

O/600/22

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003561907

BY NOW SERIES LIMITED TO REGISTER THE FOLLOWING TRADE MARK:

NOW
SERIES

IN CLASSES 16, 25, 27 AND 28

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 424315 BY SKY UK LIMITED

Background and Pleadings

1. On 29 November 2020, Now Series Limited ('the Applicant') filed an application to register the mark shown on the front page of this Decision, number UK00003561907. The application was published for opposition purposes in the *Trade Marks Journal* on 5 February 2021. Registration is sought in respect of the following:

Class 16 *Gift boxes; Gift boxes made of cardboard; Gift cards; Gift cartons; Gift certificates; Gift packaging; Gift paper; Gift tags; Cardboard gift boxes; Christmas gift wrap; Paper gift boxes; Plastic gift wrap; Activity books; Agenda books; Children's activity books; Children's books; Children's books incorporating an audio component; Educational books; Gift books; Graphic art books; Prayer books; Books; Books for children; Religious books.*

Class 25 *Clothes.*

Class 27 *Rubber mats; Rubber bath mats.*

Class 28 *Educational toys; Toys adapted for educational purposes.*

2. On 5 May 2021, the application was opposed by Sky UK Limited ('the Opponent') based on section 5(2)(b) of the Trade Marks Act 1994 ("the Act").¹ The Opposition is directed against the Applicant's goods in classes 16, 25 and 28 only.² The Opponent relies on the following four earlier registrations for its section 5(2)(b) ground, relying on only some of the goods and services in their respective specifications:³

¹ The Opposition was initially based on grounds under sections 5(2)(b), 5(3) and 5(4) of the Act. Grounds under section 5(3) and 5(4) were subsequently withdrawn.

² The Opposition was initially directed against the Application in its entirety. The Opposition was subsequently dropped in respect of the Applicant's class 27 goods.

³ The lists of goods and services upon which the Opponent seeks to rely are lengthy and are therefore reproduced in Appendix 5 to this Decision.

i) UK00003127306

NOW

Filing date: 19 August 2015

Date registration completed: 21 June 2019

Priority date: 24 February 2015

Priority country: Italy

Registered for goods and services in classes 9, 16, 28, 35, 36, 41, 42 and 45. The specification is lengthy and therefore not reproduced here.⁴ The goods and services upon which the Opponent seeks to rely are set out in the Appendix to this Decision.

ii) UK00003123271



Filing date: 19 August 2015

Date registration completed: 4 November 2016

Priority date: 24 February 2015

Priority country: Italy

Registered for goods and services in classes 9, 16, 28, 35, 36, 38, 41, 42 and 45. The specification is lengthy and therefore not reproduced here.⁵ The goods and services upon which the Opponent seeks to rely are set out in the Appendix to this Decision.

iii) UK00003126405

NOW TV

Filing date 9 September 2015

Date registration completed: 28 October 2016

⁴ The full specification can be viewed on the Register here: [Search for a trade mark - Intellectual Property Office \(ipo.gov.uk\)](#)

⁵ The full specification can be viewed on the Register here: [Search for a trade mark - Intellectual Property Office \(ipo.gov.uk\)](#)

Registered for goods and services in classes 9, 16, 28, 35, 36, 38, 41, 42 and 45. The specification is lengthy and therefore not reproduced here.⁶ The goods and services upon which the Opponent seeks to rely are set out in the Appendix to this Decision.

iv) UK00003243763



Filing date: 14 July 2017

Date registration completed: 15 December 2017.

Registered for goods and services in classes 9, 14, 16, 18, 21, 24, 25, 28, 32, 35, 36, 38, 41, 42 and 45. The specification is lengthy and therefore not reproduced here.⁷ The goods and services upon which the Opponent seeks to rely are set out at Appendix to this Decision.

3. The Opponent claims that the applied-for mark is highly similar to the earlier trade marks and that the class 16, 25 and 28 goods in respect of which registration is sought are identical and/or similar to certain of the goods and services in respect of which the earlier marks are registered.⁸ The Opponent claims that this will lead to a likelihood of confusion between the marks.
4. The Applicant filed a Defence and Counterstatement in which it denies the section 5(2)(b) claim against it in its entirety.
5. Neither party has filed evidence. A hearing was neither requested nor considered necessary. Written submissions in lieu of a hearing have been filed by the Opponent only.
6. The Opponent is represented by Mishcon De Reya LLP; the Applicant represents himself.

⁶ The full specification can be viewed on the Register here: [Search for a trade mark - Intellectual Property Office \(ipo.gov.uk\)](#)

⁷ The full specification can be viewed on the Register here: [Search for a trade mark - Intellectual Property Office \(ipo.gov.uk\)](#)

⁸ These are set out in Appendix 5 to this Decision.

7. The following decision has been made after careful consideration of the papers before me.

Decision

Section 5(2)(b) of the Act and related case law

8. Section 5(2)(b) of the Act states:

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

(a) ...

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

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

9. In accordance with section 6 of the Act, the Opponent’s marks are earlier marks by virtue of their earlier filing dates, each of which fell before the filing date of the applied-for mark on 29 November 2020.

10. Section 6A of the Act provides that where the date on which the registration procedure of the earlier mark was completed more than 5 years prior to the application date (or priority date) of the applied-for mark, the Opponent may be required to prove use of the earlier mark. In the instant case, section 6A is not engaged because each of the Opponent’s earlier marks had been registered for less than five years on the date on which the Applicant filed its application. The Opponent is therefore entitled to rely upon all of the goods and services that it seeks to rely upon.

11. The following principles are derived from the decisions of the Court of Justice of the European Union (“CJEU”) in:

Sabel BV v Puma AG, Case C-251/95; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97; *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97; *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98; *Matratzen Concord GmbH v OHIM*, Case C-3/03; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C120/04; *Shake di L. Laudato & C. Sas v OHIM*, Case C-334/05P; and *Bimbo SA v OHIM*, Case C-591/12P

The principles:

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

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

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

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

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

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

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

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

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

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

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

Comparison of goods and services

12. 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.”

13. I must therefore be mindful of the fact that the appearance of respective services in the same class is not a sufficient condition for similarity between those services, and neither are they to be found dissimilar simply because some services may fall in a different class.

14. I must also bear in mind the decision of the General Court ('GC') in *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05:

“29. ... 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”.

15. The CJEU in *Canon*, Case C-39/97, stipulates that all relevant factors relating to a parties' goods and services must be taken into account:

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

16. Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281⁹, identified the following factors for assessing similarity of the respective goods and services:

- (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. Goods or services will be found to be in a competitive relationship only where one is substitutable for the other.¹⁰

18. 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 [or services]. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the General Court 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”.

⁹ *British Sugar Plc v James Robertson & Sons Ltd* [1996] R. P. C. 281, pp 296-297.

¹⁰ *Lidl Stiftung & Co KG v EUIPO*, Case T-549/14.

19. The Tribunal may group goods (or services) together for the purposes of assessment:

Separode Trade Mark BL O-399-10 (AP):

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

20. The Opponent has set out its points in respect of the similarity or identity between the respective goods and services in the following table¹¹:

Goods and services covered by the Earlier Marks	Goods covered by the Application
<p>The class 16 goods of the Application comprise, at the general level, the following: (i) Boxes; (ii) Cards; (iii) Certificates; (iv) Packaging; (v) Paper; (vi) Wrapping, and (v) Books.</p> <p>Of the above each of boxes, cards, paper and books are per se¹ all protected by the UK Trade Mark Registration no. 3127306 ('306) giving rise to identity of goods between the Application and '306.</p> <p>In relation to the remaining goods claimed by the Application they are either identical or highly similar to the goods protected by class 16 of the '306 for the following reasons:</p> <ul style="list-style-type: none"> - Certificates: Certificates are a type of printed matter² (printed matter³ is covered by the '306); - Packaging: the '306 does not claim packaging per se but covers various forms of packaging such as "cardboard packaging, packaging bags of paper or cardboard, packaging boxes of paper or cardboard, packaging container of paper or cardboard"; and - Wrapping: the '306 does not claim wrapping per se but covers various forms of wrapping such as "wrapping paper" 	<p>Class 16</p> <p>Gift boxes; gift boxes made of cardboard; gift cards; gift cartons; gift certificates; gift packaging; gift paper; gift tags; cardboard gift boxes; Christmas gift wrap; paper gift boxes; plastic gift wrap; activity books; agenda books; children's activity books; children's books; children's books incorporating an audio component; educational books; gift books; graphic art books; prayer books; books; books for children; religious books.</p>
<p>The class 25 goods of the Application are identical to the clothing protected by UK Trade Mark Registration No. 3243763 ('763)</p> <p>Further, the '306 covers clothing retail services which is highly similar to the "clothes" of the Application because it is reasonable to conclude that a single economic undertaking would naturally be regarded as responsible for providing not only the goods in question (i.e. clothing), but also retail services of the kind in question (the retailing of clothing)⁴.</p>	<p>Class 25</p> <p>Clothes</p>

¹¹ Opponent's written submissions in lieu of a hearing, paragraph [3.1].

The '306 covers games, playthings and toys other than musical toys. Such goods are identical to the class 28 goods of the Application. To the extent that the class 28 goods of the Application include musical toys, they are clearly highly similar.	Class 28 Educational toys; Toys adapted for educational purposes
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21. Although the Opponent sought to rely on its four earlier registrations in its Statement of Grounds, in respect of the comparison of the goods and services, its written submissions only make reference to the earlier registrations i) UK00003127306 and iv) UK00003243763.

22. Class 25

The Applicant's broad term *clothes* is identical to the Opponent's term *Clothing [...]* under its earlier registration UK00003243763 and will encompass all of the Opponent's terms comprising items of clothing. The respective parties' goods are therefore identical.

23. I also find the Applicant's *clothes* to have a medium level of similarity with the Opponent's term *the bringing together, for the benefit of others of a variety of goods namely [...] clothing [...]* which appears under all four of the earlier registrations. Although the purposes of the respective goods and service will differ (i.e. the Opponent's goods concerned with the bringing together of the goods for purchase, whereas the Applicant's goods are intended to clothe/cover/protect/keep warm/keep dry), users and trade channels will overlap. I also consider the respective goods and services to be complementary; the goods are indispensable to the delivery of the Opponent's services (i.e. retail of clothing) and the average consumer may presume both to originate from the same undertaking.

24. Class 16

I group together the following of the Applicant's terms, all being books of one sort of another: *Activity books; Agenda books; Children's activity books; Children's books; Children's books incorporating an audio component; Educational books; Gift books; Graphic art books; Prayer books; Books; Books for children; Religious books*. These terms will be encompassed by the Opponent's broad term *books*, which appears under each of its four earlier registrations. These goods are

therefore 'Meric' identical.

25. The Applicant's term *gift cards* will, in my view, be akin to gift 'vouchers' i.e. a form of 'credit' to be spent at a specified retailer/service provider, as the case may be. I compare these goods to the Opponent's *vouchers, all for holidays and for travel to and from the destination* under each of its four earlier registrations. The purposes will overlap to the broad extent that the bearer of the giftcard/voucher will be entitled to receive goods or services¹² (or a discount in respect thereof) equal to the value of the credit on the giftcard/voucher. Users may overlap. Trade channel overlap is possible. The goods will have similar natures where both take the form of a card. (It is appreciated that gift vouchers will, in some cases, be in the form of paper, rather than card). There is competition between the goods; one might deliberate over whether to purchase a travel voucher or a gift card. I do not find complementarity. I therefore find that the respective goods will have a high level of similarity. The fact that gift vouchers will not always be in the form of a card prevents me from making a finding of 'Meric' identity.

26. I find the Applicant's *Gift certificates* to have a high level of similarity with the Opponent's *vouchers, all for holidays and for travel to and from the destination*, for similar reasons.

27. I group together the following of the Applicant's goods, all being boxes of one sort or another: *Gift boxes; Gift boxes made of cardboard; Cardboard gift boxes; Paper gift boxes*. Aside from the term *gift boxes* (which will also include boxes made from materials other than paper/cardboard), these goods will be encompassed by the Opponent's broad term *boxes of cardboard or paper* under each of its four earlier registrations. The Applicant's term *gift boxes* will encompass the Opponent's *boxes of cardboard or paper*. I find these goods to be 'Meric' identical.

¹² Services, in the case of the Opponent's vouchers.

28. The term *gift paper* appears in the Applicant's specification as well as under the Opponent's earlier registrations UK00003127306, UK00003123271 and UK00003126405. These goods are self-evidently identical. The Applicant's *Christmas gift wrap* will also fall under the Opponent's *gift paper* under these three earlier registrations. These goods will therefore be 'Merix' identical.
29. The Applicant's *Gift packaging* will encompass the Opponent's narrower terms *gift paper* and *wrapping paper* under the earlier registrations UK00003127306, UK00003123271 and UK00003126405. These goods will therefore be 'Merix' identical.
30. The Applicant's *Gift tags* will, in my view, be encompassed by the Opponent's term *string tags* under its earlier registrations UK00003127306, UK00003123271 and UK00003126405. These goods will therefore be 'Merix' identical.
31. I compare the Applicant's *Gift cartons* against the Opponent's term *boxes* under each of its four earlier registrations. The respective goods will overlap in purpose; both are used as receptacles for gifts (and *boxes* encompasses *gift boxes*). Users of both will be predominantly the general public i.e. individuals intending to present gifts. Trade channels will overlap; the same retail outlets will offer both *gift cartons* and gift boxes. The goods are substitutable; one might deliberate over whether to purchase a *gift carton* or a gift box. The goods are not complementary; neither is necessary or important for the other. I therefore find the respective goods to be highly similar.
32. The Applicant's *Plastic gift wrap* will be encompassed by the Opponent's *plastic film for wrapping* under all four of its earlier registrations. The respective goods are therefore 'Merix' identical.
33. Class 28
- I consider the Applicant's *Educational toys* and *Toys adapted for educational purposes* to be synonymous. I compare these to the Opponent's broad term *Toys other than musical toys* under each of its four earlier registrations. I find that the goods under both of the Applicant's terms will be encompassed by the

Opponent's term only to the extent that the toys are not musical. In these circumstances, the respective goods will be 'Merix' identical. Where the Applicant's terms include toys that *are* musical, I consider that these goods will be highly similar owing to overlapping purposes (i.e. the goods are to be played with), shared users and trade channels, and being in a competitive relationship.

Average consumer and the purchasing act

34. In *Hearst Holdings Inc*¹³ Birss J. (as he then was) described the average consumer thus:

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

35. I consider that the average consumer, in case of all of the goods that come into play in this Opposition, will be the general public. I recognise that a smaller number of purchases will be purchased by professionals.



36. The respective parties' class 16 goods are low value 'every day' items which will be purchased fairly frequently. The goods will be purchased from physical shops or online. The purchasing act will be primarily visual, the goods being self-selected from shelves/displays in physical shops, or 'clicked on' in the case of goods online. I appreciate that there will be an aural aspect to the purchasing process where requests are made to retail staff. The average consumer will, in my view, pay a low to medium level of attention when purchasing these goods.

¹³ *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).

37. I now consider the class 25 goods (clothes). The goods will be from physical shops or websites. The purchasing act will be primarily visual. In physical shops, the goods will be self-selected from rails and often tried on. Purchasers of clothing will also tend to examine the items by 'feel'. There will be an aural aspect to the purchasing process where requests are made to retail staff. In the case of items purchased online, the items will be self-selected by 'clicking on' the item having viewed the product listing. These goods will, in my view, be purchased with a medium level of attention. Factors considered during the purchasing process will be, *inter alia*, the size, materials and fit of the clothing.

38. I now consider the class 28 goods. The goods will be available in physical shops and online. The purchasing act will be primarily visual; the goods being self-selected from shelves or online. There will be an aural aspect to the purchasing process where requests are made to retail staff. In my view, there will be cases where the purchaser will want to observe how the goods work or see a demonstration of the item before committing to a transaction. In my view, the average consumer will pay at least a medium level of attention when making a purchase. Factors considered when making the purchase will include, *inter alia*: the age range for which the goods are suitable; durability; safety.

Comparison of the marks

<p>Opponent's (earlier) marks:</p> <p>i) UK00003127306 NOW</p> <p>ii) UK00003123271 </p> <p>iii) UK00003126405 NOW TV</p> <p>iv) UK 00003243763</p>	<p>Applicant's (contested) mark:</p> 
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39. 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.”

40. 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.

41. The Opponent has, in its written submissions¹⁴, focused on the comparison against its earlier mark i) UK00003127306 ‘NOW’. It has submitted that the parties’ respective marks are ‘highly similar’ and that the ‘SERIES’ component has ‘no or at best very low distinctive character’.

Earlier mark i) UK00003127306:

¹⁴ Opponent’s written submissions, paragraph [4.2].

42. I will consider the Opponent's earlier registration i) UK00003127306 first. The Opponent's mark is a word mark¹⁵ consisting of a single three-letter word 'NOW', all characters rendered in a plain sans-serif font and in upper case. The overall impression of the mark resides in the mark in its entirety.

43. The Applicant's mark consists of two word elements 'NOW' and 'SERIES', with some stylisation to the 'NOW' element. The word 'NOW' is rendered in a heavily emboldened green font, with all characters having what might be described as a 'rounded' appearance. Each letter is touching its neighbour (i.e. there are no gaps between the letters). The 'Series' element appears in much smaller lettering rendered in a plain black font positioned beneath the 'Now' element. The overall impression of the mark resides in the mark in its entirety, with the 'Now' element having visual prominence owing to its relative size and the fact that 'Series' has a low level of distinctive character, on the basis that it is indicative that the goods or services offered under the mark are likely to be part of a series..

44. Visual comparison

The respective marks share the element 'Now'. Whilst this element is presented in green and in a rounded font in the Applicant's mark, as mentioned above, the Opponent's mark is a word mark and may be used in a range of colours and fonts. Therefore, the only real point of visual difference is the presence of the word 'series' in the Applicant's mark, which is absent from the Opponent's mark. Although the word 'series' will have a low level of distinctive character, its presence is not negligible and will not go unnoticed by the average consumer. I therefore find the marks to have a level of similarity in the medium to high range.

¹⁵ In *LA Superquimica v EUIPO*, Case T-24/17, at paragraph [39] it was held that:

' [...] it should be noted that a word mark is a mark consisting entirely of letters, words or groups of words, without any specific figurative element. The protection which results from registration of a word mark thus relates to the word mentioned in the application for registration and not the specific figurative or stylistic aspects which that mark might have. As a result, the font in which the word sign might be presented must not be taken into account. It follows that a word mark may be used in any form, in any colour or font type (see judgment of 28 June 2017, *Josel v EUIPO — Nationale-Nederlanden Nederland (NN)*, T-333/15, not published, EU:T:2017:444, paragraphs 37 and 38 and the case-law cited).'

45. Aural comparison

The average consumer will articulate the word 'now' as 'NAOW'. The Applicant's mark will be articulated as 'NAOW SEAR-EES'. The only point of aural difference between the marks derives from the element 'series', present in the Applicant's mark and absent from the Opponent's mark. This aural difference will be perceived by the average consumer. I therefore find that the respective parties' marks have a medium level of aural similarity.

46. Conceptual comparison

The word 'now' is an English dictionary word with which the average UK consumer will be very familiar. It will be understood as a reference to 'the present' and will convey the idea of immediacy. In the context of the goods and services in respect of which the mark is registered, 'Now' may also allude to something being 'up to date' or 'on trend'. The word 'series' is also a commonly-used English word familiar to the average consumer. It will, to my mind, be understood by the average consumer as: referring to a number of objects of a related kind; or a number of events or numbers occurring sequentially. In the context of the goods and the mark as a whole, it is my view the consumer will attribute the former meaning to the word 'series', which will convey to the consumer the concept of a collection of related goods. The 'series' element will therefore at best be very low in distinctive character. In the light of the foregoing, I find the respective parties' marks to be conceptually similar to a high degree.

Earlier mark ii) UK00003123271:

47. The Opponent's mark comprises a single word 'NOW', which has some stylisation. The characters are rendered in a heavily emboldened white font which might be described as 'rounded'. The 'O' appears as a solid white circle (i.e. it does not have the central aperture). The 'Now' element is italicised and set against a solid white background. The overall impression of the mark resides in the mark in its entirety.

Visual comparison

48. The 'Now' component of the Applicant's mark shares a similar 'rounded' font with the Opponent's mark, albeit that the lettering in the Opponent's mark is italicised. The only significant point of visual difference is the presence of the word 'series' in the Applicant's mark, which is absent from the Opponent's mark. I find the marks to have a level of similarity in the medium to high range.

Aural comparison

49. My assessment above at [45] in respect of the Opponent's earlier mark UK00003127306 also applies here. The respective parties' marks have a medium level of aural similarity.

Conceptual comparison

50. My assessment above at [46] in respect of the Opponent's earlier mark UK00003127306 also applies here. I find the respective parties' marks to be conceptually similar to a high degree.

Earlier mark iii) UK00003126405:

51. The Opponent's mark is a word mark consisting of two words 'NOW' and 'TV', all characters rendered in a plain sans-serif font and in upper case. The overall impression of the mark resides in the mark in its entirety.

Visual comparison

52. The only real points of visual difference are the presence of the element 'TV' in the Opponent's mark, which is absent from the Applicant's mark; and the presence of the element 'Series' in the Applicant's mark, which is absent from the Opponent's mark. I therefore find the marks to have a least a medium level of similarity.

Aural comparison

53. The Opponent's mark will be articulated as 'NAOW TEE-VEE'. Both marks comprise three syllables. There is assonance between the final two syllables of the respective marks: 'SEAR-EES' and 'TEE-VEE'. The difference in the sounds

of the consonants will nevertheless be perceived by the average consumer. I therefore find that the respective parties' marks have a medium to high level of aural similarity.

Conceptual comparison

54. The word 'Now' will be understood by the average consumer in the sense outlined above at [46]. I consider that the 'TV' element will be understood as an abbreviation of the word 'television'. In my view, 'Now TV' will be perceived by the average consumer as a reference to a television channel with up-to-date or 'on trend' content, or, perhaps, providing content that is immediately available. I find the respective marks to be conceptually similar to a medium-high degree.

Earlier mark iv) UK00003243763:

55. My comments above at [47] apply, in large part, to this mark. The only difference between this mark and earlier mark UK00003123271 being the addition of the 'TV' element as a 'super script' in this mark (UK00003243763). The overall impression of the mark resides in its entirety, with the 'NOW' element having the visual edge due to its relative size as compared to the much smaller 'TV' element presented as a superscript.

56. Visual comparison

My comparison above at [48] against the Opponent's earlier mark ii) UK00003123271, for the most part, also applies here. The earlier mark iv) UK00003243763 differs from earlier mark ii) UK00003123271 only by virtue of the presence of the element 'TV' which appears in much smaller font as a superscript to the 'NOW' element. The only point of visual difference between the respective parties' marks is the presence of 'series' in the Applicant's mark, which is absent from the Opponent's mark; and the presence of 'TV' in the Opponent's marks, which is absent from the Applicant's mark. I consider the respective parties' marks to be similar to at least a medium degree.

57. Aural comparison

My comments above at [53] also apply here. I find the marks to be aurally similar to a medium to high degree.

58. Conceptual comparison

My comments above at [54] also apply here. I find the respective marks to be conceptually similar to a medium-high degree.

Distinctive character of the earlier mark UK00003127306

59. *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).

60. 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.

61. 'Now' is a commonly used word which appears in the English dictionary. 'TV' is a well-known abbreviation for the word 'television'. I do not consider any of the Opponent's marks to be descriptive of the goods in respect of which they are registered. However, in registration UK00003243763 'NOW' may be very mildly allusive of the goods *clothing* covered by this registration to the extent that the word 'now' invoked the idea of being 'on trend'. However, the word TV will have no relevance in relation to the goods. I find that the earlier mark UK00003243763 has a medium level of inherent distinctive character for clothing.

62. I find that, in relation to the opponent's clothing retail services, the word NOW will be allusive of the immediacy of the services, and I find the marks displaying NOW alone to be distinctive to only a low to medium degree for these services, although for the same reasons as above, the distinctiveness of marks including 'TV' will be higher, sitting at a medium level. In respect of the remaining goods for which similarity has been found, I also consider that they possess no more than a medium level of inherent distinctive character.

63. The Opponent has not adduced any evidence. There is therefore no basis upon which the Tribunal may make a finding as to whether or not the earlier mark enjoys an enhanced level of inherent distinctive character.

Likelihood of confusion

64. Confusion can be direct or indirect. Mr Iain Purvis Q. C., as the Appointed Person, explained the difference in the decision of *L.A. Sugar Limited v Back*

*Beat Inc*¹⁶. Direct confusion occurs when one mark is mistaken for another. In *Lloyd Schuhfabrik*¹⁷, the CJEU recognised that the average consumer rarely encounters the two marks side by side but must rely on the imperfect picture of them that they have kept in mind. Direct confusion can therefore occur by imperfect recollection when the average consumer sees the later mark but mistakenly matches it to the imperfect image of the earlier mark in their ‘mind’s eye’. Indirect confusion occurs when the average consumer recognises that the competing marks are not the same in some respect, but the similarities between them, combined with the goods/services at issue, leads them to conclude that the goods/services are the responsibility of the same or economically linked undertaking.

65. I must keep in mind that a global assessment is required taking into account all of the relevant factors, including the principles a) – k) set out above at [11]. When considering all relevant factors ‘in the round’, I must bear in mind that a greater degree of similarity between goods/services *may* be offset by a lesser degree of similarity between the marks, and vice versa.

66. In my view, a significant proportion of average consumers would confuse the Applicant’s mark with the Opponent’s earlier marks i) UK00003127306 and ii) UK00003123271. I have found the levels of similarity between the goods to range from: medium; to very high; to identical. I have found the marks to be visually similar to a medium to high degree, and highly conceptually similar. The purchasing act will, in the case of all of the goods, be primarily visual. I note the observation by the General Court in the case of *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02 that the beginnings of words tend to have more of a visual and aural impact than the ends of words, although I recognise that this is not an absolute rule. Whilst I acknowledge that NOW holds only a low to medium or medium level of distinctive character depending on the goods or services covered, as already noted, the word ‘Series’ in the Applicant’s mark has a low

¹⁶ Case BL O/375/10 at [16].

¹⁷ *Lloyd Schuhfabrik Meyer and Co GmbH v Klijsen Handel BV* (C-34297) at [26].

level of distinctive character. The average consumer will pay no more than a medium level of attention during the purchasing process. It is my view that the average consumer may mistake the earlier marks for the Applicant's mark (or vice versa) because the mind's eye has failed to register the presence or absence of the 'Series' element. I find that there is a likelihood of direct confusion.

67. I now consider whether there is a likelihood of indirect confusion. I note that in the recent case of *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that "a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion". Arnold LJ agreed, pointing out that there must be a "proper basis" for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.

68. I have borne in mind *Whyte and Mackay*¹⁸ in which it was held that where an average consumer perceives that a composite mark consists of two or more elements, one of which has a distinctive significance independent of the mark as a whole, confusion may occur as a result of the similarity/identity of that element to the earlier mark. In my view, the element 'Now' retains its independent distinctive character when it becomes part of the Applicant's mark. I bear in mind the low distinctive character of the 'Series' element in the Applicant's mark and that the conceptual similarity of the marks is in the medium to high range.

69. Mr Purvis Q. C., as the Appointed Person, identified the following categories in *L.A. Sugar Limited v Back Beat Inc*¹⁹ where a finding of indirect confusion might be made:

(a) where the common element is so strikingly distinctive (either inherently or

¹⁸ *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271.

¹⁹ Case BL O/375/10

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)".

70. In my view, the instant case falls within category (b) where the Opponent's earlier marks i) UK00003127306 and ii) UK00003123271 marks (i.e. those comprising a single element 'NOW', whether stylised or not) are concerned. I find that the average consumer will perceive the Applicant's mark 'Now Series' either as a sub-brand or brand extension of the Opponent's 'NOW' marks. I therefore find that there is a likelihood of indirect confusion. Given my findings, I do not consider it necessary to make an assessment of likelihood of confusion in respect of the Opponent's remaining earlier marks iii) UK00003126405 and iv) UK00003243763 (the 'NOW TV' marks).

Conclusion

71. The Opposition has succeeded in full and, subject to any successful appeal against this Decision, the Application is refused.

COSTS

72. I award the Opponent the sum of **£700** as a contribution towards its costs, calculated as follows²⁰:

Preparation of statement and consideration of the Applicant's statement:	£300
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²⁰ [Tribunal practice notice \(2/2016\): Costs in proceedings before the Comptroller - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544423/Tribunal_practice_notice_2_2016_costs_in_proceedings_before_the_comptroller.pdf)

Preparation of written submissions in evidence round	£300
Official fee for 5(2)(b) only:	£100
Total:	£700

73. I therefore order Now Series Limited to pay to Sky UK Limited the sum of £700.

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 13th day of July 2022

N. R. Morris

For the Registrar,

the Comptroller-General

Appendix

Goods and Services upon which the Opponent seeks to rely:

UK Trade Mark Registration No. 3127306

Class 16: Paper and cardboard articles namely, albums, boxes, archive boxes, tubes, mailing tubes, office paper stationery, pads, notemakers, note pads, jotter, journal, refill pads, notebooks, business book, message pads, graph pad, tracing pads, flip chart pads, business card books, telephone/address books, files, folders, suspension files, pocket files, flap wallets, portfolio wallets, slip file, gusset files, box files, lever arch files, magazine file, ring binders, dividers, paper sorter, repositionable note, page markers, envelopes, labels, string tags, CD/DVD sleeves, year planners, bookmark, cardboard packaging, advertisement boards of paper or cardboard, advertising signs of paper or cardboard, banners of paper or cardboard, placards of paper or cardboard, sign boards of paper or cardboard, packaging bags of paper or cardboard, packaging boxes of paper or cardboard, packaging container of paper or cardboard, paper bags, disposable paper products decorative paper centrepieces, adhesive wall decoration of paper, wrapping paper, gift paper, paper party decorations, paper party bags, flags of paper or cardboard, paper badges, name badges, paper shopping bags, adhesive paper, hat boxes of cardboard, name cards, scented paper, Printed matter other than sheet music and song books; Photographs; Stationery; Adhesives for stationery or household purposes; Artists' materials; Instructional and teaching material (except apparatus); Plastic materials for packaging (not included in other classes); Advertisement boards of paper or cardboard; Albums; Announcement cards [stationery]; Bags (Conical paper -); Bags [envelopes, pouches] of paper or plastics, for packaging; Booklets; Bookmarkers; Books; Bottle envelopes of cardboard or paper; Bottle wrappers of cardboard or paper; Boxes of cardboard or paper; Bubble packs (Plastic -) for wrapping or packaging; Calendars; Cardboard; Cardboard articles; Cardboard tubes; Cards; Catalogues; Comic books; Copying paper [stationery]; Covers [stationery]; Cream containers of paper; Document files [stationery]; Document holders [stationery]; Drawing instruments; Drawing materials; Drawing pads; Drawing sets; Envelopes [stationery]; Files [office requisites]; Flags of paper; Flyers; Folders for papers; Folders [stationery]; Forms, printed; Graphic prints; Graphic representations; Graphic reproductions; Greeting cards; Handbooks [manuals]; Hat boxes of cardboard; Letters [type]; Magazines [periodicals]; Newsletters; Newspapers; Note books; Office requisites, except furniture; Packaging material made of starches; Packing paper; Pads [stationery]; Paint boxes [articles for use in school]; Pamphlets; Paper; Paper bows; Paper ribbons; Paper sheets [stationery]; Parchment paper; Periodicals; Placards of paper or cardboard; Place mats of paper; Plastic film for wrapping; Postcards; Posters; Printed matter other than sheet music and song books; Printed publications; Printed timetables; Prospectuses; School supplies [stationery]; Sheets of reclaimed cellulose for wrapping; Shields [paper seals]; Signboards of paper or cardboard; Silver paper; Stationery; Table linen of paper; Table napkins of paper; Tablecloths of paper; Tablemats of paper; Teaching materials [except apparatus]; Towels of paper; Viscose sheets for wrapping; Writing cases [sets]; Writing cases [stationery]; Writing instruments; Writing materials; Writing pads; Writing paper; comics, journals (publications) and books; instructional and teaching materials (other than apparatus); posters; postcards and greeting cards; calendars; diaries; cards and stickers for collecting and collating in albums; writing requisites; writing paper; writing sets; catalogues; adhesive stickers;; none of the aforementioned goods listed in this class having exclusively music related subject matter or being music themed.

Class 28: Games and playthings but not including musical games and playthings; Bells for Christmas trees; Candle holders for Christmas trees; Games; Games (Apparatus for -); paper toys; Playing cards Toys other than musical toys; electronic games but not including any such games that are music themed; hand-held devices for playing electronic, computer or video games; video games apparatus; parts and fittings for all the aforesaid goods; playing cards; interactive educational or entertainment games but not including any such games that are music themed; computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens but not including any music themed computer video games quizzes; games consoles interactive educational or entertainment games for use with television receivers and video apparatus but not including any music themed entertainment games; electronic computer games other than music themed electronic computer games;; parts and fittings for all of the above.

Class 35: the bringing together, for the benefit of others of a variety of goods namely apparatus for recording, transmission, reproduction or reception of sound, images or audio visual content, games controllers, wireless gaming controllers, electronic computer games, electronic interactive computer games, computer games software and computer quiz software, computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens, computer programs for interactive television and for interactive games and/or quizzes, electronic apparatus adapted for use with television receivers in playing games, games consoles, interactive video game devices comprised of computer hardware and software and accessories, namely game consoles, game controllers and software for operating game controllers, portable and/or hand-held electronic devices for interactive computer and video games, portable and/or hand-held electronic devices for receiving, playing and transmitting sounds, images, text, signals, information and code, , computer video games, interactive educational or entertainment games for use with television receivers and video apparatus, electronic publications (downloadable encyclopaedias, and reference texts (downloadable), online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials (downloadable), online posters, photographs, pictures, online electronic dictionaries, encyclopaedias and reference texts, paper, cardboard, printed matter, publications, newspapers, magazines (periodicals), comics, journals (publications) and books, publications including strategy guides, user manuals, books and magazines all in the field of computer games, science fiction, games and entertainment, quiz books, photographs, instructional and teaching materials (other than apparatus), posters, postcards and greeting cards, calendars, diaries, cards and stickers for collecting and collating in albums, writing requisites, rulers, erasers, writing paper, writing sets, adhesive stickers, advertising material, advertisements, bags, instructional manuals, newsletters, pens, pencils, writing instruments, pen and pencil holders, , stationery, user guides or manuals, printed matter, photographs, stationery, adhesives for stationery or household purposes, artists' materials, plastic materials for packaging, publications, magazines, including all the aforesaid made from recycled and/or unbleached materials and/or from organic matter clothing, footwear, headgear, underclothing, clothing for men, women, children and infants, jeans, slacks, trousers, skirts, shorts, wraps, jerseys, sweaters, waistcoats, dresses, jumpers, sleepwear, robes, warm-up suits, rainwear, sweaters, scarves, hats, caps, mittens, snow suits, belts, smocks, swimwear, playsuits, bibs, stockings, socks, waterproof clothing, underwear, footwear for men, women, children, and infants shoes, sneakers, sandals, slippers, boots, headgear for men, women, children, and infants hats, headbands, earmuffs, caps, sweaters, dress shirts, blouses, jackets, ties, suits, bathing suits, belts, skirts, dresses, coats, hats, caps, tuxedos, pants, vests, hosiery, scarves, pyjamas, underwear, kilts, mufflers, shawls, footwear, shoes, boots, slippers, and athletic shoes, blazers, headbands, wristbands, coveralls, overalls, sweat pants, and sleepwear, art, paintings, posters, postcards, prints, photographs, toys, games and playthings, electronic games, hand-held devices for playing electronic, computer or video games, video games apparatus, playing cards, card games, sporting articles, games involving gambling, amusement machines, amusement apparatus and instruments, interactive educational or entertainment games, playing cards, , enabling customers to conveniently view and purchase those goods including via an Internet website, an interactive television shopping channel, a digital television shopping channel, an Internet walled garden or by means of interactive television and/or telecommunications (including voice, telephony and/or transfer of digital information or data) and/or interactive digital media; education and training services, education, training and entertainment services in the form of skills studios for children and young people in the field of media, television and news reporting, education, training, entertainment and sporting activities involving athletes and celebrities in the form of initiatives to promote confidence, sports skills and life skills in children and young people, education, training and entertainment services related to the promotion of creative skills in children and young people, including creative studios, financial services relating to scholarships and bursary schemes for children and young people in the fields of sport, the arts, media and television, promotional services relating to work experience and employment opportunities for young people, promotional services relating to apprenticeships and graduate employment, education, training and entertainment services in the field of initiatives to inspire young people and to provide them with life skills, business skills, opportunities for development and self-confidence, administration services relating to the organising and conduction of volunteer programmes and community services projects, educational course services, correspondence course services training course services, professional workshop and training course services, education services, computer games, and images provided by internet, gaming apparatus, equipment and instrument installation and repair services, online gaming services online magazine

and books services, tuition services; The bringing together, for the benefit of others, of a variety of education and training services, education, training and entertainment services in the form of skills studios for children and young people in the field of media, television and news reporting, education, training, entertainment and sporting activities involving athletes and celebrities in the form of initiatives to promote confidence, sports skills and life skills in children and young people, education training and entertainment services related to the promotion of creative skills in children and young people, including creative studios, financial services relating to scholarships and bursary schemes for children and young people in the fields of sport, the arts, media and television, promotional services relating to work experience and employment opportunities for young people, promotional services relating to apprenticeships and graduate employment, education, training and entertainment services in the field of initiatives to inspire young people and to provide them with life skills, business skills, opportunities for development and self-confidence, information and advisory services relating to all the aforesaid services; provision of business information and advice; none of the aforesaid services listed in this class being provided in connection with musical sound recordings, downloadable music, musical performances; none of the aforementioned services relating to tourist services, hotel services and services for providing and preparing food and drink, restaurant, bar and catering services.

Class 41: Education; Providing of training; Entertainment; Education information; Games equipment rental; Providing on-line electronic publications, not downloadable; Publication of books; Publication of electronic books and journals on-line; Publication of texts, other than publicity texts; Religious education; Toy rental; Writing of texts, other than publicity texts; education and entertainment services by means of radio, television, telephony, the Internet and on-line databases; hiring, rental and leasing of cine-films, videos, DVDs, sound recordings, sound recording apparatus, sports apparatus, television sets and video recorders, DVD recorders and radio recorders; providing on-line electronic publications (not downloadable); publication of magazines, books, texts and printed matter; publication of electronic books or journals on-line; provision of electronic publications; online dictionaries, encyclopaedias, and reference texts; provision of online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; online posters, photographs, pictures, articles; production, presentation and distribution of radio and television programmes, interactive games; electronic publishing services; establishing training programmes and training manuals; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current affairs, satellite, television and radio programmes, films, books and other printed matter, video games, computer games, amusement machines, amusement centres or amusement parks; online library services including the lending and exchanging of books and other publications and photographs;; none of the aforesaid services listed in this class being provided in connection with musical sound recordings, downloadable music, musical compositions or musical performances; none of the aforementioned services relating to tourist services, hotel services and services for providing and preparing food and drink, restaurant, bar and catering services.

Class 16: Paper and cardboard articles namely, albums, boxes, archive boxes, tubes, mailing tubes, office paper stationery, pads, notemakers, note pads, jotter, journal, refill pads, notebooks, business book, message pads, graph pad, tracing pads, flipchart pads, business card books, telephone/address books, files, folders, suspension files, pocket files, flap wallets, portfolio wallets, slip file, gusset file, box files, lever arch files, magazine file, ring binders, dividers, paper sorter, repositionable note, page markers, envelopes, labels, string tags, CD/DVD sleeves, year planners, bookmark, cardboard packaging, advertisement boards of paper or cardboard, advertising signs of paper or cardboard, placards of paper or cardboard, signboards of paper or cardboard, packaging bags of paper or cardboard, packaging boxes of paper or cardboard, packing container of paper or cardboard, paper bags, decorative paper centrepieces, adhesive wall decoration of paper, wrapping paper, gift paper, paper party decorations, paper party bags, flags of paper or cardboard, paper badges, name badges, paper shopping bags, adhesive paper, hat boxes of cardboard, name cards, scented paper, Printed matter other than sheet music and song books; Photographs; Stationery; Adhesives for stationery or household purposes; Artists' materials; Instructional and teaching material (except apparatus); Plastic materials for packaging (not included in other classes); Advertisement boards of paper or cardboard; Albums; Announcement cards [stationery]; Bags (Conical paper -); Bags [envelopes, pouches] of paper or plastics, for packaging; Booklets; Bookmarkers; Books; Bottle envelopes of cardboard or paper; Bottle wrappers of cardboard or paper; Boxes of cardboard or paper; Bubble packs (Plastic -) for wrapping or packaging; Calendars; Cardboard; Cardboard articles; Cardboard tubes; Cards; Catalogues; Comic books; Copying paper [stationery]; Covers [stationery]; Cream containers of paper; Document files [stationery]; Document holders [stationery]; Drawing instruments; Drawing materials; Drawing pads; Drawing sets; Envelopes [stationery]; Files [office requisites]; Flags of paper; Flyers; Folders for papers; Folders [stationery]; Forms, printed; Graphic prints; Graphic representations; Graphic reproductions; Greeting cards; Handbooks [manuals]; Hat boxes of cardboard; Letters [type]; Magazines [periodicals]; Newsletters; Newspapers; Note books; Office requisites, except furniture; Packaging material made of starches; Packing paper; Pads [stationery]; Paint boxes [articles for use in school]; Pamphlets; Paper; Paper bows; Paper ribbons; Paper sheets [stationery]; Parchment paper; Periodicals; Placards of paper or cardboard; Place mats of paper; Plastic film for wrapping; Postcards; Posters; Printed matter other than sheet music and song books; Printed publications; Printed timetables; Prospectuses; School supplies [stationery]; Sheets of reclaimed cellulose for wrapping; Shields [paper seals]; Signboards of paper or cardboard; Silver paper; Stationery; Table linen of paper; Table napkins of paper; Tablecloths of paper; Tablemats of paper; Teaching materials [except apparatus]; Towels of paper; Viscose sheets for wrapping; Writing cases [sets]; Writing cases [stationery]; Writing instruments; Writing materials; Writing pads; Writing paper; comics, journals (publications) and books; instructional and teaching materials (other than apparatus); posters; postcards and greeting cards; calendars; diaries; cards and stickers for collecting and collating in albums; writing requisites; writing paper; writing sets; catalogues; adhesive stickers; instructional manuals; newsletters; ; none of the aforementioned goods listed in this class having exclusively music related subject matter or being music themed.

Class 28: Games and playthings but not including musical games and playthings ;Decorations for Christmas trees;]; Bells for Christmas trees; Christmas trees of synthetic material ;Games; Games (Apparatus for -); Playing cards Toys other than musical toys; electronic games but not including any such games that are music themed; hand-held devices for playing electronic, computer or video games; video games apparatus; parts and fittings for all the aforesaid goods; playing cards; interactive educational or entertainment games but not including any such games that are music themed; computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens but not including any music themed computer video games quizzes; games consoles; interactive educational or entertainment games for use with television receivers and video apparatus but not including any music themed entertainment games; electronic computer games other than music themed electronic computer games;; paper toys; paper party hats; paper party favours; paper trumpets; paper face masks; parts and fittings for all of the above.

Class 35: the bringing together, for the benefit of others of a variety of goods namely apparatus for recording, transmission, reproduction or reception of sound, images or audio visual content, games controllers, wireless

gaming controllers, electronic computer games, electronic interactive computer games, computer games software and computer quiz software, computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens, computer programs for interactive television and for interactive games and/or quizzes, electronic apparatus adapted for use with television receivers in playing games, games consoles, interactive video game devices comprised of computer hardware and software and accessories, namely game consoles, game controllers and software for operating game controllers, portable and/or hand-held electronic devices for interactive computer and video games, portable and/or hand-held electronic devices for receiving, playing and transmitting sounds, images, text, signals, information and code, , computer video games, interactive educational or entertainment games for use with television receivers and video apparatus, electronic publications (downloadable encyclopaedias, and reference texts (downloadable), online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials (downloadable), online posters, photographs, pictures, online electronic dictionaries, encyclopaedias and reference texts, paper, cardboard, printed matter, publications, newspapers, magazines (periodicals), comics, journals (publications) and books, publications including strategy guides, user manuals, books and magazines all in the field of computer games, science fiction, games and entertainment, quiz books, photographs, instructional and teaching materials (other than apparatus), posters, postcards and greeting cards, calendars, diaries, cards and stickers for collecting and collating in albums, writing requisites, rulers, erasers, writing paper, writing sets, adhesive stickers, advertising material, bags, instructional manuals, newsletters, pens, pencils, writing instruments, pen and pencil holders, , stationery, user guides or manuals, printed matter, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, plastic materials for packaging, publications, magazines, including all the aforesaid made from recycled and/or unbleached materials and/or from organic matter shopping bags, clothing, footwear, headgear, underclothing, clothing for men, women, children and infants, jeans, slacks, trousers, skirts, shorts, wraps, jerseys, sweaters, waistcoats, dresses, jumpers, sleepwear, robes, warm-up suits, rainwear, sweaters, scarves, hats, caps, mittens, snow suits, belts, smocks, swimwear, playsuits, bibs, stockings, socks, waterproof clothing, underwear, footwear for men, women, children, and infants shoes, sneakers, sandals, slippers, boots, headgear for men, women, children, and infants hats, headbands, earmuffs, caps, sweaters, dress shirts, blouses, jackets, ties, suits, bathing suits, belts, skirts, dresses, coats, hats, caps, tuxedos, pants, vests, hosiery, scarves, pyjamas, underwear, kilts, mufflers, shawls, footwear, shoes, boots, slippers, and athletic shoes, blazers, headbands, wristbands, coveralls, overalls, sweat pants, and sleepwear, art, paintings, posters, postcards, prints, photographs, toys, games and playthings, electronic games, hand-held devices for playing electronic, computer or video games, video games apparatus, playing cards, card games, sporting articles, games involving gambling, amusement machines, amusement apparatus and instruments, interactive educational or entertainment games, playing cards, , enabling customers to conveniently view and purchase those goods including via an Internet website, an interactive television shopping channel, a digital television shopping channel, an Internet walled garden or by means of interactive television and/or telecommunications (including voice, telephony and/or transfer of digital information or data) and/or interactive digital media; information and advisory services relating to all the aforesaid services; provision of business information and advice; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the Internet.

Class 41: Education; Providing of training; Entertainment; online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; online posters, photographs, pictures, articles; Coaching [training]; Education information; Educational examination; Game services provided on-line from a computer network; Games equipment rental; Providing on-line electronic publications, not downloadable; Publication of books; Publication of electronic books and journals on-line; Publication of texts, other than publicity texts; Religious education; Toy rental; Writing of texts, other than publicity texts; education and entertainment services by means of radio, television, telephony, the Internet and on-line databases; hiring, rental and leasing of cine-films, videos, DVDs, sound recordings, sound recording apparatus, sports apparatus, television sets and video recorders, DVD recorders and radio recorders; providing on-line electronic publications (not downloadable); publication of magazines, books, texts and printed matter; publication of electronic books or journals on-line; provision of electronic publications; Providing user access to online dictionaries, encyclopaedias, and reference texts; provision of online publications,

including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; online posters, photographs, pictures, articles; production, presentation and distribution of radio and television programmes, interactive games; educational or entertainment games played online; electronic publishing services; establishing training programmes and training manuals; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current affairs, satellite, television and radio programmes, films, books and other printed matter, video games, computer games, amusement machines, amusement centres or amusement parks; online library services including the lending and exchanging of books and other publications and photographs; provision of online classes, seminars, workshops, exhibitions and displays; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the Internet; none of the aforesaid services listed in this class being provided in connection with musical sound recordings, downloadable music, musical compositions or musical performances.

Class 16: Paper, cardboard articles namely, albums, boxes, archive boxes, tubes, mailing tubes, office paper stationery, pads, notemakers, note pads, jotter, journal, refill pads, notebooks, business book, message pads, graph pad, tracing pads, flipchart pads, business card books, telephone/address books, files, folders, suspension files, pocket files, flap wallets, portfolio wallets, slip file, gusset files, box files, lever arch files, magazine file, ring binders, dividers, paper sorter, repositionable note, page markers, envelopes, labels, string tags, CD/DVD sleeves, year planners, bookmark, cardboard packaging, advertisement boards of paper or cardboard, advertising signs of paper or cardboard, banners of paper or cardboard, placards of paper or cardboard, signboards of paper or cardboard, packaging bags of paper or cardboard, packaging boxes of paper or cardboard, packaging container of paper or cardboard, paper bags, disposable paper products, decorative paper centrepieces, adhesive wall decoration of paper, wrapping paper, gift paper, paper party decorations, paper party bags, flags of paper or cardboard, paper badges, name badges, paper shopping bags, adhesive paper, hat boxes of cardboard, name cards, scented paper, Printed matter other than sheet music and song books; photographs; adhesives for stationery or household purposes; artists' materials; instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); Adhesives for stationery or household purposes; Artists' materials; Instructional and teaching material (except apparatus); Plastic materials for packaging (not included in other classes); Advertisement boards of paper or cardboard; Albums; Announcement cards [stationery]; Bags [envelopes, pouches] of paper or plastics, for packaging; Booklets; Bookmarkers; Books; Bottle envelopes of cardboard or paper; Bottle wrappers of cardboard or paper; Boxes of cardboard or paper; Calendars; Cardboard tubes; Cards; Catalogues; Comic books; Copying paper [stationery]; Covers [stationery]; Cream containers of paper; Document files [stationery]; Document holders [stationery]; Drawing instruments; Drawing materials; Drawing pads; Drawing sets; Envelopes [stationery]; Files [office requisites]; Flags of paper; Flyers; Folders for papers; Folders [stationery]; Forms, printed; Graphic prints; Graphic representations; Graphic reproductions; Greeting cards; Handbooks [manuals]; Hat boxes of cardboard; Letters [type]; Magazines [periodicals]; Newsletters; Newspapers; Note books; Office requisites, except furniture; Packaging material made of starches; Packing paper; Pads [stationery]; Paint boxes [articles for use in school]; Pamphlets; Paper; Paper bows; Paper ribbons; Paper sheets [stationery]; Parchment paper; Periodicals; Placards of paper or cardboard; Place mats of paper; Plastic bubble packs for wrapping or packaging; Plastic film for wrapping; Postcards; Posters; Printed matter other than sheet music and song books; Printed publications; Printed timetables; Prospectuses; School supplies [stationery]; Sheets of reclaimed cellulose for wrapping; Shields [paper seals]; Signboards of paper or cardboard; Silver paper; Stationery; Table linen of paper; Table napkins of paper; Tablecloths of paper; Tablemats of paper; Teaching materials [except apparatus]; Towels of paper; Viscose sheets for wrapping; Writing cases [sets]; Writing cases [stationery]; Writing instruments; Writing materials; Writing pads; Writing paper; comics, journals (publications) and books; instructional and teaching materials (other than apparatus); posters; postcards and greeting cards; calendars; diaries; cards and stickers for collecting and collating in albums; writing requisites; writing paper; writing sets; catalogues; adhesive stickers;; none of the aforesaid goods listed in this class having exclusively music related subject matter or being music themed.

Class 28: Games and playthings but not including musical games and playthings; Apparatus for games; Games; Playing cards electronic games but not including any music themed electronic games; hand-held devices for playing electronic, computer or video games; video games apparatus; parts and fittings for all the aforesaid goods; playing cards; interactive educational or entertainment games but not including music themed; entertainment games; computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens but not including any music themed computer video games quizzes; games consoles; interactive educational or entertainment games for use with television receivers and video apparatus but not including any music themed entertainment games; electronic computer games other than music themed electronic computer games ;paper toys; parts and fittings for all of the above.

Class 35: magazine and newspaper subscriptions; the bringing together, for the benefit of others of a variety of goods namely electronic computer games, electronic interactive computer games, computer games software and computer quiz software, computer video games and/or quizzes adapted for use with television receivers

and screens or with video monitors or with computer screens, portable and/or hand-held electronic devices for interactive computer and video games, electronic publications, computer games, computer video games, interactive educational or entertainment games for use with television receivers and video apparatus, online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials (downloadable), online posters, photographs, pictures, articles, tickets (downloadable), online electronic dictionaries, encyclopaedias and reference texts, cardboard, printed matter, publications, newspapers, magazines (periodicals), comics, journals (publications) and books, publications including strategy guides, user manuals, books and magazines all in the field of computer games, science fiction, games and entertainment, quiz books, instructional and teaching materials (other than apparatus), posters, postcards and greeting cards, calendars, diaries, cards and stickers for collecting and collating in albums, writing requisites, rulers, erasers, writing paper, writing sets, catalogues, adhesive stickers, advertising material, advertisements, bags, instructional manuals, newsletters, pens, pencils, writing instruments, pen and pencil holders, stationery, user guides or manuals, paper, cardboard, printed matter, photographs, stationery, adhesives for stationery or household purposes, artists' materials, plastic materials for packaging, publications, magazines, clothing, footwear, headgear, underclothing, clothing for men, women, children and infants, jeans, slacks, trousers, skirts, shorts, wraps, jerseys, sweaters, waistcoats, dresses, jumpers, sleepwear, robes, warm-up suits, rainwear, sweaters, scarves, hats, caps, mittens, snow suits, belts, smocks, swimwear, playsuits, bibs, stockings, socks, waterproof clothing, underwear, footwear for men, women, children, and infants shoes, sneakers, sandals, slippers, boots, headgear for men, women, children, and infants hats, headbands, earmuffs, caps, sweaters, dress shirts, blouses, jackets, ties, suits, bathing suits, belts, skirts, dresses, coats, hats, caps, tuxedos, pants, vests, hosiery, scarves, pyjamas, underwear, kilts, mufflers, shawls, footwear, shoes, boots, slippers, and athletic shoes, blazers, headbands, wristbands, coveralls, overalls, sweat pants, and sleepwear, posters, postcards, prints, photographs, toys, games and playthings, electronic games, hand-held devices for playing electronic, computer or video games, video games apparatus, playing cards, card games, interactive educational or entertainment games, playing cards, enabling customers to conveniently view and purchase those goods including via an Internet website, an interactive television shopping channel, a digital television shopping channel, an Internet walled garden or by means of interactive television and/or telecommunications (including voice, telephony and/or transfer of digital information or data) and/or interactive digital media; The bringing together, for the benefit of others, of a variety of education and training services, education, training and entertainment services in the form of skills studios for children and young people in the field of media, television and news reporting, education, training, entertainment and sporting activities involving athletes and celebrities in the form of initiatives to promote confidence, sports skills and life skills in children and young people, education, training and entertainment services related to the promotion of creative skills in children and young people, including creative studios, financial services relating to scholarships and bursary schemes for children and young people in the fields of sport, the arts, media and television, promotional services relating to work experience and employment opportunities for young people, promotional services relating to apprenticeships and graduate employment, education, training and entertainment services in the field of initiatives to inspire young people and to provide them with life skills, business skills, opportunities for development and self-confidence; enabling customers to conveniently view and purchase those services; The bringing together, for the benefit of others, of a variety of education and training services, education, training and entertainment services in the form of skills studios for children and young people in the field of media, television and news reporting, education, training, entertainment and sporting activities involving athletes and celebrities in the form of initiatives to promote confidence, sports skills and life skills in children and young people, education, training and entertainment services related to the promotion of creative skills in children and young people, including creative studios, financial services relating to scholarships and bursary schemes for children and young people in the fields of sport, the arts, media and television, promotional services relating to work experience and employment opportunities for young people, promotional services relating to apprenticeships and graduate employment, education, training and entertainment services in the field of initiatives to inspire young people and to provide them with life skills, business skills, opportunities for development and self-confidence, administration services relating to the organising and conducting of volunteer programmes and community service projects, distance learning services, education services online magazine and book services, gaming services, greeting cards custom manufacture service, delivery services relating to greeting cards, interactive games services, magazine and newspaper subscription services, professional

consultancy, information and advisory services relating to all the aforesaid services; consultancy, information and advisory services relating to all the aforesaid services provided on-line from a computer database or via a helpline or the Internet; none of the aforesaid services listed in this class being provided in connection with musical sound recordings, downloadable music, musical compositions or musical performances.

Class 41: *Education; Providing of training; Entertainment; Education information; Game services provided on-line from a computer network; Games equipment rental; Providing on-line electronic publications, not downloadable; Publication of books; Publication of electronic books and journals on-line; Publication of texts, other than publicity texts; Religious education; ; Services of schools [education]; Toy rental; Writing of texts, other than publicity texts; education and entertainment services by means of radio, television, telephony, the Internet and on-line databases; hiring, rental and leasing of cine-films, videos, DVDs, sound recordings, sound recording apparatus, sports apparatus, television sets and video recorders, DVD recorders and radio recorders; providing on-line electronic publications (not downloadable); publication of magazines, books, texts and printed matter; publication of electronic books or journals on-line; provision of electronic publications; online dictionaries, encyclopaedias, and reference texts; provision of online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; online posters, photographs, pictures, articles; production, presentation and distribution of radio and television programmes, interactive games; educational or entertainment games played online; electronic publishing services; establishing training programmes; preparation and publication of training manuals; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current affairs, satellite, television and radio programmes, films, books and other printed matter, video games, computer games, amusement machines, amusement centres or amusement parks; online library services including the lending and exchanging of books and other publications and photographs; online gaming services consultancy, information and advisory services relating to all the aforesaid services provided on-line from a computer database or via a helpline or the Internet; none of the aforesaid services listed in this class being provided in connection with musical sound recordings, downloadable music, musical compositions or musical performances.*

Class 16: Printed matter other than sheet music and song books; Bookbinding material; photographs; adhesives for stationery or household purposes; artists' materials; instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); Adhesives for stationery or household purposes; Artists' materials; Instructional and teaching material (except apparatus); Plastic materials for packaging (not included in other classes); Advertisement boards of paper or cardboard; Albums; Announcement cards [stationery]; Bags [envelopes, pouches] of paper or plastics, for packaging; Booklets; Bookmarkers; Books; Bottle envelopes of cardboard or paper; Bottle wrappers of cardboard or paper; Boxes of cardboard or paper; Calendars; Cardboard tubes; Cards; Catalogues; Comic books; Copying paper [stationery]; Covers [stationery]; Cream containers of paper; Document files [stationery]; Document holders [stationery]; Drawing instruments; Drawing materials; Drawing pads; Drawing sets; Envelopes [stationery]; Files [office requisites]; Flags of paper; Flyers; Folders for papers; Folders [stationery]; Forms, printed; Graphic prints; Graphic representations; Graphic reproductions; Greeting cards; Handbooks [manuals]; Hat boxes of cardboard; Letters [type]; Magazines [periodicals]; Newsletters; Newspapers; Note books; Office requisites, except furniture; Packaging material made of starches; Packing paper; Pads [stationery]; Paint boxes [articles for use in school]; Pamphlets; Paper; Paper bows; Paper ribbons; Paper sheets [stationery]; Parchment paper; Periodicals; Placards of paper or cardboard; Place mats of paper; Plastic bubble packs for wrapping or packaging; Plastic film for wrapping; Postcards; Posters; Printed matter other than sheet music and song books; Printed publications; Printed timetables; Prospectuses; School supplies [stationery]; Sheets of reclaimed cellulose for wrapping; Shields [paper seals]; Signboards of paper or cardboard; Silver paper; Stationery; Table linen of paper; Table napkins of paper; Tablecloths of paper; Tablemats of paper; Teaching materials [except apparatus]; Towels of paper; Viscose sheets for wrapping; Writing cases [sets]; Writing cases [stationery]; Writing instruments; Writing materials; Writing pads; Writing paper; comics, journals (publications) and books; instructional and teaching materials (other than apparatus); posters; postcards and greeting cards; calendars; diaries; cards and stickers for collecting and collating in albums; writing requisites; writing paper; writing sets; catalogues; adhesive stickers;; none of the aforesaid goods listed in this class having exclusively music related subject matter or being music themed.

Class 25: Clothing, footwear, headgear; anti-sweat underwear; aprons [clothing]; ascots; babies' pants [clothing]; bandanas [neckerchiefs]; bath robes; bath sandals; bath slippers; bathing caps; bathing trunks; beach clothes; beach shoes; belts [clothing]; berets; bibs, not of paper; boas [necklets]; bodices [lingerie]; boot uppers; boots; boots for sports; brassieres; breeches for wear; camisoles; cap peaks; caps [headwear]; chasubles; clothing; clothing for gymnastics; clothing of imitations of leather; clothing of leather; coats; collar protectors; combinations [clothing]; corselets; corsets [underclothing]; cuffs; cyclists' clothing; detachable collars; dress shields; dresses; dressing gowns; ear muffs [clothing]; esparto shoes or sandals; fishing vests; fittings of metal for footwear; football boots; footmuffs, not electrically heated; footwear; footwear uppers; fur stoles; furs [clothing]; gabardines [clothing]; gaiter straps; galoshes; garters; girdles; gloves [clothing]; gymnastic shoes; half-boots; hat frames [skeletons]; hats; headbands [clothing]; headgear for wear; heelpieces for footwear; heelpieces for stockings; heels; hoods [clothing]; hosiery; inner soles; jackets [clothing]; jerseys [clothing]; jumper dresses; knitwear [clothing]; lace boots; layettes [clothing]; leg warmers; leggings [trousers]; liveries; maniples; mantillas; masquerade costumes; miters [hats]; mittens; money belts [clothing]; motorists' clothing; muffs [clothing]; neckties; non-slipping devices for footwear; outerclothing; pants; paper clothing; paper hats [clothing]; parkas; pelerines; pelisses; petticoats; pocket squares; pockets for clothing; ponchos; pullovers; pyjamas; ready-made clothing; ready-made linings [parts of clothing]; sandals; saris; sarongs; sashes for wear; scarfs; shawls; shirt fronts; shirt yokes; shirts; shoes; short-sleeve shirts; shoulder wraps; shower caps; singlets; ski boots; ski gloves; skirts; skorts; skull caps; sleep masks; slippers; slips [undergarments]; smocks; sock suspenders; socks; soles for footwear; spats; sports shoes; stocking suspenders; stockings; studs for football boots; stuff jackets [clothing]; suits; suspenders; sweat-absorbent stockings; sweaters; swimsuits; teddies [undergarments]; teeshirts; tights; tips for footwear; togas; top hats; topcoats; trousers; turbans; underpants; underwear; uniforms; veils [clothing]; vests; visors [headwear]; waterproof clothing; welts for footwear; wet suits for water-skiing; wimples; wooden shoes; underclothing; shorts, wraps; waistcoats; jumpers; robes; warm-up suits, tracksuits; snow suits; swimwear; playsuits; headbands; dress shirts; blouses; ties; tuxedos; ties; kilts;

mufflers; jeans; slacks; blazers; coveralls; overalls; sweat pants; cycling shoes; cycling clothing; cycling headwear; protective clothing for cycling; anoraks; aprons; athletic footwear; athletic shoes; athletic uniforms; baby bibs not of paper; ball ponchos; bandana; baseball caps; bathing caps; bathing suits; bathing trunks; bathrobes; beach shoes; beach wear; beanies; belts; bib overalls; bicycle gloves; bikinis; body warmer; bow ties; boxer shorts; briefs; caps; clothing; costumes; ear muffs; espadrilles; fleece; flip flops; football shoes; footwear; gloves; golf shirts; golf shoes; gym shorts; gym suits; gymnastic shoes; halloween costumes; hats; headband; headgear; hoddies; jogging suits; money belts; neck wear; night gowns; night shirts; onesis; paper clothing; paper hats; polo shirts; ponchos; rainwear; sashes; scarves; shower caps; slap wraps; sleep masks; sleep wear; slippers; sneakers; sweat bands; swim caps; swimwear; ties; t-shirts; visors; wristbands; sun visors; wristbands.

Class 28: Games and playthings but not including musical games and playthings; Decorations for Christmas trees; Apparatus for games; Bells for Christmas trees; Candle holders for Christmas trees ;Games; Playing cards; Plush toys; electronic games but not including any music themed electronic games; hand-held devices for playing electronic, computer or video games; video games apparatus; parts and fittings for all the aforesaid goods; playing cards; interactive educational or entertainment games but not including music themed; entertainment games; computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens but not including any music themed computer video games quizzes; games consoles; interactive educational or entertainment games for use with television receivers and video apparatus but not including any music themed entertainment games; electronic computer games other than music themed electronic computer games;; parts and fittings for all of the above.

Class 35: magazine and newspaper subscriptions; the bringing together, for the benefit of others of a variety of goods namely electronic computer games, electronic interactive computer games, computer games software and computer quiz software, computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens, portable and/or hand-held electronic devices for interactive computer and video games, electronic publications, computer games, computer video games, interactive educational or entertainment games for use with television receivers and video apparatus, online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials (downloadable), online posters, photographs, pictures, articles, tickets (downloadable), online electronic dictionaries, encyclopaedias and reference texts, cardboard, paper and cardboard articles namely albums, boxes, archive boxes, tubes, mailing tubes, office paper stationery, pads, notemakers, note pads, jotter, journal, refill pads, notebooks, business book, message pads, graph pad, tracing pads, flipchart pads, business card books, files, folders, envelopes, year planners, bookmark, cardboard packaging, advertisement boards of paper or cardboard, advertising signs of paper or cardboard, banners of paper or cardboard, placards of paper or cardboard, signboards of paper or cardboard, packaging bags of paper or cardboard, packaging boxes of paper or cardboard, packaging container of paper or cardboard, paper bags, disposable paper products, decorative paper centrepieces, adhesive wall decoration of paper, wrapping paper, gift paper, paper party decorations, paper party bags, flags of paper or cardboard, paper shopping bags, paper tissues, works of art and figurines of paper or cardboard, architects models, , paper hats (clothing), paper clothing, hat boxes of cardboard, printed matter, publications, newspapers, magazines (periodicals), comics, journals (publications) and books, publications including strategy guides, user manuals, books and magazines all in the field of computer games, science fiction, games and entertainment, quiz books, instructional and teaching materials (other than apparatus), posters, postcards and greeting cards, calendars, diaries, cards and stickers for collecting and collating in albums, writing requisites, rulers, erasers, writing paper, writing sets, catalogues, adhesive stickers, advertising material, advertisements, bags, instructional manuals, newsletters, pens, pencils, writing instruments, pen and pencil holders, stationery, user guides or manuals, paper, cardboard, printed matter, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, plastic materials for packaging, publications, magazines, shopping bags, clothing, footwear, headgear, underclothing, clothing for men, women, children and infants, jeans, slacks, trousers, skirts, shorts, wraps, jerseys, sweaters, waistcoats, dresses, jumpers, sleepwear, robes, warm-up suits, rainwear, sweaters, scarves, hats, caps, mittens, snow suits, belts, smocks, swimwear, playsuits, bibs, stockings, socks, waterproof clothing, underwear, footwear for men, women, children, and infants shoes, sneakers, sandals, slippers, boots, headgear for men, women, children, and infants hats, headbands, earmuffs, caps,

sweaters, dress shirts, blouses, jackets, ties, suits, bathing suits, belts, skirts, dresses, coats, hats, caps, tuxedos, pants, vests, hosiery, scarves, pyjamas, underwear, kilts, mufflers, shawls, footwear, shoes, boots, slippers, and athletic shoes, blazers, headbands, wristbands, coveralls, overalls, sweat pants, and sleepwear, posters, postcards, prints, photographs, toys, games and playthings, electronic games, hand-held devices for playing electronic, computer or video games, video games apparatus, playing cards, card games, interactive educational or entertainment games, playing cards, enabling customers to conveniently view and purchase those goods including via an Internet website, an interactive television shopping channel, a digital television shopping channel, an Internet walled garden or by means of interactive television and/or telecommunications (including voice, telephony and/or transfer of digital information or data) and/or interactive digital media; The bringing together, for the benefit of others, of a variety of education and training services, education, training and entertainment services in the form of skills studios for children and young people in the field of media, television and news reporting, education, training, entertainment and sporting activities involving athletes and celebrities in the form of initiatives to promote confidence, sports skills and life skills in children and young people, education, training and entertainment services related to the promotion of creative skills in children and young people, including creative studios, financial services relating to scholarships and bursary schemes for children and young people in the fields of sport, the arts, media and television, promotional services relating to work experience and employment opportunities for young people, promotional services relating to apprenticeships and graduate employment, education, training and entertainment services in the field of initiatives to inspire young people and to provide them with life skills, business skills, opportunities for development and self-confidence, administration services relating to the organising and conducting of volunteer programmes and community service projects, distance learning services, education services, gaming services, enabling customers to conveniently view and purchase those services.

Class 41: Education; Providing of training; Entertainment; Education information; Game services provided on-line from a computer network; Games equipment rental; Providing on-line electronic publications, not downloadable; Publication of books; Publication of electronic books and journals on-line; Publication of texts, other than publicity texts; Religious education; ; Services of schools [education]; Toy rental; Writing of texts, other than publicity texts; education and entertainment services by means of radio, television, telephony, the Internet and on-line databases; hiring, rental and leasing of cine-films, videos, DVDs, sound recordings, sound recording apparatus, sports apparatus, television sets and video recorders, DVD recorders and radio recorders; providing on-line electronic publications (not downloadable); publication of magazines, books, texts and printed matter; publication of electronic books or journals on-line; provision of electronic publications; online dictionaries, encyclopaedias, and reference texts; provision of online publications, including newspapers, magazines (periodicals), comics, journals (publications), books, user manuals, instructional and teaching materials; online posters, photographs, pictures, articles; production, presentation and distribution of radio and television programmes, interactive games; educational or entertainment games played online; electronic publishing services; publishing services (including electronic publishing services); establishing training programmes; preparation and publication of training manuals; online provision of information and general encyclopaedic knowledge relating to entertainment, education, training, sports, culture, news, current affairs, satellite, television and radio programmes, films, books and other printed matter, video games, computer games, amusement machines, amusement centres or amusement parks; online library services including the lending and exchanging of books and other publications and photographs; interactive games services, online gaming services; professional consultancy, information and advisory services relating to all the aforesaid services; consultancy, information and advisory services relating to all the aforesaid services provided on-line from a computer database or via a helpline or the Internet; none of the aforesaid services listed in this class being provided in connection with musical sound recordings, downloadable music, musical compositions or musical performances.