

O/0649/26

CONSOLIDATED PROCEEDINGS

TRADE MARKS ACT 1994

**IN THE MATTER OF REGISTRATION NO. 3958711
IN THE NAME OF PIXEL MAVEN LTD FOR THE SERIES OF TWO MARKS**

RUN BNC

Run Bnc

IN CLASSES 9, 35, 38, 41 AND 42

**AND THE APPLICATION FOR A DECLARATION OF INVALIDITY THEREOF
UNDER NO. 507623 BY RUN BNC LTD**

AND

**IN THE MATTER OF APPLICATION NO. 4044460
IN THE NAME OF RUN BNC LTD FOR THE MARK**

RUN BNC

IN CLASSES 35, 38, 40, 41 AND 42

**AND THE OPPOSITION THERETO UNDER NO. 449116
BY PIXEL MAVEN LTD**

Background and pleadings

1. On 20 September 2023, Pixel Maven Ltd (“Party B”) applied for the series of two trade marks shown on the cover page of this decision (number 3958711) for the following goods and services:

Class 9: *Image processing equipment; image processors; image recognition software; cameras; wireless audio and video receivers.*

Class 35: *Data management; computerised data management; data processing management.*

Class 38: *Data streaming; video and audio streaming services.*

Class 41: *Post production editing; photo editing; video editing; audio recording services; audio and video editing services.*

Class 42: *Cloud hosting.*

2. The application was registered on 16 February 2024. On 1 August 2024, Run BNC Ltd (“Party A”) applied for a declaration that Party B’s mark was invalid under section 5(4)(a) of the Trade Marks Act 1994 (“the Act”).¹ Party A claims that it has goodwill in its film production business distinguished by the sign RUN BNC and that it first used the sign in 2016, throughout the UK. Party A claims that use of Party B’s mark would constitute misrepresentation and that Party A would suffer damage as a result (which would be contrary to the law of passing off).

3. Party B filed a defence and counterstatement in which it denies the ground of invalidity. It denies that Party A has unregistered trade mark rights to RUN BNC, denying that Party A has significant goodwill and reputation. It puts Party A to proof of use of RUN BNC before the filing of its own trade mark.

¹ Section 3(6) was also pleaded but this ground was withdrawn after the evidence rounds had closed.

4. Party A filed a trade mark application (number 4044460) for RUN BNC on 26 April 2024 for goods and services in classes 35, 38, 40, 41 and 42 (shown in the annex to this decision). Following publication, Party B partially opposed the application on 15 August 2024 under section 5(2)(a) of the Act, based upon its trade mark registration which is the subject of Party A's invalidity application. Party B claims that the marks are identical and that the goods and services are similar, leading to a likelihood of confusion between the parties' marks.²

5. Party A filed a defence and counterstatement. Whilst it admits that the marks are identical and that the goods and services are similar and that there may be a likelihood of confusion, Party A points to its invalidity application against Party B's basis for its opposition. At this point, the proceedings were consolidated.

6. Only Party A filed admissible evidence. Both sides originally filed evidence which the Tribunal provisionally queried in relation to content which it considered to be without prejudice and inadmissible. Party A chose to file amended evidence and Party B decided not to amend its evidence with the consequence that it has filed no evidence in these proceedings. I confirm that I have not looked at any of the original evidence. Party B filed written submissions during the evidence rounds. Neither party asked to be heard and both filed written submissions in lieu of a hearing. Party A is represented by Trade Mark Wizards Limited. Party B is represented by Agile IP LLP. I will refer to the evidence and submissions where relevant to the issues I have to decide and I confirm that I have carefully considered all the admissible papers on file. I will begin with the invalidation application because the outcome of that will affect whether and/or to what extent Party B can rely upon its registration to oppose Party A's application.

Legislation

7. Section 47(2)(a) of the Act states:

² Party B has also claimed that some of the parties' goods and services are identical. However, such a claim cannot be made under section 5(2)(a): a claim that the marks and goods or services are identical would fall under section 5(1). Since it has limited its opposition to section 5(2)(a), Party B can only rely on similarity of goods and services.

“47. (2) Subject to subsections (2A) and (2G), the registration of a trade mark may be declared invalid on the ground-

(a) [...], or

(b) that there is an earlier right in relation to which the condition set out in section 5(4) is satisfied,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.”

8. Section 5(4)(a) states:

“(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,

(aa) [...]

(b) [...]

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.”

9. Subsection (4A) of Section 5 states:

“(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.”

10. Section 5A states:

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

11. The three elements which Party A must show are well known. In *Discount Outlet v Feel Good UK* [2017] EWHC 1400 (IPEC), Her Honour Judge Melissa Clarke, sitting as a Deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the Jif Lemon case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56 In relation to deception, the court must assess whether “a substantial number” of the Claimants’ customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21).”

12. The concept of goodwill was explained in *Inland Revenue Commissioners v Muller & Co’s Margarine Ltd* [1901] AC 217 at 223:

“What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start.”

13. Party A's evidence comes from Mr Joe Coffey, its director and sole shareholder.³ He states that Party A has used its sign RUN BNC in relation to, *inter alia*, entertainment, film production and film assistance services in the UK since Party A was incorporated in 2016. He states that the sign RUN BNC has also been used as the company name since that date. He states that turnover has been as follows:

Year	Turnover
2017	£58,893
2018	£67,824
2019	£55,348
2020	£74,127
2021	£47,285
2022	£105,427
2023	£115,321

14. Evidence of Party A's revenue and accounts is provided in Exhibit JC-1.

15. Mr Coffey states that, between 2016 and 2020, Party A offered support and data management to Digital Imaging Technicians and on set workflows. He states that, in 2021, Party A launched its full set of services offered directly to production companies manufacturing films or episodic services. The services provided include the management and transport of all recorded data from set to post-production and direct collaboration with (and support for) the Director of Photography. Mr Coffey states that, since 2021, Party A has provided these services for the creation of the following UK film and TV productions:

- a) The Amazing Mr Blunden (Sky TV);
- b) Landscapers (Sky TV);
- c) Hijack (Apple TV);
- d) Argylle (Matthew Vaughn production);
- e) Wicked (Universal Studios);
- f) Paddington in Peru (Studio Canal);

³ Witness statement dated 5 February 2025 and three exhibits

- g) The Magic Faraway Tree (Neale Street Productions); and
- h) How to Train Your Dragon (Universal Studios)

16. Mr Coffey exhibits a copy of the agreements for film production services under the sign RUN BNC which Party A entered into in 2018 for the production of the *DEVS* series and in February 2023 for the production of *Wicked*.⁴ I reproduce below extracts from the agreements:

2018 agreement

Crew Loan Out Contract - PRIVATE AND CONFIDENTIAL

"DEVS" ("Series")

MINIM UK PRODUCTIONS LIMITED ("Company")

Production Office Base: Ealing Studios, D-Block 2nd Floor, Ealing Green, London W5 5EP Tel: 020 8584 6880
c/o DNA Films, 2nd Floor, 10 Amwell Street, London EC1R 1UQ Company number: 10104330

Weekly

CREW DEAL MEMO - LOAN OUT

Loan Out Company: Run BNC Ltd Company #: 10074995
(“Lender”)

Address: 8 Nightingale House Ludlow Mews, London Road High Wycombe

f/s/o Crew Member: (“Crew Member”)

Surname: Coffey First Name: Joe

Mobile: 07800932172 Email: joewcoffey@icloud.com

Job Title/Capacity: DIT Assistant Department: DIT

Start Date: Fri dd Oct, 2018 End Date: Fri dd Feb, 2019

Prep and Wrap: Agreed prep minutes and wrap minutes during the shoot: 60

Working Week: The working week shall be based on a five (5)-day week (intended to be scheduled Monday-Friday but Company may nominate any days of the week as working days (including Saturdays, Sundays, bank holidays and public holidays).

⁴ Exhibit JC-2

2023 agreement



www.sargent-disc.com
payroll@sargent-disc.com

**Production
Company**

Crew Start Form **Loan Out**

WICKED

WESTERN SKY LIMITED

Company Details

Company Name

Company No.

VATReg. No.

Employment Details

Job Title

Department

Vehicle Model

Start Date

Vehicle Reg No.

Bank Details

Payee Name

Bank Name

Bank Address

IBAN

Sort Code

Account No.

Additional Ref.

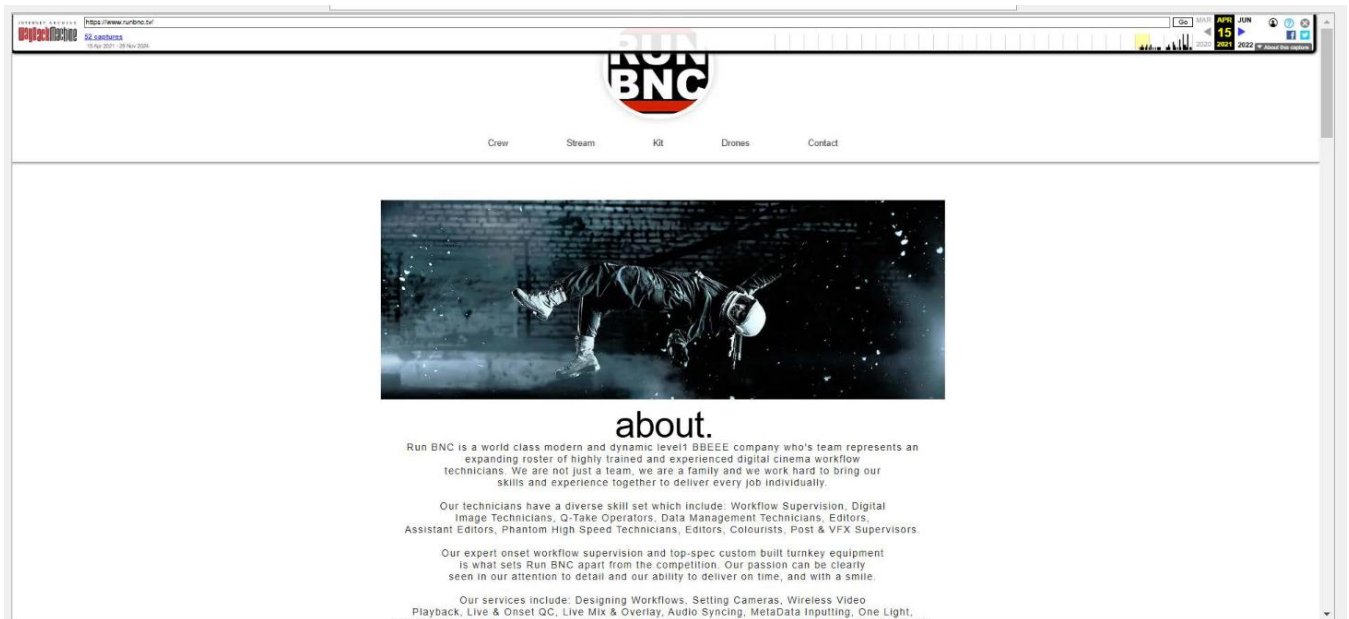
ABA / Routing

Swift Code

17. Mr Coffey explains that the film production industry is small and that:

“14. As the entire film production industry is built on personal relationships and word of mouth, there are usually no blogs, articles or advertising material referencing film production companies as one would find in other industries. The same applies to my Company. As the director of my Company, I have an online CV published on the well-known platform IMDb (Internet Movie Database) and I have been mentioned in the British Cinematographer magazine for my work within my Company, however no money has been spent advertising the Company more widely, as this is not the way in which this industry operates. My Company is well-known in the UK within the film production industry, as can be seen from the various high profile productions in which we have been involved.”

18. Mr Coffey states that, around August 2021, he became aware that “Pixel Maven” was operating a film production company by providing digital cinema workflow technician services under the sign RUN BNC, which he states was indicated on their website at www.runbnc.tv/. Mr Coffey states that he has conducted searches on publicly available online sources, and “it appears that Pixel Maven has been trading under the sign RUN BNC since at least April 2021, before Pixel Maven Limited was incorporated. I do not know what company was running that website or providing the services advertised therein at the time.” Mr Coffey exhibits a screen shot of a website from the Wayback Machine, the internet archive, at Exhibit JC-3:



19. In *Advanced Perimeter Systems Limited v Multisys Computers Limited*, Case BL O/410/11, Mr Daniel Alexander QC, sitting as the Appointed Person, endorsed the registrar’s assessment of the relevant date for the purposes of section 5(4)(a) of the Act, as follows:

“43. In *SWORDERS TM* O-212-06 Mr Alan James acting for the Registrar well summarised the position in s.5(4)(a) proceedings as follows:

‘Strictly, the relevant date for assessing whether s.5(4)(a) applies is always the date of the application for registration or, if there is a priority date, that date: see Article 4 of Directive 89/104. However, where the applicant has used the mark before the date of the application it is

necessary to consider what the position would have been at the date of the start of the behaviour complained about, and then to assess whether the position would have been any different at the later date when the application was made.’ ”

20. In the same case, Mr Alexander considered the relevant date for the purposes of section 5(4)(a) of the Act where one or both of the parties have used the mark at issue prior to the date of the application to register the contested mark. He explained that:

“41. There are at least three ways in which such use may have an impact. The underlying principles were summarised by Geoffrey Hobbs QC sitting as the Appointed Person in *Croom’s TM* [2005] RPC 2 at [46] (omitting case references):

- (a) The right to protection conferred upon senior users at common law;
- (b) The common law rule that the legitimacy of the junior user’s mark in issue must normally be determined as of the date of its inception;
- (c) The potential for co-existence to be permitted in accordance with equitable principles.

42. As to (b), it is well-established in English law in cases going back 30 years that the date for assessing whether a claimant has sufficient goodwill to maintain an action for passing off is the time of the first actual or threatened act of passing off: *J.C. Penney Inc. v. Penneys Ltd.* [1975] FSR 367; *Cadbury-Schweppes Pty Ltd v. The Pub Squash Co. Ltd* [1981] RPC 429 (PC); *Barnsley Brewery Company Ltd. v. RBNB* [1997] FSR 462; *Inter Lotto (UK) Ltd. v. Camelot Group plc* [2003] EWCA Civ 1132 [2004] 1 WLR 955: “date of commencement of the conduct complained of”. If there was no right to prevent passing off at that date, ordinarily there will be no right to do so at the later date of application.”

21. In *Smart Planet Technologies, Inc. v Rajinda Sharma*, Case BL O/304/20, Mr Thomas Mitcheson QC, sitting as the Appointed Person, pointed out that “*the start of the behaviour complained about*” is not the same as the date that the user of the

applied-for mark acquired the right to protect it under the law of passing off. Rather, it is the date that the user of that mark committed the first external act about which the other party could have complained (if it knew about it) as an act of actual or threatened passing off. Typically, this will be the date when first offer was made to market relevant goods or services under the mark. However, it could also be the date the first public-facing indication was made that sales were proposed to be made under the mark in future. If the user of the applied-for mark was not passing off at the time such use commenced (usually because no one else had acquired a protectable goodwill under a conflicting mark at that time), they will not normally be passing off by continuing to use the mark.

22. The date of application of the contested registration is 20 September 2023. Mr Coffey, for Party A, claims that “Pixel Maven” was using RUN BNC since April 2021, providing the screenshot above, but he specifically states that this was before Party B was incorporated. Party B has filed no evidence. In its written submissions filed during the evidence rounds, Party B’s legal representative makes reference to the use of RUN BNC by “the Earlier Proprietor” (Party B) “as demonstrated by the establishment of their website, referenced in Mr Coffey’s exhibit JC-3”. This submission is not evidence. Strictly speaking, Mr Coffey stated that he did not know what company was behind the website because it dated from before the incorporation of Party B (neither party provides the date of Party B’s incorporation). Mr Coffey did not make a statement that it was Party B who was using the mark/website. Party B has chosen not to file evidence about any use it may have made of its mark and the submission itself has no evidential weight.

23. This is unsatisfactory for establishing the relevant date. On the one hand, there is no actual evidence that the website was operated by Party B, which means that the prima facie date, 20 September 2023, is the only relevant date. On the other hand, Party B seems to have taken Mr Coffey’s evidence to have referred to itself, hence the reference to its website in its submissions.

24. On balance, I consider that the evidence does not prove that it was Party B who was behind the website captured in Exhibit JC-3 and that this evidence, which is not from Party B, cannot be relied upon by Party B to establish a relevant date which is

earlier than the date on which it applied for its trade mark. Aside from the reference in submissions to the Exhibit JC-3 website, Party B has not itself claimed or evidenced any use at a date earlier than its filing date. A further issue is that even if the website screenshot dated 15 April 2021 did belong to Party B, there is no evidence of use continuing after that date. Party B chose not to file evidence. In *TWG Tea Company Pte Ltd v Mariage Frères, Société Anonyme* (“CASABLANCA”), Mr Thomas Mitcheson QC, sitting as the Appointed Person, said, in respect of the behaviour complained about:⁵

“38. That does not mean that it is irrelevant what happens after the first alleged date of commencement. Clearly if the activity ceased or changed materially between the date of commencement and the date of application for the trade mark then this must be taken into account, as it may mean that the true date of commencement of the activity complained of is later or that the activity complained of cannot properly be said to have properly commenced at all (if it was later abandoned). This is all a matter of fact and degree and is no doubt why Kitchen LJ expressed it as “a matter which must be taken into account” rather than as being determinative of the issue.”

25. Applying this guidance, there is no evidence that any use by Party B on 15 April 2021 continued after that date which is a further reason why the only relevant date is 20 September 2023. However, in case I am wrong about that, I will assess the position at both 15 April 2021 (the date of the screenshot) and 20 September 2023, beginning with the latter.

26. A small business which has more than a trivial goodwill can protect signs which are distinctive of that business under the law of passing off even though its goodwill and reputation may be small. In *Lumos Skincare Limited v Sweet Squared Limited and others* [2013] EWCA Civ 590, the Court of Appeal in England and Wales held that the defendant had passed off its LUMOS nail care products as the claimant’s goods. The claimant had been selling LUMOS anti-ageing products since 2007. The goods retailed at prices between £40 and £100 per bottle. The Claimant’s sales were small,

⁵ Case BL O/349/16

of the order of £2,000 per quarter from early 2008 to September 2009, rising to £10,000 per quarter by September 2010. The vast majority of these sales were to the trade, including salons, clinics and a market. As at the relevant date (October 2010) the Claimant had sold to 37 outlets and by that date it was still selling to 25 outlets. There was evidence of repeat purchases. Although the number of customers was small, or, as the judge at first instance put it, “*very limited*”, the claimant’s goodwill was found to be sufficient to entitle it to restrain the defendant’s trade under LUMOS.

27. At the prima facie relevant date of 20 September 2023, Party A had a total turnover of £524,225. I bear in mind that the relevant date is three quarters of the way through 2023, so adjusting the 2023 turnover figure to match (i.e. £86,490 rather than £115,321), that is still a total of £495,394. The turnover figures show a steady annual income, increasing markedly in 2022 and 2023. The two agreements show Run BNC Ltd. Party B submits that this is not use of the sign relied upon; however, the distinctive part of Run BNC Ltd is Run BNC, which is the sign relied upon (albeit in capital letters, which makes no difference). The 2023 agreement is in relation to work carried out for *Wicked*; elsewhere in Mr Coffey’s statement *Wicked* is listed as a production by Universal Studios, a major film company. Furthermore, Mr Coffey has stated that RUN BNC has been used since 2017.

28. In its submissions in lieu of a hearing, Party B refers to *Smart Planet Technologies, Inc. v Rajinda Sharma*:

“... a successful claimant in a passing off claim needs to demonstrate more than nominal goodwill. It needs to demonstrate significant or substantial goodwill and at the very least sufficient goodwill to be able to conclude that there would be substantial damage on the basis of the misrepresentation relied upon.”

29. That case involved 10 invoices to two customers for 40,000 disposable cups in a market worth 2.5 billion cups per year. One of the considerations was that the sign was very low in distinctiveness for a recyclable cup.

30. In *Wadlow on the Law of Passing-Off 6th Ed.*, Professor Wadlow says at 3-32, citing *Lumos*:

“The mere fact that the claimant’s business is very small does not prevent it having a goodwill. A fortiori, the scale of the claimants’ business in relation to the market as a whole is not determinative.”

31. In *Ben Arnold v Aikon International Limited*, BL O/0408/23, Dr Brian Whitehead, sitting as the Appointed Person, considered the use of a sign by a small business in a large market. He said:

“43. Fourthly and finally, the Hearing Officer fell into error when stating “The global turnover figures are limited in the context of a substantial market”. Of course, the UK market for clothing is vast (in the tens of £ billions), and the Appellant’s annual sales figures – averaging a little over £110,000 for the years 2017-2019 – are small. However, in *Lumos Skincare Ltd v Sweet Squared Ltd & Ors* [2013] EWCA Civ 590, Lloyd LJ said (63-64):

“63. Having referred to this passage [in *Neutrogena Corporation v. Golden Limited* [1996] RPC 473] it is also appropriate to mention here what Morritt LJ said in the Court of Appeal in a passage relied on by Ms McFarland for the Defendants, at [1996] RPC 493-4, about a proposition advanced by the Defendants in that case that the judge had wrongly treated “a substantial number” of the Claimant’s customers or potential customers as being equivalent to “more than de minimis” or “above a trivial level”. The passage follows one cited by the judge in the present case at paragraph 83. It is as follows:

44. “In reality this issue is inseparable from the second. Did the evidence before the judge when properly evaluated demonstrate on a balance of probabilities that if Garnier are not restrained a substantial number of members of the public will be misled into buying Garnier’s products in the belief that they are the products of the plaintiffs? If it did then that will also demonstrate that in his references to “de minimis” and “trivial” the judge posed a genuine antithesis. If it did not then that will suggest that the test adopted

by the judge had been reduced below that required by the law. But such reduction will then be irrelevant as the appeal will have succeeded on the second ground.

45. Nevertheless, for my part, I think that references, in this context, to "more than de minimis" and "above a trivial level" are best avoided notwithstanding this court's reference to the former in *University of London v. American University of London* (unreported 12 November 1993). It seems to me that such expressions are open to misinterpretation for they do not necessarily connote the opposite of substantial and their use may be thought to reverse the proper emphasis and concentrate on the quantitative to the exclusion of the qualitative aspect of confusion."

64. One point which emerges clearly from what was said in that case, both by Jacob J and by the Court of Appeal, is that the "substantial number" of people who have been or would be misled by the Defendant's use of the mark, if the Claimant is to succeed, is not to be assessed in absolute numbers, nor is it applied to the public in general. It is a substantial number of the Claimant's actual or potential customers. If those customers, actual or potential, are small in number, because of the nature or extent of the Claimant's business, then the substantial number will also be proportionately small. That is another reason why the judge's reference to the Claimant's share of the overall UK skincare beauty market seems not only inapposite but also potentially misleading." (my underlining)

46. The above passage was in relation to misrepresentation, rather than goodwill, but illustrates the point – it is not necessary for a party's activities to be large, in the context of the overall market, for actionable goodwill to arise."

32. Mr Coffey states that the film production industry is small. This means, going back to *Lumos* and *Neutrogena*, that Party A's actual or potential customers are likely to be

small in number because of the nature or extent of the business and also the market itself. The substantial number of actual or potential customers will also be proportionately small.

33. Party B submits that there is an absence of evidence from Party A of marketing materials, marketing expenditure, a website or any other promotional efforts. In relation to Mr Coffey's statement that the nature of the small industry means that business is achieved through word of mouth and that marketing is not the way the industry operates, Party B submits that there are no third-party witness statements or corroborating evidence to substantiate what Mr Coffey states. Firstly, this is rather expecting Party A to prove a negative. It would have been relatively easy, if Party B disagreed, for it to have produced evidence that other traders, including itself, use marketing to attract custom. Party B has chosen not to provide evidence. Secondly, the submission about lack of third-party evidence was left to Party B's written submissions in lieu of a hearing, after the evidence rounds had closed. Party B did raise a reference to an absence of marketing in its written submissions during the evidence rounds:

"Furthermore, the claims made in Paragraph 14 lack substance and are, to some extent, erroneous. Despite operating in the same industry as Mr Coffey, the Earlier Proprietor [Party B] has continued to use the mark RUN BNC in the course of trade, as demonstrated by the establishment of their website, referenced in Mr Coffey's exhibit JC-3. The Cancellation Applicant [Party A] is, therefore, put to strict proof of this claim."

34. If this is a challenge to the truthfulness of Mr Coffey's statement regarding the norms in the sector, it is opaque. Moreover, at the beginning of Party B's submissions, it says:

"The registrant [Party B] is not necessarily disputing the validity of the facts presented, but legal submissions concerning the veracity of the claims themselves are abhorrently denied."

35. Therefore, in the absence of any or adequate challenge to the probity of Party A's evidence, I accept at face value Mr Coffey's statement about the nature of the industry in which he operates and his statement that the absence of marketing materials is normal (or not abnormal). That is not to say that I am ignoring whether Party A's evidence is sufficient to prove protectable goodwill, which is a different issue.

36. Recalling that goodwill is "the attractive force which brings in custom", this attractive force was evident throughout the years 2017 to 2023 and the sign relied upon is in evidence in the agreements, as well as Mr Coffey's statement that it was the sign used by Party A. The turnover figures show a steady annual income, increasing markedly in 2022 and 2023. There was also repeat custom from at least Sky TV and Universal Studios, which is a hallmark of goodwill; although I place less reliance on that because the list of productions is said to be since 2021 without tying the work done to before the relevant date. In any event, latterly, by the end of 2022, Party A was turning over £115,321 in a small market.

37. I must decide whether Party A has shown a small goodwill (which the law will protect) or only a trivial goodwill (which it will not). I do not think that this case boils down to just a question of numbers (as was said in *Lumos*). Unlike *Smart Planet Technologies, Inc. v Rajinda Sharma*, the market is niche/small. Also unlike *Smart Planet Technologies, Inc. v Rajinda Sharma*, the sign is not low in distinctiveness. The evidence shows a steady and, latterly, increasing annual turnover since 2017, with examples of film company agreements in 2018 and 2023. Comparisons with the facts of other cases only get one so far. It is all the facts and circumstances of the evidence before me that I must assess. I find that, at the prima facie date of 20 September 2023, the combination of factors in Party A's evidence means that, at that date, Party A has established that it had a small, but protectable goodwill in its business of data management for digital imaging technicians, on set workflows and support for directors of photography, of which RUN BNC was distinctive. Its pleadings rely upon "film production" but I consider that film production appears wider than the services in which the business had goodwill at the prima facie relevant date.

38. Although the turnover was smaller between 2017 and 2021 (or even 2020), I consider that all the facts and circumstances of the evidence show that there was a

small but undeniable attractive force bringing in regular custom which was enough to give rise to a small but protectable goodwill at 15 April 2021 as well as at 20 September 2023.

39. In *Neutrogena Corporation and Another v Golden Limited and Another* [1996] RPC 473, Morritt L.J. stated that:

“There is no dispute as to what the correct legal principle is. As stated by *Lord Oliver of Aylmerton in Reckitt & Colman Products Ltd. v. Borden Inc.* [1990] *R.P.C.* 341 at page 407 the question on the issue of deception or confusion is

“is it, on a balance of probabilities, likely that, if the appellants are not restrained as they have been, a substantial number of members of the public will be misled into purchasing the defendants' [product] in the belief that it is the respondents'[product]”.

40. I have already referred above to what is meant by ‘substantial number of members of the public’, as explained in *Lumos* in the context of misrepresentation. It is not the public in general, but is Party A’s customers or potential customers. Party A’s sign is distinctive and identical to Party B’s series of marks. The goods and services of Party B’s registration will be a feature of the services for which Party A has goodwill because they relate to the same field of activity, involving image processing, data, image and data editing and retention of data in the cloud. As a consequence, there is no doubt in my mind that a substantial number of Party A’s actual and potential customers would believe that Party B’s goods and services were those of Party A.

41. Damage, such as diversion of trade and/or injurious association, is inevitable given the identity of the distinctive signs and the common field of operation. Party A was entitled to restrain Party B at 20 September 2023 and also at 15 April 2021 under the law of passing off from using its trade mark. This means that registration of the mark in the UK was contrary to section 5(4)(a) of the Act.

Invalidation outcome

42. The application for a declaration of invalidity is successful under section 47(2) of the Act.

Party B's opposition to Party A's application

43. As I have found that Party B's mark is invalid, it is not a valid basis for the opposition it has brought against Party A's trade mark application. The opposition therefore fails.

Overall outcome

44. The application for a declaration of invalidity is successful. Under section 47(6) of the Act, registration 3958711 is deemed never to have been made.

45. The opposition against application 4044460 fails. The trade mark application may proceed to registration.

Costs

46. Party A has been successful and is entitled to a contribution towards its costs, based on the scale published in Tribunal Practice Notice 1/2023. The breakdown of the award is as follows:

Statutory fee for the invalidation application	£200
Filing the invalidation application and considering the counterstatement	£250
Considering the opposition and filing a counterstatement	£250
Filing evidence	£600

Filing written submissions in lieu of a hearing	£350
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Total	£1650
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47. I order Pixel Maven Ltd to pay to RUN BNC Ltd the sum of £1650. 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 23rd day of July 2026

Judi Pike

For the Registrar

ANNEX

Goods and services of Party A's trade mark application No. 4044460

Class 35: Data collection [for others]; Data compilation for others; Data entry and data processing; Data inputting services; Data management; Data management services; Data processing; Data processing for businesses; Data processing for the collection of data for business purposes; Data processing management; Data processing services; Data processing verification; Data retrieval services; Data search in computer files for others; Data searches in computerised files for others; Data transcription; Data-base management (Computerised -); Database management; Database management services; Database marketing; Marketing; Advertising and marketing; Advertising and marketing consultancy; Promotional marketing; Influencer marketing; Advertising and marketing services; Marketing consultancy; Product marketing; Affiliate marketing; Marketing consulting; Digital marketing; Advertising, marketing and promotion services; Marketing, advertising and promotion services; Advertising, marketing and promotional services; Advertising, promotional and marketing services; Marketing, advertising, and promotional services; Marketing research; Internet marketing; Online marketing; Marketing services; Business marketing consultancy; Marketing forecasting; Referral marketing; On-line advertising and marketing services; Marketing analysis; Marketing studies; Targeted marketing; Business marketing services; Advertising copywriting; Distribution of advertising, marketing and promotional material; Marketing information; Investigations of marketing strategy; Direct marketing; Promotion, advertising and marketing of on-line websites; Planning of marketing strategies; Marketing advice; Direct marketing consulting; Consultancy services relating to advertising, publicity and marketing; Marketing research services; Dissemination of advertising, marketing and publicity materials; Marketing assistance; Event marketing; Research services relating to advertising and marketing; Marketing management advice; Database marketing; Design of marketing surveys; Marketing agency services; Promotion [advertising] of business; Business marketing consulting services; Development of marketing concepts; Marketing plan development ;Advertising, marketing and promotional consultancy, advisory and assistance services; Consultancy services in the field of affiliate marketing; Direct

marketing services; Copywriting for advertising and promotional purposes; Marketing analysis services; Trade marketing [other than selling]; Consultancy relating to marketing; Modelling for advertising or sales promotion; Advice in the field of business management and marketing; Creative marketing plan development services; Promotional marketing services using audiovisual media; Modelling for advertising or sales promotion; Business marketing consultation services; Modelling services for advertising or sales promotion; Recruitment services; Recruitment services for sales and marketing personnel; Marketing advisory services; Development of marketing strategies and concepts; Consultancy regarding advertising communications strategy; Advertising services for the promotion of e-commerce; Planning services for marketing studies; Consulting services in the field of Internet marketing; Business advice relating to strategic marketing; Marketing consultation services; Marketing research and analysis; Marketing research or analysis; Marketing (Business advice relating to -); Business advice relating to marketing; Preparation of marketing surveys; Providing marketing consulting in the field of social media; Professional consultancy relating to marketing; Consumer profiling for commercial or marketing purposes; Advertising; Analysis of marketing trends; Market research and marketing studies; Providing business marketing information; Advertising planning; Advertising and marketing services provided via communications channels; Advertising and marketing services provided by means of social media; Brand creation services (advertising and promotion); Consulting services relating to marketing; Publicity and sales promotion services; Developing promotional campaigns for business; Consultancy relating to demographics for marketing purposes; Advertising and promotion services; Copywriting; Providing advice in the field of business management and marketing; Marketing services in the field of travel; Advertising research; Publicity and sales promotion; Advertising and promotional services; Promotional and advertising services; Promotional advertising services; Publicity and advertising; Advertising and publicity; Advertising and publicity services; Consultancy regarding advertising communication strategies; Advice relating to marketing management; Administration relating to marketing; Conducting of marketing studies; Conducting marketing studies; Information or enquiries on business and marketing; Advertising and marketing services provided by means of blogging; Rental of all publicity and marketing presentation materials; Consultancy relating to business advertising; Sales promotion using audiovisual

media; Preparation of marketing plans; Estimations for marketing purposes; Modelling and models for advertising or sales promotion; Consulting in sales techniques and sales programmes; Recruitment advertising; Analysis relating to marketing; Business advice relating to marketing management consultations; Telephone marketing services [not selling]; Marketing services in the field of restaurants; Marketing services in the field of dentistry; Promotion [advertising] of travel; Development of promotional campaigns; Marketing services in the field of web site traffic optimization; Market research for advertising; Planning services for advertising; Development of advertising concepts; Digital advertising services; Sales promotion; Preparation of reports for marketing; Preparation of advertising campaigns; Advisory services relating to marketing; Design of advertising brochures; Advertising research services; Graphic advertising services; Consultancy services relating to the procurement of goods and services; Business consultancy and advisory services; Business advisory and consultancy services; Advertising agency services; Advertising and advertisement services; Online advertising; Advertising services; Advertising services of a radio and television advertising agency; Mail-order advertising; Advertising agencies; Distribution of advertising brochures; Design of advertising flyers; Advertising services for the promotion of beverages; Television advertising; Advertising analysis; Banner advertising; On-line advertising; Electronic billboard advertising; Scriptwriting for advertising purposes; Financial marketing; Online advertising services; Advertising, promotional and public relations services; Promotion [advertising] of concerts; Hire of advertising billboards; Advertising flyer distribution; Press advertising consultancy; Outdoor advertising; Cinema advertising; Advertising consultation; Dissemination of advertising and promotional materials; Radio advertising; Hire of advertising hoardings; Press advertising services; Organisation of customer loyalty programs for commercial, promotional or advertising purposes; Rental of advertising space on the Internet for employment advertising; Direct market advertising; Hiring of advertising materials; Promotional advertising for exploration projects; Advertising and promotion services and related consulting; Consultancy relating to advertising and promotion services; Distribution of advertising announcements; Advertising services provided by a radio and television advertising agency; Design of advertising logos; Distribution of advertising materials; Radio advertising and commercials; Advertising of business web sites; Customer loyalty services for commercial, promotional and/or advertising purposes;

Advertising services for the literary industry; Magazine advertising; Services of advertising agencies; Consultancy relating to advertising; Newspaper advertising; Production of advertising matter and commercials; Distribution of products for advertising purposes; Customer club services, for commercial, promotional and/or advertising purposes; Design of advertising materials; Arrangement of advertising; Elevator advertising; Production of visual advertising matter; Preparation and presentation of audio visual displays for advertising purposes; Preparation of audio and/or visual displays for businesses; Producing promotional videotapes, video discs, and audio visual recordings; Production of sound recordings for advertising purposes; Production of sound recordings for publicity purposes; Production of sound recordings for marketing purposes; Audio-visual displays for advertising purposes (Preparation or presentation of -); Business advice relating to advertising; Consulting services in the field of development of advertising concepts; Business consultation relating to advertising; Consultations relating to business advertising; Consultancy relating to the organisation of promotional campaigns for business; Business project management; Business project management services; Business process management consultancy; Business management planning; Management consulting; Business management and consultancy; Business management consultancy; Business management and consultation; Business management consultation; Business administration and management; Business management and administration; Management consultancy (Personnel -); Business organisation and management consulting; Business organization and management consulting; Business management and consulting; Business management consulting; Business management organisation; Business organisation and management consultancy; Business management and organisation consultancy; Business management organisation consultancy; Talent agency services [business management of performing artists]; Business management of authors and writers; Advertising services to create corporate and brand identity; Creating advertising material; Providing advice relating to the analysis of consumer buying habits; Information and expert opinions relating to companies and business; Collection of information relating to market analysis; Advice on the analysis of consumer buying habits and needs provided with the help of sensory, quality and quantity-related data; Providing advice relating to sales methods and techniques; Market research for compiling information on readers of publications; Collection of information relating to market research;

Collection of information relating to market studies; Interpretation of market research data; Research of business information; Market analysis and research; Market research and analysis; Analysis of company attitudes; Collection of market research information; Market analysis and research services; Market research and analysis services; Interviewing for qualitative market research; Provision of market research information; Analysis of advertising response and market research; Post-production editing of advertising or commercials; Film directing of advertising films; Production of cinema commercials; Production of television commercials; Production of advertising films; Cinematographic film advertising; Video recordings for publicity purposes (Production of -); Production of video recordings for publicity purposes; Production of commercials; Development and implementation of marketing strategies for others; Preparation and realization of media and advertising plans and concepts; Marketing through product placement for others in virtual environments; Benchmarking (evaluation of business organisation practices); Business strategy development services; Brand evaluation services; Organisation and conducting of product presentations; Editing of publicity texts; Writing of publicity texts; Publicity texts (Writing of -); Texts (Writing of publicity -); Production of video recordings for marketing purposes; Video recordings for marketing purposes (Production of -); Production of video recordings for advertising purposes; Video recordings for advertising purposes (Production of -); Reproduction of drawings; Publication of printed matter for advertising purposes; Corporate image studies; Publication of printed matter for advertising purposes in electronic form; Electronic publication of printed matter for advertising purposes; Providing business information in the field of social media; Advertising via electronic media and specifically the internet; Organisation of promotions using audiovisual media; Organisation of promotions using audio-visual media; Presentation of companies on the Internet and other media; Advertising in the popular and professional press.

Class 38: Telecommunication services; transmission of multimedia content; broadcasting multimedia content; streaming of multimedia content; wireless broadcasting; broadcasting services; data broadcasting services; sound and picture transmission via satellite; sound, data and image transmission services; broadcasting of television programmes; broadcasting of radio programmes; satellite broadcasting relating to entertainment; providing television broadcasting equipment

for outside locations; management of broadcasting installations; rental of equipment for broadcasting information; reception of television programmes for direct broadcasting to subscribers; press agency services (broadcasting of news); rental of equipment for broadcasting; providing access to multimedia content online; rental of equipment for television broadcasting; communication services for the electronic transmission of data; rental of satellite broadcast receiving aerials; rental of apparatus for the broadcast of audio signals; rental of apparatus for the broadcast of video signals; mobile communication; hire of telecommunications instruments; hire of telecommunications apparatus; communication services; message sending and receiving services.

Class 40: Video and film post-production; photographic image processing; photographic retouching; blueprinting; cinematographic film processing; cinematographic films (processing of-); cinematographic films (processing of -); collation [binding] of copied material; collation [binding] of printed material; collation [binding] of typewritten material; custom imprinting of clothing with decorative designs; deoxidizing of printed circuits; design printing for others; developing of photographic film; development of photographic films; development (photographic film-); development (photographic film -); digital enhancement of photographs; digital on-demand printing services of books and other documents; digital restoration and/or enhancement of photographs; digital restoration of photographs; discharge printing; duplicating of audio-tapes; duplicating of cinematographic films; duplicating of cinematographic films for television; duplicating of films; duplicating of photographic film; duplicating of photographic transparencies; duplicating of tape recordings; duplicating of transparencies; duplicating of video-tapes; duplication of audio cassettes; duplication of sound discs; duplication of sound tapes; duplication of video cassettes; duplication of video discs; duplication of video tapes; dyeing; embroidering; embroidery; embroidery [embroidering]; embroidery services; engraving; engraving of dies; engraving of molds; engraving of sealing stamps; engraving services for nameplates; engraving services for rubber stamps; engraving services for seals; enlarging of photographic prints; enlarging of pictorial work; etching; etching of glass; extruding of metal alloys; extruding of plastics; film developing; film developing and processing; film developing (photographic-); film development and reproduction of photographs; film printing (photographic-); framing

of pictures; framing of works of art; information services relating to the printing of photographic film; information services relating to the processing of photographic film; laminating; laminating of board; laminating of card; laminating of fabrics; laminating of glass sheets; laminating of metal plates; laminating of paper; laminating of plastic; laminating of textiles; laminating of wood; laminating of wood substitutes; letterpress printing; lithographic printing; mounting of prints or transparencies; offset printing; offset printing services; pattern printing; pattern printing of carpet tiles; pattern printing of carpets; pattern printing of floor coverings; pattern printing of wall coverings; pattern printing on fabric; pattern printing on textiles; permanent press treatment of cloth; permanent press treatment of clothing; permanent press treatment of fabric; permanent press treatment of items of clothing; permanent press treatment of textiles; permanent-press treatment of clothes; permanent-press treatment of fabrics; petrochemical refining services; photocomposing services; photocomposition services; photofinishing; photographic developing; photographic duplicating; photographic enlarging; photographic etching; photographic etching of articles of clothing; photographic etching of fabrics; photographic etching of household articles; photographic etching of paper; photographic etching of printed matter; photographic etching of textiles; photographic film developing; photographic film development; photographic image processing; photographic preservation; photographic preservation and conservation; photographic printing; photographic printing apparatus (rental of-); photographic processing; photographic processing apparatus (rental of-); photographic reproduction; photographic restoration; photographic restoration services; photographic retouching; photographic slide and print processing; photogravure; photogravure printing; photo-printing; picture-framing; portrait printing; print finishing [binding] services; print finishing [cutting] services; print finishing [folding] services; print finishing services; printing; printing (lithographic-); printing (lithographic -); printing of advertising matter; printing of books; printing of cinematographic film; printing of patterns on textiles; printing of photographic film; printing of photographic transparencies; printing of photos; printing of stamps; printing (offset-); printing (pattern-); printing (photographic-); printing services; processing of cinematographic films; processing of photographic film; processing (photographic-); rental of machines and apparatus for photograph enlargement; rental of machines and apparatus for photograph finishing; rental of machines and apparatus for photograph printing; rental of photographic enlargers;

rental of photographic lenses for developing; rental of photographic printing apparatus; rental of photographic processing apparatus; rental of photographic processing equipment; rental of printing machines and apparatus; rental of typographic presses; reproduction of cinematographic film; reproduction of museum artwork; reproduction of photographic prints; reproduction of photographic transparencies; screen printing; services for the transfer of photographic prints onto video tapes; sheet material encapsulating services for photographs; silk screen printing; silkscreen printing; slide-duplicating (photographic-); stationery printing services; textile printing; transfer of cine films on to video tape; transfer of cine-films on to videotape; transfer of cinematographic film onto video tape; transfer of photographic films on to video tape; transfer of photographic films on to videotape; transfer of photographic prints; transfer of photographic transparencies; transfer of photographs on to compact disc; transparency duplicating (photographic-); treatment of aerial or satellite photographs; t-shirt printing; typography; video cassette duplicating; video tapes (transfer of cine-films on to-); video tapes (transfer of photographic film on to-); video transfer for the conversion of cine-film to video tape; videotape duplicating; wool printing; works of art (framing of-); works of art (framing of -); photographic slide and print processing; print finishing [binding] services; print finishing [cutting] services; print finishing [folding] services; print finishing services; film development and reproduction of photographs; photographic reproduction; reproduction of museum artwork; reproduction of cinematographic film; reproduction of photographic prints; reproduction of photographic transparencies; photographic image processing; photographic retouching; photographic slide and print processing; print finishing [binding] services; print finishing [cutting] services; print finishing [folding] services; print finishing services; design printing for others; photographic image processing; printing services, printing services in relation to images of concept art, promotional art, rendering interior designs, exterior designs of buildings and site plans, custom clothing designs; 3D printing services.

Class 41: Special effects animation services for film and video; Production of animation; Production of animated cartoons; Animation production services; Production of movie special effects; Services in the production of animated motion picture entertainment; Script writing services; Production of animated motion pictures; Creating animated cartoons; Video film production; Movie studio services;

Movie theatre presentations; Production of graphical cine-film clips; Production of animated cine-film clips; Film production, other than advertising films; Movie theater presentations; Film directing, other than advertising films; Production of special effects for films; Special effects (Production of -) for films; Production of special effects for television; Special effects (Production of -) for television; Production of special effects for radio; Special effects (Production of -) for radio; Arranging of visual entertainment; Preparation of special effects for entertainment purposes; Arranging of visual and musical entertainment; Provision of online information relating to audio and visual media; Production of educational sound and video recordings; Services in the production of animated motion pictures and television features; Audio, video and multimedia production, and photography; Rental of motion pictures and of sound recordings; Production of sound and video recordings; Production of video and/or sound recordings; Audio-visual display presentations; Audio and video production, and photography; Showing of cinematographic and motion picture films; Production of audio-visual recordings; Audio-visual display presentation services for educational purposes; Photography; Portrait photography; Aerial photography; Photography services; Photography instruction; Macro photography services; Film editing (Photographic -);Aerial photography via drones; Photographer services; Photographic imaging services by drone; Aerial videography services; Photo editing; Post-production editing services in the field of music, videos and film; Video editing; Film editing; Film and video tape film production; Film production; Recording, film, video and television studio services; Film editing (Cinematographic -);Production of video films; Video tape film production; Production of pre-recorded video films; Cinematographic film studio services; Production of films in studios; Production of television films; Production of training films; Production of pre-recorded cinema films; Motion picture film production; Rental of lighting apparatus for movie sets or film studios; Production of sporting events for film; Production of films; Videotape editing; Editing (Videotape -);Production of documentaries; Film production services; Production of television and cinema films; Production of cinematographic films; Video production; Operating of film studios; Television, radio and film production; Cinematographic film showings; Movie studios; Studios (Movie -);Audio, film, video and television recording services; Planning of movie shows; Rental of film studios; Leasing of television cameras; Production of motion picture films; Conducting of film festivals; Production of cinema films; Shows and films production; Production of

films, other than advertising films; Rehearsal [recording] studio services; Film showings; Television production; Film hire; Video equipment hire; Film production for entertainment purposes; Rental of television studio scenery; Television show production; Production of motion pictures; Cinematographic adaptation and editing; Production of videos; Rental of lighting for use on film sets; Directing of theatrical shows; Production of training videos; Video tape production; Directing of theater productions; Rental of video cameras; Video cameras (Rental of -); Dubbing for movies; Rental of video films; Hire of video recorders; Hire of equipment; Hire of film equipment; Hire of musical instruments; Hire of film projectors; Rental of projects; Hire of theatre scenery; Hire of stage scenery; Hire of sound reproducing apparatus; Hire of cine-film projection apparatus; Production of video recordings; Consultancy on film and music production; Movie showing; Production of animated and live action programmes; Animated musical entertainment services; Production of a continuous series of animated adventure shows; Motion picture song production; Motion picture production; Rental of motion picture and television scenery; Production of animated programmes for use on television and cable; Exhibition of video films; Theatrical performances both animated and live action; Production of musical videos; Audio and video editing services; Production (Videotape film -); Videotape film production; Production of films for entertainment purposes; Services for the production of entertainment in the form of film; Film production for educational purposes; Cinema presentations; Screenplay writing; Presentation of films; Production of films for educational purposes; Editing of audio-tapes; Editing of cine-films; Editing of video-tapes; Editing of video recordings; Written text editing; Editing of written text; Editing of audio recordings; Video tape editing; Editing or recording of sounds and images; Editing of written texts; Video editing services for events; Editing of television programmes; Publication and editing of printed matter; Online publishing; Editing of radio programmes; Editing of texts (except publicity texts); Editing of written texts, other than publicity texts; Publishing, reporting, and writing of texts; Multimedia publishing; Audio recording and production services; Audio recording and production; Audio production; Videotape production; Production of audiovisual recordings; Production of audio recordings; Production of video and audio recordings; Production of theatrical performances; Theatre productions.

Class 42: Services of a graphic designer; Graphic art services; Illustration services (design); Graphic illustration services for others; Graphic design services; Graphic illustration design services; Design services; Design services for art-work; Illustrating services (design); Design services for exhibitions; Consultancy services relating to design; Services for the design of maps; Website design services; Computer design services; Graphic design; Graphic illustration design; Graphic art design; Graphic arts design; Design (Graphic arts -); Industrial and graphic art design; Graphic designing; Graphic design of promotional materials; Design and graphic arts design for the creation of web sites; Computer aided graphic design; Visual design; Design of artwork; Design of graphic software systems; Graphic arts designing; Designing (Graphic arts -); Computer-aided design of video graphics; Design and graphic arts design for the creation of web pages on the Internet; Design of typefaces; Architectural design; Interior design; Computer graphic design for video projection mapping; Brochure design; Design of stationery; Packaging design; Design of packaging; Technical design; Computer design; Design of software; Software design; Website design; Industrial art design; Logo design services; Computer graphics design services; Product design; Industrial design; Design (Industrial -); Computer-aided industrial design; Styling [industrial design]; Design of clothing; Architectural design for interior decoration; Commercial art design; Design of interior decoration; Art work design; Commercial interior design; Preparation of reports relating to graphic arts design; Pattern design; Design of audio-visual creative works; Design consultancy; Design of websites; Platforms for graphic design as software as a service [SaaS]; Design of logos for t-shirts; Computer website design; Computer-aided engineering design and drawing services; Website design and development; Design of games; Design of prototypes; Design of sculptures; Architectural design services; Design of interior decor; Decor (Design of interior -); Interior decor design; Animation design for others; Interior decorating design; Design of printed material; Landscape lighting design; Design, drawing and commissioned writing of computer software; Urban design; Website design consultancy; Shop interior design; Design of signs; Computer site design; Design of products; Design planning; Design of models; Design of graphics and of livery for corporate identity; Computer-aided engineering design services; Design and development of multimedia products; Design services relating to window graphics; Design services (Packaging -); Design services for packaging; Packaging design services; Product design and development; Design of

headgear; Theatrical lighting design; Toy design; Animation and special-effects design for others; Web portal design; Rendering of computer graphics (digital imaging services); Programming of web pages; Programming of computer animations; Graphic design for the compilation of web pages on the internet; Design, creation and programming of web pages; Computer graphics services; Design of web pages; Hosting of digital content online; Creating electronically stored web pages for online services and the internet; Programming of customized web pages; Web page design services; Internet web site design services; Design and creation of homepages and web pages; Web site design; Web site design consultancy; Design of post card cartoon characters; Web site design and creation services; Web site design services; Preparation of design parameters for visual images; Digitalization of sound and images; Consultancy relating to the creation and design of websites for e-commerce; Consultancy relating to the design of homepages and Internet pages; Technical writing; Design and development of new technology for others; Set design for theatrical enterprises; Theatrical lighting design services; Space planning [design] of interiors; Consultancy relating to the creation and design of websites; Business card design; Computer programming of video and computer games; Video game software design; Design and development of video game software; Programming of video game software; Development of video and computer games; Video game software development; Computer programming of video games; Video game development services; Research relating to design; Planning, design, development and maintenance of online websites for third parties; Design and development of homepages and websites; Design consultation; Office layout design services; Interior design services; Consultancy services relating to interior design; Brand design services; Consultancy relating to the design of packaging; Webpage design services; Cross-platform conversion of digital content into other forms of digital content; Hosting of digital content; Hosting of digital content on the Internet; Electronic storage of digital images; Hosting of digital content, namely, on-line journals and blogs; Hosting a website for the electronic storage of digital photographs and videos; Hosting of multimedia content for others; Engineering drawing; Drawing (Engineering -); Technical drawing; Design of printed matter; Drawing up of engineering drawings; Preparation of engineering drawings; Design services relating to interior decoration; Computer services, namely rating and ranking of information, messages and data available on data networks; Technical data analysis services; Data visualisation

services; Testing of data storage centres for others; Computerised data storage services; Electronic data storage; Online data storage; Cloud computing; Data encryption services; Creation, Design and development of computer software and programs; creation, development and design of computer programs and computer software including marketing software which enables the bidding for and management of advertisements and the like; creation, development and design of computer programs and computer software for placement of advertisements, uploading content, whether of information, data and/or images; creation, development and design of computer programs and computer software being marketing software including [API] application program interfaces permitting one software to interact with another program or [API]; data collection, data entry, data analysis, compilation, computation, management and processing; providing temporary use of web-based and non-downloadable virtual reality software; software as a service (saas) featuring computer software for use in relation to the production of video, television & film, advertisements for television, cinema and online distribution, and electronic games; advice, consultation and information services in relation to all the aforesaid services.