O/0757/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NUMBER UK00003868336
BY ATHAR AHMED
TO REGISTER THE FOLLOWING TRADE MARK:

LEGION NETWORK

IN CLASSES 9, 35, 36, 38, 41 AND 42

AND

AN OPPOSITION THERETO UNDER NUMBER OP000442057
BY BENTLEY SYSTEMS (UK) LIMITED

Background and pleadings

1. On 16 January 2023, Athar Ahmed ("the applicant") applied to register in the UK the trade mark shown on the cover page of this decision ("the contested mark"). The application was accepted and published for opposition purposes on 21 April 2023 and registration is sought in respect of goods and services in classes 9, 35, 36, 38, 41 and 42, the full specification being annexed to this decision at Annex 1.

2. On 21 July 2023, BENTLEY SYSTEMS (UK) LIMITED ("the opponent") filed a Form TM7 opposing the application under section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). The opponent relies upon the following mark for its opposition:

   UK00902740546 ("the earlier mark")[1], with a filing date of 19 June 2002 and a registration date of 29 September 2003.

LEGION

3. For the purposes of these proceedings, the opponent is reliant upon all of the goods and services for which the earlier mark is registered, namely:

   Class 9: Computer software, including computer software for the modeling of movement of people and vehicles through public spaces and buildings.

   Class 35: Business management assistance services; business consultancy and advisory services.

[1] Under Article 54 of the Withdrawal Agreement, the Registry created comparable UK trade marks for all rights holders with an existing EUTM. As a result of the opponent's EUTM number 2740546 being protected as at the end of the Implementation Period, a comparable UK trade mark was automatically created. The comparable UK mark now recorded on the UK trade mark register has the same legal status as if it had been applied for and registered under UK law, and retains its original international registration date as its filing date.

Class 42: Scientific and industrial research services; architectural and civil engineering consultancy services.

4. The opposition is directed against some of the goods and services in classes 9, 35 and 42 of the application as below. I note that the opponent only listed the particular terms that it wished to oppose on its Form TM7 but neglected to add the limitations in each class. I have added these.

Class 9: Computer software and downloadable computer software; software applications; computer programmes and downloadable computer programmes; software relating to virtual reality; software relating to augmented reality; software for creating, manipulating and participating in 3D virtual environments; software libraries; none of the aforesaid goods in relation to providing support to war veterans and their families; none of the aforesaid goods in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid goods in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid goods in relation to IT consultancy; none of the aforesaid goods in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid goods in relation to IP rights and IP services.

Class 35: Business and business management services; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.

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Class 42: Computer services; platform as a service [PaaS]; software as a service [SaaS]; design and development of virtual reality software; design of digital 3D assets for others; content creation for virtual worlds and three dimensional platforms; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.

5. Under section 5(2)(b), the opponent claims that the opposed mark is visually, aurally and conceptually highly similar to the earlier mark and the opposed goods and services are identical or similar to the goods and services for which the earlier mark is protected. Furthermore, the opponent claims that the earlier mark is inherently distinctive for the goods and services for which it is protected and has acquired distinctiveness as a consequence of prolonged use and that, taking all of these factors into account, there is a likelihood of confusion including a likelihood of association.

6. The applicant filed a defence and counterclaim denying the opponent's claims and requesting that the opponent provide proof of use of its mark.

7. The applicant is represented by Trade Mark Wizards Limited and the opponent is represented by Venner Shipley LLP. During the evidence rounds, only the opponent filed evidence. Neither party requested a hearing and only the opponent filed written submissions in lieu.

Evidence

8. The opponent's evidence comprises of a witness statement of David Birchall, signed and dated 16 July 2024. David Birchall is a Chartered Trade Mark Attorney and partner in the opponent's representative firm. The witness statement is accompanied by 17 exhibits (DB1–DB17).

9. The opponent filed a second witness statement of Michael Schellhase, signed and dated 26 July 2024. Michael Schellhase is the Vice President of Bentley Systems, Incorporated, the ultimate corporate parent of the opponent and has held this position since approximately 1 September 2023. The witness statement is accompanied by a further 17 exhibits which I will call Exhibits MS1–MS17 to distinguish them from the exhibits filed in support of Mr Birchall's witness statement.

Legislation

10. 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.

11. By virtue of its earlier filing date of 19 June 2002, the opponent's mark constitutes an earlier mark in accordance with section 6 of the Act. The opponent's mark was registered on 29 September 2003 being more than five years prior to the date of the contested mark. Further, as I have set out above, the applicant requested the opponent provide proof of use. As a result, this mark is subject to proof of use in accordance with section 6A of the Act.

12. The proof of use provisions are set out in section 6A of the Act, the relevant parts of which state:

“(1) This section applies where

(a) an application for registration of a trade mark has been published,

(b) there is an earlier trade mark of a kind falling within section 6(1)(a), (aa) or (ba) in relation to which the conditions set out in section 5(1), (2) or (3) obtain, and

(c) the registration procedure for the earlier trade mark was completed before the start of the relevant period.

(1A) In this section “the relevant period” means the period of 5 years ending with the date of the application for registration mentioned in subsection (1)(a) or (where applicable) the date of the priority claimed for that application.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.

(3) The use conditions are met if – (a) within the relevant period the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with his consent in relation to the goods or services for which it is registered, or (b) the earlier trade mark has not been so used, but there are proper reasons for non- use.

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

(5)-(5A) [Repealed]

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services."

13. As the Earlier Mark is a comparable mark, paragraph 7 of Part 1, Schedule 2A of the Act is also relevant. It reads:

"7. (1) Section 6A applies where an earlier trade mark is a comparable trade mark (EU), subject to the modifications set out below.

(2) […]

(3) Where IP completion day falls within the five-year period, in respect of that part of the five-year period which falls before IP completion day –

(a) the references in section 6A(3) and (6) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 6A to the United Kingdom include the European Union".

14. Section 100 of the Act states that:

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

15. Consequently, the onus is upon the Opponent to prove that genuine use of the registered trade mark was made in the relevant period. The relevant period in which genuine use must be established is the five-year period ending on the date

of filing of the contested mark, i.e. 17 January 2018 – 16 January 2023. By virtue of paragraph 7 of Part 1, Schedule 2A of the Act, use within the EU is relevant for that part of the relevant period which falls prior to IP Completion Day (i.e., 31 December 2020).

16. Section 100 of the Act states that:

> "100. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it."

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

> "105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 P *Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bundervsvereinigung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 W.F. *Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C–720/18 and C–721/18 *Ferrari SpA v DU* [EU:C:2020:854].
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> 106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a

subcategory of goods or services, the principles may be summarised as follows:

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

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

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

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns:

Ansul at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

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

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

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no de minimis rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

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

18. Arnold LJ followed his summary of the principles to be applied when assessing proof of use with the following paragraph:

“107. The trade mark proprietor bears the burden of proving genuine use of its trade mark: see section 100 of the 1994 Act and *Ferrari* at [73]-[83]. The General Court of the European Union has repeatedly held that genuine use of a trade mark cannot be proved by means of probabilities or suppositions, but

must be demonstrated by solid and objective evidence of effective and sufficient use of the trade mark on the market concerned: see e.g. Case T-78/19 *Lidl Stiftung & Co KG v European Union Intellectual Property Office* [EU:C:2020:166] at [25]. It has also repeatedly held that the smaller the commercial volume of the exploitation of the mark, the more necessary it is for the proprietor to produce additional evidence to dispel any doubts as to the genuineness of its use: see e.g. *Lidl* at [33]. In *Awareness Ltd v Plymouth City Council* [2013] RPC 24 Daniel Alexander QC sitting as the Appointed Person said:

> "19. For the tribunal to determine in relation to what goods or services there has been genuine use of the mark during the relevant period, it should be provided with clear, precise, detailed and well-supported evidence as to the nature of that use during the period in question from a person properly qualified to know.
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> …
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> 22. … it is not strictly necessary to exhibit any particular kind of documentation but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal … comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaking, having regard to the interests of the proprietor, the opponent and, it should be said, the public.""

19. In *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd,* Case BL 0/404/13*,* Mr Geoffrey Hobbs QC (as he then was) as the Appointed Person stated that:

> "21. The assessment of a witness statement for probative value necessarily focuses upon its sufficiency for the purpose of satisfying the decision taker with regard to whatever it is that falls to be determined, on the balance of probabilities, in the particular context of the case at hand. As Mann J. observed in *Matsushita Electric Industrial Co. v. Comptroller-General of Patents* [2008] EWHC 2071 (Pat); [2008] R.P.C. 35: '[24] As I have said, the act of being satisfied is a matter of judgment. Forming a judgment requires the weighing of evidence and other factors. The evidence required in any particular case where satisfaction is required depends on the nature of the inquiry and the nature and purpose of the decision which is to be made. For example, where a tribunal has to be satisfied as to the age of a person, it may sometimes be sufficient for that person to assert in a form or otherwise what his or her age is, or what their date of birth is; in others, more formal proof in the form of, for example, a birth certificate will be required. It all depends who is asking the question, why they are asking the question, and what is going to be done with the answer when it is given. There can be no universal rule as to what level of evidence has to be provided in order to satisfy a decision-making body about that of which that body has to be satisfied.'
>
> 22. When it comes to proof of use for the purpose of determining the extent (if any) to which the protection conferred by registration of a trade mark can legitimately be maintained, the decision taker must form a view as to what the evidence does and just as importantly what it does not *'show'* (per Section 100 of the Act) with regard to the actuality of use in relation to goods or services covered by the registration. The evidence in question can properly be assessed for sufficiency (or the lack of it) by reference to the specificity (or lack of it) with which it addresses the actuality of use."

20. What I take from this case law is that there is no requirement to produce any specific form of evidence, but that I must consider what the evidence as a whole shows me and whether on this basis I can reasonably be satisfied on the balance of probabilities that there has been genuine use of the mark.

Evidence of use

21. I remind myself that the relevant period is 17 January 2018 – 16 January 2023 and that any use within the EU is relevant prior to IP Completion Day.

22. I first consider Mr Birchall's witness statement and the supporting exhibits DB1 to DB17.

23. The witness statement covers a number of instances of the use of Legion software dating back to 2009. Exhibits DB1 to DB5 are for dates prior to the relevant period and so they are of no assistance to the present assessment and so I will not discuss them any further.

24. Exhibit DB6 is a page from https://learninglegacy.crossrail.co.uk/ from July 2018 which refers to passenger flow having been modelled using Legion software.

25. Exhibit DB7 consists of screenshots from legion.com from August 2018 covering what Legion offers in terms of consulting, licensing schemes (including for the "UK and the rest of the world"), technical support, and training. Legion's project consulting service is described as follows:

> "Legion in-house consultants provide expert support for Legion software but also many other facets of a project. Our consultants are trained in the fields of engineering, transport planning, architecture and operational research, thus they can help your team understand how Legion software fits into the wider scope of any project from planning strategy through to live operations."

26. Exhibit DB8 is an August 2018 screenshot from legion.com. It is a case study of Covent Garden tube station where "Legion analyses were able to calculate the

'social cost' values" for a project with a view to calculating material benefits for various scenarios.

27. Exhibit DB9 consists of articles reporting on the opponent's acquisition of Legion software. There are articles from Architect magazine (31 October 2018), the Construction Index (16 October 2018), and PBC Today (15 October 2018).

28. Exhibit DB10 includes an article from BIM+ (15 May 2019) which refers to "OpenBuildings Station Designer" a piece of software owned by the opponent which "incorporates LEGION simulation software, acquired by Bentley late in 2018, for fully modelling pedestrian traffic to optimise footfall, wayfinding, crowd management, safety, and security."

29. Exhibit DB11 is a Department of Transport report which shows that, as of April 2020, Legion software is considered to be business critical.

30. Exhibit DB12 consists of magazine articles from 2020 reporting on the opponent waiving new subscription fees for Legion software to help building and facilities managers meet demands for social distancing and crowd management.

31. Exhibit DB13 dates from 30 September 2020 and is screenshots from the Movement Strategies website, Movement Strategies being a company that has been "advising architects, venues and event owners and operators on crowd flow, safety and visitor experience since 2005". Movement Strategies says that "We are pioneers in crowd modelling and crowd dynamics. Our extensive portfolio of tools includes our own SENSE™ modelling software and 'off the shelf' dynamic microsimulations, such as, Legion Spaceworks".

32. Exhibit DB14 consists of an article from March 2021 from railpro.co.uk on Legion software being used in the upgrade Bank-Monument underground station in London.

33. Exhibit DB15 is of an advertisement for Legion Simulator software on cadventure.co.uk on 17 May 2021.

34. Exhibit DB16 is a screenshot from bentley.com, the opponent's website, dated 5 October 2022, which sets out the features of Legion Simulator.

35. Exhibit DB17 is a screenshot from bentley.com, dated 7 October 2022, which sets out the features of Legion Model Builder.

36. I now consider Mr Schellhase's witness statement and supporting exhibits MS1 to MS17.

37. Mr Schellhase says that:

> "Software and architectural and civil engineering consultancy services were first provided by Legion Limited ("LL") under the Earlier Mark in the late 1990s. LEGION software was used in planning the 2000 Olympic games held in Sydney, the 2004 Olympic games held in Athens and the 2012 Olympic games held in London. At least as early as 2006, LEGION software was being licensed to major transportation organizations in the UK including London Underground Limited, Crossrail, Transport for London and the Strategic Rail Authority."

38. Exhibit MS1 consists of selected pages from a document said to be from tfl.gov.uk and issued in 2016 with the title "Station modelling with Legion Spaceworks: Best Practice Guide".

39. Exhibit MS2 consists of selected pages from an agreement dated 7 February 2018 between Legion Limited and Transport for London Limited, running until 31 January 2023, under which Legion Limited agreed to license Legion software "and additional services, including consultancy and advisory services". The additional services are itemised on page 102 of the agreement as follows:

> "The following provisions of this Schedule 2 set out the parties current intention as to possible Additional Services but is not binding upon either party.
>
> Description of Additional Services:

Future Options

- Consultancy – Software Development
- Software conversion costs (where required)
- Associated training costs
- Associated support costs”

40. Mr Schellhase says that:

> “While payment details have been redacted from this Exhibit, I can confirm that that agreement provided for payments in excess of £500,000 for the continuation of pre-existing software licenses of the LEGION software alone and for additional payments for the provision of the additional services over the five years of the agreement.”

41. Exhibits MS3 to MS5 consist of invoices sent to UK addresses from Legion Limited in 2018. Monetary amounts are redacted. The invoices are mainly for Legion SpaceWorks software, software support and maintenance, and software training, but there are also entries for “Data Information Gathering”, “Monte Carlos Analysis” [which I take to be some sort of analytical technique], “Final Report” and “Data Preparation, model work and analysis”.

42. Exhibit MS6 is the assignment document of 18 August 2018 confirming the opponent as the owner of the earlier mark and Exhibit MS7 is a copy of a written acknowledgement dated 18 August 2018 from Transport for London Limited that the Opponent “had stepped into the shoes of” Legion Limited.

43. Exhibit MS8 is a redacted delivery request for Legion software from Transport for London for 12 months, dated 19 November 2018. Mr Schellhase says that “While figures have been redacted from this Exhibit, I can confirm that that the figure invoiced was in excess of £100,000.”

44. Exhibit MS9 is a case study from the opponent from 2022 summarising the use of Legion software on the Bank-Monument underground station in London.

45. Exhibit MS10 is a project proposal, dated 27 January 2021, whereby the opponent would assess the impact of 1 metre social distancing on the movement of Shell UK employees. The opponent would use Legion software to do this and would charge Shell UK for a given number of days of consultancy services and project management.

46. Exhibit MS11 is the redacted purchase order from Shell UK for the above project. Mr Schellhase confirms that it was for "a figure in excess of US$80,000."

47. Exhibit MS12 consists of redacted invoices to UK addresses from 2021 and 2022 to "various customers (including engineering consultants and transport consultants)" for Legion software.

48. Exhibit MS13 is a screenshot of a 20-video "Bentley Mobility Simulation" YouTube playlist which was captured on 7 March 2024 and which features videos about "LEGION" software. The individual videos date from 1, 2 or 3 years previously and the viewership ranges from 59 views to 1500 of which it is not known how many were from the UK.

49. Exhibit MS14 is two electronic files of videos of PowerPoint presentations – "Introduction to LEGION – Bentleys Solution for Pedestrian Simulation" (dated May 18, 2021) and "LEGION Case Studies (including London Underground)" (undated).

50. Exhibit MS15 is an advert for a webcast about LEGION Simulator software, "LEGION Simulator: Key Features for Social Distancing", on event.on24.com, which was screenshot on 7 March 2024.

51. Exhibit MS16 is “a printout of a 2022 posting” on bentleysystems.service-now.com/community about a video entitled “Modelling Lifts and Elevators with LEGION”.

52. Exhibit MS17 shows various “LEGION” software and training packages being offered for sale on “virtuosity” – the opponent’s “eStore” as of 7 March 2024. One package is offered for sale at £11732.00 for 12 months.

53. At paragraph 20 of this witness statement, Mr Schellhase says that:

> “During the five-year period ending 15 January 2023, the Earlier Mark was used in the UK on and in relation to business consultancy and advisory services, industrial research services and architectural and civil engineering consultancy services”.

54. Mr Schellhase also provides “United Kingdom revenue figures from the provision of the Software and the Services under the Earlier Mark in the four years before the filing date of the opposed application”:

Period	UK Sales (in US$)
Calendar year 2022	266,266
Calendar year 2021	386,801
Calendar year 2020	240,217
Calendar year 2019	223,582

Form of the mark

55. There are a number of instances of the mark appearing in the evidence as registered. Where it is shown as “Legion” as opposed to “LEGION”, this is the normal and fair use of a word mark.

56. However, where the opponent’s mark has additional words such as “Spaceworks”, “Simulator”, “Model Builder”, “Studio” “for Aimsun” “Viewer” and “3D” these are references to particular Legion products and in that regard I am mindful of *Colloseum Holdings AG v Levi Strauss & Co.*, Case C-12/12

where it was held that "the 'use' of a mark, in its literal sense, generally encompasses both its independent use and its use as part of another mark taken as a whole or in conjunction with that other mark" (paragraph 32) and that "a registered trade mark that is used only as part of a composite mark or in conjunction with another mark must continue to be perceived as indicative of the origin of the product at issue for that use to be covered by the term 'genuine use' within the meaning of Article 15(1)" (paragraph 35).

57. It is my determination that notwithstanding the presence of the additional words, "Legion" will continue to be perceived as indicative of the origin of the products at issue. Consequently, I consider such uses of the mark to be acceptable variant use.

58. The same applies to instances where the opponent has used its mark in this form:

59. In those cases, I consider that highlighting the letter "L" using a mustard-coloured box simply reinforces the first letter of the word "LEGION" and the smaller strapline "SCIENCE IN MOTION", in fainter text, plays a lesser role in the overall impression formed by the mark, such that the plain word "LEGION" will continue to be perceived as indicative of the origin of the products at issue. Alternatively, if the addition of the mustard-coloured box was considered to constitute use of the mark in a different form, I do not consider this change to alter the distinctive character of the mark and so this is also acceptable variant use in line with In *Lactalis McLelland Limited v Arla Foods AMBA* (BL O/265/22).

Does the evidence show genuine use of the earlier mark?

60. In *Euro Gida Sanayi Ve Ticaret Limited v Gima (UK) Limited,* BL O/345/10, Mr Geoffrey Hobbs Q.C. as the Appointed Person summed up the law as being:

> "In the present state of the law, fair protection is to be achieved by identifying and defining not the particular examples of goods or services for which there has been genuine use but the particular categories of goods or services they should realistically be taken to exemplify. For that purpose the terminology of the resulting specification should accord with the perceptions of the average consumer of the goods or services concerned."

61. In *Merck KGaA v Merck Sharp & Dohme Corp & Ors* [2017] EWCA Civ 1834 the Court of Appeal set out the proper approach to partial revocation (the same principles to determining a fair specification where proof of use has been requested in a section 5(2)(b) case) as follows:

> "245. First, it is necessary to identify the goods or services in relation to which the mark has been used during the relevant period.
>
> 246. Secondly, the goods or services for which the mark is registered must be considered. If the mark is registered for a category of goods or services which is sufficiently broad that it is possible to identify within it a number of subcategories capable of being viewed independently, use of the mark in relation to one or more of the subcategories will not constitute use of the mark in relation to all of the other subcategories.
>
> 247. Thirdly, it is not possible for a proprietor to use the mark in relation to all possible variations of a product or service. So care must be taken to ensure this exercise does not result in the proprietor being stripped of protection for goods or services which, though not the same as those for which use has been proved, are not in essence different from them and cannot be distinguished from them other than in an arbitrary way.
>
> 248. Fourthly, these issues are to be considered having regard to the perception of the average consumer and the purpose and intended use of the products or services in issue. Ultimately it is the task of the tribunal to arrive at a fair specification of goods or services having regard to the use which has been made of the mark.

> 249. This approach does strike an appropriate balance. It gives effect to the clear intention of the EU legislature that marks must actually be used or, if not used, be subject to revocation. […] It is also fair to proprietors for it does not require a proprietor to prove that he has used his mark in relation to all possible variations of the goods or services covered by its registration but only those which are sufficiently distinct to constitute coherent categories or subcategories. I am also satisfied that it gives appropriate protection to the legitimate interest of a proprietor in being able in the future to extend his range of goods or services within the scope of the terms describing the goods or services for which its mark is registered."

62. In *Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel Liverpool) & Ors* [2016] EWHC 3103 (Ch) at [47], the late Carr J pointed out that it is not the task of the court to describe the use made by the trade mark proprietor in the narrowest possible terms unless that is what the average consumer would do; for example, in *Pan World Brands v Tripp Ltd (Extreme Trade Mark)* [2008] RPC 2 it was held that use in relation to holdalls justified a registration for luggage generally.

63. The approach in *Merck* was endorsed by the Supreme Court in *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36:

> "261. … save that it must now be seen in light of the more recent guidance given by the CJEU in, for example: *Ferrari SpA v DU* (Joined Cases C-720/18 and C-721/18) EU:C:2020:854; [2021] Bus LR 106, at paras 36-53. There the CJEU explained, at para 40, that the essential criterion to apply for the purposes of identifying a coherent subcategory of goods or services capable of being viewed independently is their purpose and intended use."

General assessment

64. Looking in the round at the evidence supplied by the opponent, its ability to demonstrate use has been limited by the redaction of sums of money from its

evidence for reasons of commercial confidentiality. However, Mr Schellhase has attested to the amount of money earned in his witness statement at paragraphs 40, 43 and 46.

65. Mr Schellhase also supplied figures for overall revenue in the United Kingdom under the mark at paragraph 54.

66. As well as giving consideration to money earned and overall revenue during the relevant period, it is apparent that the opponent's software has been used on major transport projects in the run up to and during the relevant period in respect of Crossrail and London Underground station improvements. Furthermore, Transport for London had a contract for the use of the opponent's software throughout the relevant period and as of April 2020 the Department for Transport considered the opponent's software to be business critical.

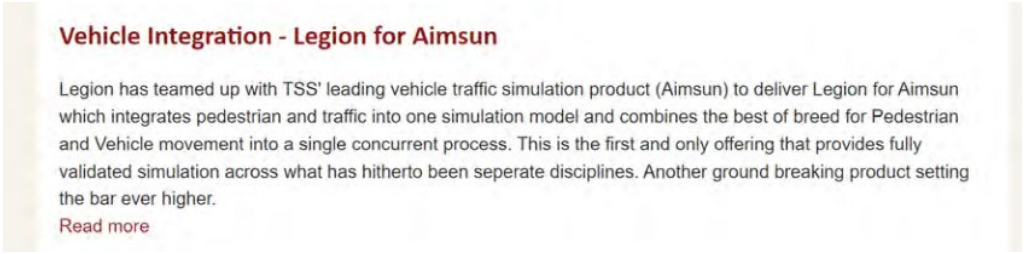
67. I have not been supplied with any information as to market share or the size of the market in question.

68. The opponent's software has featured in a number of trade publications during the relevant period and there has been a limited amount of marketing activity in the form of two advertisements having been placed, one within the relevant period, the other undated. There are also YouTube videos about the opponent's software that have been posted, but the viewership for these is small.

69. Notwithstanding the shortcomings of the evidence in respect of market share/the size of the relevant market, and marketing activity, looking at all of the evidence in the round, I consider genuine use to have been demonstrated for the opponent's mark. I will now move on to detail which goods and services I consider there to have been genuine use for and what constitutes a fair specification under each class heading.

Class 9

70. It is clear from the evidence that the opponent's software has been commercially exploited under the mark during the relevant period. However, this is not computer software at large. Nor do I consider as per the opponent's assertion at paragraph 27 of its submissions in lieu that it has shown use of "software for creating and manipulating 3D virtual environments" and "software for computer aided design" in general. Rather, the opponent has shown use of specialised software which allows the user to assess the impact of the movement of people in public places such as railway stations. Currently, the opponent has the Class 9 term "Computer software, including computer software for the modeling of movement of people and vehicles through public spaces and buildings." However, there is only one instance in the evidence of software that tracks the movement of vehicles, in Exhibit DB4 as below.



Vehicle Integration - Legion for Aimsun

Legion has teamed up with TSS' leading vehicle traffic simulation product (Aimsun) to deliver Legion for Aimsun which integrates pedestrian and traffic into one simulation model and combines the best of breed for Pedestrian and Vehicle movement into a single concurrent process. This is the first and only offering that provides fully validated simulation across what has hitherto been seperate disciplines. Another ground breaking product setting the bar ever higher.
Read more

71. However, it is clear from this example that the vehicle traffic simulation product that the opponent's software interacts with, "Aimsun", belongs to a third-party company called TSS and this software would not be seen by the average consumer as being sold under the opponent's mark.

72. In conclusion, I consider a fair specification for the opponent's Class 9 goods to be:

Class 9: Computer software for the modelling of movement of people through public spaces and buildings.

Class 35

73. The opponent currently has “business management assistance services” and “business consultancy and advisory services” in this class. However, there is no evidence that these generic services which entail support for the management and running of businesses across the board have been offered under the mark during the relevant period.

74. As such, the opponent does not retain any services in this class.

Class 42

75. The opponent currently has “scientific and industrial research services” and “architectural and civil engineering consultancy services” in this class, but, bearing in mind cases such as *Awareness Ltd v Plymouth City Council* and *Dosenbach*, the evidence does not support the retention of these terms at large.

76. There is evidence of the opponent having listed its consultancy services and of its having done some research and consultancy work in the form of data analysis and being commissioned to carry out a project, but specifically in the field of the modelling of the movement of people through public spaces and buildings. On this basis, I consider a fair specification for the opponent’s Class 42 services to be:

Class 42: Scientific and industrial research services in the field of the modelling of movement of people through public spaces and buildings; architectural and civil engineering consultancy services in the field of the modelling of movement of people through public spaces and buildings.

Section 5(2)(b)

77. Sections 5(2)(b) and 5A of the Act state:

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

[…]

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

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

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

Relevant law

78. The following principles are gleaned 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 C-120/04, *Shaker di L. Laudato & C. Sas v OHIM,* Case C-334/05P and *Bimbo SA v OHIM,* Case C-591/12P.

The principles

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

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

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

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

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

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

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

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

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

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

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

Comparison of the goods and services

79. In comparing the respective specifications, all relevant factors should be considered, as per *Canon*, where the CJEU stated at paragraph 23 of its judgment:

> "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."

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

(a) The respective uses of the respective goods or services;

(b) The respective users of the respective goods or services;

(c) The physical nature of the goods or acts of service;

(d) The respective trade channels through which the goods or services reach the market;

(e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;

(f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

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

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

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

"…the applicable principles of interpretation are as follows: (1) General terms are to be interpreted as covering the goods or services clearly covered by the literal meaning of the terms, and not other goods or services. (2) In the case of services, the terms used should not be interpreted widely, but confined to

the core of the possible meanings attributable to the terms. (3) An unclear or imprecise term should be narrowly interpreted as extending only to such goods or services as it clearly covers. (4) A term which cannot be interpreted is to be disregarded."

83. In *Avnet Incorporated v Isoact Limited* [1998] FSR 16, Jacob J (as he then was) said at [19]:

"[…] definitions of services … are inherently less precise than specifications of goods. […] In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase."

84. The goods and services to be compared are shown in the table below.

The opponent's goods and services	The applicant's goods and services
Class 9 Computer software for the modelling of movement of people through public spaces and buildings.	Class 9 Computer software and downloadable computer software; software applications; computer programmes and downloadable computer programmes; software relating to virtual reality; software relating to augmented reality; software for creating, manipulating and participating in 3D virtual environments; software libraries; none of the aforesaid goods in relation to providing support to war veterans and their families; none of the aforesaid goods in relation to the modelling of movement of people and vehicles through public spaces and buildings;

	none of the aforesaid goods in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid goods in relation to IT consultancy; none of the aforesaid goods in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid goods in relation to IP rights and IP services.
	Class 35 Business and business management services; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.
Class 42 Scientific and industrial research services in the field of the modelling of movement of people through public	Class 42 Computer services; platform as a service [PaaS]; software as a service [SaaS]; design and development of

spaces and buildings; architectural and civil engineering consultancy services in the field of the modelling of movement of people through public spaces and buildings.	virtual reality software; design of digital 3D assets for others; content creation for virtual worlds and three dimensional platforms; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.

85. The applicant submitted in its counterstatement that the goods and services are different.

86. The opponent's analysis of the level of similarity of the goods and services, at paragraphs 27 to 33 of its submissions in lieu, is based on the assumption that it had shown use of "software for creating and manipulating 3D virtual environments and software for computer aided design". However, I consider the opponent to have shown use for specific specialised software: "Computer software for the modelling of movement of people through public spaces and buildings."

87. I do not consider the opponent to have shown use for "business management assistance services" and "business consultancy and advisory services" and so those services are not available as comparators.

88. The opponent also considered itself to have shown use for "architectural and civil engineering consultancy services" at large, whereas I consider it to have shown use specifically for "architectural and civil engineering consultancy services in the field of the modelling of movement of people through public spaces and buildings".

89. Furthermore, the opponent has taken no account of the limitations to the applicant's specification.

90. I note, however, that at paragraph 19 of his witness statement, Mr Schellhase attests to the opponent's software having the following properties:

> (i) creates 3D virtual environments;
> (ii) includes various Computer Aided Design modelling functionality
> (iii) enables users to build, and audit, a precise 3D model of any place where people converge (such as railway stations, sports stadia, airports, office complexes, theatres, plazas and transport hubs) to evaluate how they operate;
> (iv) mimics all aspect of an individual's movement including perception of other's behaviour;
> (v) simulates people movement to explore the operation of a site and possible design alternatives;
> (vi) allows simulations to be viewed at various speeds;
> (vii) accurately tests plans to enhance footfall and crowd management;
> (viii) assesses and quantifies congestion impacts;
> (ix) tests the impact of construction on crowd management;
> (x) allows the testing of evacuation strategies;
> (xi) assists building and facilities managers in meeting demands for social distancing; and
> (xii) exports and reports output using maps, graphs and visuals

Class 9

91. In *Unicorn Studio Inc v Veronese (Société par Actions Simplifiée)* [2024] EWHC 1098 (Ch), Iain Purvis KC, sitting as a deputy High Court judge, said:

"23. … the overall purpose of considering similarity should not be forgotten. That purpose is to identify similarities which might be relevant to the question of likelihood of confusion. It seems to me the greater the level of generality at which some similarity under *Canon* factors can be found … the less relevant could it be to any question of confusion, and any assessment of similarity of goods should take that into account.

24. Thirdly, any finding of similarity in the end requires the exercise of common sense and requires the hearing officer to stand back and consider the overall question."

92. The applicant's software goods are subject to the limitation "none of the aforesaid goods in relation to the modelling of movement of people and vehicles through public spaces and buildings". I consider that, even taking the closest type of the applicant's software to that of the opponent – "software for creating, manipulating and participating in 3D virtual environments" – as a comparator to the opponent's "computer software for the modelling of movement of people through public spaces and buildings", must result in a finding of dissimilarity. This is because the applicant's software is expressly limited so as **not** to be "in relation to the modelling of movement of people and vehicles through public spaces and buildings".

93. In the light of the *Unicorn Studio* case, the fact that both goods to be compared are software is at too high a level of generality for a finding of similarity to be arrived at given the limitation that is operative. Taking a step back and considering the actual terms before me, it does not make sense to find these goods to be similar as to do so would offer far too broad a level of protection for any and all types of computer software and it would also not give proper effect to the limitation.

94. I make the same finding, that of dissimilarity, for the applicant's other software goods.

Class 35

95. Notwithstanding any limitations that the applicant's term is subject to, "business and business management services" do not have anything in common with the opponent's specialist software goods.

96. I also find that the applicant's services differ from the opponent's Class 42 specialist research and consultancy services. The former are services which entail the day-to-day running of a business as a whole as opposed to the researching into or consulting on a particular task in a specialised field. These services would not be sold through the same trade channels, nor are they complementary or in competition. I find them to be dissimilar.

Class 42

97. The applicant's services are subject to the limitation "none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings". Again, the applicant's computer and software services and its "design of digital 3D assets for others" and "content creation for virtual worlds and three dimensional platforms" as comparators to the opponent's "computer software for the modelling of movement of people through public spaces and buildings" must result in a finding of dissimilarity. This is because the applicant's services are expressly limited so as **not** to be "in relation to the modelling of movement of people and vehicles through public spaces and buildings".

98. Taking a step back and considering the actual terms before me, it does not make sense to find these services to be similar to the opponent's goods as to do so would offer far too broad a level of protection for any and all types of computer or software-based areas of activity and would also not give proper effect to the limitation that is operative.

99. By the same token, if I was to compare the opponent's "architectural and civil engineering consultancy services in the field of the modelling of movement of

people through public spaces and buildings" to their closest of the applicant's comparators, "design of digital 3D assets for others" and "content creation for virtual worlds and three dimensional platforms", I also find dissimilarity. This is because, while all the services can entail the creation of 3D images, the applicant's services are expressly limited so as **not** to be "in relation to the modelling of movement of people and vehicles through public spaces and buildings". Taking a step back and considering the actual terms before me, it does not make sense to find these services to be similar as to do so would not give proper effect to the limitation that is operative.

100. As some degree of similarity between the goods and services is required for there to be a likelihood of confusion under section 5(2)(b),[2] the opposition fails in its entirety at this point.

CONCLUSION

101. The application in full proceeds to registration.

COSTS

102. The applicant has been entirely successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice ("TPN") 1/2023. As the applicant filed no submissions, it is not apparent how much consideration it gave to the opponent's evidence, and it certainly did not comment on the other side's evidence. As such, I have awarded less than the standard minimum set out in the TPN for that part of my costs assessment.

Preparing a statement and considering the other side's statement:	£250
Considering the other side's evidence:	£300
Total	**£550**

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

103. I therefore order BENTLEY SYSTEMS (UK) LIMITED to pay Athar Ahmed the sum of £550. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.

Dated this 13th day of August 2025

John Williams
For the Registrar

Annex 1

The applicant's full specification:

Class 9 Computer game software, video games, online games, and game related applications; interactive video game programmes; downloadable electronic game programmes; electronic game software; downloadable computer game programmes; electronic games for use on mobile telephones and tablets; downloadable software for streaming audio and video content on mobile phones, tablets, personal computers, and televisions; downloadable software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; downloadable mobile application software for facilitating financial transactions; payment software; computer software for and featuring non-fungible tokens (NFTs) and cryptocurrency; downloadable computer and mobile telephone and device software for managing cryptocurrency transactions using blockchain technology; downloadable computer and mobile telephone and device software for purchasing and selling digital currency, virtual currency, cryptocurrency, digital and blockchain assets, digitized assets, digital tokens, cryptocurrency tokens, utility tokens, security tokens, and non-fungible tokens (NFTs); e-payment software; e-wallet mobile application software; downloadable e-wallets; downloadable computer and mobile application software for use as a cryptocurrency wallet; downloadable computer and mobile telephone and device software for electronically storing, sending, receiving, accepting and transmitting digital currency, virtual currency, cryptocurrency, digital and blockchain assets, digitised assets, digital tokens, cryptocurrency tokens, utility tokens, security tokens, and non-fungible tokens (NFTs), in the nature of a digital wallet; downloadable computer and mobile telephone and device software for processing electronic payments and for transferring funds to and from others; downloadable computer and mobile telephone and device software for verifying cryptocurrency

transactions on a blockchain; downloadable computer and mobile telephone and device software for verifying cryptocurrency transactions; downloadable computer and mobile telephone and device software for monitoring personal finances; downloadable software for creating, distributing, and managing physical and virtual payment cards and card transactions; downloadable computer and mobile telephone and device software featuring blockchain technology for facilitating the development of play-to-earn games, decentralized finance products, and digital assets; software relating to the metaverse; software relating to virtual reality; software relating to augmented reality; computer programmes for user interface design of virtual communities relating to the metaverse; computer application software for use in implementing the metaverse; computer and mobile application software for accessing the metaverse; application software for smartphones to access and experience the metaverse; metaverse operating software; software for creating, manipulating and participating in 3D virtual environments; software relating to avatars; downloadable digital video recordings and images relating to the metaverse; downloadable computer and mobile software for managing, trading, analysing, and auctioning of virtual real estate and other virtual assets in the metaverse; downloadable computer software for generating non-fungible tokens for use in virtual worlds; customer relationship management (CRM) software; downloadable computer and mobile applications for customer relationship management (CRM); software for providing consumer information; messaging software; software libraries; none of the aforesaid goods in relation to providing support to war veterans and their families; none of the aforesaid goods in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid goods in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid goods in relation to IT consultancy; none of the aforesaid goods in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid goods in relation to IP rights and IP services.

Class 35 Business and business management services; advertising and marketing services; production and distribution of advertisements; creation of advertising matter and commercials; planning, buying and negotiating advertising space; advertising, promotional and marketing services; publicity services; promoting the goods and services of others by providing a mobile application featuring free giveaways; promoting the goods and services of others via advertisements, pop-up advertisements and online promotional materials; loyalty programmes involving discounts and incentives; providing an online marketplace for the purchase and sale of blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned; auctioneering in relation to blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned; organization of exhibitions for commercial or advertising purposes in relation to blockchain technologies, blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned assets; organization of trade fairs for commercial and advertising purposes in relation to blockchain technologies, blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned assets; computer data processing services; data processing services in relation to blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned; commercial information services in relation to blockchain technologies, blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned assets; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of

movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.

Class 36 Financial services; financial exchange; financial transaction and payment services; payment processing services; payment services provided via the Internet; processing of credit card, debit card and prepaid card payments; financial administration services; financial appraisals; financial asset management; financial management; investment services; issuing tokens of value as a reward for customer loyalties; providing cash and other rebates for debit and credit card use as part of a customer loyalty program; providing financial information; banking; exchanging money; electronic funds transfer; money deposit and withdrawal services via electronic means; digital metaverse financial transactions; metaverse financial transactions; e-wallet services; financial services in relation to blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned; electronic transfer of blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned; providing assistance with electronic transfers of blockchain-based assets, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork, and derivatives of the aforementioned; financial transactions via blockchain; electronic funds transfer provided via blockchain technology; issuance of tokens of value; issuance of digital artwork and crypto-collectibles; issuance of non-fungible tokens of value; minting, issuing, and managing tokens and digital assets of value, digital tokens, cryptocurrency tokens, utility tokens, security tokens, and non-fungible tokens (NFTs); information, consultancy and

advisory services in connection with all of the aforesaid; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.

Class 38 Telecommunications; computer aided transmission of messages and images; providing access to databases; providing user access to a global computer network; providing access to websites and web pages on the internet; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users; providing email and instant messaging services; text and numeric wireless digital messaging services; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information and services, and for accessing third party and proprietary websites; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; streaming audio and video material on the Internet; video-on-demand transmission services; providing voice communication services over the Internet; providing on-line facilities for real-time interaction with other computer users concerning topics of general interest and playing games; podcasting services; webcasting services; providing online chatrooms for the transmission of messages, comments and multimedia content among users; providing metaverse services to access virtual communities via the internet; advice and consultancy services relating to all the aforesaid; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of

people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.

Class 41 Arranging, planning and conducting educational conferences, meetings, seminars and workshops; preparation and production of audio and visual presentations for conferences, meetings, seminars and workshops; organisation of competitions, awards, quizzes, games and recreational activities; education services and information provided on-line, via the Internet or via other communication networks; production, presentation, provision and distribution of films, television and radio programmes, blogs, webinars, podcasts, vodcasts and news feeds; entertainment services; providing online video games, online games, electronic games and game related applications; providing an online environment featuring streaming of entertainment content; operating and maintaining a virtual world for entertainment purposes; entertainment services in the nature of a metaverse; play-to-earn (P2E) electronic games and online games services; providing entertainment information about computer games, video games and esports via a website; electronic games services provided from a computer database or by means of the internet or through the use of a mobile application or by blockchain technology; educational and training services in relation to blockchain technologies, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork and the related services; entertainment and cultural services in relation to digital assets, digital collectibles, non-fungible tokens and digital artwork; providing online electronic publications, not downloadable, in relation to blockchain technologies, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork and the related services; providing online videos, not downloadable, in relation to blockchain technologies,

cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork and the related services; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy; none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.

Class 42 Providing websites for others; hosting platforms on the Internet for delivery of multimedia content; hosting of digital content online; blockchain as a service [BaaS]; electronic storage of cryptocurrency and digital assets for others; data storage via blockchain; data authentication via blockchain; certification of data via blockchain; user authentication using blockchain technology; providing temporary use of non-downloadable computer software that allows users to send, receive, store, and safeguard cryptocurrency and digital assets; providing a secure, web-based service featuring technology that enables users to remotely access, send, receive, store, and manage cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork; providing temporary use of online non-downloadable software for use in electronically trading, storing, sending, receiving, accepting and transmitting cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork; providing temporary use of on-line non-downloadable software for processing electronic payments; providing technological consulting and online non-downloadable and downloadable software in relation to blockchain technologies, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork and the related services; providing online non-

downloadable and downloadable software for use in accessing, reading, storing, tracking, trading and using blockchain technology; providing on-line non-downloadable computer software for use in managing and using blockchain technology and computation thereof; providing online non-downloadable and downloadable software that enables users to create, exchange, manage, sell, purchase, store, transfer, accept, receive, transmit and use cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork; providing technological consulting in the field of digital assets, cryptocurrency, virtual currency, digital tokens, digital currency, decentralized application tokens and blockchain-based assets; providing temporary use of on-line non-downloadable software for processing electronic payments; smart contracts services; computerized information services relating to blockchain technologies, cryptocurrencies, cryptoassets, digital currencies, digital assets, digital collectibles, non-fungible tokens and digital artwork; design and development of metaverse application software; design and development of metaverse game software; maintenance of metaverse application software; maintenance of metaverse game software; hosting an on-line multimedia virtual environment in which users can interact for entertainment purposes; creating an online community for users to access online metaverse platforms; creating an on-line community for digital assets, non-fungible tokens, and metaverses and online worlds; user authentication services using blockchain technology;cryptocurrency, crypto asset and non-fungible token creation and mining; generating non-fungible tokens; design of digital 3D assets for others; design of avatars for others; content creation for virtual worlds and three dimensional platforms; none of the aforesaid services in relation to providing support to war veterans and their families; none of the aforesaid services in relation to the modelling of movement of people and vehicles through public spaces and buildings; none of the aforesaid services in relation to architecture, engineering and infrastructure of buildings; none of the aforesaid services in relation to IT consultancy;

none of the aforesaid services in relation to legal work, including legal consultancy and legal testimonies; none of the aforesaid services in relation to IP rights and IP services.