

O-368-19

TRADE MARKS ACT 1994

**IN THE MATTER OF THE APPLICATION BY
JOHN NICHOLAS HEATH
UNDER NO 3222803
FOR THE FOLLOWING SERIES OF TRADE MARKS**



**IN THE MATTER OF OPPOSITION NO. 409717 THERETO
BY
VALDIMIR PTE LTD.**

SUPPLEMENTARY DECISION

Background

1) On 3 April 2017 Mr John Nicholas Heath applied to register in the UK the series of trade marks shown on the front page of this decision (“the opposed marks”) in respect of a number of goods and services in Classes 9, 35 and 42. The application was opposed by Valdimir Pte Ltd (“the Opponent”) under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), for the purposes of which it relied upon the following three earlier EU trade mark (“EUTM”) registrations :

EUTM 11891108 for the following sign (“the 108 mark”):

FWD

EUTM 12074589 for the following sign (“the 589 mark”):

FWD

EUTM 12074605 for the following sign (“the 605 mark”):

FWD 

2) All three earlier registrations cover a very long and wide-ranging list of goods and services. None were subject to the proof of use conditions contained in section 6A of the Act, their respective registration procedures not having been completed more than five years before the publication of Mr Heath’s series of marks. Neither side requested a hearing. Both parties filed written submissions, both during the evidence rounds and in lieu of attendance at a hearing. I decided the case after a review of all the papers

before me. Further details of the background and pleadings will be found in the decision BL O/575/18 which I issued on 14 September 2018 (“my earlier decision”), and which is appended as an Annex to this present decision.

3) In my earlier decision I explained briefly at paragraph 21 that I considered that the 589 mark, being closest in appearance to the marks applied for, represented the Opponent’s best case, and that I would make my comparison with the opposed marks on the basis of that earlier mark, noting with regard to comparison of goods and services that neither of the other two earlier marks offered a more advantageous comparison from the Opponent's point of view.

4) In hearing an appeal from my earlier decision, Mr Iain Purvis, QC, sitting as the Appointed Person, considered that in so doing I had not taken the correct approach. In its second ground of appeal the Opponent contended that the opposition based on the 108 mark should have succeeded, because a global assessment would have resulted in a finding that there was a likelihood of confusion. Mr Purvis observed that it was hard to see how this could properly be dealt with by way of appeal, when I had not actually carried out such a global assessment. He therefore held that I had erred in principle by not carrying out the global assessment in relation to the 108 mark, and in his decision O/332/19 of 8 June 2019 remitted the matter back to me to provide a reasoned decision on this.

Comparison of the goods and services, average consumer and purchasing process

5) In my earlier decision I had found the goods and services of the marks applied for to be identical with those of the earlier mark. I note that at the hearing of the appeal Mr Purvis observed that it was unnecessary to go into any detail about the scope of the goods and services for which the Opponent's marks were registered, since it was not in dispute that they could be treated as being identical to all the goods and services which are the subject of the application in suit. The findings I made in my earlier decision with regard to the average consumer and the purchasing process can therefore also appropriately be adopted for the purposes of this present decision.

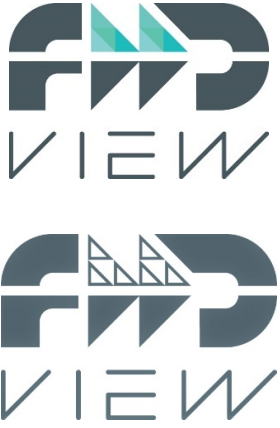

The 108 mark

The distinctiveness of the earlier Mark

6) There is no evidence of enhanced distinctiveness of the 108 mark to be considered. This leaves the question of inherent distinctive character. The letter combination FWD is neither descriptive nor allusive of any of the relevant goods or services. Although the letters are not conjoined in the 108 mark, and the small triangular arrow and mild stylisation of the D in the other earlier marks are absent, I consider that the 108 mark can still be said to have an average degree of distinctiveness.

Comparison of the marks

7) The marks to be compared are shown below:

Mr Heath's series of marks	The earlier 108 mark
	

The earlier Mark has no dominant element, its distinctiveness lying in the whole letter combination FWD. As I found in paragraph 25 of my earlier decision, although the upper component of Mr Heath's marks has greater relative weight in the overall impression, the word "view" still makes a reasonable contribution to the overall

impression of the marks, not least because, for the reasons I explained in my earlier decision, the whole mark, in context, will likely be perceived by a significant proportion of the relevant public as representing the phrase “forward view”.

8) The 108 mark and the upper component of Mr Heath's marks both begin with a letter F and end with a D or a stylised representation of a D. However, the plainly legible letter W which occupies the centre of the earlier mark is completely absent from Mr Heath marks, in which the device which I described in detail in paragraph 25 of my earlier decision occupies a central position. Neither this device nor the stylised word VIEW, which forms approximately the lower third of Mr Heath's marks, have any counterpart in the 108 mark.

9) In making my assessment I bear in mind that the 108 mark is a word mark, and therefore covers all the (normal and fair) ways in which the letters FWD (in that order) are presented. Nevertheless, they remain a straightforward combination of letters. By contrast, I have already found in my earlier decision that the figurative elements of Mr Heath's marks play an important distinctive role in the overall impression the marks create. Overall, there is not more than a low degree of visual similarity between Mr Heath's marks and the 108 mark.

10) In paragraph 27 of my earlier decision I explained why I considered it likely that many consumers would see Mr Heath's marks as FD VIEW, and refer to them accordingly, but that a significant proportion of the relevant public would pronounce the marks as “forward view”. I also accepted that a significant proportion of the relevant public would interpret the combination of the forward pointing arrow and the letters fwd in the 589 mark as intended to represent the word “forward”, and would pronounce the Mark accordingly.

11) It is not uncommon, however, for trade marks to consist simply of letter combinations having no meaning in themselves. Even bearing in mind that consumers may have come across the letter combination “fwd” as an abbreviation of “forward”, however, I do not consider it likely that a substantial proportion of the relevant public, on encountering that simple combination used as a mark in the course of trade, would naturally tend to understand it as being intended to be seen as an abbreviation for the

word “forward”. The more natural reaction would be simply to regard the mark as consisting simply of a combination of letters, and to refer to it orally accordingly. In this case there would be no aural similarity with Mr Heath’s marks. Even if consumers were to pronounce the 108 mark as “forward”, however, there would still only be a medium degree of aural similarity with the “forward view” of the opposed marks.

12) Similarly, I am not persuaded that a substantial proportion of consumers who see Mr Heath’s marks as representing the concept “forward view”, and who then encounter the simple letter combination FWD, will naturally regard the latter as representing the concept “forward”. This being so, there is no conceptual similarity with Mr Heath’s marks. However, even if a significant proportion of the relevant public did see the FWD of the 108 mark as representing the word (and thus the concept) “forward”, I consider that there would still only be a low degree of conceptual similarity with the opposed marks, since the opposed marks will be seen as representing the fresh concept of looking forward.

Likelihood of Confusion

13) It is not in dispute that the goods and services for which the Opponent's marks were registered can be treated as being identical to all the goods and services which are the subject of the application in suit. The findings I made in my earlier decision with regard to the average consumer and the purchasing process can therefore also appropriately be adopted for the purposes of this present decision. Accordingly, the goods and services of the competing marks include a wide range of goods and services for which the average consumer may be a member of the public or a business or professional user, at least a medium level of attention will be paid during the selection and purchasing process, and the selection process is likely to be primarily visual (though I do not overlook an aural element). I have found not more than a low degree of visual similarity and a low degree of conceptual similarity between the marks and that, for a significant proportion of the relevant public, there may be a medium degree of aural similarity. I have found the earlier mark to have an average degree of distinctive character.

14) I have found that the figurative elements of Mr Heath's marks play an important distinctive role in the overall impression of the opposed mark. I consider that these striking figurative elements, together with the omission of the letter W and the addition of the word VIEW in Mr Heath's marks, suffice to ensure that these marks will not be mistaken for the 108 mark of the Opponent.

15) This leaves the question of indirect confusion to be considered. Even for those consumers who see the Opponent's mark as an abbreviation of FORWARD and the letters and device of Mr Heath's marks as representing that word, bearing in mind my findings on the average consumer and the purchasing process, I see no reason why its presence should lead the average consumer to believe that the respective services are provided by the same or economically linked undertakings. The striking figurative elements of Mr Heath's marks play an important distinctive role in the overall impression of the opposed marks, quite different from that of the simpler earlier mark. Although the 108 mark covers all the ways in which the letters FWD may be presented, notional and fair use of the mark must still involve a strong contrast in graphic treatment. This, considered together with the omission of the letter W and the addition of the word VIEW (and the different concept this introduces as a whole) in Mr Heath's mark, amount to differences which, in the context of the marks as a whole, will preclude an impression by the consumer that the respective marks are variants or sub-brands. There will be neither direct nor indirect confusion.

The 605 mark

16) In paragraph 19 of his decision Mr Purvis found that I had erred in principle by not carrying out the global assessment in relation to the 108 mark, and remitted the matter back to me. In paragraph 14(ii) he observed that it was hard to see how an opposition based on the 605 mark (which differs from the 589 mark only in the addition of the extra 'running figures' element) could ever succeed if one based on the 589 mark failed (absent some extraneous issue such as a different situation on proof of use). For completeness and the avoidance of doubt, however, it seems appropriate to sketch briefly my global assessment in respect of the 605 mark too.

17) The goods and services for which the Opponent's marks were registered can be treated as being identical to all the goods and services of Mr Heath's marks. The findings I made in my earlier decision in respect of the 589 mark with regard to the average consumer and the purchasing process apply equally to the 605 mark. The 605 mark differs from the 589 mark only in the addition of the extra 'running figures' element. This figurative element will play no role in oral use of the mark. It makes a contribution to the distinctiveness of the mark, but the overall difference in comparison with the 589 mark is comparatively marginal, and it can still be said to fall within the average range of distinctiveness. Conceptually, it might be argued that the "running figures" device evokes the "forward" idea but, if so, the reference is very general and oblique. The "running figures" device does, however, substantially increase the visual distance between the competing marks. There is no likelihood of either direct or indirect confusion between the 605 mark and Mr Heath's marks.

Dated 2 July 2019

**Martin Boyle
For the Registrar,
The Comptroller-General**

ANNEX

THE EARLIER DECISION

BL O/575/18 OF 14 SEPTEMBER 2018

O-575-18

TRADE MARKS ACT 1994

**IN THE MATTER OF THE APPLICATION BY
JOHN NICHOLAS HEATH
UNDER NO 3222803
FOR THE FOLLOWING SERIES OF TRADE MARKS**



**IN THE MATTER OF OPPOSITION NO. 409717 THERETO
BY
VALDIMIR PTE LTD.**

Background and pleadings

1) On 3 April 2017 Mr John Nicholas Heath applied to register the series of trade marks shown on the front page of this decision (“the opposed marks”) in the UK.

The application was accepted and published for opposition purposes in the Trade Marks Journal on 14 April 2017 for the following goods:

Class 9: *Software development tools; Software.*

Class 35: *Business management consulting services in the field of information technology; Consulting services in business organization and management; Business consulting.*

Class 42: *Information technology [IT] consulting services; Consulting in the field of cloud computing networks and applications; Consulting services relating to computer software; Software development, programming and implementation; Software as a service [SaaS].*

2) The application is opposed by Valdimir Pte Ltd (“the Opponent”) under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), for the purposes of which it relies upon the following earlier EU trade mark (“EUTM”) registrations:

EUTM 11891108 was filed on 11 June 2013 with a priority date of 21 January 2013 and completed its registration procedure on 22 January 2015 for the following sign:

FWD

The goods relied on by the Opponent under EUTM 11891108 are shown in **Annex A** to this decision.

EUTM 12074589 was filed on 19 August 2013 with a priority date of 10 May 2013, and completed its registration procedure on 2 October 2016 for the following sign:



The goods relied on by the Opponent under EUTM 12074589 are shown in **Annex B** to this decision.

EUTM 12074605 was filed on 19 August 2013 with a priority date of 10 May 2013, and completed its registration procedure on 2 January 2016 for the following sign:



The goods relied on by the Opponent under EUTM 12074605 are shown in **Annex C** to this decision.

3) The significance of the above dates is that all the marks relied on by the Opponent constitute earlier marks in accordance with section 6 of the Act, and none are subject to the proof of use conditions contained in section 6A of the Act, their respective registration procedures not having been completed more than five years before the publication of Mr Heath's mark.

4) The Opponent claims that because of similarity between the opposed mark and the earlier marks and identity or similarity between the goods of the opposed mark and those of the respective earlier marks there exists a likelihood of confusion. Mr Heath filed a counterstatement, in which he denied that the requirements of section 5(2)(b) of the Act are satisfied. Certain exhibits filed by Mr Heath with the Form TM8 were returned to him by the Registry, which advised him in a letter of 29 November 2017 that any evidence which he wished to be considered should be filed at the appropriate time and in the correct format. He was also advised that references in the

counterstatement to these exhibits would be disregarded and the exhibits would not form part of these proceedings. Similarly, he was informed that references in the counterstatement to website links would be disregarded. Neither party filed evidence. Neither party requested a hearing. Both parties filed written submissions, both during the evidence rounds and in lieu of attendance at a hearing. I therefore give this decision after a careful review of all the papers before me. The Opponent is represented by Pennington Manches LLP. Mr Heath has represented himself.

Section 5(2)(b)

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

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

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark”.

6) 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:

(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 will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods and services

7) In assessing whether there is a likelihood of confusion I must make my comparison of the respective goods and services on the basis of the principles laid down in the case law. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05 (“*Meric*”), the General Court (“the GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by the 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 (Case T-104/01 *Oberhauser v OHIM — Petit Liberto (Fifties)* [2002] ECR II-4359, paragraphs 32 and 33; Case T-110/01 *Vedial v OHIM – France Distribution (HUBERT)* [2002] ECR II-5275, paragraphs 43 and 44; and Case T-10/03 *Koubi v OHIM — Flabesa (CONFORFLEX)* [2004] ECR II-719, paragraphs 41 and 42”).

8) When it comes to understanding what terms used in specifications mean and cover, the guidance in the case-law is to the effect that “in construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of the trade”¹ and that I must also bear in mind that words should be given their natural meaning within the context in which they are used; they cannot be given an unnaturally narrow meaning².

¹*British Sugar Plc v James Robertson & Sons Limited (Treat)* [1996] R.P.C. 281

²*Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267

9) For reasons which will become apparent, in making my comparison with the goods and services of Mr Heath's mark I shall do so by reference to the specification of the earlier mark EUTM 12074589. Neither of the other two earlier marks offers a more advantageous comparison from the Opponent's point of view.

10) Mr Heath states that " there is no likelihood of confusion between [Mr Heath's] and the Opponent's marks, since there is clear delineation between the target audiences for the marks". Mr Heath's statement to the effect that his business and that of the Opponent currently operate in different markets is a statement of fact. Given that the material submitted by Mr Heath was not admitted in evidence and not subsequently resubmitted in proper format, there is no evidence on this before the tribunal.

11) Even if I accepted that it had been proved that Mr Heath's business and that of the Opponent currently operate in different markets, however, this would not in any case be relevant to the issue of confusion which I have to decide in these proceedings. It is settled law that in assessing whether there is a likelihood of confusion I must make my comparison on the basis of notional and fair use over the whole range of goods and services covered by Mr Heath's and (since the earlier mark is not subject to proof of use under section 6A of the Act) the Opponent's respective specifications. It is the *inherent* nature of the goods and services of the specifications which I have to consider³. Current use and business strategy are not relevant to this notional comparison. My task, therefore, is to conduct the comparison simply on the basis of the goods and services as they are set out in the respective specifications.

12) I now turn to consider the similarity between Mr Heath's and the Opponent's respective goods and services by reference to each of Mr Heath's classes in turn.

³ See on this point the comments of the General Court in *Devinlec Développement Innovation Leclerc SA v OHIM* Case T- 147/03 and the comments of Laddie J in *Compass Publishing BV v Compass Logistics Ltd* [2004] RPC 41 at paragraph 22.

Class 9

13) I understand *software development tools* to consist of software used for the development of software. As such it falls within the ambit of the Opponent's *computer software* in Class 9 and is identical under the principle in *Meric*. *Software* is manifestly identical with the Opponent's *computer software* in Class 9.

Class 35

14) *Business management consulting services in the field of information technology* in Class 35 covers such matters as identifying business needs and identifying appropriate solutions. As such it falls within the ambit of the Opponent's *professional business consultancy* in Class 35, and is identical under the principle in *Meric*. *Consulting services in business organization and management* is covered by the Opponent's *business organization consultancy* and *business management consultancy* in Class 35, and is identical under the principle in *Meric*. *Business consulting* is covered by the Opponent's *professional business consultancy*, and is identical.

Class 42

15) *Information technology [IT] consulting services* is manifestly identical with the Opponent's *information technology [IT] consulting services* in Class 42. Mr Heath's *consulting in the field of cloud computing networks and applications* and *consulting services relating to computer software* also fall within the ambit of the Opponent's *Information technology [IT] consulting services* in Class 42, and are identical under the principle in *Meric*. The constituent elements of Mr Heath's *software development, programming and implementation* fall within the ambit of the Opponent's *design and development of computer hardware and software, computer programming, installation of computer software* and *computer software consultancy* respectively, and are thus identical under the principle in *Meric*. Mr Heath's *software as a service [SaaS]* is clearly identical with the exactly corresponding term in the Opponent's specification in Class 42.

The average consumer and the purchasing process

16) The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97*. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

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

17) Mr Heath submits that the average consumers for the parties' respective goods and services are quite different because they currently operate in different fields of activity (“... there is no realistic prospect of the audiences for [Mr Heath's] and the Opponent's trade marks coinciding”). This submission is misconceived. I have explained above that for the purposes of these proceedings I am required to undertake a notional consideration of the full range of goods and services covered by the terms of the parties' respective specifications. Accordingly, I must consider who the notional average consumer will be in respect of the full range of those goods and services.

18) The parties' specifications include a wide range of goods and services for which the average consumer may be a member of the public or a business or professional user. The purchase of an item of software by a member of the general public, for example, will generally be less expensive, more frequent, and require a lower level of attention to be paid than the commissioning of software development or consultancy for a business, which will be infrequent, more expensive and likely to involve a far longer process. That said, the level of attention paid during the selection of all of the

respective goods and services will be at least medium, as the average consumer, whether an individual or a commercial undertaking, will need to consider, amongst other things, issues such as technical compatibility, performance and cost. The selection process is likely to be primarily visual, involving, for example, perusal of websites or brochures, though I do not discount the consideration that there may be some aural element through, for example, oral recommendation, etc. Some contracts for the purchase of consultancy or IT services by businesses may involve some oral negotiation, though they will also normally involve a higher degree of care and attention and, virtually invariably, also written dealings; so that here too, the selection process is likely to be largely visual.

Comparison of the marks

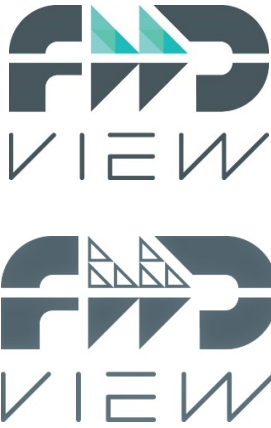

19) It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference 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.”

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

21) The letter combination FWD appears in all the earlier marks, being shown in stylised form in EUTM 12074589 and EUTM 12074605. Both EUTM 12074589 and EUTM 12074605 also contain a figurative element consisting of a simple arrow device pointing right, and which, as I shall discuss further below, can be said to present some aspect of similarity with components of the central figurative element in the upper part of Mr Heath’s marks. EUTM 12074605 also contains a further figurative element, in the form of a group of running figures, which has no counterpart in Mr Heath’s marks and therefore takes this earlier mark further away from them. For these reasons, I consider that the earlier mark EUTM 12074589 represents the Opponent’s best case, and I shall make my comparison of the marks on that basis. I have already made my comparison of goods and services by reference to the specification of EUTM 12074589, noting that neither of the other two earlier marks offers a more advantageous comparison from the Opponent’s point of view.

22) The marks to be compared are shown below:

Mr Heath’s series of marks	The earlier mark EUTM 12074589
	

23) Mr Heath asserts that the Opponent uses the colour orange in its mark. The basis for this assertion is not apparent to me and it is pointless to speculate because it is

irrelevant in this case. This is because I must make my comparison of the marks as *they appear on the register*. The earlier mark is registered in black and white, and colour is not claimed for it. It may therefore be used in any colour⁴, so that colour becomes irrelevant in my comparison.

24) The earlier mark consists of the conjoined letters FWD. Apart from being conjoined, the F and W are presented in an entirely normal and straightforward manner. The vertical stroke of the final D, however, is missing, the space where it should be being partly occupied by a simple, compact, right-facing arrow device, around which the conjoined line of the lettering sweeps in the curve of a letter D. In this way the letter D is strongly suggested to the eye. The arrow device, though small in relation to the mark as a whole, nevertheless makes a reasonable contribution to the mark's distinctive character. It is the letters FWD, however, which have greater relative weight.

25) Mr Heath's marks are of a more complex design. Approximately the lower third of Mr Heath's marks consists of the word "view" printed in angular, stylised but very clear lettering. It is the upper component of the marks, however, which occupies approximately two thirds of their area and is visually their most striking element. Central to the upper component of Mr Heath's marks is an arrangement of four right-angled triangles. Beneath the two upper ones there is a space, below which two further triangles are represented as though mirrored from those above. The overall visual impression of the triangles viewed together is of two right-facing arrows. In both Mr Heath's marks the top two triangles also contain a triangle motif. The central device of the upper component is flanked on the left by a highly stylised F and on the right by a similarly highly stylised D. The space between the upper and lower parts of the device is produced to bisect the flanking letters, forming an almost stencil-like line running through the whole of the upper part of the marks. Although the upper component has greater relative weight in the overall impression, the word VIEW still makes a reasonable contribution to the overall impression, not least because, as I will

⁴ See Kitchen LJ at paragraph 5 in *Specsavers International Healthcare Ltd & Ors v ASDA Stores Ltd & Anor* [2014] EWCA Civ 1294.

come on to say, the whole mark, in context, will likely be perceived as the words FORWARD VIEW.

26) The earlier mark and the upper component of Mr Heath's marks both begin with a letter F and end with a representation of the letter D. Apart from the stylisation of the letter D, however, the lettering of the earlier mark is conventional. The plainly legible letter W which occupies the centre of the earlier mark is completely missing from Mr Heath's marks, in which the device described above occupies a central position. Mr Heath contends that his marks contain "no arrows, only triangles which taken together represent 'fast forward' chevrons and an allusion to the letter 'W'". I am puzzled by Mr Heath's reference to "an allusion to the letter W". I struggle to see how even a consumer with a sophisticated graphic sense would see an allusion to the letter W in the device. Although creating an overall impression of two right-facing arrows, the central device in Mr Heath's mark is much more complex than the simple, less prominent arrow of the earlier mark. The stencil-like motif is missing from the earlier mark, and so is the stylised word VIEW, which forms approximately the lower third of Mr Heath's marks. The figurative elements of Mr Heath's marks, which are both skilful and memorable in design, play an important distinctive role in the overall impression of the opposed mark. Overall, there is a low degree of visual similarity between the marks.

27) In his submissions Mr Heath states that he is a director of Fwd View Ltd, that the opposed mark is used for that business, and that his mark represents the company's name, "which in speech is forward view". In other words, in his professional dealings Mr Heath refers to his marks orally as "forward view", he had the mark designed with this usage in view, and expects his clients to adopt this pronunciation. As a matter of fact, I think it likely that many consumers, encountering Mr Heath's marks visually, would assume that the device (which they would not, in my view, see as the letter W) is not meant to be pronounced, and would read the mark orally as FD VIEW. I accept, however, that the device in Mr Heath's marks, flanked by F and W, may be interpreted by a significant proportion of the relevant public as intended to indicate the word "forward", something which would be reinforced by the other part of the mark, VIEW. In this case, the marks will be pronounced (in accordance with Mr Heath's intention) as FORWARD VIEW. I consider that the simple arrow of the Opponent's mark is a

less strong aural cue, and that some consumers may pronounce the Opponent's mark simply as the letters FWD. I accept, though, that a significant proportion of the relevant public will interpret the combination of the forward-pointing arrow and the letters FWD as intended to represent the word "forward", and will pronounce the mark accordingly. I therefore consider that there would be a medium degree of aural similarity with Mr Heath's marks, from the perspective of consumers who would pronounce the respective marks as FORWARD and FORWARD VIEW. There would be less aural similarity from the other perspectives I have mentioned.

28) Although I accept that the letters FWD and forward-facing arrow in the Opponent's mark may evoke the general concept "forward" for at least a significant proportion of the relevant public, the introduction of the word VIEW in the phrase FORWARD VIEW introduces in Mr Heath's mark the fresh concept of looking forward. I consider that there would be a low degree of conceptual similarity from the perspective of those who see the marks as FORWARD and FORWARD VIEW.

The distinctiveness of the earlier mark

29) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark, either on the basis of inherent qualities or because of use made, the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). 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).”

30) There is no evidence of enhanced distinctiveness to be considered. This leaves the question of inherent distinctive character. The earlier mark is neither descriptive nor allusive of any of the relevant goods or services. I consider that it has a normal degree of inherent distinctive character.

Likelihood of Confusion

31) The factors assessed so far have a degree of interdependency (*Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17), a global assessment of them must be made when determining whether there exists a likelihood of confusion (*Sabel BV v. Puma AG*, paragraph 22). However, there is no scientific formula to apply. It is a matter of considering the relevant factors from the viewpoint of the average consumer and determining whether they are likely to be confused.

32) I have found the goods and services of the competing marks to be identical, that they include a wide range of goods and services for which the average consumer may be a member of the public or a business or professional user, that at least a medium level of attention will be paid during the selection and purchasing process, and that the selection process is likely to be primarily visual (though I do not overlook an aural element). I have found a low degree of visual and conceptual similarity between the marks, but that, for a significant proportion of the relevant public, there may be a medium degree of aural similarity. I have found that the earlier mark has a normal degree of distinctive character.

33) I have found that the figurative elements of Mr Heath's marks, which are both skilful and memorable in design, play an important distinctive role in the overall impression of the opposed mark. I consider that, despite the similarities with the Opponent's mark which I have noted, even taking into account imperfect recollection these striking figurative elements of the opposed mark, together with the omission of the letter W and addition of the word VIEW in Mr Heath's marks, suffice to ensure that the marks will not be mistaken for one another, i.e. there will be no direct confusion.

34) This leaves the question of indirect confusion to be considered. In this connection it is helpful to bear in mind the observations of Mr Iain Purvis QC, sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, where he noted that:

“Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark”.

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

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

right (“26 RED TESCO” would no doubt be such a case).

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

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

35) It is important to appreciate that the examples given by Mr Purvis were intended to be illustrative in the context of that case, and not to impose rigid rules. The categories of case where indirect confusion may be found are not closed. Each case must be assessed on its own facts, and my assessment must take account of the overall impression created by the marks. I must try to envisage the instinctive reaction in the mind of the average consumer when encountering the later mark with an imperfect recollection of the earlier⁵. I bear in mind, for example, that consumers have become accustomed to seeing a simple right-facing arrow like that of the Opponent used on domestic audio-visual equipment to indicate “play”, and double right-facing arrows, such as that evoked by Mr Heath’s device, to indicate “fast forward”, and that they will also probably have encountered FWD as an abbreviation for “forward”. I have found that, for at least a significant proportion of the relevant public, the FWD plus the simple arrow of the Opponent’s mark may evoke the general concept “forward”, whereas Mr Heath’s FORWARD VIEW marks introduce the fresh concept of looking forward.

36) Even if the elements common to the marks may bring the earlier mark to mind when the consumer encounters the later mark, mere association of this kind is not sufficient to support a finding of confusion⁶. I must assess whether these elements will lead the average consumer to believe that the respective services are provided by the same or economically linked undertakings. Bearing in mind my findings on the

⁵ See on this point the observations of Mr James Mellor, QC, sitting as the Appointed Person in *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17 at paragraph 81.

⁶ See *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17 at paragraph 81.

average consumer and the purchasing process, even taking into account imperfect recollection, I do not consider that they will. The striking figurative elements of Mr Heath's marks play an important distinctive role in the overall impression of the opposed marks, quite different from that of the much simpler earlier mark. This strong contrast in graphic treatment, considered together with the omission of the letter W and the addition of the word VIEW (and the concept this introduces as a whole) in Mr Heath's mark, amount to differences which, in the context of the marks as a whole, will preclude an instinctive impression by the consumer that the respective marks are variants or sub-brands. Accordingly, there will be no indirect confusion.

Outcome

37) The opposition fails in its entirety.

Costs

38) Mr Heath has been successful and is entitled to an award of costs in his favour. He represented himself and completed the Registry's Cost Pro Forma accordingly. He gives figures of 3.5 hours spent considering forms filed by the other party, 5 hours for "considering opposition's letters and evidence", 3.5 hours for "researching opponent and its business, TM's, etc.", 4 hours for "legal and technical preparation", and 9.5 hours for "drafting and reviewing letters". This amounts to a total of 25.5 hours.

39) Mr Heath's wording is not very clear, and I believe that his references to correspondence may refer at least in part to certain exhibits which he filed with the Form TM8, which were returned to him by the Registry, and which he was advised would not form part of these proceedings. On the other hand, for example, he gives no figure specifically for time spent on preparing the Notice of Defence. Moreover, although the Opponent had been warned that its pleading required particularisation, the amended TM8 filed and served on Mr Heath still pleaded several pages of goods and services in relation to many of which it was unclear where any similarity lay. It is clear from Mr Heath's submissions that he was embarrassed by the lack of focus in the Opponent's pleadings and submissions on comparison of the goods.

40) Taking an overall view, therefore, in the light of the pleadings and submissions filed by Mr Heath I consider that the total of 25.5 hours claimed is probably a reasonable reflection of the recoverable time he spent on defending his application. Under the Civil Procedure Rules the amount which may be allowed to a self-represented litigant is set at the rate of £19 per hour. This produces a total recoverable sum of £484.50.

41) Under “other expenses” Mr Heath gives a figure of £1,200 for “lawyers fees, etc.”. Mr Heath has completed the pro forma claim form as a self-represented litigant, and I can find no indication in the case file that he has been professionally represented at any stage in these proceedings. I am therefore unable to make an award for unspecified professional legal services.

42) Accordingly, I hereby order Valdimir Pte Ltd. to pay Mr John Nicholas Heath the sum of £484.50. This sum should be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated 14 September 2018

**Martin Boyle
For the Registrar,
The Comptroller-General**

Annex A
EUTM Registration No. 11891108

Class 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; acoustic [sound] alarms / sound alarms; aerials / antennas; electronic agendas; alarms; fire alarms; altimeters; amplifiers; answering machines; anti-dazzle shades / anti-glare visors; anti-glare glasses; anti-interference devices [electricity]; anti-theft warning apparatus; audiovisual teaching apparatus; bags adapted for laptops; barometers; battery chargers; alarm bells, electric; signal bells; bells [warning devices]; binoculars; bullet-proof vests; bullet-proof waistcoats; calculating disks; calculating machines; camcorders; cinematographic cameras; cameras [photography]; encoded magnetic cards; animated cartoons; eyeglass cases / pince-nez cases; cassette players; cell phone straps; eyeglass chains / pince-nez chains; chargers for electric batteries; chips [integrated circuits]; chronographs [time recording apparatus]; time clocks [time recording devices]; clothing for protection against accidents, irradiation and fire; mechanisms for coin-operated apparatus; coin-operated mechanisms for television sets; electric apparatus for commutation; commutators; compact disc players; comparators; compasses [measuring instruments]; directional compasses; computer memory devices; computer programmes [programs], recorded; computer keyboards; computer operating programs, recorded; computer game software; computers; printers for use with computers; containers for contact lenses; cosmographic instruments; cyclotrons; darkrooms [photography]; data processing apparatus; magnetic data media; optical data media; detectors; smoke detectors; diagnostic apparatus, not for medical purposes; dictating machines; digital photo frames; compact discs [audio-video]; compact discs [read-only memory]; optical discs; disks, magnetic; distance measuring apparatus; distance recording apparatus / apparatus for recording distance; diving suits; dosage dispensers / dosimeters; downloadable ring tones for mobile phones; downloadable music files; downloadable image files; disk drives for computers; electric door bells; electronic pocket translators; electronic tags for goods; magnetic encoders; enlarging apparatus [photography]; eyeglass cords / pince-nez cords; editing appliances for cinematographic films / apparatus for editing cinematographic film; filters for respiratory masks; fire extinguishers / fire extinguishing apparatus; fire beaters; clothing for protection against fire; fire pumps; fire blankets; flashlights [photography]; floppy disks; food analysis apparatus; garments for protection against fire; Global Positioning System [GPS] apparatus; gloves for protection against accident; gloves for divers; headphones; heat regulating apparatus; protective helmets; protective helmets for sports; riding helmets; holograms; encoded identification bracelets, magnetic; identity cards, magnetic; quantity indicators; speed indicators; integrated circuits; integrated circuit cards [smart cards] / smart cards [integrated circuit cards]; intercommunication apparatus; interfaces for computers; juke boxes, musical /

coin-operated musical automata [juke boxes]; juke boxes for computers; hands free kits for phones; knee-pads for workers; optical lanterns / optical lamps; magic lanterns; laptop computers; lasers, not for medical purposes; life saving apparatus and equipment; life buoys; life jackets; life belts; life-saving rafts; light dimmers [regulators], electric / light regulators [dimmers], electric; light-emitting diodes [LED]; locks, electric; logs [measuring instruments]; loudspeakers; magnetic tapes; magnetic wires; magnets; decorative magnets; magnifying glasses [optics]; marine compasses; protective masks; divers' masks; material testing instruments and machines; measures; measuring apparatus; measuring devices, electric; measuring instruments; mechanical signs; meteorological instruments; microphones; microprocessors; mileage recorders for vehicles / kilometer recorders for vehicles; modems; money counting and sorting machines; monitoring apparatus, electric; monitors [computer hardware]; monitors [computer programs]; mouse [data processing equipment]; nautical apparatus and instruments; naval signalling apparatus; navigational instruments; neon signs; nets for protection against accidents; safety nets / life nets; notebook computers; electronic notice boards; observation instruments; optical fibers [fibres] [light conducting filaments] / light conducting filaments [optical fibers [fibres]]; mouse pads; pedometers; electronic pens [visual display units]; computer peripheral devices; periscopes; phonograph records / sound recording discs; photocopiers [photographic, electrostatic, thermic]; phototelegraphy apparatus; DVD players; pocket calculators; light-emitting electronic pointers; portable media players; precision measuring apparatus; automatic indicators of low pressure in vehicle tires [tyres] / automatic indicators of low pressure in vehicle tires / automatic indicators of low pressure in vehicle tyres; pressure indicator plugs for valves; pressure gauges / manometers; pressure measuring apparatus; pressure indicators; printed circuits; printed circuit boards; probes for scientific purposes; processors [central processing units] / central processing units [processors]; computer programs [downloadable software]; projection screens; projection apparatus; protection devices for personal use against accidents; electronic publications, downloadable; punched card machines for offices; radar apparatus; radio pagers; radiological apparatus for industrial purposes; radios; vehicle radios; radiotelegraphy sets; radiotelephony sets; railway traffic safety appliances; bar code readers; optical character readers; readers [data processing equipment]; telephone receivers; audio- and video-receivers; record players; reflecting discs for wear, for the prevention of traffic accidents; regulating apparatus, electric; relays, electric; electric installations for the remote control of industrial operations; electro-dynamic apparatus for the remote control of signals; remote control apparatus; respirators for filtering air; respiratory masks, other than for artificial respiration / respirators, other than for artificial respiration; rheostats; road signs, luminous or mechanical; rods for water diviners; rulers [measuring instruments]; saccharometers; safety tarpaulins; salinometers; satellite navigational apparatus; satellites for scientific purposes; scales; scanners [data processing equipment]; shoes for protection against accidents, irradiation and fire; signal lanterns; signalling panels, luminous or mechanical; signalling whistles; transmitters of electronic signals; signals, luminous or mechanical; signs, luminous; sirens; apparatus for measuring the thickness of skins; slide projectors / transparency projection apparatus; slope indicators / clinometers / gradient indicators / inclinometers; socks, electrically heated; computer software, recorded; sound recording carriers; sound transmitting apparatus; sound recording apparatus;

sound reproduction apparatus; sound locating instruments; sounding lines; spectacle lenses; spectacle frames; spectacle cases; spectacles [optics]; speed checking apparatus for vehicles; speed measuring apparatus [photography]; speed regulators for record players; spirit levels; goggles for sports; sprinkler system for fire protection; steering apparatus, automatic, for vehicles; personal stereos; stereoscopes; stereoscopic apparatus; sound recording strips; stroboscopes; sunglasses; tape recorders; magnetic tape units for computers; demagnetizing apparatus for magnetic tapes; teaching apparatus; telephone apparatus; telephone transmitters; portable telephones; teleprinters / teletypewriters; teleprompters; television apparatus; automated teller machines [ATM]; temperature indicators; temperature indicator labels, not for medical purposes; terminals [electricity]; theft prevention installations, electric; thermometers, not for medical purposes; thermostats; thermostats for vehicles; ticket dispensers; time switches, automatic; time recording apparatus; totalizers; traffic-light apparatus [signalling devices]; transmitters [telecommunication]; transmitting sets [telecommunication]; transparencies [photography] / slides [photography]; transponders; urinometers; USB flash drives; navigation apparatus for vehicles [on-board computers]; video recorders; video cassettes; video game cartridges; video screens; video telephones; videotapes; viewfinders, photographic; voltmeters; voting machines; wafers for integrated circuits; walkie-talkies; vehicle breakdown warning triangles; weighing machines; weighing apparatus and instruments; wind socks for indicating wind direction; masts for wireless aerials; telephone wires; wrist rests for use with computers; X-ray tubes not for medical purposes; X-ray apparatus not for medical purposes; X-ray photographs, other than for medical purposes; apparatus and installations for the production of X-rays, not for medical purposes; protection devices against X-rays, not for medical purposes; computer hardware, firmware, peripherals and software; software applications for mobile phones, tablet computers, hand held devices and computers; computer software supplied on the internet; automatic answering apparatus for communications apparatus; code generators; apparatus for coding and decoding signals; audio cassettes, floppy discs, CD ROMS and DVD ROMS; data storage programs; servers; cases for computers; apparatus and instruments for recording, receiving, transmitting and/or reproducing data, information, pictures, images, and/or sound; electronic and computer apparatus and instruments for debiting and/or crediting financial accounts and/or for paying for goods or services; parts and fittings for all the aforesaid goods.

Class 35:

Advertising; business management; business administration; office functions; commercial administration of the licensing of the goods and services of others; dissemination of advertising matter; updating of advertising material; advertising / publicity; advertising agencies / publicity agencies; rental of advertising space; advertising by mail order; commercial information and advice for consumers [consumer advice shop]; cost price analysis; telephone answering for unavailable subscribers; business appraisals; business management of performing artists; business management assistance; auctioneering; bill-posting / outdoor advertising; book-keeping / accounting; business auditing; business management and organization consultancy; business management consultancy; business organization consultancy; professional business consultancy; business management of sports people; presentation of goods on communication media, for retail purposes; price comparison services; compilation of information into

computer databases; systemization of information into computer databases; data search in computer files for others; demonstration of goods; direct mail advertising; business efficiency expert services; employment agencies; organization of exhibitions for commercial or advertising purposes; organization of fashion shows for promotional purposes; computerized file management; economic forecasting; import-export agencies; commercial or industrial management assistance; commercial information agencies; business information; business inquiries; business investigations; invoicing; layout services for advertising purposes; personnel management consultancy; advisory services for business management; marketing studies; marketing research; marketing; modelling for advertising or sales promotion; news clipping services; on-line advertising on a computer network; organization of trade fairs for commercial or advertising purposes / organization of trade fairs for commercial or advertising purposes; outsourcing services [business assistance]; payroll preparation; photocopying services; opinion polling; word processing; administrative processing of purchase orders; procurement services for others [purchasing goods and services for other businesses]; production of advertising films; public relations; publicity columns preparation; publication of publicity texts; writing of publicity texts; radio advertising / radio commercials; personnel recruitment; office machines and equipment rental; rental of photocopying machines; rental of advertising time on communication media; document reproduction; business research; retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies; retail and wholesale of cosmetics and personal care products, telecommunication goods, computers, computer software, computer software applications, computer hardware, computer peripheral devices, electronic publications, medical devices, machineries, watches, clocks, printed matters, paper products, stationeries, items made of leather or imitation leather, bags, luggage bags, clothing, headgear, footwear; sales promotion for others; distribution of samples; secretarial services; sponsorship search; drawing up of statements of accounts; compilation of statistics; tax preparation; telemarketing services; television advertising / television commercials; psychological testing for the selection of personnel; transcription; typing; administration processing of purchase orders; personal management consultancy; computer data processing; computer data management; sales, business, advertising and promotional information services; telephone answering (for others); provision of sales, business, advertising and promotional information through a global computer network; the bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods from a general merchandise internet web site and a wholesale outlet, in the field of bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, Pharmaceutical and veterinary preparations, sanitary preparations for medical purposes, dietetic food and substances adapted for medical or veterinary use, food for babies, dietary supplements for humans and animals, plasters, materials for dressings, material for stopping teeth, dental wax, disinfectants, preparations for destroying vermin, fungicides, herbicides; machines and machine tools, motors and engines, machine coupling and transmission components, agricultural implements other than hand-operated, incubators for eggs, automatic vending machines, scientific, nautical, surveying, photographic, cinematographic, optical,

weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, compact discs, DVDs and other digital recording media, mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment, computers, computer software, fire-extinguishing apparatus, surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth, orthopaedic articles, suture materials, vehicles, apparatus for locomotion by land, air or water, precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes, jewellery, precious stones, horological and chronometric instruments, paper, cardboard and goods made from these materials, not included in other classes, printed matter, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paint brushes, typewriters and office requisites (except furniture), instructional and teaching material (except apparatus), plastic materials for packaging (not included in other classes), printers' type, printing blocks, leather and imitations of leather, and goods made of these materials, animal skins, hides, trunks and travelling bags, umbrellas and parasols, walking sticks, whips, harness and saddlery, clothing, footwear, headgear; business services relating to compilation and rental of mailing lists; ordering services [for others]; business administration services for the processing of sales made on the Internet; loyalty program or incentive scheme redemption services in connection with the supply of benefits of value to customers; business management assistance; analysis on business management; consultancy, advisory services and provision of information relating to all the foregoing.

- Class 38:** Leasing access time to a computer database; providing access to computer database on the global computer network for searching and retrieving information, data, web sites and resources available on computer networks; providing user access to a computer database containing electronic publications and data via computer networks for processing and/or displaying purposes; providing user access to remote computers containing electronic publications, bulletin boards, database and information accessible via computer.
- Class 41:** Game services provided on-line from a computer network; providing on-line electronic publications, not downloadable; publication of electronic books and journals on-line; consultancy, advisory services and provision of information relating to all the foregoing.
- Class 42:** Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; architectural consultation; architecture; bacteriological research; calibration [measuring]; chemical analysis; chemical research; chemistry research; clinical trials; cloud seeding; computer programming; updating of computer software; consultancy in the design and development of computer hardware; maintenance of computer software; computer system analysis; duplication of computer programs; installation of computer software; computer software consultancy; conversion of data or documents from physical to electronic media; data conversion of computer programs and data [not physical

conversion]; design of interior décor; industrial design; graphic arts design; computer system design; digitization of documents [scanning]; energy auditing; consultancy in the field of energy-saving; engineering; research in the field of environmental protection; weather forecasting / meteorological information; handwriting analysis [graphology]; hosting computer sites [Web sites]; information technology [IT] consulting services; scientific laboratory services; land surveying / land surveys; creating and maintaining Web sites for others; mechanical research; monitoring of computer systems by remote access; analysis of oil-field exploitation; packaging design / packaging design services; technical project studies; computer virus protection services; quality control; recovery of computer data; computer rental; research and development of new products for others; biological research; scientific research; providing search engines for the Internet; server hosting; rental of Web servers; computer software design; rental of computer software; software as a service [SaaS]; styling [industrial design]; surveying; technical research; vehicle roadworthiness testing; water analysis; web site design consultancy; computer security; computer services relating to financial analysis system; computer services relating to interconnection of computer hardware and software; application software design; computer service relating to creating indexes of information, sites and resources on computer networks; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; creating and maintaining web sites; computer database development; rental and leasing of computer apparatus, and computer data; creation, compilation and maintenance of a register of domain names; computer and electronic signal coding and decoding; testing and evaluation of occupational health and safety; consultancy, advisory services and provision of information relating to the all foregoing.

Annex B
EUTM Registration No. 12074589

EU TM registration numbers 12074589

Class 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; acoustic [sound] alarms / sound alarms; aerials / antennas; electronic agendas; alarms; fire alarms; altimeters; amplifiers; answering machines; anti-dazzle shades / anti-glare visors; anti-glare glasses; anti-interference devices [electricity]; anti-theft warning apparatus; audiovisual teaching apparatus; bags adapted for laptops; barometers; battery chargers; alarm bells, electric; signal bells; bells [warning devices]; binoculars; bullet-proof vests; bullet-proof waistcoats; calculating disks; calculating machines; camcorders; cinematographic cameras; cameras [photography]; encoded magnetic cards; animated cartoons; eyeglass cases / pince-nez cases; cassette players; cell phone straps; eyeglass chains / pince-nez chains; chargers for electric batteries; chips [integrated circuits]; chronographs [time recording apparatus]; time clocks [time recording devices]; clothing for protection against accidents, irradiation and fire; mechanisms for coin-operated apparatus; coin-operated mechanisms for television sets; electric apparatus for commutation; commutators; compact disc players; comparators; compasses [measuring instruments]; directional compasses; computer memory devices; computer programmes [programs], recorded; computer keyboards; computer operating programs, recorded; computer game software; computers; printers for use with computers; containers for contact lenses; cosmographic instruments; cyclotrons; darkrooms [photography]; data processing apparatus; magnetic data media; optical data media; detectors; smoke detectors; diagnostic apparatus, not for medical purposes; dictating machines; digital photo frames; compact discs [audio-video]; compact discs [read-only memory]; optical discs; disks, magnetic; distance measuring apparatus; distance recording apparatus / apparatus for recording distance; diving suits; dosage dispensers / dosimeters; downloadable ring tones for mobile phones; downloadable music files; downloadable image files; disk drives for computers; electric door bells; electronic pocket translators; electronic tags for goods; magnetic encoders; enlarging apparatus [photography]; eyeglass cords / pince-nez cords; editing appliances for cinematographic films / apparatus for editing cinematographic film; filters for respiratory masks; fire extinguishers / fire extinguishing apparatus; fire beaters; clothing for protection against fire; fire pumps; fire blankets; flashlights [photography]; floppy disks; food analysis apparatus; garments for protection against fire; Global Positioning System [GPS] apparatus; gloves for protection against accident; gloves for divers; headphones; heat regulating apparatus; protective helmets; protective helmets for sports; riding helmets; holograms; encoded identification bracelets, magnetic; identity cards, magnetic; quantity indicators; speed indicators; integrated circuits; integrated circuit cards [smart cards] / smart cards [integrated circuit cards]; intercommunication apparatus; interfaces for computers; juke boxes, musical / coin-operated musical automata [juke boxes]; juke boxes for computers; hands

free kits for phones; knee-pads for workers; optical lanterns / optical lamps; magic lanterns; laptop computers; lasers, not for medical purposes; life saving apparatus and equipment; life buoys; life jackets; life belts; life-saving rafts; light dimmers [regulators], electric / light regulators [dimmers], electric; light-emitting diodes [LED]; locks, electric; logs [measuring instruments]; loudspeakers; magnetic tapes; magnetic wires; magnets; decorative magnets; magnifying glasses [optics]; marine compasses; protective masks; divers' masks; material testing instruments and machines; measures; measuring apparatus; measuring devices, electric; measuring instruments; mechanical signs; meteorological instruments; microphones; microprocessors; mileage recorders for vehicles / kilometer recorders for vehicles; modems; money counting and sorting machines; monitoring apparatus, electric; monitors [computer hardware]; monitors [computer programs]; mouse [data processing equipment]; nautical apparatus and instruments; naval signalling apparatus; navigational instruments; neon signs; nets for protection against accidents; safety nets / life nets; notebook computers; electronic notice boards; observation instruments; optical fibers [fibres] [light conducting filaments] / light conducting filaments [optical fibers [fibres]]; mouse pads; pedometers; electronic pens [visual display units]; computer peripheral devices; periscopes; phonograph records / sound recording discs; photocopiers [photographic, electrostatic, thermic]; phototelegraphy apparatus; DVD players; pocket calculators; light-emitting electronic pointers; portable media players; precision measuring apparatus; automatic indicators of low pressure in vehicle tires [tyres] / automatic indicators of low pressure in vehicle tires / automatic indicators of low pressure in vehicle tyres; pressure indicator plugs for valves; pressure gauges / manometers; pressure measuring apparatus; pressure indicators; printed circuits; printed circuit boards; probes for scientific purposes; processors [central processing units] / central processing units [processors]; computer programs [downloadable software]; projection screens; projection apparatus; protection devices for personal use against accidents; electronic publications, downloadable; punched card machines for offices; radar apparatus; radio pagers; radiological apparatus for industrial purposes; radios; vehicle radios; radiotelegraphy sets; radiotelephony sets; railway traffic safety appliances; bar code readers; optical character readers; readers [data processing equipment]; telephone receivers; audio- and video-receivers; record players; reflecting discs for wear, for the prevention of traffic accidents; regulating apparatus, electric; relays, electric; electric installations for the remote control of industrial operations; electro-dynamic apparatus for the remote control of signals; remote control apparatus; respirators for filtering air; respiratory masks, other than for artificial respiration / respirators, other than for artificial respiration; rheostats; road signs, luminous or mechanical; rods for water diviners; rulers [measuring instruments]; saccharometers; safety tarpaulins; salinometers; satellite navigational apparatus; satellites for scientific purposes; scales; scanners [data processing equipment]; shoes for protection against accidents, irradiation and fire; signal lanterns; signalling panels, luminous or mechanical; signalling whistles; transmitters of electronic signals; signals, luminous or mechanical; signs, luminous; sirens; apparatus for measuring the thickness of skins; slide projectors / transparency projection apparatus; slope indicators / clinometers / gradient indicators / inclinometers; socks, electrically heated; computer software, recorded; sound recording carriers; sound transmitting apparatus; sound recording apparatus; sound reproduction apparatus; sound locating instruments; sounding lines;

spectacle lenses; spectacle frames; spectacle cases; spectacles [optics]; speed checking apparatus for vehicles; speed measuring apparatus [photography]; speed regulators for record players; spirit levels; goggles for sports; sprinkler system for fire protection; steering apparatus, automatic, for vehicles; personal stereos; stereoscopes; stereoscopic apparatus; sound recording strips; stroboscopes; sunglasses; tape recorders; magnetic tape units for computers; demagnetizing apparatus for magnetic tapes; teaching apparatus; telephone apparatus; telephone transmitters; portable telephones; teleprinters / teletypewriters; teleprompters; television apparatus; automated teller machines [ATM]; temperature indicators; temperature indicator labels, not for medical purposes; terminals [electricity]; theft prevention installations, electric; thermometers, not for medical purposes; thermostats; thermostats for vehicles; ticket dispensers; time switches, automatic; time recording apparatus; totalizers; traffic-light apparatus [signalling devices]; transmitters [telecommunication]; transmitting sets [telecommunication]; transparencies [photography] / slides [photography]; transponders; urinometers; USB flash drives; navigation apparatus for vehicles [on-board computers]; video recorders; video cassettes; video game cartridges; video screens; video telephones; videotapes; viewfinders, photographic; voltmeters; voting machines; wafers for integrated circuits; walkie-talkies; vehicle breakdown warning triangles; weighing machines; weighing apparatus and instruments; wind socks for indicating wind direction; masts for wireless aeriaks; telephone wires; wrist rests for use with computers; X-ray tubes not for medical purposes; X-ray apparatus not for medical purposes; X-ray photographs, other than for medical purposes; apparatus and installations for the production of X-rays, not for medical purposes; protection devices against X-rays, not for medical purposes; computer hardware, firmware, peripherals and software; software applications for mobile phones, tablet computers, hand held devices and computers; computer software supplied on the Internet; automatic answering apparatus for communications apparatus; code generators; apparatus for coding and decoding signals; audio cassettes, floppy discs, CD ROMS and DVD ROMS; data storage programs; servers; cases for computers; apparatus and instruments for recording, receiving, transmitting and/or reproducing data, information, pictures, images, and/or sound; electronic and computer apparatus and instruments for debiting and/or crediting financial accounts and/or for paying for goods or services; parts and fittings for all the aforesaid goods.

Class 35:

Advertising; business management; business administration; office functions; commercial administration of the licensing of the goods and services of others; dissemination of advertising matter; updating of advertising material; advertising / publicity; advertising agencies / publicity agencies; rental of advertising space; advertising by mail order; commercial information and advice for consumers [consumer advice shop]; cost price analysis; telephone answering for unavailable subscribers; business appraisals; business management of performing artists; business management assistance; auctioneering; bill-posting / outdoor advertising; book-keeping / accounting; business auditing; business management and organization consultancy; business management consultancy; business organization consultancy; professional business consultancy; business management of sports people; presentation of goods on communication media, for retail purposes; price comparison services; compilation of information into computer databases; systemization of information into computer databases; data

search in computer files for others; demonstration of goods; direct mail advertising; business efficiency expert services; employment agencies; organization of exhibitions for commercial or advertising purposes; organization of fashion shows for promotional purposes; computerized file management; economic forecasting; import-export agencies; commercial or industrial management assistance; commercial information agencies; business information; business inquiries; business investigations; invoicing; layout services for advertising purposes; personnel management consultancy; advisory services for business management; marketing studies; marketing research; marketing; modelling for advertising or sales promotion; news clipping services; on-line advertising on a computer network; organization of trade fairs for commercial or advertising purposes; outsourcing services [business assistance]; payroll preparation; photocopying services; opinion polling; word processing; administrative processing of purchase orders; procurement services for others [purchasing goods and services for other businesses]; production of advertising films; public relations; publicity columns preparation; publication of publicity texts; writing of publicity texts; radio advertising / radio commercials; personnel recruitment; office machines and equipment rental; rental of photocopying machines; rental of advertising time on communication media; document reproduction; business research; retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies; retail and wholesale of cosmetics and personal care products, telecommunication goods, computers, computer software, computer software applications, computer hardware, computer peripheral devices, electronic publications, medical devices, vehicles, machineries, watches, clocks, printed matters, paper products, stationeries, items made of leather or imitation leather, bags, luggage bags, clothing, headgear, footwear; sales promotion for others; distribution of samples; secretarial services; sponsorship search; drawing up of statements of accounts; compilation of statistics; tax preparation; telemarketing services; television advertising / television commercials; psychological testing for the selection of personnel; transcription; typing; administration processing of purchase orders; personal management consultancy; computer data processing; computer data management; sales, business, advertising and promotional information services; telephone answering (for others); provision of sales, business, advertising and promotional information through a global computer network; the bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods from a general merchandise internet web site and a wholesale outlet, in the field of bleaching preparations and other substances for laundry use, in the field of cleaning preparations, polishing preparations, scouring preparations, abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, fragrances, air fragrancing preparations, personal care products, cosmetic preparations, dyes, adhesives, bases for flower perfumes, joss sticks, scented wood, shoemakers' wax, shoe cream, shoe wax and shoe polish, in the field of pharmaceutical and veterinary preparations, in the field of sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies, dietary supplements for humans and animals, in the field of plasters, materials for dressings, material for stopping teeth, dental wax, disinfectants, preparations for destroying vermin, fungicides and herbicides, in the field of machines and machine tools, motors and engines, machine coupling and transmission

components, in the field of agricultural implements, incubators for eggs, automatic vending machines, in the field of scientific, nautical, navigational, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, in the field of apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, anti-interference devices (electricity), in the field of apparatus for recording, transmission or reproduction of sound and/or images, in the field of mechanisms for coin-operated apparatus, cash registers, calculating machines, calculating disks, in the field of computers, computer hardware, computer firmware, computer software, computer peripherals, data processing equipment, electronic agendas, computer parts, accessories for computers, in the field of electrical devices, electrical apparatus, electrical equipment in the field of telecommunications apparatus, telecommunications equipment in the field of fire-extinguishing equipment, fire-extinguishing apparatus, alarms, anti-theft warning apparatus, in the field of anti-dazzle shades and anti-glare visors, anti-glare glasses, in the field of bags, cases, covers, containers, cords, bells, in the field of protective clothing, safety equipment, safety apparatus, parts for safety apparatus and equipment, security apparatus, security devices, in the field of diving apparatus, diving equipment, sports apparatus, sports equipment, in the field of battery chargers, animated cartoons, in the field of cell phone straps, in the field of eyeglass chains and pince-nez chains, in the field of mechanisms for coin-operated apparatus, coin-operated mechanisms for television sets, in the field of cyclotrons, darkrooms (photography), detectors, smoke detectors, diagnostic apparatus, not for medical purposes, digital photo frames, electronic pocket translators, editing appliances for cinematographic films and apparatus for editing cinematographic film, filters for respiratory masks, fire blankets, flashlights (photography), food analysis apparatus, Global Positioning System (GPS) apparatus, in the field of heat regulating apparatus, holograms, optical lanterns and optical lamps, magic lanterns, lasers, not for medical purposes, light-emitting diodes (LED), electric locks, in the field of magnets, marine compasses, material testing instruments and machines, in the field of measuring apparatus, electric measuring devices, measuring instruments, mechanical signs, meteorological instruments, money counting and sorting machines, electric monitoring apparatus, neon signs, in the field of electronic notice boards, observation instruments, optical fibers [fibres] [light conducting filaments] and light conducting filaments [optical fibers [fibres]], electronic pens [visual display units], periscopes, photocopiers [photographic, electrostatic, thermic]; phototelegraphy apparatus, light-emitting electronic pointers, portable media players, in the field of projection screens, projection apparatus, protection devices for personal use against accidents, in the field of electronic publications (downloadable), punched card machines for offices, radar apparatus, radiological apparatus for industrial purposes, railway traffic safety appliances, bar code readers, optical character readers, in the field of electric installations for the remote control of industrial operations, electro-dynamic apparatus for the remote control of signals, remote control apparatus, in the field of respirators for filtering air, respiratory masks, other than for artificial respiration and respirators, other than for artificial respiration, in the field of road signs (luminous or mechanical), rods for water diviners, safety tarpaulins, in the field of satellite navigational apparatus, satellites for scientific purposes, in the field of signal lanterns, signalling panels (luminous or mechanical), signalling

whistles, signals (luminous or mechanical), signs (luminous), sirens, in the field of slide projectors and transparence projection apparatus, socks (electrically heated), spectacle frames; parts for spectacles, spectacle cases, sunglasses, in the field of steering apparatus (automatic) for vehicles, in the field of teleprinters and teletypewriters, teleprompters, television apparatus, automated teller machines [ATM], temperature indicator labels (not for medical purposes), theft prevention installations (electric), ticket dispensers, time switches (automatic), totalizers, traffic-light apparatus [signalling devices], voting machines, in the field of X-ray tubes not for medical purposes, X-ray apparatus not for medical purposes, apparatus and installations for the production of X-rays, not for medical purposes, (re-positioned), in the field of code generators, apparatus for coding and decoding signals, in the field of instruments for recording, receiving, transmitting and/or reproducing data, information, pictures, images, and/or sound, in the field of electronic and computer apparatus and instruments for debiting and/or crediting financial accounts and/or for paying for goods or services as well as parts and fittings for all the aforesaid goods, in the field of surgical, medical, dental and veterinary apparatus, equipment, devices and instruments, in the field of artificial limbs, eyes and teeth, orthopedic articles, suture materials, in the field of air pillows for medical purposes, air cushions for medical purposes, air mattresses for medical purposes, bed vibrators, breast pumps, condoms, contraceptives (non-chemical), abdominal corsets, cushions for medical purposes, in the field of feeding bottles and babies' bottles, furniture especially made for medical purposes, surgical implants [artificial materials], temperature indicator labels for medical purposes, thermal packs for first aid purposes, in the field of parts and fittings for surgical, medical, dental orthopedic and veterinary apparatus, equipment, devices and instruments, in the field of vehicles, in the field of apparatus for locomotion by land, air or water, in the field of vehicles for locomotion by land, air, water or rail, in the field of aeronautical apparatus, machines and appliances, in the field of accessories, parts and fittings for vehicles, in the field of accessories parts and fittings for apparatus for locomotion by land, air or water, in the field of stroller covers [pushchairs], barges, carts, repair outfits for inner tubes, inner tubes for bicycles, cycles, in the field of parachutes, rolling stock for railways, saddle covers for bicycles or motorcycles, saddlebags adapted for bicycles, saddles for bicycles, cycles or motorcycles, in the field of parts and fittings for all the aforesaid goods, in the field of precious metals and their alloys and goods in precious metals or coated therewith, in the field of jewellery, precious stones, in the field of horological and chronometric instruments, in the field of accessories, parts and fittings for horological and chronometric instruments, in the field of cases for clock- and watchmaking, coins, jewellery cases [caskets] and jewelry cases [caskets], key rings [trinkets or fobs], cuff links, medals, ornamental pins, tie pins, copper tokens, in the field of paper, cardboard and goods made from these materials, in the field of printed matter, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paint brushes, in the field of typewriters and office requisites (except furniture), in the field of instructional and teaching material (except apparatus), plastic materials for packaging, printers' type, printing blocks, in the field of addressing machines, albums and scrapbooks, in the field of artists' equipment, parts of stationery, in the field of holders for checkbooks [cheque books], engravings, etchings, figurines [statuettes] of papier mâché, terrestrial globes, hectographs.

histological sections for teaching purposes, passport holders, lithographic works of art, mats for beer glasses, musical greeting cards, numbers [type], oleographs, paintings [pictures], photo-engravings, packaging material made of starches, transfers [decalcomanias] and decalcomanias, type [numerals and letters] and letters [type], member medical card, plastic materials for packaging, in the field of leather and imitations of leather, and goods made of these materials, in the field of animal skins, hides, bags, trunks and travelling bags, in the field of umbrellas and parasols, walking sticks, whips, harness and saddlery, in the field of boxes, cases, in the field of umbrella covers, covers for animals and clothing for pets, walking stick handles and walking cane handles, horse blankets, slings for carrying infants, key cases, purses, in the field of rucksacks and backpacks, bandoliers, mountaineering sticks and alpenstocks, vanity cases, not fitted, pocket wallets, wheeled shopping bags, in the field of clothing, footwear, headgear, in the field of wet suits for water-skiing; business services relating to compilation and rental of mailing lists; ordering services [for others]; business administration services for the processing of sales made on the Internet; loyalty program or incentive scheme redemption services in connection with the supply of benefits of value to customers; business management assistance; analysis on business management; compilation and maintenance of a register of domain names; collation, compilation of information relating to healthy living, healthy eating habits, nutrition, diet and fitness; consultancy, advisory services and provision of information relating to all the foregoing.

- Class 38: Rental of access time to global computer networks; providing internet chatrooms; communications by computer terminals; transmission of greeting cards online; electronic mail; providing telecommunications connections to a global computer network; providing user access to global computer networks; providing access to databases; providing online forums; leasing access time to a computer database; providing access to computer database on the global computer network for searching and retrieving information, data, web sites and resources available on computer networks; providing user access to a computer database containing electronic publications and data via computer networks for processing and/or displaying purposes; providing user access to remote computers containing electronic publications, bulletin boards, database and information accessible via computer; consultancy, advisory services and provision of information relating to all the foregoing.
- Class 41: Game services provided on-line from a computer network; providing on-line electronic publications, not downloadable; publication of electronic books and journals on-line; consultancy, advisory services and provision of information relating to all the foregoing.
- Class 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; architectural consultation; architecture; bacteriological research; calibration [measuring]; chemical analysis; chemical research; chemistry research; clinical trials; cloud seeding; computer programming; updating of computer software; consultancy in the design and development of computer hardware; maintenance of computer software; computer system analysis; duplication of computer programs; installation of computer software;

computer software consultancy; conversion of data or documents from physical to electronic media; data conversion of computer programs and data [not physical conversion]; design of interior décor; industrial design; graphic arts design; computer system design; digitization of documents [scanning]; energy auditing; consultancy in the field of energy-saving; engineering; research in the field of environmental protection; weather forecasting / meteorological information; handwriting analysis [graphology]; hosting computer sites [Web sites]; information technology [IT] consulting services; scientific laboratory services; land surveying / land surveys; creating and maintaining Web sites for others; mechanical research; monitoring of computer systems by remote access; analysis of oil-field exploitation; packaging design / packaging design services; technical project studies; computer virus protection services; quality control; recovery of computer data; computer rental; research and development of new products for others; biological research; scientific research; providing search engines for the internet; server hosting; rental of Web servers; computer software design; rental of computer software; software as a service [SaaS]; styling [industrial design]; surveying; technical research; material testing; vehicle roadworthiness testing; water analysis; web site design consultancy; computer security; computer services relating to financial analysis system; computer services relating to interconnection of computer hardware and software; application software design; computer service relating to creating indexes of information, sites and resources on computer networks; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; creating and maintaining web sites; computer database development; rental and leasing of computer apparatus, and computer data; creation of a register of domain names; computer and electronic signal coding and decoding; testing and evaluation of occupational health and safety; consultancy, advisory services and provision of information relating to the all foregoing.

Annex C
EUTM Registration No. 12074605

Class 9:

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; acoustic [sound] alarms / sound alarms; aerials / antennas; electronic agendas; alarms; fire alarms; altimeters; amplifiers; answering machines; anti-dazzle shades / anti-glare visors; anti-glare glasses; anti-interference devices [electricity]; anti-theft warning apparatus; audiovisual teaching apparatus; bags adapted for laptops; barometers; battery chargers; alarm bells, electric; signal bells; bells [warning devices]; binoculars; bullet-proof vests; bullet-proof waistcoats; calculating disks; calculating machines; camcorders; cinematographic cameras; cameras [photography]; encoded magnetic cards; animated cartoons; eyeglass cases / pince-nez cases; cassette players; cell phone straps; eyeglass chains / pince-nez chains; chargers for electric batteries; chips [integrated circuits]; chronographs [time recording apparatus]; time clocks [time recording devices]; clothing for protection against accidents, irradiation and fire; mechanisms for coin-operated apparatus; coin-operated mechanisms for television sets; electric apparatus for commutation; commutators; compact disc players; comparators; compasses [measuring instruments]; directional compasses; computer memory devices; computer programmes [programs], recorded; computer keyboards; computer operating programs, recorded; computer game software; computers; printers for use with computers; containers for contact lenses; cosmographic instruments; cyclotrons; darkrooms [photography]; data processing apparatus; magnetic data media; optical data media; detectors; smoke detectors; diagnostic apparatus, not for medical purposes; dictating machines; digital photo frames; compact discs [audio-video]; compact discs [read-only memory]; optical discs; disks, magnetic; distance measuring apparatus; distance recording apparatus / apparatus for recording distance; diving suits; dosage dispensers / dosimeters; downloadable ring tones for mobile phones; downloadable music files; downloadable image files; disk drives for computers; electric door bells; electronic pocket translators; electronic tags for goods; magnetic encoders; enlarging apparatus [photography]; eyeglass cords / pince-nez cords; editing appliances for cinematographic films / apparatus for editing cinematographic film; filters for respiratory masks; fire extinguishers / fire extinguishing apparatus; fire beaters; clothing for protection against fire; fire pumps; fire blankets; flashlights [photography]; floppy disks; food analysis apparatus; garments for protection against fire; Global Positioning System [GPS] apparatus; gloves for protection against accident; gloves for divers; headphones; heat regulating apparatus; protective helmets; protective helmets for sports; riding helmets; holograms; encoded identification bracelets, magnetic; identity cards, magnetic; quantity indicators; speed indicators; integrated circuits; integrated circuit cards [smart cards] / smart cards [integrated circuit cards]; intercommunication apparatus; interfaces for computers; juke boxes, musical / coin-operated musical automata [juke boxes]; juke boxes for computers; hands

free kits for phones; knee-pads for workers; optical lanterns / optical lamps; magic lanterns; laptop computers; lasers, not for medical purposes; life saving apparatus and equipment; life buoys; life jackets; life belts; life-saving rafts; light dimmers [regulators], electric / light regulators [dimmers], electric; light-emitting diodes [LED]; locks, electric; logs [measuring instruments]; loudspeakers; magnetic tapes; magnetic wires; magnets; decorative magnets; magnifying glasses [optics]; marine compasses; protective masks; divers' masks; material testing instruments and machines; measures; measuring apparatus; measuring devices, electric; measuring instruments; mechanical signs; meteorological instruments; microphones; microprocessors; mileage recorders for vehicles / kilometer recorders for vehicles; modems; money counting and sorting machines; monitoring apparatus, electric; monitors [computer hardware]; monitors [computer programs]; mouse [data processing equipment]; nautical apparatus and instruments; naval signalling apparatus; navigational instruments; neon signs; nets for protection against accidents; safety nets / life nets; notebook computers; electronic notice boards; observation instruments; optical fibers [fibres] [light conducting filaments] / light conducting filaments [optical fibers [fibres]]; mouse pads; pedometers; electronic pens [visual display units]; computer peripheral devices; periscopes; phonograph records / sound recording discs; photocopiers [photographic, electrostatic, thermic]; phototelegraphy apparatus; DVD players; pocket calculators; light-emitting electronic pointers; portable media players; precision measuring apparatus; automatic indicators of low pressure in vehicle tires [tyres] / automatic indicators of low pressure in vehicle tires / automatic indicators of low pressure in vehicle tyres; pressure indicator plugs for valves; pressure gauges / manometers; pressure measuring apparatus; pressure indicators; printed circuits; printed circuit boards; probes for scientific purposes; processors [central processing units] / central processing units [processors]; computer programs [downloadable software]; projection screens; projection apparatus; protection devices for personal use against accidents; electronic publications, downloadable; punched card machines for offices; radar apparatus; radio pagers; radiological apparatus for industrial purposes; radios; vehicle radios; radiotelegraphy sets; radiotelephony sets; railway traffic safety appliances; bar code readers; optical character readers; readers [data processing equipment]; telephone receivers; audio- and video-receivers; record players; reflecting discs for wear, for the prevention of traffic accidents; regulating apparatus, electric; relays, electric; electric installations for the remote control of industrial operations; electro-dynamic apparatus for the remote control of signals; remote control apparatus; respirators for filtering air; respiratory masks, other than for artificial respiration / respirators, other than for artificial respiration; rheostats; road signs, luminous or mechanical; rods for water diviners; rulers [measuring instruments]; saccharometers; safety tarpaulins; salinometers; satellite navigational apparatus; satellites for scientific purposes; scales; scanners [data processing equipment]; shoes for protection against accidents, irradiation and fire; signal lanterns; signalling panels, luminous or mechanical; signalling whistles; transmitters of electronic signals; signals, luminous or mechanical; signs, luminous; sirens; apparatus for measuring the thickness of skins; slide projectors / transparency projection apparatus; slope indicators / clinometers / gradient indicators / inclinometers; socks, electrically heated; computer software, recorded; sound recording carriers; sound transmitting apparatus; sound recording apparatus; sound reproduction apparatus; sound locating instruments; sounding lines;

spectacle lenses; spectacle frames; spectacle cases; spectacles [optics]; speed checking apparatus for vehicles; speed measuring apparatus [photography]; speed regulators for record players; spirit levels; goggles for sports; sprinkler system for fire protection; steering apparatus, automatic, for vehicles; personal stereos; stereoscopes; stereoscopic apparatus; sound recording strips; stroboscopes; sunglasses; tape recorders; magnetic tape units for computers; demagnetizing apparatus for magnetic tapes; teaching apparatus; telephone apparatus; telephone transmitters; portable telephones; teleprinters / teletypewriters; teleprompters; television apparatus; automated teller machines [ATM]; temperature indicators; temperature indicator labels, not for medical purposes; terminals [electricity]; theft prevention installations, electric; thermometers, not for medical purposes; thermostats; thermostats for vehicles; ticket dispensers; time switches, automatic; time recording apparatus; totalizers; traffic-light apparatus [signalling devices]; transmitters [telecommunication]; transmitting sets [telecommunication]; transparencies [photography] / slides [photography]; transponders; urinometers; USB flash drives; navigation apparatus for vehicles [on-board computers]; video recorders; video cassettes; video game cartridges; video screens; video telephones; videotapes; viewfinders, photographic; voltmeters; voting machines; wafers for integrated circuits; walkie-talkies; vehicle breakdown warning triangles; weighing machines; weighing apparatus and instruments; wind socks for indicating wind direction; masts for wireless aerials; telephone wires; wrist rests for use with computers; X-ray tubes not for medical purposes; X-ray apparatus not for medical purposes; X-ray photographs, other than for medical purposes; apparatus and installations for the production of X-rays, not for medical purposes; protection devices against X-rays, not for medical purposes; computer hardware, firmware, peripherals and software; software applications for mobile phones, tablet computers, hand held devices and computers; computer software supplied on the Internet; automatic answering apparatus for communications apparatus; code generators; apparatus for coding and decoding signals; audio cassettes, floppy discs, CD ROMS and DVD ROMS; data storage programs; servers; cases for computers; apparatus and instruments for recording, receiving, transmitting and/or reproducing data, information, pictures, images, and/or sound; electronic and computer apparatus and instruments for debiting and/or crediting financial accounts and/or for paying for goods or services; parts and fittings for all the aforesaid goods.

Class 35:

Advertising; business management; business administration; office functions; commercial administration of the licensing of the goods and services of others; dissemination of advertising matter; updating of advertising material; advertising / publicity; advertising agencies / publicity agencies; rental of advertising space; advertising by mail order; commercial information and advice for consumers [consumer advice shop]; cost price analysis; telephone answering for unavailable subscribers; business appraisals; business management of performing artists; business management assistance; auctioneering; bill-posting / outdoor advertising; book-keeping / accounting; business auditing; business management and organization consultancy; business management consultancy; business organization consultancy; professional business consultancy; business management of sports people; presentation of goods on communication media, for retail purposes; price comparison services; compilation of information into computer databases; systemization of information into computer databases; data

search in computer files for others; demonstration of goods; direct mail advertising; business efficiency expert services; employment agencies; organization of exhibitions for commercial or advertising purposes; organization of fashion shows for promotional purposes; computerized file management; economic forecasting; import-export agencies; commercial or industrial management assistance; commercial information agencies; business information; business inquiries; business investigations; invoicing; layout services for advertising purposes; personnel management consultancy; advisory services for business management; marketing studies; marketing research; marketing; modelling for advertising or sales promotion; news clipping services; on-line advertising on a computer network; organization of trade fairs for commercial or advertising purposes; outsourcing services [business assistance]; payroll preparation; photocopying services; opinion polling; word processing; administrative processing of purchase orders; procurement services for others [purchasing goods and services for other businesses]; production of advertising films; public relations; publicity columns preparation; publication of publicity texts; writing of publicity texts; radio advertising / radio commercials; personnel recruitment; office machines and equipment rental; rental of photocopying machines; rental of advertising time on communication media; document reproduction; business research; retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies; retail and wholesale of cosmetics and personal care products, telecommunication goods, computers, computer software, computer software applications, computer hardware, computer peripheral devices, electronic publications, medical devices, vehicles, machineries, watches, clocks, printed matters, paper products, stationeries, items made of leather or imitation leather, bags, luggage bags, clothing, headgear, footwear; sales promotion for others; distribution of samples; secretarial services; sponsorship search; drawing up of statements of accounts; compilation of statistics; tax preparation; telemarketing services; television advertising / television commercials; psychological testing for the selection of personnel; transcription; typing; administration processing of purchase orders; personal management consultancy; computer data processing; computer data management; sales, business, advertising and promotional information services; telephone answering (for others); provision of sales, business, advertising and promotional information through a global computer network; the bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods from a general merchandise internet web site and a wholesale outlet, in the field of bleaching preparations and other substances for laundry use, in the field of cleaning preparations, polishing preparations, scouring preparations, abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, fragrances, air fragrancing preparations, personal care products, cosmetic preparations, dyes, adhesives, bases for flower perfumes, joss sticks, scented wood, shoemakers' wax, shoe cream, shoe wax and shoe polish, in the field of pharmaceutical and veterinary preparations, in the field of sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies, dietary supplements for humans and animals, in the field of plasters, materials for dressings, material for stopping teeth, dental wax, disinfectants, preparations for destroying vermin, fungicides and herbicides, in the field of machines and machine tools, motors and engines, machine coupling and transmission

components, in the field of agricultural implements, incubators for eggs, automatic vending machines, in the field of scientific, nautical, navigational, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, in the field of apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, anti-interference devices (electricity), in the field of apparatus for recording, transmission or reproduction of sound and/or images, in the field of mechanisms for coin-operated apparatus, cash registers, calculating machines, calculating disks, in the field of computers, computer hardware, computer firmware, computer software, computer peripherals, data processing equipment, electronic agendas, computer parts, accessories for computers, in the field of electrical devices, electrical apparatus, electrical equipment in the field of telecommunications apparatus, telecommunications equipment in the field of fire-extinguishing equipment, fire-extinguishing apparatus, alarms, anti-theft warning apparatus, in the field of anti-dazzle shades and anti-glare visors, anti-glare glasses, in the field of bags, cases, covers, containers, cords, bells, in the field of protective clothing, safety equipment, safety apparatus, parts for safety apparatus and equipment, security apparatus, security devices, in the field of diving apparatus, diving equipment, sports apparatus, sports equipment, in the field of battery chargers, animated cartoons, in the field of cell phone straps, in the field of eyeglass chains and pince-nez chains, in the field of mechanisms for coin-operated apparatus, coin-operated mechanisms for television sets, in the field of cyclotrons, darkrooms (photography), detectors, smoke detectors, diagnostic apparatus, not for medical purposes, digital photo frames, electronic pocket translators, editing appliances for cinematographic films and apparatus for editing cinematographic film, filters for respiratory masks, fire blankets, flashlights (photography), food analysis apparatus, Global Positioning System (GPS) apparatus, in the field of heat regulating apparatus, holograms, optical lanterns and optical lamps, magic lanterns, lasers, not for medical purposes, light-emitting diodes (LED), electric locks, in the field of magnets, marine compasses, material testing instruments and machines, in the field of measuring apparatus, electric measuring devices, measuring instruments, mechanical signs, meteorological instruments, money counting and sorting machines, electric monitoring apparatus, neon signs, in the field of electronic notice boards, observation instruments, optical fibers [fibres] [light conducting filaments] and light conducting filaments [optical fibers [fibres]], electronic pens [visual display units], periscopes, photocopiers [photographic, electrostatic, thermic]; phototelegraphy apparatus, light-emitting electronic pointers, portable media players, in the field of projection screens, projection apparatus, protection devices for personal use against accidents, in the field of electronic publications (downloadable), punched card machines for offices, radar apparatus, radiological apparatus for industrial purposes, railway traffic safety appliances, bar code readers, optical character readers, in the field of electric installations for the remote control of industrial operations, electro-dynamic apparatus for the remote control of signals, remote control apparatus, in the field of respirators for filtering air, respiratory masks, other than for artificial respiration and respirators, other than for artificial respiration, in the field of road signs (luminous or mechanical), rods for water diviners, safety tarpaulins, in the field of satellite navigational apparatus, satellites for scientific purposes, in the field of signal lanterns, signalling panels (luminous or mechanical), signalling

whistles, signals (luminous or mechanical), signs (luminous), sirens, in the field of slide projectors and transparency projection apparatus, socks (electrically heated), spectacle frames; parts for spectacles, spectacle cases, sunglasses, in the field of steering apparatus (automatic) for vehicles, in the field of teleprinters and teletypewriters, teleprompters, television apparatus, automated teller machines [ATM], temperature indicator labels (not for medical purposes), theft prevention installations (electric), ticket dispensers, time switches (automatic), totalizers, traffic-light apparatus [signalling devices], voting machines, in the field of X-ray tubes not for medical purposes, X-ray apparatus not for medical purposes, apparatus and installations for the production of X-rays, not for medical purposes, (re-positioned), in the field of code generators, apparatus for coding and decoding signals, in the field of instruments for recording, receiving, transmitting and/or reproducing data, information, pictures, images, and/or sound, in the field of electronic and computer apparatus and instruments for debiting and/or crediting financial accounts and/or for paying for goods or services as well as parts and fittings for all the aforesaid goods, in the field of surgical, medical, dental and veterinary apparatus, equipment, devices and instruments, in the field of artificial limbs, eyes and teeth, orthopedic articles, suture materials, in the field of air pillows for medical purposes, air cushions for medical purposes, air mattresses for medical purposes, bed vibrators, breast pumps, condoms, contraceptives (non-chemical), abdominal corsets, cushions for medical purposes, in the field of feeding bottles and babies' bottles, furniture especially made for medical purposes, surgical implants [artificial materials], temperature indicator labels for medical purposes, thermal packs for first aid purposes, in the field of parts and fittings for surgical, medical, dental orthopedic and veterinary apparatus, equipment, devices and instruments, in the field of vehicles, in the field of apparatus for locomotion by land, air or water, in the field of vehicles for locomotion by land, air, water or rail, in the field of aeronautical apparatus, machines and appliances, in the field of accessories, parts and fittings for vehicles, in the field of accessories parts and fittings for apparatus for locomotion by land, air or water, in the field of stroller covers [pushchairs], barges, carts, repair outfits for inner tubes, inner tubes for bicycles, cycles, in the field of parachutes, rolling stock for railways, saddle covers for bicycles or motorcycles, saddlebags adapted for bicycles, saddles for bicycles, cycles or motorcycles, in the field of parts and fittings for all the aforesaid goods, in the field of precious metals and their alloys and goods in precious metals or coated therewith, in the field of jewellery, precious stones, in the field of horological and chronometric instruments, in the field of accessories, parts and fittings for horological and chronometric instruments, in the field of cases for clock- and watchmaking, coins, jewellery cases [caskets] and jewelry cases [caskets], key rings [trinkets or fobs], cuff links, medals, ornamental pins, tie pins, copper tokens, in the field of paper, cardboard and goods made from these materials, in the field of printed matter, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paint brushes, in the field of typewriters and office requisites (except furniture), in the field of instructional and teaching material (except apparatus), plastic materials for packaging, printers' type, printing blocks, in the field of addressing machines, albums and scrapbooks, in the field of artists' equipment, parts of stationery, in the field of holders for checkbooks [cheque books], engravings, etchings, figurines [statuettes] of papier mâché, terrestrial globes, hectographs,

histological sections for teaching purposes, passport holders, lithographic works of art, mats for beer glasses, musical greeting cards, numbers [type], oleographs, paintings [pictures], photo-engravings, packaging material made of starches, transfers [decalcomanias] and decalcomanias, type [numerals and letters] and letters [type], member medical card, plastic materials for packaging, in the field of leather and imitations of leather, and goods made of these materials, in the field of animal skins, hides, bags, trunks and travelling bags, in the field of umbrellas and parasols, walking sticks, whips, harness and saddlery, in the field of boxes, cases, in the field of umbrella covers, covers for animals and clothing for pets, walking stick handles and walking cane handles, horse blankets, slings for carrying infants, key cases, purses, in the field of rucksacks and backpacks, bandollers, mountaineering sticks and alpenstocks, vanity cases, not fitted, pocket wallets, wheeled shopping bags, in the field of clothing, footwear, headgear, in the field of wet suits for water-skiing; business services relating to compilation and rental of mailing lists; ordering services [for others]; business administration services for the processing of sales made on the Internet; loyalty program or incentive scheme redemption services in connection with the supply of benefits of value to customers; business management assistance; analysis on business management; compilation and maintenance of a register of domain names; collation, compilation of information relating to healthy living, healthy eating habits, nutrition, diet and fitness; consultancy, advisory services and provision of information relating to all the foregoing.

Class 38: Rental of access time to global computer networks; providing internet chatrooms; communications by computer terminals; transmission of greeting cards online; electronic mail; providing telecommunications connections to a global computer network; providing user access to global computer networks; providing access to databases; providing online forums; leasing access time to a computer database; providing access to computer database on the global computer network for searching and retrieving information, data, web sites and resources available on computer networks; providing user access to a computer database containing electronic publications and data via computer networks for processing and/or displaying purposes; providing user access to remote computers containing electronic publications, bulletin boards, database and information accessible via computer; consultancy, advisory services and provision of information relating to all the foregoing.

Class 41: Game services provided on-line from a computer network; providing on-line electronic publications, not downloadable; publication of electronic books and journals on-line; consultancy, advisory services and provision of information relating to all the foregoing.

Class 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; architectural consultation; architecture; bacteriological research; calibration [measuring]; chemical analysis; chemical research; chemistry research; clinical trials; cloud seeding; computer programming; updating of computer software; consultancy in the design and development of computer hardware; maintenance of computer software; computer system analysis; duplication of computer programs; installation of computer software;

computer software consultancy; conversion of data or documents from physical to electronic media; data conversion of computer programs and data [not physical conversion]; design of interior décor; industrial design; graphic arts design; computer system design; digitization of documents [scanning]; energy auditing; consultancy in the field of energy-saving; engineering; research in the field of environmental protection; weather forecasting / meteorological information; handwriting analysis [graphology]; hosting computer sites [Web sites]; information technology [IT] consulting services; scientific laboratory services; land surveying / land surveys; creating and maintaining Web sites for others; mechanical research; monitoring of computer systems by remote access; analysis of oil-field exploitation; packaging design / packaging design services; technical project studies; computer virus protection services; quality control; recovery of computer data; computer rental; research and development of new products for others; biological research; scientific research; providing search engines for the internet; server hosting; rental of Web servers; computer software design; rental of computer software; software as a service [SaaS]; styling [industrial design]; surveying; technical research; material testing; vehicle roadworthiness testing; water analysis; web site design consultancy; computer security; computer services relating to financial analysis system; computer services relating to interconnection of computer hardware and software; application software design; computer service relating to creating indexes of information, sites and resources on computer networks; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; creating and maintaining web sites; computer database development; rental and leasing of computer apparatus, and computer data; creation of a register of domain names; computer and electronic signal coding and decoding; testing and evaluation of occupational health and safety; consultancy, advisory services and provision of information relating to the all foregoing.