

O/0684/25

TRADE MARKS ACT 1994

**IN THE MATTER OF
THE REQUEST FOR PROTECTION IN THE UK
FOR THE INTERNATIONAL REGISTRATION WO0000001691197
IN CLASSES 9, 12, 14, 16, 18, 25, 28, 35, 38, 39, 41, 42 and 45
BY RENAULT S.A.S.**

AND THE OPPOSITION THERETO

UNDER NUMBER 440041

BY GUANGDONG OPPO MOBILE TELECOMMUNICATIONS CORP., LT

Background and Pleadings

1. On 20 June 2022, Renault s.a.s. ('the Holder') applied for protection in the UK for the following International Registration ('the Contested Mark'):

WO0000001691197

RENO – THE OFFICIAL RENAULT AVATAR

International Registration date: 20 June 2022

Designation date: 20 June 2022

The request for UK protection was published for opposition purposes on 3 February 2023

Base registration: EUTM 018719325

UK protection is sought for a large number of goods and services in classes 9, 12, 14, 16, 18, 25, 28, 35, 38, 39, 41, 42 and 45. This is a partial opposition directed at all goods and services in classes 9 and 35. The opposed terms are set out at Annex 1 to this decision.

2. On 31 March 2023, Guangdong OPPO Mobile Telecommunications Corp., Lt ('the Opponent') filed an opposition to the Holder's request for UK trade mark protection, pursuant to section 5(2)(b) of the Trade Marks Act 1994 ('the Act').
3. The Opponent relies upon the following two earlier rights:

i) UK00003370177¹

Reno

¹ I note that this registration is subject to revocation proceedings CA507602. The earliest effective revocation date sought in those proceedings is 15 June 2024, being after the relevant date for the instant proceedings. The outcome of the revocation, therefore, has no impact here.

Filing date: 25 January 2019

Date of entry in register: 14 June 2019

Registered for the following goods, all of which are relied upon:

Class 9:

Tablet computers; Computer programs, recorded; Computer game software; Computer peripheral devices; Computer programs [downloadable software]; Smartphone software applications, downloadable; Smartwatches; Smartglasses; Interactive touch screen terminals; Humanoid robots with artificial intelligence; Wearable computers; Gesture recognition software; Virtual reality game software; Scanners [data processing equipment]; Facsimile machines; Navigational instruments; Wearable activity trackers; Smartphones; Cases for smartphones; Protective films adapted for smartphones; Covers for smartphones; Cell phone straps; Keyboards for smartphones; wireless Speaker; Portable media players; wireless ear plug; Teaching apparatus; Camcorders; Virtual reality headsets; Security surveillance robots; Cameras [photography]; Selfie sticks [hand-held monopods]; USB cables; Chips [integrated circuits]; Touch screens; Batteries, electric; Chargers for electric batteries; Power bank (rechargeable batteries); Animated cartoons; Air analysis apparatus; Measuring apparatus; Biochips.

These terms are relied upon to oppose the Holder's class 9 goods only.

ii) WO0000001518158 International Registration with a UK designation

Reno

Date of protection of the international registration in UK: 27 January 2022

Designation date: 7 April 2021

International registration date: 7 May 2019

Office of origin: China

Registered for the following services, all of which are relied upon:

Class 35:

Advertising; television advertising; advertising agency services; online advertising on a computer network; promotion of goods and services through sponsorship of sports events; editing of publicity texts on Internet webpage for advertising purposes; provide advertising space on the web sites for goods and services; online advertising via a computer communications network; presentation of goods on communication media, for retail purposes; business management consultancy; sales promotion of cell phones, earphones, computers and computer software products for others; import-export agency services; provision of an online marketplace for buyers and sellers of goods and services; compilation of information into computer databases.

These terms are relied upon to oppose the Holder's class 35 services only.

4. The Opponent claims that: the parties' marks are similar; and that their respective goods/services are identical/similar, leading to a likelihood of confusion.
5. The Holder filed a Defence and Counterstatement in which it denies the claim against it in its entirety and puts the Opponent to proof in respect thereof.
6. The Opponent is represented by Murgitroyd & Company. The Holder is represented by D Young & Co LLP.
7. Both parties filed evidence. A hearing was granted at the request of the Opponent. A skeleton argument was filed by the Opponent in advance of the hearing. The Holder indicated that it would not attend the hearing and filed written submissions in lieu thereof.

EVIDENCE

8. The Opponent's evidence comes from:

i. Gareth Ian Price, Chartered Trade Mark Attorney and Director of the Opponent's legal representative firm. Mr Price's Witness Statement is dated 28 March 2024 and is accompanied by two exhibits: GIP1 – CIP2.

and

ii. Weihua Qin, 'leader of the brand protect team' of the Opponent company. Mr Qin's Witness Statement is dated 29 March 2024 and is accompanied by eleven exhibits: WQ1 – WQ11.

9. The Holder's evidence comes from Béatrice Lévy-Moulin, Head of IP of the Holder company. Ms Lévy-Moulin's Witness Statement is dated 29 May 2024 and is accompanied by twenty-two exhibits: BLM1 – BLM22.

10. I confirm that I have read all of the evidence, and I will refer to it to the extent that it is relevant.

HEARING

11. A hearing took place before me, via video conference, on Thursday 1 May 2025. Mr Alan Fiddes, of Murgitroyd, attended for the Opponent. I will not repeat Mr Fiddes' skeleton argument, or the parties' oral/written submissions here, but will refer to them, as appropriate, in my decision.

RELEVANCE OF EU LAW

12. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying

assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

13. The following decision has been made after careful consideration of the papers before me, and the Opponent's oral submissions.

DECISION

Earlier marks

14. In accordance with section 6 of the Act, the Opponent's marks are earlier marks by virtue of their respective filing/designation dates, which precede the designation date of the Contested Mark.

A note on the matter of proof of use

15. Section 6A of the Act provides that, in opposition proceedings, where the date on which the registration procedure of the earlier mark was completed more than 5 years prior to the filing/designation date (or priority date) of the Contested Mark, the Opponent may be required to prove use of the earlier mark.² In the instant case, section 6A is not engaged because neither of the Opponent's marks had been protected in the UK for more than 5 years at the date on which the Holder filed its request for the protection of its mark in the UK. The Opponent is, therefore, entitled to rely upon all of the goods/services that it seeks to rely upon.

16. Whilst the Holder has requested proof of use, the earlier marks were registered for less than 5 years prior to the designation date of the Contested Mark. The matter of proof of use is, therefore, not relevant here, and I shall say no more about it.

Section 5(2)(b) opposition

² Regulation 4 of The Trade Marks (Earlier Trade Marks) Regulations 2008 provides that section 6A of the Act also applies for International Registrations.

Relevant legislation

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

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

(a)...

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

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

Relevant case law

18. The following principles are derived from the decisions of the Court of Justice of the European Union ('CJEU') in *Sabel BV v Puma AG*, Case C-251/95; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97; *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97; *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98; *Matratzen Concord GmbH v OHIM*, Case C-3/03; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C120/04; *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P; and *Bimbo SA v OHIM*, Case C-591/12P:

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

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

imperfect picture of them they have kept in their mind, and whose attention varies according to the category of goods or services in question;

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

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

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

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

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

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

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

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

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

A note on fair and notional use

19. I note that the Opponent's evidence from Mr Price comprises material, from the Holder's website, said to show the Holder's use of 'the word "RENO" on its own and in close conjunction with the phrase "I am your mobile"'.³ Furthermore, Mr Price introduces material from the 'App Store' at www.apple.com showing use of the word Reno by way of the wording "wt5 by reno".⁴ The Opponent has not stated what it intends to demonstrate by adducing this material. In case the Opponent was hoping to demonstrate that the Holder's actual use of its mark somehow bolstered the Opponent's case that there was a likelihood of confusion, it is appropriate to address the matter of fair and notional use.

20. I am required to make the assessment of the likelihood of confusion notionally and objectively based on the Opponent's goods/services, as registered, and the Holder's goods/services, in respect of which UK protection is sought, in accordance with the relevant case law. That assessment requires that I must not take into account the actual way that either party has used their marks in the marketplace or the kinds of goods/services in respect of which those marks have been used thus far. Further, I must consider all of the circumstances in which the mark for which UK protection is sought might be used should it be granted such UK protection⁵. In this connection, in *Devinlec Développement Innovation Leclerc SA v OHIM*, Case C-171/06P, the CJEU stated:

'59. As regards the fact that the particular circumstances in which the goods in question were marketed were not taken into account, the Court of First Instance was fully entitled to hold that, since these may vary in time and depending on the wishes of the proprietors of the opposing marks, it is inappropriate to take

³ Witness Statement of Gareth Price, [3]; Exhibit GIP1.

⁴ Witness Statement of Gareth Price, [4]; Exhibit GIP2.

⁵ As per *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C- 533/06, [66]

those circumstances into account in the prospective analysis of the likelihood of confusion between those marks.’

21. The way in which the Holder might be using its mark presently in the UK marketplace is, therefore, not relevant to my assessment.

22. If, on the other hand, the Opponent deemed its evidence to indicate that the Holder was seeking to ‘ride on the coat-tails’ of the Opponent’s success, then it would be appropriate to note that the Opponent has not pleaded a claim pursuant to section 5(3) of the Act.

23. I note that the Holder’s evidence from Ms Lévy-Moulin comprises material relating to the history, activity and reputation of the Holder company. For the reasons set out above at [20], this is not relevant to the assessment of likelihood of confusion in the instant case.

Comparison of goods and services

24. Section 60A of the Act provides:

(1) ‘For the purpose of this Act goods and services-

(a) are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification.

(b) are not to be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

(2) In subsection (1), the ‘Nice Classification’ means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, which was last amended on 28 September 1975.’

25. In making an assessment between the competing goods and services, I bear in mind the decision of the General Court ('GC') in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05:

'29. ... the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM-Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark'.

26. The CJEU in *Canon*, Case C-39/97, stipulates that all relevant factors relating to the parties' goods and services must be taken into account:

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

27. Goods or services will be found to be in a competitive relationship only where one is substitutable for the other.⁶ In *Boston Scientific Ltd v OHIM*, Case T-325/06, the GC described "complementary" in the following terms: "[...] 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".⁷ In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods.

⁶ *Lidl Stiftung & Co KG v EUIPO*, Case T-549/14.

⁷ Paragraph 82.

28. Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281⁸, identified the following factors for assessing similarity of the respective goods and services:

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

29. Goods (or services) may be grouped together for the purposes of assessment, as Geoffrey Hobbs QC (as he then was), sitting as the Appointed Person, said in *Separode Trade Mark* BL O-399-10:

‘The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision.’

30. Case law establishes that “... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise” but “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

⁸ *British Sugar Plc v James Robertson & Sons Ltd* [1996] R. P. C. 281, pp 296-297.

language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”⁹

31. The goods and services to be compared are set out at Annex 2 to this decision.

Class 9

32. I have noted that the following limitation applies to all of the terms, bar ‘downloadable virtual goods [...]’:

none of the aforesaid services being intended for professional photographic and cinematographic apparatus, including professional photographic and cinematographic accessories and professional photographic and cinematographic software relating thereto

The presence of this limitation has no effect on the comparison here because the Opponent’s terms have not been limited.

33. Mr Fiddes submitted that the Holder’s class 9 goods, all being software of one sort or another, were encompassed by each of the Opponent’s class 9 terms ‘Computer programs, recorded’ and ‘Computer programs [downloadable software]’, given that these latter terms are synonymous with ‘software’, albeit recorded/downloadable software. Mr Fiddes argued that the goods were, therefore, identical according to the principle in *Meric*.

34. Whilst the Holder has conceded that its ‘narrow and specific software goods’ are ‘Meric’ identical with the Opponent’s ‘Computer programs [downloadable software]’, it submits that ‘the downloadable goods in Class 9 are dissimilar to all of the Opponent’s goods’.¹⁰ It is argued that while virtual goods are made out of software, they are not identical with software in the same way that a T-shirt made

⁹ *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch).

¹⁰ Holder’s written submissions in lieu of a hearing, [15] and [17].

from cotton is not identical to cotton at large.¹¹ The opposed term in question is as follows:

downloadable virtual goods, namely, computer programs relating to cars and land vehicles, miniatures of land vehicles, watches, key rings, wallets, clothing products, shoes, clothing, hats, caps, glasses, sunglasses, bags, bags for sports, rucksacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metals or not, all for use online and in online virtual environments. [my emphasis added]

35. My view is that, based on a literal construction of the term, the ‘downloadable virtual goods’ in question are computer programs. The inclusion of the word ‘namely’ has a limiting effect according to which all of the downloadable virtual goods are various computer programs. Therefore, the Holder’s argument cannot apply to this term. Given that ‘computer programs’ and ‘computer software’ are synonymous, the above contested term is identical to the Opponent’s Computer programs [downloadable software]’, according to the principle in ‘Meric’.

36. I note that all but the one remaining of the Holder’s class 9 terms are, by virtue of their wording, self-evidently types of software. I consider it appropriate to observe that the remaining class 9 term is worded thus:

‘software development kits comprising software development tools for the development of technology and natural language understanding and providing voice services over global computer networks, wireless networks and electronic communication networks’ [my emphasis added]

37. It is my view, as an ordinary member of the general public, that the tools employed to develop software are themselves forms of software. I am, therefore, satisfied that the term identified above is also ‘software’. I, therefore, agree with Mr Fiddes and find that all of the goods within the Holder’s class 9 specification are identical

¹¹ As above, [18].

to those of the Opponent under its earlier mark (i), according to the principle in *Meric*.

Class 35

38. The Holder has conceded that its term '*providing an online marketplace for buyers and sellers of encrypted collectibles*' is identical to the Opponent's term *provision of an online marketplace for buyers and sellers of goods and services*.¹² I agree. The contested services will be encompassed by the Opponent's term, under its earlier mark (ii), according to the principle in '*Meric*'.

39. Mr Fiddes made a broad submission that all of the Holder's services would be encompassed by the Opponent's terms:

'[...] although [the Opponent's] registrations are fairly broadly worded, the [Holder's] terms *Administrative order processing for optimal order management services; providing commercial information on products [to assist in the selection of consumer goods in general to meet consumer needs] ...; providing consumers with information ... et cetera*, we would argue, are encompassed within [the Opponent's] *presentation of goods on communication media, for retail purposes; business management consultancy; ... compilation of information into computer databases*. These are, effectively, the same terms. Certainly, all of [the Holder's] services would be encompassed within the generality of those [the Opponent's] terms'.

[my text in parentheses]

40. Mr Fiddes appears to be arguing that all of the contested terms will be encompassed by one or other of the three terms that he has identified within the Opponent's specification. My disagreement with this submission is set out in the following comparisons.

¹² Holder's written submissions in lieu of a hearing, [30].

Contested term: *providing commercial information on products to assist in the selection of consumer goods in general to meet consumer needs*

41. I compare the contested term to the Opponent's *presentation of goods on communication media, for retail purposes*. To my mind, the Holder's offering will likely cover the provision of product guides, akin to the well-known consumer publication 'Which?' (a consumer 'watchdog' weighing up the pros and cons of various products), which might feature, inter alia, product reviews or price comparisons. In the absence of any detail from the parties as to what precisely the Opponent's term entails, to my mind, it covers 'merchandising'. This will encompass presenting goods, via various channels, in a manner conducive to optimising sales. The purpose of the Holder's service is to assist the consumer in making the best choice of product for their needs. This contrasts with the purpose of the Opponent's services, which is the strategic display and presentation of goods to promote sales. Users of the competing services will, therefore, be distinct. The Holder's service concerns the *consumer's* interests, whereas the Opponent's service concerns the *retailer's* interest in turning a profit. The respective acts of service will differ. Trade channels will likely be distinct: 'product guides' etc targeted at buyers will unlikely be provided by an undertaking offering merchandising services. The services are not in a competitive relationship. Nor are they complementary. Although both offerings relate to retail, I have found that they relate to different aspects of retail. All things considered, I find the services to be dissimilar.

Contested term: *Administrative order processing for optimal order management services*

42. Whilst Mr Fiddes' submission is noted, I do not consider this term to be encompassed by any of the three terms that he has highlighted. My view is that the Holder's service likely entails the efficient management of customer orders; a service aimed at professionals selling their goods/services. I consider the Opponent's *business management consultancy* to be the most appropriate comparator. The core of this service is the provision of advice to businesses to help them operate successfully. The services will share a purpose to the broad extent

that both are intended to help optimise the performance of a business in some way. Users will overlap; with both services being engaged by businesses, rather than the general public. I consider trade channel overlap unlikely. Typically, a business consultant will not, to my mind, provide advice on streamlining an ordering system at the same time as actually supplying an order processing system or undertaking the task of managing orders. The respective acts of service will, therefore, be different in nature. I do not consider the services to be competitive or complementary; neither being substitutable for the other, nor presumed to originate from the same undertaking. I find the parties' offerings to have a low level of similarity.

Contested term: *retail services for virtual works of art*

43. I compare these services to the Opponent's *provision of an online marketplace for buyers and sellers of goods and services*. The Holder has submitted that there is a low degree of similarity between the parties' services.¹³ It is argued that the purposes of the respective services differ in that retail services enable consumers to purchase goods, whereas the provision of an online marketplace is simply 'the provision of that marketplace', as opposed to the retail service.¹⁴ I agree that the respective services can be distinguished in this way. The provision of an online marketplace entails the provision of the platform upon which buyers and sellers transact, whereas retail services entail the bringing together of a variety of goods held out for sale and are aimed exclusively at buyers. Users will overlap to the extent that *purchasers* of goods will engage either service to make purchases. Trade channels may overlap in some instances. In my experience, as an ordinary member of the general public, there are some service-providers which operate as both retailers and marketplaces; a well-known example being Amazon. That said, trade channel overlap will likely be the exception rather than the norm. The acts of service will differ; the act of holding virtual artworks out for sale, versus the act of providing the online marketplace through which they are bought and sold. The services will be competitive in instances where a consumer is seeking to purchase

¹³ Holder's written submissions in lieu of a hearing, [29].

¹⁴ As above.

a virtual artwork via an online channel. Although there may be shared trade channels in some instances, I do not find the parties' offerings to be complementary. Neither service is important or useful for the other, from the perspective of the average consumer. In the light of the foregoing, I find the respective services to be similar to a low to medium degree.

Contested term: *online sales services for downloadable virtual products, namely, computer programs relating to cars and land vehicles, miniature land vehicles, watches, key rings, wallets, items of apparel, shoes, clothing, hats, caps, spectacles, sunglasses, bags, bags for sports, backpacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metal or not, all for use online and in online virtual environments*

44. I compare these services to the Opponent's *provision of an online marketplace for buyers and sellers of goods and services*. For reasons analogous to those above at [43], I find the parties services to be similar to a low to medium degree.

Contested terms: *providing online business directories featuring restaurants, bars, movie theaters, dance clubs, museums and art galleries; providing online business directory services for telephone numbers, business addresses, email addresses, network home page addresses, addresses and telephone numbers of individuals, places and organizations*

45. I compare these services to the Opponent's *compilation of information into computer databases*. The purpose of the Holder's services is to enable users to find businesses and their contact details by way of an online 'look-up' tool/database. The purpose of the Opponent's service is the compilation of information such that it can be retrieved upon interrogation of an online repository. Although both services involve dealing with information, the respective acts of service are different: *providing* information (i.e. making it available) versus *compiling* information (i.e. gathering it into one repository). Whilst both the general and professional public will engage the Holder's service, I consider that the

Opponent's service would be used only by the professional public. Trade channels will likely be distinct. Online directory services would likely be offered by advertising and promotional companies, whereas the compilation of information would more likely be offered by a company providing administrative support services to businesses. I do not consider the services to be competitive; an average consumer hoping to look up nearby Italian restaurants would not, instead, covet the Opponent's 'compilation' service. I do not find complementarity, either. Whilst I recognise that no online directory of information could exist unless there has been an act of compilation in the first place, the parties' offerings are not important or useful for each other from the standpoint of the *average consumer*. That is to say, a consumer consulting an online directory of businesses is not going to find the Opponent's 'compilation' service to be important/useful while they are doing so. Conversely, a business engaging a service to populate a database for them is not going to find an online business directory necessary or useful in that connection. All things considered, I find the parties' offerings to have a very low level of similarity.

Contested term: *providing consumers with information and news related to the field of sports, entertainment, business and finance, politics and government, health and fitness, weather, science and technology, travel, arts and literature, lifestyle and selffulfillment, vehicles and transport, education and child development, real estate, fashion, design, food, cooking, interior design, music, cinema, history, medicine, law and current affairs*

46. I compare these services to the Opponent's *compilation of information into computer databases*. For reasons analogous to those set out at [45], I find the parties' services to have a very low level of similarity.

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

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

48. The opposition against the services that I have found to be dissimilar, therefore, fails at this point. For clarity, the services that I have found to be dissimilar are: *providing commercial information on products to assist in the selection of consumer goods in general to meet consumer needs*, in Class 35.

Average consumer and the purchasing act

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

Class 9

50. The goods at stake are all types of software; some of which will be used predominantly by the general public (for example, *software for integration of household and home automation devices*), other more specialised software tailored to professionals (for example, *software development kits comprising software development tools for the development of technology*). I find that the purchasing act will likely be primarily visual in nature, with both the general and professional purchaser likely to have encountered the software goods in advertising (both online and in printed matter) or from the seller's website or store. Professional consumers of the more specialised software goods may consult

directories or trade publications. There will likely be an aural aspect to the purchasing process for some customers; for example, where advice is sought from retail staff in physical stores. Some purchases may also be made after 'word-of-mouth' recommendation. Professional purchasers will likely consult with the seller of the specialised software before committing to a transaction. On the other hand, software for integration of household devices, a well-known example being 'Hive', might simply be downloaded from an 'app'¹⁵ store via a smartphone. The price-points are likely to vary; some 'apps' may be downloaded for free whereas fairly specialised software aimed at professionals may be moderately expensive. I find that the level of attention will vary according to the particular software purchased. An 'app' installed on to a smartphone will likely be a more casual purchase, made with no more than a medium level of attention, whereas the purchase of a specialised piece of software for professional use will likely be carefully considered. I find that the goods will likely be purchased with a level of attention of at least medium.

Class 35

51. With the exception of the term *Administrative order processing for optimal order management services*, which I have found to be aimed at professionals, I consider that the average consumer of the services at stake will comprise both the general and professional public. The purchasing process will likely be primarily visual, the prospective purchaser having encountered the service-provider online, in printed matter or having seen its premises. There may also be an aural aspect to the purchasing process in the manner described above at [51]. My view is that the level of attention paid will vary depending on the service engaged. An ordinary member of the public searching an online directory for the nearest coffee shop, for example, will likely pay a low degree of attention. At the other end of the scale, a business looking to streamline its ordering processes might pay a higher level of attention. I find that the services will likely be purchased with a level of attention of at least low.



¹⁵ It is my understanding, as an ordinary member of the general public, that software applications are commonly referred to as 'apps'.

Comparison of the marks

52. It is clear from *Sabel BV v Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

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

53. The marks to be compared are thus:

Opponent's marks:	Contested Mark:
(i) UK00003370177:  (figurative)	RENO - THE OFFICIAL RENAULT AVATAR (Word mark)
(ii) WO0000001518158:  (The Register records that the owner declares that they wish the	

mark to be considered as a mark in standard characters only)	
---	--

Overall impression of the marks

The earlier marks:

54. Both earlier marks comprise a single word element 'Reno', rendered in a fairly plain typeface, and heavily emboldened. For each mark, the overall impression necessarily resides in its entirety.

The Contested Mark:

55. The Holder's word mark comprises the word elements 'RENO' and 'THE OFFICIAL RENAULT AVATAR', with a dash positioned between 'RENO' and the remaining wording. Mr Fiddes submits that the 'RENO' element is the dominant and distinctive element of the mark.¹⁶ The Holder, on the other hand, has submitted that the wording 'THE OFFICIAL RENAULT AVATAR' plays the dominant and distinctive role.¹⁷ I prefer Mr Fiddes' submission. My view is that the presence of the additional wording within the Contested Mark will nevertheless be registered visually by the average consumer, by virtue of the space that it occupies within the mark. However, this wording is likely to be perceived as something akin to a 'strap-line', or merely as information ascribing the status of 'Official Renault Avatar', whatever that may mean, to the word 'Reno'. I find that the overall impression resides in the mark as a whole; with the 'Reno' element playing the dominant role.

Visual comparison

56. Both parties' marks contain the word element 'Reno': it forms the entirety of the Opponent's marks and the first, and most dominant, element of the Contested Mark. The only point of different is the presence of the dash and 'THE OFFICIAL

¹⁶ Skeleton Argument of the Opponent, [19].

¹⁷ Holder's written submissions in lieu of a hearing, [34].

RENAULT AVATAR' in the Contested Mark, both absent from the Opponent's marks. I bear in mind that the GC, in *El Corte Inglés, SA v OHIM*, observed that 'the attention of the consumer is usually directed to the beginning of the word'.¹⁸ However, this is a 'rule of thumb', rather than a given. In the instant case, my view is that the average consumer's attention *will* likely be focused on the first element of the Contested Mark, given the lesser distinctive status of the remaining wording owing to it being perceived as merely informative or as a 'strap-line' of sorts. All things considered, I find the parties' marks to have a level of visual similarity of at least medium.

Aural comparison

57. I consider that the element 'Reno' will likely be articulated as 'REE-NOE', in both parties' marks. Given my finding that the additional wording within the Contested Mark is the less distinctive element of the Contested Mark, I bear in mind the decision of *Purity Hemp*¹⁹ in which Mr Phillip Harris, sitting as the Appointed Person, held that, just because an element of a trade mark might be descriptive, it does not follow that the descriptive element is aurally invisible. Although that decision was made in the context of descriptiveness, I consider that similar caution applies to elements whose distinctiveness might be diminished in other ways; for example, where wording is perceived as a 'strap-line'.

58. I consider that, while many average consumers will likely neglect to articulate the Contested Mark in full, some might not. For the former group of average consumers, the parties' marks will be aurally identical. For the average consumers who articulate the Contested Mark in full, (with 'Renault' pronounced as 'REN-OH'), the marks will have a low level of aural similarity.

Conceptual comparison

¹⁸ Cases T-183/02 and T-184/02 at para [83].

¹⁹ Decision O/115/22, [31].

59. As noted, Mr Fiddes has submitted that the word 'Reno' is the dominant and distinctive element of the Contested Mark in respect of the goods/services for which UK protection is sought.²⁰ Mr Fiddes further argues that the element 'THE OFFICIAL RENAULT AVATAR' functions by way of a 'clarificatory statement' according to which it is the Holder's software to which 'Reno' relates.²¹ It is submitted that, within that clarificatory statement (which is the less distinctive element of the Contested Mark) it is the word 'Renault' that is the dominant element.²² Mr Fiddes has acknowledged in his submissions that 'Renault' is a well-known car company and submitted that it would be reasonable to presume that judicial notice could be taken of such renown. Ms Lévy-Moulin's evidence, in essence, seeks to demonstrate that 'Renault' is a well-known brand in the UK.²³ In the light of Mr Fiddes' submission, I consider it unnecessary to make further reference to Ms Lévy-Moulin's evidence.

60. I find that the word 'Reno' would be perceived by a significant proportion of average UK consumers as an invented word to which no particular meaning will attach. I find that it will be understood in this way in either party's marks.

61. I have found the wording 'THE OFFICIAL RENAULT AVATAR' to be perceived as informative, or akin to a 'strap-line'. The words 'the' and 'official' are ordinary English words with which the average consumer will be familiar. I consider 'avatar', to be less of an 'everyday' word; however, it is my understanding that it is a word used often, in the context of online interaction. It refers to an icon or figure, whether realistic or fantastical, on a screen, which represents the consumer when interacting online; an example being, in a video game.

62. Whilst I accept that 'Renault' is a very well-known car maker, and I agree with Mr Fiddes that 'Renault' is the most distinctive aspect within the wording 'THE OFFICIAL RENAULT AVATAR', I find that, even in the absence of such renown, 'Renault' would remain the most distinctive element within that wording. I consider

²⁰ Skeleton Argument of the Opponent, [21].

²¹ As above.

²² Skeleton Argument of the Opponent, [21].

²³ Witness Statement of B. Lévy-Moulin.

that the structure of the wording of the mark, as a whole, is such that it would be clear that 'Renault' would be perceived as 'something' for which 'Reno' software was intended. 'Renault' would likely be presumed to be a brand. The Contested Mark would, in my view, be seen as conveying the message that a brand by the name of 'Reno' was responsible for some sort of software relating to avatars, for the brand 'Renault'.

63. Strictly speaking, the marks can be said to be conceptually different. However, it is important to note that the conceptual message conveyed by the Contested Mark does not originate from the dominant and distinctive element of the mark (which is the element common to the parties' marks), but from wording which plays a secondary visual role. In the instant case, therefore, I do not consider the conceptual difference to be determinative.

Distinctive character of the earlier marks

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

'22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section

of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)'.

65. Registered trade marks possess varying degrees of inherent distinctive character. Where a mark is suggestive or allusive of a characteristic of the goods or services, it tends to be low. Inherent distinctive character may range up to a high level for marks which consist of invented words with no allusive qualities.

66. I will first make an assessment of the inherent distinctive character of the earlier marks. 'Reno', as an invented word to which no particular meaning will be ascribed, neither describes nor alludes to the relevant goods or services. I, therefore, find that the marks enjoy a high level of inherent distinctive character.

67. Given that evidence has been filed, I now consider whether the marks enjoy an enhanced level of distinctive character beyond their inherent distinctive character.

68. The Opponent's evidence comprises a variety of materials, including, inter alia: figures for turnover and marketing expenditure; press releases and articles; invoices for goods sold under the Reno brand. The evidence appears to relate to smartphones only. A proportion of the material provided appears to relate to the brand OPPO, without any reference to 'Reno'. This material is, therefore, unlikely to assist greatly.

69. I do not consider it necessary to summarise the evidence here. Instead, I will simply note that, based on the totality of evidence available to me, it is clear that there is some level of awareness of the 'Reno' brand, in the UK, in relation to smartphones. However, there is nothing in the evidence to demonstrate the Opponent's use of the mark in respect of any of the goods and services at stake in the instant matter. I find that the evidence is insufficient to support a finding that the earlier marks enjoy an enhanced level of distinctive character, for the relevant goods/services, that extends beyond the marks' already high level of inherent distinctiveness.

Likelihood of confusion

70. Confusion can be direct or indirect. Mr Iain Purvis Q. C., (as he then was) as the Appointed Person, explained the difference in the decision of *L.A. Sugar Limited v By Back Beat Inc*²⁴. Direct confusion occurs when one mark is mistaken for another. In *Lloyd Schuhfabrik*²⁵, the CJEU recognised that the average consumer rarely encounters the two marks side by side but must rely on the imperfect picture of them that they have kept in mind. Direct confusion can therefore occur by imperfect recollection when the average consumer sees the later mark but mistakenly matches it to the imperfect image of the earlier mark in their ‘mind’s eye’. Indirect confusion occurs when the average consumer recognises that the competing marks are not the same in some respect, but the similarities between them, combined with the goods/services at issue, leads them to conclude that the goods/services are the responsibility of the same or an economically linked undertaking.

71. I must keep in mind that a global assessment is required taking into account all of the relevant factors, including the principles a) – k) set out above at [18]. When considering all relevant factors ‘in the round’, I must bear in mind that a greater degree of similarity between goods/services *may* be offset by a lesser degree of similarity between the marks, and vice versa.

72. I have found all of the Holder’s class 9 goods to be identical to those of the Opponent. I have also found a number of the Holder’s class 35 services to have some level of similarity to those of the Opponent; ranging from ‘very low’ to ‘low to medium’. The level of visual similarity between the parties’ marks is at least medium. The visual difference arises by virtue of the presence, in the Contested Mark, of the dash, followed by the wording, ‘THE OFFICIAL RENAULT AVATAR’, which, in my view, is most likely to be perceived as either purely informative, or something akin to a ‘strap-line’. I consider the proportion of average consumers likely to perceive the wording in this way to be significant in number. In my view, it

²⁴ Case BL O/375/10 at [16].

²⁵ *Lloyd Schuhfabrik Meyer and Co GmbH v Klijsen Handel BV* (C-34297) at [26].

is this perception that will lead a significant proportion of average consumers to articulate the Contested Mark merely as 'Reno', neglecting to articulate the wording 'THE OFFICIAL RENAULT AVATAR'. From the perspective of these average consumers, the parties' marks will be aurally identical. As noted above at [63], the conceptual difference between the marks leaves the common element, also the most dominant and distinctive element, shared by the parties' marks, undisturbed. The earlier marks enjoy a high level of inherent distinctive character by virtue of being an invented word. Each of the earlier marks is wholly replicated within the Contested Mark.

73. Mr Fiddes submitted that the dominant elements of the parties' marks are identical and that the addition of the wording 'THE OFFICIAL RENAULT AVATAR' does not amount to a sufficient basis for distinguishing each party's mark(s) from the other(s). He argues that the fact that 'Renault' is a well-known car brand does not change this. Mr Fiddes' argument is that the 'Reno' element of the Contested Mark is not dependent on the 'THE OFFICIAL RENAULT AVATAR' wording that follows it, because the two elements do not form a unit.²⁶ He argues that the wording 'THE OFFICIAL RENAULT AVATAR' functions as a mere 'clarificatory statement' conveying the message that the brand 'Reno' is the supplier of the software concerned.²⁷

74. The Holder has argued that the meaning of its mark will be 'grasped immediately by the relevant public, as relating to the world famous company Renault only'.²⁸

75. I prefer Mr Fiddes' argument. Taking all of the relevant matters into account, it is my view that a significant proportion of average consumers may encounter either of the party's marks and, upon seeing the highly distinctive element 'Reno', whether solus (the Opponent's marks) or in conjunction with the wording 'THE OFFICIAL RENAULT AVATAR' (the Contested Mark), presume that either mark is the brand 'Reno', with or without a strap-line/'clarificatory statement'. I find that there is a likelihood of direct confusion. Given that, but for the presence of the

²⁶ Skeleton Argument of the Opponent, [20].

²⁷ As above, [21].

²⁸ Holder's written submissions in lieu of a hearing, [54].

wording 'THE OFFICIAL RENAULT AVATAR', the parties' marks would be identical, I consider that there would be a likelihood of confusion in respect of all of the Holder's goods and services that I have found to have some level of similarity, including those that I have found to have a very low level of similarity. I find this to be the case even where the level of attention paid by the average consumer is medium.

76. For completeness, I now consider whether there is a likelihood of indirect confusion. I note that in the case of *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria (O/219/16)*, pointing out that there must be a "proper basis" for concluding that there is a likelihood of indirect confusion.

77. In *L.A. Sugar Limited v Back Beat Inc*²⁹ Mr Iain Purvis Q. C. (as he then was), as the Appointed Person, explained that:

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

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

²⁹ Case BL O/375/10

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

78. I remind myself that a finding of a likelihood of indirect confusion should not be made merely because the competing marks share a common element.³⁰ I also bear in mind that the above-mentioned categories are not intended to be exhaustive. I consider that the instant case may fall within the first of Mr Purvis' categories. The common element 'Reno' is highly distinctive, and the construction of the additional wording, 'THE OFFICIAL RENAULT AVATAR', to my mind, indicates to the average consumer that it is 'Reno' that is responsible for the software (or other goods/services) which happen to be goods tailored for/used in some way by the brand 'Renault'. However, the instant case perhaps more closely aligns with the second of Mr Purvis' categories, to the extent that the element 'THE OFFICIAL RENAULT AVATAR' will be presumed to be akin to a strap-line/clarificatory statement and, therefore, the less distinctive element of the mark. I consider it conceivable that the marks may be seen as alternative marks, one presented with the 'strap-line' and the other without it. I find that there is a likelihood of indirect confusion between the parties' marks.

Conclusion

79. This is a partial opposition, which has been partially successful. Subject to a successful appeal, the International Registration WO0000001691197 **may not proceed** to grant of protection within the UK for the **following opposed** goods and services:

Class 9:

Voice command and recognition software, speech to text conversion software; voice-activated software applications for personal information management; personal assistance software; software for integration of household and home

³⁰ Case BL O/547/17, [81.4].

automation devices; personal vehicle integration software; communications software for wireless transmission of voice content, audio, video and data; search engine software; computer software used for controlling autonomous voice-activated information devices and personal assistance devices; personal information management software; software for accessing, browsing and searching online databases, audio, video and multimedia content, games and software applications, software application marketplaces; software for accessing, monitoring, tracking, searching, backing up, and sharing information on topics of general interest; software for provision of retail sale and ordering services for a wide range of consumer products; software for connecting and controlling electronic devices of the internet of things; software for connecting, operating, integrating, controlling and managing networked consumer electronic devices, home air conditioning devices and lighting products via wireless networks; software for third parties for the development of software for management, connection and control of electronic devices of the Internet of things; software for use as an application programming interface (API); software development kits comprising software development tools for the development of technology and natural language understanding and providing voice services over global computer networks, wireless networks and electronic communication networks; software development kits comprised of software for development, use and interoperability of application programming interfaces (APIs) used by electronic devices, systems and exchanges that exchange data via communication networks and the Internet and connecting to cloud-based data exchange and storage services; software development kits comprised of software and software development tools used as an application programming interface (API) for creating software and applications related to consumer electronic devices connected to the Internet; application programming interface, namely, software that facilitates the development of personal assistant capacity tools and the delivery of voice services associated with consumer electronic devices; application software for portable wireless devices, namely, software for checking, integrating, controlling, connecting and managing voice controlled information devices, namely, electronic personal assistant devices and voice-controlled and cloud-connected smart consumer electronic devices; software

development tools; voice-activated software enabling users to control the functions of their motor vehicle, namely, locking and unlocking vehicle doors as well as starting and stopping the vehicle; voice-activated software enabling users to control the status of motor vehicle systems, namely, remaining engine oil, fuel level, tire pressure and battery charge; voice-activated software enabling users to access and control vehicle navigation, ventilation and air-conditioning, multimedia, communication, info-leisure and navigation systems; voice-activated embedded software enabling users to connect to and control electronic devices connected to a smart home and to the internet of things (IoT); software for transmitting information relating to the diagnosis and condition of vehicles via computer and communication networks; software for receiving information relating to the status of road traffic and providing relevant guidance information to vehicle operators; software enabling communication between vehicles and connected devices; none of the aforesaid services being intended for professional photographic and cinematographic apparatus, including professional photographic and cinematographic accessories and professional photographic and cinematographic software relating thereto; downloadable virtual goods, namely, computer programs relating to cars and land vehicles, miniatures of land vehicles, watches, key rings, wallets, clothing products, shoes, clothing, hats, caps, glasses, sunglasses, bags, bags for sports, rucksacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metals or not, all for use online and in online virtual environments.

Class 35:

Administrative order processing for optimal order management services; providing consumers with information and news related to the field of sports, entertainment, business and finance, politics and government, health and fitness, weather, science and technology, travel, arts and literature, lifestyle and selffulfillment, vehicles and transport, education and child development, real estate, fashion, design, food, cooking, interior design, music, cinema, history,

medicine, law and current affairs; providing online business directories featuring restaurants, bars, movie theaters, dance clubs, museums and art galleries; providing online business directory services for telephone numbers, business addresses, email addresses, network home page addresses, addresses and telephone numbers of individuals, places and organizations; retail services for virtual works of art; providing an online marketplace for buyers and sellers of encrypted collectibles; online sales services for downloadable virtual products, namely, computer programs relating to cars and land vehicles, miniature land vehicles, watches, key rings, wallets, items of apparel, shoes, clothing, hats, caps, spectacles, sunglasses, bags, bags for sports, backpacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metal or not, all for use online and in online virtual environments

80. The registration **may proceed** to grant of protection within the UK for:

- The opposed Class 35 term: *providing commercial information on products to assist in the selection of consumer goods in general to meet consumer needs;*

and

- the **unopposed** goods and services, namely: all of the Holder's goods and services in classes 12, 14, 16, 18, 25, 28, 38, 39, 41, 42 and 45.

Costs

81. The Opponent has enjoyed the greatest level of success and is, therefore, entitled to a contribution to its costs based upon the scale published in Tribunal Practice Notice 1/2023, calculated as follows:

Official fee for filing of Opposition:	£100
Preparing a statement and considering the other side's statement:	£300
Preparing for and attending a hearing:	£500
Filing of evidence	£600
Total:	£1,500

82. I therefore order Renault s.a.s. to pay to Guangdong OPPO Mobile Telecommunications Corp., Lt the sum of £1,500. 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 2025

N. R. Morris

For the Registrar,

the Comptroller-General

Annex 1

The opposed goods and services

Class 9:

Voice command and recognition software, speech to text conversion software; voice-activated software applications for personal information management; personal assistance software; software for integration of household and home automation devices; personal vehicle integration software; communications software for wireless transmission of voice content, audio, video and data; search engine software; computer software used for controlling autonomous voice-activated information devices and personal assistance devices; personal information management software; software for accessing, browsing and searching online databases, audio, video and multimedia content, games and software applications, software application marketplaces; software for accessing, monitoring, tracking, searching, backing up, and sharing information on topics of general interest; software for provision of retail sale and ordering services for a wide range of consumer products; software for connecting and controlling electronic devices of the internet of things; software for connecting, operating, integrating, controlling and managing networked consumer electronic devices, home air conditioning devices and lighting products via wireless networks; software for third parties for the development of software for management, connection and control of electronic devices of the Internet of things; software for use as an application programming interface (API); software development kits comprising software development tools for the development of technology and natural language understanding and providing voice services over global computer networks, wireless networks and electronic communication networks; software development kits comprised of software for development, use and interoperability of application programming interfaces (APIs) used by electronic devices, systems and exchanges that exchange data via communication networks and the Internet and connecting to cloud-based data exchange and storage services; software development kits comprised of software and software development tools used as an application programming interface (API) for creating software and applications related to consumer electronic devices connected to the Internet; application programming interface, namely, software that facilitates the development of personal assistant capacity tools and the

delivery of voice services associated with consumer electronic devices; application software for portable wireless devices, namely, software for checking, integrating, controlling, connecting and managing voice controlled information devices, namely, electronic personal assistant devices and voice-controlled and cloud-connected smart consumer electronic devices; software development tools; voice-activated software enabling users to control the functions of their motor vehicle, namely, locking and unlocking vehicle doors as well as starting and stopping the vehicle; voice-activated software enabling users to control the status of motor vehicle systems, namely, remaining engine oil, fuel level, tire pressure and battery charge; voice-activated software enabling users to access and control vehicle navigation, ventilation and air-conditioning, multimedia, communication, info-leisure and navigation systems; voice-activated embedded software enabling users to connect to and control electronic devices connected to a smart home and to the internet of things (IoT); software for transmitting information relating to the diagnosis and condition of vehicles via computer and communication networks; software for receiving information relating to the status of road traffic and providing relevant guidance information to vehicle operators; software enabling communication between vehicles and connected devices; none of the aforesaid services being intended for professional photographic and cinematographic apparatus, including professional photographic and cinematographic accessories and professional photographic and cinematographic software relating thereto; downloadable virtual goods, namely, computer programs relating to cars and land vehicles, miniatures of land vehicles, watches, key rings, wallets, clothing products, shoes, clothing, hats, caps, glasses, sunglasses, bags, bags for sports, rucksacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metals or not, all for use online and in online virtual environments.

Class 35:

Administrative order processing for optimal order management services; providing commercial information on products to assist in the selection of consumer goods in

general to meet consumer needs; providing consumers with information and news related to the field of sports, entertainment, business and finance, politics and government, health and fitness, weather, science and technology, travel, arts and literature, lifestyle and selffulfillment, vehicles and transport, education and child development, real estate, fashion, design, food, cooking, interior design, music, cinema, history, medicine, law and current affairs; providing online business directories featuring restaurants, bars, movie theaters, dance clubs, museums and art galleries; providing online business directory services for telephone numbers, business addresses, email addresses, network home page addresses, addresses and telephone numbers of individuals, places and organizations; retail services for virtual works of art; providing an online marketplace for buyers and sellers of encrypted collectibles; online sales services for downloadable virtual products, namely, computer programs relating to cars and land vehicles, miniature land vehicles, watches, key rings, wallets, items of apparel, shoes, clothing, hats, caps, spectacles, sunglasses, bags, bags for sports, backpacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metal or not, all for use online and in online virtual environments

Annex 2

The goods/services to be compared

Opponent's earlier marks:	Contested Mark:
<p>(i) UK00003370177</p> <p>Class 9: <i>Tablet computers; Computer programs, recorded; Computer game software; Computer peripheral devices; Computer programs [downloadable software]; Smartphone software applications, downloadable; Smartwatches; Smartglasses; Interactive touch screen terminals; Humanoid robots with artificial intelligence; Wearable computers; Gesture recognition software; Virtual reality game software; Scanners [data processing equipment]; Facsimile machines; Navigational instruments; Wearable activity trackers; Smartphones; Cases for smartphones; Protective films adapted for smartphones; Covers for smartphones; Cell phone straps; Keyboards for smartphones; wireless Speaker; Portable media players; wireless ear plug; Teaching apparatus; Camcorders; Virtual reality headsets; Security surveillance robots; Cameras [photography]; Selfie sticks [hand-held</i></p>	<p>Class 9: <i>Voice command and recognition software, speech to text conversion software; voice-activated software applications for personal information management; personal assistance software; software for integration of household and home automation devices; personal vehicle integration software; communications software for wireless transmission of voice content, audio, video and data; search engine software; computer software used for controlling autonomous voice-activated information devices and personal assistance devices; personal information management software; software for accessing, browsing and searching online databases, audio, video and multimedia content, games and software applications, software application marketplaces; software for accessing, monitoring, tracking, searching, backing up, and sharing information on topics of general interest; software for provision of retail sale and ordering services for a wide range of consumer products; software for</i></p>

monopods]; USB cables; Chips [integrated circuits]; Touch screens; Batteries, electric; Chargers for electric batteries; Power bank (rechargeable batteries); Animated cartoons; Air analysis apparatus; Measuring apparatus; Biochips.

connecting and controlling electronic devices of the internet of things; software for connecting, operating, integrating, controlling and managing networked consumer electronic devices, home air conditioning devices and lighting products via wireless networks; software for third parties for the development of software for management, connection and control of electronic devices of the Internet of things; software for use as an application programming interface (API); software development kits comprising software development tools for the development of technology and natural language understanding and providing voice services over global computer networks, wireless networks and electronic communication networks; software development kits comprised of software for development, use and interoperability of application programming interfaces (APIs) used by electronic devices, systems and exchanges that exchange data via communication networks and the Internet and connecting to cloud-based data exchange and storage services; software development kits comprised of software and software development tools used as an application programming interface (API) for creating software and applications related to consumer electronic devices connected to the

	<p><i>Internet; application programming interface, namely, software that facilitates the development of personal assistant capacity tools and the delivery of voice services associated with consumer electronic devices; application software for portable wireless devices, namely, software for checking, integrating, controlling, connecting and managing voice controlled information devices, namely, electronic personal assistant devices and voice-controlled and cloud-connected smart consumer electronic devices; software development tools; voice-activated software enabling users to control the functions of their motor vehicle, namely, locking and unlocking vehicle doors as well as starting and stopping the vehicle; voice-activated software enabling users to control the status of motor vehicle systems, namely, remaining engine oil, fuel level, tire pressure and battery charge; voice-activated software enabling users to access and control vehicle navigation, ventilation and air-conditioning, multimedia, communication, info-leisure and navigation systems; voice-activated embedded software enabling users to connect to and control electronic devices connected to a smart home and to the internet of things (IoT); software for transmitting information relating to the diagnosis and condition of</i></p>
--	---

	<p><i>vehicles via computer and communication networks; software for receiving information relating to the status of road traffic and providing relevant guidance information to vehicle operators; software enabling communication between vehicles and connected devices; none of the aforesaid services being intended for professional photographic and cinematographic apparatus, including professional photographic and cinematographic accessories and professional photographic and cinematographic software relating thereto; downloadable virtual goods, namely, computer programs relating to cars and land vehicles, miniatures of land vehicles, watches, key rings, wallets, clothing products, shoes, clothing, hats, caps, glasses, sunglasses, bags, bags for sports, rucksacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metals or not, all for use online and in online virtual environments.</i></p>
(ii) WO0000001518158	Class 35:

Class 35:

Advertising; television advertising; advertising agency services; online advertising on a computer network; promotion of goods and services through sponsorship of sports events; editing of publicity texts on Internet webpage for advertising purposes; provide advertising space on the web sites for goods and services; online advertising via a computer communications network; presentation of goods on communication media, for retail purposes; business management consultancy; sales promotion of cell phones, earphones, computers and computer software products for others; import-export agency services; provision of an online marketplace for buyers and sellers of goods and services; compilation of information into computer databases.

Administrative order processing for optimal order management services; providing commercial information on products to assist in the selection of consumer goods in general to meet consumer needs; providing consumers with information and news related to the field of sports, entertainment, business and finance, politics and government, health and fitness, weather, science and technology, travel, arts and literature, lifestyle and selffulfillment, vehicles and transport, education and child development, real estate, fashion, design, food, cooking, interior design, music, cinema, history, medicine, law and current affairs; providing online business directories featuring restaurants, bars, movie theaters, dance clubs, museums and art galleries; providing online business directory services for telephone numbers, business addresses, email addresses, network home page addresses, addresses and telephone numbers of individuals, places and organizations; retail services for virtual works of art; providing an online marketplace for buyers and sellers of encrypted collectibles; online sales services for downloadable virtual products, namely, computer programs relating to cars and land vehicles, miniature land vehicles, watches, key

	<p><i>rings, wallets, items of apparel, shoes, clothing, hats, caps, spectacles, sunglasses, bags, bags for sports, backpacks, sports equipment, surfboards, games, toys, video games, interactive multimedia games, augmented and mixed virtual reality games, miniatures (games, toys), figurines, models, toy robots, avatars, virtual characters, plush toys, works of art, art objects of precious metal or not, all for use online and in online virtual environments</i></p>
--	---