

O/0023/23

TRADE MARKS ACT 1994

**IN THE MATTER OF
TRADE MARK APPLICATION NO. UK3709251
IN THE NAME OF GAVINO PRUNAS
TO REGISTER AS A TRADE MARK**

GURULAND

IN CLASS 41

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NUMBER 430697
BY O2 WORLDWIDE LIMITED**

BACKGROUND AND PLEADINGS

1. On 12 October 2021, Gavino Prunas (“the applicant”) applied to register trade mark number UK3709251 for the mark “GURULAND” in the United Kingdom. The application was accepted and published for opposition purposes on 29 October 2021, in respect of the following services:

Class 41: *Tv entertainment services; Production of TV shows; Entertainment by IP-TV; TV and radio presenter services; Auditioning for tv game shows; Auditioning for tv talent contests.*

2. The application is opposed by O2 Worldwide Limited (“the opponent”). The opposition was filed on 31 January 2022 and is based upon Section 5(2)(b)¹ of the Trade Marks Act 1994 (“the Act”). The opposition is directed against all of the services in the application. The opponent relies upon the following four marks, marks 2, 3 and 4 being comparable marks:

GURU

UK trade mark registration number 3362811

Filing date: 21 December 2018

Registration date: 25 September 2020

Registered in Classes 9, 35, 36, 38, 41, 42, 43, 44 and 45

Relying on all goods and services in classes 9, 38 and 41 only, as listed under Annex A of this decision.

(“**Mark 1**”); and

GURU

UK trade mark registration number 918065466

Filing date: 16 May 2019

Registration date: 23 January 2020

¹ In an email to the Registry dated 13 July 2022, the opponent confirmed that it wished to withdraw the grounds under Section 5(3) of the Act as originally filed, and that it wished to proceed under Section 5(2)(b) only.

Registered in Classes 9, 37, 38 and 41

Relying on all goods and services, as listed under paragraph 18 of this decision.

(“**Mark 2**”); and

GURU TV

UK trade mark registration number 918101288

Filing date: 30 July 2019

Registration date: 11 January 2020

Registered in Classes 9, 35, 36, 37, 38, 41, 42, 43, 44 and 45

Relying on all goods and services in classes 9, 37, 38 and 41 only, as listed under Annex A of this decision.

(“**Mark 3**”); and

O2 GURU

UK trade mark registration number 916057011

Filing date: 18 November 2016

Registration date: 27 June 2017

Registered in Classes 9, 35, 36, 37, 38, 39, 41, 42, 43, 44 and 45

Relying on all goods and services in classes 9, 37, 38 and 41 only, as listed under Annex A of this decision.

(“**Mark 4**”); and

3. Under Article 54 of the Withdrawal Agreement between the UK and the EU, the UK IPO created comparable UK trade marks for all right holders with an existing registered EUTM or International Trade Mark designating the EU. As a result, the opponent’s marks 2, 3 and 4 were converted into comparable UK trade marks. Comparable UK marks are now recorded in the UK trade mark register, have the same legal status as if they had been applied for and registered under UK law, and the original filing dates remain the same.²

² See also Tribunal Practice Notice (“TPN”) 2/2020 End of Transition Period – impact on tribunal proceedings.

4. The opponent submits that the contested mark is highly similar to the earlier marks on the basis of phonetic, visual and conceptual comparisons, and that the Class 41 services of the application are identical or highly similar to the goods and services covered by the opponent's earlier marks. As a result, it submits that there exists a likelihood of confusion, including a likelihood of association, and it therefore requests that the application be refused in its entirety under section 5(2)(b) of the Act, and an award of costs be made in favour of the opponent.

5. The applicant filed a counterstatement denying the claims. He submits that the opposing marks are not identical, and that there is no likelihood of confusion. Consequently, the applicant requests that the opposition be rejected and that an award of costs be made in his favour.

6. Only the opponent filed written submissions, which will be referred to as and where appropriate during this decision. Neither party elected to file evidence and neither party requested a hearing, therefore this decision is taken following careful consideration of the papers.

7. In these proceedings, the opponent is represented by Stobbs and the applicant is unrepresented.

DECISION

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

Section 5(2)(b)

9. The opposition is based upon Section 5(2)(b) of the Act, which reads as follows:

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

...

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

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

10. Section 5A states:

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

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

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

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

(aa) a comparable trade mark (EU) or a trade mark registered pursuant to an application made under paragraph 25 of Schedule 2A which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired;

....”

12. Each of the trade marks upon which the opponent relies qualifies as an earlier trade mark under the above provisions. As none of the trade marks had been registered for more than five years at the date the application was filed, they are not subject to the use provisions contained in section 6A of the Act. The opponent is, therefore, entitled to rely upon them in relation to all of the goods and services indicated without having to prove that genuine use has been made of them.

My Approach

13. I note that all four earlier marks are word marks which contain the identical word “GURU”, being the element in common with the applicant’s mark. Neither Mark 1 nor Mark 2 contain any other elements, while the opponent’s Mark 3 contains the additional word “TV” and its Mark 4 contains the additional “house mark”, “O2”, neither of which plays any part in the contested mark. Furthermore, the goods and services being relied upon under each earlier mark are virtually identical, with any variations in the specifications of the individual marks not considered to be significant in relation to the opposed services of the applicant. Mark 1 is relying upon goods and services in classes 9, 38 and 41, while the other three marks are relying upon goods and services in Classes 9, 37, 38 and 41, meaning that Mark 2 is relying on a wider specification than the identical sign in Mark 1.

14. I will therefore focus my assessment under Section 5(2)(b) on the opponent’s Mark 2 only, which going forward, I will refer to as “the opponent’s mark”. In the event that I find there to be a likelihood of confusion between the opponent’s Mark 2 and the applicant’s mark, I do not consider that assessing the remaining marks would improve the opponent’s position. If, however, I find no likelihood of confusion between the marks, it follows that the same finding will apply to the remaining earlier marks 1, 3 and 4 on the basis that they share a lesser degree of similarity with the contested application. If required, I will address this point further when considering any final remarks at the conclusion of this decision.

15. I am guided by the following principles which are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (“OHIM”)*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

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

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

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

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

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

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive

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

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

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

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

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

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

Comparison of goods and services

16. Section 60A of the Act provides:

“(1) For the purposes 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 1979.”

17. I am therefore mindful of the fact that the appearance of respective goods and services in the same class is not sufficient in itself to find similarity between those goods and services, and that likewise, neither are goods and services to be automatically found to be dissimilar simply because they fall in a different class.

18. The goods and services to be compared are:

Opponent’s goods and services	Applicant’s services
<p><u>Class 9</u> <i>Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication</i></p>	

apparatus and instruments; digital tablets; tablet computers; computer hardware; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; computer games; computer game software; computer software applications, downloadable; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches; laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; televisions; headphones; global positioning system [GPS] apparatus; satellite navigation devices; computer software recorded onto CD Rom; SD-Cards (secure digital cards); glasses; spectacle glasses; sunglasses; protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; downloadable electronic publications; downloadable image files; downloadable music files; mouse mats; magnets; mobile telephone covers; mobile telephone cases; hands free kits for

phones; magnetic cards; encoded cards; mobile phone application software; software for telecommunication; software for the processing of financial transactions; electronic notice boards; electric batteries; battery chargers; security alarms; security cameras; security warning apparatus; security control apparatus; security surveillance apparatus; computer software for security purposes; computer software for insurance purposes; SIM cards; interactive touch screen terminals; aerials; alarms; electric cables; chemistry apparatus and instruments; recorded computer operating programs; computer peripheral devices; data processing apparatus; diagnostic apparatus, not for medical purposes; distance measuring apparatus; distance recording apparatus; downloadable ring tones for mobile phones; electronic tags for goods; eyepieces; goggles for sports; magnetic identity cards; intercommunication apparatus; loudspeakers; magnetic data media; mathematical instruments; modems; electric monitoring apparatus; television apparatus; testing apparatus not for medical purposes; telecommunication transmitters; software for mobile device management; middleware for management of software functions on electronic devices; computer virus software; computer antivirus software; privacy protection software; parts and fittings for all the aforesaid goods.

Class 37

Building construction; installation, maintenance and repair of telecommunications installations, communications networks, computer networks and data networks; installation, maintenance and repair of telecommunications apparatus and equipment; installation, maintenance and repair of computer hardware; electric appliance installation and repair; machinery installation, maintenance and repair; photographic apparatus repair; telephone installation and repair; vehicle maintenance; vehicle breakdown repair services; aircraft repair; automobile repair; bicycle repair; boiler repair; building repair; car repair; clothing repair; repair of communications network; computer repair; fur care and repair; fur cleaning and repair; furniture repair; house building and repair; leather cleaning and repair; lock repair services; pump repair; refrigerator repair services; repair information; repair of automobiles; repair of building equipment; repair of building machines; repair of buildings; repair of clothing; repair of computers; repair of construction equipment; repair of cooking apparatus; repair of drying apparatus; repair of electrical equipment; repair of electronic apparatus; repair of furniture; repair of hand tools; repair of heating apparatus; repair of industrial machinery; repair of jewellery; repair of land vehicles; repair of lifts; repair of locks; repair of luggage;

repair of medical devices; repair of plumbing; repair of pumps; repair of refrigerating apparatus; repair of roofing; repair of security locks; repair of sports equipment; repair of television apparatus; repair of upholstery; repair of vacuum cleaners; roofing repair; shoe repair; window repair; clock installation; electrical installation services; installation of audiovisual equipment; installation of bathing apparatus; installation of carpets; installation of communication equipment; installation of cooking appliances; installation of drying apparatus; installation of electrical wiring; installation of elevators; installation of engines; installation of fire alarms; installation of floor tiles; installation of furniture; installation of heating apparatus; installation of kitchen appliances; installation of lighting apparatus; installation of plumbing; installation of refrigerating apparatus; installation of roofing; installation of satellite dishes; installation of security systems; installation of security alarms; maintenance and service of security alarms; maintenance and service of security systems; installation of telephone equipment; installation of ventilating apparatus; installation of windows; installing floor tiles; advisory services relating to the installation of communication equipment; advisory services relating to the installation of telephone equipment; advisory services relating to the

<p><i>maintenance and repair of mechanical and electrical equipment; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services provided over a telecommunications network.</i></p>	
<p><u>Class 38</u></p> <p><i>Telecommunications; cable television broadcasting; cellular telephone communication; communications by computer terminals; communications by fiber [fibre] optic networks; communications by telephone; computer aided transmission of messages and images; electronic bulletin board services [telecommunications services]; electronic mail; facsimile transmission; information about telecommunication; message sending; paging services [radio, telephone or other means of electronic communication]; providing access to databases; providing internet chatrooms; providing telecommunication channels for teleshopping services; providing telecommunications connections to a global computer network; providing user access to global computer networks; radio broadcasting; rental of access time to global computer networks; rental of message sending apparatus; rental of modems; rental of telecommunication equipment; rental of telephones; satellite transmission; telecommunications routing</i></p>	

and junction services; teleconferencing services; telegraph services; telephone services; television broadcasting; telex services; transmission of digital files; transmission of greeting cards online; transmission of telegrams; voice mail services; wire service; wireless broadcasting; telecommunications services; mobile telecommunications services; telecommunications portal services; access to content, websites and portals; providing access to platforms and portals on the Internet; provision of access to content, websites and portals; telecommunication services provided via platforms and portals on the Internet and other media; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; wireless communication services; digital communication services; broadcasting services; television broadcasting services; broadcasting services relating to Internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; telecommunications information provided via telecommunication networks; services of a network provider, namely rental and handling of access time to data networks and databases, in particular the Internet; communications services for accessing a database; leasing of access time to a computer database; providing

<p><i>access to computer databases; rental of access time to a computer database; operation of a network, being telecommunication services; providing electronic bulletin board services; providing access to weblogs; providing access to podcasts; chatroom services for social networking; providing online forums; forums for social networking; providing electronic telecommunication connections; routing and connecting services for telecommunications; rental of telecommunications equipment; providing access to computer databases in the fields of social networking, social introduction and dating; information, consultancy and advisory services relating to telecommunications services; information, consultancy and advisory services relating to electronic communications services; advisory services relating to communications equipment; advisory and consultancy services relating to wireless communications and wireless communications equipment; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.</i></p>	
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Class 41

Entertainment; sporting activities; academies [education]; amusement parks; amusements; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; arranging of beauty contests; booking of seats for shows; cinema presentations; club services [entertainment or education]; discotheque services; electronic desktop publishing; entertainer services; entertainment information; organisation of fashion shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; games equipment rental; health club services [health and fitness training]; holiday camp services [entertainment]; music-halls; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; personal trainer services [fitness training]; physical education; practical training [demonstration]; production of music; production of radio and television programmes; production of shows; providing amusement arcade services; providing karaoke services; providing on-line electronic publications, not downloadable; providing sports

Class 41

Tv entertainment services; Production of TV shows; Entertainment by IP-TV; TV and radio presenter services; Auditioning for tv game shows; Auditioning for tv talent contests.

facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; recording studio services; providing recreation facilities; sport camp services; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and television programming services provided by means of Internet protocol technology; provision of musical events; entertainment club services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and events; ticket information services for entertainment, sporting; ticket agency services for entertainment, sporting events; provision of on-line computer games; rental of computer games programs; computer amusement services; provision of information, news and commentary in the field of computer games; arranging, organising and conducting computer game competitions; publishing services; arranging, organising and conducting of competitions, games

<p><i>and quizzes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for entertainment events; employment training; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.</i></p>	
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19. In *Gérard Meric v OHIM*, Case T-133/05, the General Court (“GC”) stated that:

“In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM - Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark”.³

20. In *Canon*, Case C-39/97, the Court of Justice of the European Union (“CJEU”) stated that:

“In assessing the similarity of the goods or services concerned, ... all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary”.⁴

³ Paragraph 29

⁴ Paragraph 23

21. Additionally, the factors for assessing similarity between goods and services identified in *British Sugar Plc v James Robertson & Sons Limited* (“*Treat*”) [1996] R.P.C. 281 include an assessment of the channels of trade of the respective goods or services.

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

“...there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking”.⁵

23. For the purposes of considering the issue of similarity of goods, it is permissible to consider groups of terms collectively where appropriate. In *Separode Trade Mark*, BL O-399-10, Mr Geoffrey Hobbs QC (as he then was), sitting as the Appointed Person, said:

“The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision.”⁶

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

⁵ Paragraph 82

⁶ Paragraph 5

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

25. In its Statement of Grounds, and as referred to in its final written submissions, the opponent submits that the services covered by the earlier mark are identical or highly similar to the Class 41 services of the application.

26. *Tv entertainment services; Entertainment by IP-TV.*

I understand the term “IP-TV” (Internet Protocol television) to refer to the process of transmitting and broadcasting television programs through the Internet using Internet Protocol (IP). Regardless of how it is transmitted, I consider the applicant’s “*Tv entertainment services; Entertainment by IP-TV*” to be self-evidently identical to the opponent’s “*television entertainment*” in Class 41.

27. *Production of TV shows.*

The applicant’s “*Production of TV shows*” is self-evidently identical to the opponent’s term in Class 41 “*production of radio and television programmes*”.

28. *TV and radio presenter services.*

I consider the opponent’s broad term “*Entertainment*” would also encompass “*TV and radio presenter services*”, which may be both entertaining as well as informative, making them identical as per *Meric*.

29. *Auditioning for tv game shows; Auditioning for tv talent contests.*

To my mind, “*Auditioning for tv game shows; Auditioning for tv talent contests*” would be included as part of the production process of TV game and talent shows and so the terms are encompassed by the opponent’s wider category “*production of radio and television programmes*”. I therefore find the competing services to be identical as per *Meric*. If I have given too much weight to the services involved in the production of TV shows, then I consider that the competing services are closely aligned, with an overlap in users and shared purpose, in as much that both provide

services which ultimately result in the broadcast-ready edition of the show. Consequently, I consider that the respective services are similar to a high degree.

The average consumer and the nature of the purchasing act

30. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. (as he was then) described the average consumer in these terms:

“The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The word “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median”.⁷

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

32. In its written submissions, the opponent submits that the average consumer of the services is the general public at large, and business customers with specific professional knowledge or expertise. I agree. TV entertainment services at a base level i.e. choosing to watch a particular television programme by whatever medium, e.g. through terrestrial television, via subscription or through Internet Protocol (IP), will be frequently accessed by the general public of all ages, who are likely to pay an average degree of attention to the selection process based on programme availability and personal preferences, and where visual considerations are likely to predominate, although I do not discount aural recommendations.

⁷ Paragraph 60

33. Meanwhile, for production services and the like, the average consumer will be professionals such as television studio executives who may choose to commission the services of a specialist production team. For these consumers, considerations such as budget and variety/availability of resources, as well as their own reputation for providing a quality end product, will be important. They are likely to select the services through both visual and aural means, and they are likely to pay a high degree of attention during the selection process.

Comparison of marks

34. 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 in *Bimbo SA v OHIM* Case C-591/12P, 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.”⁸

35. 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.

36. The respective trade marks are shown below:

⁸ Paragraph 34

Opponent's trade mark	Applicant's trade mark
GURU	GURULAND

37. In its written submissions, the opponent submits that the “GURU” element in the applicant’s mark retains an independent distinctive role, making it the dominant and memorable element in the mark. I note the opponent’s references to previous decisions, including the *WORLD OF ZING* Case O/853/21, however, the circumstances in the case before me are somewhat different. The opponent also directs me to paragraphs 29-31 of *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH* Case C-120/04 which states:

“[29] In the context of consideration of the likelihood of confusion, assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark. On the contrary, the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components (see *Matratzen Concord*, paragraph 32).

[30] However, beyond the usual case where the average consumer perceives a mark as a whole, and notwithstanding that the overall impression may be dominated by one or more components of a composite mark, it is quite possible 18 that in a particular case an earlier mark used by a third party in a composite sign including the name of the company of the third party still has an independent distinctive role in the composite sign, without necessarily constituting the dominant element.

[31] In such a case the overall impression produced by the composite sign may lead the public to believe that the goods or services at issue derive, at the very

least, from companies which are linked economically, in which case the likelihood of confusion must be held to be established.”

Overall impression

38. The opponent’s mark consists of the single, dictionary defined word “GURU”, presented in a standard typeface in capital letters without any other elements to contribute to the overall impression. The overall impression conveyed by the mark therefore rests in the word itself.

39. The applicant’s mark consists of a single word “GURULAND”, presented in a standard typeface in capital letters. In my view, there is a natural break between the second letter U and the letter L, which would lead the average consumer to perceive it as two separate, dictionary defined words, “GURU” and “LAND”. In *Usinor SA v OHIM*, Case T-189/05, the GC found that:

“62. ... it must be noted that while the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details (Lloyd Schuhfabrik Meyer, paragraph 25), he will nevertheless, perceiving a verbal sign, break it down into verbal elements which, for him, suggest a concrete meaning or which resemble words known to him (Case T-356/02 Vitakraft-Werke Wührmann v OHIM – Krafft (VITAKRAFT) [2004] ECR II-3445, paragraph 51, and Case T-256/04 Mundipharma v OHIM – Altana Pharma (RESPICUR) [2007] ECR II-0000, paragraph 57)”

Neither word dominates, and as the mark contains no other elements, the overall impression therefore rests in the combined (conjoined) words.

Visual comparison

40. Both parties’ trade marks comprise the same first four letters “G U R U”, which appear in the same order in both marks, presented in capitals in both. The opponent’s mark is wholly encompassed within the applicant’s mark, which contains the additional letters “L A N D” following the common element, resulting in the applicant’s mark being

double the length of the earlier mark. In *dm-drogerie markt GmbH & Co. KG v OHIM*, Case T-304/10, the GC noted that in the case of word signs which are relatively short, the differences between marks of different lengths will be more easily grasped by the average consumer.⁹ Meanwhile, in *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, the GC noted that the beginning of words tend to have more visual and aural impact than the ends, although I accept that this is not always the case. Considering the position of the identical word “GURU”, I consider the marks to be visually similar to a medium degree.

Aural comparison

41. The common element of the competing marks is the word “GURU”, which would be pronounced identically in both. The applicant’s mark has the additional word “LAND” at the end of the common element which will also be pronounced, the whole being articulated as three syllables, “GOO-ROO-LAND” (gu:ru:lænd), while the opponent’s mark will be pronounced as two syllables, “GOO-ROO” (gu:ru). Consequently, I consider the competing marks to be aurally similar to a medium degree.

Conceptual comparison

42. With regard to conceptual comparison, in *Luciano Sandrone v European Union Intellectual Property Office (EUIPO)*, Case T-268/18, the GC held:

“... In that regard, it must be borne in mind that the purpose of the conceptual comparison is to compare the ‘concepts’ that the signs at issue convey. The term ‘concept’ means, according to the definition given, for example, by the Larousse dictionary, a ‘general and abstract idea used to denote a specific or abstract thought which enables a person to associate with that thought the various perceptions which that person has of it and to organise knowledge about it.’”¹⁰

⁹ At [42].

¹⁰ Paragraph 8.

43. I would expect a significant proportion of the average consumer to understand the word “GURU” as referring to a leader or an expert in their field, although I accept that there may be a proportion of consumers who attach no meaning to the word¹¹. In my view, the component GURU in the applicant’s mark acts as a qualifier to the subsequent component LAND, with the mark as a whole likely to be perceived as a place where gurus originate or reside, although where that place may actually be is not defined. I cannot agree with the opponent that the “GURU” element in the contested mark is the dominant and most distinctive part of the mark. In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J. (as he was then) considered the impact of the CJEU’s judgment in *Bimbo*, Case C-591/12P, on the court’s earlier judgment in *Medion v Thomson*:

“18. The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

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

¹¹ I note that in paragraph 13 of the applicant’s counterstatement, it submits that “the term ‘Guru’ is a Sanskrit term for a ‘mentor, guide, expert, or master’ of certain knowledge or field”.

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

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

44. As mentioned in paragraph 43 of this decision, while I consider that the average consumer will recognise the two distinct words within the conjoined word which makes up the whole of the applicant’s mark, I do not find that one word has a distinctive significance which is independent of the significance of the whole. Rather, the meaning of the second component “LAND” is qualified by the first component “GURU”. The opponent’s mark refers to a person, being a “guru”, while the applicant’s mark refers to a place, a ‘land’, albeit in connection with the subject of the earlier mark. Overall, to those consumers who attach a meaning to the identical common element, I consider there to be a medium degree of conceptual similarity between the marks, while to those consumers who attach no meaning to the word “GURU”, the marks are conceptually neutral.

Distinctive character of the earlier marks

45. The distinctive character of a trade mark can be appraised only, first, by reference to the goods in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91.

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

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

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

47. Registered trade marks possess varying degrees of inherent distinctive character, being lower where they are allusive or suggestive of a characteristic of the goods and services, ranging up to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use made of it. The opponent has not claimed that its mark has enhanced distinctiveness and no evidence has been filed. Therefore, I only have the inherent characteristics of the mark to consider.

48. The opponent submits that in relation to the goods and services, its “GURU” mark is inherently very strong and very distinctive.¹²

49. The earlier mark comprises an ordinary, dictionary defined word, which as considered earlier in paragraph 43 of this decision, refers to a leader or an expert in their field. To some consumers, the mark will allude to the goods and services at issue as having been provided by such an expert. The mark does not, however, describe the goods and services for which it has been registered. Therefore, I find the earlier mark to be inherently distinctive to a medium degree.

Likelihood of confusion

50. There is no simple formula for determining whether there is a likelihood of confusion. It is clear that I must make a global assessment of the competing factors (*Sabel* at [22]), keeping in mind the interdependency between them i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa (*Canon* at [17]). I must consider the various factors from the perspective of the average consumer, bearing in mind that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he has retained in his mind (*Lloyd Schuhfabrik* at [26]).

51. There are two types of possible confusion: direct, where the average consumer mistakes one mark for the other, or indirect, where the average consumer recognises that the marks are different, but assumes that the goods and/or services are the responsibility of the same or connected undertakings. The distinction between these was explained by Mr Iain Purvis Q.C. (as he then was), sitting as the Appointed Person, in *L.A. Sugar Limited v Back Beat Inc*, Case BL-O/375/10. He said:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning

¹² See paragraph 56 of the opponent’s written submissions dated 10 November 2022.

– it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.”

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

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

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

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

52. The above are examples only which are intended to be illustrative of the general approach. These examples are not exhaustive but provide helpful focus.

53. Earlier in this decision, I found that:

- All the contested services are identical or similar to a high degree to the opponent’s Class 41 services;

- The general public as the average consumer, whilst not ignoring aural considerations, will select the services at issue by predominantly visual means, paying an average degree of attention to the selection process, while the professional consumer is likely to select the services by both visual and aural means, and they are likely to pay a high degree of attention during the selection process;
- The competing trade marks are visually, aurally and conceptually similar to a medium degree, although to those consumers who attach no meaning to the word “GURU”, the marks are conceptually neutral;
- The earlier mark is inherently distinctive to a medium degree.

54. While allowing that the average consumer is unlikely to see the marks side-by-side and will therefore be reliant on the imperfect picture of them they have kept in their mind, I consider it unlikely that they would mistake one mark for the other. In my view, the average consumer will notice and recall the visual, aural and conceptual differences between the marks. I do not consider there is any likelihood of direct confusion as the differences between the marks are too great for confusion to arise. I find this even though I found the respective services to be identical or similar to a high degree, which offsets a lesser degree of similarity between the marks.

55. Taking into account the previously outlined guidance of Mr Iain Purvis Q.C. (as he then was), in *L.A. Sugar*, I will now consider whether there might be a likelihood of indirect confusion.

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

57. In *Liverpool Gin Distillery Ltd and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207, the Court of Appeal dismissed an appeal against a ruling of the High Court that trade marks for the words EAGLE RARE registered for whisky and bourbon whiskey were infringed by the launch of a bourbon whiskey under the sign "American Eagle". In his decision, Lord Justice Arnold stated that:

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

58. Bearing in mind the competing factors in my decision and the principle of interdependency between them, given the identity/similarity of the services, taking account of the common element in the context of the later mark as a whole with the earlier mark being encompassed in its entirety within the contested mark, I consider it reasonable that the consumer would make a connection between the earlier mark and perceive “GURULAND” as referring to the place from where they may access the various entertainment services. They would therefore assume that the addition of the word “LAND” to the word “GURU” represents either a sub-brand of the opponent’s mark, or that there is an economic connection between the undertakings. Consequently, I consider there to be a likelihood of indirect confusion in relation to all the contested services.

CONCLUSION

59. The opposition under Section 5(2)(b) has been successful and, subject to any successful appeal, the application by Gavino Prunas will be refused.

COSTS

60. The opponent has been successful, and is therefore entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice (“TPN”) 2/2016. Applying the guidance in that TPN, I award O2 Worldwide Limited the sum of £700, which is calculated as follows:

Official fee ¹³ :	£100
Preparing the notice of opposition and considering the counterstatement:	£200
Preparing and filing written submissions:	£400
Total:	£700

61. I therefore order Gavino Prunas to pay O2 Worldwide Limited the sum of £700. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 10th day of January 2023

Suzanne Hitchings
For the Registrar,
the Comptroller-General

¹³ I note that the opponent paid an official fee of £200 to take into account the initial opposition under Section 5(2)(b) and Section 5(3). As the opposition under Section 5(3) was later withdrawn, I award the official fee of £100 to reflect the grounds of the opposition under Section 5(2)(b) only.

Annex A

Goods and services relied upon by the opponent under Mark 1, Mark 3 and Mark 4:

Mark 1 (UK00003362811)

Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; computer hardware; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; computer games; computer game software; computer software applications, downloadable; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches; laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; televisions; headphones; global positioning system [GPS] apparatus; satellite navigation devices; computer software recorded onto CD Rom; SD-Cards (secure digital cards); glasses; spectacle glasses; sunglasses; protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; downloadable electronic publications; downloadable image files; downloadable music files; mouse mats;

magnets; mobile telephone covers; mobile telephone cases; hands free kits for phones; magnetic cards; encoded cards; mobile phone application software; software for telecommunication; software for the processing of financial transactions; electronic notice boards; electric batteries; battery chargers; security alarms; security cameras; security warning apparatus; security control apparatus; security surveillance apparatus; computer software for security purposes; computer software for insurance purposes; SIM cards; interactive touch screen terminals; aerials; alarms; electric cables; chemistry apparatus and instruments; recorded computer operating programs; computer peripheral devices; data processing apparatus; diagnostic apparatus, not for medical purposes; distance measuring apparatus; distance recording apparatus; downloadable ring tones for mobile phones; electronic tags for goods; eyepieces; goggles for sports; magnetic identity cards; intercommunication apparatus; loudspeakers; magnetic data media; mathematical instruments; modems; electric monitoring apparatus; television apparatus; testing apparatus not for medical purposes; telecommunication transmitters; mobile device management apparatus; software for mobile device management; middleware for management of software functions on electronic devices; computer virus software; computer antivirus software; privacy protection software; parts and fittings for all the aforesaid goods; all of the aforementioned not in relation to angling.

Class 38

Telecommunications; cable television broadcasting; cellular telephone communication; communications by computer terminals; communications by fiber [fibre] optic networks; communications by telephone; computer aided transmission of messages and images; electronic bulletin board services [telecommunications services]; electronic mail; facsimile transmission; information about telecommunication; message sending; paging services [radio, telephone or other means of electronic communication]; providing access to databases; providing internet chatrooms; providing telecommunication channels for teleshopping services; providing telecommunications connections to a global computer network; providing user access to global computer networks; radio broadcasting; rental of access time to global computer networks; rental of message sending apparatus; rental of modems; rental of telecommunication equipment; rental of telephones; satellite transmission;

telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; television broadcasting; telex services; transmission of digital files; transmission of greeting cards online; transmission of telegrams; voice mail services; wire service; wireless broadcasting; telecommunications services; mobile telecommunications services; telecommunications portal services; access to content, websites and portals; providing access to platforms and portals on the Internet; provision of access to content, websites and portals; telecommunication services provided via platforms and portals on the Internet and other media; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; wireless communication services; digital communication services; broadcasting services; television broadcasting services; broadcasting services relating to Internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; telecommunications information provided via telecommunication networks; services of a network provider, namely rental and handling of access time to data networks and databases, in particular the Internet; communications services for accessing a database; leasing of access time to a computer database; providing access to computer databases; rental of access time to a computer database; operation of a network, being telecommunication services; providing electronic bulletin board services; providing access to weblogs; providing access to podcasts; chatroom services for social networking; providing online forums; forums for social networking; providing electronic telecommunication connections; routing and connecting services for telecommunications; rental of telecommunications equipment; providing access to computer databases in the fields of social networking, social introduction and dating; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 41

Education; providing of training; entertainment; sporting and cultural activities; academies [education]; amusement parks; amusements; arranging and conducting

of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; arranging of beauty contests; booking of seats for shows; cinema presentations; club services [entertainment or education]; coaching [training]; discotheque services; education information; educational examination; electronic desktop publishing; entertainer services; entertainment information; organisation of fashion shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; games equipment rental; health club services [health and fitness training]; holiday camp services [entertainment]; music-halls; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; personal trainer services [fitness training]; physical education; practical training [demonstration]; production of music; production of radio and television programmes; production of shows; providing amusement arcade services; providing karaoke services; providing on-line electronic publications, not downloadable; providing sports facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; recording studio services; providing recreation facilities; sport camp services; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; tuition; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; education, training, entertainment, sporting and cultural activities information provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and television programming services provided by means of Internet protocol technology; provision of musical events; entertainment club services; discotheque services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, sporting and cultural events; provision of on-line computer games; rental of computer

games programs; computer amusement services; provision of information, news and commentary in the field of computer games; arranging, organising and conducting computer game competitions; publishing services; 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; arranging, organising and conducting of competitions, games and quizzes; arranging, organising and conducting of competitions, games and quizzes for entertainment, recreational, cultural and educational purposes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for entertainment events; employment training; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network; all of the aforementioned not in relation to angling.

Mark 3 (UK00918101288)

Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; tablet computers; computer hardware; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; computer games; computer game software; computer software applications, downloadable; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones;

selfie sticks [hand-held monopods]; smart rings; smartphones; smartwatches; laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; televisions; headphones; global positioning system [GPS] apparatus; satellite navigation devices; computer software recorded onto CD Rom; SD-Cards (secure digital cards); glasses; spectacle glasses; sunglasses; protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; downloadable electronic publications; downloadable image files; downloadable music files; mouse mats; magnets; mobile telephone covers; mobile telephone cases; hands free kits for phones; magnetic cards; encoded cards; mobile phone application software; software for telecommunication; software for the processing of financial transactions; electronic notice boards; electric batteries; battery chargers; security alarms; security cameras; security warning apparatus; security control apparatus; security surveillance apparatus; computer software for security purposes; computer software for insurance purposes; SIM cards; interactive touch screen terminals; aerials; alarms; electric cables; chemistry apparatus and instruments; recorded computer operating programs; computer peripheral devices; data processing apparatus; diagnostic apparatus, not for medical purposes; distance measuring apparatus; distance recording apparatus; downloadable ring tones for mobile phones; electronic tags for goods; eyepieces; goggles for sports; magnetic identity cards; intercommunication apparatus; loudspeakers; magnetic data media; mathematical instruments; modems; electric monitoring apparatus; television apparatus; testing apparatus not for medical purposes; telecommunication transmitters; software for mobile device management; middleware for management of software functions on electronic devices; computer virus software; computer antivirus software; privacy protection software; parts and fittings for all the aforesaid goods.

Class 37

Building construction; installation, maintenance and repair of telecommunications installations, communications networks, computer networks and data networks; installation, maintenance and repair of telecommunications apparatus and equipment; installation, maintenance and repair of computer hardware; electric appliance

installation and repair; machinery installation, maintenance and repair; photographic apparatus repair; telephone installation and repair; vehicle maintenance; vehicle breakdown repair services; aircraft repair; repair, namely, locksmithing [repair], office machine repair, radio repair, repair of alarms, repair of bags, repair of cameras, repair of facsimile machines, repair of footwear, repair of lighting apparatus, repair of machines, repair of optical instruments, repair of radio equipment, repair of sanitary installations, repair of spectacles, repair of surgical apparatus, repair of telephone apparatus, repair of tools, repair of toys or dolls, repair of ventilating apparatus, tyre repair; automobile repair; bicycle repair; boiler repair; building repair; car repair; clothing repair; repair of communications network; computer repair; fur care and repair; fur cleaning and repair; furniture repair; house building and repair; leather cleaning and repair; lock repair services; pump repair; refrigerator repair services; repair information; repair of automobiles; repair of building equipment; repair of building machines; repair of buildings; repair of clothing; repair of computers; repair of construction equipment; repair of cooking apparatus; repair of drying apparatus; repair of electrical equipment; repair of electronic apparatus; repair of furniture; repair of hand tools; repair of heating apparatus; repair of industrial machinery; repair of jewellery; repair of land vehicles; repair of lifts; repair of locks; repair of luggage; repair of medical devices; repair of plumbing; repair of pumps; repair of refrigerating apparatus; repair of roofing; repair of security locks; repair of sports equipment; repair of television apparatus; repair of upholstery; repair of vacuum cleaners; roofing repair; shoe repair; window repair; clock installation; electrical installation services; installation of audiovisual equipment; installation of bathing apparatus; installation of carpets; installation of communication equipment; installation of cooking appliances; installation of drying apparatus; installation of electrical wiring; installation of elevators; installation of engines; installation of fire alarms; installation of floor tiles; installation of furniture; installation of heating apparatus; installation of kitchen appliances; installation of lighting apparatus; installation of plumbing; installation of refrigerating apparatus; installation of roofing; installation of satellite dishes; installation of security systems; installation of security alarms; maintenance and service of security alarms; maintenance and service of security systems; installation of telephone equipment; installation of ventilating apparatus; installation of windows; installing floor tiles; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer

database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 38

Telecommunications; cable television broadcasting; cellular telephone communication; communications by computer terminals; communications by fiber [fibre] optic networks; communications by telephone; computer aided transmission of messages and images; electronic bulletin board services [telecommunications services]; electronic mail; facsimile transmission; information about telecommunication; message sending; paging services [radio, telephone or other means of electronic communication]; providing access to databases; providing internet chatrooms; providing telecommunication channels for teleshopping services; providing telecommunications connections to a global computer network; providing user access to global computer networks; radio broadcasting; rental of access time to global computer networks; rental of message sending apparatus; rental of modems; rental of telecommunication equipment; rental of telephones; satellite transmission; telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; television broadcasting; telex services; transmission of digital files; transmission of greeting cards online; transmission of telegrams; voice mail services; wire service; wireless broadcasting; telecommunications services; mobile telecommunications services; telecommunications portal services; access to content, websites and portals; providing access to platforms and portals on the Internet; provision of access to content, websites and portals; telecommunication services provided via platforms and portals on the Internet and other media; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; wireless communication services; digital communication services; broadcasting services; television broadcasting services; broadcasting services relating to Internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; telecommunications information provided via telecommunication networks; services of a network provider, namely rental and handling of access time to data networks and databases, in particular the Internet; communications services for accessing a database; leasing of access time to a computer database; providing access to computer databases; rental

of access time to a computer database; operation of a network, being telecommunication services; providing electronic bulletin board services; providing access to weblogs; providing access to podcasts; chatroom services for social networking; providing online forums; forums for social networking; providing electronic telecommunication connections; routing and connecting services for telecommunications; rental of telecommunications equipment; providing access to computer databases in the fields of social networking, social introduction and dating; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 41

Education; providing of training; entertainment; sporting and cultural activities; academies [education]; amusement parks; amusements; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; arranging of beauty contests; booking of seats for shows; cinema presentations; club services [entertainment or education]; coaching [training]; discotheque services; education information; educational examination; electronic desktop publishing; entertainer services; entertainment information; organisation of fashion shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; games equipment rental; health club services [health and fitness training]; holiday camp services [entertainment]; music-halls; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; personal trainer services [fitness training]; physical education; practical training [demonstration]; production of music; production of radio and television programmes; production of shows; providing amusement arcade services; providing karaoke services; providing on-line electronic publications, not downloadable; providing sports facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; recording studio services; providing recreation facilities; sport camp

services; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; tuition; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; education, training, entertainment, sporting and cultural activities information provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and television programming services provided by means of Internet protocol technology; provision of musical events; entertainment club services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, sporting and cultural events; provision of on-line computer games; rental of computer games programs; computer amusement services; provision of information, news and commentary in the field of computer games; arranging, organising and conducting computer game competitions; publishing services; arranging, organising and conducting of competitions, games and quizzes; arranging, organising and conducting of competitions, games and quizzes for entertainment, recreational, cultural and educational purposes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for entertainment events; employment training; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Mark 4 (UK00916057011)

Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-

operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; digital telecommunication apparatus and instruments; digital tablets; computer hardware; computer application software; computer software downloadable from the Internet; recorded computer software; software applications; mobile software applications, downloadable applications for multimedia devices; computer games; computer game software; computer games programs; PDAs (Personal Digital Assistants); pocket PCs; mobile telephones; laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; televisions; headphones; global positioning system [GPS] apparatus; satellite navigation devices; computer software recorded onto CD Rom; SD-Cards (secure digital cards); glasses; spectacle glasses; sunglasses; protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes, audio cassettes; audio discs; audio-video tapes; audio-video cassettes; audio-video discs; video tapes; video cassettes; video discs; CDs, DVDs; downloadable electronic publications; downloadable image files; downloadable music files; mouse mats; magnets; mobile telephone covers; mobile telephone cases; hands free kits for phones; magnetic cards; encoded cards; mobile phone application software; software for telecommunication; software for the processing of financial transactions; electronic notice boards; electric batteries; battery chargers; security alarms; security cameras; security warning apparatus; security control apparatus; security surveillance apparatus; computer software for security purposes; computer software for insurance purposes; SIM cards; aerials; alarms; electric cables; chemistry apparatus and instruments; recorded computer operating programs; computer peripheral devices; data processing apparatus; diagnostic apparatus, not for medical purposes; distance measuring apparatus; distance recording apparatus; downloadable ring tones for mobile phones; electronic tags for goods; eyepieces; goggles for sports; magnetic identity cards; intercommunication apparatus; loudspeakers; magnetic data media; mathematical instruments; modems; electric monitoring apparatus; television apparatus; testing apparatus not for medical purposes; telecommunication transmitters; parts and fittings for all the aforesaid goods.

Class 37

Building construction; installation, maintenance and repair of telecommunications installations, communications networks, computer networks and data networks; installation, maintenance and repair of telecommunications apparatus and equipment; installation, maintenance and repair of computer hardware; electric appliance installation and repair; machinery installation, maintenance and repair; photographic apparatus repair; telephone installation and repair; information and advisory services relating to the aforesaid services; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 38

Telecommunications; cable television broadcasting; cellular telephone communication; communications by computer terminals; communications by fiber [fibre] optic networks; communications by telephone; computer aided transmission of messages and images; electronic bulletin board services [telecommunications services]; electronic mail; facsimile transmission; information about telecommunication; message sending; paging services [radio, telephone or other means of electronic communication]; providing access to databases; providing internet chatrooms; providing telecommunication channels for teleshopping services; providing telecommunications connections to a global computer network; providing user access to global computer networks; radio broadcasting; rental of access time to global computer networks; rental of message sending apparatus; rental of modems; rental of telecommunication equipment; rental of telephones; satellite transmission; telecommunications routing and junction services; teleconferencing services; telegraph services; telephone services; television broadcasting; telex services; transmission of digital files; transmission of greeting cards online; transmission of telegrams; voice mail services; wire service; wireless broadcasting; telecommunications services; mobile telecommunications services; telecommunications portal services; Internet portal services; mobile telecommunications network services; fixed line telecommunication services; provision of broadband telecommunications access; broadband services; wireless

communication services; digital communication services; broadcasting services; television broadcasting services; broadcasting services relating to Internet protocol TV; provision of access to Internet protocol TV; Internet access services; email and text messaging services; telecommunications information provided via telecommunication networks; services of a network provider, namely rental and handling of access time to data networks and databases, in particular the Internet; communications services for accessing a database; leasing of access time to a computer database; providing access to computer databases; rental of access time to a computer database; operation of a network, being telecommunication services; providing electronic bulletin board services; providing access to weblogs; providing access to podcasts; chatroom services for social networking; providing online forums; forums for social networking; providing electronic telecommunication connections; routing and connecting services for telecommunications; rental of telecommunications equipment; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.

Class 41

Education; providing of training; entertainment; sporting and cultural activities; academies [education]; amusement parks; amusements; arranging and conducting of colloquiums; arranging and conducting of concerts; arranging and conducting of conferences; arranging and conducting of congresses; arranging and conducting of seminars; arranging and conducting of symposiums; arranging and conducting of workshops [training]; arranging of beauty contests; booking of seats for shows; cinema presentations; club services [entertainment or education]; coaching [training]; discotheque services; education information; educational examination; electronic desktop publishing; entertainer services; entertainment information; organisation of fashion shows for entertainment purposes; film production, other than advertising films; gambling; game services provided on-line from a computer network; games equipment rental; health club services [health and fitness training]; holiday camp services [entertainment]; music-halls; news reporters services; organization of shows [impresario services]; organization of sports competitions; party planning [entertainment]; personal trainer services [fitness training]; physical education;

practical training [demonstration]; production of music; production of radio and television programmes; production of shows; providing amusement arcade services; providing karaoke services; providing on-line electronic publications, not downloadable; providing sports facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; radio entertainment; recording studio services; providing recreation facilities; sport camp services; subtitling; television entertainment; theatre productions; ticket agency services [entertainment]; timing of sports events; tuition; interactive entertainment services; electronic games services provided by means of any communications network; entertainment services provided by means of telecommunication networks; education, training, entertainment, sporting and cultural activities information provided by means of telecommunication networks; provision of news information; television production services; television programming services; television production and television programming services provided by means of Internet protocol technology; provision of musical events; entertainment club services; discotheque services; presentation of live performances; night clubs; rental of music venues and stadiums; casino services; ticket reservations for entertainment, sporting and cultural events; ticket information services for entertainment, sporting and cultural events; ticket agency services for entertainment, sporting and cultural events; provision of on-line computer games; rental of computer games programs; computer amusement services; provision of information, news and commentary in the field of computer games; arranging, organising and conducting computer game competitions; publishing services; 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; arranging, organising and conducting of competitions, games and quizzes; arranging, organising and conducting of competitions, games and quizzes for entertainment, recreational, cultural and educational purposes; organisation of awards; conducting of phone-in competitions; booking agency services connected with the issuing of tickets for entertainment events; employment training; information and advisory services relating to the aforesaid; information and advisory services relating to the aforesaid services provided on-line from a computer database or the Internet; information and advisory services relating to the aforesaid services provided over a telecommunications network.