information, sound and images; broadcasting and*

transmission of radio and television programmes; broadcasting of television programs using video-on-demand and pay-per-view television services; subscription television broadcasting services; broadcasting and transmission of digital information by means of cable, wire or fibre; cable, satellite and terrestrial broadcasting services; television broadcasting services; transmission of television programmes, text, messages, information, sound and images via communication and computer networks; computer aided transmission of information, messages, text, sound, images, data and television programmes; receiving and exchanging of information, text, messages, sound, images and data; interactive video text services; news information and news agency services; message sending; electronic mail services; communications by and/or between computers and computer terminals; communications services for accessing information, text, sound, images and data via communication and computer networks; communications services for accessing a database; providing access to databases including online computer databases; telecommunication portal services; electronic display of information, messages, text, images and data; on-line communication services; on-line transmission of electronic publications; mobile telephone communication services; communications by fibre optic networks; provision of communication services by means of computers; information, advisory and consultancy services relating to all of the aforesaid services.

Class 41: *Entertainment and education services; training and tuition services; sporting and cultural activities; entertainment services provided by on-line streams; live entertainment services; presentation of live entertainment events; presentation of live performances; presentation of live sporting events; sports entertainment services; entertainment services relating to sporting events; audio, video and multimedia production, and photography; providing films and television programmes, not downloadable, via video-on-demand services; provision of non-downloadable films and television programmes via pay-per-view television channels; production, presentation, distribution, syndication, networking and rental of television programmes, films and audio-visual recordings; production of radio and television programmes; production and presentation of sporting events; production of shows; rental and distributing services featuring sport related content; rental of television broadcasting facilities; interactive entertainment; online interactive entertainment; interactive entertainment, films and sound and video recordings; organising events, quizzes and*

competitions, arranging and conducting of colloquiums, conferences, congresses, seminars, symposiums and workshops [training]; arranging and conducting of courses of instruction relating to, or connected with, sport; arranging and conducting of lectures, demonstrations, displays, exhibitions, presentations, seminars and festivals for educational, entertainment, coaching and training purposes; arranging and conducting sporting and training events; arranging and conducting technical instruction courses; sport camp services; coaching, instructional and training services for sporting activities; conducting instructional, teaching and coaching classes, courses, seminars, presentations and workshops; education, teaching and coaching services in the form of music, television and radio programmes; live and pre-recorded demonstrations for teaching, entertainment, educational and coaching purposes; professional training and coaching services; provision of courses of instruction, education and coaching relating to sport; sporting entertainment, education, teaching and coaching services; practical training relating to, or connected with, sports; information, advisory and consultancy services relating to the foregoing; providing on-line publications (not downloadable); publication of books and of text; rental of recordings of sound and of images; rental of video games; betting services; on-line gaming services.
