

O/753/22

TRADE MARKS ACT 1994

**IN THE MATTER OF
INTERNATIONAL REGISTRATION NO. 1525703
DESIGNATING THE UNITED KINGDOM
IN THE NAME OF VAL SOFTWARE:**

VALSOFT

IN CLASSES 9, 35 & 42

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 422734
BY VALIDSOFT LIMITED**

Background and pleadings

1. On 28 February 2020, VAL SOFTWARE (“the holder”) registered the International trade mark **VALSOFT**, under number 1525703 (“the IR”). With effect from the same date, the holder designated the UK as a territory in which it seeks to protect the IR under the terms of the Protocol to the Madrid Agreement. The IR claims a priority date of 22 November 2019 from the French Patent and Trademark Office.

2. The IR was accepted for protection in the UK and published in the Trade Mark Journal on 9 October 2020 in respect of goods and services in classes 9, 35 and 42, as outlined in the annex to this decision.

3. On 11 January 2021, ValidSoft Limited (“the opponent”) filed a notice of opposition. The opposition is brought under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) and is directed against some of the goods and services of the IR, namely:

Class 9: Apparatus and instruments other than for medical use for recording, transmission, reproduction and duplication of sound and/or images; photographic, cinematographic, optical and teaching apparatus and instruments; receivers (audio and video); electronic and digital publications (downloadable); all media for recording, transmission, reproduction and duplication of sound, data and images; sound recording or optical discs, DVDs, DVD-ROMs, compact disks, CD-ROMs and other digital recording media; equipment for data processing and computers; computers; computer peripheral devices; game software; software (recorded programs); software in the field of company management; databases and especially voice databases, sound, text and image data banks (software); all data downloadable onto a computer or a mobile telephone and particularly documentaries, sound, music, photographs, explanatory videos, images, logos and texts.

Class 35: Arranging of telecommunication service subscriptions for others; computer file management; database management.

Class 42: Design and development of computers and software; research and development of new products for third parties; technical project study; development (design), installation, maintenance, updating, hosting or rental of software; computer programming; computer system design and analysis; computer and software consultancy; digitization of documents; conversion of texts to digital format; software as a service (SaaS); information technology (IT) consultancy; hosting of servers; technical support with respect to software; design, development, maintenance, updating, hosting or rental of computer databases; design and development of computer software for cloud computing; consultant services in the field of cloud computing.

4. For the purposes of the opposition, the opponent relies upon its earlier UK trade mark number 3085119,¹ which consists of the following series of figurative trade marks:



As the only difference between the marks in the series is the use of greyscale in one and colour in the other, I will refer to them in the singular (i.e. “the earlier mark”) unless it becomes necessary to distinguish between them. The earlier mark was filed on 8 December 2014 and became registered on 8 May 2015 in respect of the following goods and services, all of which are relied upon for the purposes of the opposition:

Class 9: Apparatus, instruments and software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data; apparatus, instruments and software for the authentication and verification of a transaction; apparatus, instruments and software for the

¹ The opponent originally indicated that it also relied upon additional earlier rights for the purposes of its claim. However, on 11 January 2022, the Registry was informed via written correspondence that the opponent withdrew reliance on those other marks and had elected to proceed with the opposition relying only on its earlier UK trade mark number 3085119.

authentication and verification of a person's identity; apparatus, instruments and software for voice recognition; read-out apparatus and instruments for use in the authentication of cashless payment means; computer hardware and software for security purposes; data processing equipment, computer programmes, interfaces, modems and peripheral equipment; telecommunications apparatus, instruments and software; parts and fittings for all the aforesaid.

Class 42: Installation, leasing and maintenance of computer software.

Class 45: Identity theft and fraud prevention services; identity validation services; services for the verification of identity and of electronic signatures; licensing of computer software.

5. The opponent's mark is an earlier mark, in accordance with section 6 of the Act. However, as it had not been registered for five years or more at the priority filing date claimed by the IR, it is not subject to the proof of use requirements specified within section 6A of the Act. Consequently, the opponent may rely upon all of the goods and services identified, without having to demonstrate genuine use.

6. The opponent argues that the competing trade marks are similar as they share common elements in "VAL" and "SOFT". Furthermore, the opponent maintains that the contested goods and services in classes 9, 35 and 42 of the IR are identical or similar to those in classes 9, 42 and 45 of the earlier mark. These factors, the opponent contends, will result in a likelihood of confusion.

7. The holder filed a counterstatement denying the ground of opposition. Contrary to the opponent's arguments, the holder disputes that the competing trade marks are similar to any meaningful degree. The holder bases this argument on the presence of the additional letters "ID" within the earlier mark.² As a result, the holder denies that there is a likelihood of confusion.

8. Both parties have been professionally represented throughout these proceedings; the opponent by Marks & Clerk LLP and the holder by Baron Warren Redfern. Both

² Counterstatement paragraphs 7-14

parties were given the option of an oral hearing, though neither asked to be heard on this matter. However, both parties filed written submissions in lieu of an oral hearing. Whilst I do not intend to summarise these, I have taken them into consideration and will refer to them as and where appropriate during this decision. This decision is taken following a careful perusal of the papers.

9. 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 upon in these proceedings are derived from an EU Directive. That is why this decision continues to refer to EU trade mark case law.

Preliminary issue

10. I note that the opponent has made submissions on “accounting; services provided by consultants and information relating to accounting; document reproduction” in class 35 of the IR and has argued similarity with its goods and services. However, these services were not included in the list of opposed goods and services in the opponent’s statement of grounds and the opponent has not made an application to amend its pleadings. Consequently, I do not consider these services to be contested and will not consider them within my decision. To clarify, I have only considered the goods and services that the opponent has listed in its Form TM7 and statement of grounds.

Decision

Section 5(2)(b)

11. Sections 5(2)(b) and 5A of the Act read as follows:

“5(2) A trade mark shall not be registered if because-

[...]

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

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

“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.”

Case law

12. I am guided by the following principles which 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 impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

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

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

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

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

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

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

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

Comparison of goods and services

13. Section 60A of the Act provides:

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

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

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

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

14. Put simply, this means that whether the goods and services are in the same or different classes is not decisive in determining whether they are similar or dissimilar. Therefore, what matters is the actual goods at issue and whether they are similar or not having regard to the case law that follows.

15. In *Canon*, Case C-39/97, the Court of Justice of the European Union (“CJEU”) stated at paragraph 23 of its judgment that:

“In assessing the similarity of the goods or services concerned, [...] 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”.

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

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

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

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

18. In *Gérard Meric v Office for Harmonisation in the Internal Market ('Meric')*, the General Court (“the GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark”.

19. For the purposes of considering the issue of similarity of goods or services, it is permissible to consider groups of terms collectively where they are sufficiently comparable to be assessed in essentially the same way and for the same reasons (see *Separode Trade Mark* (BL O/399/10) and *BVBA Management, Training en Consultancy v. Benelux-Merkenbureau* [2007] ETMR 35 at paragraphs 30 to 38).

20. 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 Office for Harmonization in the Internal Market (Trade Marks and Designs) (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”.

21. In *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as ‘complementary’ and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different, i.e. chicken against transport services for chickens. The purpose of examining whether there is a complementary relationship between goods/services is to assess whether the relevant public are liable to believe that responsibility for the

goods/services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C., sitting as the Appointed Person, noted in *Sandra Amelia Mary Elliot v LRC Holdings Limited*, BL O/255/13:

“It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes”,

whilst on the other hand:

“[...] it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together”.

22. The goods and services to be compared are outlined at paragraphs 3 and 4.

23. In its written submissions,³ the holder admits that the following goods and services are identical to the goods and services of the earlier mark:

Class 9: Apparatus and instruments other than for medical use for recording, transmission, reproduction and duplication of sound and/or images; all media for recording, transmission, reproduction and duplication of sound, data and images; equipment for data processing and computers; computers; computer peripheral devices; software (recorded programs).

Class 42: Installation, maintenance, or rental of software.

24. As a result, I will only proceed to conduct a comparison in respect of the remaining goods and services.

³ Holder’s written submissions, paragraphs 4.1, 4.2 and 4.8.

Class 9

Receivers (audio and video); sound recording or optical discs, DVDs, DVD-ROMs, compact disks, CD-ROMs and other digital recording media; databases and especially voice databases, sound, text and image data banks (software)

25. These terms are all types of apparatus, equipment or software that can store or process data; therefore, they would be covered by the opponent's broad term, "Apparatus, instruments and software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data". Accordingly, I find these terms are *Meric* identical.

Game software; software in the field of [...], company management, [...].

26. The above terms are included in the more general category of "computer programmes" in class 9 of the earlier mark, and therefore considered to be identical in accordance with the *Meric* principal.

Photographic, cinematographic, optical and teaching apparatus and instruments

27. The opponent argues that "the term 'telecommunication, apparatus, instruments and software' of the Earlier Mark would encompass within its scope smartphones, being telecommunication instruments/apparatus. Smartphones would by extension be encompassed with the contested 'Photographic, cinematographic, optical and teaching apparatus and instruments', given that smartphones are photographic instruments or apparatus." However, in my opinion, the core purpose of a smartphone is to act as a telecommunication device, to call and to communicate with others rather than to take photos; consequently, the nature, method of use and intended purpose are different. The goods would be offered through different trade channels; telecommunication apparatus such as a smartphone would typically be offered by a mobile phone company, whereas photographic apparatus such as a camera would be offered by a company that sold cameras, whether that be online or instore. The goods would not be complementary in nature as not all phones need a camera. Neither would the goods be competitive as they cannot be used interchangeably; you cannot typically

use a camera to make a call or receive a text message. Users would overlap, but only on a general level. Overall, I am of the view that these goods are dissimilar.

28. I have also considered the holder's above goods against the opponent's terms "apparatus, instruments [...] for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data". The holder's term would include photographic instruments such as digital cameras that would process the image taken into digital data and store that data onto the camera. It might also display the data on the screen so that the user can view the image, however, I acknowledge that this is not the core purpose of a camera. The goods may differ in nature as the opponent's goods are not apparatus for recoding images. Furthermore, given their differences in nature their intended purpose would also differ except for a broad overlap insofar that the competing goods would process data. The method of use would also differ. The trade channels would overlap as both the holder's goods and the opponent's goods would be offered in stores that sold electronic goods, although I accept that they may not be located in close proximity within those outlets. The goods are not competitive in nature as the opponent's goods could not be substituted for the holder's goods, neither are the goods complementary in nature. However, users may overlap. Overall, I find that the goods are similar to a medium degree.

All data downloadable onto a computer or a mobile telephone and particularly documentaries, sound, music, photographs, explanatory videos, images, logos and texts.

29. I have compared the holder's above term to the opponent's terms "[...] software for the [...] display [...] of data" and "computer programmes". I accept the holder's term would involve the use of data that is downloadable, however, data is not the same as software itself. The value lies in the documentaries, music, photographs and videos themselves rather than the software to present the data behind them. Consequently, their nature, method of use and intended purpose will differ. The trade channels will differ as companies producing the documentaries, music or photographs etc. will not be the same as those producing the software to download these items. The goods are not competitive, nor are they complementary per the established case law; even

though the opponent's software may be necessary to download the holder's documentary, consumers would not believe that the same undertaking that created the documentary would also provide the apparatus or software needed to download the documentary. Users may overlap, but this is not enough to engage similarity. As a result, I find that the goods are dissimilar.

Electronic and digital publications (downloadable)

30. I have compared the holder's above goods to the opponent's terms "[...] software for the [...] display [...] of data" and "computer programmes". I acknowledge that the holder's term would involve the use of software or a computer program to download the publication, however, a downloadable publication is not a computer program or software itself. Similarly, the importance of the publication lies in the information contained in the publication rather than the use of software to present the data or information. Accordingly, they differ in nature, method of use and intended purpose. The trade channels will differ and downloadable publications will not be provided by the same undertakings that offer computer software. The goods are not competitive, neither are the goods complementary in nature, as although a computer program or software may be needed to access the publication, consumers will not believe that the responsibility for both these goods lies with the same undertaking. Users may overlap, but this is not enough to engage similarity. As a result, I find that the goods are dissimilar.

Class 35

Arranging of telecommunication service subscriptions for others

31. The holder's above services and the opponent's class 9 goods "telecommunication apparatus, instruments and software" differ in nature and method of use as the holder's term relates to services where a subscription would be arranged through the provider either via the phone or online, whereas the opponent's term relates to goods you would have to set up in your home. However, the intended purpose overlaps considerably as they both enable users to use telecommunications services. Trade channels will be the same as typically the same undertaking will offer both the

subscription and the apparatus to enable users to access that subscription. Users will also be the same. The goods and services are complementary in nature, as the goods are important for the use of the services and vice versa and users are likely to believe that they derive from the same undertaking. For example, telecommunications service users would also need a television box, modem, or phone line in order to use these services. However, the goods and services are not competitive in nature as one cannot replace the other. Overall, I find the goods and services similar to a medium degree.

Computer file management and database management

32. The holder's above terms in class 35 are administrative or management services involving the organisation or systemisation of data. When compared against the opponent's class 9 goods "*software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data*", the fact that the holder's services may make use of such software to function is not determinative.⁴ The software covered by the earlier specification differs in nature and intended purpose. The method of use is also unlikely to overlap. The trade channels also differ; the goods would be sold by a retailer, whether at a physical store or online, whereas the services would be offered by a company that managed computer files and databases. Furthermore, the software is not in competition with the services as it cannot perform the function of the services, and vice versa, as they have different purposes. For example, someone looking for a company to manage their computer files or databases could not purchase data storage or processing software and achieve the same result. Nor is there complementarity between the goods and services as although the use of such software may facilitate the administrative management of computer files or databases, users would not believe that they were offered by the same undertaking. Consequently, I find that these goods and services are dissimilar.

Class 42

Software as a service (SaaS); hosting computer software

⁴ *Les Éditions Albert René v OHIM*, Case T-336/03 paragraphs 61 & 69

33. The opponent's "[...] software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data" is similar to the holder's term "software as a service". Whilst I acknowledge that services are not the same in nature as goods, there is some overlap in method of use as the software could be the same and therefore used in the same way. However, I accept that there is a difference in the method of use as "software as a service" refers to centrally hosted software which is licensed on a subscription basis, whereas software in class 9 would be downloadable or even provided on a disc. The intended purpose will overlap as the holder's "software as a service" could relate to the same type of software, and therefore have the same intended purpose as the opponent's software in class 9, they are simply accessed by slightly different methods. Users would be the same, and there is likely to exist a competitive relationship between the goods and services on the basis that users may choose to buy the software to own themselves, or they may choose instead to access it through an online subscription for a monthly or annual fee. The trade channels will overlap; they may be produced by the same undertakings and sold via the same providers. Overall, I am of the view that these goods and services are similar to between a medium degree.

Hosting of servers

34. I have considered whether the opponent's goods in class 9 "Apparatus, instruments and software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data" are similar to the holder's above term. The goods and services differ in nature, as the hosting of servers is a service, with the aim of permitting others to use the providers servers. These servers are made up of a number of hard drives where data is stored, whereas the opponent's goods include hard drives that store data. Although the method of use differs given the differing nature of the goods, there is a broad overlap in the general purpose as both the goods and services are for the purpose of storing the user's data. The goods and services are complementary, as the hard drives, which would fall into the opponent's goods "apparatus [...] for the [...] storage [...] of data", are important to the operation of the hosting services and consumers are likely to believe that they are provided by the same undertakings. The trade channels and users may also overlap. Furthermore, there may be a degree of competition between the goods and

services to the extent that users could either buy their own hard drives to use as servers at home or for a small business or they could use the holder's services. Overall, I am of the view that the goods and services are similar to a medium degree.

Design and development of computers and software; development (design) [...] of computer software; computer programming; computer system design [...]

35. Software is the end result of its design and development. The relationship between the software and its design and development is therefore complementary, with the average consumer believing one undertaking is responsible for providing both the goods i.e. software, and the design and development services for the computer software. Furthermore, software would not exist without the computer programming services to create it. I acknowledge that goods and services are fundamentally different in nature. The method of use and intended purpose will also differ with the services requiring the user to consult providers to agree and specify the software programmes they require so that they can be created, whereas the goods allow users to interact with the functionality of the software once designed. The trade channels will overlap, as companies that design and develop software may also provide the opponent's software in class 9. Users will also be the same. As a result, overall, I consider the goods and services to be similar to a medium degree.

Computer system [...] analysis

36. The holder's above term and the opponent's class 42 term "[...] maintenance of computer software" are broadly similar in nature as both are services relating to computer software. The intended purpose of both services is to ensure the effective and efficient running of the computer software that comprises the computer system. Therefore, the general overall aim is shared, however, I acknowledge that the specific purpose is not the same. The trade channels will be the same as the provider of the computer systems analysis services would likely provide the opponent's software maintenance services and vice versa, and users would overlap. Accordingly, I am of the view that the services are similar to a medium degree.

[...] update of computer software

37. In relation to the above term in the holder's specification and the opponent's goods "software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data", I note it is common for software providers to release updates for software packages. Therefore, these goods and services are complementary as the updates are important for the efficient use of the software and furthermore are likely to believe these updates to originate from the same undertaking that created the software. The trade channels would be the same as the same company would offer the software and the software update and the users would be the same. However, the goods and services are intrinsically different in nature. The software update would be used to make sure there are no anomalies in the software and to fix any that appear, whereas the software itself would be to support the data, meaning that the method of use would be different. Furthermore, despite an overlap in the overall aim being to ensure the software is useable, the exact purpose of the competing goods and services differ. Neither are the goods and services competitive as their roles cannot be replaced by each other. Consequently, overall, I find that the goods and services are similar to a medium degree.

Technical support with respect to software

38. It is common for software providers to offer updates to develop the software and to provide continuing technical support for users of software. Naturally, software such as the opponent's goods are indispensable to these services. Accordingly, in my opinion, the goods and services are complementary. The intended purpose of technical support is to ensure that the opponent's goods are functionable, and to maintain the useability of the software, therefore the intended purpose of the goods and services broadly overlap, but the exact purposes are not the same. The nature is different as is the method of use: the services involve the user contacting the provider in order for them to provide the experience needed to resolve any technical issues, whilst the goods require user interaction to access, store or process the data through the functionality of the software. The trade channels will overlap as companies that offer software commonly also offer technical support services in relation to that software. Users will also overlap. However, the goods and services are not in

competition as one cannot replace the other. Consequently, I am of the view that the respective goods and services are similar to a medium degree.

Computer and software consultancy; information technology (IT) consultancy; consultant services in the field of cloud computing;

39. The holder's services listed above and the opponent's goods in class 9 are innately different in nature. I interpret consultancy in these fields to cover a service usually aimed at businesses to identify the organisational needs of IT systems, analyse the costs and benefits of those systems and offer suggestions on how to improve the IT efficiency of an organisation. The method of use will differ from the holder's software in class 9 as the services will involve the expertise of the service provider rather than interaction with the goods themselves. The intended purpose will also differ as the intended purpose of the services are to find ways to make the IT systems function more efficiently which differs from the intended use of software itself. However, the providers of these consultancy IT based services would need to use software to provide IT solutions as part of their services, and it would be reasonable for consumers to believe that the software for these services and the services themselves are provided by the same undertakings; therefore, there would be a degree of complementarity. The trade channels may overlap as providers of IT consultancy services could also provide software to assist with the implementation of recommended actions. Users would also overlap. Overall, I find that these goods and services are similar to between a low and medium degree.

Design, development, maintenance, updating, hosting or rental of computer databases

40. The holder's above terms can all be described as database services, with which the opponent's class 9 term "[...] software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data" overlaps in similarity. The design, development, maintenance and updating of a database will involve the use of software, however, the method of use will differ as the services require the user to consult with the provider to design the database whereas software is accessed through a computer and requires users to interact with its

functionality. Furthermore, goods and services are intrinsically different in nature. The intended purpose also differs as the holder's services are for designing or developing databases, whereas the intended purpose of the opponent's software is to input, output, store, process, communicate, authenticate, encrypt, decrypt, display or print data. The trade channels might overlap as companies that design and develop databases could also offer data input software, for instance, and users may overlap. The competing goods and services are not competitive as one cannot replace the other, neither are they sufficiently complementary under the caselaw. Overall, I consider the goods and services to be similar to a low level.

Digitisation of documents; conversion of texts to digital format

41. The above terms in the holder's specification and the opponent's class 9 goods "apparatus, instruments and software for the input, output, storage, processing, communication, authentication, encryption, decryption, display or printing of data" differ in nature. Although the holder's services may use apparatus and software for processing data from text to digital format, the method of use differs as does the intended purpose. Users will contact a service provider, who will choose the best software to convert the text to a digital format so that information can be digitally extracted from the document in future and carry out the digitisation and digital filing of these documents. Conversely, the opponent's software is not for the digital conversion of documents. The trade channels would differ as you would not expect the same undertaking selling the opponent's goods (that are not specifically aimed at document digitalisation) to provide digitisation services. The users would also differ. Furthermore, the goods are not complementary nor are they competitive. Overall, I find the goods to be dissimilar.

Research and development of new products for third parties; technical project study;

42. In the absence of any evidence to assist me, I find that there is no obvious point of similarity between the above services and the opponent's goods and services. I have no evidence that there would be an overlap in trade channels, and I can see no obvious points of overlap. Indeed, I do not consider there to be any overlap in terms

of nature, method of use or purpose. Neither are the competing goods and services complementary or competitive in nature. Furthermore, the potential use of software in the holder's services is not enough to engage any similarity. It is possible that users may overlap, but that is not enough on its own for a finding of similarity. Taking all this into account, I consider that the competing goods and services are dissimilar.

43. For section 5(2)(b) to apply, there needs to be some degree of similarity between the goods and services. My findings above mean that the opposition must fail against goods and services of the application that I have found to be dissimilar, namely:⁵

Class 9: Electronic and digital publications (downloadable); All data downloadable onto a computer or a mobile telephone and particularly documentaries, sound, music, photographs, explanatory videos, images, logos and texts.

Class 35: Computer file management and database management

Class 42: Digitization of documents; conversion of texts to digital format; research and development of new products for third parties; technical project study

Average consumer

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

45. 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:

⁵ *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA, paragraph 49.

“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.”

46. I find that the relevant consumers of the goods and services at issue will be business or professional users as well as the general public.

47. In respect of the services, for business and professional users the cost and frequency at which they are purchased is likely to vary, depending on their nature and type, but overall, they are likely to be purchased relatively frequently for the ongoing administrative or technological needs of the business and require an average outlay. The selection of the services would be relatively important for business and professional consumers as they will wish to ensure that the products meet their professional needs, and they would be alert to the potentially negative impact of choosing the wrong product on their business. Business and professional users are likely to assess the service provider’s technical knowledge, the ease of use of the services and their efficiency. In light of the above, I find that the level of attention of business and professional users would be higher than normal. The services are likely to be purchased directly from the service provider after viewing information in specialist magazines, brochures or on the internet. In these circumstances, visual considerations would dominate, however, I do not discount aural considerations entirely as it is possible that the purchasing of these kinds of services would involve discussions with sales representatives or word of mouth recommendations.

48. In respect of business users of the goods, the price of the goods in class 9 is likely to vary, depending on their nature and type, but, overall, it is unlikely to be at the highest end of the scale. The goods are likely to be purchased rather occasionally. The selection of the goods would be relatively important for consumers from the business community as they will wish to ensure that the products meet their business

needs, for example, on a large scale with high demands. Accordingly, I find that the level of attention of members of the business community would be higher than normal. The goods are available from physical retail establishments, tradeshows, or their online equivalents, where they are likely to be purchased after viewing information on physical displays or on the internet. In these circumstances, visual considerations would dominate. However, I do not discount aural considerations entirely as it is possible that the purchasing of these kinds of goods would involve oral discussions with sales representatives.

49. It is equally likely that some of the goods and services – such as, games software, or telecommunication subscriptions – will be purchased by the general public. In respect of these consumers, the goods are likely to be more frequent purchases. The cost of the goods and services will vary, though, overall, they are unlikely to be at the highest end of the spectrum. The general public will consider factors such as cost, the specifications of the product, and reliability during the selection process. In light of the above, I find that the level of attention of the general public would be medium. The goods are typically sold by brick-and-mortar retail establishments, or their online equivalents, where they will be purchased after viewing information on physical displays or the internet. In contrast, the services for the general public will be advertised on television or online and purchased either online or over the telephone. In these circumstances, visual considerations would dominate. However, I do not discount aural considerations entirely as the general public may wish to discuss the products with salespersons either over the phone or in-store prior to purchasing the goods or services.

Distinctive character of the earlier mark

50. The distinctive character of a trade mark can be measured only, first, by reference to the goods or services in respect of which registration is sought and, second, by reference to the way it is perceived by the relevant public. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97, the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an

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

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

51. 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 goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. Dictionary words which do not allude to the goods and services will be somewhere in between. The degree of distinctiveness is an important factor as it directly relates to whether there is a likelihood of confusion, the more distinctive the earlier mark, the greater the likelihood of confusion. The distinctive character of a mark may be enhanced as a result of use on the market.

52. Further, although the distinctiveness of a mark can be enhanced by virtue of the use that has been made of it, the opponent has not filed any evidence of use (nor was it required to do so). Consequently, I have only the inherent position to consider.

53. The earlier mark is a figurative mark which encompasses two dictionary words “Valid” and “Soft” which are joined together to create a single word, i.e. “ValidSoft”.

The word “ValidSoft” appears in standardised font, with capital letters used to identify the two separate words. Furthermore, the different colours/shades act to further separate the words. The distinctive character of the earlier mark lies predominantly in the word “ValidSoft”, which by itself has no easily recognisable meaning in English. However, consumers would immediately split this word into “Valid” and “Soft” and both these words have an ordinary dictionary definition. “Valid” meaning “*based on truth or reason; able to be accepted*”,⁶ and “Soft” meaning “*not hard or firm*”.⁷ However, in my view, given the type of goods and services relied on under the mark, the word “Soft” is likely to be perceived as alluding to software. Moreover, consumers may perceive “Valid” as allusive of validation software, especially when partnered with the word “Soft”. In addition to the words, the mark includes an electric soundwave symbol positioned to the right-hand side of the word “ValidSoft”, which provides a contribution, though plays a much lesser role. The use of colour or different shades of grey within the mark also provides a contribution. Overall, I consider that the earlier mark possesses a medium degree of inherent distinctive character.

Comparison of the marks

54. It is clear from *Sabel BV v. Puma AG* 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 the trade marks must be assessed by reference to the overall impressions created by them, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo SA v OHIM*, Case C-591/12P, that:



“34. [...] 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.”

⁶ <https://dictionary.cambridge.org/dictionary/english/valid>

⁷ <https://dictionary.cambridge.org/dictionary/english/soft>

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

56. The respective trade marks are shown below:

Earlier mark	Contested mark
	

Overall impressions

57. The earlier mark comprises the words “Valid” and “Soft” joined together to create one word “ValidSoft”. The mark is presented in standardised font with the “V” and “S” in capital letters. The word “Valid” within the mark appears in yellow font, whereas the word “Soft” appears in blue font. The mark also contains an electronic soundwave in yellow positioned to the right-hand side of the word “ValidSoft”. The overall impression is dominated by the word “ValidSoft”, as consumers eyes are often drawn to elements of the mark that they can read. The yellow electronic soundwave provides a contribution, as does the use of colour. However, these elements would be perceived as decorative and, therefore, play lesser roles. The overall impression of the second mark in the series is also dominated by the word “ValidSoft”. The use of greyscale provides a contribution but again would be perceived as decorative and plays less of a role.

58. The IR contains the word “VALSOFT”, which is a word-only mark. As it is the only element in the mark, the overall impression of the mark lies in the word itself.

Visual comparison

59. The competing marks are similar as they both contain the three letters “VAL” at the beginning of the marks, a position where the attention of the consumer is usually directed. Furthermore, they both contain the word “SOFT” at the end of the mark. I do not consider the distinction in letter case between the earlier mark and the contested mark to be a point of significant difference between them. This is because the registration of word-only marks provides protection for the word itself, irrespective of whether it is presented in upper or lower case. The competing marks differ as the earlier mark contains the letters “id” in the middle of the letters “Val” and the word “Soft”, which also renders the marks different in length. The earlier mark also contains a figurative element which is not replicated in the contested mark. The earlier mark is represented in the colours yellow and blue, with the word “Valid” and the electronic soundwave in yellow and the word “Soft” in blue. Again, this is not a feature of the contested mark. The second mark in the series is the same except for the use of colour which is substituted for greyscale. Taking into account the overall impressions, I find that the competing marks are visually similar to a medium degree.

Aural comparison

60. The earlier mark comprises three syllables i.e. “VAL-ID-SOFT”, whereas the contested mark contains two syllables i.e. “VAL-SOFT”. Consumers will make no attempt to articulate the electronic soundwave in the earlier mark, nor will the colours/shades used have any bearing on the aural comparison. The first and last syllable are, therefore, identical. However, the marks differ as a result of the additional syllable “ID” in the middle of the earlier mark. Consequently, I find that the marks are similar to between a medium and high degree.

Conceptual comparison

61. The opponent argues in its written submissions that “[...] the word “VAL” is a shortening of the word ‘VALID’ [...]”.⁸ The opponent has also provided within Annex 1 an online extract from www.allacronyms.com/Val/Valid to demonstrate this point. However, I do not consider this to be compelling evidence that relevant consumers of the goods and services at issue would recognise “VAL” as a shortening of “Valid”. Although I note from this extract that “Val” is said to stand for “Valid”, it also appears from this extract that “Val” can also stand for 166 other words. In my view, “VAL” will not be recognised by consumers as a shortened term for “Valid”. In my opinion, consumers will perceive the contested mark as an invented word. However, due to consumers familiarity with the word “Soft” and the connection to the goods and services at issue, consumers would recognise this word within the mark; therefore, if the contested mark in totality was to convey a concept, it would be an allusive reference to some of the goods and services offered under the services, namely, “software”. Conceptually the marks overlap as they both contain the word “Soft” which conveys the same concept within the respective marks. However, the marks are conceptually different insofar as the earlier mark contains the word “Valid” and the associated meaning is not replicated in the contested mark. Accordingly, I find that the competing marks are conceptually similar to a medium degree.

Likelihood of confusion

62. Whether there is a likelihood of confusion must be assessed globally, taking into account a number of factors. One such factor 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 goods and service, and vice versa. It is also necessary for me to keep in mind the distinctive character of the opponent’s trade mark, the average consumer for the goods and services and the nature of the purchasing process. In doing so, I must be aware of the fact that the average consumer rarely has the opportunity to make direct comparisons between

⁸ Paragraph 13

trade marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

63. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one trade mark for the other, while indirect confusion is where the average consumer realises the trade marks are not the same but puts the similarity that exists between the trade marks and goods down to the responsible undertakings being the same or related.

64. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

“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.

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

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

elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

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

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

65. These examples are not exhaustive but provide helpful focus.

66. I have found that the holder’s goods and services are identical, or similar to various degrees to those of the earlier mark. I have found that relevant consumers of the goods and services will include members of the general public and businesses or professional users. I have found that the general public would pay a medium level of attention, whilst business or professional consumers would pay a higher than normal level of attention when selecting the goods or services. I have found that the purchasing process will be largely visual, however, I have not discounted aural considerations. The overall impression of the earlier mark is dominated by the words “Valid” and “Soft”, whereas the overall impression of the contested mark is dominated by the word “VALSOFT”. I have found that the earlier mark and the contested mark are visually and conceptually similar to a medium degree, and aurally similar to between a medium and high degree. I have also found that the earlier mark has a medium level of inherent distinctive character.

67. The marks differ in length as the earlier mark includes the letters “id” in the middle of the mark which was not replicated in the contested mark. The earlier mark also contains an electronic soundwave device. The earlier mark also appears in the colours yellow and blue or a greyscale equivalent. However, in my opinion, taking into account the overall levels of similarity between the marks, those differences are likely to be insufficient to distinguish the holder’s goods and services from the

opponent's goods and services. As discussed above, the figurative element and the colour scheme will be considered decorative and will be given less weight as a result. The marks coincide in highly similar elements, "VALSOFT" and "ValidSoft" which dominate the overall impressions of the competing marks. They share identical letters "VAL" at the beginning (where the attention of the consumer is usually directed), and the identical allusive word "Soft" at the end. Consequently, in my view, the conceptual difference associated with the word "Valid" in the earlier mark is not enough to overcome the visual and aural similarities between the marks.⁹ In my judgement, taking into account imperfect recollection, it is entirely feasible that even consumers paying a higher than normal level of attention during the purchasing process would misremember the words for one another, and fail to recall the two letters "id" in the middle of the earlier mark, as well as the decorative presentational differences. Therefore, I find that there is a likelihood of direct confusion.

68. In the event I am wrong about direct confusion, I will now go on to consider indirect confusion. I bear in mind that a finding of indirect confusion should not be made merely because the two marks share a common element. In this connection, it is not sufficient that a mark merely calls to mind another mark: this is mere association not indirect confusion.¹⁰

69. Even in the event that consumers recognise that there are differences between the competing marks, they will also recognise the highly similar words "VALSOFT" and "ValidSoft" which dominate the respective overall impressions. They both consist of a similar word, with three identical letters in the same order at the beginning, and an identical allusive reference to the goods at the end of the mark. Therefore, they are likely to be misremembered or imperfectly recalled as one another, especially as the goods and services are similar. Whether consciously or unconsciously, this will lead the average consumer through the mental process described in *L.A. Sugar*. The inclusion of the electronic soundwave device and particular colours/shades in the earlier mark are likely to be seen as a variation of the brand with additional decorative elements. Taking all this into account, I am satisfied that consumers, even paying a higher than normal level of attention, would assume a commercial association between the parties, or sponsorship on the part of the opponent, due to the highly

⁹ *Nokia Oyj v OHIM*, Case T-460/07

¹⁰ *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

similar shared elements “ValidSoft” and “VALSOFT”. Consequently, I consider there to be a likelihood of indirect confusion.

Conclusion

70. The opposition under section 5(2)(b) has been partially successful. Subject to any appeal against my decision, the IR will be refused in relation to the following goods and services:

Class 9: Apparatus and instruments other than for medical use for recording, transmission, reproduction and duplication of sound and/or images; photographic, cinematographic, optical and teaching apparatus and instruments; receivers (audio and video); all media for recording, transmission, reproduction and duplication of sound, data and images; sound recording or optical discs, DVDs, DVD-ROMs, compact disks, CD-ROMs and other digital recording media; equipment for data processing and computers; computers; computer peripheral devices; game software; software (recorded programs); software in the fields of company management; databases and especially voice databases, sound, text and image data banks (software)

Class 35: Arranging of telecommunication service subscriptions for others.

Class 42: Design and development of computers and software; development (design), installation, maintenance, updating, hosting or rental of software; computer programming; computer system design and analysis; computer and software consultancy; software as a service (SaaS); information technology (IT) consultancy; hosting of servers; technical support with respect to software; design, development, maintenance, updating, hosting or rental of computer databases; design and development of computer software for cloud computing; consultant services in the field of cloud computing.

71. The IR will become protected in the UK in relation to the following goods and services, against which the opposition has failed:

- Class 9: Electronic and digital publications (downloadable); software in the fields of vocational, initial and cooperative training management, human resources management, training funding management and tax and fundraiser management; all data downloadable onto a computer or a mobile telephone and particularly documentaries, sound, music, photographs, explanatory videos, images, logos and texts.
- Class 35: Advertising; commercial business management; advice and information regarding commercial business management; commercial administration; office functions; dissemination of advertising material (leaflets, prospectuses, printed matter, samples); newspaper subscription services (for third parties); presentation of goods on all communication media, for retail sale; business management and organization consultancy; accounting; services provided by consultants and information relating to accounting; document reproduction; employment agencies; computer file management; organization of exhibitions for commercial or advertising purposes; online advertising on a computer network; rental of advertising time on all communication media; publication of advertising texts; rental of advertising space; dissemination of advertisements; public relations; company audits (commercial analyses); human resources management; commercial company administration and management services; database management; advice to companies regarding management of human resources and of vocational, initial and cooperative training.
- Class 42: Research and development of new products for third parties; technical project study; digitization of documents; conversion of texts to digital format

Costs

72. As the opponent has achieved a greater measure of success, I direct that opponent is entitled to a contribution towards its costs based upon the scale published in Annex A of Tribunal Practice Notice 2 of 2016, with an appropriate reduction to reflect the opponent's degree of success. Applying this guidance, I award the opponent the sum of **£500** which is calculated as follows.

Official fee: ¹¹	£100
Preparing a statement and considering the holder's counterstatement:	£150
Preparing written submissions:	£250
Total:	£500

73. Accordingly, I hereby order VAL SOFTWARE to pay ValidSoft Limited the sum of **£500**. This sum is to be paid within twenty-one days of the expiry of the appeal period, or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 2nd day of September 2022

Sarah Wallace
For the Registrar

¹¹ The official fee connected with the filling of the Form TM7 is not subject to a reduction.

Annex

Goods and services of the IR

Class 9: Apparatus and instruments other than for medical use for recording, transmission, reproduction and duplication of sound and/or images; photographic, cinematographic, optical and teaching apparatus and instruments; receivers (audio and video); electronic and digital publications (downloadable); all media for recording, transmission, reproduction and duplication of sound, data and images; sound recording or optical discs, DVDs, DVD-ROMs, compact disks, CD-ROMs and other digital recording media; equipment for data processing and computers; computers; computer peripheral devices; game software; software (recorded programs); software in the fields of vocational, initial and cooperative training management, human resources management, company management, training funding management and tax and fundraiser management; databases and especially voice databases, sound, text and image data banks (software); all data downloadable onto a computer or a mobile telephone and particularly documentaries, sound, music, photographs, explanatory videos, images, logos and texts.

Class 35: Advertising; commercial business management; advice and information regarding commercial business management; commercial administration; office functions; dissemination of advertising material (leaflets, prospectuses, printed matter, samples); newspaper subscription services (for third parties); arranging of telecommunication service subscriptions for others; presentation of goods on all communication media, for retail sale; business management and organization consultancy; accounting; services provided by consultants and information relating to accounting; document reproduction; employment agencies; computer file management; organization of exhibitions for commercial or advertising purposes; online advertising on a computer network; rental of advertising time on all communication media; publication of advertising texts; rental of advertising space; dissemination of advertisements; public relations; company audits (commercial analyses); human resources management; commercial company administration

and management services; database management; advice to companies regarding management of human resources and of vocational, initial and cooperative training.

Class 42: Design and development of computers and software; research and development of new products for third parties; technical project study; development (design), installation, maintenance, updating, hosting or rental of software; computer programming; computer system design and analysis; computer and software consultancy; digitization of documents; conversion of texts to digital format; software as a service (SaaS); information technology (IT) consultancy; hosting of servers; technical support with respect to software; design, development, maintenance, updating, hosting or rental of computer databases; design and development of computer software for cloud computing; consultant services in the field of cloud computing.