

O/0259/23

**TRADE MARKS ACT 1994**

**IN THE MATTER OF TRADE MARK APPLICATION  
NO. 03764014 BY  
1PS GROUP LIMITED  
TO REGISTER AS A TRADE MARK:**

**Raise**

**IN CLASSES 9, 35 & 36**

**AND**

**OPPOSITION THERETO  
UNDER NO. 600002461 BY  
RAISED LTD**

## Background & Pleadings

1. 1PS GROUP LIMITED (“**the applicant**”), applied to register the trade mark shown on the front page of this decision in the United Kingdom. The application was filed 10 March 2023 and was published on 8 April 2022 in respect of the following goods and services:


**Class 9:** Software; Accounting software; AI software; Business software; Embedded software; Operating software; Collaboration software; Banking software; Software applications; Workflow software; Enterprise software; Payment software.

**Class 35:** Recruitment services; Recruitment of temporary personnel; Human resources management and recruitment services; Provision of information relating to recruitment; Providing information relating to personnel recruitment; Providing online marketplaces for sellers of goods and or services; Provision of an on-line marketplace for buyers and sellers of goods and services; Provision of an online marketplace for buyers and sellers of goods and services.

**Class 36:** Corporate financing; Providing financing; Commodities financing; Corporate finance; Finance leasing; Financing services; Project financing; Credit financing; Project finance; Equity financing; Finance services; Corporate finance services; Accounts receivables financing; Trade finance services; Finance (Provision of -); Finance (Raising of -); Instalment credit financing; Personal finance services; Sales credit financing; Arranging of finance; Raising of finance; Asset-based financing; Financing of purchases; Arranging finance for businesses; Financing and funding services; Financing services for companies; Credit consultation; Credit advice; Credit consultancy; Credit insurance; Credit arranging; Credit services; Arranging credit; Credit information services; Credit risk insurance; Advice regarding credit; Credit agency services; Credit reporting services; Credit reference agency; Credit facility services; Arranging of credit; Credit

advisory services; Credit management services; Credit assessment services; Credit arranging services; Provision of credit; Credit reporting agency; Credit recovery agencies; Financial credit services; Collection of credit sales; Preparation of credit reports; Provision of trade credit; Credit recovery and collection; Brokerage of credit agreements; Credit and loan services; Provision of credit rating; Financial credit scoring services; Business credit verification services; Preparation of credit rating reports; Financial assessment of company credit; Providing finance for credit sales; Consultancy services relating to credit.

2. Raised Ltd (“the opponent”) opposes (using the Fast Track provisions) the application on the basis of Sections 5(1), 5(2)(a), and 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opposition concerns all the goods and services in the applicant’s specification. The opponent is the proprietor of the following marks:

|   |  |
|---|--|
| <b>Trade Mark no.</b>                   | UK00003551719 ('719)   |
| <b>Trade Mark</b>                       | RAISED   |
| <b>Goods &amp; Services Relied Upon</b> | <b>Classes 9, 35, 36, 41 &amp; 42</b>  |
| <b>Relevant Dates</b>                   | Filing date: 4 November 2020   |
|   | Date of entry in register:<br>26 March 2021  |
| <b>Trade Mark no.</b>                   | UK00003634382 ('382)   |
| <b>Trade Mark</b>                       |  |
| <b>Goods &amp; Services Relied Upon</b> | <b>Classes 9, 35, 36, 41 &amp; 42</b>  |
| <b>Relevant Dates</b>                   | Filing date: 29 April 2021   |
|   | Date of entry in register:<br>24 September 2021                                      |

3. Under Section 6(1) of the Act, the opponent’s trade marks clearly qualify as earlier trade marks. Further, as the registration of the opponent’s earlier

marks was completed less than five years before the application date of the contested mark, proof of use is not relevant in these proceedings as per Section 6A of the Act.

4. The opponent, in its notice of opposition, claims that the marks should be regarded as identical or alternatively highly similar. In particular, the opponent states the following in relation to each of its earlier marks:

Re earlier mark '719

“The trade marks RAISED and Raise [stylised] are identical since the stylisation present in the Applicant's mark and the letter "D" in the Opponent's mark are insignificant elements which will go unnoticed by the average consumer. The goods and services are also identical.

In the alternative, the trade marks RAISED and Raise [stylised] are identical / similar. The goods and services are also identical / similar. Therefore, there is potential for a likelihood of confusion, including association, between the trade marks.”

Re earlier mark '382

“The trade marks raised [with device] and Raise [stylised] are similar. The goods and services are also identical / similar. Therefore, there is potential for a likelihood of confusion, including association, between the trade marks.”

5. The applicant filed a defence and counterstatement, denying the opponent's claims in the following terms:

“1. The Opponent has stated that the Applicant's trade mark number UK00003764014 ("the Applicant's Mark") is identical, or similar, with the Opponent's earlier registered trade mark number UK00003551719 ("the Opponent's Mark 1") because the stylisation of the Applicant's Mark and the letter 'D' in the Opponent's Mark 1 are insignificant and will go unnoticed by the average consumer. This is

denied. The stylisation of the Applicant's Mark is very distinctive from the Opponent's Mark 1 and the letter 'D' in the Opponent's Mark 1 causes the word 'raised' to be aurally and visually distinctive from the Applicant's Mark.

2. The Opponent has stated that the Applicant's Mark is for identical, or similar, goods and services in respect of the Opponent's Mark 1 resulting in a potential likelihood of confusion including association between the marks. This is denied. The goods and services detailed in the Opponent's Mark 1 are different to those detailed in the Applicant's Mark and the businesses operated by Applicant and the Opponent are neither identical nor similar (with each of them having different client bases and end users). There is, therefore, no potential likelihood of confusion and no potential association between the marks.”

6. Rules 20(1)-(3) of the Trade Marks Rules (the provisions which provide for the filing of evidence) do not apply to fast track oppositions such as the present proceedings, but Rule 20(4) does. It reads:

“(4) The registrar may, at any time, give leave to either party to file evidence upon such terms as the registrar thinks fit.”

7. The net effect of these changes is to require parties to seek leave in order to file evidence in fast track oppositions. Neither party sought leave to do so. Rule 62(5) (as amended) states that arguments in fast track proceedings shall be heard orally only if (i) the Office requests it or (ii) either party to the proceedings requests it and the registrar considers that oral proceedings are necessary to deal with the case justly and at proportionate cost; otherwise, written arguments will be taken.
8. Only the applicant filed submissions. I have read all the papers and shall refer to relevant points only to the extent warranted for the purpose of making this decision. Thus, this decision has been taken following a careful consideration of the papers.

9. In these proceedings, the opponent is represented by Trade Mark Wizards Limited and the applicant by Brachers LLP.
10. 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 Trade Marks 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.

## **Decision**

### **Sections 5(1), 5(2)(a) and (b)**

11. Sections 5(1), 5(2)(a) and 5(2)(b) of the Act state:

“(1) A trade mark shall not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is applied for are identical with the goods or services for which the earlier trade mark is protected.

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

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

(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”.

12. The principles considered in this opposition stem from the decisions of the European 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 BV* (Case C-342/97), *Marca Mode CV v Adidas AG & Adidas Benelux BV* (Case C-425/98), *Matratzen Concord GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (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-334/05 P) and *Bimbo SA v OHIM* (Case C-519/12 P):

- a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;
- b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;
- c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;
- e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;
- f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent

distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

- g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;
- h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;
- i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;
- k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

### **Comparison of Goods and Services**

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. When making the comparison, all relevant factors relating to the goods in the specifications should be taken into account. In *Canon Kabushiki Kaisha*, the Court of Justice of the European Union (CJEU) stated that:

“23. 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 complementary.”

15. Guidance on this issue was also given by Jacob J (as he then was) in *British Sugar Plc v James Robertson & Sons Limited (“Treat”)* [1996] RPC 281. At [296], he identified the following relevant factors:

“(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.”

16. The General Court (GC) confirmed in *Gérard Meric v OHIM*, Case T-133/05, paragraph 29, that, even if goods or services are not worded identically, they can still be considered identical if one term falls within the scope of another, or vice versa:

“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”.

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

“[...] the applicable principles of interpretation are as follows:

(1) General terms are to be interpreted as covering the goods or services clearly covered by the literal meaning of the terms, and not other goods or services.

(2) In the case of services, the terms used should not be interpreted widely, but confined to the core of the possible meanings attributable to the terms.

(3) An unclear or imprecise term should be narrowly interpreted as extending only to such goods or services as it clearly covers.

(4) A term which cannot be interpreted is to be disregarded.”

18. In *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch), paragraph 12, Floyd J (as he then was) gave the following guidance on construing the words used in specifications:

“[...] 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.”

19. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU held that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods or services. The GC clarified the meaning of “complementary” goods or services in *Boston Scientific Ltd v OHIM*, Case T-325/06, at paragraph 82:

“[...] 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 *Avnet Incorporated v Isoact Limited*, [1998] F.S.R. 16, Jacob J. (as he then was) stated that:

“In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase.”

21. The opponent's voluminous specifications are annexed at the end of this decision, and I do not intend to reproduce them here. They are, however, all goods and services in Classes 9, 35, 36, 41 and 42. The applicant's goods and services for the contested mark are as follows:

| <b>Applicant's Goods</b>   |
|--|
| <b>Class 9:</b> Software; Accounting software; AI software; Business software; Embedded software; Operating software; Collaboration software; Banking software; Software applications; Workflow software; Enterprise software; Payment software.   |
| <b>Class 35:</b> Recruitment services; Recruitment of temporary personnel; Human resources management and recruitment services; Provision of information relating to recruitment; Providing information relating to personnel recruitment; Providing online marketplaces for sellers of goods and or services; Provision of an on-line marketplace for buyers and sellers of goods and services; Provision of an online marketplace for buyers and sellers of goods and services.  |
| <b>Class 36:</b> Corporate financing; Providing financing; Commodities financing; Corporate finance; Finance leasing; Financing services; Project financing; Credit financing; Project finance; Equity financing; Finance services; Corporate finance services; Accounts receivables financing; Trade finance services; Finance (Provision of -); Finance (Raising of -); Instalment credit financing; Personal finance services; Sales credit financing; Arranging of finance; Raising of finance; Asset-based financing; Financing of purchases; Arranging finance for businesses; Financing and funding services; Financing services for companies; Credit consultation; Credit advice; Credit consultancy; Credit insurance; Credit arranging; Credit services; Arranging credit; Credit information services; Credit risk insurance; Advice regarding credit; Credit agency services; Credit reporting services; Credit reference agency; Credit facility services; Arranging of credit; Credit advisory services; Credit management services; Credit assessment services; Credit arranging services; Provision of credit; Credit reporting agency; Credit recovery agencies; Financial credit services; Collection of credit sales; Preparation of credit reports; Provision of trade credit; Credit recovery and collection; Brokerage of credit agreements; Credit and loan services; Provision of credit rating; Financial credit scoring services; Business credit verification services; Preparation of credit rating reports; Financial assessment of company credit; Providing finance for credit sales; Consultancy services relating to credit. |

22. In its notice of opposition, the opponent contends that the goods and services are identical or similar.

23. On the other hand, the applicant submits that the goods and services of the parties are neither identical nor similar. In particular, the applicant claims that:

“The crucial point of difference is the users of the goods/services. As set out in the Applicant's Legal Representative's letter dated 8 July 2022 (a copy of which is appended to these Written Submissions):

*"5. In respect of the goods and services applied for, while it is noted that there is some overlap in respect of the classes, there is absolutely no overlap in the services being offered/provided by our respective clients.*

*6. On the homepage of its website, your client describes its service as "An equity crowdfunding platform for start-ups looking to raise between £30k and £500k". This is not a service that our client's brand Raise offers or is ever likely to offer. Raise assists small to medium sized recruitment businesses in unlocking cash tied up in their invoices, managing their established recruitment businesses and providing software support in respect of timesheets and expenses.*

*7. The Raise customer base is wholly made up of established recruitment businesses. They do not work with start-ups and they do not offer any crowdfunding services. From reviewing your client's website and from the contents of your letter, it does not appear that there is ever likely to be any overlap either in the customers that either party is looking to or will attract, or in the services that are being offered and provided."*

In respect of class 35 in particular, the services offered by the Applicant are wholly different to those registered by the Opponent. The Opponent's specification does not make any reference to recruitment services, nor does it extend to the provision of online marketplaces.”

24. Whilst the above is noted, I keep in mind that my assessment must be based on the terms being opposed/relied upon. Whilst the applicant states that the goods in which the parties actually trade are different, this has no bearing on my decision. This is because I must consider the matter notionally based on the terms that the parties have registered or seek to register.
25. In addition, for the avoidance of doubt, pursuant to Section 60A(1)(b) of the Act, goods and services are not to be regarded as dissimilar simply because they fall in a different Class.
26. For the purpose of considering the issue of similarity of goods and services, it is permissible to consider groups of terms collectively where they are sufficiently comparable to be assessed in essentially the same way for the same reasons.<sup>1</sup>

### **Preferred Approach**

27. Although both of the earlier specifications contain a long list of terms, they overlap to a great extent. Thus, I will conduct a single comparison, in which my analysis will be based on terms that both of the earlier marks share and rely upon. As a result, the findings below are applicable to the comparison of the competing marks.

### **Class 9**

#### **Software**

28. The contested term and the opponent's "*computer software*" are identical terms. Thus, I find them to be identical.

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<sup>1</sup> *Separode Trade Mark* BL O-399-10 and *BVBA Management, Training en Consultancy v BeneluxMerkenbureau* [2007] ETMR 35 at paragraphs 30 to 38.

Accounting software; AI software; Business software; Embedded software; Operating software; Collaboration software; Banking software; Software applications; Workflow software; Enterprise software; Payment software

29. The earlier term “*computer software*” is broad enough to encompass the above contested terms, and, thus, I find them to be identical as per *Meric*.

### **Class 35**

Provision of information relating to recruitment; Providing information relating to personnel recruitment; Recruitment services; Recruitment of temporary personnel; Human resources management and recruitment services

30. The contested terms are services that relate to the recruitment of personnel and provision of information regarding recruitment. There is similarity between the contested terms and the opponent’s “*business management*” services in the same Class. In particular, business management services would include human resource management that would contain information in relation to the vacant posts and the recruitment of personnel. In this regard, the competing services will share the same nature, purpose, users, and trade channels. There is also a degree of competition. I find that the competing services are highly similar.

Providing online marketplaces for sellers of goods and or services; Provision of an on-line marketplace for buyers and sellers of goods and services; Provision of an online marketplace for buyers and sellers of goods and services

31. The contested services are intended for providing online marketplace services (e-commerce) via a website where users display and offer their goods/services for sale. The closest comparable term in the opponent’s specification is “*providing technology that enables users to offer goods for presale and pledge to purchase goods offered by others via a website*” in Class 42. The earlier services comprise the backend technology that

enables users to presale or pledge to purchase goods online. The competing services share the same general (technical) nature and purpose, enabling users to buy/sell goods online. However, I note that there is a distinction between the competing services when considering their Classes. The contested Class 35 services fall within commercial trading, as opposed to the opponent's Class 42 services which fall within computer programming (IT). Having said that, I consider that the consumer may perceive that the respective services are offered by the same undertaking. In this regard, it is my view that there is a degree of complementarity between the competing services as the nature of the sellers/buyers is not defined or narrowed only to end-users within the contested terms. As a result, the services would likely cover tradespeople as well. However, I do not consider that there is competition between the competing services. I find that they are similar to a high degree.

### **Class 36**

Corporate financing; Providing financing; Commodities financing; Corporate finance; Finance leasing; Financing services; Project financing; Credit financing; Project finance; Equity financing; Finance services; Corporate finance services; Accounts receivables financing; Trade finance services; Finance (Provision of -); Finance (Raising of -); Instalment credit financing; Personal finance services; Sales credit financing; Arranging of finance; Raising of finance; Asset-based financing; Financing of purchases; Arranging finance for businesses; Financing and funding services; Financing services for companies; Credit consultation; Credit advice; Credit consultancy; Credit insurance; Credit arranging; Credit services; Arranging credit; Credit information services; Credit risk insurance; Advice regarding credit; Credit agency services; Credit reporting services; Credit reference agency; Credit facility services; Arranging of credit; Credit advisory services; Credit management services; Credit assessment services; Credit arranging services; Provision of credit; Credit reporting agency; Credit recovery agencies; Financial credit services; Collection of credit sales; Preparation of credit reports; Provision



of trade credit; Credit recovery and collection; Brokerage of credit agreements; Credit and loan services; Provision of credit rating; Financial credit scoring services; Business credit verification services; Preparation of credit rating reports; Financial assessment of company credit; Providing finance for credit sales; Consultancy services relating to credit.

32. The opponent's "*financial affairs; monetary affairs*" are broad terms that cover the contested terms in the same Class. I, thus, find the competing services to be identical as per *Meric*.

### **Average Consumer and the Purchasing Act**

33. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purposes 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 and services in question: *Lloyd Schuhfabrik Meyer*, Case C-342/97. In *Hearst Holdings & Anor v A.V.E.L.A. Inc & Ors*, [2014] EWHC 439 (Ch), at paragraph 70, Birss J (as he then was) described the average consumer in these terms:

"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 word 'average' denotes that the person is typical. The term 'average' does not denote some form of numerical mean, mode or median."

34. The average consumer of the Class 9 goods will be a member of the general public, professionals, and business users. Such goods are usually offered for sale in stores, for instance, high street retail stores, brochures, catalogues, and online. The goods will be displayed on shelves in retail premises, where consumers will view and self-select them. Similarly, for

online stores, consumers will select the goods relying on the images displayed on the relevant web pages. Therefore, visual considerations will dominate the selection of the goods in question, but aural considerations will not be ignored in the assessment, as advice may be sought from a sales assistant or representative. The cost of the goods may vary, but in any case, and irrespective of the cost, the average consumer may examine the products to ensure software/hardware compatibility with other components or systems or that the goods possess the required features. In this regard, the average consumer is likely to pay a higher than average degree of attention, although not the highest, when selecting the goods at issue.



35. As for the recruitment-type services, the average consumer is the commercial/business users and the general public, for example, individuals seeking employment. The purchasing act will be primarily visual for such services, and they will likely be selected from Internet websites. However, the aural aspect must still be considered because the services may sometimes be the subject of discussions with representatives or word-of-mouth recommendations. Such services may vary in price and are not considered inexpensive for business users. Also, a number of factors will likely be taken into account by the relevant consumers when selecting a provider. In this regard, a higher than average degree of attention will be paid when selecting recruitment-type services.
36. In relation to the online e-commerce services, they will be selected by business users and individuals who will buy or sell goods and services. The services will be primarily visual, sold using websites, and potentially printed and promotional materials. However, I do not rule out that such services could be ordered over the phone or advice sought in person. As a result, the aural impact of the marks must not be overlooked completely. I consider the selection process of such services will require an average degree of attention.

37. Regarding the rest of the services in Class 36, some of which are infrequent and expensive purchases, a higher than average to a high level of attention will be paid when selecting a service provider in order to ensure the safety of financial investment and that the services meet their particular needs, both in terms of immediate cost and future expectations. Typically, prior consultation or research is conducted before purchasing such services. Primarily, the average consumer's encounter with such services will be on a visual level, such as signage on premises, promotional material, journal advertisements and reports, and website use. Also, particularly for services such as credit management services, word-of-mouth recommendations and independent reviews will play a large part in the selection process.

### **Comparison of Trade Marks**

#### Sections 5(1) and 5(2)(a)

38. It is a pre-requisite of Sections 5(1) and 5(2)(a) that the marks be identical. I will begin by assessing whether they are identical within the meaning of the case law.
39. In *S.A. Société LTJ Diffusion v. Sadas Vertbaudet SA, Case C-291/00*, the Court of Justice of the European Union ("CJEU") held that:
- "54 [...] a sign is identical with the trade mark where it reproduces, without any modification or addition, all the elements constituting the trade mark or where, viewed as a whole, it contains differences so insignificant that they may go unnoticed by an average consumer."
40. The marks to be compared are:

| Opponent's Marks   | Applicant's Mark   |
|--|--|
| Mark ('719)<br>RAISED  |  |
| Mark ('382)<br> |  |

41. Although the word elements of the competing marks share the first five letters “RAISED/Raise”, they are clearly not identical according to settled law as the application does not reproduce the earlier marks without any modifications or additions. There is a number of differences as follows: the contested mark is stylised with a curved line above the letter ‘i’; the omission of the last letter ‘D’, appearing in both earlier marks, and the presence/absence of the abstract geometrical device in the earlier mark ‘382. The guidance above states that the differences must be “so insignificant that they may go unnoticed”. However, I do not find the differences between the marks, in this case, to be insignificant that would go unnoticed.
42. On that basis I do not find that the marks are identical. **As the competing trade marks are not, in my view, identical, the opposition based upon Sections 5(1) and 5(2)(a) of the Act must fail.**

Sections 5(2)(b)

43. I must now compare the trade marks for the purposes of the opposition based upon Section 5(2)(b) of the Act.
44. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed

by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

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

45. 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.
46. The marks to be compared are shown at paragraph 40 above.

#### Overall Impression

47. The earlier mark ‘719 consists of the word “RAISED” presented in a standard upper case font. Registration of a word mark protects the word itself.<sup>2</sup> The overall impression of the mark lies in the word itself.
48. The earlier mark ‘382 consists of both word and figurative elements. The word “raised” appears in lowercase and standard typeface, followed by an abstract geometrical device, potentially resembling the letter ‘R’. Given that the UK average consumer reads from left to right, I consider that the word “raised” will be the dominant element with the greatest weight in the overall

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<sup>2</sup> See *LA Superquimica v EUIPO*, T-24/17, para 39; and *Bentley Motors Limited v Bentley 1962 Limited*, BL O/158/17, paragraph 16.

impression. The device will contribute to the overall impression, but less weight will be afforded to it due to its position in the mark.

49. The contested mark consists of the word element “Raise”. In its submissions, the applicant puts forward that the contested mark “*uses an unusual and distinctive font (ES Rebond Grotesque), replaces the usual dot over the lower-case letter “i” with a curved line, and the capital letter “R” and the lower case “e each contain stylised curved sections as opposed to horizontal lines.*” Although I agree with the applicant that the mark presents some stylistic features, for example, the curved line above the letter ‘i’, the typeface does not strike me as particularly unusual or distinctive. Against this backdrop, the word element will have the greatest weight in the overall impression, with the stylisation of the mark playing a less significant role.

### Visual Comparison

#### *Earlier Mark ‘719 and Contested Mark*

50. The competing marks share the same letters except for the last, i.e. RAISED/Raise. In addition, another point of visual difference stems from the presence/absence of the curved line device. Bearing in mind that the beginnings of words tend to have more impact than the ends,<sup>3</sup> and considering the overall impression of the marks, I find them to be visually similar to a high degree.

#### *Earlier Mark ‘382 and Contested Mark*

51. The verbal element of the contested mark (“Raise”) incorporates all the letters of the earlier mark’s verbal element apart from the last one (“raised”). The competing marks also differ in the presence/absence of the curved line device and the abstract geometrical device. Considering the

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<sup>3</sup> See *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, where the General Court observed that the attention of the consumer is usually directed to the beginning of a mark.

above factors, including the overall impression of the competing marks, I find that the degree of visual similarity will still be high.

### Aural Comparison

#### *Earlier Marks '719 & '382 and Contested Mark*

52. In its submissions, the applicant states the following:

“The additional letter "D" in the Opponent's Word Mark means that it will be pronounced differently to the Applicant's Mark. It is unlikely that one could be misheard for the other; the Opponent's Word Mark is the past tense of, and therefore recognised as a wholly different word to, the Applicant's Mark.”

53. The verbal elements in the competing marks are both monosyllabic, RAYZ/RAYZD. The presence of the letter 'D' at the end of the earlier mark does not create a significant difference in the pronunciation of the ending of the marks. I do not consider that the average consumer will attempt to articulate the devices in any of the competing marks. Thus, I find that the marks are aurally highly similar.

### Conceptual Comparison

#### *Earlier Marks '719 & '382 and Contested Mark*

54. In its submissions, the applicant asserted that:

“The marks are conceptually different. The Opponent's Word Mark "Raised" means elevated or more intense than usual. By contrast, the Applicant's Word Mark "Raise" is in the present tense and has a wider set of possible meanings including an increase in salary or to increase a bid.”

55. The word elements of the competing marks, RAISED/Raise, consist of a common dictionary word known to the average consumer in the UK. The word element “Raise” in the contested mark would be viewed as a variant

spelling and/or the present tense of the earlier word element/word mark “RAISED”. I note that the word has more than one meaning, but it will be generally understood as raising the level or amount of something. Regardless of how the average consumer conceptualises the word elements in the competing marks, it will likely be the same. I do not consider that the average consumer will extract any meaning from the device elements of the competing marks. Notwithstanding the difference highlighted, there is still a high degree of conceptual similarity.

### **Distinctive Character of the Earlier Trade Marks**

56. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97, paragraph 22 and 23, the CJEU stated that:

“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).

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).”

57. Registered trade marks possess varying degrees of inherent distinctive character from the very low, because they are suggestive of, or allude to, a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities.
58. The opponent has not shown use of its mark and thus cannot benefit from any enhanced distinctiveness. In this respect, I have only the inherent distinctiveness of the earlier mark to consider. As described above in this decision, the earlier mark ‘719 consists of the word element “RAISED”. The earlier mark has no real suggestive or allusive significance in relation to the goods and the services for which it is registered. Thus, I find that the level of inherent distinctiveness will be medium. Similarly, the earlier mark ‘382 is inherently distinctive to a medium degree, as the stylisation and the abstract geometrical device do not have a material impact sufficient to elevate the degree of inherent distinctiveness.

### **Likelihood of Confusion**

59. In assessing the likelihood of confusion, I must adopt the global approach set out in the case law to which I have already referred above in this decision. Such a global assessment is not a mechanical exercise. I must also have regard to the interdependency principle, that 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.<sup>4</sup> It is essential to keep in mind the distinctive character of the opponent’s trade marks since the more distinctive the trade mark, the greater the likelihood of confusion. I must also keep in mind that the average consumer rarely has the

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<sup>4</sup> See *Canon Kabushiki Kaisha*, paragraph 17.

opportunity to make direct comparisons between trade marks and must instead rely upon imperfect recollection.<sup>5</sup>

60. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other. Indirect confusion is where the consumer notices the differences between the marks but concludes that the later mark is another brand of the owner of the earlier mark or a related undertaking.
61. In *L.A. Sugar Limited v Back Beat Inc*, Case BL O/375/10, Iain Purvis Q.C., sitting 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

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<sup>5</sup> See *Lloyd Schuhfabrik Meyer*, paragraph 27.

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)."

I note that the categories identified above are not exhaustive.<sup>6</sup>

62. In *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, Mr James Mellor Q.C. (as he then was), as the Appointed Person, stressed that a finding of indirect confusion should not be made merely because the two marks share a common element. It is not sufficient that a mark merely calls to mind another mark; this is mere association, not indirect confusion.

63. In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J. (as he then was) considered the impact of the CJEU's judgment in *Bimbo*, on the court's earlier judgment in *Medion v Thomson*. He stated:

"18 The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is

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<sup>6</sup> See *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207.

similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

19 The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks — visually, aurally and conceptually — as a whole. In *Medion v Thomson* and subsequent case law, the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.

20 The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).”

21 The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”

64. In *Liverpool Gin Distillery Ltd and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207, the Court of Appeal dismissed an appeal against a ruling of the High Court that trade marks for the words EAGLE RARE registered for whisky and bourbon whiskey were infringed by the launch of

a bourbon whiskey under the sign "American Eagle". In his decision, Lord Justice Arnold stated that:

"13. As James Mellor QC sitting as the Appointed Person pointed out in *Cheeky Italian Ltd v Sutaria* (O/219/16) at [16] "a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion". Mr Mellor went on to say that, if there is no likelihood of direct confusion, "one needs a reasonably special set of circumstances for a finding of a likelihood of indirect confusion". I would prefer to say that there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion."

65. Earlier in this decision I have concluded that:

- the goods at issue range from identical to high similarity;
- the average consumer for the goods in Class 9 will be a member of the general public or professionals and business users, with the selection process being predominantly visual without discounting aural considerations. Thus, the level of attention will be higher than average degree of attention, although not the highest. In relation to the services at issue, they will be selected by business users and individuals. The services will be primarily visual without discounting the aural considerations. The degree of attention will range from average to a high level;
- the competing marks are visually, aurally, and conceptually highly similar;
- the earlier marks are inherently distinctive to a medium degree. This is so, even when the stylisation and the abstract geometrical device are taken into account in the case of the earlier mark '382.

#### Earlier Mark '719 and Contested Mark

66. Weighing the above factors and considering the identical goods and services in play, there is likelihood of direct confusion. Although I found

that the degree of attention will range from average to high for the respective goods and services at issue, this does not rule out the effect of imperfect recollection. The common word element RAISED/Raise shared in the competing marks, having the same conceptual hook, may be directly confused as the spelling variation or the different tense in the competing marks may well be lost by virtue of imperfect recollection. Further, it is my view that the diverging letter of the common verbal element, “RAISED/Raise”, is in a much less impactful positioning than if it were at the beginning of the word. Thus, the average consumer will misremember the differences and misrecall one mark for the other.

67. If I am wrong in finding direct confusion, I still consider that the marks would be indirectly confused for identical goods and services, even when the average consumer recalls the differences in the competing marks. This is because the common element, namely RAISED/Raise, does not have to be the same for the average consumer to conclude that there is a likelihood of confusion as “the human eye has a well-known tendency to see what it expects to see and the human ear to hear what it expects to hear.”<sup>7</sup> In this regard, and based on the doctrine of imperfect recollection, the average consumer will erroneously conclude that the goods are offered by the same or an economically linked undertaking to the earlier mark. Thus, given the visual, aural, and conceptual similarity of the competing marks, the contested mark could be perceived as a brand variation or sub-brand of the earlier mark giving rise to a likelihood of indirect confusion.
68. The above findings extend to the rest of the goods and services I have found to be similar to a high degree.

#### Earlier Mark ‘382 and Contested Mark

69. Considering the factors above, there is a likelihood of direct confusion for identical goods and services. Through imperfect recollection, the average consumer may overlook the spelling variation or the spelling variation

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<sup>7</sup> See *Aveda Corporation v Dabur India Limited* [2013] EWHC 589 (Ch) paragraph 48.

present/past tense of the verbal elements in the competing marks. In addition, I note that the abstract geometrical device is in a much less impactful position. Thus, it is my view that when the average consumer tries to recall the competing marks, the device may be forgotten. As a result, there is a likelihood of direct confusion where the marks will mistakenly be recalled or misremembered as each other.

70. If I am wrong, the marks would be indirectly confused. Having identified that the marks are different, the consumers will assume that the respective marks originate from the same or economically linked undertakings. In this instance, again, the average consumer will imperfectly recollect the common word element RAISED/Raise shared in the competing marks,<sup>8</sup> as the difference between the stylisation, and the spelling variation or tense in the competing marks may well be lost. While noticing the abstract geometrical device, the average consumer may consider the applicant's mark to be a brand variation or sub-brand of the opponent's with the reduction of the device and the addition of the curved line element. In these circumstances, the average consumer would assume a commercial association between the parties, believing that the respective goods and services come from the same or economically linked undertakings. As a result, I find there is a likelihood of indirect confusion.

71. The above findings extend to the rest of the goods and services I have found to be similar to a high degree.

## **Outcome**

72. The opposition under Section 5(2)(b) of the Act is **successful in its entirety**. Therefore, subject to appeal, the application will be refused.

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<sup>8</sup> Ibid.

## **Costs**

73. The opponent has been successful and is entitled to a contribution towards its costs. Awards of costs in fast-track opposition proceedings are governed by Tribunal Practice Notice 2 of 2015. I award costs to the opponent on the following basis:

|                               |             |
|-------------------------------|-------------|
| Filing a notice of opposition | <b>£200</b> |
| Opposition fee                | <b>£100</b> |
| Total                         | <b>£300</b> |

74. I, therefore, order 1PS GROUP LIMITED to pay Raised Ltd the sum of £300. 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 8<sup>th</sup> day of March 2023**

**Dr Stylianos Alexandridis**

**For the Registrar,**

**The Comptroller General**



## **Annex – Opponent’s Specifications**

### **Earlier Mark ‘719**

**Class 9:** Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; computer software platform for users to raise money for creative projects; computer e-commerce software to allow users to perform electronic business transactions via a global computer network; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

**Class 35:** Advertising; business management; business development services to provide support for entrepreneurs, including start-ups, government entities and enterprises; business consulting services in the nature of business accelerator services for entrepreneurs, including start-ups, government entities and enterprises; business consulting services in the field of market validation of products and services based on consumer feedback; business marketing consulting services; business support services, namely, business consulting to entrepreneurs, including start-ups, government entities and enterprises; creative marketing design services and advertising agency services; providing business advice, business consultation services, marketing consultation services, and business information in the field of blockchain technology, cryptocurrency ventures, token mechanics, and initial coin offerings (ico); subscription management services as a subscription agent between customers and publishers, namely, corporate clients, content creators, and service providers; providing on-line registration services for participants to subscribe to, support and participate in online communities via a web site and mobile services; arranging of subscriptions for the promotions, services and merchandise of others, namely, the periodic receipt of and access to curated information, content, discounts and events; administration of a consumer membership program for enabling participants to receive digital and physical goods and services from third parties; business administration; office functions; organisation of events, exhibitions, fairs and shows for commercial, promotional and advertising purposes; organising, arranging, planning, co-ordinating,

running, composing, scheduling, delegating, managing, hosting and conducting business meetings, trade shows, product launches and shareholder meetings.

**Class 36:** Insurance; financial affairs; monetary affairs; real estate affairs; fund raising; charitable fund raising; crowdfunding; private and public equity funding through an online crowdfunding platform; providing investment funding services, namely, initial coin offering (ico) and blockchain investment services; financial information provided by electronic means in the field of cryptocurrencies, namely, information, news, and analysis concerning cryptocurrencies and cryptocurrency investment; financing and loan services; facilitating and arranging financing; public equity investment management; business equity research; equity capital investment; private equity consultant services; private equity fund investment services; management of private equity funds; financial research and equity research brokerage services; providing venture capital, development capital, private equity and investment funding; financial services, namely, raising debt and equity capital for others; providing information in the field of financial stock and equity markets; private placements of hedge funds, private equity funds, securities and derivatives for others; information, consultancy and advisory services relating to the aforesaid; on-line business fundraising services; providing fundraising services for others via a global computer network; providing grants for research in the arts; financial services, namely, business fundraising provided over a computer network such as the internet.

**Class 41:** Education; providing of training; entertainment; sporting and cultural activities; organising, arranging, planning, co-ordinating, running, composing, scheduling, delegating, managing, hosting and conducting events, special events, annual events, conferences, assemblies, auditions, interviews, gatherings, webinars, on-line seminar, engagements seminars, teleseminars, symposiums, meetings, meet-ups, workshops, speaking platforms, and social networking meetings; organisation of competitions; organising, arranging, planning, co-ordinating, running, composing, scheduling, delegating, managing, hosting and conducting events, special events, annual events, conferences, assemblies, auditions, interviews, gatherings, webinars, on-line and offline seminars, engagements seminars, teleseminars, symposiums, meetings, meet-ups, workshops, speaking platforms, and social networking meetings, including, team building events, business breakfasts, lunches and dinners, golf events, press conferences, opening ceremonies, theme parties, VIP events, ceremonies, incentive events, retreats, engagement parties, birthday events, baby showers, family events, parties, music, sport.

**Class 42:** Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software; Computer services, namely, creating an on-line platform for presale and fundraising for creative projects; hosting an on-line community website featuring people raising money for creative projects; providing a web site featuring technology that enables users to invest and explore investments in digital currency, distributed ledger technology, initial coin offering (ico) and blockchain; providing technology that enables users to offer goods for presale and pledge to purchase goods offered by others via a website; providing technology that enables users to raise money for creative projects via a website; providing temporary use of non-downloadable software for transmitting, streaming, and downloading music, videos, and audiovisual content.

#### **Earlier Mark '382**

**Class 9:** Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; computer software platform for users to raise money for creative projects; computer e-commerce software to allow users to perform electronic business transactions via a global computer network; mechanisms for coinoperated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

**Class 35:** Advertising; business management; business development services to provide support for entrepreneurs, including start-ups, government entities and enterprises; business consulting services in the nature of business accelerator services for entrepreneurs, including start-ups, government entities and enterprises; business consulting services in the field of market validation of products and services based on consumer feedback; business marketing consulting services; business support services, namely, business consulting to entrepreneurs, including start-ups, government entities and enterprises; creative marketing design services and advertising

agency services; providing business advice, business consultation services, marketing consultation services, and business information in the field of blockchain technology, cryptocurrency ventures, token mechanics, and initial coin offerings (ico); subscription management services as a subscription agent between customers and publishers, namely, corporate clients, content creators, and service providers; providing on-line registration services for participants to subscribe to, support and participate in online communities via a web site and mobile services; arranging of subscriptions for the promotions, services and merchandise of others, namely, the periodic receipt of and access to curated information, content, discounts and events; administration of a consumer membership program for enabling participants to receive digital and physical goods and services from third parties; business administration; office functions; organisation of events, exhibitions, fairs and shows for commercial, promotional and advertising purposes; organising, arranging, planning, co-ordinating, running, composing, scheduling, delegating, managing, hosting and conducting business meetings, trade shows, product launches and shareholder meetings.

**Class 36:** Insurance; financial affairs; monetary affairs; real estate affairs; fund raising; charitable fund raising; crowdfunding; private and public equity funding through an online crowdfunding platform; providing investment funding services, namely, initial coin offering (ico) and blockchain investment services; financial information provided by electronic means in the field of cryptocurrencies, namely, information, news, and analysis concerning cryptocurrencies and cryptocurrency investment; financing and loan services; facilitating and arranging financing; public equity investment management; business equity research; equity capital investment; private equity consultant services; private equity fund investment services; management of private equity funds; financial research and equity research brokerage services; providing venture capital, development capital, private equity and investment funding; financial services, namely, raising debt and equity capital for others; providing information in the field of financial stock and equity markets; private placements of hedge funds, private equity funds, securities and derivatives for others; information, consultancy and advisory services relating to the aforesaid; on-line business fundraising services; providing fundraising services for others via a global computer network; providing grants for research in the arts; financial services, namely, business fundraising provided over a computer network such as the internet. Insurance; financial affairs; monetary affairs; real estate affairs; fund raising; charitable fund raising; crowdfunding; private and public equity funding through an online crowdfunding platform; providing investment funding services, namely, initial coin offering (ico) and blockchain investment services; financial information provided by electronic means in the field of cryptocurrencies, namely, information, news, and analysis concerning cryptocurrencies and cryptocurrency investment; financing and loan

services; facilitating and arranging financing; public equity investment management; business equity research; equity capital investment; private equity consultant services; private equity fund investment services; management of private equity funds; financial research and equity research brokerage services; providing venture capital, development capital, private equity and investment funding; financial services, namely, raising debt and equity capital for others; providing information in the field of financial stock and equity markets; private placements of hedge funds, private equity funds, securities and derivatives for others; information, consultancy and advisory services relating to the aforesaid; on-line business fundraising services; providing fundraising services for others via a global computer network; providing grants for research in the arts; financial services, namely, business fundraising provided over a computer network such as the internet.

**Class 41:** Education; providing of training; entertainment; sporting and cultural activities; organising, arranging, planning, co-ordinating, running, composing, scheduling, delegating, managing, hosting and conducting events, special events, annual events, conferences, assemblies, auditions, interviews, gatherings, webinars, on-line seminar, engagements seminars, teleseminars, symposiums, meetings, meet-ups, workshops, speaking platforms, and social networking meetings; organisation of competitions; organising, arranging, planning, co-ordinating, running, composing, scheduling, delegating, managing, hosting and conducting events, special events, annual events, conferences, assemblies, auditions, interviews, gatherings, webinars, on-line and offline seminars, engagements seminars, teleseminars, symposiums, meetings, meet-ups, workshops, speaking platforms, and social networking meetings, including, team building events, business breakfasts, lunches and dinners, golf events, press conferences, opening ceremonies, theme parties, VIP events, ceremonies, incentive events, retreats, engagement parties, birthday events, baby showers, family events, parties, music, sport.

**Class 42:** Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software; Computer services, namely, creating an online platform for presale and fundraising for creative projects; hosting an on-line community website featuring people raising money for creative projects; providing a web site featuring technology that enables users to invest and explore investments in digital currency, distributed ledger technology, initial coin offering (ico) and blockchain; software as a service featuring technology that enables users to offer goods for presale and pledge to purchase goods offered by others via a website; software as a service featuring technology that enables users to raise money for creative projects via a website; providing temporary use of non-

downloadable software for transmitting, streaming, and downloading music, videos, and audiovisual content.