

O/1049/22

TRADE MARKS ACT 1994

**IN THE MATTER OF
TRADE MARK APPLICATION NO. UK00003625212
BY MIKOLAJ PAWLIKOWSKI
TO REGISTER:**

CONF42

**AS A TRADE MARK
IN CLASS 41**

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 427419
BY 42**

Background and pleadings

1. Mikolaj Pawlikowski (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK on 12 April 2021. The application was accepted and published in the Trade Marks Journal on 9 July 2021 in respect of the services found in the **Annex** to this decision.

2. On 11 October 2021, 42 (“the opponent”) filed a notice of opposition on the basis of sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”).¹ The opposition is directed at the applicant’s mark in its entirety. The opponent relies on the following trade mark:



UK registration no. UK00918037820

Filing date 20 March 2019; date of entry in register 13 August 2019

Relying on all the services, namely:

(“the opponent’s mark”)

Class 41: *Providing of training; Tuition; Education; Education and providing of training, in particular in the information technology and coding sector; Providing of interactive training and providing of training information on open or closed computer networks of all kinds, including the internet; Schools, Teacher training establishments and teaching practice schools; Arranging and conducting of educational tests and training workshops; Entertainment; Organisation of competitions [education or entertainment]; Arranging and conducting of colloquiums, conferences, events, workshops or congresses for educational purposes; Organization of exhibitions for cultural or educational purposes; Booking of seats for shows.*

¹ On 21 February 2022, the opponent sent an email to the Registry removing the section 5(3) ground of opposition. The opponent stated that the opposition would proceed on ground 5(2)(b) only.

3. The opponent submits that there is a likelihood of confusion because the applicant's mark is similar to its own mark and the respective services are identical or similar. The applicant filed a defence and counterstatement denying the claims made.

4. The opponent is represented by Bristows LLP; the applicant is represented by LawBriefs Ltd. Both parties filed evidence. The opponent filed evidence in reply. No hearing was requested. Only the opponent filed submissions in lieu of a hearing. This decision is taken following a careful perusal of the papers.

5. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Act relied on in these proceedings are derived from an EU Directive. This is why this decision continues to make reference to the trade mark case-law of EU courts.

Evidence

6. As set out above, both parties filed evidence in these proceedings. The opponent's evidence came in the form of the witness statements of Ms Sophie Viger dated 21 February 2022 accompanied by 3 exhibits and dated 12 July 2022 accompanied by 1 exhibit. Ms Viger is the managing director at 42, a position she has held for 4 years. The applicant's evidence came in the form of the witness statement of Mikolaj Pawlikowski dated 13 April 2022 and accompanied by 2 exhibits. I do not intend to summarise the parties' evidence or the submissions in full at this stage. However, I have taken them all into consideration in reaching my decision and will refer to them below, where necessary.

Preliminary issues

7. The applicant has provided evidence that consists of existing trade marks on the UK register that contains the number '42'.² The applicant submits that the evidence

² Exhibit MP2 of the witness statement of Mikolaj Pawlikowski

filed indicates that the opponent's mark is not sufficiently distinctive due to the presence of several similar marks on the trade mark register. In *Zero Industry Srl v OHIM*, Case T-400/06, the General Court ("GC") addressed evidence in relation to the state of the register and stated that:

"73. As regards the results of the research submitted by the applicant, according to which 93 Community trade marks are made up of or include the word 'zero', it should be pointed out that the Opposition Division found, in that regard, that '... there are no indications as to how many of such trade marks are effectively used in the market'. The applicant did not dispute that finding before the Board of Appeal but none the less reverted to the issue of that evidence in its application lodged at the Court. It must be found that the mere fact that a number of trade marks relating to the goods at issue contain the word 'zero' is not enough to establish that the distinctive character of that element has been weakened because of its frequent use in the field concerned (see, by analogy, Case T-135/04 GfK v OHIM - BUS(Online Bus) [2005] ECR II-4865, paragraph 68, and Case T-29/04 Castellblanch v OHIM - Champagne Roederer (CRISTAL CASTELLBLANCH) [2005] ECR II-5309, paragraph 71)."

8. Taking the above into account, it is my view, that the evidence provided by the applicant of marks on the register that contain '42', is not relevant in these proceedings. Further, I note that no evidence has been provided by the applicant of the use of these marks in the marketplace. Therefore, the evidence of the register does not assist the applicant. I will say no more about this evidence.

9. I also note that in the applicant's TM8 the applicant questioned the validity and ownership of the opponent to the trade mark that it relies upon. The applicant requested proof of ownership by the opponent of the mark. In relation to this, firstly I note that the opponent is registered as the owner of the earlier mark and, therefore, no further proof was required. However, I note that the opponent provided documentation in French,³ which was translated into English,⁴ which demonstrates the legal validity

³ Exhibit SV1 of the witness statement of Sophie Viger

⁴ Exhibit SV2 of the witness statement of Sophie Viger

of the opponent and its entitlement to hold intellectual property. I am more than satisfied with the evidence that has been provided by the opponent and will say no more about it.

Section 5(2)(b): legislation and case law

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

“(2) A trade mark shall not be registered if because- (a) ...

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

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

11. Section 5A of the Act is as follows:

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

12. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“(6)(1) In this Act an “earlier trade mark” means –

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

(2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if

registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b), subject to its being so registered.”

13. Given its filing date, the opponent’s mark qualifies as an earlier trade mark under the above provisions. The opponent’s mark had not completed its registration process more than five years before the filing date of the application at issue. The conditions of use do not, therefore, apply to the mark and the opponent can rely on all the services for which its mark is registered.

14. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

(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 impression 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 greater 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 to mind the earlier mark, 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 the services

15. The applicant's services are set out in the **Annex** to this decision. The opponent's services are set out in **paragraph 2**.

16. When making the comparison, all relevant factors relating to the services in the specifications should be taken into account. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

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

17. Guidance on this issue has also come from Jacob J. (as he was then) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

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

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

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

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

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

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

18. In *Gérard Meric v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* case T-133/05, the GC stated:

“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 when the goods designated by the trade mark application are included in a more general category designated by the earlier mark”.

19. In *Kurt Hesse v OHIM* (Case C-50/15 P), the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v OHIM*, (Case T-325/06), the GC stated that “complementary” means:

“...there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking”.

20. In *SEPARODE Trade Mark*, BL O-399-10, Mr Geoffrey Hobbs KC, sitting as the Appointed Person, said:

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

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

“...the applicable principles of interpretation are as follows: (1) General terms are to be interpreted as covering the goods or services clearly covered by the literal meaning of the terms, and not other goods or services. (2) In the case of services, the terms used should not be interpreted widely, but confined to the core of the possible meanings attributable to the terms. (3) An unclear or imprecise term should be narrowly interpreted as extending only to such goods or services as it clearly covers. (4) A term which cannot be interpreted is to be disregarded.”

22. “*Providing of training*” and “*education*” appears in both parties’ specifications and are self-evidently identical.

23. The applicant’s specification consists of a range of services that are encompassed by the broader term “*providing of training*” that appears in the opponent’s specification. Further, it is my view that words such as conducting and instruction which are used throughout the applicant’s specification are synonymous with providing, in this context. Consequently, I find the following services in the applicant’s specification to be identical on the principle outlined in *Meric*:

“Training”, “computerised training”, “horse training”, “religious training”, “training services”, “continuous training”, “meditation training”, “practical training”, “personnel training”, “driver training”, “vocational training”, “language training”, “training (animal -)”, “voice training”, “motorcycle training”, “industrial training”, “computer training”, “coaching [training]”, “sports training”, “providing training”, “employment training”, “training of animals”, “personal training services”, “wood-working training”, “training of referees”, “teacher training services”, “racing driver training”, “vocational skills training”, “physical training services”, “training in catering”, “sales training services”, “training of croupiers”, “commercial training services”, “training (practical -) [demonstration]”, “training of magicians”, “training of umpires”, “postgraduate training courses”, “vocational training services”, “computer education training”, “computer training services”, “personal development training”, “horses (training of -)”, “industrial relations training”, “training in yoga”, “training of teachers”, “practical training services”, “military base training”, “driver safety training”, “staff training services”, “training in sports”, “engineering training services”, “fitness training services”, “training in philosophy”, “manufacturing training services”, “computer based training”, “practical training [demonstration]”, “training in electronics”, “management training services”, “residential training courses”, “road safety training”, “personal coaching [training]”, “business training services”, “providing of training”, “training and instruction”, “physical fitness training services”, “providing courses of training”, “computer education training services”, “training related to nutrition”, “career and vocational training”, “training in business skills”, “electronic data processing training”, “drilling technology safety training”,

“training for automobile competitions”, “instructional and training services”, “health and fitness training”, “know-how transfer [training]”, “provision of training courses”, “training services for nannies”, “strength and conditioning training”, “instruction in weight training”, “training of car drivers”, “training in public relations”, “obedience training for animals”, “instruction in circuit training”, “training of personnel in food technology”, “postgraduate training courses relating to engineering technology”, “training in the field of communication technologies”, “staff training services relating to modern office technology”, “[...] training in business, industry and information technology”, “training services relating to the use of information technology”, “provision of courses of instruction in the management of information technology”, “adult training”, “animal training”, “business training”, “advanced training”, “aerobics training services”, “[...] training services”, “conducting training seminars for clients”, “provision of online training”, “conducting training courses relating to diet online”, “conducting training sessions on physical fitness online”, “conducting training courses relating to nutrition online”, “conducting workshops [training] relating to engine repair”, “conducting workshops [training] relating to engine maintenance”, “conducting workshops [training] relating to power boat repair”, “conducting workshops [training] relating to power boat maintenance”, “conducting workshops [training] relating to automotive engine maintenance”, “conducting workshops [training] relating to automotive engine repair”, “conducting of courses”, “conducting instructional courses”, “personal development courses”, “training courses (provision of -)”, “courses (training -) relating to management”, “courses (training -) relating to law”, “providing of continuous training courses”, “providing of further training courses”, “provision of skill assessment courses”, “training courses in engine design”, “instruction related to slimming”, “courses (training -) relating to science”, “courses (training -) relating to engineering”, “instruction courses relating to health”, “vocational training courses (provision of -)”, “courses of instruction (provision of -)”, “courses (training -) relating to medicine”, “provision of medical instruction courses”, “courses (training -) relating to finance”, “courses (training -) relating to banking”, “courses (training -) relating to accountancy”, “courses (training -) relating to insurance”, “provision of computer related training courses”, “training courses relating to system analysis”, “correspondence courses relating to

personal investment”, “training courses relating to computer software”, “providing computer assisted courses of instruction”, “providing training courses on business management”, “courses (training -) relating to religious subjects”, “training courses relating to computer hardware”, “provision of instruction courses in finance”, “courses (training -) relating to customer services”, “instruction courses relating to physical fitness”, “courses (training -) relating to philosophical subjects”, “instruction courses relating to sporting activities”, “courses for the development of consulting skills”, “courses (training -) relating to research and development”, “provision of courses of instruction in languages”, “training courses relating to data base designs”, “providing courses of instruction at college level”, “providing courses of instruction for young people”, “providing courses of training for young people”, “provision of instruction courses in general management”, “conducting of courses relating to business administration”, “organisation of training courses relating to design”, “postgraduate training courses relating to management studies”, “provision of training courses in personal development”, “conducting of courses relating to business management”, “conducting of courses relating to administrative training”, “training courses in jointing of optical fibres”, “providing courses in the field of water management”, “life coaching (training)”, “conducting workshops [training]”, “commercial vehicle driver training”, “training in computer programming”, “training in administration”, “conducting training seminars”, “written training course”, “organisation of training courses”, “arranging of training courses”, “arranging technical instruction courses”, “self-awareness courses [instruction]”, “[...] training”, “arrangement of training courses in teaching institutes”, “arranging of courses of instruction for tourists”, “arranging [...] training courses”, “conducting of instructional seminars relating to time organisation”, “conducting of instructional seminars relating to time management”.

24. In the absence of any evidence or submissions to the contrary, it is my view that *“training consultancy”, “training and further training consultancy”, “management training consultancy services”* and *“education and training consultancy”* services in the applicant’s specification design and optimise training programmes for organisations by

evaluating training plans, aligning programmes to the companies training goals and create opportunities to facilitate learning. It is my view that these services are similar to *“providing of training”* in the opponent’s specification. It is my view that the services will differ in purpose and nature, as the applicant’s services will assess the current training programmes and requirements in its client’s services and creates training programmes whereas the opponent’s services provide the training courses themselves. The users of the services may overlap as the consumers looking to assess their training will most likely also wish to then seek a service to provide its training requirements. It is my view that the services will differ in their method of use but may overlap in trade channels. It is not my view that the services are in competition. However, the services are complementary as the provision of training is important/indispensable to training consultancy. It is my view that the average consumer will be of the view that they are from the same undertaking.. Therefore, I find the services to be similar to a medium degree.

25. *“Organisation of training”, “organisation of training seminars” and “organising of commercial training”* in the applicant’s specification is similar to *“providing of training”* in the opponent’s specification. The services differ in purpose and nature, as the applicant’s services organise training whereas the opponent’s services provide the training. Whilst the method of use differs, it is my view that the services will share the same users and trade channels. The services are not in competition but are complementary. This is on the basis that the organisation of training and the provision of training are indispensable or important for the use of the other in such a way that customers may think that the responsibility of these services lies with the same undertaking. For example, training needs to be organised to be provided. Taking all this into account, I find the services to be similar to a medium degree.

26. I was unable to find any similarity between the *“production of training films”* and *“production of training videos”* in the applicant’s specification and any of the services in the opponent’s specification. Whilst I recognise applicant’s services are concerning the production of films/videos used for training and the opponent’s services contain the provision of training, the services differ in purpose, nature, method of use, trade channels and are neither in competition nor are they complementary. However, the services may overlap in users, as someone engaging with a service providing training

may also want to have the training recorded and a film produced or create a video that can be used in training. The shared area of interest in training and users is insufficient to substantiate similarity. Therefore, I find the applicant's services to be dissimilar to the opponent's services.

27. *"Training facilities (Provision of -)"* in the applicant's specification is similar to *"providing of training"* in the opponent's specification. It is my view that the purposes of the services will differ, as the applicant's services provide the facilities for training and the opponent's services provide the training services. The users of the services may also overlap. However, the method of use and nature of the services will differ. There may be a slight overlap in trade channels. It is my view that the services are not in competition. However, there may be a level of complementarity on the basis that the provision of a facility where training can take place is important/indispensable for the provision of training. It is my view that the average consumer may view the services to be from the same undertaking. Taking all this into account, I consider the services to be similar to a medium degree.

28. *"Rental of training simulators"* in the applicant's specification and *"providing of training"* in the opponent's specification are similar. In the absence of any submissions or evidence to the contrary, it is my view that the rental of training simulators, are a service that rents tools to teach trainees about skills needed in the real world, for example flight simulators that artificially simulate aircraft flights in various environments and conditions. It is my view that the nature of the services is different but there may be some overlap in end purpose as both parties' services will be used to provide training to consumers. Further, there may be some overlap in users, as those customers wishing to rent training simulators will most likely want training services to be provided to teach new skills. It is also my view that there may be some overlap in trade channels. However, it is my view that the method of use of the services will differ. As consumers may decide between whether to hire a training simulator or acquire a service to provide training, it is my view that the services will be in competition. However, it is not my view that the services are complementary. Bearing all the above in mind, it is my view that the services are similar to a medium degree.

29. *“Consultancy relating to arranging and conducting of conferences”* and *“consultancy and information services relating to arranging, conducting and organisation of conferences”* in the applicant’s specification are similar to *“arranging and conducting of [...] conferences [...] for educational purposes”* in the opponent’s specification. The services may overlap in users as it is likely that a consumer seeking consultancy services to arrange/ conduct a conference may seek to arrange a conference for educational purposes. However, the services will differ in nature and purpose. The services may coincide in trade channels and share the same providers. It is also my view that there will be an overlap in the method of use. It is not my view that the services are in competition, however, there may be some element of complementarity as the arranging and conducting conferences would be important/ indispensable for the provision of service that provides consultancy in relation to that service. It is my view that the average consumers would be of the view that the services are provided from the same undertaking. Therefore, I find the services to be similar to low to medium degree.

30. *“Arranging of cultural events”, “conducting of cultural events”, “organising community cultural events”, “organising cultural and arts events”, “organising events for cultural purposes”* and *“organisation of cultural events”* in the applicant’s specification are similar to *“arranging and conducting of [...] events [...] for educational purposes”* in the opponent’s specification. Whilst I note that the end purpose of these services differs, as the applicant’s services are arranged for cultural events and the opponent’s services are arranged for educational purposes, I note that the services are all arranging events. It is my view that the services may overlap in users, as the consumer of the applicant’s services may also wish to arrange an event for educational purposes. Further, the services overlap in nature, method of use and trade channels. The services may be in competition, as the average consumer may seek the same company to provide the services – as the process will be similar other than the end purpose of either an educational or cultural event. However, it is my view that the services will not be complementary. Therefore, I find the services to be highly similar.

31. *“Educational and training services”* in the applicant’s specification is a broad category that encompasses *“education and providing of training, in particular in the*

information technology and coding sector” in the opponent’s specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

32. The applicant’s specification consists of a range of services that are encompassed by the broader term *“arranging and conducting of colloquiums, conferences, events, workshops or congress for educational purposes”* that appears in the opponent’s specification. Further, I note that terms such as planning are synonymous with arranging. Taking this into account, I find the following services in the applicant’s specification to be identical on the principle outlined in *Meric*:

“Conference services”, “ organising of educational conferences”, “ conducting of educational conferences”, “organising of education conferences”, “organization of educational conferences”, “conducting of business conferences”, “organisation of conferences relating to education”, “organising of conferences relating to education”, “arranging of educational conferences”, “arrangement of conferences for educational purposes”, “arranging and conducting educational conferences”, “arranging of conferences relating to education”, “planning of conferences for educational purposes”, “arranging of an annual educational conference”, “organising of conferences for educational purposes”, “arranging and conducting of conferences, congresses and symposiums”, “conducting of educational events”, “organisation of educational events”, “arranging of educational events”, “arranging and conducting of educational events”, “arranging and conducting of conferences”, “conferences (arranging and conducting of-)", “organising of educational congresses”, “workshops for educational purposes”, “organization of educational congresses”, “organization of educational symposia”, “symposiums relating to education”, “arranging [...] training courses”, “educational services providing workshops in land policy”.

33. *“Arranging of conferences relating to training”, “organisation of conferences relating to training”* and *“organisation of conferences relating to vocational training”* in the applicant’s specification is similar to *“arranging and conducting [...] conferences[...] for educational purposes”*. In the absence of any submissions or

evidence to the contrary, it is my view that education and training differ; training refers to the act of delivering a specific skill to an individual whereas education is a system of learning that develops the individual intellectually. Taking this into account, it is my view that the services will overlap in nature and purpose, as although the type of learning may differ the organisation of conferences relate to a form of learning. Further, it is my view that the services will share the same users, method of use and trade channels. The services may be in competition but they are not complementary. Therefore, I find the services to be similar to a high degree.

34. The applicant's specification consists of a range of services that are encompassed by the broader term "*entertainment*" that appears in the opponent's specification. Consequently, I find the following services in the applicant's specification to be identical on the principle outlined in *Meric*:

"Conducting of entertainment events", "conducting of live entertainment events", "production of live entertainment events", "conducting of live sports events", "entertainment provided during intervals of sporting events", "arranging and conducting of live entertainment events", "entertainment services provided during intervals at sports events", "online entertainment services", "online gaming services", "providing online games", "online interactive entertainment", "online casino services", "online gambling services", "providing online video games", "providing online music, not downloadable", "providing online videos, not downloadable", "providing an online computer game", "provision of online computer games", "providing online graphic novels, not downloadable", "online game services through mobile devices", "providing online comic books, not downloadable", "providing online entertainment in the nature of game tournaments", "providing online entertainment in the nature of game shows", "providing online entertainment in the nature of fantasy sports leagues", "internet radio entertainment services", "entertainment provided via the internet", "providing sports entertainment via a website", "providing video entertainment via a website", "providing multi-media entertainment via a website", "providing entertainment in the nature of film clips via a website", "entertainment services provided by on-line streams", "Internet games (non-

downloadable)", "providing digital music from the Internet", "providing digital music [not downloadable] from MP3 Internet websites", "online sports betting services", "online computer game services", "providing an online computer game", "game services provided online from a computer network", "entertainment services relating to sporting events", "organising events for entertainment purposes", "presentation of live entertainment events", "entertainment services in the nature of skiing events", "disc jockeys for parties and special events", "disc jockey services for parties and special events", "providing newsletters in the field of computer games via e-mail", "[...] entertainment and sports", "providing online electronic publications", "providing online publications, not downloadable", "providing online electronic publications in the field of music, not downloadable", "providing online electronic publications, not downloadable, in the field of music", "online publication of electronic books and journals", "publication of books relating to information technology", "publishing scientific papers in relation to medical technology", "publishing of scientific papers in relation to medical technology", "publishing and issuing scientific papers in relation to medical technology in the applicant specification", "online digital publishing services", "publication of multimedia material online", "on line electronic publishing of books and periodicals", "publication of electronic books and journals online", "electronic online publication of periodicals and books", "on line publication of electronic newspapers", "publishing of electronic books and journals online", "publication of online reviews in the field of entertainment", "provision of online information relating to game players", "providing online information on computer and video game strategies", "providing online non downloadable comic books and graphic novels", "providing online newsletters in the fields of sports entertainment", "play schemes [entertainment/education]".

35. "Publication of calendars of events" in the applicant's specification is similar to "arranging and conducting of [...] events for educational purposes" in the opponent's specification. I note that the applicant's term is not limited and can therefore cover educational purposes as well. The services differ in nature, purpose and method of use. Further, the services will differ in trade channels. It is not my view that the services are in competition but there may be an element of complementarity. This is on the

basis that an event is important/indispensable to the creation of a calendar of events, as the calendar needs events of which to list. It is also my view that the average consumer would expect the same undertaking in arranging and conducting the event to publish calendars. Taking this into account, I find the services to be similar to a low degree.

36. The applicant's specification consists of a range of services that are encompassed by the broader term "*organisation of competitions [education or entertainment]*" that appears in the opponent's specification. Consequently, I find the following services in the applicant's specification to be identical on the principle outlined in *Meric*:

"Organization of sporting events and competitions", "organisation of sporting competitions and sports events", "organising of sports competitions and sports events", "organising of sports events and of sports competitions", "arranging of competitions via the internet", "conducting of competitions on the internet", "organisation of e-sports competitions", "organisation of sports competitions and events", "organising of sports competitions and events"

37. The applicant's specification contains "*booking of seats for entertainment events*", "*booking of seats for shows [...]*" that are encompassed by the broader term "*booking seats for shows*" that appears in the opponent's specification. Consequently, I find the services in the applicant's specification to be identical on the principle outlined in *Meric*.

38. "*Ticketing and event booking services*" and "*ticket reservation and booking services for entertainment events*" in the applicant's specification are broad terms that encompass "*booking seats for shows*" in the opponent's specification. Therefore, I find these services to be identical on the principle outlined in *Meric*.

39. It is my view that "*ticket reservation for cultural events*" in the applicant's specification is similar to "*booking seats for shows*" in the opponent's specification. The services coincide in purpose and nature as they are services that are used to

book seats for an entertainment event. It is also my view that the services will coincide in the method of use and trade channels, as the same booking services may cater to many different forms of entertainment. It is also my view that the services will coincide in users as consumers may wish to book seats for a west end show and for a cultural event. It is not my view that the services are complementary nor are they in competition. Therefore, I find the services to be similar to a high degree.

40. *“Ticket reservation and booking services for esports events”, “booking of seats for [...] sports events” and “ticket reservation and booking services for sporting events”* in the applicant’s specification are similar to *“booking seats for shows”* in the opponent’s specification. The services coincide in purpose and nature as they are services that are used to book seats for an entertainment event. It is also my view that the services will coincide in the method of use and trade channels, as the same booking services may cater to many different forms of entertainment. It is also my view that the services will coincide in users as consumers may wish to book seats for a west end show and for a sporting event. It is not my view that the services are complementary nor are they in competition. Therefore, I find the services to be similar to a high degree.

41. The applicant’s specification consists of a range of services that are encompassed by the broader term *“arranging and conducting of educational tests and training workshops”* that appears in the opponent’s specification. Consequently, I find the following services in the applicant’s specification to be identical on the principle outlined in *Meric*:

“Educational testing”, “educational examination”, “education examination”, “educational examination services”, “examination services (educational-), “provision of educational examinations”, “teaching assessments for counteracting learning difficulties”, “educational assessment services”.

42. The applicant’s specification consists of a range of services that are encompassed by the broader term *“education”* that appears in the opponent’s

specification. Education services are services where individuals are taught various subjects, they are usually taught at a school, college or university. Taking this into account, I find the following services in the applicant's specification to be identical on the principle outlined in *Meric* to the opponent's services:

“Further education”, “physical education”, “singing education”, “religious education”, “education (religious-), “education services”, “educational services”, “career counselling [education]”, “lingual education”, “health education”, “academies [education]”, “vocational education”, “legal education services”, “religious educational services”, “primary education services”, “medical education services”, “business educational services”, “academy education services”, “educational services provided by institutes of higher education”, “educational services provided by institute of further education”, “educational services for providing courses of education”, “musical education services”, “physical health education”, “higher education services”, “pre-school education”, “academy services (education-), “physical education services”, “sports education services”, “online education services”, “club education services”, “university education services”, “boarding school education”, “adult education services”, “sporting education services”, “dietary education services”, “physical-education services”, “technological education services”, “education services relating to food technology”, “second language educational services”, “foreign language education services”, “secondary school educational services”, “physical fitness education services”, “english language education services”, “computer based educational services”, “nursery school services [educational]”, “educational and teaching services”, “university services”, “educational services provided by universities”, “educating at university or colleges”, “educating at universities or colleges”, “conducting distance learning instruction at the university level”, “education services in the nature of courses at the university level”, “distance learning services”, “conducting distance learning instruction at the secondary level”, “conducting distance learning instruction at the graduate level”, “conducting distance learning instruction at the college level”, “conducting distance learning instruction at the primary level”, “educational research”, “educational demonstrations”, “educational instruction”,

“educational seminars”, “educational institute services”, “providing of education”, “education academy services”, “education and instruction”, “providing educational demonstrations”, “education and road safety”, “services of schools [education]”, “provision of educational information”, “education (information relating to-)”, “education an instruction services”, “provision of educational courses”, “educational courses (provision of-)”, “wine tastings [educational services]”, “language courses”, “correspondence courses”, “distance learning courses, correspondence courses (provision of)”, “providing courses of instruction”, ““correspondence courses, distance learning”, ““teaching by correspondence courses”, ““conducting of educational courses”, “teaching of diet education”, “computer assisted education services”, “wine tasting services (education)”, “education [...]”, “providing online courses of instruction”, “distance learning services provided online”, “provision of online tutorials”, “organisation of correspondence courses”, “organisation of language courses”, “arranging of courses of instruction”, “arranging and conducting of educational courses”, “teaching [...] in business”, “education [...]”, “education services relating to the training of personnel in food technology”, “education [...] services”, “provision of correspondence courses”, “providing continuing nursing education courses”, “correspondence courses relating to gardening”, “correspondence courses relating to homecare”, “providing continuing dental education courses”, “educational courses relating to design”, “education courses relating to automation”, “music tuition by correspondence courses”, “providing continuing legal education courses”, “providing continuing medical education courses”, “educational courses relating to insurance”, “specialisation courses for oncological doctors”, “correspondence courses relating to cookery”, “correspondence courses relating to investment”, “educational courses relating to finance”, “correspondence courses relating to handicrafts”, “review courses for state examinations”, “residential education courses relating to canoeing”, “conducting of educational courses in science”, “residential education courses relating to canoeing”, “conducting of educational courses in science” , “residential education courses relating to archery”, “residential education courses relating to abseiling”, “review courses for state examinations”, “conducting of educational courses in engineering”, “conducting of educational courses in engineering”, ““conducting of educational courses in business”,

“school courses relating to study assistance”, “conducted basic literacy courses (provision of -)”, “provision of language schools and language courses”, “conducting of educational courses in business management”, “provision of education courses relating to electronics”, “education courses relating to the travel industry”, “provision of education courses relating to telecommunications”, “organisation of courses using distance learning methods”, “provision of educational courses relating to diet”, “educational courses relating to the travel industry”, “provision of education courses relating to computers”, “residential education courses relating to hill walking”, “conducting of educational courses relating to business”, “educational services for providing courses of instruction”, “wine tasting events for educational purposes”, “preparation of educational courses [...]”, “organisation of courses using programmed learning methods”, “organisation of courses using open learning methods”, “preparation of educational courses [...]”, “organisation of courses using self-tuition methods”, “arranging for students to participate in educational activities”, “arranging for students to participate in educational courses”, “residential education courses”, “physical education instruction”, “team building (education)”, “management education services”, “provision of physical education”, “rental of recorded education”, “arranging for students to participate in recreational activities”, “developing international student exchange programmes”, “organisation of educational shows”, “conducting of correspondence courses”, “school courses relating to examination preparation”.

43. *“Preparation of educational [...] examinations”* and *“development of educational courses and examinations”* in the applicant’s specification are similar to *“arranging and conducting of educational tests and training workshops”* in the opponent’s specification. It is my view that the services overlap in users and method of use. The services slightly differ in purpose, as one service is to create courses and examinations and the other is to organise and carry out examinations and courses. It is my view that the services overlap in users, as average consumers looking to develop examinations may also arrange and conduct the educational tests associated with an examination. Further, it is also my view that the services share trade channels. However, it is not my view that the services share method of use. The services are not

in competition nor are they complementary. Taking all of this into account, I find the services to be similar to a medium degree.

44. In the absence of any evidence or submissions to the contrary, it is my view that *“providing obstacle course training gym facilities”* in the applicant’s specification and *“providing of training”* in the opponent’s specification are similar. I consider that the applicant’s services provide facilities where individuals can attend to acquire the skills needed to compete in an obstacle course. It is my view that the provision of training in the opponent’s specification will be inclusive of training for obstacle courses. It is my view that the nature of the services is different but there may be some overlap in end purpose as both parties’ services will be used to provide training to consumers. Further, there may be some overlap in users, as those customers wishing to rent obstacle courses for gym training facilities will most likely want training services to be provided to teach new skills. It is also my view that there may be some overlap in trade channels. However, it is my view that the method of use of the services will differ. The services will not be in competition. However, they may be complementary, this is on the basis that the provision of obstacle course training gym facilities will be important/indispensable for the providing of training, specifically training in relation to obstacle courses. In these circumstances, I consider that the average consumer will be of the view that the services are provided by the same undertaking. Bearing all the above in mind, it is my view that the services are similar to a medium degree.

45. *“Rental of educational materials”* and *“hire of educational apparatus”* in the applicant’s specification are similar to *“education”* in the opponent’s specification. It is my view that the nature of the services is different but there may be some overlap in end purpose as both parties’ services will be used to provide education to consumers. Further, there may be some overlap in users, as those customers wishing to rent educational materials will most likely want education services to be provided to teach. It is also my view that there may be some overlap in trade channels. However, it is my view that the method of use of the services will differ. The services are not in competition but they may be complementary. This is on the basis that educational materials may be hired by the education service and provided in class where they teach the educational services. For example, CPR manikins used in educational

settings. Bearing all the above in mind, it is my view that the services are similar to a medium to high degree.

46. In the absence of any submissions or evidence to the contrary, I consider that “*setting of educational standards*” in the applicant’s specification is where the knowledge and skills that students should possess at key points in their educational development is defined; this plays a crucial role in providing education as it helps to determine the curriculum students will be taught. It is my view that these services are encompassed by “*education*” in the opponent’s specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

47. “*Issuing of educational awards*” and “*awarding of educational certificates*” in the applicant’s specification is similar to “*arranging and conducting of educational tests and training workshops*” in the opponent’s specification. The services may coincide in users as the consumers looking to arrange or conduct tests may also wish to issue awards. However, the method of use, purpose and nature of the services will differ. The trade channels may be shared. It is not my view that the services are in competition. The services are complementary, on the basis that the arranging and conducting of tests is important/indispensable to the issuing of educational awards. It is my view that the average consumer would be of the view that the provider that organises/ conducts the tests will be responsible for issuing the educational certificates following the assessment. The average consumer would be of the view that the services originate from the same undertaking. Therefore, I find the services to be similar to a medium degree.

48. The terms “*arranging conferences*”, “*arranging of conferences*”, “*arranging and conducting conferences*” and “*arranging, conducting and organisation of conferences*” in the applicant’s specification encompass “*arranging and conducting of [...] conferences for educational purposes*” in the opponent’s specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

49. *“Educational services relating to information technology”* in the applicant’s specification is encompassed by *“education and providing of training, in particular in the information technology and coding sector”* in the opponent’s specification. consequently, I find these services to be identical on the principle outlined in *Meric*.

50. I find the services below, in the applicant’s specification, to be similar to *“arranging and conducting of [...] conferences [...] for educational purposes”* in the opponent’s specification. The applicant’s services below all cover the arranging of conferences meaning that there is an overlap in nature. While I acknowledge that the end purpose of the services relates to a different range of subject matters. I am of the view that there is a general overlap in core purpose. This is on the basis that regardless of the subject matter addressed by the conferences, they all gather likeminded individuals to learn, hold discussions and network. It is also my view that the services will overlap in method of use on the basis that they will all be sought and provided in the same way. It is my view that the users may overlap as it is possible that a consumer looking to arrange a business conference may also wish to arrange a conference for an educational purpose; the educational purpose may be business related, for example. However, it is not my view that the services are in competition or complementary. Therefore, I find the following services to be similar to a high degree:

“Arranging of conferences relating to entertainment”, “arranging of conferences relating to business”, “arranging of conferences relating to commerce”, “arranging of conferences relating it to cultural activities”, “arranging of conferences relating to trade”, “arrangement of conferences for recreational purposes”, “arranging of conferences relating to advertising”, “organisation of conferences related to entertainment”, “arranging of an annual conference relating to logistics”, “arranging and conducting of commercial, trade and business conferences”, “arranging of an annual conference relating to telecommunications”, “conducting of business conferences”, “organisation of conferences and symposia in the field of medical science”, “arranging of an annual conference relating to procurement”.

51. In the absence of any submissions or evidence to the contrary, it is my view that organisation is synonymous with arranging in this context. On this basis, it is my

view that the *“organisation of [...] conferences for [...] educational purposes”* in the applicant’s specification is identical to *“arranging [...] of [...] conferences [...] for educational purposes”* in the opponent’s specification.

52. As mentioned above in paragraph 51, it is my view that organisation and arranging are synonymous with one another in this context. Therefore, it is my view that the *“organisation of congresses [...] for [...] educational purposes”* and *“conducting of [...] congresses”* in the applicant’s specification *“arranging and conducting of [...] congresses for educational purposes”* in the opponent’s specification are self- evidently identical.

53. *“Organisation of congresses and conferences for cultural [...] purposes”* in the applicant’s specification is similar to *“arranging and conducting of [...] conferences and congresses [...] for educational purposes”*. The services have a similar nature and method of use, as they are both for the organisation of conferences and congresses. However, whilst I recognise that the core purpose of the services is shared, the end-purpose of the services differs, as the applicant’s services are for cultural purposes and the opponent’s services are for educational purposes. Consequently, it is my view that the trade channels of the services will differ. However, there may be a very general overlap in users in that for example, a religious organisation may wish to organise conferences to educate people about their religion and also for cultural purposes. It is my view that the services are neither complementary nor in competition. Therefore, I find the services to be similar to a medium degree.

54. *“Organisation of conferences [...]”*, *“organisation of [...] conferences”*, *“organisation of [...] conferences”* and *“arranging and conducting conferences [...]”* in the applicant’s specification encompass *“arranging and conducting of [...] conferences [...] for educational purposes”* in the opponent’s specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

55. *“Organisation of [...] competitions”* in the applicant’s specification encompasses *“organisation of competitions [education or entertainment]”* in the opponent’s

specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

56. “*Organisation of [...] exhibitions*” in the applicant’s specification encompasses “*organisation of exhibitions for cultural or educational purposes*” in the opponent’s specification. I find these services are identical on the principle outlined in *Meric*.

57. “*Organisation of meetings [...]*” and “*organising of education conventions*” in the applicant’s specification are similar to “*arranging and conducting of colloquiums, conferences, events, workshops or congresses for educational purposes*” in the opponent’s specification. The services will overlap in users, method of use and nature. It is my view that the purposes of the services may overlap as the organisation of the meetings in the applicant’s specification may be for educational purposes. Further, it is my view that the services will have similar trade channels. It is my view that the services will be in competition, as due to the similar nature of what is being organised, meetings or conventions vs workshops etc, the consumer may choose between one service or the other as it would be anticipated the provider would be able to offer services to arrange all the aforementioned forums. However, it is not my view that the services are complementary. Taking all this into account, I find the services to be similar to a high degree.

58. “*Consultancy and information services relating to arranging, conducting and organisation of workshops*” in the applicant’s specification is similar to “*arranging and conducting of [...] workshops [...] for educational purposes*”. It is my view that the services will differ in purpose and nature, as the applicant’s services will provide advice and guidance in relation to arranging and conducting workshops whereas the opponent’s services provide the workshops themselves. The users of the services will overlap as the consumers looking to arrange workshops will most likely wish to seek advice on arranging and conducting a workshop. It is my view that the services may differ in their method of use but will overlap in trade channels. The services are not in competition. However, the services are complementary, as arranging and conducting workshops are indispensable/ important to the consultancy services associated with arranging and conducting workshops. It is also my view that the average consumer will

be of the view that the services originate from the same undertaking. Therefore, I find the services to be similar to a medium degree.

59. “*Golf workshops*” in the applicant’s specification is similar to “*arranging and conducting of [...] workshops [...] for educational purposes*” in the opponent’s specification. In my view, in the absence of any submissions or evidence to the contrary, golf workshops are the same as golf lessons where individuals that participate in golf will attend to learn and discuss golfing techniques, meeting an educational purpose. Therefore, it is my view that these services are identical on the principle outlined in *Meric*. However, if I am mistaken, I find the services to be similar. The services will share users, method of use and nature. As mentioned above, it is also my view that the services will share a purpose. The trade channels will overlap. The services will be in competition but they are not complementary. Therefore, I find the services to be similar to a high degree.

60. In the absence of any evidence or submissions to the contrary, it is my view that seminars are a type of meeting where a small group of people discuss a particular topic or issue. It is my view that workshops are also a type of meeting where a group of people engage in intensive discussion and activity concerning a particular subject or project. Further, it is my view that arranging, planning and organising are words that are synonymous and share the same meaning in this context. Bearing this in mind, it is my view that the applicant’s services below are similar to “*arranging and conducting of [...] workshops [...] for educational purposes*” in the opponent’s specification.. It is my view that the services share the same nature, purpose and users. It is also my view that the services will be provided by the same kind of undertakings via the same distribution channels. The services will be in competition, as customers wishing to teach/educate individuals on a particular subject will decide whether they wish to do this via a workshop, seminar or alternative method. However, the services are not complementary. Therefore, taking all of the above into account, I find the following services to be similar to a high degree:

“*Organisation of seminars [...]*”, “*arranging and conducting [...] seminars*”, “*seminars*”, “*conducting seminars*”, “*organisation of seminars*”, “*arranging of*

seminars, *“arranging and conducting seminars”*, *“conducting of instructional seminars”*, *“arranging and conducting of seminars”*, *“seminars (arranging and conducting of-)”*, *“conducting of seminars [...]”*, *“arranging, conducting an organisation of seminars”*, *“arranging, conducting and organization of seminars”*, *“arranging and conducting of seminars [...]”*, *“arrangement of seminars for educational purposes”*, *“organisation of seminars relating to education”*, *“arranging of seminars relating to education”*, *“arranging and conducting of educational seminars”*, *“arranging and conducting of [...] seminars”*, *“providing online training seminars”*, *“organisation of educational seminars”*, *“organising of educational lectures”*, *“planning of seminars for educational purposes”*, *“educational seminars relating to beauty therapy”*, *“educational seminars relating to investigative procedures”*, *“organisation of continuing educational seminars”*, *“organising of education seminars”*, *“arranging of [...] seminars”*, *“conducting [...] seminars”*, *“educational seminars relating to hairdressing techniques”*, *“organising of educational seminars”*, *organisation of webinars”*.

61. In the absence of any evidence or submissions to the contrary, it is my view that *“timing of sports events”* and *“sports events (timing of -)”* in the applicant’s specification provide the service to determine the dates and the actual time that an event is played. I am unable to find any obvious similarity between these services and any of the services in the opponent’s specification.

62. In the absence of any submissions or evidence to the contrary, it is my view that *“developing educational manuals”* in the applicant’s specification is a service where educational institutions, such as universities, create a resource that gives instructions or information that is used to assist with learning. This service provides resources that are developed to assist in the provision of information for educational purposes. Taking this into account, I consider the service will be encompassed by the broad term of *“education”* in the opponent’s specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

63. *“Production of course material distributed at vocational courses”*, *“ production of course material distributed at management courses”*, *“ production of course material*

distributed at professional courses”, “ *production of course material distributed at professional seminars*”, “ *production of course material distributed at vocational seminars*” and “ *production of course material distributed at management seminars*” in the applicant’s specification are services where educational institutions, such as universities or schools, create resources that are shared at different courses. These services provide resources that are developed to assist in the provision of information for educational purposes. Taking this into account, I consider that the services will be encompassed by the broad term of “*education*” in the opponent’s specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

64. “*Publishing of educational material*”, “*publishing of educational matter*”, “*publication of educational texts*” and “*dissemination of educational material*” in the applicant’s specification to the closest clash that I could identify in the opponent’s specification, being “*education*”. It is not my view that the services will coincide in users, purpose, nature or method of use; this is on the basis that the applicant’s services are publishing services of which the subject matter is education whereas the opponent’s services are education services. Although, I do recognise that there may be a very general overlap in education, the applicant’s services are publishing services. It is also my view that the services will differ in trade channels. They are not in competition nor are they complementary. It is not my view that the very general overlap in educational purpose will be sufficient to substantiate similarity. Therefore, I find the services to be dissimilar.

65. While there will be an overlap in end users of “*providing information about education*” in the applicant’s specification and “*education*” in the opponent’s specification the services are different in their nature, purpose and method of use. It is my view that there will be an overlap in trade channels. It is not my view that the services are in competition. However, considering the essential purpose of the respective services, in my view, there is some degree of complementarity between them and it would not be unreasonable for consumers to expect the same provider to deliver both services. Therefore, I find the services to be similar to a medium degree.

66. Applying the reasoning discussed above in paragraph 65, I find that “*providing information on congress events*” in the applicant’s services and “*arranging and*

conducting of [...] congresses [...] for educational purposes” are similar to a medium degree.

67. In the absence of any evidence or submissions to the contrary, it is my view that “*accreditation of educational services*” in the applicant’s specification provides a means of assessment that plays into education as it assesses the performance of the individual. On this basis, I consider that the applicant’s services fall in the broader category of “*education*” in the opponent’s specification. Therefore, I find the services to be identical on the principle outlined in *Meric*.

68. “*Online research library services*”, “*online reference library services*” and “*online academic library services*” in the applicant’s specification are all library services that either provide a collection of books, meet research needs or provide resources to support learning. I find these services to be similar to “*education*” in the opponent’s specification. It is my view that the services overlap in users, as users wishing to use education services may also seek out library services to assist with their learning. However, it is my view that the services differ in nature, purpose and method of use. The services may share the same general purpose of education. The services will coincide in trade channels but they are not in competition. The services are not complementary. Therefore, I find the services to be similar to a low degree.

72. The applicant’s specification contains a range of services that all pertain to the organisation of various different events that are not associated with education such as sports events, special events and musical events. It is my view that organisation is synonymous with arranging. It is my view that the services listed below are similar to the opponent’s “*arranging and conducting of [...] events [...] for educational purposes*” in the opponent’s specification. The services have a similar nature and method of use, as they are all for the organisation of events. The core purpose of the services overlap as they are all organisation services. Nevertheless, I do recognise that the end-purpose of the services differs, as the applicant’s services are for the organisation of sports events and the opponent’s services are for educational purposes. It is my view that trade channels will differ. There may be some overlap in users in that an organisation such as a university, may wish to organise a sports event and an

educational event. It is my view that the services are neither complementary nor in competition. Therefore, I find the services to be similar to a low to medium degree.

“Organisation of automobile racing events”, “organisation of motor racing events”, “organisation of vehicle racing events”, “organization of cosplay entertainment events”, “organizing community sporting and cultural events”, “organisation of entertainment and cultural events”, “organization of events for cultural purposes”, “arranging and conducting of sports events”, “arranging and conducting of entertainment events”, “organizing and conducting of college athletic events”, “organisation of automobile rallies, tours and racing events”, “organization of sporting events and competitions, involving animals”, “organisation of musical events”, “musical events (arranging of)”, “arranging of musical events”, “special event planning”, “provision of recreational events”, “organising of recreational events”, “dance events”, “organising gymnastics events”, “sporting event organization”, “organising sporting events”, “organising dancing events”, “arranging of sporting events”, “organising of sports events”, “organisation of cycling events”, “organization of sporting events”, “organisation of esports events”, “organising community sporting events”, “organising a football events”, “organisation of sporting events”, “organising of sporting events”, “gymnastics events (organising of-)”, “organization of dancing events”, “ice skating events (organising of-)”, “organising of sports and sports events”, “conducting of sports events”, “provision of sporting events”, “production of sporting events”, “production of esports events”, “conducting of live esports events”, “services for the organisation of football events”, “services for the organisation of sports events”, “provision and management of sporting events”, “management of events for sporting clubs”, “horse jumping events (organisation)”, “organisation of entertainment events”.

69. *“Sound engineering services for events”, “video editing services for events” and “lighting technician services for events”* in the applicant’s specification, provide support services to events. These services are similar to *“arranging and conducting of [...] events [...] for educational purposes”* in the opponent’s specification. The services will differ in method of use and nature. I consider that the users will also differ, as in my

view, consumers organising events that hire event organising service and will expect and sound, lighting or video editing services to be provided by the company if required. The applicant's services on the other hand, are specialist services in relation to events and are unlikely to be sought directly by the same consumers . Further, the purpose of the services will differ, as the applicant's services provide lighting/ sound support services for events whereas the opponent's services provide the services to arrange/conduct the events generally. I consider that the services will not coincide in trade channels. However, the services are not in competition nor are they complementary.. Therefore, I find the services to be dissimilar.

70. *“Ticket information services for esports events”, “ticket information services for entertainment events” and “ticket information services for sporting events”* in the applicant's specification are all services that provide information on tickets for either sporting or entertainment events. In the absence of any submissions or evidence to the contrary, it is my view that ticket information services assist consumers with ticket queries and any required amendments associated with their tickets. I find these services to be similar to *“booking of seats for shows”* in the opponent's specification. The applicant's services will overlap in the user. The user for both services will be someone who wishes to make a reservation for an event and they may wish to inquire and get further information to support them with making a reservation. The services will also overlap in trade channels, as a service that provides booking of shows is also likely to provide information in relation to it. The services will not share the same method of use, this is on the basis that when booking a seat the consumer will select their seat via a seat map whereas the applicant's services will probably be sought via call centres or online chat functions. Further, the services will differ in nature and purpose. The services are not in competition but may be complementary as the users may be of the view that they are important/indispensable to one another. As mentioned above, it will be expected that the provider of a seat booking service will provide ticket information for the events that they book. The average consumer is likely to be of the view that the services are provided by the same undertaking. Therefore, I find the services to be similar to a medium degree.

71. *“Arranging of workshops”, “arranging and conducting workshops”, “arranging and conducting of workshops”, “arranging, conducting and organisation of workshops” “educational services providing workshops in property taxation”, “conducting educational workshops in the field of business”, “arranging and conducting of [...] workshops”, “arranging and conducting of workshops [...]”, “arranging of workshops [...]”, “conducting of [...] workshops”* in the applicant’s specification encompass or are encompassed by *“arranging and conducting of [...] workshops [...] for educational purposes”* in the opponent’s specification. therefore, I find the services to be identical on the principles outlined in *Meric*.

72. The applicant’s services below and *“arranging and conducting of [...] workshops [...] for educational purposes”* in the opponent’s specification are similar. The services have a similar nature and method of use, as they are both for the organisation of workshops or seminars (which are very similar forums to a workshop). However, the purpose of the services differs, as the opponent’s services are for educational purposes and the purposes of the applicant’s services vary. Despite this, I note that the nature of education is so broad that it may be inclusive of art appreciation, oncology and advertising services. Consequently, it is my view that the trade channels of the services will differ. It is my view that the services are neither complementary nor in competition. Therefore, I find the following services to be similar to a low to medium degree:

“Arranging of seminars relating to advertising”, “arrangement of seminars for recreational purposes”, “arranging seminars relating to entertainment”, “arranging of seminars relating to trade”, “arranging of seminars relating to commerce”, “arranging of seminars relating to cultural activities”, “conducting workshops and seminars in personal awareness”, “conducting seminars in the field of oncology”, “conducting workshops and seminars in self-awareness”, “running seminars in the field of oncology”, “arranging and conducting seminars in the field of oncology”, “arranging and conducting workshops and seminars in self-awareness”, “arranging of seminars relating to training”, “arranging of seminars relating to business”, “arranging and conducting of training seminars”, “conducting of workshops and seminars in art appreciation”,

“conducting workshops and seminars in art appreciation”, “conducting of educational seminars relating to medical matters”, “organisation of seminars and conventions in the field of medicine”.

73. *“Workshops for training purposes”, “arranging professional workshops [...]”, “arranging and conducting of training workshops”, “workshops (arranging and conducting of-) [training]”, “arranging and conducting of workshops [training]”, “arranging professional workshop and training courses” and “conducting workshops [training] relating to engine repair”* in the applicant’s specification are similar to *“arranging and conducting of [...] workshop [...] for educational purposes”* in the opponent’s specification. In the absence of any submissions or evidence to the contrary, it is my view that training and education are different; training refers to the act of delivering a specific skill to an individual whereas education is a system of learning that develops the individual intellectually. Taking this into consideration, I recognise that the purposes of the parties’ services will differ, as the purpose of the applicant’s services is for training and the purpose of the opponent’s services is for education. As discussed in paragraph 33, education and training are different. However, I note the overlap in arranging/ conducting workshops in all the services. It is my view that the services share the same nature, as they are all workshops. Further, it is my view that the services coincide in users. In addition, it is my view that the services will share the same method of use and trade channels. The services are not complementary but may be in competition as a consumer seeking a company to provide a service for educational purposes may seek the assistance of a company that provides training workshops due to the shared focus on teaching and learning for education and training services. Taking this into account, it is my view that the services are similar to a high degree.

74. In the absence of any evidence or submissions to the contrary, it is my view that *“handicapping for sporting events”* and *“handicapping services for sporting events”* in the applicant’s specification are services where the service provider will research a sporting event and create its own odds for the event. I recognise that sporting events are a form of entertainment and on that basis I considered any similarity between *“entertainment”* services in the opponent’s specification and the

applicant's services. However, I was unable to find any similarity between the services. Therefore, I find these services to be dissimilar.

75. *"Providing facilities for sports events"* in the applicant's specification is similar to *"entertainment"* in the opponent's specification. I consider that sports events are a form of entertainment. It is my view that the purposes of the services will differ, as the applicant's services provide the facilities for entertainment and the opponent's services provide entertainment. The users of the services may also overlap. However, the method of use and nature of the services will differ. There may be a slight overlap in trade channels. It is my view that the services are not in competition. However, there may be a level of complementarity on the basis that the provision of a facility for a sports events is important/indispensable for entertainment, specifically the provision of a sports event as a form of entertainment. It is my view that the average consumer may view the services to be from the same undertaking. Taking all this into account, I consider the services to be similar to a medium degree.

76. I was unable to find any similarity between *"special event planning consultation"* in the applicant's specification and any of the services in the opponent's specification. Even when I compared the services to the closest that I could identify in the opponent's specification, being *"arranging and conducting of [...] events [...] for educational purposes"* I was unable to find any similarity. It is my view that the services will differ in nature and purpose, as the applicant's services provide guidance for special events such as weddings and the opponent's services arrange and conduct educational events. Further, it is my view that the users will not overlap nor will the method of use or trade channels. It is not my view that the services are in competition or complementary. Therefore, I find the services to be dissimilar.

77. I compared *"ticket procurement services for entertainment events"*, *"ticket procurement services for sporting events"* and *"ticket procurement services for sporting events"* in the applicant's specification to the closest clash I could identify, being *"booking seats for shows"* in the opponent's specification. In the absence of any submissions or evidence to the contrary, it is my view that the applicant's services obtain tickets for entertainment events. The services will not overlap in users, on the basis that the providers of the applicant's services will be businesses such as ticket

sales companies and the users of the opponent's services will most likely be the general public purchasing tickets for events. The services will differ in nature, method of use and purpose. However, they may overlap in trade channels, as they applicant's services may also provide services to book the tickets that they have procured. Taking all of this into account, it is not my view that the services overlap in trade channels is sufficient to substantiate similarity. Therefore, I find the services to be dissimilar.

78. *“Production of esports events for television”, “production of sporting events for film”, “production of sporting events for television” and “production of sporting events for radio”* In the applicant's specification are all services where sporting events are produced for entertainment purposes, via the medium of film, radio or television. In the absence of any evidence or submissions to the contrary, it is my view that these services are encompassed by the broad term *“entertainment”* that appears in the opponent's specification. Therefore I find these services to be identical on the principle outlined in *Meric*.

79. In the absence of any submissions or evidence to the contrary, it is my view that *“educational consultancy”* and *“educational consultancy services”* in the applicant's specification provide guidance that helps to develop curriculums and/or work with educational providers or students to identify and support specialist requirements. Taking this into account, I consider that the applicant's services fall in the broader category of *“education”* in the opponent's specification. Therefore, I find these services to be identical on the principle outlined in *Meric*.

80. In the absence of any submissions of evidence to the contrary, it is my view that *“educational advisory services”* in the applicant's specification provide guidance to develop curriculums and/or work with educational providers or students to identify and support specialist requirements. Taking this into account, I consider that the applicant's services fall in the broader category of *“education”* in the opponent's specification. Therefore, I find these services to be identical on the principle outlined in *Meric*.

81. *“Organising education exhibitions”* in the applicant's specification is encompassed by *“organization of exhibitions for cultural or educational purposes”* in

the opponent's specification. therefore, I find the services to be identical on the principle outlined in *Meric*.

82. I was unable to find any similarity between "*provision of information on fitness training via an online portal*" and "*provision of information relating to physical exercises via an online website*" and any of the services in the opponent's specification. Therefore, I find the opponent's services to be dissimilar.

83. I am reminded that in the case of services, *Skykick* guides me to confirm the terms to the core of their possible meanings. I consider that "*entertainment information*", "*information (entertainment-)*", "*provision of entertainment information via the Internet*", "*provision of online information relating to audio and visual media*" and "*providing entertainment information via a website*" in the applicant's specification and "*entertainment*" in the opponent's specification are similar. Whilst I recognise that the applicant's services provide information in relation to entertainment services, they do not fall within the term "*entertainment*" opponent's specification. This is on the basis that the applicant's services are for the provision of information whereas the opponent's services provided entertainment. It is my view that the services will overlap in users but the nature and method of use will differ. Further, it is my view that the services will not overlap in purpose as one service provides information and the other provides entertainment. However, there will be an overlap in trade channels. It is not my view that the services are in competition. However, considering the essential purpose of the respective services, in my view, there is some degree of complementarity between them and it would not be unreasonable for consumers to expect the same provider to deliver both services. Therefore, I find the services to be similar to a medium degree.

84. For the same reasons outlined in paragraph 83 in relation to provision of entertainment information and entertainment, I consider the applicant's services below to be similar to "*education*" in the opponent's specification to a medium degree:

"Information (education-)", "bibliographic information", "education information", "educational information", "information on education", "educational Information"

Services, “ *education information services*”, “ *information about education*”, “*providing information about online education*”.

85. In the absence of any evidence or submissions to the contrary, it is my view that “*time recording services for sporting events*” in the applicant’s specification track and record times at sports events. I am unable to find any obvious similarity between these services and any of the services in the opponent’s specification. Therefore, I find the services to be dissimilar.

86. “*Provision of information relating to sporting events*” in the applicant’s specification are similar to “*entertainment*” in the opponent’s specification. It is my view that sporting events are forms of entertainment. Bearing that in mind, I consider that whilst information relating to sporting events will not fall within the term entertainment in the opponent’s specification as it is an information service, it is similar to the opponent’s term. It is my view that the services will overlap in users but the nature and method of use will differ. Further, the services will not overlap in purpose as one service provides information and the other provides entertainment. However, there will be an overlap in trade channels. The services are not in competition. However, considering the essential purpose of the respective services, in my view, there is some degree of complementarity between them and it would not be unreasonable for consumers to expect the same provider to deliver both services. Therefore, I find the services to be similar to a medium degree.

87. “*Rental of equipment for use at athletic events*” in the applicant’s specification is similar to “*entertainment*” in the opponent’s specification. I consider that athletic events are a form of entertainment. It is my view that the nature of the services is different but there may be some overlap in end purpose as both parties’ services will be used to provide entertainment to consumers. Further, there may be some overlap in users, as those consumers wishing to rent equipment for sports events will most likely want entertainment services to be provided. There may be some overlap in trade channels, however, I consider that the method of use of the services will differ. The services will not be in competition. Nevertheless, the services may be complementary, on the basis that the rental of the athletic equipment may be hired by the entertainment provider and used in the provision of the entertainment, for a sports event. Bearing all

fo the above in mind, it is my view that the services are similar to a medium to high degree.

88. In the absence of any submissions or evidence to the contrary, it is my view that “*recreation information*” and “*information (recreation-)*” in the applicant’s specification provide information on activities done for enjoyment outside of work. I compared this service with the closest clash that I could identify in the opponent’s specification, being “*entertainment*” and was unable to identify any similarity with the parties’ services. In my view, recreation is an activity what amuses or stimulates whereas entertainment gives enjoyment to the audience who participates passively. Taking this into consideration, I find the applicant’s services to be dissimilar.

89. “*Preparing subtitles for live theatrical events*” in the applicant’s specification is a service that is provided by production companies prepare subtitles to cater for the hearing impaired. The purpose of these services is to enable the end user, the viewer, to understand the live event and, therefore, entertain them. Therefore, they have the same purpose as “*entertainment*” in the opponent’s specification. The services differ in nature and method of use. However, the services may overlap in trade channels. The services are not in competition. It is my view that the services are important and or indispensable to the other on the basis that there would need to be a live event to prepare subtitles for. I consider that the average consumer would be of the view that the services are provided by the same undertaking. Therefore, I find the services to be similar to medium degree.

90. As some degree of similarity between the services is necessary to engage the test for likelihood of confusion, my findings above mean that the opposition aimed against those services I have found to be dissimilar will fail.⁵ For ease of reference, the opposition fails against the following services in the applicant’s specification:

Class 41: *Production of training films; production of training videos; publishing of educational material; publishing of educational matter; publication of educational texts; dissemination of educational material; handicapping for*

⁵ *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

sporting events; handicapping services for sporting events; provision of information on fitness training via an online portal; provision of information relating to physical exercises via an online website; recreation information; information (recreation-); time recording services for sporting events; ticket procurement services for sporting events; ticket procurement services for sporting events; ticket procurement services for sporting events; sound engineering services for events; video editing services for events; lighting technician services for events; special event planning consultation.

The average consumer and the purchasing process

91. 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 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.”

92. The average consumer for the services at issue will be either a member of the general public or a business user. Some of the services are likely to be selected visually from brochures, advertising material on the internet or searching an internet search engine. For these services, I do not discount aural considerations in the form of, for example, word-of-mouth recommendations or advice received from sales assistants. Whereas some services will be chosen after detailed discussions and

advice from salespeople, so that the average consumer can ensure that their needs will be met due to the specialist nature of these services. For these services, I consider that the aural component will play an equal role with the visual component.

93. The breadth of the services at issue is large and the costs of the services at issue will vary from moderate to expensive; services such as voice training may be moderate and services such as conducting a live sports event is likely to be expensive. The frequency at which the services at issue are purchased will vary, with services such as health and fitness training services being purchased frequently and arranging and conducting a conference for educational purposes being purchased less frequently. It is my view that given the breadth of the services, the level of attention paid by the average consumer will vary. I consider that educational services will pay a medium to higher than medium degree of attention (but not the highest) when selecting the services. In relation to the average consumer of entertainment, sporting and cultural event services it is my view that they will pay an above medium to high degree of attention when selecting the services. It is my view that, regardless of the degree of attention, the average consumer will consider factors such as price, suitability, availability and reviews from other users when selecting the services.

The distinctive character of the opponent's mark

94. 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-2779, paragraph 49).

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).”

95. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the services, to those with a high inherent distinctive character, such as invented words which have no allusive qualities.

96. The opponent has not pleaded that its mark has acquired enhanced distinctive character through use and has not filed evidence to support such a claim. I have, therefore, only the inherent position of the opponent’s mark to consider.

97. The opponent’s mark consists of the number ‘42’ in a stylised font. The number 42 in the opponent’s mark will be recognised as a number. The mark is not descriptive or allusive of the opponent’s services. However, ‘42’ is not particularly remarkable from a trade mark perspective, therefore, I find that the opponent’s mark enjoys a medium degree of inherent distinctive character.

Comparison of the marks

98. The respective marks are shown below:

<p style="text-align: center;">CONF42</p>	
<p>The applicant's mark</p>	<p>The opponent's mark</p>

99. It is clear from *Sabel BV v Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to all the overall impressions created by the trade 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.”

100. It would be wrong, therefore, to artificially dissect the trade marks, 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.

101. The opponent's mark consists of the stylised '42'. I consider the number '42' to have a greater impact on the overall impression of the mark, with the stylisation playing a lesser role. The applicant's mark is a word only mark that consists of the text

'CONF42'. There are no other elements that contribute to the overall impression of the mark.

102. Visually, the marks coincide in the number '42', which appears at the end of the applicant's mark. The marks differ in the stylisation of the opponent's mark and the letters 'CONF' that appear at the beginning of the applicant's mark. Taking this into account, I find the marks to be visually similar to below a medium degree.

103. Aurally, the opponent submits that the applicant's mark would be pronounced as the two elements 'CONF' and '42' which would be pronounced separately and away from one another. Further, the opponent submits that the last three syllables of the applicant's mark would be pronounced identically to the opponent's mark. Whilst I agree that the last three syllables of the applicant's mark are shared with the opponent's pronunciation, it is not my view that CONF will be as the two elements 'CONF' and '42'. The opponent's mark will be pronounced FOR-TEE-TU and the applicant's mark will be pronounced KONF-FOR-TEE-TU. Bearing this in mind, I find the marks to be similar to a medium degree.

104. Conceptually, the opponent refers to the evidence provided in the witness statement of Ms Viger and submits that 'conf' is defined by dictionary.com, Merriam-Webster Dictionary and the Collins English Dictionary as an abbreviation of the word conference.⁶ On this basis, the opponent submits that the applicant's mark would be perceived by the average consumer as 'conference 42'. Whilst I have given consideration to this evidence and whether the average consumer will see 'CONF' as an abbreviation for 'conference', I note that the Collins English Dictionary states that 'CONF' may be an abbreviation for a variety of words inclusive of 'conference' in American English.⁷ It is my view that the American English interpretation of 'CONF' as conference may be known by some consumers in the UK. Nevertheless, I have given consideration to the possibility that the applicant's mark will be perceived as being connected to the word 'conference'. In relation to services that pertain to arranging and conducting conferences, I am of the view that a significant proportion of

⁶ Exhibit SV3 of the witness statement of Ms Viger

⁷ <https://www.collinsdictionary.com/dictionary/english/conf> accessed 2/11/2022

average consumers will associate the letters 'CONF' as meaning conference. The number '42' in both parties' marks will be recognised as a number. The presence of the number '42' acts as a point of conceptual similarity between the marks. However, the letters 'CONF' in the applicant's mark has no counterpart in the opponent's mark.

105. However, in relation to the other services that does not pertain to conferences, I do not consider that the meaning 'conference' will be grasped immediately by the majority of the relevant public in relation to the letters 'CONF', instead, the applicant's mark will be perceived as being made up of letters and numbers that will not convey any obvious conceptual meaning to the average consumer. While I appreciate that some consumers may see 'CONF' as an abbreviation of conference, in relation to these services they will not form a significant proportion of average consumers. As a concept (albeit a weak one in relation to the services at issue) is present in the opponent's mark and not present in the applicant's mark, I find in relation to the services that do not pertain to conferences the marks to be conceptually neutral. In relation to the services that pertain to conference, the applicant's mark will convey the concept of conference 42, whereas the opponent's mark will have no real meaning outside of being a number. Taking this into account, I find the services that pertain to conference will find the marks to be conceptually dissimilar.

Likelihood of confusion

106. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the services down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle, i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective services or vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's trade mark, the average consumer for the services and the nature of the purchasing process. In doing so, I must

be mindful of the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

107. I have found that the average consumer will be a member of the general public or business user who will select the services at issue via either primarily visual means, although I do not discount an aural component, or via visual and aural means. I have concluded that the level of attention paid by the average consumer will range from a medium to high. I have also found the marks to be visually similar to below a medium degree and aurally similar to a medium degree. I have also found the marks to be conceptually dissimilar, for services that pertain to arranging and conducting conferences, and conceptually neutral for all the other services at issue. I have found the services at issue to vary in similarity from low to identical.

108. Taking all of the above factors into account and bearing in mind the principle of imperfect recollection. I do not consider that the parties' marks will be mistakenly recalled or misremembered for one another. I recognise that the marks share the same common element, being '42' which is in favour of the opponent. Despite this, I consider that the letters 'CONF' at the beginning of the applicant's mark and the stylisation of the opponent's mark will be sufficient to enable the average consumer to differentiate between them. Whilst I recognise that 'CONF' will be perceived as conference in relation to conference services and ,therefore, will be understood as descriptive of some of the services, I consider that the differences will sufficient to differentiate the marks regardless of the services involved. This will allow average consumers to sufficiently recall the marks and accurately remember which parties' marks are which. Consequently, I consider there to be no likelihood of direct confusion between the marks, even on services that I have found to be identical or in circumstances where the average consumer pays a lower degree of attention.

109. It now falls to me to consider whether there is a likelihood of indirect confusion. Indirect confusion involves recognition by the average consumer of the difference between the marks. Indirect confusion was described in the following terms by Iain

Purvis Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL-O/375/10:

“16. 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.

110. 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).”

111. Whilst I note that the examples set out by Mr Purvis are not exhaustive, I note the recent case of *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors*,⁸ wherein Arnold LJ referred to the comments of James Mellor QC sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria (O/219/16)*, where he stated that a finding of a likelihood of indirect confusion is not a consolidation prize and that there needs to be a reasonably special set of circumstances in order to get indirect confusion where there is no likelihood of direct confusion. Arnold LJ agreed, pointing out that there must be a “proper basis” for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.

112. Taking all the factors into account, I consider that the average consumer will view the marks as originating from the same or economically linked undertakings. I have found that the number ‘42’ plays the greater role in the opponent’s mark. I also found that it plays a role in the applicant’s mark. I consider that it is likely that the average consumer, when confronted with the marks, in relation to services that pertain to conferences, will consider the addition of the letters ‘CONF’ before ‘42’ in the applicant’s mark as a sub-brand of the opponent’s mark. This is on the basis that the addition of ‘CONF’ before ‘42’, for services that pertain to conferences, will be seen as an indication that the brand ‘42’ has extended into providing conference services. I do not consider that the fact ‘CONF’ is at the beginning of the applicant’s mark will avoid this. As the common element between the marks, I am of the view that the shared use of the number ‘42’ will result in the average consumer considering that the marks originate from the same or economically linked undertaking, in relation to conference services. Consequently, I consider there to be a likelihood of indirect confusion between the parties’ marks for conference services. The finding is made while taking into account that the average consumer will, generally, pay a degree of attention that will vary from medium to high. However, I find that the same finding will apply for those individual consumers that will pay a higher degree of attention. This finding applies to the conference services that I have found to be similar to a medium degree or above.

113. As for those conference services that I have found to be similar to a less than a medium degree, I bear in mind the interdependency principle that sets out that a

⁸ [2021] EWCA Civ 1207

lesser degree of similarity between the respective trade marks may be offset by a great degree of similarity between the services and vice versa. In the present circumstances, I do not consider the levels of similarities between the parties' marks to be sufficient to offset the low degree of similarity between those services. This finding does not apply to those services that are not related to conferences. This is on the basis that in relation to services that do not pertain to conferences, CONF42 will not convey any obvious conceptual meaning. I found the marks to be conceptually neutral in relation to these services. It would be perceived as a mix of letters and numbers that hold no meaning. Therefore, the sub-brand that the average consumer would identify, based on the interpretation of 'CONF' as conference, would not exist. Consequently, in relation to the services that do not pertain to conference services, there is no likelihood of indirect confusion.

Conclusion

114. The opposition has succeeded for the following services which will be refused:

Class 41: *Conference services; organising of educational conferences; conducting of educational conferences; organising of education conferences; organization of educational conferences; conducting of business conferences; organisation of conferences relating to education; organising of conferences relating to education; arranging of educational conferences; arrangement of conferences for educational purposes; arranging and conducting educational conferences; arranging of conferences relating to education; planning of conferences for educational purposes; arranging of an annual educational conference; organising of conferences for educational purposes; arranging and conducting of conferences; conferences (arranging and conducting of-); arranging of conferences relating to training; organisation of conferences relating to training, organisation of conferences relating to vocational training; arranging and conducting of conferences; arranging conferences; arranging of conferences; arranging and conducting conferences; arranging, conducting and organisation*

of conferences; arranging of conferences relating to entertainment; arranging of conferences relating to business; arranging of conferences relating to commerce; arranging of conferences relating it to cultural activities; arranging of conferences relating to trade; arrangement of conferences for recreational purposes; arranging of conferences relating to advertising; organisation of conferences relating to entertainment; arranging of an annual conference relating to logistics; arranging and conducting of commercial, trade and business conferences; arranging of an annual conference relating to telecommunications; conducting of business conferences; organisation of conferences in the field of medical science; organisation of conferences for educational purposes; organisation of conferences; organisation of conferences; organisation of [...] conferences; arranging and conducting conferences ; organisation of congresses and conferences for cultural purposes; organisation of conferences; organisation of conferences; organisation of [...] conferences; arranging and conducting conferences; arranging of an annual conference relating to procurement.

115. The opposition has failed for the remaining services. The application may proceed to registration for all remaining services.

COSTS

116. Both parties have achieved a measure of success. In the circumstances, the applicant has had a greater level of success and is entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the applicant the sum of £700 as a contribution towards its costs. I have reduced the award to reflect the overall balance of success. I will award costs to the applicant as follows:

Preparing a statement and considering the other side's statement	£200
Preparing evidence and considering the other side's evidence	£500
Total	£700

117. I, therefore, order 42 to pay Mikolaj Pawlikowski the sum of £700 as a contribution towards his costs. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 29th day of November 2022

A Klass

For the registrar

Annex

Class 41: *Training; training and further training consultancy; computerised training; horse training; religious training; training services; continuous training; meditation training; practical training; personnel training; driver training; vocational training; language training; training (animal -); voice training; motorcycle training; training consultancy; industrial training; training courses; computer training; coaching [training]; sports training; providing training; employment training; training of animals; personal training services; wood-working training; training of referees; life coaching (training); teacher training services; racing driver training; vocational skills training; physical training services; training in catering; sales training services; training of croupiers; commercial training services; training (practical -) [demonstration]; training of magicians; training of umpires; postgraduate training courses; conducting training seminars; written training courses; vocational training services; training in administration; conducting workshops [training]; computer education training; computer training services; personal development training; horses (training of -); industrial relations training; training in yoga; training of teachers; practical training services; military base training; driver safety training; staff training services; training in sports; organisation of training; engineering training services; fitness training services; training in philosophy; manufacturing training services; computer based training; practical training [demonstration]; training in electronics; management training services; education and training; residential training courses; road safety training; personal coaching [training]; business training services; providing of training; provision of training; training and instruction; physical fitness training services; production of training films; providing courses of training; production of training videos; computer education training services; training related to nutrition; career and vocational training; training in business skills; electronic data processing training; drilling technology safety training; training for automobile competitions; organisation of training seminars; providing online training seminars; instructional and training services; health and fitness training; know-how transfer [training]; provision of training courses; training services for nannies; training facilities (provision of -); strength and conditioning training; instruction in weight training; training of car drivers; training in public relations; obedience training for animals; instruction in circuit training; organising of commercial training; management training consultancy services; educational and training services;*

commercial vehicle driver training; education and training consultancy; rental of training simulators; training in computer programming; conference services; organising of educational conferences; conducting of educational conferences; organising of education conferences; organization of educational conferences; conducting of business conferences; conferences (arranging and conducting of -); organisation of conferences relating to education; organisation of conferences, exhibitions and competitions; organisation of meetings and conferences; organisation of seminars and conferences; organising of conferences relating to education; arranging conferences; arranging of conferences; arranging and conducting conferences; arranging of educational conferences; arranging and conducting of conferences; arrangement of conferences for educational purposes; arranging and conducting educational conferences; arranging and conducting conferences and seminars; arranging of conferences relating to entertainment; arranging of conferences relating to business; arranging of conferences relating to commerce; arranging, conducting and organisation of conferences; arranging of conferences relating to cultural activities; arranging of conferences relating to education; arranging of conferences relating to trade; planning of conferences for educational purposes; arranging of an annual educational conference; arranging of conferences relating to training; organisation of conferences relating to training; organising of conferences for educational purposes; arrangement of conferences for recreational purposes; arranging of conferences relating to advertising; organisation of conferences related to entertainment; consultancy relating to arranging and conducting of conferences; arranging and conducting of conferences congresses and symposiums; organisation of conferences relating to vocational training; arranging and conducting of conferences and congresses; arranging of an annual conference relating to logistics; arranging and conducting of commercial, trade and business conferences; arranging of an annual conference relating to telecommunications; arranging of an annual conference relating to procurement; organisation of congresses and conferences for cultural and educational purposes; organisation of conferences and symposia in the field of medical science; consultancy and information services relating to arranging, conducting and organisation of conferences; dance events; organising gymnastics events; sporting event organization; organising sporting events; organising dancing events; special event planning; organisation of musical events; special event planning consultation; arranging of sporting events; organising of sports events; conducting of

educational events; organisation of cycling events; timing of sports events; organising of recreational events; organisation of cultural events; organization of sporting events; organisation of educational events; arranging of educational events; conducting of cultural events; organisation of esports events; organising community sporting events; provision of recreational events; organising of football events; musical events (arranging of -); conducting of sports events; organisation of sporting events; organising of sporting events; provision of sporting events; organisation of entertainment events; sports events (timing of -); gymnastics events (organising of -); arranging of musical events; organization of dancing events; production of sporting events; handicapping for sporting events; arranging of cultural events; conducting of entertainment events; production of esports events; organising community cultural events; handicapping services for sporting events; providing facilities for sports events; organising events for entertainment purposes; organisation of automobile racing events; organising of motor racing events; ticket reservation for cultural events; conducting of live esports events; organizing cultural and arts events; ice-skating events (organising of -); publication of calendars of events; organising events for cultural purposes; conducting of live entertainment events; production of live entertainment events; conducting of live sports events; providing information on congress events; organization of cosplay entertainment events; video editing services for events; horse jumping events (organising of -); organisation of vehicle racing events; ticketing and event booking services; presentation of live entertainment events; sound engineering services for events; lighting technician services for events; organizing community sporting and cultural events; organisation of entertainment and cultural events; arranging and conducting of educational events; organising of sports and sports events; wine tasting events for educational purposes; production of esports events for television; management of events for sporting clubs; organisation of sporting events and competitions; organising of sports competitions and events; ticket procurement services for entertainment events; production of sporting events for film; ticket procurement services for sporting events; booking of seats for entertainment events; ticket information services for esports events; organization of sporting events and competitions; production of sporting events for television; preparing subtitles for live theatrical events; production of sporting events for radio; organization of events for cultural purposes; arranging and conducting of sports events; time recording services for sporting events; provision and management of sporting events; ticket

information services for entertainment events; ticket information services for sporting events; organisation of stock car racing events; arranging and conducting of entertainment events; organizing and conducting college athletic events; entertainment services relating to sporting events; services for the organisation of football events; organisation of sporting competitions and sports events; provision of information relating to sporting events; entertainment services in the nature of skating events; ticket reservation and booking services for esports events; disc jockeys for parties and special events; organising of sports competitions and sports events; entertainment provided during intervals of sporting events; arranging and conducting of live entertainment events; services for the organisation of sports events; rental of equipment for use at athletic events; entertainment services provided during intervals at sports events; ticket reservation and booking services for sporting events; disc jockey services for parties and ; organising of sports events and of sports competitions; booking of seats for shows and sports events; ticket reservation and booking services for entertainment events; organisation of automobile rallies, tours and racing events; organization of sporting events and competitions, involving animals; technological education services; education services relating to food technology; training of personnel in food technology; educational services relating to information technology; postgraduate training courses relating to engineering technology; publication of books relating to information technology; training in the field of communication technologies; publishing scientific papers in relation to medical technology; staff training services relating to modern office technology; teaching and training in business, industry and information technology; training services relating to the use of information technology; publishing of scientific papers in relation to medical technology; publishing and issuing scientific papers in relation to medical technology; education services relating to the training of personnel in food technology; provision of courses of instruction in the management of information technology; recreation information; entertainment information; information (entertainment -); information (recreation -); information (education -); bibliographic information; education information; educational information; adult training; animal training; business training; advanced training; aerobics training services; education; educational research; educational demonstrations; educational testing; educational examination; further education; educational instruction; educational consultancy; physical education; singing education; educational seminars; religious education; education (religious -);

education services; educational services; lingual education; health education; academies [education]; education examination; vocational education; legal education services; residential education courses; religious educational services; primary education services; medical education services; business educational services; academy education services; information on education; educational services provided by institutes of higher education; educational services provided by institutes of further education; educational services for providing courses of education; musical education services; physical health education; higher education services; pre-school education; academy services (education -); educational examination services; physical education services; sports education services; online education services; developing educational manuals; physical education instruction; educational institute services; club education services; university education services; career counseling [education]; boarding school education; team building (education); adult education services; educational consultancy services; educational advisory services; providing of education; education academy services; educational information services; education information services; sporting education services; educational assessment services; management education services; education and instruction; dietary education services; providing educational demonstrations; examination services (educational -); information about education; physical-education services; teaching of diet education; organising of education exhibitions; computer assisted education services; rental of educational materials; setting of educational standards; organising of educational congresses; education in road safety; second language educational services; organisation of educational seminars; services of schools [education]; provision of educational information; education (information relating to -); issuing of educational awards; foreign language education services; publishing of educational material; publishing of educational matter; publication of educational texts; organising of educational lectures; secondary school educational services; organization of educational symposia; organising of education conventions; wine tasting services (education); hire of educational apparatus; workshops for educational purposes; education and training services; organisation of educational shows; education and instruction services; provision of physical education; physical fitness education services; rental of recorded education; english language education services; computer based educational services; provision of education courses; educational courses (provision of -); wine tastings [educational services]; organization of educational congresses; play schemes

[entertainment/education]; nursery school services [educational]; dissemination of educational material; organising of educational seminars; symposiums relating to education; education, entertainment and sports; provision of educational examinations; providing information about education; educational and teaching services; awarding of educational certificates; accreditation of educational services; seminars; conducting seminars; organization of seminars; organisation of seminars; arranging of seminars; organising of education seminars; arranging and conducting seminars; conducting of instructional seminars; organisation of continuing educational seminars; arranging of workshops and seminars; arranging and conducting of seminars; seminars (arranging and conducting of -); conducting training seminars for clients; conducting courses, seminars and workshops; conducting of seminars and congresses; organisation of seminars relating to training; arrangement of seminars for educational purposes; arranging of seminars relating to business; organisation of seminars relating to education; arranging of seminars relating to education; arranging of seminars relating to advertising; arrangement of seminars for recreational purposes; educational seminars relating to hairdressing techniques; arranging of seminars relating to entertainment; arranging and conducting of educational seminars; arranging of seminars relating to training; planning of seminars for educational purposes; educational seminars relating to beauty therapy; educational seminars relating to investigative procedures; arranging of seminars relating to trade; arranging of seminars relating to commerce; arranging and conducting of training seminars; arranging, conducting and organisation of seminars; arranging, conducting and organization of seminars; arranging of seminars relating to cultural activities; arranging and conducting of workshops and seminars; conducting workshops and seminars in personal awareness; conducting seminars in the field of oncology; arranging and conducting of seminars and workshops; conducting workshops and seminars in self awareness; running seminars in the field of oncology; conducting of instructional seminars relating to time organisation; conducting of workshops and seminars in art appreciation; conducting workshops and seminars in art appreciation; production of course material distributed at professional seminars; production of course material distributed at vocational seminars; production of course material distributed at management seminars; conducting of instructional seminars relating to time management; conducting of educational seminars relating to medical matters; arranging and conducting of seminars in the field of oncology; organization of seminars

and conventions in the field of medicine; arranging and conducting of workshops and seminars in self-awareness; online entertainment services; online gaming services; providing online games; online interactive entertainment; online casino services; online gambling services; online digital publishing services; online research library services; online reference library services; online academic library services; online sports betting services; online computer game services; provision of online tutorials; providing online video games; provision of online training; providing online electronic publications; providing online music, not downloadable; providing online courses of instruction; providing online videos, not downloadable; online publication of electronic newspapers; publication of multimedia material online; providing an online computer game; providing information about online education; distance learning services provided online; providing online publications, not downloadable; provision of online computer games; providing online electronic publications, not downloadable; providing online graphic novels, not downloadable; online game services through mobile devices; providing online comic books, not downloadable; online electronic publishing of books and periodicals; publication of electronic books and journals online; electronic online publication of periodicals and books; conducting training courses relating to diet online; conducting training sessions on physical fitness online; online publication of electronic books and journals; conducting training courses relating to nutrition online; publishing of electronic books and journals online; game services provided online from a computer network; provision of online information relating to game players; providing online entertainment in the nature of game tournaments; providing online entertainment in the nature of game shows; providing online information on computer and video game strategies; providing online non-downloadable comic books and graphic novels; publication of online reviews in the field of entertainment; providing online newsletters in the fields of sports entertainment; providing online entertainment in the nature of fantasy sports leagues; provision of information on fitness training via an online portal; provision of online information relating to audio and visual media; provision of online information in the field of computer games entertainment; providing online electronic publications in the field of music, not downloadable; providing online electronic publications, not downloadable, in the field of music; provision of information relating to physical exercises via an online web site; arranging of workshops; workshops for training purposes; arranging and conducting workshops; workshops for cultural purposes; workshops for recreational purposes; arranging and conducting of

workshops; arranging and conducting of training workshops; workshops (arranging and conducting of -) [training]; arranging and conducting of workshops [training]; arranging, conducting and organisation of workshops; arranging professional workshop and training courses; conducting workshops [training] relating to engine repair; educational services providing workshops in land policy; conducting workshops [training] relating to engine maintenance; educational services providing workshops in property taxation; conducting workshops [training] relating to power boat repair; conducting workshops [training] relating to power boat maintenance; conducting workshops [training] relating to automotive engine maintenance; conducting educational workshops in the field of business; conducting workshops [training] relating to automotive engine repair; consultancy and information services relating to arranging, conducting and organisation of workshops; golf courses; language courses; correspondence courses; conducting of courses; production of course material distributed at vocational courses; production of course material distributed at management courses; distance learning courses; conducting instructional courses; personal development courses; production of course material distributed at professional courses; arranging technical instruction courses; correspondence courses (provision of -); providing courses of instruction; correspondence courses, distance learning; teaching by correspondence courses; self-awareness courses [instruction]; conducting of educational courses; organisation of correspondence courses; organisation of training courses; arranging of training courses; organisation of language courses; provision of correspondence courses; training courses (provision of -); conducting of correspondence courses; providing continuing nursing education courses; correspondence courses relating to gardening; courses (training -) relating to management; courses (training -) relating to law; providing of continuous training courses; provision of courses of instruction; correspondence courses relating to homecare; providing continuing dental education courses; educational courses relating to design; providing of further training courses; provision of skill assessment courses; education courses relating to automation; training courses in engine design; music tuition by correspondence courses; instruction courses related to slimming; providing continuing legal education courses; providing continuing medical education courses; courses (training -) relating to science; educational courses relating to insurance; courses (training -) relating to engineering; instruction courses relating to health; vocational training courses (provision of -); specialisation courses for

oncological doctors; correspondence courses relating to cookery; correspondence courses relating to investment; courses of instruction (provision of -); courses (training -) relating to medicine; provision of medical instruction courses; educational courses relating to finance; correspondence courses relating to handicrafts; courses (training -) relating to finance; courses (training -) relating to banking; arranging of courses of instruction; courses (training -) relating to accountancy; courses (training -) relating to insurance; review courses for state examinations; provision of computer related training courses; training courses relating to system analysis; correspondence courses relating to personal investment; conducting of educational courses in engineering; residential education courses relating to canoeing; conducting of educational courses in science; training courses relating to computer software; arranging and conducting of educational courses; preparation of educational courses and examinations; arranging and conducting of training courses; school courses relating to examination preparation; providing computer assisted courses of instruction; residential education courses relating to archery; organisation of computer related training courses; residential education courses relating to abseiling; conducting of educational courses in business; school courses relating to study assistance; providing training courses on business management; courses (training -) relating to religious subjects; training courses relating to computer hardware; conducted basic literacy courses (provision of -); provision of instruction courses in finance; courses (training -) relating to customer services; instruction courses relating to physical fitness; courses (training -) relating to philosophical subjects; instruction courses relating to sporting activities; providing obstacle course training gym facilities; development of educational courses and examinations; organisation of courses using programmed learning methods; provision of training courses in personal development; organisation of courses using open learning methods; provision of language schools and language courses; conducting of educational courses in business management; provision of education courses relating to electronics; education courses relating to the travel industry; courses for the development of consulting skills; provision of education courses relating to telecommunications; courses (training -) relating to research and development; organisation of courses using distance learning methods; provision of courses of instruction in languages; training courses relating to data base designs; providing courses of instruction at college level; provision of educational courses relating to diet; providing courses of instruction for young people; providing courses of training for

young people; educational courses relating to the travel industry; provision of instruction courses in general management; conducting of courses relating to business administration; organisation of training courses relating to design; postgraduate training courses relating to management studies; provision of education courses relating to computers; arrangement of training courses in teaching institutes; conducting of courses relating to business management; residential education courses relating to hill walking; arranging of courses of instruction for tourists; conducting of educational courses relating to business; educational services for providing courses of instruction; organisation of courses using self-tuition methods; conducting of courses relating to administrative training; training courses in jointing of optical fibres; providing courses in the field of water management; internet games (non-downloadable); internet radio entertainment services; entertainment provided via the internet; arranging of competitions via the internet; conducting of competitions on the internet; providing digital music from the internet; provision of entertainment information via the internet; providing entertainment information via a website; providing sports entertainment via a website; providing video entertainment via a website; providing multi-media entertainment via a website; providing digital music [not downloadable] from mp3 internet websites; providing entertainment in the nature of film clips via a website; organisation of webinars; developing international student exchange programs; arranging for students to participate in recreational activities; arranging for students to participate in educational courses; arranging for students to participate in educational activities; university services; educational services provided by universities; educating at university or colleges; educating at universities or colleges; conducting distance learning instruction at the university level; education services in the nature of courses at the university level; distance learning services; organisation of e-sports competitions; teaching assessments for counteracting learning difficulties; conducting distance learning instruction at the secondary level; conducting distance learning instruction at the graduate level; conducting distance learning instruction at the college level; conducting distance learning instruction at the primary level; providing newsletters in the field of computer games via e-mail; entertainment services provided by on-line streams.